Ethical and Legal Issues in School Neuropsychology

Presented and Updated By
Dr. Ann Leonard-Zabel

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schoolneuropsychology.com's
School Neuropsychology Post-Graduate Certification Program

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Developed By:
Dr. Ann M.T. Leonard-Zabel

Overview of Ethics Presentation
Outline

• Positive Ethics
• Sources of Ethics Related Information
• Common Sources of Ethical Conflict in School Neuropsychology
• An Ethical Decision-Making Model
• Historical Five Commonalities for Ethical Decision-Making
• The 8-Step Model for Ethical Decision-Making
• Solving Case Scenarios
• Protecting Yourself and your Student/Client

Ethics Presentation Outline
Fine Points

Part 1 Positive Ethics
• Identify the Problem(s) or Dilemma(s)
• A Case Scenario Using the Eight-Step Model
• APA & NASP Code of Conduct/Ethics
• APA Code of Ethics
• NASP Code of Ethics

Part 2 Solving Case Scenarios
• In-Depth Case Analyses

Part 3 Protecting Yourself

POSITIVE ETHICS

• “Disciplinary codes represent only the ethical ‘floor’ or minimum standards to which psychologists should adhere. Ethics should focus not only on how a few psychologists harm clients but also on how all psychologists can do better at helping them” (Knapp & VandeCreek, 2004, 2012).

• “Positive ethics represents a shift away from remedial ethics to a voluntary commitment to pursuing ethical ideals, motivated by deeply held moral principles” (Knapp & VandeCreek, 2004, 2012).

POSITIVE ETHICS

• A positive ethics approach emphasizes the importance of aspiring to the highest principles of ethical practice. Positive ethics is proactive, requiring practitioners to take steps to promote exemplary behavior throughout their professional activities and careers, not just when faced with ethical challenges.

• “If we expect only the moral minimum, we have lost an ennobling sense of excellence in character and performance”. (Bush, 2007; Bush, MacAllister & Goldberg, 2012)

“ALWAYS DO RIGHT, THIS WILL GRATIFY SOME PEOPLE AND ASTONISH THE REST.”

(MARK TWAIN)
Sources of Ethical Related Information

1. Ethical Codes
2. Code of Conduct of the Association of State and Provincial Psychology Boards
3. Jurisdiction Laws
4. Publications and Position Papers of Professional Organizations
5. Ethics Committees

(Bush, 2007; Pope & Vasquez, 2016)

Sources of Ethical Related Information

6. International Classification of Functioning, Disability and Health (World Health Organization, 2001)
7. Scholarly works, such as Books, Articles, and Chapters
8. Professional Liability Insurance Carriers
9. Institutional Guidelines and Resources
10. Colleagues

Common Sources of Ethical Conflict in School Neuropsychology

- Professional competence
- Roles and relationships—dual/multiple
- Test security/release of raw test data
- Third-party observers
- Confidentiality
- Assessment
- Conflicts between ethics and law
- False or deceptive statements
- Objectivity
- Cooperation with other professionals
- Informed consent/third-party requests for services
- Recordkeeping and fees

Ethical Decision-Making Model

Ethical issues become dilemmas for the following reasons:
- They pit ethical, legal, or organizational requirements against each other
- The Ethics Code or laws are silent on the issue
- They require the professional to use judgment

(Knapp and VanderCreek, 2003, 2012)

Knapp and VanderCreek (2003, 2012) reviewed a variety of models and identified five common steps in facilitating an ethical decision-making process.

Five Historical Steps for Ethical Decision-Making

Identification of the problem
Development of alternatives
Evaluation of alternatives
Implementation of the best option, and
Evaluation of the results

(Knapp and VanderCreek, 2003, 2012)

However, Knapp and VanderCreek (2003, 2012) noted that the models reviewed did not adequately consider emotional and situational factors or the possible need for an immediate or emergency response.

