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# Ethics and Law for School Psychologists

THIRD EDITION

Susan Jacob-Timm

Timothy S. Hartshorne

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**Third Edition**

**Susan Jacob-Timm**

**Timothy S. Hartshorne**



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*This book is dedicated to the memory of  
Michael David Salem Hartshorne (1984–1992) and  
Katherine Swift Hartshorne (1991–1992).*

*The brevity of their lives reminds us  
just how precious are all children.*

## Preface

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There are a number of excellent texts, journal articles, and book chapters on ethics in psychology, legal issues in school psychology, and special education law. However, our experience as school psychology trainers suggested a need for a single sourcebook on ethics and law specifically written to meet the unique needs of the psychologist in the school setting. Consequently, *Ethics and Law for School Psychologists* was written to provide up-to-date information on ethics, professional standards, and law pertinent to the delivery of school psychological services. Our goals for this third edition of the book remain unchanged. We hope that the book will continue to be useful as a basic textbook or supplementary text for school psychology students in training and as a resource for practitioners.

As noted in the preface to the first edition, one goal in writing the book was to bring together various ethical and legal guidelines pertinent to the delivery of school psychological services. We also introduce an ethical-legal decision-making model. We concur with the suggestion that the educated practitioner is the best safeguard against ethical-legal problems (Diener & Crandall, 1978; Keith-Spiegel & Koocher, 1985). School psychologists with a broad knowledge base of ethics and law are likely to anticipate and prevent problems. Use of a decision-making model allows the practitioner to make informed, well-reasoned choices in resolving problems when they do occur (Eberlein, 1987; Tymchuk, 1986).

### WHAT'S IN THE BOOK

Chapter 1 provides an introduction to ethical codes and professional standards, an ethical-legal decision-making model, and the four broad ethical principles of respect for the dignity of persons (welfare of the client), responsible caring (professional competence and responsibility), integrity in professional relationships, and responsibility to community and society. Chapter 2 provides an introduction to education law that protects the rights

of students and their parents in the school setting. Chapter 2 also addresses certification and licensure of school psychologists, mechanisms that help to ensure psychologists meet specified qualifications before they are granted a legal sanction to practice. In Chapter 3, we discuss privacy, informed consent, confidentiality, and record keeping—ethical-legal concerns that cut across all of the school psychologist's many roles. Chapters 4 through 9 focus on ethical-legal issues associated with specific roles: psychoeducational assessment (Chapter 4), delivery of services to pupils with disabilities (Chapters 5 and 6), counseling and therapeutic interventions (Chapter 7), consultation (Chapter 8), and research (Chapter 9). Special consultation topics are discussed in Chapter 10, including ethical-legal issues associated with current special education reforms (inclusionary models of special education service delivery, the delivery of services without labels, problem-solving assistance teams), school testing programs, school entry and grade retention decisions, discipline (corporal punishment, expulsion, and suspension), and schooling for pupils with other special needs (limited English proficiency, gifted and talented students, and students with communicable diseases). In Chapter 11, we describe ethics committees, and ethical and legal sanctions for professional misconduct.

## **WHAT'S NOT IN THE BOOK**

We have chosen to focus on ethical-legal issues of interest to current and future school practitioners. Consistent with this focus, we did not include a discussion of issues associated with private practice. Interested readers are encouraged to consult Bersoff (1995) and Rosenberg (1995). The text does not address ethical-legal issues associated with the supervision of school psychology students and interns. Readers are referred to Conoley and Bahns (1995); Harrar, VandeCreek, and Knapp (1990); and Sherry (1991) for information on this topic. We also did not address the legal rights of psychologists as employees in the public schools.

## **THIRD EDITION REVISIONS**

There have been a number of changes in ethical guidelines and law pertinent to the practice of school psychology since we completed work on the second edition of the text early in the spring of 1994. The National Association of School Psychologists revised its "Principles for Professional Ethics" and "Standards for the Delivery of School Psychological Services"



in 1997. President Clinton signed into law *Goals 2000: Educate America Act* (Pub. L. No. 103-227), the *Improving America's Schools Act* (Pub. L. No. 103-382), and the *School-to-Work Opportunity Act* (Pub. L. No. 103-239) in 1994. *Goals 2000* has provided a framework for national education reform. All three laws have impacted school policies and practices. On June 4, 1997, the *Individuals with Disabilities Education Act Amendments* (Pub. L. No. 105-17) became law. The discussion of special education law in this edition incorporates the 1997 amendments to *IDEA* as well as recent developments in case law.

