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Elizabeth Timmerman Lugg | Elena Diamond

ETHICS AND LAW
FOR SCHOOL PSYCHOLOGISTS

EIGHTH EDITION

with website

WILEY

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Eighth Edition

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The right of Susan Jacob, Dawn M. Decker, Elizabeth Timmerman Lugg, and Elena Diamond to be identified as the authors of this work has been asserted in accordance with law.

Contents

Preface

There are a number of excellent texts, journal articles, and book chapters on ethics in psychology, legal issues in school psychology, and special education law. However, in the late 1980s, the authors of the first edition of this book recognized a need for a single sourcebook on ethics and law specifically written to meet the unique needs of the psychologist in the school setting. Consequently, *Ethics and Law for School Psychologists* was written to provide up-to-date information on ethical principles and standards and law pertinent to the delivery of school psychological services. Our goals for this eighth edition of the book remain unchanged. We hope that the book will continue to be useful as a basic textbook or supplementary text for school psychology students in training and as a resource for practitioners. In addition, we hope it will also be a valuable resource for scholars interested in ethical and legal issues in the field of school psychology.

As stated in the preface to the first edition, one goal in writing the book was to bring together various ethical and legal guidelines pertinent to the delivery of school psychological services. We also introduce an ethical-legal decision-making model that supports socially just practice (Diamond et al., 2021). We concur with the suggestion that the educated practitioner is the best safeguard against ethical-legal problems (Koocher & Keith-Spiegel, 2008). School psychologists with a broad knowledge base of ethics and law are likely to anticipate and prevent problems. Use of a decision-making model allows the practitioner to make informed, well-reasoned choices in resolving problems when they do occur (Cottone, 2012; Eberlein, 1987; Tymchuk, 1986).

WHAT'S IN THE BOOK

Chapter 1 provides an introduction to ethical codes; the DECIDE ethical-legal decision-making model (Diamond et al., 2021); and the four broad ethical principles of respect for the dignity and rights of all persons, professional competence and responsibility, honesty and integrity in professional relationships, and responsibility to schools, families, communities, the profession, and society. We also describe ethics committees and sanctions for unethical conduct. Chapter 2 provides an introduction to the legal underpinnings of school-based practice and to public school law that protects the rights of students and their parents. We also address certification and licensure of school psychologists—mechanisms that help to ensure that psychologists meet specified qualifications before they are granted a legal sanction to practice. The chapter closes with a brief discussion of tort liability of schools and practitioners. In

Chapter 3, we discuss privacy, informed consent, confidentiality, privileged communication, and record keeping—ethical-legal concerns that cut across all of the school psychologist's many roles.

The remaining chapters focus on ethical-legal issues associated with specific roles. These chapters build on foundational knowledge of ethics and law presented in the first three chapters. Chapters 4 and 5 address the delivery of services to students with disabilities. Psychoeducational assessment within the context of a school psychologist–client relationship is discussed in Chapter 6. Chapter 7 addresses academic and behavioral interventions within a multitiered system of service delivery and therapeutic interventions such as counseling. Chapters 8 and 9 focus on indirect services. We discuss ethical-legal issues associated with consultative services to teachers and parents in Chapter 8 and systems-level consultation in Chapter 9. A number of special consultation topics are covered in Chapter 9, including the ethical-legal concerns associated with large-scale assessment programs (high-stakes testing, screening to identify students at risk for harm to self or others); instructional policies and practices (grade retention, instructional grouping, programs for English learners and gifted and talented students); school discipline; and discrimination, harassment, and bullying. In Chapter 10, ethical-legal issues associated with research are discussed, and Chapter 11 provides a brief overview of issues associated with school-based supervision of school psychologists in training. And, finally, in Chapter 12, we discuss advocacy.

WHAT'S NOT IN THE BOOK

We have chosen to focus on ethical-legal issues of interest to current and future school-based practitioners. Consistent with this focus, we did not include a discussion of issues associated with private practice. Interested readers are encouraged to consult C. B. Fisher (2017) and Knapp et al. (2017). We also did not address the legal rights of psychologists as employees in the public schools. However, we did address situations in which the freedoms of ordinary citizens must be balanced with the school psychologist's professional roles and responsibilities.

EIGHTH EDITION REVISIONS

There have been a number of changes in ethical guidelines and law since we completed work on the seventh edition of this text. The National Association of School Psychologists (NASP) revised its professional standards, including the *Principles for Professional Ethics*, in 2020, and the American Psychological Association revised its ethics code, *Ethical Principles of Psychologists and Code of Conduct*, in 2016 ([APA], 2017b). In the past several years, court rulings have provided new legal guidance on several issues of importance to school psychologists. For example, the US Supreme Court decision in *Endrew v. Douglas County School District* (2017) clarified interpretation of the meaning of *a free and appropriate education* under the Individuals with Disabilities Education Act as amended in 2004 (IDEA). The Supreme Court decision in *Fry v. Napoleon Community Schools* (2017) clarified that a student who has an individualized education program (IEP) under IDEA may have additional rights and protections under Americans with Disabilities Act as amended in 2008 that must be respected by the school.