As such, a new model was recommended which incorporated the five common steps reviewed and integrated the decision-making components that were found to be lacking in previous models (Bush 2007).
### The 8-Step Model for Ethical Decision-Making

1. Identify the problem(s) or dilemma(s)
2. Consider the significance of the context and setting
3. Identify and utilize ethical and legal resources
4. Consider personal beliefs and values
5. Develop possible solutions to the problem
6. Consider the potential consequences of various solutions
7. Choose and implement a course of action
8. Assess the outcome and implement changes as needed

(Bush, Connell, and Denney, 2006; Bush 2007)

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### Identify the Problem(s) or Dilemma(s)

- When faced with complex professional situations, the specific ethical issues are not always easily identified. You may encounter clinical or forensic situations in which something does not seem right, but the origin of the unsettling feeling is unknown. It is often necessary to distinguish between ethical, moral, and professional issues.

(Bush, MacAllister & Goldberg, 2012)

It is your job as a School Neuropsychologist to be able to recognize this and identify the dilemma at hand.

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### Consider the Significance of the Context and Setting

- School Neuropsychologists have an obligation to provide competent services that advance the welfare of the individuals and institutions to which these obligations are owed without bringing unjust harm to others.

- The most obvious differences in obligations exist between Neuropsychology and Forensic context.

(Bush, MacAllister & Goldberg, 2012)

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### Identify and Utilize Ethical and Legal Resources

- "When a convergence of evidence from multiple sources provides direction for ethical behavior, the course of action is clear. However, the direction suggested by these resources is not always consistent. Not only can ethical resources conflict with each other, but conflicting ethical obligations can be encountered within the same ethics code or set of principles." (Bush & MacAllister, 2005; Bush, 2007)

For example, despite the differences between and within ethical guidelines, dependence on published and interpersonal resources allows School Neuropsychologists to make good solid decisions when determining courses of action.

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### Consider Personal Beliefs and Values

- School Neuropsychologists have a responsibility to assess the extent to which their personal morality is consistent with that of the larger society, the profession, etc.

- School Neuropsychologists should also strive to understand their own biases and potential impact that their values and biases can have on their professional and ethical decision making.

(Deidan & Bush, 2002; Bush & MacAllister, 2010)
DEVELOP POSSIBLE SOLUTIONS TO THE PROBLEM

- Positive ethics promotes proactive solutions to potential ethical challenges and appropriate resolution of dilemmas when encountered.
- Although complex dilemmas may tax even the most thoughtful practitioner, inaction is typically not an acceptable ethical option.
- Based on information from the first four steps, of the decision-making model, the practitioner should formulate a detailed list of possible solutions.

(Moberg, 2005; Bush, 2007)

CHOOSE AND IMPLEMENT A COURSE OF ACTION

- Once an ethical approach is decided on, one must implement the most appropriate course of action.
  
  For example, the timing of the action may depend on the ethical issues or situations involved and the context. Except for egregious violations, it is typically best to wait for the conclusion of cases in litigation contexts before addressing ethical concerns with colleagues or filing ethics complaints.


- Consultation with colleagues may be particularly valuable when considering the best time to respond to situations in which timing is an issue.

Consider the Potential Consequences of Various Solutions

- After considering a list of possible solutions, the list should contain the positive and negative consequences of each option.
- Having considered the potential consequences and their implications, School Neuropsychologists are advised to choose the option(s) most consistent with ethical ideals.

(Bush, 2007; Bush, MacAllister & Goldberg, 2012)

ASSESS THE OUTCOME AND IMPLEMENT CHANGES AS NEEDED

- Following up with the outcomes of anticipated or encountered ethical challenges allows School Neuropsychologists to modify or readdress decisions or actions in the case if needed and to assess the appropriateness of the decision for future cases.
- This will also help School Neuropsychologist Psychologists to assist other colleagues in similar situations in the future.

(Bush, 2007; Bush, MacAllister & Goldberg, 2012)

A Scenario

Dr. Smith, a School Neuropsychologist in independent practice, receives a referral to evaluate a 17-year-old high school senior who sustained a left middle cerebral artery infarction 6 months ago, due to a motor vehicle accident.

The referral is from the student’s Neurologist to “rule out head-onset Attentional and Depressive disorders” so that the possibility of appropriate medications, and academic modifications and/or accommodations can be prescribed.

Scenario Continued

During the initial interview, Dr. Smith finds that the patient’s receptive language is adequate for the clinical interview, based on her ability to follow multi-step instructions and respond appropriately to yes/no questions.

