



Saskatchewan College of Psychologists

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Membership Advisory

School Psychologists: Parental/Guardian Consent to Psychological Services and Disclosure of Student Records

Over the last few years the College has had discussions with the Saskatchewan School Boards Association (SSBA) in regard to the work of Psychologists who provide services in Saskatchewan schools, and in particular in regard to the issues of Psychologist created records, and parent/guardian consent for assessment and treatment. The SSBA holds the position that the practice of Psychologists working within Saskatchewan schools is the jurisdiction of the employer and falls under the Education Act. In a practical sense what this has meant is that some Psychologists have been asked by their employers to provide services to students who are minors, without parental/guardian consent, at times without parental/guardian knowledge, and without allowing for parent /guardian to control access and dissemination of their health information.

After consideration of these issues and the relevant legislation, the Canadian Code of Ethics for Psychologists (Code), the SCP Professional Practice Guidelines (PPGs), and legal consultation, the Executive Council of the College adopted the formal position that HIPA applies to all members of the profession and to the work that they conduct as members of the profession (January 2014). The position recognizes that Psychologists are trustees as defined under HIPA. HIPA requires trustees to protect the confidentiality of client/student health information and to control access to that information. The position adopted by the College in regard to HIPA and Psychologists is not work site specific. It is important to understand that when there is a conflict between the requirements of HIPA and another piece of legislation, HIPA takes precedence. It is also important to note that legal opinion is that the Education Act does not supersede *the Psychologists Act 1997*.

The College recognizes that the difference in perspective between the SSBA and the College may have the unintentional consequence of putting members in a bind between their professional and ethical responsibilities and their employer's expectations. Psychologists practicing within the school system are encouraged to work collaboratively with their employers to assist them in understanding the profession, its responsibilities, and its obligations, and to seek collaborative solutions which allow for both needs to be met.

Members are reminded that informed consent is key to the ethical provision of psychological services. Informed consent must include a discussion of the following: one's qualifications, any supervisory relationships, the service to be provided and why, other alternatives for intervention, how the client's health information will be stored and who will have access to that information, how the health information will be used. The Code and the PPGs direct that informed consent should be sought by the Psychologist directly, and must not be obtained under duress.

Consistent with HIPA, the confidentiality of client health information must be protected and access to that information controlled. Psychologists are reminded to exercise caution in terms of the information recorded, and in allowing access to the information gathered in the course of providing a service. In general, client consent should be sought prior to the release of their health information. There may be exceptions to this in extenuating circumstances such as an emergency. Documentation of consent is strongly advised. Psychologists also need to be cognizant of the duty to protect the integrity of test materials.

The College will continue to work with SSBA to seek a compromise which allows members of the profession to meet their employer's expectations and those of the profession. At a meeting in April of this year with SSBA, it was agreed that there was some common ground, in particular that having Psychologists obtain informed consent in general is best practice and necessary, and that there is an obligation that Psychologists have to 1) protect the privacy and confidentiality of client information 2) protect the integrity of test information and 3) ensure to the best of their ability that psychological information is not open to misinterpretation, misuse or abuse. Work is ongoing between the two organizations on the development of a guiding document regarding the provision of Psychological services within Saskatchewan schools.

Legal Counsel for the College, Ms. Merrilee Rasmussen Q.C. has prepared a legal brief which provides more detail on the issues and the position of the College, which can be accessed at:

Legal Opinion : School Psychologists - Parental Consent to Psychological Assessment of Students and Disclosure of Student Records
By Merrilee Rasmussen Q.C.