The eighth edition of *Ethics and Law for School Psychologists* gives new attention to the ethical obligation to promote social justice. The problem-solving model that appeared in previous editions of the book was replaced by a new model developed by Diamond et al. (2021) that emphasizes socially just practice. Overall, the book has been updated to stress consideration of racial, ethnic, socioeconomic, and other background factors important to understanding the context and/or the individuals involved in ethically challenging situations (e.g., APA, 2017a), and practitioners are now more explicitly urged to examine their own biases and how those biases might affect their perception of a situation and professional judgment. Chapter 8 now includes information about working with students who have undocumented family members and the educational rights of homeless schoolchildren. While all chapters were revised with an eye toward including relevant content on social justice, Chapter 12 (new) now provides an expanded focus on advocacy.

The previous edition of *Ethics and Law for School Psychologists* included new material on ethical-legal considerations associated with the use of digital technologies by school districts, school psychologists, and school children. Since that time, the Covid-19 pandemic along with the nationwide shortage of school psychologists have led to increased interest in distance assessment and intervention. As a result, multiple sections of the book were further updated to address ethical and legal concerns associated with distance delivery of school psychological services, including sections on distance assessment (Chapter 6), teleconsultation (Chapter 8), and telesupervision (Chapter 11).

Throughout the eighth edition, we incorporated citations to recent publications and legal decisions. However, we also continued to cite older works that provided the foundation for more recent scholarship in the area of ethics and law for school psychologists. As Koocher and Keith-Spiegel (2008) observed, ignoring important older publications on a topic is disrespectful of the efforts of early scholars. Furthermore, researchers and writers "who pass over earlier work may conclude that they discovered something fresh and innovative when in fact the same findings were published many years ago" (p. 524).

To assist the reader, a list of acronyms that are frequently used in this volume appears in Appendix E. An updated instructor's manual with test questions and Microsoft PowerPoint slides are available for trainers who adopt the textbook. These supplements are available by contacting your John Wiley & Sons sales representative (visit http://www.wiley.com).

A number of the changes made in the eighth edition were suggested by readers. We welcome your suggestions for improving future editions of *Ethics and Law for School Psychologists*. Please contact Susan Jacob, Professor Emeritus, Central Michigan University. E-mail: jacob1s@cmich.edu.

DISCLAIMERS

The portions of this book that address legal issues were written to provide the reader with a framework for understanding federal and state law pertinent to the delivery of school psychological services and a foundation for future learning in the area of legal issues. We hope that the material on legal issues will alert practitioners to professional practices that law deems appropriate or inappropriate (Sales et al., 2005); prompt them to seek consultation with knowledgeable supervisors when legal questions arise;

and encourage thoughtful decisions that are respectful of student rights and decisions that, under public scrutiny, will foster trust in school psychologists. This book is not a legal text, and nothing in the book should be construed as legal advice. The court cases and judicial opinions summarized here were selected to provide a historical background for understanding legal issues in the field of school psychology, to illustrate terms and principles, to provide insight into contemporary interpretations of law pertinent to practice, or to serve as a cautionary tale regarding missteps to avoid in the delivery of services. Unlike a legal text, we do not provide a comprehensive set of citations to authoritative judicial decisions when legal issues are discussed in the book.

In addition, our interpretations of ethical codes and standards should not be viewed as reflecting the official opinion of any specific professional association.

NEW AUTHORS

When Susan Jacob and Tim Hartshorne published the first edition of *Ethics and Law for School Psychologists* in 1991, interest in ethical and legal issues associated with the field of school psychology was growing. However, while attorneys and others published on special education law, there were not many school psychologists publishing in the area of ethics. Today, it is exciting to see new scholars writing about ethics in school psychology, and especially social justice. With this edition, we begin a shift toward including some of those new voices as book and chapter authors. Elena Diamond, Associate Professor and Director of the School Psychology Program at Lewis & Clark College, joins us as a fourth author of the textbook. Dana E. Boccio, Associate Professor of Psychology at Adelphi University, provides her expertise in the new Chapter 12 on advocacy. In addition, McKinzie Duesenberg, doctoral student at the University of Missouri, is an author of Chapter 10 on ethical and legal issues associated with school-based research. It is hoped that this sets the stage for a new cohort of writers who, along with Dawn M. Decker and Elizabeth T. Lugg, can take lead roles in future revisions of this textbook. Our goal is to continue to produce a textbook that has a progression from basic concepts to more specific and complex content across chapters. We hope that this and future editions not only continue to have connectivity across chapters, but also emphasize the fresh and new ideas of younger scholars.

CAST OF CHARACTERS

Throughout the text, we have included a number of case incidents to illustrate specific principles. Some of the incidents are from case law, some were suggested by practitioners in the field, and others are fictitious. To make it easier for the reader to follow who's who in the vignettes, we have used the same six school psychologists throughout the book:

MARIA DELGADO serves as a member of a school psychological services team in a medium-size city. She is particularly interested in school-based consultative services.

CARRIE JOHNSON provides school psychological services in a rural area. She faces the special challenges of coping with professional isolation and works in a community where resources are limited.

DAVID KIM is, at the beginning of the book, a doctoral intern in a suburban school district.

JAMES LEWIS, a school psychologist in a large metropolitan district, is a strong advocate of school efforts to prevent mental health problems.