However, she also found the student to have severe expressive language deficits and a dense right hemiparesis.
Dr. Smith wonders whether empirical evidence exists to support her use of traditional School Neuropsychological tests with students who have such impaired expressive language skills and are unable to use their dominant hand.

Dr. Smith considers the professional and ethical implications of accepting this referral and wonders what she should do.

### APA CODE OF ETHICAL CONDUCT

**GENERAL PRINCIPLES (2010)**

- Principle A: Beneficence and Nonmaleficence
- Principle B: Fidelity and Responsibility
- Principle C: Integrity
- Principle D: Justice
- Principle E: Respect for People’s Rights and Dignity

(Bush, 2007; Beroff, 2008; APA, 2010)

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**PRINCIPLE A: BENEFICENCE AND NONMALEFICENCE (APA, 2010)**

- School Neuropsychologists strive to benefit those with whom they work and take care to do no harm.
- In their professional actions, School Neuropsychologists seek to safeguard the welfare and rights of those with whom they interact professionally and other affected persons, and the welfare of animal subjects of research.
- When conflicts occur among psychologists’ obligations or concerns, they attempt to resolve these conflicts in a responsible fashion that avoids or minimizes harm.

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**PRINCIPLE B: FIDELITY AND RESPONSIBILITY (APA, 2010)**

- School Neuropsychologists establish relationships of trust with those with whom they work. They are aware of their professional and scientific responsibilities to society and to the specific communities in which they work.
- School Neuropsychologists uphold professional standards of conduct, clarify their professional roles and obligations, accept appropriate responsibility for their behavior, and seek to manage conflicts of interest that could lead to exploitation or harm.

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**PRINCIPLE C: INTEGRITY (APA, 2010)**

- School Neuropsychologists seek to promote accuracy, honesty, and truthfulness in the science, teaching, and practice of psychology.
- School Neuropsychologists strive to keep their promises and to avoid unwise or unclear commitments. In situations in which deception may be ethically justifiable to maximize benefits and minimize harm, they have a serious obligation to consider the need for, the possible consequences of, and their responsibility to correct any resulting mistrust or other harmful effects that arise from the use of such techniques.

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**PRINCIPLE D: JUSTICE (APA, 2010)**

- School Neuropsychologists recognize that fairness and justice entitle all persons access to and benefit from the contributions of psychology and to equal quality in the processes, procedures, and services being conducted by School Neuropsychologists.
- School Neuropsychologists exercise reasonable judgment and take precautions to ensure that their potential biases, the boundaries of their competence, and the limitations of their expertise do not lead to or condone unjust practices.
School Neuropsychologists respect the dignity and worth of all people, and the rights of individuals to privacy, confidentiality, and self-determination. School Neuropsychologists are aware that special safeguards may be necessary to protect the rights and welfare of persons or communities whose vulnerabilities impair autonomous decision making.

APA CODE OF ETHICAL CONDUCT

1. Resolving Ethical Issues
   - 1.01 Misuse of Psychologists’ Work
   - 1.02 Conflicts Between Ethics and Law, Regulations, or Other Governing Legal Authority
   - 1.03 Conflicts Between Ethics and Organizational Demands
   - 1.04 Informal Resolution of Ethical Violations
   - 1.05 Reporting Ethical Violations
   - 1.06 Cooperating With Ethics Committees
   - 1.07 Improper Complaints
   - 1.08 Unfair Discrimination Against Complainants and Respondents

2. Competence
   - 2.01 Boundaries of Competence
   - 2.02 Providing Services in Emergencies
   - 2.03 Maintaining Competence
   - 2.04 Bases for Scientific & Professional Judgments
   - 2.05 Delegation of Work to Others
   - 2.06 Personal Problems and Conflicts

3. Human Relations
   - 3.01 Unfair Discrimination
   - 3.02 Sexual Harassment
   - 3.03 Other Harassment
   - 3.04 Avoiding Harm
   - 3.05 Multiple Relationships
   - 3.06 Conflict of Interest
   - 3.07 Third-Party Requests for Services
   - 3.08 Exploitative Relationships
   - 3.09 Cooperation With Other Professionals
   - 3.10 Informed Consent
   - 3.11 Psychological Services Delivered To or Through Organizations
   - 3.12 Interruption of Psychological Services

