



Informed Consent for Minors: What does it mean for the Work of School Psychologists?

A Practice Guide jointly developed by the School Psychology leadership of the Calgary Board of Education, Calgary Catholic School District, Golden Hills School Division, and Rocky View Schools.

Background

Registered psychologists in Alberta are responsible for meeting the ethics, standards, codes, and guidelines set by their regulating body, the College of Alberta Psychologists (CAP/"the College") as they are central to the College's primary role of public protection. The College has recently published a Practice Alert to clarify psychologists' responsibilities for informed consent for minors (CAP, May 2014). "Practice alerts highlight new, emerging, or otherwise noteworthy circumstances about which psychologists should know" (The CAP Monitor, 43, Spring/Summer 2013, p. 2). The Practice Alert clarifies when informed consent is required for psychological services with minors:

In what circumstances is informed consent required?

The College of Alberta Psychologists Standards of Practice and the Canadian Code of Ethics for Psychologists require psychologists to obtain informed consent prior to providing professional services to a client. "Professional services," means any service that is within the practice of psychology, including consulting, research, and clinical work.... (CAP Practice Alert: Informed Consent for Minors, May 2014, p. 1)

In addition to this professional guidance, registered psychologists adhere to Alberta provincial legislation and Canadian law, which provides specific rules in certain circumstances to protect and confer rights to vulnerable populations. This legislation also put boundaries on the provision of professional psychological services. School psychologists must balance these responsibilities in their roles within schools.

Key Issues

- School psychologists do important work as part of multidisciplinary school learning teams, mandated by Alberta Education and the Boards who employ their services. There is increasing inclusion and value of psychologists' involvement to enhance inclusive educational practices and educational practices in general.
- School psychologists are student-centred and work as part of a collaborative team to provide the best possible educational experience for students. They consult with a wide range of professionals to provide the best possible circle of care to a student.
- School psychologists value this role and want to ensure accessibility of their services to these school teams to maximize the success of students.
- 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.
- Historically, school psychologists have generally not obtained informed consent for consultations, irrespective of the extent of consultation provided.
- Given the emphasis for informed consent highlighted by the College in the [CAP Practice Alert \(May 2014\)](#) a school psychologist must reflect carefully on the type of request being made to determine whether the psychological services to be offered require informed consent, and to obtain informed consent when required.

The purpose of this guideline is to provide clarification around informed consent as it applies to minor children and youth in schools. While each request for psychological services is unique and must be considered individually, the following guidelines are offered to assist psychologists in the decision-making process concerning the need for informed consent.

What is Informed Consent?

The Canadian Psychological Association (CPA; 2000) defines informed consent as:

a process whereby the psychologist seeks to engage “full and active participation from others in decisions that affect them, respecting and integrating as much as possible their opinions and wishes”(I.16).

As best practice in schools, informed consent requires both a signed consent form and a documented consent discussion. The Standards for Special Education (Alberta Education, 2004) states that school boards must obtain parents' written informed consent for specialized assessment. CAP has the additional requirement that psychologists document both the consent discussion and decision. The consent discussion must be conducted by the school psychologist providing the service with the parent who is able to provide informed consent. It is best practice to hold this discussion in person; however, other methods are acceptable (e.g., video chat, telephone). A summary of this discussion is documented and signed off by the school psychologist and both of these documents are stored in the client file.

I.17 Recognize that informed consent is the result of a process of reaching an agreement to work collaboratively, rather than of simply having a consent form signed. (Canadian Code of Ethics for Psychologists, 2000)

Psychologists are reminded that simply having a client sign a consent form and placing this on the clinical file is no longer sufficient. Psychologists are required to personally provide, review, and offer to discuss or answer any questions related to informed consent. It is unacceptable to delegate the task of obtaining informed consent for psychological services to another professional or paraprofessional. This is because only the psychologist can speak to the purpose and nature of the activity; mutual responsibilities; confidentiality protections and limitations; likely benefits and risks; alternatives; the likely consequences of non-action; the option to refuse or withdraw at any time, without prejudice; over what period of time the consent applies; and, how to rescind consent if desired (Canadian Code of Ethics for Psychologists (2000) section I.24). A psychologist must then document any consent-related discussions in the client file. (CAP Monitor, 43, Spring/Summer 2013, p. 8)

Who Can Provide Informed Consent?

If a school psychologist is providing psychological services to a child who is a minor (children below the age of 18, age of majority in Alberta), the school psychologist must obtain informed consent from the minor's parent(s) or guardian(s). Minor youth deemed to be "mature minors" (J.S.C. and C.H.C. v. Wren, 1987, ABCA) or "independent students"(School Act, 2000; Education Act, 2012) are able to provide informed consent for psychological services on their own behalf. The CAP Practice Alert "Mature Minors" (September, 2014) provides guidance on determining whether a minor is a "mature minor" and the documentation required.