PEARL MEADOWS is a school psychologist in a small university town. She works with a diverse student population, including students from farm families who live on the district's outskirts, Native American students from the neighboring Indian reservation, and children from many different cultures whose parents are part of the university community. Pearl also provides on-site supervision to school psychology interns.

WANDA ROSE provides services at the preschool and elementary levels in a small town. Children, babies, parents, and teachers love her. She has been a school psychology practitioner for many years. Wanda needs an occasional push from her colleagues to keep current with changing practices, however.

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Acknowledgments

About the Companion Website

This book is accompanied by a companion website for instructors. www.wiley.com\go\jacob\ethicsandlaw8e

This website includes:
- Instructor's Manual and Test Banks
- PowerPoint Slides

Chapter 1 ─────────────────────────────────

ETHICS IN SCHOOL PSYCHOLOGY: AN INTRODUCTION

Who are *school psychologists*? As Fagan (2014) observed, the term *school psychologist* has been defined in many different ways. For the purposes of this book, we adopted the definition developed by the National Association of School Psychologists (NASP). *School psychologists* are professionals who

> apply expertise in mental health, learning, and behavior, to help children and youth succeed academically, socially, behaviorally, and emotionally. School psychologists partner with families, teachers, school administrators, and other professionals to create safe, healthy, and supportive learning environments that strengthen connections between home, school, and the community. (NASP, n.d.-a, p. 1)

As the decisions made by school psychologists have an impact on human lives, and thereby on society, the practice of school psychology rests on the public's trust. To build and maintain society's trust in school psychology, it is essential that every school psychologist is sensitive to the ethical and legal components of their work, knowledgeable regarding broad ethical principles and rules of professional conduct, and committed to a proactive stance in ethical thinking and conduct.

QUALITY CONTROL IN SCHOOL PSYCHOLOGY

Four sources of "quality control" protect the rights and welfare of students and other recipients of school psychological services. Professional codes of ethics for the delivery of psychological services are discussed in this chapter. Chapter 2 provides an introduction to law that protects the rights of students and their parents in the school setting. Educational law provides a second source of quality control. Chapter 2 also addresses the credentialing of school psychologists, a third mechanism of quality assurance. Credentialing helps to ensure that psychologists meet specified qualifications before they are granted a legal sanction to practice (Fagan & Wise, 2007). Graduate-program accreditation is an additional mechanism of quality control. Program accreditation helps to ensure the adequate preparation of school psychologists during their graduate coursework and field experiences.

This chapter focuses on the what and why of professional ethics, ethics education and competencies, and the codes of ethics of the NASP and the American Psychological Association (APA). Four broad ethical principles are introduced along with an ethical-legal decision-making model. We also describe ethics committees and sanctions for unethical conduct.

WHAT AND WHY OF PROFESSIONAL ETHICS

The term *ethics* generally refers to a system of principles of conduct that guide the behavior of an individual. *Ethics* derives from the Greek word *ethos*, meaning character or custom, and the phrase *ta ethika*, which Plato and Aristotle used to describe their studies of Greek values and ideals (Solomon, 1984). Accordingly,

> ethics is first of all a concern for individual character, including what we call "being a good person," but it is also a concern for the overall character of an entire society, which is still appropriately called its "ethos." Ethics is participation in, and an understanding of, an ethos, the effort to understand the social rules which govern and limit our behavior. (p. 5)

A system of ethics develops in the context of a particular society or culture and is connected closely to social customs. Ethics is composed of a range of acceptable (or unacceptable) social and personal behaviors, from rules of etiquette to more basic rules of society. The terms *ethics* and *morality* are often used interchangeably. However, according to philosophers, the term *morality* refers to a subset of ethical rules of special importance. Solomon (1984) suggested that moral principles are "the most basic and inviolable rules of a society." Moral rules are thought to differ from other aspects of ethics in that they are more important, fundamental, universal, rational, and objective (pp. 6–7). W. D. Ross (1930), a twentieth-century Scottish philosopher, identified a number of moral duties of the ethical person: *nonmaleficence*, *fidelity*, *beneficence*, *justice*, and *autonomy*. These moral principles have provided a foundation for the ethical codes of psychologists and other professionals (Bersoff & Koeppl, 1993).

Our focus here is on *applied* or *practical professional ethics*, the application of broad ethical principles and specific rules to the problems that arise in professional practice (Beauchamp & Childress, 2019). Applied ethics in school psychology is, thus, a combination of ethical principles and rules, ranging from more basic rules to rules of professional etiquette, that guide the conduct of the practitioner in their professional interactions with others. Furthermore, although school psychologists are employed in a variety of settings, in this text we emphasize the special challenges of school-based practice.

Professionalism and Ethics

Professionalization has been described as:

> the process by which an occupation, usually on the basis of a claim to special competence and a concern for the quality of its work and benefits to society, obtains the exclusive right to perform a particular kind of work, to control training criteria and access to the profession, and to determine and evaluate the way the work is to be performed. (Chalk et al., 1980, p. 3)

Professional associations or societies function to promote the profession by publicizing the services offered, safeguarding the rights of professionals, attaining benefits for its members, facilitating the exchange of and development of knowledge, and promoting standards to enhance the quality of professional work by its members (Chalk et al., 1980). Codes of ethics appear to develop out of the self-interests of the profession and a genuine commitment to protect the interests of persons served. Most professional associations have recognized the need to balance self-interests against concern for the welfare of the consumer. Ethical codes are one mechanism to help ensure that members of a profession will deal justly with the public (Bersoff & Koeppl, 1993).