4. Privacy And Confidentiality
   - 4.01 Maintaining Confidentiality
   - 4.02 Discussing the Limits of Confidentiality
   - 4.03 Recording
   - 4.04 Minimizing Intrusions on Privacy
   - 4.05 Disclosures
   - 4.06 Consultations
   - 4.07 Use of Confidential Information for Didactic or Other Purposes

5. Advertising and Other Public Statements
   - 5.01 Avoidance of False or Deceptive Statements
   - 5.02 Statements by Others
   - 5.03 Descriptions of Workshops and Non-Degree-Granting Educational Programs
   - 5.04 Media Presentations
   - 5.05 Testimonials
   - 5.06 In-Person Solicitation
School Neuropsychology Certification Program

**School Neuropsychology Certification Program**

**NASP CODE OF ETHICAL CONDUCT**

**PROFESSIONAL COMPETENCY**
- School psychologists recognize the strengths and limitations of their training and experience, engaging only in practices for which they are qualified. They must continually obtain additional training and education to provide the best possible services to children, families, schools, communities, trainees, and supervisees.
- School psychologists do not use affiliations with persons, associations, or institutions to imply a level of professional competence that exceeds that which has actually been achieved.

(III. Professional Relationships, General. NASP Guidelines, 2010)

**APA CODE OF ETHICAL CONDUCT (2010-Admendments)**

1.02 CONFLICTS BETWEEN ETHICS AND LAW, REGULATIONS, OR OTHER GOVERNING LEGAL AUTHORITY
- If psychologists' ethical responsibilities conflict with law, regulations, or other governing legal authority, psychologists clarify the nature of the conflict, and take reasonable steps to resolve the conflict consistent with the general principles and ethical standards of the ethics code. Under no circumstances may this standard be used to justify or defend violating human rights.

(II. Professional Competency, General. APA Guidelines, 2010)

**NASP CODE OF ETHICAL CONDUCT (2010)**

1.03 CONFLICTS BETWEEN ETHICS AND ORGANIZATIONAL DEMANDS
- If the demands of an organization with which psychologists are affiliated or for whom they are working are in conflict with this ethics code, psychologists clarify the nature of the conflict, make known their commitment to the ethics code and take reasonable steps to resolve the conflict consistent with the general principles and ethical standards of the ethics code. Under no circumstances may this standard be used to justify or defend violating human rights.

(III. Professional Relationships, General. NASP Guidelines, 2010)

**NASP CODE OF ETHICAL CONDUCT**

**PROFESSIONAL RELATIONSHIPS**
- School psychologists are committed to the application of their professional expertise for the purpose of promoting improvement in the quality of life for children, their families, and the school community.

(III. Professional Relationships, General. NASP Guidelines, 2010)

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(III. Professional Relationships, General. NASP Guidelines, 2010)
School Neuropsychology Certification Program

**NASP CODE OF ETHICAL CONDUCT (2010)**

**PROFESSIONAL RELATIONSHIPS**
- School psychologists are responsible for the direction and nature of their personal loyalties or objectives.
- School psychologists do not exploit clients through professional relationships or condone these actions in their colleagues.
- Dual relationships with clients are avoided. Namely, personal and business relations with clients may cloud one's judgment.

***III. Professional Relationships, General. NASP Guidelines, 2010***

**NASP Ethical Conduct (2010)**

**PROFESSIONAL RELATIONSHIPS**
- School psychologists attempt to resolve suspected detrimental or unethical practices on an informal level.
- If informal efforts are not productive, the appropriate professional organization is contacted for assistance, and
- Procedures established for questioning ethical practice are followed:
  - The filing of an ethical complaint is a serious matter. It is intended to improve the behavior of a colleague that is harmful to the profession and/or the public.

**NASP CODE OF ETHICAL CONDUCT (2010)**

**PROFESSIONAL RELATIONSHIPS**
- School psychologists enter into the complaint process thoughtfully and with concern for the well-being of all parties involved.
- School psychologists document specific instances of suspected ethical violations (i.e., date, time, relevant details) as well as attempts to resolve these violations

***III. Professional Relationships, General. NASP Guidelines, 2010***

**NASP CODE OF ETHICAL CONDUCT (2010)**

**PROFESSIONAL RELATIONSHIPS**
- School psychologists consult ethical standards from related fields and seek assistance from knowledgeable, experienced school psychologists and relevant state/national associations to ascertain an appropriate course of action.
- School psychologists respect the confidentiality of information obtained during their professional work.

