

Getting Schooled

Hello and welcome to Getting Schooled. In this edition, Jeff Mah, Lead Psychologist with Calgary Catholic School District, illustrates some of the issues faced by school psychologist with respect to informed consent. In April 2015, the Calgary and area collaborative group of school psychology leads produced a practice guide, Informed Consent for Minors: What does it mean for the work of School Psychologists? In the following article, Mr. Mah discusses to some of the important issues addressed in that guide, underscoring some of the complexities school psychologists face when it comes to informed consent.

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Informed consent for minors: Not needed if you work in schools?

If the title of this article was alarming to you then you have a sense of how the practice alert¹ (Informed Consent for Minors, May 2014) from the College was received by many school psychologists (SPs), at least in Calgary and area. Truth be known, the title is reflective of the pressure that SPs face on a daily basis to see students that are a concern in school; many might even acknowledge giving in to the pressure in some cases. Kudos to the College, this alert was needed and brought attention to a critical and complex aspect of practice. Within our collaborative group of leads in school psychology (i.e., Calgary Board of Education, Calgary Catholic School District, Golden Hills Schools Division, Rocky View Schools, and the University of Calgary), it was immediately apparent that there were numerous questions and concerns from SPs related particularly to discussions with teachers and reviewing student documentation. What conversations could be had with a teacher? Did reviewing student files require consent? Was consent required before participating in school resource team meetings? Would SPs no longer be able to use student names in conversations? How would SPs be useful and accessible in their roles if informed consent was required for so many of the daily activities and interactions? These questions demanded an examination of practice and situations which would require informed consent in our respective jurisdictions. At the same time, we sought further clarification of the language, meaning, and terms contained in the alert. What was considered formal vs. general consultation? What is considered a psychological service or falls “within the practice of psychology”? How did the practice alert apply in other settings (e.g., health clinics and hospitals) that psychologists work?

After seeking more guidance from the College on many of these questions and issues, our group felt there was a need to bridge the practice alert and its application for SPs in our respective districts. Over a number of months, we undertook the work of reviewing literature, gathering information, opinions, perspectives, and examples of practice not only from SPs but also psychologists in other settings. The resulting guideline document, *Informed Consent for Minors: What does it mean for the work of School Psychologists* (April 2015), provides important

¹ This document can be found on the PAA website under the PAA School Psychology Resources page: http://psychologistsassociation.ab.ca/ieadmin/files/Joint_Psychology_Informed_Consent_for_Minors.pdf

context and understanding of the issues, a framework for thinking about informed consent, addresses specific activities and consent, and makes recommendations for some of the challenges faced by SPs. *The full document can be accessed through the link provided at the end of this article.* School psychologists have always been faced with the task of balancing professional ethics and practices against sometimes competing legislative, regulatory, and educational policy. There are clear situations in which school psychologists have always obtained informed consent for their services. This includes individual assessment, individual or group counselling, and individual or group psycho-educational intervention. However, SPs also participate in activities such as student file reviews, and attend numerous meetings, discussions, and consultations where the requirement for informed consent is not always straightforward. Furthermore, many school districts often adhere to a less rigorous standard for obtaining informed consent and place less priority on upholding College standards than ensuring expedient services. *To be fair, the responsibility for meeting standards of practice belongs to us and not with our employers.* Determining whether to obtain consent in many situations can be guided by understanding the nature of information gathering, clarifying whether a consultation is considered general vs. formal, and looking at the significance and impact of an activity.

As employees of school boards, the Freedom of Information and Protection of Privacy Act allows service providers within a public body, including school boards, to share personal information to employees of the same public body. The Children First Act (CFA) further indicates that service providers within a public body, such as a school board, may collect, use, and disclose personal information to facilitate the provision of services to the child if it is in the best interests of the child. SPs gather information on individual, named students during their roles on multi-disciplinary teams and in their service to schools. The activities of information gathering and review are not in themselves a psychological service, are permitted under FOIPP and CFA and do not require informed consent. Information is used to help teachers understand existing information about students and to decide on appropriate services.

Consultations can take place in most any location and may focus on individual students through to the overall system level. Decisions about informed consent are not simply a matter of whether a student is named or not. Rather, it may be more helpful to consider whether the consultation is general or formal. General consultation does not provide sufficient professional knowledge for the psychologist to make student-specific recommendations, and therefore, would not require informed consent. This includes for example, discussion with a teacher about strategies that might assist with a particular behavior problem or sharing disorder specific strategies. Giving advice as part of a resource team that shares and uses existing information or makes plans for service delivery also does not require consent. However, formal consultation which does require consent, can be thought of as not only student-specific but relies on a greater breadth and depth of information about the student in order to develop an opinion or recommendations. Often, formal consultations recruit multiple sources of information and there is a direct observation or interaction with the student.

Whether or not to obtain consent can also be informed by considering the anticipated significance and impact of the SP's activity. Activities that are administrative in nature such as determining funding eligibility (e.g., PUF) or educational categorization (e.g., coding) would not require informed consent; typically, this would not result in a new understanding of the student's

needs nor a major change in programming intervention and strategies. Similarly, SPs participating on placement teams that consider student information for programming fit would not require informed consent. Activities that SPs undertake which may result in a diagnostic opinion, individualized recommendations, significant programming alterations, and/or require student observations and interactions, are likely to have a marked impact and therefore require informed consent.

Ultimately, it is the responsibility of SPs to determine when they require informed consent, and from whom, for any particular professional activity or service, since failure to do so invites individual and employer consequences or liability. Like many situations SPs encounter, there are not definitive answers that can be applied to all cases. SPs should always aspire to the best and ethical practices, but are also faced with balancing often competing pressures. Arguably, adherence to overly rigid or overly loose practices in dealing with informed consent issues can be highly problematic. However, it is generally wise to err on the side of greater involvement of parent(s)/guardian(s) and obtain their informed consent. SPs should consult with their supervisor, other SPs and/or their professional associations (i.e., CAP, PAA) when faced with requests that are particularly complex or that present dilemmas around ethical practice. When in doubt, err on the side of caution and attempt to obtain informed consent. *“Haste is the Devil”* – St. Jerome

This article is based on the work undertaken by the Calgary and area collaborative group of school psychology leads, uses content from [Informed Consent for Minors: What does it mean for the work of School Psychologists](#) (April 2015), and provides insights from the author.