Other changes to the book include the addition of study questions at the end of each chapter to focus on key concepts. We also included discussion topics and/or vignettes to stimulate interesting classroom debate.

We welcome your suggestions for improving future editions of *Ethics and Law for School Psychologists*. Please contact: Susan Jacob-Timm, Professor of Psychology, 206 Sloan Hall, Central Michigan University, Mt. Pleasant, MI 48859. E-mail: Susan.Jacob\_Timm@cmich.edu.

## TWO DISCLAIMERS

This text provides an overview and summary of constitutional, statutory, and case law pertinent to the practice of psychology in the schools. It does not provide a comprehensive or detailed legal analysis of litigation in education or psychology. The material included in the book, particularly the portions on law, is based on our review of the available literature. We are not attorneys. We often consulted the writings of attorneys and legal scholars for guidance in the interpretation of law rather than attempting to interpret it ourselves. However, original sources also were consulted when feasible, and citations have been provided so that interested readers can do the same.

Nothing in this text should be construed as legal advice. School psychology practitioners are encouraged to consult their school attorney through appropriate administrative channels when legal questions arise. Our interpretations of ethical codes and standards should not be viewed as reflecting the official opinion of any specific professional association.

## THE CAST OF CHARACTERS

Throughout the text we have included a number of case incidents to illustrate specific principles. Some of the incidents are from case law; others are fictitious. To make it easier for the reader to follow who's who in the vignettes,

we have used the same five school psychologists throughout the book. Our cast of characters includes (in order of appearance):

**SAM FOSTER:** Worked as a school psychologist for several years and then returned to school to pursue his Psy.D. degree. He is currently a doctoral intern in a suburban school district.

**CARRIE JOHNSON:** Provides school psychological services in a rural area. She faces the special challenges of coping with professional isolation and works in a community where resources are limited.

**HANNAH COOK:** Serves as a member of a school psychological services team in a medium-sized city. She is particularly interested in school-based consultative services.

**CHARLIE MAXWELL:** As a school psychologist for a middle and senior high school in a large metropolitan district, he is a strong advocate of school efforts to prevent mental health problems.

**WANDA ROSE:** Provides services at the preschool and elementary level in a small town. Children, babies, parents, and teachers love Wanda Rose. She has been a school psychology practitioner for many years. Wanda needs an occasional push from her colleagues to keep current with changing practices, however.

SUSAN JACOB-TIMM  
TIMOTHY S. HARTSHORNE

*Central Michigan University  
Mt. Pleasant, Michigan*



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## Chapter 1

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# ***ETHICS IN SCHOOL PSYCHOLOGY: AN INTRODUCTION***

In the late 1970s, the American Association for the Advancement of Science (AAAS) conducted a study of the ethical concerns of its affiliated societies (Chalk, Frankel, & Chafer, 1980). Haas, Malouf, and Mayerson (1986) summarized the AAAS findings as follows:

Recent years have been marked by a rise in professional consciousness about ethical and legal responsibilities and by a concurrent rise in public consciousness about legal rights. The result, in part, is a level of concern (and confusion) about proper professional behavior that is unprecedented in all professions and is particularly evident in psychology. (p. 316)

Because the decisions made by school psychologists have an impact on human lives, and thereby on society, the practice of school psychology rests on the public's trust. School psychologists—both practitioners and trainers—have shared in the rising concerns about proper professional conduct.

## **QUALITY CONTROL IN SCHOOL PSYCHOLOGY**

There are a number of sources of “quality control” in the provision of school psychological services. Ethical codes and professional standards for the delivery of psychological services are discussed in this chapter. Chapter 2 provides an introduction to law that protects the rights of students and their parents in the school setting. Education law provides a second source of quality assurance. Chapter 2 also addresses the credentialing of school psychologists, a third mechanism of quality control. Credentialing helps to ensure psychologists meet specified qualifications before they are granted a legal sanction to practice (Fagan & Wise, 1994). Training program accreditation is an additional mechanism of quality control. Program accreditation helps to ensure adequate preparation of school psychologists during

their graduate coursework and field experiences. (For a discussion of training program accreditation, see Fagan & Wise, 1994.)

