

Original Paper

Developing an Ethical Mindset: The Ethics Grand Jury Mock Trial for Graduate Students

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Abstract

Counselor Educators providing instruction to counselors-in-training need to have a variety of activities and assignments to support the development of an ethical mindset. Because counselors face ethical dilemmas regularly, it is important that graduate programs provide a strong foundation for new counselors to identify ethical issues and take appropriate action. There are no uniform or standard approaches for teaching counseling graduate students how and when to apply ethical codes and related principles, however, they are expected to be competent in the subject matter upon graduation. This article outlines a method for increasing participation in ethics courses and enhancing sensitivity to ethical issues through the grand jury mock trial classroom activity. To encourage classroom implementation, step-by-step instructions are provided.

Keywords

counselor education, ethics, ethical dilemmas, mock trial

Introduction

Being familiar with the American Counseling Association Code of Ethical Standards (2014) is essential to ensuring that counselors-in-training and postgraduate counselors represent the profession in a way that advances it and ensures the protection of the general public. A required component of any graduate training program in mental health and therapeutic counseling is the completion of a course or integrated set of courses focused on professional ethics. Topics in these courses range from addressing informed consent, respect for privacy, and personal values to issues of counselor competency. Although there is no one uniform way to teach ethics courses, graduate programs have come up with novel and creative ways to engage students to learn the material in a meaningful way so that they may apply it appropriately in their practicum, clinical experiences, fieldwork, and ultimately post-graduation. A

variety of programmatic accreditation agencies also require graduate programs to include preparation in professional ethics as part of the curriculum, including the Council on Accreditation for Counseling and Related Educational Programs (2015), Council on Rehabilitation Education (2023), and the American School Counselors Association (2022). In reviewing the different standards of these agencies, they all have one thing in common, graduate students should be provided an education that exposes them to the appropriate code of ethics for their profession, should engage in activities that increase competencies in applying the ethical code appropriately when confronted with ethical dilemmas, and to develop a counselor identity that is rooted in ethical practices.

Brief History of ACA Code of Ethics

The American Counseling Association's Code of Ethics provides a set of ethical principles and mandatory standards that are guidelines for professional counselors that provide both direct and indirect services to clients. Professional licensing boards in many states that license LPCs, LPCCs, LMHCs, and LCMHCs, amongst other designations, refer to the ACA code as a standard practice when reviewing ethical complaints and making administrative decisions regarding licensees. The very first code of ethics by the American Counseling Association was published in 1961 in the *Personnel and Guidance Journal* when the association was then called, the American Personnel and Guidance Association (1961). At the time, the code of ethics focused on the professional activities of the counselor, with six major areas being addressed. These areas included (a) counseling-related activities, (b) testing and evaluation, (c) research and publication, (d) issues in consulting and private practice, (e) personnel administration, and (f) preparation for personnel work. Each of these areas was preceded by a set of general principles that were intended to inform and guide all six areas of a counselor's work. Additionally, each of these areas provided guidance to the counselor on ethical behavior, but the ethical code was generally only focused on the counselor's own development, without directly addressing the needs of clients and consumers.

In 1983, the organization formally changed its name to the American Association for Counseling and Development. Nine years later, the association was renamed the American Counseling Association (ACA) on July 1, 1992, to better reflect the connection shared by its members and to strengthen their unity of purpose. The ethics standards established by the American Counseling Association serve as a road map for effective counseling practices, allowing professionals to better assess and address complex ethical issues. The guidance provided by the code of ethics assists counselors and counselor trainees in ethical decision-making. The code defines members' ethical responsibilities and supports counselors in deciding the appropriate course of action for clients. The ACA Code of Ethics upholds six main goals and five guiding principles. All ACA members must observe the ethical standards specified in the ACA Code of Ethics, which includes guidelines in the following areas: (1) it defines the scope of the members' shared ethical obligations, (2) it assists its members in formulating a plan of action and

standards of conduct that will most effectively serve its clients, and (3) it promotes the members' mutual respect, (4) it highlights ethical concerns of importance to practicing and aspiring counselors, (5) defines the duties of professional counselors and provides principles for conducting themselves ethically in the field, and (6) it provides a framework for members to work within. The following are the five core values of the ACA's Code of Ethics (2014): (1) fostering growth throughout a person's lifespan, (2) recognizing and appreciating cultural differences as a means of recognizing and valuing each person's inherent worth, dignity, potential, and individuality, (3) advocating for social justice, (4) protecting the confidentiality of the counselor-client relationship, and (5) engaging in research and professional development are the five tenets of a competent and ethical counselor.

