

# Protecting Confidentiality Rights: An Ethical Practice Model

*(Adapted for Use in School Settings)*

## STEP 1: PREPARE

- A. Understand Rights of All Parties and Ethical Responsibilities in Their Behalf  
Rights of Student; Parents; Teachers; School Administrators; Staff; Others
- B. *Learn Relevant State and Federal Laws That Affect Confidentiality*  
*Laws That Support You in Protecting Confidentiality*  
*Laws That Limit Your Ability to Protect Confidentiality*
- C. Learn the Local School Policies that Affect Confidentiality  
Policies That Support You in Protecting Confidentiality  
Policies That Limit Your Ability to Protect Confidentiality
- D. Clarify Personal Ethical Position Ab. Confidentiality & its Limits in This Setting  
(E.g., Decide When/How You Will Limit Confidentiality Voluntarily)
- E. Choose Reliable Ethics Consultants and *Legal Consultants* and Use as Needed
- F. *Plan Ethical Response to Laws/Policies That Require You To Disclose “Involuntarily”*
- G. Devise Informed Consent Forms that Reflect Your Real Intentions
- H. Prepare to Discuss Confidentiality Limits w/ All Parties in Understandable Language

## STEP 2: TELL THE TRUTH ABOUT CONFIDENTIALITY AND ITS LIMITS

- A. Inform All Parties About Confidentiality Rule and Its Limits  
Explain the Basic Rule (e.g., “I will not ordinarily disclose without your consent”)  
Explain Voluntary Exceptions to the Rule  
*Explain Legally-Imposed Exceptions to the Rule*
- B. Inform about Other Factors That Might Influence Their Willingness to Participate
- C. Inform About Right to Decline to Participate & Consequences of Declining
- D. Explain Any Roles or Potential Conflicts of Interest That Might Affect Confidentiality
- E. Obtain Assent from Informed Student and Consent from Informed Parent or Guardian
- F. Reopen the conversation as needed.

## STEP 3: OBTAIN INFORMED CONSENT BEFORE DISCLOSING VOLUNTARILY

- A. Respect the Confidentiality Rule: Disclose Consent Only if *Legally Unavoidable*
- B. Inform Students/Parents About Content/Implications of a Potential Disclosure
- C. Obtain and Document Consent Before Disclosing

## STEP 4: RESPOND ETHICALLY TO LEGAL DEMANDS FOR DISCLOSURE

- A. *Notify Client(s) of any Pending Legal Demand for a Disclosure*
- B. *Respond to Laws According to Plan (from Step 1,E above)*
- C. *Limit Disclosure of Confidential Information to Extent Allowed by Law & Policy*

## STEP 5: AVOID PREVENTABLE BREACHES OF CONFIDENTIALITY

- A. Establish and Maintain Protective Policies and Procedures; Train Staff
- B. Monitor Note Taking, Report Writing, and Record Keeping Practices
- C. *Anticipate Legal Demands*
- D. Protect Student Identity in Presentations, Consultations

## STEP 6: TALK ABOUT CONFIDENTIALITY

- A. Model Ethical Practices; Confront Unethical Practices
- B. *Provide Peer Consultation About Laws Affecting Confidentiality*
- C. Teach Ethical Practices to Students, Supervisees, Employees, Agency, Institution

(Adapted from the Model first introduced in the article, “Protecting Confidentiality Rights: The Need for an Ethical Practice Model” (Fisher, 2008), and elaborated in the Oxford University Press book, *The Ethics of Conditional Confidentiality* (Fisher, 2013) and further elaborated in the APA book, *Confidentiality Limits in Psychotherapy* (Fisher, 2016).