The present chapter focuses on the what and why of professional ethics, ethics training and competencies, and the ethical codes and professional standards of the National Association of School Psychologists (NASP) and the American Psychological Association (APA). Four broad ethical principles are introduced, along with an ethical-legal decision-making model.

## WHAT AND WHY OF PROFESSIONAL ETHICS

The term *ethics* generally refers to a system of principles of conduct that guide the behavior of an individual. Ethics derives from the Greek word *ethos*, meaning character or custom, and the phrase *ta ethika*, which Plato and Aristotle used to describe their studies of Greek values and ideals (Solomon, 1984). Accordingly, ethics is first

of all a concern for individual character, including what we blandly call "being a good person," but it is also a concern for the overall character of an entire society, which is still appropriately called its "ethos." Ethics is participation in, and an understanding of, an ethos, the effort to understand the social rules which govern and limit our behavior. . . . (p. 5)

A system of ethics develops within the context of a particular society or culture and is closely connected to social customs. Ethics is composed of a range of acceptable (or unacceptable) social and personal behaviors, from rules of etiquette to more basic rules of society.

The terms *ethics* and *morality* are often used interchangeably. However, according to philosophers, the term *morality* refers to a subset of ethical rules of special importance. Solomon suggests moral principles are "the most basic and inviolable rules of a society." Moral rules are thought to differ from other aspects of ethics in that they are more important, fundamental, universal, rational, and objective (pp. 6–7). W. D. Ross (1930), a 20th-century English philosopher, identified a number of moral duties of the ethical person: nonmaleficence, fidelity, beneficence, justice, and autonomy. These moral principles have provided a foundation for the ethical codes of psychologists and other professionals (Bersoff & Koepl, 1993).

Our focus here is on *applied professional ethics*. Applied professional ethics is the application of broad ethical principles and specific rules to the problems that arise in professional practice (Beauchamp & Childress, 1983). Applied ethics in school psychology is thus a combination of ethical

principles and rules, ranging from more basic rules to rules of professional etiquette, that guide the conduct of the practitioner in his or her professional interactions with others.

### **Professionalism and Ethics**

*Professionalization* has been described as “the process by which an occupation, usually on the basis of a claim to special competence and a concern for the quality of its work and benefits to society, obtains the exclusive right to perform a particular kind of work, to control training criteria and access to the profession, and to determine and evaluate the way the work is to be performed” (Chalk et al., 1980, p. 3). Professional associations or societies function to promote the profession by publicizing the services offered, safeguarding the rights of professionals, attaining benefits for its members, facilitating the exchange of and development of knowledge, and promoting standards to enhance the quality of professional work by its members (Chalk et al., 1980).

Codes of ethics appear to develop out of the self-interests of the profession and a genuine commitment to protect the interests of persons served. Most professional associations have recognized the need to balance self-interests against concern for the welfare of the consumer. Ethical codes are one mechanism to help ensure that members of a profession will deal justly with the public (Bersoff & Koeppel, 1993; Keith-Spiegel & Koocher, 1985).

However, the development of a code of ethics also serves to foster the profession’s self-interests. A code of ethics is an indicator of the profession’s willingness to accept responsibility for defining appropriate conduct, and a commitment to self-regulation of members by the profession (Chalk et al., 1980). The adoption of a code of ethics has often been viewed as the hallmark of a profession’s maturity. Ethical codes may thus serve to enhance the prestige of a profession and reduce the perceived need for external regulation and control.

The field of psychology has shown a long-standing commitment to activities that support and encourage appropriate professional conduct. As will be seen in this chapter, both the National Association of School Psychologists and the American Psychological Association have developed and adopted codes of ethics. These codes are based on the consensus of association members about what constitutes appropriate professional conduct. They serve to protect the public by sensitizing professionals to the ethical aspects of service delivery, educating practitioners about the parameters of appropriate conduct, and helping professionals to monitor their own behavior. They also provide guidelines for adjudicating complaints (Keith-Spiegel & Koocher,



1985). By encouraging appropriate professional conduct, associations such as NASP and APA strive to ensure that each person served will receive the highest quality of professional service, and therefore build and maintain public trust in psychologists and psychology.