However, the development of a code of ethics also serves to foster the profession's self-interests. A code of ethics is an indicator of the profession's willingness to accept responsibility for defining appropriate conduct and a commitment to self-regulation of members by the profession (Chalk et al., 1980). The adoption of a code of ethics often has been viewed as the hallmark of a profession's maturity. Ethical codes thus may serve to enhance the prestige of a profession and reduce the perceived need for external regulation and control.

The field of psychology has a long-standing commitment to activities that support and encourage appropriate professional conduct. As will be seen in this chapter, both the NASP and the APA have developed and adopted codes of ethics. These codes are drafted by committees within professional organizations and reflect the beliefs of association members about what constitutes appropriate professional conduct. They serve to protect the public by sensitizing professionals to the ethical aspects of service delivery, educating practitioners about the parameters of appropriate conduct, and helping professionals to monitor their own behavior. Furthermore, because the codes of ethics of psychologists can now be accessed using the Internet, they also increasingly serve to educate the public and recipients of services about the parameters of expected professional conduct by school psychologists. Finally, professional codes of ethics also provide guidelines for adjudicating complaints (Behnke & Jones, 2012). By encouraging appropriate professional conduct, the NASP and the APA help to ensure that each person served will receive the highest quality of professional service. As a result, the public's trust in psychologists and psychology is enhanced and maintained.

Ethical Codes versus Ethical Conduct

Codes of ethics serve to protect the public. However, ethical conduct is not synonymous with simple conformity to a set of rules outlined in professional codes and standards (J. N. Hughes, 1986). As Kitchener (2000) and others (Bersoff, 1994; Welfel, 2012) have noted, codes of ethics are imperfect guides to behavior for several reasons. First, ethical codes in psychology are composed of broad, abstract principles along with a number of more specific statements about appropriate professional conduct. They are at times vague and ambiguous (Bersoff, 1994).

Second, competing ethical principles often apply in a particular situation (Bersoff & Koeppl, 1993; Haas & Malouf, 2005), and specific ethical guidelines may conflict with federal or state law (Koocher & Keith-Spiegel, 2016). In some situations, a primary or overriding consideration can be identified in choosing a course of action. In other situations, however, no one principle involved clearly outweighs the other(s) (Haas & Malouf, 2005). For example, the decision to allow a minor child the freedom to choose or refuse to participate in psychological services often involves a

consideration of law, ethical principles (respect for autonomy and self-determination versus the welfare of the child), and the likely practical consequences of affording choices (enhanced treatment outcomes versus refusal of treatment).

A third reason ethical codes are imperfect is because they tend to be reactive. They frequently fail to address new and emerging ethical issues (Bersoff & Koeppl, 1993; Welfel, 2012). Committees within professional associations often are formed to study the ways existing codes relate to emerging issues, and codes may be revised in response to new ethical concerns. Concern about the ethics of behavior modification techniques was a focus of the 1970s; in the 1980s, psychologists scrutinized the ethics of computerized psychodiagnostic assessment. In the 1990s, changes in codes of ethics reflected concerns about sexual harassment and fair treatment of individuals, regardless of their sexual orientation. In recent years, codes have emphasized the need for practitioner competence in the delivery of services to individuals from diverse experiential, linguistic, and cultural backgrounds. Codes also have been scrutinized to ensure relevance to the use of digital technologies.

Ethical codes thus provide guidance for the professional in their decision making. Ethical conduct, however, involves careful choices based on knowledge of broad ethical principles and code statements, ethical reasoning, and personal values. In many situations, more than one course of action is acceptable. In some situations, no course of action is completely satisfactory. In all situations, the responsibility for ethical conduct rests with the individual practitioner (Eberlein, 1987; Jacob et al., 2021).

ETHICS TRAINING AND COMPETENCIES

Prior to the late 1970s, many applied psychology graduate programs (clinical psychology, school psychology) required little formal coursework in professional ethics (Welfel, 2012). Ethics was often taught in the context of supervised practica and internship experiences, a practice Handelsman (1986) labeled "ethics training by 'osmosis'" (p. 371). A shortcoming of this approach is that student learning is limited by supervisor awareness and knowledge of ethical-legal issues and the types of situations encountered in the course of supervision (Handelsman, 1986). Consensus now exists that ethics, legal aspects of practice, and a problem-solving model need to be explicitly taught during graduate training (Dailor & Jacob, 2010; Haas et al., 1986; Tymchuk, 1985). Both the NASP and the APA graduate program preparation standards require coursework in professional ethics. Furthermore, in *School Psychology: A Blueprint for Training and Practice* (Ysseldyke et al., 2006), prepared by a task force composed of leaders in the field, knowledge of the ethical and legal aspects of professional practice was identified as a foundational competency for school psychologists, one that permeates all aspects of the provision of services (also see NASP's *Model for Comprehensive and Integrated School Psychological Services*, 2020).[1]

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[1]*The Professional Standards of the National Association of School Psychologists* (NASP, 2020) includes four sets of standards: *Model for Comprehensive and Integrated School Psychological Services, Standards for Graduate Preparation of School Psychologists, Standards for the Credentialing of School Psychologists*, and the *Principles for Professional Ethics*. https://www.nasponline.org/standards-and-certification/professional-ethics.