***III. Professional Relationships, General. NASP Guidelines, 2010***

**NASP CODE of Ethical Conduct (2010)**

**PROFESSIONAL RELATIONSHIPS**
- When school psychologists suspect the existence of detrimental or unethical practices by a member of another profession, informal contact is made with that person to express the concern. If the situation cannot be resolved in this manner, the appropriate professional organization is contacted for assistance in determining the procedures established by that profession for examining the practices in question.

***E. Other Professionals, 7. NASP Guidelines, 2010***
## Ethics Presentation Outline

**Fine Points**

**Part 1**
- Identify the Problem(s) or Dilemma(s)
- A Case Scenario Using the Eight-Step Model
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**Part 2**
- Solving Case Scenarios
- In-Depth Case Analyses

**Part 3**
- Protecting Yourself

### A COMPLEX CASE

**CASE 1**

Dr. Apple, a Neuropsychologist on an adult inpatient brain injury rehabilitation unit, is told to provide coverage for Dr. Brown, the School Neuropsychologist on the pediatric unit who is on vacation. Dr. Apple agrees and goes to the unit with his usual tests because he does not have access to Dr. Brown’s office where the pediatric tests are kept. However, sensitive to the fact that the tests to which he has access were not normed with children, he is determined to score them qualitatively and interpret them with caution.

The first child to be evaluated is an 8 year-old bilingual (Spanish-English) boy who sustained a severe TBI 4 weeks prior. Dr. Apple performs the evaluation, including testing, bedside. The child’s mother remains in his room to help encourage and reassure him and to interpret instructions and responses if needed.

During administration of the Trail Making Test (TMT), the patient states, “This one is fun. I like doing it in Occupational Therapy (O.T.).” The patient’s roommate adds that he likes it, too. The roommate then agrees to remain quiet for the rest of the evaluation, but the roommate’s Speech Therapist soon comes and takes him away for speech therapy anyway. Dr. Apple completes the evaluation and writes his brief report in the child’s chart. Dr. Finch, a colleague of Dr. Apple, working in a different department in the same facility, learns of this situation.

### CASE ANALYSIS

- Identify the problem(s) or Dilemma(s)
- Consider the significance of the context and setting
- Identify and utilize ethical and legal resources
- Consider personal beliefs and values
- Develop possible solutions to the problem
- Consider the potential consequences of various solutions
- Choose and implement a course of action
- Assess the outcome and implement changes as needed

**IDENTIFY THE PROBLEM(S) OR DILEMMA(S)**

- Dr. Apple allowed himself to be put in a situation that he was not qualified to handle and therefore mishandled.
- He is a Adult Clinical Psychologist not a School Neuropsychologist.
- He usually works with adults and is not qualified to work with the pediatric populations.
- Dr. Apple performed an inappropriate evaluation that would likely have several unfavorable consequences.
- He used adult tests with a child and did not appear to consider the potential impact of the child’s ethnicity, cultural background, or English language fluency on the tests selected or the validity of the results.
IDENTIFY THE PROBLEM(S) OR DILEMMA(S)

- Dr. Apple failed to adequately manage aspects of practice that he would have been expected to manage in any context, such as the testing environment and linguistic issues.
- He did not try to maximize aspects of confidentiality. He performed the evaluation with others in the room.
- He used the child’s mother as an interpreter. It is highly unlikely that the mother would have been able to take the proper role of interpreter by being objective.

IDENTIFY THE PROBLEM(S) OR DILEMMA(S)

- Dr. Apple learned that other health care professionals were misusing neuropsychological instruments, possibly with the knowledge of Dr. Brown. The Occupational Therapist apparently used the TMT as a therapeutic exercise on a regular basis.
- Problematic departmental practices seem to be going on in this case such as not providing appropriate School Neuropsychological coverage during Dr. Brown’s vacation and pressuring Dr. Apple into providing services he was not qualified to perform.