### **Ethical Codes v. Ethical Conduct**

Codes of ethics serve to protect the public. However, ethical conduct is not synonymous with simple conformity to a set of rules outlined in professional codes and standards (Hughes, 1986). As Kitchener (1986) and others (Bersoff, 1994; Hughes, 1986; Keith-Spiegel & Koocher, 1985) have noted, codes of ethics are imperfect guides to behavior for several reasons. First, ethical codes in psychology are composed of broad, abstract principles along with a number of more specific statements about appropriate professional conduct. They are at times vague and ambiguous (Bersoff, 1994; Hughes, 1986).

Second, there are often competing ethical principles that apply in a particular situation (Bersoff & Koepl, 1993; Haas & Malouf, 1989), and specific ethical guidelines may conflict with federal or state law (Keith-Spiegel & Koocher, 1985; Kitchener, 1986). In some situations, a primary or overriding consideration can be identified in choosing a course of action (Haas & Malouf, 1989).

In other situations, however, no one principle involved clearly outweighs the other (Haas & Malouf, 1989). For example, the decision to allow a minor child the freedom to choose (or refuse) to participate in psychological services often involves a consideration of law, ethical principles (client autonomy and self-determination versus welfare of the client), and the likely practical consequences of affording choices (e.g., enhanced treatment outcomes versus refusal of treatment).

A third reason ethical codes are imperfect is because they tend to be reactive. They frequently fail to address new and emerging ethical issues (Bersoff & Koepl, 1993; Eberlein, 1987). Committees within professional associations are often formed to study the ways in which existing codes relate to emerging issues, and codes may be revised in response to new ethical concerns. Concern about the ethics of behavior modification techniques was a focus of the 1970s; in the 1980s, psychologists scrutinized the ethics of computerized psychodiagnostic assessment. Recent changes in the ethical codes of psychologists reflect concerns about sexual harassment and fair treatment of individuals, regardless of their sexual orientation.

Ethical codes thus provide guidance for the professional in his or her decision making. Ethical conduct, however, involves careful choices based on

knowledge of codes and standards, ethical reasoning, and personal values. In many situations, more than one course of action is acceptable. In some situations, no course of action is completely satisfactory. In all situations, the responsibility for ethical conduct rests with the individual practitioner (Eberlein, 1987; Haas et al., 1986; Keith-Spiegel & Koocher, 1985).

## ETHICS TRAINING AND COMPETENCIES

Prior to the late 1970s, many applied psychology graduate programs (clinical, school) required little formal coursework in professional ethics. Ethics was often taught in the context of supervised practica and internship experiences, a practice Handelsman labeled “ethics training by ‘osmosis’” (1986a, p. 371). Handelsman (1986a, 1986b) and others have argued persuasively that there are a number of problems with this unsystematic approach to ethics training. Student learning is limited by the supervisor’s awareness and knowledge of ethical issues (Dalton, 1984) and the range of issues that arise by chance in the course of supervision (Handelsman, 1986b). Results of a survey of practicing psychotherapists found that respondents gave only moderate ratings to their internship experience as a source of ethics education (Haas et al., 1986).

It is now generally recognized that ethical thinking and problem solving are skills that need to be explicitly taught as a part of graduate coursework (Haas et al., 1986; Handelsman, 1986a, 1986b; Tymchuk, 1985; Tymchuk et al., 1982). Both the National Association of School Psychologists and the American Psychological Association currently require formal coursework in ethics as a component of graduate training.

In the 1980s, psychology trainers began to ask, “What should be the goals of ethics education in psychology?” (Haas et al., 1986; Kitchener, 1986), “What are the desired cognitive, affective, and behavioral ‘ethics competencies’ for school psychologists?”, and “How should ethics be taught?”

A number of goals for ethics training have been suggested in the literature. An emerging picture of desired competencies includes:

1. Competent practitioners are sensitive to “the ethical components of their work” and are aware that their actions “have real ethical consequences that can potentially harm as well as help others” (Kitchener, 1986, p. 307; also Rest, 1984; Welfel & Kitchener, 1992).
2. Competent psychologists have a sound working knowledge of the content of ethical codes, professional standards, and law pertinent to the delivery of services (Fine & Ulrich, 1988; Welfel & Lipsitz, 1984).