

The Ethical Dilemma of Sexual Perpetration and Developmental Levels

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Case Scenario

One of your elementary school students, John, was turned into Child Protective Services as a sexual perpetrator last year. CPS has been involved with this child since that report. The mother of another one of your students, Stephen, who is autistic, has recently suggested the idea of allowing her son to learn how to walk home from school with the aid of a peer. The peer, a next-door neighbor, happens to be John, the sexual perpetrator. The Special Education teacher has mentioned this arrangement to you. She does not know about John's previous history. All of this will be discussed at the IEP meeting next week. She is hoping that you may have some tools to assist both Stephen and John navigate this milestone. What do you do?

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Ethical dilemmas are not unusual for a school counselor considering the variables at play in a school environment: minors' rights, parents' rights, school board policies, and state and federal laws and regulations, just to name a few. Luckily, the American School Counseling Association has developed, and periodically updates, *Ethical Standards for School Counselors* (2016). While this document has various insights that influence a counselor's decisions, it does not label solutions for different scenarios. Thus, when a school counselor finds oneself in an ethical dilemma, decision-making models are more helpful in guiding a counselor to a decision that any competent, professional counselor would.

In this paper, one of these models is applied to a case scenario in order to come to a decision that a counselor would feel confident in choosing.

Applying the STEPS Guide to Ethical Decision Making

STEPS is an acronym for Solutions to Ethical Problems in Schools, an ethical decision-making model that expands upon the seven steps in the American Counselor Association model (Stone, 2001). This model is most appropriate for the posited case scenario as it "addresses the emotional influences of a problem and considers chronological and developmental appropriateness as well as parental rights," as school counseling operates in an environment significantly different than other areas of counseling (Stone, 2013, p. 24).

While utilizing the STEPS model, it is important to take into consideration that the steps, while presented sequentially, rarely occur in order in real life scenarios. For the purposes of addressing this case scenario, steps one through six will be followed in order, with steps six and seven combined.

The STEPS model will be applied to the ethical scenario that was given to us concerning John and Stephen. Both are in elementary school, except Stephen is diagnosed with autism. Stephen's Mom wishes for him to start walking home from school. John is coincidentally Stephens next door neighbor and has been offered by John's mother to walk Stephen home. However, John is labeled as a sexual perpetrator. The ethical steps will help us, as school counselors, decide the many routes we are able to take with this scenario and which route is the best one to take.

1. Define the Problem Emotionally and Intellectually

As there are teachers, parents, students, and even Child Protective Services (CPS) involved, confidentiality and safety are the two main considerations in this situation. First, should we, as counselors, allow the unsupervised interaction between John and Stephen as requested by Stephen's mother, while privately knowing that this interaction could potentially bring harm to Stephen? Then, in light of the decision, how should we handle the sensitive information to properly implement and/or defend our judgement?

Intellectually, our initial reaction is that we would like to know more information; however, this case scenario does not provide many answers. Primarily, the case involves two students, both of whom are in elementary school: John, who was turned into Child Protective Services (CPS) as a sexual perpetrator last year, and Stephen, John's neighbor who has autism. The main areas of uncertainty concern the ages and developmental levels of the two students, the extent and current status of John's sexual perpetration, and the personal history between the two students. We would like to have more information in order to better inform our decisions.

Emotionally, our initial reaction is of concern. As there are two students involved in the case, we do not want to cause harm nor breach terms of confidentiality with a potential decision.

The areas of significance, sexual perpetration and autism, are sensitive topics even for individuals with high developmental levels, and they should be treated with respect and seriousness. We acknowledge that with such variables, it is unlikely that everyone will come away perfectly content with the ultimate decision, and it is our responsibility as counselors to ensure we minimize any negative impacts that are within our control.

2. Apply the ASCA and ACA Ethical Codes and the Law

The ethical codes can offer much insight with the identified ethical problem. The first code that shows relevance to the scenario relates to confidentiality. In section A.2.g. of the *Ethical Standards for School Counselors* (American School Counseling Association [ASCA] 2016), it states that the counselor must protect the student's personal records in accordance with state laws and school policies. With this ethical code in place, we have to ask ourselves what type of information is personal information. John is labeled as a sexual predator and has been for a year now; however, is this the type of information that one considers personal and kept confidential, or can this information be relayed to Stephen's mother?

The second code that affects this case is in section A.6., which requires a counselor to identify and collaborate with stakeholders when student assistance is needed (ASCA, 2016). School counselors should not handle a situation like this on their own, especially with so many factors involved. One would have to discuss the problem with Stephen's mother, John's mother, the special education teacher involved, and Child Protective Services. Additionally, the counselors might reach out to other school counselors to get a different perspective.

