

KSDE TASN School Mental Health Initiative Webinar Series

Ethical Recordkeeping in School Mental Health (Part 1)

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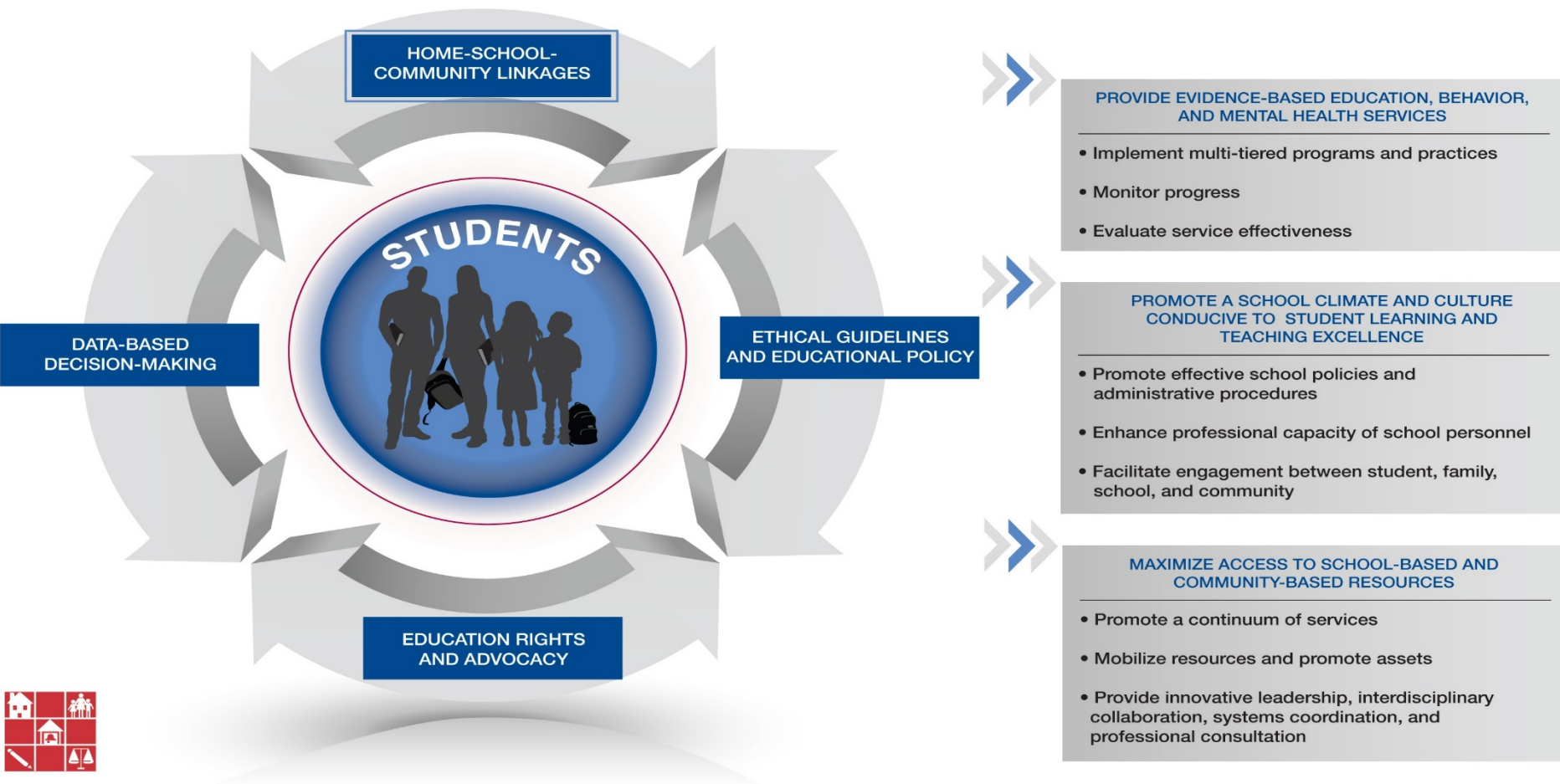
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Presenter Information

Jim Raines calls himself an accidental academic with the heart of a practitioner. He earned his MSSW at Columbia University in New York City and his Ph.D. from Loyola University of Chicago. Jim has been President of the Illinois Association of School Social Workers, Midwest Council of School Social Workers, and the School Social Work Association of America. He has written four books published by Oxford University Press, including one on ethical decision-making with Nic Dibble in 2011. He has keynoted state, national, and international conferences. He is currently a Professor of Social Work at California State University Monterey Bay.

Learner Objectives

1. Participants will learn the limitations placed around client privacy.
2. Participants will learn 5 aspects to the accuracy of client data, including respectfulness, progress notes, client goals, evaluation, and correcting mistakes.
3. Participants will learn the 3 essential elements of informed consent.
4. Participants will learn an important change to the exceptions to confidentiality in the NASW Code.
5. Participants will learn 5 facets of client access to records, including safety, interpretation, exceptions, policy development, and protection of others.



