Guidance and Resource Document - Oct. 25th Cadre

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Legal and Ethical Considerations for School Counselors

Recorded Session

Video Log By Topic

Carolyn Stone's Handouts

Carolyn Stone's Slides

Questions and Issues Submitted

1) How do you navigate student preferred names when the student doesn't want the parent/caregiver to know? What are my legal obligations?
    a) Refer to the district policy that is created. Advocate as needed if there is something you may feel ethically is not correct within the policy. Always ensure student safety first when considering talking with the parents. Encourage a collaborative relationship among students and family. If legal records are to be changed based on a change in name, parents will need to be notified due to their rights. Refer to the KDE guidance document discussing this issue.

2) We are getting conflicting information regarding transgender issues in our school (i.e., nicknames, pronouns, when do we contact parent). What do we do as counselors to protect ourselves legally, support our students and maintain confidentiality?
    a) Please refer to #1. Ensuring student safety is the first priority in considering when to

3) What is our legal obligation regarding transgender students? For example, a student prefers "he/him" and a male name. However, we received a certified letter from the parent that we are not to refer to those pronouns or preferred name. Title IX says otherwise, but the district office is telling us we must abide by the parent letter due to schools losing this battle in multiple courts. Our district does not have a published policy in regards to students who identify as transgender.

   a) States can extend the law, but cannot "step" on the law. For example, in Florida the law was extended to give parents' rights of whether or not pronouns and/or names would be used based on the district you were in.

   b) Admin should be notified if sexual harassment occurs on or off-campus and works with the title IX coordinator for the district. However, you may be asked to protect the victim by schedule changes, safety measures, etc.

   c) Matthew Courtney is a resource within the Kentucky Department of Education (KDE) that could help answer questions also. matthew.courtney@education.ky.gov

4) We have some students identifying as cats and dogs. How do we navigate this? What are our legal obligations? Is this a national trend?

   a) Dr. Stone at this time did not know the best course of action. Something to consider could be health risks involved in providing litter boxes within the school setting for students and staff and if any health codes may be violated.

5) If a school counselor completes a risk assessment and determines that a student is a threat to self or others, can that school counselor require the student to have mental health clearance before returning to school? Also, if a school counselor sends a child deemed as a threat home for safety reasons, does this count toward the 10 days suspension for students with Individualized Education Plans (IEPs)?

   a) The local board policy may include mental health clearance before a child returns to school. However, it is not a suspension based on disciplinary actions. The local special education director would need to be consulted to ensure the IEP is being followed and when an ARC may need to be scheduled to discuss the absences and best course of action for the student. The KDE guidance document, Q&A: Addressing the needs of Children with Disabilities and IDEA's Discipline Provisions, is helpful regarding this issue.

6) Could you share with us any ethical concerns that we might need to consider when administering the Terrace Metrics survey two times a year? (This is a universal survey focused on students who are possibly at-risk for depression, suicide and/or bullying.)

   a) Refer to Stone's chart showing the eight protective factors that determine if parents

need to be notified and opt-in to the assessment.

7) What liability do school counselors hold when conducting schoolwide mental health screeners? When students are identified as being at risk, and community mental health supports are booked up and not available, what type of liability falls on the school counselor?
   a) Continuing to follow-up as needed and encouraging the families to follow-up as well. Telehealth could be an option for those students until someone in-person may be available. Anything within the school setting that encourages wraparound support is also a best practice.

8) I need a legal step-by-step guide for when students threaten to harm themselves. Perhaps a sample district and/or schoolwide protocol.
   a) Take into consideration all stakeholders when creating a step-by-step protocol that can be followed with integrity in every case. Currently there is not a state example, however local board policy makers may create one based on guidance and policy from Kentucky Center for School Safety and KDE.