CONSIDER THE SIGNIFICANCE OF THE CONTEXT AND SETTING

- The setting is significant in this case. The ethical problems began with the facility not providing adequate coverage for Dr. Brown’s vacation.
- Due to the lack of appropriate coverage, Dr. Apple was asked to provide services outside his areas of competence.
- Dr. Apple should have expressed concerns about performing the services and suggested other options, such as retaining an outside School Neuropsychologist.

IDENTIFY AND UTILIZE ETHICAL AND LEGAL RESOURCES

- (APA-ES 2.01, Boundaries of Competence; NASP-PPE, II, A, #2)
- (APA-ES 2.02, Providing Services in Emergencies)
- (APA-Ethical Standards 9.01, Bases for Assessments; 9.02, Use of Assessments; 9.06, Interpreting Assessment Results; and 2.04 Bases for Scientific and Professional Judgments; NASP-PPE, IV, C, #7)
- (APA-ES 4.01, Maintaining Confidentiality)
- (APA-ES 4.04, Minimizing Intrusions on Privacy)

IDENTIFY AND UTILIZE ETHICAL AND LEGAL RESOURCES

- (APA-ES 3.10, Informed Consent; ES 9.03, Informed Consent in Assessments; APA-ES 4.02, Discussing the Limits of Confidentiality; NASP-PPE, III, A, #9)
- (APA-ES 9.07, Assessment by Unqualified Persons; NASP-PPE, II, A, #1)
- (APA-ES 1.04, Informal Resolution of Ethical Violations)

Case 2

An 18-year-old undergoes a School Neuropsychological evaluation to clarify learning problems that emerged during his senior year of High School. The School Neuropsychologist conducts a thorough interview and finds that in addition to problems keeping up with the pace of class lectures and difficulty structuring study time, the examinee is experiencing conflicting feelings about his sexuality and he has never before told anyone about these feelings.
Case 2

The School Neuropsychologist completes the evaluation and finds that the examinee has a verbal learning disorder for which he compensated well in high school but cannot overcome at the college level without accommodations. Psychological factors are not considered to be affecting neurocognitive functioning. In his report, the School Neuropsychologist provides not only the neurocognitive findings but also a comprehensive review of the examinee’s background information, including a description of his recently discovered sexual preference. (APA/NASP Ethics?)

Case 3

A 10 year-old female was recently struck by a car while riding her bicycle, sustaining a moderate traumatic brain injury and multiple facial abrasions and lacerations. She begins School Neuropsychological treatment, which consists of learning compensatory strategies to help with her transition back to school, as well as psychotherapy to maximize her emotional adjustment, particularly given her feelings of being appearing different and her fear of becoming isolated from peers.  

Case 3

Treatment begins well. After one session the School Neuropsychologist finds the student’s mother crying in the waiting room. The mother is invited into the office and expresses her own emotional reactions to her daughter’s injuries and changes. The School Neuropsychologist offers empathetic and supportive statements and then discusses the student’s therapy.

Case 3

The student listens, surprised, as the School Neuropsychologist then conveys very personal and sensitive information that she thought was confidential. The student feels betrayed and refuses to return to therapy. (APA/NASP Ethics?)

Case 4

Dr. Anker is retained by a no-fault insurance carrier to review Dr. Malt’s School Neuropsychological report and bill for the purpose of determining whether the evaluation was medically and educationally necessary and the bill appropriate. Dr. Malt’s student was involved in a relatively minor boating accident, with no apparent loss of consciousness or posttraumatic amnesia, and is involved in litigation.

Case 4

The information obtained by Dr. Anker indicates that Dr. Malt performed 12 hours of School Neuropsychological testing over the course of two days, one month after the student’s accident. Dr. Malt also billed for two hours of clinical interview, performed on the day after the testing was completed. Dr. Anker concludes that the medical and educational necessity for the 12 hours of testing had not been established and had Dr. Malt performed the clinical interview prior to the testing, he would have known that testing was unnecessary.
Dr. Anker recommends that Dr. Malt be paid for one hour of clinical interview time only. When Dr. Malt receives a copy of Dr. Anker’s report with the explanation of benefits summary, Dr. Malt contacts Dr. Anker, stating that Dr. Anker violated Ethical Standard number 9.01 (Bases of Assessments).