In the 1980s, psychology trainers began to ask, "What should be the goals of ethics education in psychology?" (Haas et al., 1986; Kitchener, 1986); "What are the desired cognitive, affective, and behavioral 'ethics competencies' for school psychologists?" More recently, trainers have raised these questions: "How do school psychology students and practitioners gain competence, and ultimately expertise, in ethical decision making?" (Dailor & Jacob, 2010) "How do they gain a sense of themselves as ethical professionals?" (Handelsman et al., 2005, p. 59); and "How should ethics be taught?" A number of goals for ethics training have been suggested in the literature. An emerging picture of desired competencies includes these:

- Competent practitioners are sensitive to "the ethical components of their work" and are aware that their actions "have real ethical consequences that can potentially harm as well as help others" (Kitchener, 1986, p. 307; also Welfel & Kitchener, 1992).
- Competent psychologists have a sound working knowledge of the content of codes of ethics, professional standards, and law pertinent to the delivery of services (Fine & Ulrich, 1988; Welfel & Lipsitz, 1984).
- Competent practitioners are committed to a proactive rather than a reactive stance in ethical thinking and conduct (Tymchuk, 1986). They use their broad knowledge of codes of ethics and law along with ethical reasoning skills to anticipate and prevent problems from arising.
- Skilled practitioners are able to analyze the ethical dimensions of a situation and demonstrate a well-developed "ability to reason about ethical issues" (Kitchener, 1986, p. 307). They have mastered and make use of a problem-solving model (Jacob et al., 2021; de las Fuentes & Willmuth, 2005; Tymchuk, 1981, 1986).
- Competent practitioners recognize that a system of ethical rules and ideals develops in the context of a specific culture, and they are sensitive to the ways their own values and standards for behavior may be similar to or different from those of individuals from other cultural groups. They "strive to understand the manner in which culture influences their own view of others and other's view of them" (Ortiz et al., 2008, p. 1721; also APA, 2017a; K. Kelly et al., 2019).
- Competent psychologists are aware of their own feelings and beliefs. They recognize that personal feelings, beliefs, and values influence professional decision making (Knapp, Gottlieb et al., 2017; Koocher & Keith-Spiegel, 2016).
- Competent practitioners do their best to engage in *positive ethics*; that is, they strive for excellence rather than meeting minimal obligations outlined in codes of ethics and law (Knapp, VandeCreek et al., 2017).
- Competent practitioners appreciate the complexity of ethical decisions and are tolerant of ambiguity and uncertainty. They acknowledge and accept that there may be more than one appropriate course of action (de las Fuentes & Willmuth, 2005; Kitchener, 2000).
- Competent practitioners have the personal strength to act on decisions made and accept responsibility for their actions (de las Fuentes & Willmuth, 2005; Kitchener, 1986).

Two paradigms describe how students and school psychology practitioners develop ethical competence: the acculturation model (Handelsman et al., 2005) and a stage model (Dreyfus, 1997). Handelsman et al. (2005) described ethics

training of psychology graduate students as a dynamic, multiphase acculturation process.[2] They suggested that psychology, as a discipline and profession, has its own culture that encompasses aspirational ethical principles, ethical rules, professional standards, and values. Students develop their own "professional ethical identity" based on a process that optimally results in an adaptive integration of personal moral values and the ethics culture of the profession. Trainees who do not yet have a well-developed personal sense of morality, and those who do not understand and accept critical aspects of the ethics culture of psychology, may have difficulty making good ethical choices as psychologists.

The stage model describes a process whereby practitioners progress through five levels (Dreyfus, 1997). *Novice* practitioners are rules-bound and slow to make decisions. With some experience in applying rules of practice, *advanced beginners* become more capable of identifying multiple aspects of a complex situation and taking context into account, but they are still focusing on technical mastery of their skills. *Competent* practitioners are better able to identify key elements of a situation, see relationships among elements, recognize subtle differences between similar situations, balance skills and empathy, and consider the long-term effects of their decisions. However, because they are more skilled in considering relevant elements, competent practitioners are at times overwhelmed by the complexity of real-world problems. Practitioners who are *proficient* recognize situational patterns and subtle differences more quickly, and they are able to prioritize elements in decision making more effortlessly. Proficient practitioners may not be conscious of the knowledge and thinking processes that provide the foundation for their choices. Finally, because of many experiences with diverse situations, *experts* are able to rely on past decisions to inform future decisions, base decisions on subtle qualitative distinctions, and often have an intuitive grasp of what needs to be done without extensive analyses. Based on their review of research on the acquisition of expertise, Ericsson and Williams (2007) suggested that expertise is acquired by early supervised practice coupled with deliberate practice over an extended period of time, usually 10 years.