9) When the police question students for outside of school events, who contacts the parent/guardian?
   a) When law enforcement questions students about crimes the officer must follow their department policy on the notification procedure. If the interview is outside of the school day and interview takes place at the police department the officer should utilize the policy from their department on juvenile interviews.
   b) If an interview with a juvenile takes place inside of a school building, during the school day in many cases the school system has a policy against any outside law enforcement, other than the SRO interviewing students at the school building. Also law enforcement must comply with the school policy as the student is in the guardianship of the principal while at school, unless it pertains to abuse or neglect by law. Most schools have a policy that says if the SRO interviews a student the school will notify the parents. The exception to this by law, that overrides school policy is when the crime the student tells the SRO or law enforcement is neglect or abuse, and the suspect is the parent or guardian.

10) Should school counselors be treated as interventionists?
    a) The interventions of a school counselor should be included within the school counseling framework and comprehensive domains that support academics, social/emotional and college/career readiness. Based on the American School Counselor Association (ASCA) Standards and Kentucky Framework, the following is mentioned about school counselors and interventions.
       i) **Practice 1.1 f** - use multi-tiered systems of support (Multi-tiered System of

Support) within their program to provide instruction and interventions matched to student need.

    ii)   **Practice 1.8 a-d** - act as systems change agent, using data to support and demonstrate a need for such change, and implement a plan to better support student success.

    iii)   **Practice 2.4 a** - use data to identify students in need of counseling intervention.

    iv)   **Practice 2.4 e** - respond with appropriate intervention strategies to meet the needs of the individual, group or school community before, during and after crisis response (includes suicide prevention).

    v)   **Practice 2.8 b** - use strategies for interpreting assessment and evaluation instruments in order to be data-informed and to plan for interventions.

    vi)   **Practice 2.8 e** - use environmental assessments and systematic behavioral observations.

    vii)   **Practice 3.1 b** - review, disaggregate and interpret student achievement, attendance and discipline data to identify and implement interventions as needed.

    viii)   **Practice 3.2 a** - develop measurable outcomes for school counseling activities, interventions and experiences.

    ix)   **Practice 3.4 b** - determine appropriate students for the target group of action plans based on student, school and district data.

    x)   **Practice 4.3 d** - advocate for various populations of students, using strategies to ensure equity of opportunity for all students.

11) I work at an independent school. Recently, parents sent an email to the high school principal stating that I am to have no contact with their 10th-grade son. Their son values me as a support person and wants our counseling to continue. Can parents prevent me from talking with their child?

    a) If abuse is suspected, honor the parents' request. It is not the time to get into a power struggle with the parents. For example, if a child has been abused, you do what you need to in order to protect the child. Who else can help keep a close eye on this student to ensure their safety? You need to determine when the child reaches out to you if it's concerning abuse or something else. As a counselor in the educational setting, you need to determine why the parent does not want you to see the child. If there is convincing evidence (based on Kentucky law), such as abuse/neglect, you will need to follow procedures to protect the child.

Resources:

ASCA Ethical Standards (updated 2022)

Suicide Prevention:

KDE Suicide Prevention and Awareness Resources

School Safety Coordinators (SSCs) Booklet - Suicide Prevention Training

• *No later than July 15, 2021, and each subsequent year, the local district superintendent shall send verification to the state school security marshal and the Kentucky Department of Education that all schools within the district have completed the school risk assessment for the previous year.*

• *An email will be sent to all SSCs with a mailbox link and short form to complete. This will verify completion of the risk assessment for the previous year. This mailbox will be accessible by the Office of State School Security Marshal and KDE. Superintendent confirmation can be in electronic form.*

https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=49803

https://kyprevention.getbynder.com/transfer/384fae0a1d551ebe63e2e530e8234f42342c4325079013d128a01c1d7f183217

http://dbhdid.ky.gov/dbh/sped.aspx

http://dbhdid.ky.gov/dbh/sped-schools.aspx

http://dbhdid.ky.gov/dbh/sped-teens.aspx

http://dbhdid.ky.gov/dbh/sped-mshs.aspx

LGBTQIA+ Considerations:

KDE LGBTQIA+ Awareness and Supporting Resources

KDE Guidance For Using Student Preferred Names and Pronouns