Dr. Malt claims that Dr. Anker arrived at inappropriate conclusions because he did not evaluate the student in person. Dr. Malt states that Dr. Anker should consider their conversation an attempt at an informal resolution of the matter, and if Dr. Anker does not contact the no-fault carrier and change his recommendation, a formal ethics complaint will be forthcoming. Dr. Malt directs Dr. Anker to the relevant sections of the Ethics Code of APA and NASP. (APA/NASP Ethics?)

ADVERTISING AND OTHER PUBLIC STATEMENTS (CASE 5)

A School Neuropsychologist in independent practice hires a consultant to develop a Website for his practice. His site describes him as a specialist in numerous psychological specialties and aspects of practice and lists his credentials, including his doctorate, licensure, memberships in professional organizations, and board eligibility.

In addition, his Website states that he has lectured internationally (he does not reveal that he based that statement on his presentation of one poster at a conference in the United States) and is a faculty member of a local prestigious medical school (based on having once supervised a School Neuropsychology intern there).

His site further indicates that he has testified more than 300 times, and it provides a testimonial from an attorney stating the School Neuropsychologist is well respected as an expert witness. (APA/NASP Ethics?)
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### Protecting Yourself and Student/Client When it Comes to Technology

<table>
<thead>
<tr>
<th>Hot Spots for Ethical Violations and Concerns</th>
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<tbody>
<tr>
<td>Social Media</td>
</tr>
<tr>
<td>Copiers-hard drive copies</td>
</tr>
<tr>
<td>Faxes-not secure or confidential</td>
</tr>
<tr>
<td>No password protection of data; Smartphone</td>
</tr>
<tr>
<td>No backup of files. VIOP-Skype/Google Chat/Vsee</td>
</tr>
<tr>
<td>No Encryption use</td>
</tr>
</tbody>
</table>

(Florell, D., 2015)

- No firewall on computer, no anti-virus program or out of date, Software out of date (scoring and OS)
- Reply all email
- Administrative access to files-who can modify
- Electronic files & storage – Cloud Options
- No backup of files

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### Protecting Yourself-Strategies for Liability Prevention to Utilize When Lawyers are Involved

**What to Listen for…**

1. Who, what, where, and when in the question.
2. Compound questions (contain “and” & “or”) and generally ask two or more things in the same question.
3. Confusing or vague questions.

**What Lawyers try to Accomplish with their line of Questioning?**

1. Test your knowledge of the facts.
2. Test your expertise in School Neuropsychology.
3. Obtain information to get educated.

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### Protecting Yourself-Strategies for Liability Prevention to Utilize When Lawyers are Involved

**What else do Lawyers Try to Accomplish with Their Questions?**

1. Get you to agree with them or validate a “self-serving” statement by asking: “Wouldn’t you agree? Isn’t it fair to say? Isn’t it possible? (say to him or her anything is possible.) Just answer yes or no, OK? When states OK this is a tactic to get you to say more.

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### Protecting Yourself-Strategies for Liability Prevention to Utilize When Lawyers are Involved

**Objections to the Form of a Question:**

- Ambiguous.
- Compound.
- Confusing.
- Vague—does not give time and setting but asks, “Didn’t the school do the wrong thing for the student?”

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### Protecting Yourself-Strategies for Liability Prevention to Utilize When Lawyers are Involved

**Think of Every Word as a $50.00 Bill**

“Don’t give it all away without thinking.”

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1. What’s your theory?
2. Which textbooks do you rely on?
3. Is each authoritative? (If you mention yes to question 2 above the attorney may try to hire that person to testify against you).
4. Who is the leading authority in the School Neuropsychology field?

**What to Listen for…**

1. Who, what, where, and when in the question.
2. Compound questions (contain “and” & “or”) and generally ask two or more things in the same question.
3. Confusing or vague questions.

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1. Collect Impeachment—investigate your past.
2. Size you up.
3. Obtain admissions and concessions.