How should ethics be taught? As Franeta noted, "instruction merely in codes of ethics cannot substitute for professional ethics education" (2019, p. 127). In the field of school psychology, growing professional support exists for a planned, multilevel approach to training in ethics and law (Conoley & Sullivan, 2002; Dailor & Jacob, 2011; Welfel, 2012). Tryon (2000) and others (Dailor & Jacob, 2011) recommended that formal coursework in ethics and law be required at the beginning of graduate training to prepare students to participate in discussions of ethical and legal issues throughout their program. Because many aspects of school-based practice are regulated by law as well as ethics, we recommend integrated rather than separate instruction in ethics and law; furthermore, key concepts, such as privacy, informed consent, and confidentiality, have roots in both ethics and law. A foundational course can introduce students to broad ethical principles, codes of ethics, the major provisions of school law pertinent to practice, and an ethical-legal decision-making model. In addition, Handelsman et al. (2005) recommended that early coursework include activities to heighten self-awareness of personal values and beliefs. For example, they suggested asking students to write an ethics autobiography in which they reflect on their own values, as well as those of their families and cultures of origin, and consider what it means to be an ethical professional (p. 63; also Bashe et al., 2007). (For a discussion

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[2]Portions of this section were adapted from Dailor and Jacob (2010).

of methods in teaching ethical and legal issues in school psychology, see Jacob et al., 2021, and Welfel, 2012).

A foundational course in ethics and law can provide opportunities for students to apply what they are learning about the ethical-legal aspects of practice by role-playing difficult situations and analyzing case incidents (Dailor & Jacob, 2010). Empirical evidence from the field of medical ethics indicates that case analysis, particularly with discussion, results in improved moral reasoning (Eckles et al., 2005; S. Smith et al., 2004). However, while such foundational coursework provides a critically important underpinning for subsequent training, it is not sufficient to achieve desired practitioner competencies in ethics and law. If students have only one course in ethics and law, they may not be prepared to apply this knowledge across various domains of practice. In order for students to progress beyond the stage of advanced beginner, discussion of ethical-legal issues associated with diverse situations and professional roles must be a component of coursework in assessment, academic remediation, behavioral interventions, counseling, and consultation. For this reason, Tryon (2000) recommended that all graduate program course instructors discuss ethical issues related to their specialty areas.

Supervised field experiences provide a vitally important opportunity for students to apply their knowledge to multiple real-world situations (Harvey & Struzziero, 2008). With appropriate supervisory support, internship is "a prime time to develop ethical frameworks that will be useful throughout a professional career" (Conoley & Sullivan, 2002, p. 135). Field- and university-based supervisors consequently have a special obligation to model sound ethical-legal decision making and to monitor, assist, and support supervisees and early-career practitioners as they first encounter real-world challenges (Conoley & Sullivan, 2002; Harvey & Struzziero, 2008; K. Kelly et al., 2019).

Although growing professional support exists for a planned, multilevel approach to graduate preparation in ethics, Dailor and Jacob (2011) surveyed a nationally representative sample of public school psychology practitioners and found that only 24% of the 208 respondents reported receiving multilevel university ethics training that included coursework in ethics, discussion of ethical issues in multiple courses, and supervised discussion of ethical issues in practica and internships.

Based on a meta-analytic study of the effectiveness of ethics education instruction in the sciences, Watts et al. (2017) found that ethics instruction has sizable benefits to participants and that those benefits appear to hold up over time. However, few empirical investigations of the effectiveness of formal ethics training have appeared in the psychology literature (Franeta, 2019; Welfel, 2012). Baldick (1980) found that clinical and counseling interns who received formal ethics training were better able to identify ethical issues than interns without prior coursework in ethics. Tryon (2001) surveyed school psychology doctoral students from APA-accredited programs and found that students who had taken an ethics course and those who had completed more years of graduate study felt better prepared to deal with the ethical issues presented in the survey than those who had not taken an ethics course and who had completed fewer years of graduate education. Student ratings of their preparedness to deal with ethical issues were positively associated with the number of hours of supervised practicum experience completed. Dailor and Jacob (2011) found an association between the types of university training school psychology practitioners had received and their preparedness to handle ethical issues on the job, with those who had received multilevel university preparation in ethics reporting higher levels of preparedness to handle ethical issues. Preparedness was not

associated with degree level (doctoral or nondoctoral) or years of experience on the job (five or fewer years versus more than five years).

Several studies, however, have reported a gap between knowledge of the appropriate course of action and willingness to carry out that action (Bernard & Jara, 1986; T. S. Smith et al., 1991; Tryon, 2000). Even when practitioners can identify what ought to be done, many would choose to do less than they believe they should (Bernard & Jara, 1986). Thus, at this time, additional research is needed to identify the types of ethics training that are most effective in developing the skills and necessary confidence for psychologists to take appropriate actions in ethically difficult situations (Tymchuk, 1985; Welfel, 2012).