National SSW Model: Key Constructs

- Home-school-community linkages
- Ethical guidelines and ed policy
- Education rights and advocacy
- Data-based decision-making

History of SW Recordkeeping

Sheffield's (1920) *The social case history* stated that recordkeeping has 3 goals:

1. The **immediate** purpose of improving client treatment.
2. The **ultimate** purpose of improving social conditions.
3. The **incidental** purpose of improving the social worker's critical thinking.

Jill Kagle, 1987

Purposes of Documentation

1. Assessment & Planning
2. Service Delivery
3. Continuity & Coordination of Services
4. Supervision (or consultation)
5. Service Evaluation
6. Accountability to clients, agencies, insurers, colleagues, courts, and licensing boards.

Fred Reamer, 2015

Ethical & Legal Issues

1. **Privacy** – What information should I collect? (How intrusive should I be?)
2. **Accuracy** – How objective should the information be?
3. **Confidentiality** – What information should I protect?
4. **Access** – Who should be able to read or review?
5. **Communication** – How should records be transmitted to others?
6. **Documentation** – What or how much information facilitates client services?
7. **Destruction** – How & when should information be destroyed?

NASW Code of Ethics: Privacy

Social workers should respect clients' right to privacy. Social workers should *not* solicit private information from clients **or about clients** unless it is *essential* to providing services or conducting social work evaluation or research (Sec. 1.07 (a)).

Implications:

- Information collected should be relevant to the reason for referral. (Parental consent to an evaluation is NOT carte blanche to ask anything.)
- Essential information can concern causes or contributing factors, academic or functional consequences, previous interventions tried, and barriers to service delivery.

NASW Code of Ethics: Accuracy

Social workers should not use derogatory language in their written or verbal communications to or about clients. Social workers should use *accurate and respectful* language in all communications to and about clients (Sec. 1.12).

Implications:

- Use person-first language when discussing people with possible disabilities.
- Use clinical terminology appropriately (e.g., Affect can be inappropriate, labile, flat, blunted, or constricted)

NASW Code of Ethics: Accuracy

Social workers should take reasonable steps to ensure that documentation in **electronic or written** records is *accurate* and reflects the services provided (Sec. 3.04 (a)).

Implications:

- Descriptions should be factual and objective (e.g., Based on her test results or evidenced by...)
- Progress notes should contain names, dates, place, specific services, and duration of contact.

NASW Code of Ethics: Accuracy

Social workers should ensure that their representations to clients, agencies, and the public of professional qualifications, credentials, education, competence, affiliations, services provided, or *results to be achieved* are accurate (Sec. 4.06 (c)).

Implications:

- Services promised on IEPs should reflect the actual services feasible within a school setting.
- Goals on IEPs should be based on a measured baseline (PLOP) and achievable within one year.
- Attendance intervention plans or BIPs should have measurable targets.

NASW Standards for SSW: Accuracy

Standard 11:

School social workers shall maintain *accurate data* that are relevant to planning, management, and evaluation of school social work services.

Implications:

Data should be collected before, during, and after service delivery (pretest, progress monitoring, and post-test).

Data sources can be the following:

Records (attendance, GPA, Nurse visits, ODRs, etc.)

Interviews (parent, teacher, or student)

Observations (cafeteria, classroom, playground)

Tests (e.g., rapid assessment instruments)

Correcting Mistakes

- The **best** way to correct a mistake (jcr, 4/4/2019) in the record is to use a single line to strike through the incorrect material (jcr, 4/4/2019), then date and initial the correction.
- Deleting or destroying an incorrect (or any) record can be interpreted by courts or licensing boards as an attempt to **destroy evidence** and even **obstruct justice**.
- Destruction of case notes is a **felony** in some jurisdictions.

Alan Barsky & Gould, 2002

NASW Standards for SSW Services

Standard 11 – Commentary:

Timely and accurate records document school social work services, demonstrate outcomes, and promote accountability to the local education agency and community. Analysis of activity reports, program statistics, and outcome measures can support the effective use of school social work services to better meet the needs of students and families.

- Consider tracking anonymous RIOT data at the district or state level to demonstrate school social work effectiveness.

NASW Code of Ethics: Confidentiality

Social workers may disclose confidential information when appropriate with *valid* consent from a client or a person legally authorized to consent on behalf of a client (Sec. 1.07 (b)).

Implications:

- Valid consents must be fully informed as to the potential costs and benefits of the evaluation.
- Releases of information should be completely filled out before the client or parent signs.
- Minors should give informed “assent” to the degree that they can understand what is happening.