Generally, a school psychologist is not required to obtain informed consent from both of the parents or all guardians since each normally has the right to consent to treatment on behalf of their child. However, if the child's parents are separated or divorced, a court order may be in place that specifically addresses or impacts the issue of consent. In these instances, it will be necessary for the school psychologist to review court documentation prior to providing professional services to children and youth of separated/divorced parents outlined within the Family Law Act (2003). The College encourages obtaining consent from both parents in these situations as best practice.

The College's Professional Guidelines for Psychologists: Limits to Confidentiality and Consent for Services: Special Issues in Working with Minors (2010) section II reads:

"Parental written consent or that of the guardian is required and must be documented for the provision of psychological services to a minor. Normally, consent from only one of the parents is acceptable. However, when the parents are separated or divorced, a psychologist must inquire who has legal guardianship of the minor" (p.3). It is a well-accepted practice of psychologists working with separated or divorced families to obtain the consent of both parents, unless there are specific reasons why this would be highly adverse to any child's best interests. These reasons should be significant and clearly documented in the client file. The College encourages the practice of obtaining consent from both parents as it reduces the likelihood that the psychologist may be perceived as aligning with one party and allows the psychologist to consider multiple perspectives/sources of information (The CAP Monitor, 44, Fall/Winter 2013, p.8).

Assent

Informed consent from a parent/guardian is only one aspect of best practice. Assent is similar to informed consent in that it involves informing the minor of the psychological service to be provided and asking for his or her agreement in participation. School psychologists strive to obtain the assent of minor children for whom they are providing psychological services when appropriate. If assent is not provided, school psychologists consider the wishes of the minor child and proceed only if deemed in the best interests of the child.

What To Do When Consent Is Difficult To Obtain

Sometimes school psychologists have difficulty obtaining consent due to a number of factors affecting parents/guardians (e.g., custody issues, work limitations, cultural traditions, economic barriers, etc.). It is important that school psychologists make every effort to obtain informed consent in these situations. In accordance with the Canadian Code of Ethics for Psychologists (2000), school psychologists have a duty of care to make extra effort to support vulnerable populations. As well, the School Act (2000) and Education Act (2012) mandate a duty of care. Although the informed consent process may be more time consuming or complicated with parents in these situations, it is important to uphold this process as a sign of respect for these individuals and their rights.

School Psychologists Take Responsibility To:

- Identify the appropriate parent(s)/guardian(s) to provide informed consent by seeking documentation that provides confirmation of custody arrangements.
- Strive to include the non-custodial parent in the informed consent process as appropriate.
- Go beyond typical means to obtain consent (e.g. meeting at a school near to a parents' workplace instead of their child's school, video conference, emails, calling after work hours, using multiple means of contact).
- Document extra efforts and time taken to obtain consent.
- Carefully weigh the pros and cons of proceeding without full informed consent if deemed in the best interests of the child to obtain the support he/she needs.
- Consult with colleagues and with a PAA practice advisor if considering proceeding without informed consent.
- Document defense of reasoning if choosing to proceed without informed consent.

Are There Cases In Which Informed Consent Is Not Required?

Requirements for informed consent for psychological service are only temporarily lifted in cases of emergency psychological care. However, these cases are rare in general school psychology practice and limited in scope to alleviating the emergency only.

Providing Services Without Informed Consent

3.8 Notwithstanding section 3.1, a psychologist may provide a professional service without informed consent in the case of an emergency, but only to the extent necessary to reduce or alleviate the emergency; further professional services shall only be provided by the psychologist with informed consent from the client. (CAP Standards of Practice, May 2013, p.4)

How Long Is Informed Consent Good For?

Informed consent is valid until the end of the service agreed to, or until the end of the current school year in which the informed consent is obtained, whichever comes first. A new informed consent process is required at the beginning of the school year if services are continued from the previous year or were not started/completed.

What Is Psychological Service?

Psychological services include interventions (including psychoeducational intervention, counseling and therapy), assessment, and consultation.

Professional Activities (Services)

Interventions are activities based on psychological knowledge, skills, and judgment that promote, restore, sustain, and/or enhance positive functioning and a sense of well being in clients through preventive, developmental and/or remedial services.