CODES OF ETHICS

D. T. Brown (1979) suggested that school psychology emerged as an identifiable profession in the 1950s. Two professional associations, the APA and the NASP, have shaped the development of the profession. Each professional association has formulated its own code of ethics. Within the APA, Division 16 is the Division of School Psychology.[3]

APA and NASP *Codes of Ethics*

In joining the APA or the NASP, members agree to abide by that association's ethical principles. Additionally, psychologists who are members of the National School Psychologist Certification System are obligated to abide by the NASP's *Code of Ethics*. We believe school psychology practitioners should be thoroughly familiar with the NASP's (2020) *Principles for Professional Ethics* and the APA's (2017b) *Ethical Principles of Psychologists and Code of Conduct*, whether they are members of a professional association or not. A psychologist with a broad knowledge base of ethical principles will likely be better prepared to make sound choices when ethically challenging situations arise. Furthermore, regardless of association membership or level of training, trainees and practitioners may be expected to know and abide by both the APA and NASP ethics codes in their work setting (Flanagan et al., 2005).

The NASP's *Principles for Professional Ethics*

The NASP's *Principles for Professional Ethics* was first adopted in 1974 and revised in 1984, 1992, 1997, 2000, 2010, and 2020 (see Jacob et al., 2021, for a brief history of the early development of the code). The 2020 *Principles for Professional Ethics* is reprinted in Appendix A.[4] The NASP's code of ethics focuses on the special challenges of school-based practice. For the purposes of the code, *school-based practice* is defined as "the provision of school psychological services under the authority of a state, regional, or local educational agency" whether the school psychologist "is an

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[3]For information about the history of the APA's Division 16 and NASP, see Fagan and Wise (2007) and Song et al. (2019).

[4]The 2020 *Principles for Professional Ethics* is available on NASP's website (http://www.nasponline.org). The web version features bookmarks that make it possible to advance to a particular section by clicking on the relevant bookmark.

employee of the schools or contracted by the schools on a per case or consultative basis" (NASP, 2020, *Definition of Terms as Used in the Principles for Professional Ethics*, p. 41[5]).

The team of NASP members responsible for drafting the 2020 revision of the *Principles for Professional Ethics* shared a commitment to ensuring that the code, like its precursors, would address the unique circumstances associated with providing school-based psychological services and would emphasize protecting the rights and interests of school children and youth (NASP, 2020, p. 39). More specifically, the 2020 code, like its precursor, is based on the following special challenges of school-based practice[6]:

- School psychologists must "balance the authority of parents to make decisions about their children with the needs and rights of those children, and the purposes and authority of schools." Within this framework, school psychologists consider "the interests and rights of children and youth to be their highest priority in decision making, and act as advocates for children" (NASP, 2020, p. 39, Standard III.2.3; also Russo, 2018).
- The mission of schools is to educate children, maintain order, and ensure pupil safety (*Burnside v. Byars*, 1966, p. 748). As school employees, "school psychologists have a legal as well as an ethical obligation to take steps to protect all students from reasonably foreseeable risk of harm" (NASP, 2020, p. 39; also Russo, 2018).
- As school employees, school psychology practitioners are state actors, that is, their actions are seen to be an extension of the state's authority to educate children (Russo, 2018). This creates a special obligation for school psychologists to know and respect the rights of schoolchildren under federal and state law (NASP, 2020, p. 39).
- Like other mental health practitioners, school psychologists often provide assessment and intervention services within the framework of an established psychologist–client relationship. However, at other times, as members of a school's instructional support team, school psychologists may provide consultative services to student assistance teams, classrooms, schools, or other recipients of service that do not fall within the scope of an established psychologist–client relationship (NASP, 2020, p. 41).
- Recent years have witnessed growing interest in better protection of sensitive student information. Partly as a result of changes that have occurred in health care settings, many parents now expect greater control regarding disclosure or non-disclosure of sensitive health and mental health information about their child, even when information is to be shared internally in the school setting (Gelfman & Schwab, 2005a).
- "School-based practitioners work in a context that emphasizes multidisciplinary problem solving and intervention" (NASP, 2020, p. 39).

The NASP's 2020 code of ethics is organized around four broad ethical themes: *Respecting the Dignity and Rights of All Persons*; *Professional Competence and Responsibility*; *Honesty and Integrity in Professional Relationships*; and *Responsibility*

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[5]The web version of NASP's ethics code and the print version have the same pagination.
[6]A version of this list also appears in Jacob et al. (2021).

to Schools, Families, Communities, the Profession, and Society. These themes were derived from the literature on ethical principles (e.g., Bersoff & Koeppl, 1993; Prilleltensky, 1997; Ross, 1930) and other ethical codes, especially that of the Canadian Psychological Association (CPA, 2017). The four broad themes "are aspirational and identify fundamental principles that underlie the ethical practice of school psychology" (NASP, 2020, pp. 40–41). Each of the four ethical themes subsumes *guiding principles*. The *guiding principles* help explain ways in which broad ethical principles apply to professional practice. Guiding principles are to be considered in ethical decision making but, because their purpose is to identify ethical considerations associated with practice situations, the guiding principles are not enforceable (pp. 40–41). The guiding principles are further articulated by multiple specific *enforceable standards* of conduct. As much as feasible, these standards identify actions (or failures to act) that the profession considers ethical or unethical conduct. The NASP will seek to enforce the standards in accordance with their Ethical and Professional Practices Board Procedures ([EPPB], 2018) (NASP, 2020, p. 41). The broad ethical themes, guiding principles, and associated enforceable standards of conduct in NASP's ethics code will be discussed in more detail in this and subsequent chapters.