Section A.9. further impacts this case, speaking to serious and foreseeable harm to self and others (ASCA, 2016). John has been labeled as a sexual perpetrator and Stephen has been

diagnosed with a functioning form of autism. One should look to see if John would be a possible threat to Stephen, who is more vulnerable than most students due to his diagnosis.

Section A.10. discusses serving the undeserved and at-risk population (ASCA, 2016). In terms of the current case, this group includes Stephen, who is diagnosed with a functional form of autism. Subsection A.10.g. specifically talks about serving those with disabilities and catering to and making sure their academic, physical, and emotional needs are met. When assessing the situation and speaking with Stephen, it is important to adjust the content to suit his developmental level.

Section B.1 is all about the responsibilities to a student's parents and each subsequent subsection shows relevance to the current scenario. Specifically, subsection B.1.a. informs school counselors to involve the parents of the student(s) that is being worked with (ASCA, 2016). They should be notified of every decision that is being made involving their child. This will be discussed in more detail in Step 4 of the STEPS model.

3. Consider the Chronological and Developmental Levels

In the given scenario, the chronological and developmental levels of the two students are not identified. For the purposes of this paper, it is assumed that both children are eight years old, that John is operating at an average developmental level for his age, and that Stephen has a moderate to light form of autism.

In applying Piaget's theory of cognitive development, John is only just within the concrete operational stage and Stephen is within the pre-operational stage (Sharf, 2013, p.175). Within the pre-operational stage, a child has egocentrism, the inability to look beyond one's own perspective, and is interested in knowing the reason behind every encountered phenomenon. In direct contrast, the concrete operational stage matures one's curiosity to deeper logical

understanding of processes. Additionally, a child is able to take on others' perspective and is no longer bound by one's own experiences. It is important to note that John's incidence of sexual perpetration occurred a year prior, when he may have been within the pre-operational stage of development. This is supported by the claim by the U.S. Department of Justice bulletin *Juveniles Who Commit Sex Offenses Against Minors* that "some juvenile sex offenders appear primarily motivated by sexual curiosity" (2009, p.3).

In applying Kohlberg's stages of moral development, both John and Stephen are within the pre-conventional stage, characterized by self-interest and direct consequences (Kohlberg, 1976). Children in this stage make decisions based on how they will be affected, not taking into consideration the feelings of others nor their relationships with them. Social constructs of the "right" and "wrong" do not play a factor in their thinking.

Both the cognitive and moral developmental theories inform the ethical decision-making process in this case scenario. At age seven, John may not have been able to see the wrongdoing of his behavior, instead driven by curiosity and his own needs. As the two theories propose conflicting information, it is unclear as to whether John, at age eight, may be considered able to understand the greater implications of his actions and therefore refrain from engaging in inappropriate behavior. Further, it is important to determine if he is capable of handling sensitive information and of coming forward in the case of John ever making him feel uncomfortable, going as far as to determine if he understands the nuances of being uncomfortable.

4. Consider the Setting, Parental/Guardian Rights, and Minors' Rights

When dealing with scenarios involving students, school counselors have to consider the developmental age of these students, meaning: are they mature enough to make important decisions for themselves? In terms of Stephen and John, regardless of the cognitive and moral

development, due to their chronological levels, a significant amount of their rights is vested in their parents (Stone, 2013). Therefore, the parents should be included in the final decisions that affect their children. Also, with regards to the students being labeled as minors, the parents must be involved with the whole process concerning their child as section B.1 a. of the ethical codes state.

5. Apply the Moral Principles

Kitchener names five moral principles that can serve as a guide to the decision-making done by school counselors: autonomy, beneficence, nonmaleficence, justice, and loyalty (Stone, 2013, p.22). In this scenario, autonomy cannot be heavily applied as the students are too young to be making informed decisions. Contrarily, beneficence is applicable to both John and Stephen. It is important to actively contribute to both students' development, such as progressing Stephen's ability to be autonomous and John's ability to take responsibility. Paired with beneficence is the moral principle of nonmaleficence: avoiding harm to the student. First, one must identify potential harm and put in structures to minimize the harm as much as possible. In this scenario, the counselor must work to keep Stephen physically safe while protecting John from undue bias. Fourth, justice can be looked at as fairness and looking upon everyone equally. With this, Stephen and John should be treated equally regardless of Stephen's autism or John's label as a sexual perpetrator. Looking at the final moral principle, a school counselor can show loyalty by being present and considerate of the students and not taking "sides."