Description of the Grand Jury Mock Trial

For counselor trainees, the grand jury mock ethical trial is a valuable learning tool. It aids in the development of practical information about ethics, questioning methods, critical thinking, and ethical decision-making skills for counselors-in-training. Participants of these simulated trials will go away with an appreciation for the difficulties faced by ethics boards, judges, attorneys, and juries in their pursuit of a fair and appropriate determination. The following is an outline of the Grand Jury Mock Trial, an interactive activity used in the counseling graduate program at California State University, San Bernardino. Throughout the duration of the course term, students will examine a variety of content areas contained within the ethics code. Students are introduced to a variety of ethical dilemmas through the use of lectures as well as class discussions. Some of these dilemmas include informed consent, multiple relationships, and confidentiality. After instructing students about the purpose of the grand jury mock trial and the process that is involved, materials for the mock trial are passed out to the students. This includes a document with information and instruction on the (a) scene, (b) information regarding the grand jury, (c) setup, and (d) procedure. The following provides a description of the contents:

Scene: The accused counselor has been brought before the grand jury. Multiple allegations of both legal and ethical violations have been brought before the court. Counselors in good standing have been called to serve on the grand jury and to utilize their knowledge of applicable laws and the ACA Code of Ethics to determine what and if any codes/laws were violated and the validity of the allegations.

Information Regarding Grand Jury: In a grand jury, members that make up the grand jury do not decide guilt. The purpose of the grand jury is to listen to the allegations, testimony, and rebuttals as well as subpoena information (documents/records) or witnesses as necessary. The grand jury determines if charges should be filed. As a member of the grand jury, you are tasked with identifying each act that violated California Law and/or the ACA Code of Ethics.

Setup: Students will be divided into groups of 3-4. Groups will be provided with a vignette and will listen to allegations, testimony, and rebuttals. Groups will individually identify applicable state law

violations. Groups will individually identify ACA Code of Ethics violations. Each group will be able to list the applicable Penal Code/Law Code and ACA Code along with each identified violation. Groups will present their findings to the court.

Procedure: (1) Groups will select one member to be the scribe, one member to be the spokesperson (relay findings/information), and one questioner to ask either the court, the accused, or witnesses questions (two per group max). (2) Groups will be collectively presented with a vignette for background information. (3) One student (voluntarily/chosen) will role-play as the accused, and several other students will be selected to be either witnesses or collateral informants. (4) Relevant information will be shared with the court and grand jury. Subpoenaed information will be provided, and witness testimony will be presented. Students will consider all they have heard to prepare their findings.

Complaint and Process of the Grand Jury Mock Trial

Students are asked to volunteer to serve in the various roles that are outlined in the complaint. After the student grand jury groups have finished reading the complaint and choosing a scribe and a spokesperson, participants are then selected at random from among the students who volunteered to serve in those roles. The participants are asked to step outside and are given a brief overview of their role, whether they are the accused, the complainant, an investigator, a witness, or another important individual that can contribute to findings by the court. The grand jury student group is asked to contribute to the development of a complaint and then provided with the complaint document outlining the concerns and information that had been gathered through witness statements and mock depositions. They are given some time to review the document before the initiation of the court trial. Each volunteer is then called to the stand and is questioned by the faculty member who fulfills the role of the court's attorney. Individuals who are identified as accused of failing to fulfill their ethical obligation are questioned in a more adversarial nature, while witnesses and other supporting roles are questioned in a non-adversarial manner, providing a clear distinction between the two roles and mimicking what may be seen in true court trials. Each volunteer fulfilling a role will have been provided background information to assist them in responding to questions asked by the court attorney and the grand jury and in portraying a particular persona. The questioner for the group is given the opportunity to ask additional questions once the court's attorney has finished examining each of the witnesses, the accused, and any other significant individuals. After the closing argument has been presented by the Court's attorney, the groups will convene to discuss specific ethical violations, as well as specific legal violations, and cite where the codes are found to justify their decision-making.

Complaint: Chanel has been a community college counselor for the past two years. She enjoys her work as a clinical and academic counselor. Her husband initiated divorce proceedings last year, and she was divorced six months ago. During this time, she did not seek counseling, supervision, or emotional assistance of any kind; however, she continued to see clients. Chanel's school counseling credential and

clinical license both expired three months ago on the same day. She finally renewed them after paying a hefty late fee. Chanel told her Administrator that she had paid late but did not reveal that she had been working for three months without a valid clinical license, which is a required credential to perform psychotherapy. Her employer had recently conducted an audit to ensure that all employees had the proper licenses and credentials. She told her Administrator that she forgot because she had so much going on, but she vowed to never forget again. Chanel has worked closely with a student Jaye who aspires to become a school counselor. He frequents her office for advice.

