

Board of Education Policy 3.6400  
Administrative Procedure

Confidentiality and the School Counselor

**Purpose**

Recognizing the worth and dignity of every student, as well as his/her right to privacy, this procedure has been prepared to clarify the treatment of confidential information shared between the school counselor and a client(s) within the counseling setting.

**Definition of Confidentiality**

In its broadest sense confidentiality has to do with expectation between persons that information shared between or among them will not be shared outside that relationship. Harry E. Wilson, Legal Specialist for Public Schools of NC, says that: *This expectation should be honored to the extent possible, although it is not legally required.* He adds that confidentiality is a duty *selectively imposed by act of the General Assembly with limitations.*

**Exceptions**

The exceptions to what a counselor can keep confidential are:

1. when failure to share information with a parent/authority could result in harm to the counselee or others; and
2. when there is sufficient evidence that the counselee is contemplating a criminal act or violation of the Juvenile Code (school interpretation includes school policy).

Some examples suggested by Laurie Mesibov, attorney with the NC Institute of Government (presentation at 7-31-97 Safe Schools Conference, Research Triangle, NC) of instances when failure to share information with a parent and/or authority might result in harm to the counselee or others include, according to school interpretation, the following:

- ❖ suicide threat
- ❖ volatile behavior with a plan indicating harm to self/others
- ❖ suspected child abuse
- ❖ late term pregnancy with no demonstrated health care by the student
- ❖ suspected/acknowledged eating disorder
- ❖ severe depression

**Parent's Rights vs. Student's Right to Privacy**

A fine line rests between the student's right to privacy and the parent's right to know. A relationship of trust between the student and counselor is critical to the quality of service delivered to the student and to the counseling program. The trust factor can allow the counselor to take required steps when an exception to strict confidentiality is felt to be necessary. Certainly the age of the child plays a part in how the counselor must treat information shared by a student in confidence.

It is the position of the school system that it is more defensible on the part of the counselor to act, after consultation with another helping professional, to assist in the student's best interest than to adhere to strict confidence in extreme cases as described above. This position is reflective of

both the American School Counselor Association's and the NC School Counselor Association's *Ethical Standards for School Counselors* as well as that of the NC Public Schools Legal Specialist.

### **Recommended Strategies for the Counselor**

Cases involving child abuse, suicide threats, and/or plans to harm self/others demand immediate disclosure to proper authorities. Cases involving situations such as late term pregnancies, suspected or acknowledged eating disorders, substance abuse, or severe depression, when there is no reasonable assurance of health care/treatment on the part of the student, might first be handled by the counselor through negotiation with the student to take appropriate steps within specific timelines. These steps should encourage the student's voluntary involvement of the parent.

It is recommended that the counselor explain the next step, in the best interest of the student, would be to disclose the need for care to the parent(s).

### **School Responsibility**

The school has the responsibility to publish in writing for student and parent awareness, the exceptions to a counselor's protection of confidentiality.

### **Counselor Responsibility**

The position of the American School Counselor Association (ASCA) is as follows: *The professional responsibility of school counselors is to fully respect the right to privacy of those with whom they enter counseling relationships. Counselors must keep abreast of and adhere to all laws, policies, and ethical standards pertaining to confidentiality. This confidentiality must not be abridged by the counselor except where there is clear and present danger to the student or other persons. It is the responsibility of the counselor to provide prior notice to the student regarding the possible necessity for consulting with others.*

ASCA goes on to provide the rationale for their position. It is: *Confidentiality is an ethical term denoting a counseling practice relevant to privacy. A student has the right to privacy and to expect confidentiality. The ASCA recognizes that a counseling relationship requires an atmosphere of trust and confidence between the student and the counselor. Confidentiality insures that disclosures will not be divulged to others except when authorized by the student. In this respect, the counselor reserves the right to consult with other professionally competent persons when this is in the best interest of the student. In the vent of possible judicial proceedings, the counselor should initially advise the school administration and the counselee, and if necessary, consult with legal counsel. If reports are required to be produced, every effort should be made to limit demands for information to those matters essential for the purpose of the legal proceedings. Counseling information used in research and training of counselors should fully guarantee the anonymity of the counselee.* (adopted 1974; reviewed and reaffirmed 1980; revised 1986)

The counselor should have posted in his/her office, the exceptions to strict confidentiality. In the event the counselor believes a counselee is about to share information that may need to be disclosed to another part, s/he should remind the counselee that the information s/he might share is such that it cannot, in the counselee's best interest, be kept confidential.

In Catawba County, the counselor should consult with another trained helping professional before making decisions about the handling of questionable cases. This professional might be either a

co-counselor in the school/system or the Director of Student Services. The consultation should be done without the use of names or other identifying information about the counselee.

For additional information related to the counselor's responsibilities related to confidential information, refer to the copy of *Common Ethical & Legal Concerns of School Counselors* provided by the American School Counselor Association following this section.

Information on other ASCA positions is available directly from the ASCA office in Alexandria, VA, or from the Director of Student Services at 464-8333.

### **Small Group Counseling**

Small group counseling is sometimes used to work with students on topics related to academic success. In a group setting confidentiality cannot be guaranteed; therefore, this should be explained to the group and their parents as routine protocol.

### **Need to Know**

When working in the assistance team setting, counselors should share information only on a need to know basis. This should be done only if written assurances of confidentiality have been signed by the group prior. Refer to the Catawba County Schools Student Records Guidelines section on Need to Know.

Superintendent: \_\_\_\_\_

Program Director: \_\_\_\_\_

Effective: Reviewed Fall 1997