When looking at all the moral principles as they apply to the current scenario and uncertain details, there is a conflict between justice and nonmaleficence. John should be treated equally by not limiting his persona to that of a sexual perpetrator. However, Stephen should not

be placed near any harm, including the consideration of John's past. Therefore, when it comes time to make a decision, these principles must both be weighed seriously.

6. Determine Your Potential Courses of Actions and Their Consequences, and 7. Evaluate the Selected Action

With every ethical dilemma, there are a number of courses of action that could be taken, as well as associated positive and negative consequences of each. This section outlines several possible and probable decisions while taking into consideration the effect on the students, parents, counselor, and any other potential stakeholders in the scenario.

In this scenario, the following priorities will help guide the evaluation and elimination of each possible course of action: keeping John's history confidential unless necessary, providing for a safe environment for Stephen, and respecting the parents' rights from both families.

Assume that John has matured from the CPS intervention and do not inform any of the parties of the sensitive information. According to *Juveniles Who Commit Sex Offenses Against Minors*, "one brief treatment for [sexual perpetrator] preteens reduced the risk of future sex offenses to levels comparable with those of children who had no history of inappropriate sexual behavior" (2009, p.8). Despite this claim, this course of action is neglectful and allows for potential maleficence, as it is known that John was of concern at one time and steps were not taken to officially determine his current state. Additionally, this path does not actively contribute to the well-being of either student, both of whom should receive additional attention to address their individual needs. In the case of an issue arising between John and Stephen, and it is uncovered that the counselor knew of the potential issue, the counselor can be held liable for not acting as a competent and professional counselor would.

Assume John has not matured from the CPS intervention and recommend that Stephen's mother find another student to assist with his progress. As a direct polar opposite to the previous course of action, in this scenario, one would assume the worst of John without taking the proper steps to determine if this assumption is correct. However, the consequences are similar: the counselor would be neglecting the duty to both students by refraining to provide, or at least attempt to provide, proper services. Further, the counselor's opinion of John contributes to the systematic difficulties that he may face as an adolescent sexual perpetrator. As Sarah Stillman of the New Yorker writes, "to write a kid off at an early age and to label them like that is just unconscionable" (2016), and a counselor should know better.

After contacting CPS and John's parents to learn of his progress and capabilities, inform Stephen's parents of the scenario and let them make a decision. This option has the counselor take responsibility for developing a better understanding of the situation that John is in, which is essential to properly inform further decisions. Unfortunately, the counselor stops short of actually becoming directly involved in determining a proper solution and instead shares confidential information that may be damaging to both John and Stephen. While it could potentially be argued that sharing the information could prevent serious and foreseeable harm, thus fitting into an allowance for the breach of confidentiality (ASCA, 2016), technicality is not what a counselor strives for. The irresponsible delivery of the information could consequently ruin the relationship between the two neighboring families and students.

After contacting CPS and John's parents to learn of his progress and capabilities, bring the two sets of parents together to work as a team to make a decision. This option sees the counselor develop an understanding of John's situation and become directly involved in

finding a solution. Acting as an informed mediator, the counselor is the best positioned to keep the conversation focused and productive.

Of the four possible courses of actions presented, this final option has the potential for meeting all of the aforementioned priorities: keeping John's history confidential unless necessary, providing for a safe environment for Stephen, and respecting the parents' rights from both families. It is the most promising in making as big of a beneficial impact and as small of a negative impact in this ethically complicated situation.

8. Consult

All school counselors should consult with someone before solving the problem at hand. By consulting, it illuminates areas which we have not noticed. In the current scenario, it would be best to consult with our supervisor or other school counselors on the problem. It is possible that another school counselor has seen a similar problem before from which good advice can be learned. Also, consulting with John's teachers can be helpful. They are around John every day and can inform us on his behaviors he exhibits. This could help in the ultimate decision in the end.

9. Implement the Course of Action

In implementing the best course of action as identified in steps 6 and 7, the following steps should be taken to maximize beneficence while minimizing risk and harm. Throughout this entire process, the counselor would be documenting when conversations took place and with whom.

i. Contact Child Protective Services and John's parents to determine John's assessed status. This step is necessary to build awareness and understanding of the extent of John's status. If he is approved, then the counselor would move on to step 2. If it is not recommended that John

participate, then the counselor would intervene and work to find a different solution for Stephen without sharing information about John. This step specifically addresses the moral principle of justice in that a counselor does not base judgment without updated information.