APA's Ethical Principles of Psychologists and Code of Conduct

The *Ethical Standards of Psychologists* was first adopted by the APA in 1953. Eight revisions of the APA's code of ethics were published between 1959 and 1992. The current version, *Ethical Principles of Psychologists and Code of Conduct* (APA, 2017b), was adopted in 2002 and amended in 2010 and 2016 (see Appendix B). The APA's *Ethical Principles* differs from the NASP's *Principles for Professional Ethics* in that it was developed for psychologists with training in diverse specialty areas (clinical, industrial-organizational, school psychology) and who work in a number of different settings (private practice, industry, hospitals and clinics, public schools, university teaching, research).

The *Ethical Principles of Psychologists and Code of Conduct* consists of these sections: *Introduction and Applicability*, *Preamble*, *General Principles*, and *Ethical Standards*. The *General Principles* section includes five broadly worded aspirational goals to be considered by psychologists in ethical decision making, and the *Ethical Standards* section sets forth enforceable rules for conduct. General Principle A, *Beneficence and Nonmaleficence*, means that psychologists engage in professional actions that are likely to benefit others, or at least do no harm (Behnke & Jones, 2012).

Principle B is *Fidelity and Responsibility*. Consistent with this principle, psychologists build and maintain trust by being aware of and honoring their professional responsibilities to clients and the community. Principle C, *Integrity*, obligates psychologists to be open and honest in their professional interactions and faithful to the truth and to guard against unclear or unwise commitments. In accordance with Principle D, *Justice*, psychologists seek to ensure that all persons have access to and can benefit from what psychology has to offer. They strive for fairness and nondiscrimination in the provision of services. Principle E, *Respect for People's Rights and Dignity*, encourages psychologists to respect the worth of all people and their rights to privacy, confidentiality, autonomy, and self-determination (Flanagan et al., 2005).

The APA's Ethical Standards (enforceable rules for conduct) are organized into six general sections: *Resolving Ethical Issues*, *Competence*, *Human Relations*, *Privacy and Confidentiality*, *Advertising and Other Public Statements*, and *Record Keeping and Fees*. These are followed by four sections: *Education and Training*, *Research and Publication*, *Assessment*, and *Therapy* (APA, 2017b). (For additional information on the APA's ethics code, see C. B. Fisher, 2017; Knapp, VandeCreek et al., 2017.)

Professional versus Private Behavior

Professional codes of ethics apply "only to psychologists' activities that are part of their scientific, educational, or professional roles as psychologists …. These activities shall be distinguished from the purely private conduct of psychologists, which is not within the purview of the Ethics Code" (APA, 2017b, *Introduction and Applicability*). Similarly, the NASP's code states: "School psychologists, in their private lives, are free to pursue their personal interests, except to the degree that those interests compromise professional effectiveness" (NASP, 2020, p. 40; Standard III.5.1). Ethics code thus obligate school psychologists to avoid actions that would diminish their professional credibility and effectiveness. In addition, it is important for school-employed practitioners to understand that school boards, parents, other community members, and the courts may hold elementary and secondary school (K–12) educators to a higher standard of moral character and conduct than others because K–12 educators serve as role models for schoolchildren (*Ambach v. Norwick*, 1979).

As Pipes et al. (2005, p. 332) observed, the boundaries between professional and personal behaviors are often "fuzzy." School psychologists are encouraged to aspire to high standards of ethical conduct in their personal, as well as professional, lives and to think critically about the boundaries between the two (Pipes et al., 2005). For example, if a psychologist engages in socially undesirable behavior in a public setting (e.g., a school psychologist is verbally abusive of the referee at a high school football game), the behavior may negatively impact their credibility, diminish trust in school psychologists, and confuse students and others who hear about or witness the event. School psychology practitioners and trainees must also be mindful of the fuzzy boundaries between their private and professional lives in cyberspace (Diamond & Whalen, 2019; Pham, 2014). Ethically, inappropriate posts on social networking sites can result in loss of trust in the school psychologist and impair their effectiveness. Legally, inappropriate social networking posts can threaten the job standing of school-employed practitioners or justify dismissal of a graduate student from their training program. The courts have upheld the right of school districts to discipline or dismiss employees for sharing information on their personal social networking sites—even on their own time and using their own electronic devices—if the material posted threatens to undermine the authority of school administrators; disrupts coworker relationships in the school, especially those based on trust and confidentiality; impairs the employee's performance of their duties; or could disrupt the learning atmosphere of the school (e.g., *Richerson v. Beckon*, 2008; *Spanierman v. Hughes*, 2008). Furthermore, because K–12 educators are expected to serve as role models for children, the courts have upheld the right of training programs to dismiss students whose social networking posts show poor professional judgment and conduct unbecoming to a public school educator (*Snyder v. Millersville University*, 2008). (The right of school psychologists to make statements about matters of public concern is addressed in Chapter 12.)

Professional Models for Service Delivery

Professional models for the delivery of school psychological services differ from ethical codes in both scope and intent. The NASP's *Model for Comprehensive and Integrated Services by School Psychologists* ([*Model*], 2020) represents a consensus among practitioners and trainers about the roles and duties of school psychologists, desirable conditions for the effective delivery of services, the components of a comprehensive school psychological services delivery system, and standards for best practices. This document can be used to inform practitioners, students, trainers, administrators,