Client Types

- “Client” may be a client-system, including an entire classroom, small group, or client-pair.
- As the client-system increases in size, the level of confidentiality decreases (Raines & Dibble in Villareal, Cox, & Alvarez, 2016)
- Early intervening services (non-SPED)

3 Elements of Informed Consent

1. Capacity

Has the ability to weigh the pro's and con's of the decision

2. Information

Has correct information to make decision

3. Voluntariness

Is not coerced into a decision

Passive vs. Active consent



(Raines & Dibble, 2016)

NASW Code of Ethics: Confidentiality

Social workers should protect the confidentiality of all information in the course of professional service, except for compelling professional reasons. The general expectation that social workers will keep information confidential does not apply when disclosure is necessary to prevent serious, foreseeable, and imminent harm to a client or other **s** identifiable person (Sec. 1.07 (c)).

Implication:

- Social workers must know how to do a threat assessment for potentially violent clients.

NASW Code of Ethics: Confidentiality

In all instances, social workers should disclose the *least amount* of confidential information necessary to achieve the desired purpose for which the disclosure is made should be revealed (Sec. 1.07 (c)).

Implications:

- Provide only the objective facts that achieve the purpose of the disclosure.
- Do **not** provide clinical hunches, subjective feelings, or personal intuition.

NASW Code of Ethics: Confidentiality

Social workers should inform clients, to the extent possible, about the disclosure of confidential information and the potential consequences, when feasible *before the disclosure is made* (Sec. 1.07 (d)).

Implications:

- Talk to clients ahead of time about the necessity for disclosing confidential information (e.g., mandated reporter status)
- Allow clients some control when information is shared (e.g., their ability to be present)

NASW Code of Ethics: Access

- Social workers should not discuss confidential information, **electronically or in person**, in any setting unless privacy can be ensured. Social workers should not discuss confidential information in public or semipublic areas such as hallways, waiting rooms, elevators, and restaurants. (Sec. 1.07 (1)).

Implications:

- Store files only in locked file cabinets or password-protected computers.
- Do not discuss students in a classroom, administrative office, or the teachers' lounge.

NASW Code of Ethics: Access

Social workers should provide clients with *reasonable access* to records concerning the clients. Social workers who are concerned that clients' access to their records could cause serious misunderstanding or harm to the client should provide assistance in interpreting the records and consultation with the client regarding the records (Sec. 1.08 (a)).

Implications:

- Write records using vocabulary or terms that clients can easily understand.
- Consider client's age and developmental stage when providing access to records.

NASW Code of Ethics: Access

Social workers should *limit clients' access* to their records, or portions of their records, *only in exceptional circumstances* when there is compelling evidence that such access would cause serious harm to the client. Both clients' requests and the rationale for withholding some or all of the records should be documented in clients' files (Sec. 1.08 (a)).

Implications:

- Allow clients to see as much of the record as is reasonable and appropriate.
- Clinically process the reasons for requests (e.g., underlying distrust due to past betrayals).

NASW Code of Ethics: Access

Social workers should develop and inform clients about their policies, consistent with prevailing social work ethical standards, *on the use of technology to provide clients with access* to their records (Sec. 108(b)).

Implications:

- School social workers may wish to have a policy that clients can only view records in their school office with the social worker present.
- State associations may want to develop a model policy to fit the requirements in their states.

NASW Code of Ethics: Access

When providing clients with access to their records, social workers should take steps to *protect the confidentiality of other individuals identified or discussed* in such records (Sec. 1.08 (c)).

Implications:

- Identify sources by role or function, not name (e.g., coach, teacher, or administrator).
- Identify group members by initials or number (not name).

NASW Code of Ethics: Access

Social workers should store records following the termination of services to *ensure reasonable future access*. Records should be maintained for the number of years required by relevant laws, **agency policies**, and contracts.

Implications:

- Be sure records are transferred with student as appropriate & with consent.
- Check FERPA and state statutes for current requirements on keeping student records.

Presentation Summary

Student records should respect student privacy, be accurate, remain confidential (with few exceptions), and be accessible to the student or parents as appropriate.



Questions?



References

- Barsky, A., & Gould, J. (2002). *Clinicians in court: A guide to subpoenas, depositions, testifying, and everything else you need to know*. New York, NY: Guilford.
- Corcoran, K., & Fischer, J. (2013). *Measures for clinical practice, Vol 1: Couples, families, and children*. New York, NY. Oxford University Press.
- Kagle, J. D. (1987). Recording in direct practice. In *Encyclopedia of Social Work* (18th ed., pp. 463-467). Silver Spring, MD: NASW.
- Raines, J. C., & Dibble, N. T. (2011). *Ethical decision making in school mental health*. New York, NY: Oxford University Press.
- Reamer, F. G. (2015). *Risk management in social work: Preventing professional malpractice, liability, and disciplinary action*. New York, NY: Columbia University Press.

THANK YOU!

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