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**Objections to the Form of a Question:**

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- Compound.
- Confusing.
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School Neuropsychology Certification Program

## Protecting Yourself-Strategies for Liability Prevention to Utilize When Lawyers are Involved

### What Should You Do in Response to the Lawyer’s Questioning?

- Answer concisely and STOP!
- Do not volunteer any information.
- Make the Lawyer ask as many questions as possible.
- Ask for clarification when confused.
- Listen for “inducers of speech.”

### Areas of Inquiry on Cross-Examination:

- Qualifications
- Knowledge used to arrive at conclusions
- Degree of certainty
- Bias, financial gain, advertising
- Consider alternative possibilities—tell the truth.
- Pose hypothetical questions (e.g., do not answer them).

### Expert Witness

### Helpful Tips for Testifying in Court Proceedings:

- Tell the truth
- Testify from your own personal knowledge or observation, unless asked otherwise
- Listen to the question(s)
- Answer only the question asked of you: if you do not understand it, ask that the question be rephrased
- If you do not know an answer, say so

### Helpful Hints for Cross-Examination:

- Fear and excessive self-conscientiousness are the natural enemies of a great testimony. Preparation and realistic knowledge are your natural allies.
- Do not make automatic, aggressive, controlling yang replies to all aggressive questioning. Use some calmer, simpler, receptive yin responses.
- Use imagery as a tool to gain a sense of familiarity with the hearing chambers or courtroom in order to ease anxiety and embrace your narrative style. Seek to feel positively connected to the people in the hearing chambers or courtroom and to the physical place itself.
- Attorneys may use trivial revenge when you have done well. Reconstruct them as signs of your success and adapt with your own best means of relaxation and comfort.
Criteria Used by Judge and Jury to Evaluate Witness Testimony:

- Conduct, attitude, demeanor, and manner while testifying.
- Ability to recollect, remember, and clearly relate the facts about which the witness (e.g., School Neuropsychologist) is testifying.
- Prior/subsequent consistent or inconsistent statements.
- Consistent or inconsistent testimony, compared with the other expert witnesses' statements.
- Bias, interest, motive not to tell the truth.

Develop Ten Communication Strategies to Cope with Questions to an Ethical Challenge in the Context of Potential Legal Action and Professional Scrutiny

If It Feels Iffy, Do Not Do It:

- A lawyer may ask the School Neuropsychologist to engage in a personal attack on the expert hired by the other party (civil proceedings or educational hearings). Although a lawyer, under legal ethical canons can request one do these things, for the School Neuropsychologist to publically attack a colleague would constitute a violation of not only professionalism but also professional ethical standards (APA, 2002; APA 2010).

What to Do If a Law Suit or Complaint Is Threatened or Filed:

- Immediately contact your insurance plan administrator.
- Check confidentiality requirements before giving out documents or discussing the specifics of the given client (excluding the student/client’s name).
- Do not attempt to resolve or settle the case without the plaintiff’s (student’s family if employed in a school setting or the student/client if in private practice). Do not attempt to resolve the case with the attorney while working with your own attorney and/or the school district’s attorney.

Am I in Trouble?

IT IS CRITICALLY IMPORTANT TO REMAIN VIGILANT ABOUT THE ETHICAL ASPECTS OF SCHOOL NEUROPSYCHOLOGY AS A CLOSING THOUGHT, THIS PRESENTER WOULD LIKE TO LEAVE YOU WITH THE FOLLOWING STATEMENT BY FRANCIS WELLMAN (1918-1997) AUTHOR OF THE CLASSIC TEXT, “THE ART OF CROSS-EXAMINATION” AND ASK YOU TO APPLY THIS TO THE PRACTICE OF SCHOOL NEUROPSYCHOLOGY.

“IT REQUIRES THE GREATEST INSENNITY: A HABIT OF LOGICAL THOUGHT; CLEARNESS OF PERCEPTION IN GENERAL; INFINITE PATIENCE AND SELF CONTROL; ABILITY TO ACT WITH FORCE AND PRECISION; A MASTERSFUL KNOWLEDGE OF THE SUBJECT-MATTER ITSELF, AN EXTREME Caution. IT INVOLES ALL SHADES OF COMPLEXIONS OF HUMAN MORALS, HUMAN PASSIONS, AND HUMAN INTELLIGENCE.”

REFERENCES: Current and Historical

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### Ethical and Legal Issues in School Neuropsychology

**Thank you**