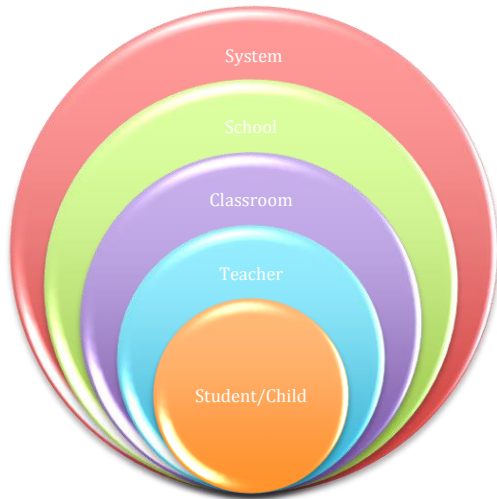
Assessment is the professional activity of gathering, analyzing, and synthesizing information about an individual or group of individuals sufficient to draw supportable psychological conclusions.

Consultation is the provision of professional advice or service based on psychological knowledge, skills, and judgment that will assist others in the identification and resolution of problems. (CAP Information for Applicants Handbook, April 2012)

General and Formal Consultation

Consultation is a broad term and can be applied to a continuum of services from a quick hallway conversation to an involved process of multi-source information gathering, recommendations, and program monitoring. It is helpful to divide consultation into categories of **general** and **formal** consultation when considering the need for informed consent. General consultation does not provide sufficient professional knowledge for the psychologist to make student-specific recommendations, and therefore, general consultation does not require informed consent. This includes conversations with teachers on general psychological advice; targeted disability specific, conversations that builds teacher capacity and shapes evidence-based practice. Advice as part of a resource team that shares and uses existing data or makes plans for service delivery also does not require consent. If through these conversations it is determined that a

formal consultation or assessment is required to determine student-specific recommendations, informed consent is required. A formal consultation, which includes information gathering from a variety of sources, may involve student observation, consultation with parent(s) /guardian(s), offering recommendations, program monitoring and revision. These formal consultations provide sufficient professional knowledge to lead to student-specific recommendations.



In general, school psychologists are asked to provide psychological services that are:

- Student-focused
- Teacher-focused
- Classroom-focused
- School-focused
- System-focused

For Which School Psychological Services Is Informed Consent Required?

“The College of Alberta Psychologists Standards of Practice and the Canadian Code of Ethics for Psychologists require”

...psychologists to obtain informed consent prior to providing professional services to a client. “Professional services” means any service that is within the practice of psychology, including consulting, research and clinical work... For example, a psychologist who is employed by a school district may be asked to consult with a teacher regarding learning strategies in the school context. Consent is not required if the psychologist is providing general information to the teacher regarding teaching strategies, classroom set-up or other advice that is not specific to a particular, named student. However, if the psychologist is providing advice or recommendations regarding a particular, named student, the psychologist must obtain informed consent from the minor’s guardian(s) before providing professional services.” (CAP Practice Alert: Informed Consent for Minors, May 2014, p. 1)

Information Gathering

School psychologists always have access to and often become aware of information on individual, named students. As employees of school boards, the Freedom of Information and Protection of Privacy Act (FOIP; 2000) allows service providers within a public body, including school boards, to share personal information to employees of the same public body. Only if the information is necessary to perform their duties, or to a different public body if the information is necessary for the delivery of a common integrated program or service and if disclosure will avert or minimize risk of harm to a minor. The Children First Act (CFA; 2013) 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. School psychologists gather information on individual, named students during their roles on multi-disciplinary teams and in their service to schools. This service of information

gathering on individual students as a member of a school/student learning team, referral, placement, file reviews, medical/psychological/ and other professional documentation review are not in themselves a psychological service, are permitted under FOIP 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 not to provide services. Psychological service is purposefully differentiated from information gathering in the CAP Standards of Practice (2013).

General Services to System, School, Classroom, Teacher

No informed consent is required when psychological services are provided when these services are system, school, or classroom-wide or directed towards a multidisciplinary team or individual teacher. An individual student may benefit from this service, but the service is not specifically directed to this student and the student does not need to be named to provide this support. This may include consultation to school staff members or teacher on general classroom-wide strategies.

General Services to Individual Students

No informed consent is required when consultation is based on general psychological knowledge of disorders and disabilities. For example, a school psychologist may provide recommendations to a teacher based on evidence-based strategies best suited for students with ADHD, ODD, Anxiety. These recommendations may be applied to an individual student by the teacher, but are not specific to the student as they can be applied to any student with the same disorder/disability.

Psychological Services to Individual Students

Informed consent is required for provision of psychological services to individual students including consultation, intervention (including counselling and therapy), and assessment. These services include consultation with parents and teachers to gather specific information about the student and individual assessment with students. Richard Spelliscy, Complaints Director, College of Alberta Psychologists, reminds us to, “connect before you direct”. (Personal communication, December 2014)

Framework for Informed Consent Decision Making

Several considerations should be weighed when deciding whether or not informed consent is required.