ii. Determine if John's parents are alright with sharing information with Stephen and his parents, as well as if there is already an existing relationship between the two students and/or families. Acquiring consent from parents is essential to maintaining a good working relationship to best serve the students. Additionally, learning of any preexisting relationship between the families and/or students will enable the counselor to better orient the conversation. In fact, if there is already an existing relationship, then the confidential information about John's history may already be familiar to Stephen's parents.

iii. Contact the parents to set up a meeting to discuss the situation. Bringing the parents together after talking with them each separately helps structure the conversation to be solution-focused. Further, including the counselor in this discussion provides for the third-party account that each family would recognize as having the best interests of their child in mind, therefore fostering trust and a sense of nonmaleficence. Of course, at the beginning of the conversations with each set of parents, their rights and extent of confidentiality would be discussed.

iv. Set goals for the two students as well as measures to check-in on their progress. **status.** Having clear goals and scheduled meetings will give the parents a sense of security as well as accountability for their children. This step addresses any fears or concerns that the parents may have regarding the situation. If there are any major concerns that cannot be addressed, then the conversation would stop and an alternate solution would be found by Stephen's parents and the counselor, similarly to the alternative option in step 1. Also, it may be

advised to create a document outlining the roles, responsibilities, and consent for each of the parents to sign in order to hold them accountable and reduce potential future risk for the counselor.

v. Talk to the students to discuss the determined criteria. After acquiring consent and determining goals and measures, the counselor would introduce the idea to the students, with or without the parents, in a developmentally appropriate way. The various factors to emphasize would be the students' goals and responsibilities, the boundaries of these responsibilities, and how the parents and counselor will be checking in on them periodically. Included in the responsibilities would be the discussion of how to be a good friend, personal space, and what to do if they feel uncomfortable. Additionally, similarly to discussing with the parents, the counselor would explain to the students their rights and what the terms of confidentiality mean.

vi. Encourage parents to talk to their children daily. While it may be overwhelming for the students to meet with the counselor daily, not to mention unrealistic for the counselor's schedule, having the parents check-in with their students is already an established part of the weekday. When initially meeting with the parents, the counselor would provide recommended conversation starters and appropriate words and phrases that should be used. Asking if Stephen "felt comfortable with the walk" and asking what John "was proud of on the walk" could lead the students into more constructive conversations, getting specifics instead of general feelings that may be auxiliary to the main concern. If a concern is every identified, the parents should reach out to the counselor. For example, Stephen and John may simply not like each other, in which case, an alternative solution would be found, as in steps 1 and 4.

vii. Schedule individual counseling sessions with each student. If there have not been any concerns or other reasons why John and Stephen have stopped walking home together, then

the counselor would meet individually with each student. These meetings would be focused on more specific criteria than the parents have been asking, as a counselor would be focused on the growth and development of each student. Additionally, the counselor would learn "both sides of the story" and be able to draw a conclusion on if the relationship is beneficial or detrimental.

viii. Schedule a follow-up meeting with the parents to discuss the continuation and possible changes to the routine. Finally, the counselor would meet with the parents to adjust the meeting schedules, update conversation starters, and discuss the future of phasing out the involvement of the counselor so that the students and families can operate autonomously.

Discussion

Overall, this case scenario has a few areas that limit for a truly realistic and defensible ethical decision, specifically the missing, and therefore assumed, variables of the case. The developmental levels of the students play a significant role in how the goals and measures would be structured as well as how the information would be presented to both the parents and students. If either John or Stephen was identified as being incapable of handling the situation, then an alternative solution other than the one discussed in this paper would have to be explored. Additionally, the cooperation and temperaments of the parents are difficult to predict and could easily make the discussion much more complicated. Sharing confidential information with those outside of the school system is always risky and the trust placed upon divulging it could easily be breached. If a parent were to do so, then additional steps would need to be taken handle any repercussions. Finally, the school or state policies could immediately interfere or impact this decision-making process, as a hypothetical situation operates outside of specific jurisdiction.

In terms of the STEPS model, many redundancies and similarities existed between the steps. For example, steps three and four consist of deciding the developmental age and then

deciding on the rights of the parents and minors. These can easily be combined into one step for school counselors, as one has to take into consideration the of the chronological and developmental age of the child, which direct impact the extent of their own and their parents' rights. Additionally, steps six and seven were combined in this paper due to the strong similarity of content in each one. When encountering these scenarios in real life, time might not be available to go through these steps individually. Sometimes, a quick decision is necessary in order to effectively help the student(s). These two areas are where the STEPS model may be shortened to allow for a quicker process.

Overall, the STEPS model greatly contributed to the understanding of the situation and the many components at play, allowing for a decision that any competent and professional school counselor would make.

References

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