Chanel became interested in a sexual relationship with him recently, and to her surprise, he reciprocated her interest. Chanel and Jaye both felt bad about the situation, so they agreed that Jaye should be assigned to a different counselor before they could begin their sexual relationship. Now that Jaye and Chanel are dating, Chanel feels comfortable telling him everything on her mind, including which students and clients irritate her and proceeds to recount their “ridiculous” antics. Chanel disclosed to her friend May that she was sleeping with Jaye during a dinner outing with May. May is also a community college counselor. May remained silent throughout the dinner, but she was uneasy about the situation. Chanel observed that May had become silent, so she decided to change the subject and discuss some of the problems her clients face, specifically Kate, who has a masturbation problem (she describes it as masturbating obsessively). Chanel makes inappropriate jokes and comments about the situation. She then informs May that psychoanalysis is her preferred treatment method because “Freud was all about psychosexual stages, so it makes sense”. May inquired as to the specific techniques Chanel was employing; Chanel paused and revealed she had not been trained in psychoanalysis but believed it to be the most effective method.

Working Through Ethical Issues

The fundamental purpose of every profession’s code of ethics is to outline the expected behavior and conduct of those who are bound to follow it (Francis & Dugger, 2014). Counselors are required to have a strong understanding of legal and ethical principles because of the wide range of client problems with which they are confronted.

In addition, counselors require moral reasoning so that they can apply their knowledge of ethics and the law to the process of making ethical decisions when confronted with ethical dilemmas. Previous research by Even and Robinson (2013) reported the most common types of ethical breaches involve a lack of professional competency, a breach of confidentiality, and a breach of sexual or non-sexual boundaries. The American Counseling Association (2014) reports that sexual and nonsexual boundary issues and counselor competence are central to the vast majority of counseling cases. According to the 2019 Annual Ethic Report, the American Counseling Association received approximately 1,771 inquiries (ACA, 2019). These inquiries are defined as any time a member consults the Office of Ethics for advice when they are uncertain how the ACA Code of Ethics should be applied in a particular

circumstance. No annual reports were generated by the ACA for the fiscal years 2020 or 2021. Wilkinson et al., (2019) found 936 ethical violations for professional counselors across state counseling licensing boards between 2010 and 2014. Misrepresenting credentials, having multiple relationships (sexual and nonsexual), and failing to obtain the required amount of continuing education were the most common types of ethical infractions. These findings highlight the need for greater ethical training in counselor education programs.

Models of ethical decision-making are developed to aid counselors in resolving ethical dilemmas by delineating the steps involved in making and implementing ethical decisions (Levitt et al., 2015). When faced with an ethical dilemma, it is challenging to choose the appropriate course of action. Using an ethical decision-making model assists counselors in following each step, documenting their actions, and being able to explain how they come to a final determination on how to proceed. While there are several models of ethical decision-making from which to choose including theoretical, philosophical, or practical, Verges (2010) proposed including contextual factors into the ethical decision-making procedure. By emphasizing context, counselors are able to make proactive rather than reactive decisions.

According to a study conducted by Ametrano (2014), values exploration is a useful method for examining ethical dilemmas (2014). In professional ethics courses, an introduction to the confluence of personal and professional ethics should be included in any examination of professional identity. Ametrano (2014) found that students early in their ethics education relied largely on the ACA Code of Ethics (2014) for precise answers to make judgments or draw inferences and to present a reason for how the code informed their decision-making. It is expected that each counselor will understand and incorporate the ACA Code of Ethics (2014), which serves as a foundation for the shared principles held collectively by the profession, with their own personal convictions examined (Francis & Dugger, 2014). Counselors gain a level of competence in acceptable behavior by internalizing the code of ethics (Lambie et al., 2012), and it is critical that counselor educators teach the ethical code in a consistent and meaningful manner (Moffett et al., 2014).

Discussion

In the course of their work, counselors frequently find themselves in a position where they must make difficult ethical decisions and face potential dilemmas. Faculty in counselor education graduate programs have a responsibility to ensure that their counselors-in-training are well-equipped to face ethical challenges in practice. This article emphasized the importance of implementing interactive activities in counselor-in-training graduate ethics courses and fostering a curriculum that encourages and promotes both aspirational and mandatory ethical decision-making in counselor trainees.

We believe that exercises like the grand jury mock trial create pivotal moments in education that not only lay the foundation for ethical behavior but also provide opportunities for both personal and

professional growth (Lower, 2018). Ethical training is an integral part of any graduate program and counselor education program teaching ethics must include opportunities for personal and professional reflection through a variety of activities. Decisions counselor trainees make in practicum while in school and throughout their future careers are influenced by their familiarity and understanding of their ethical obligations.

Activities like the grand jury mock trial can help facilitate experiences and provide educational opportunities to confront unethical behavior in a simulated environment. This includes teaching counselor trainees how to identify ethical dilemmas and providing them with the practical skills they will need to address ethical concerns and cope with the stresses they will face while working in their careers postgraduation. The effectiveness of classroom activities such as games, discussion rounds, role-playing, or a grand jury mock trial is highly dependent on the learning style and the student's openness to growth. We believe the most effective method of instruction combines elements of both student and teacher-centered approaches centered around a value exploration, introduction, and application of an ethical decision-making model through careful and consistent preparation.

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