Considerations	Consent	No Consent
Who is the client?	Individual Student/Group of Students	Teacher/Classroom/School/System
What is the type of service?	Psychological Service (Consultation, Assessment, Diagnosis, Intervention, Counselling)	Information Gathering /Interpretation/Resource Team Meetings
Is there sufficient information to make a decision?	Changing or adding new information about a student	Reviewing, clarifying, or gathering existing information
What types of recommendations are expected?	Student-specific (new or changed /modifying existing data)	Teacher/Classroom Specific, educational, or student-specific using existing data – service determination
What type of programming changes are expected?	Certain or possible significant changes may be required	None/or no notable changes to existing programming

Examples of student-specific psychological services that require and do not require consent. No consent (green) category is supported by FOIP and the CFA in our role as a service provider in a school board to facilitate planning regarding provision of services.

Informed Consent Required	No Consent Required
Individual or group formal and general assessment	File review of existing individual or group assessment information
Individual or group counselling/intervention/therapy	Assisting teacher in choosing and implementing a class-wide psycho-educational intervention
Individual/group formal consultation	Individual/group/classroom general consultation
Individual named student observation	General classroom observation
Modifying/Challenging existing assessment results on an individual/group of students	Psychological/medical report interpretation
Proposing new student-specific recommendations	Making general disability-specific recommendations or helping teachers in understanding/following existing student-specific recommendations
Making/revising a diagnosis	Helping teachers to understand an existing diagnosis
Service determination through gathering new information	Service determination for an individual from existing information
Making an independent placement decision on a student or gathering new information for a placement decision	Taking part on a placement committee as part of a multidisciplinary team using existing information with consultation to the committee in enhancing understanding of existing student data and fit of student characteristics with program purpose

Ethical Decision Making Process

Ultimately, it is the responsibility of the school psychologist 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 liability. Like many situations school psychologists encounter, there are not definitive answers that can be applied to all cases. School psychologists should always aspire to the best and ethical practices, but are also faced with balancing often competing pressures. While the Freedom of Information and Protection of Privacy Act (2000) permits school psychologists to freely share information with teachers as employees of the same public body, this needs to be balanced against the CAP Standards of Practice (2013) and Canadian Code of Ethics for Psychologists (2000) which place a higher obligation on the protection of personal information and involvement by parent(s)/guardian(s) in decisions which affect their children. Arguably, adherence to overly rigid or overly loose practices in dealing with personal information and informed consent issues will prove to be highly problematic. However, it is better to be too protective rather than too loose. It is generally wise to err on the side of over-involvement of parent(s)/guardian(s) and obtain their informed consent, as opposed to under-involvement of parent(s)/guardian(s) in the process. If a school psychologist is uneasy with a consent question, they have a duty to consult with other members of the profession in making a decision. School psychologists should consult with their supervisor, another member of the school psychology staff and/or their professional associations (CAP, PAA) when faced with requests that are particularly complex or that present dilemmas around ethical practice. Psychologists are not liable for their consultative advice to another psychologist. In addition, review of the reference materials highlighted may be helpful in guiding the school psychologist's decision making process. When in doubt, err on the side of caution and attempt to obtain informed consent.

Reference Materials

The following documents were reviewed during the development of this guideline and are quoted and referenced where appropriate. They are organized by the institution or association that created the document:

College Of Alberta Psychologists

College of Alberta Psychologists: Information for Applicants Handbook (April 2012)
College of Alberta Psychologists: Jurisprudence: Legislation Naming or Affecting Psychologists in Alberta (Revised May 2014)
College of Alberta Psychologists Practice Alert: Informed Consent for Minors (May 2014)
College of Alberta Psychologists Practice Alert: Mature Minors (September 2014)
College of Alberta Psychologists Practice Alert: Sufficient Professional Knowledge (September 2013)
College of Alberta Psychologists Professional Guidelines for Psychologists: Informed Consent: Ethical Guidelines, Principles and Standards (2008)
College of Alberta Psychologists Standards of Practice (2013)
The CAP Monitor (43: Spring/Summer 2013)

Canadian Psychological Association

Canadian Psychological Association: Canadian Code of Ethics for Psychologists, 3rd Edition (2000)
Canadian Psychological Association: Professional Practice Guidelines for School Psychologists in Canada (2007)

Alberta Government Legislation

Alberta Education Standards for Special Education (2004)
Children First Act (2013)
Education Act (2012)
Family Law Act (2003)
Freedom of Information and Protection of Privacy Act (2000)
School Act (2000)

Alberta Court Decisions

J.S.C. V. Wren [1987] 2 W.W.R 669 (ABCA)

American School Psychology Guidelines

National Association of School Psychologists Principles for Professional Ethics (2010)

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