

Ethics and Professional Issues

Introduction

Ethics and Professional Issues

- 28 to 30 exam questions will be from this area
- about three-fourths of the questions will be related to the provisions of the Ethics Code
- the remaining questions will ask about other APA documents or other issues
- the majority of questions will be of the applied type and will present a vignette that describes an ethical dilemma
- the remaining questions will be more straightforward and will ask for the definition of a term or what the Ethics Code says about a specific issue

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Outline of Topics

- **APA's Ethics Code**
 - Introduction, Preamble, and General Principles
 - Ethical Standards 1.0 – 10.0
- **Other APA Documents:**
 - Specialty Guidelines for Forensic Psychologists
 - Guidelines for Child Custody Evaluations in Divorce Proceedings
 - Guidelines for Providers of Psychological Services to Ethnic, Linguistic, and Culturally Diverse Populations
- **Miscellaneous Issues:**
 - Psychology Licensing Boards and the EPPP
 - Sexual Relationships with Clients
 - Malpractice and Vicarious Liability
 - Insanity and Competence to Stand Trial
 - Responding to a Subpoena

Study and Test-Taking Strategies

- **Study Strategies:**
 - the “think-aloud” exercise is a useful tool that will help you determine if you need to focus on acquiring information, using effective study strategies, or both
 - another useful strategy is to become familiar with the language used in the Ethics Code

Study and Test-Taking Strategies

- **Five-Step Process:**

1. Carefully read the entire question stem
2. Identify the content domain and restate the question
3. Answer the question in your own words
4. Read and grade the answers
5. Choose an answer and mark it on the computer screen

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Ethics and Professional Issues

Introduction to the Ethics Code

Ethics Code

- **Introduction and Applicability:**
 - the Ethics Code “applies only to psychologists’ activities that are part of their scientific, educational, or professional roles”
 - however, APA may take action against a member who is convicted of a felony or whose license has been suspended or revoked
 - membership in the APA commits the member to the provisions of the Ethics Code
 - a lack of awareness of an Ethical Standard is not a defense to a charge of ethical misconduct

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Ethics Code

- **APA's *Rules and Procedures*:**

- following consideration of a complaint, the Ethics Committee can dismiss the complaint, impose a sanction, or issue a directive
- *sanctions* that the Committee can impose are reprimand, censure, expulsion, and stipulated resignation
- *directives* require the psychologist to cease and desist an activity, obtain supervision or additional training or education, be evaluated for treatment or receive treatment, or agree to probationary monitoring

Ethics Code

- **Preamble:**

- the goals of the Ethics Code are ensuring “the welfare and protection of the individuals and groups with whom psychologists work and the education of members, students, and the public regarding ethical standards of the discipline”

- **General Principles:**

- present aspirational, non-enforceable guidelines
- are organized under titles such as “Integrity” and “Justice”
 - because pro bono services are addressed in the General Principles, they are recommended (but not required) by the Code

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Ethics Code

- **Ethical Standards:**

- are enforceable, mandatory guidelines that serve as the basis for disciplinary action by the Ethics Committee
- are organized into ten sections under such titles as “Resolving Ethical Issues,” “Competence,” and “Privacy and Confidentiality”
- you do not need to know the numbers or names of the Ethical Standards for the licensing exam

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Ethics and Professional Issues

Ethical Standards 1 and 2

1.0: Resolving Ethical Issues

- **Standard 1.02:**
 - addresses conflicts between ethical requirements and the provisions of laws and regulations
 - states that “psychologists make known their commitment to the Ethics Code and take steps to resolve the conflict”
 - if the conflict is unresolvable, “psychologists may adhere to the requirements of the law, regulations, or other governing legal authority”

1.0: Resolving Ethical Issues

- **Standards 1.04 and 1.05:**
 - provide guidelines for responding to ethical violations by colleagues
 - Standard 1.04 encourages psychologists to handle ethical violations informally when “an informal resolution appears appropriate”
 - Standard 1.05 states that psychologists make a formal report when the violation involves “substantial harm” and is not appropriate for an informal resolution
 - these two Standards also require psychologists to consider the issue of client confidentiality before taking any action

1.0: Resolving Ethical Issues

- **Standard 1.06:**
 - states that a failure to cooperate with an investigation of a complaint by the APA or state psychological association constitutes an ethical violation
 - when cooperating with a request for information, a psychologist must always consider client confidentiality
- **Standard 1.08:**
 - prohibits psychologists from discriminating against people who are complainants or respondents to a charge of ethical misconduct solely on the basis of being the subject of a complaint

2.0: Competence

- **Standard 2.01:**

- states that psychologists must provide only those services that are within the boundaries of their competence
 - when expanding their services, psychologists must do so in a way that minimizes the potential for harm to clients
 - it's up to the psychologist to determine if he/she has the competence to provide specific services, but guidelines for doing so are provided in several APA documents

2.0: Competence

- **Standard 2.02:**

- states that a psychologist may provide services in an emergency when he/she doesn't have the necessary training but other mental health professionals are unavailable
 - the psychologist must discontinue those services when the emergency has ended or appropriate services become available

2.0: Competence

- **Standard 2.06:**

- states that psychologists refrain from undertaking a professional activity when they become aware that personal problems may interfere with their work
 - in this situation, psychologists take “appropriate measures”
 - the most appropriate measure is often obtaining professional consultation to determine whether professional activities should be limited, suspended, or terminated

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Ethical Standard 3

3.0: Human Relations

- **Standards 3.01 and 3.03:**
 - prohibit psychologists from harassing and unfairly discriminating against people on the basis of age, gender, race, ethnicity, sexual orientation, etc.
 - Standard 10.10 states that psychologists “may terminate therapy when threatened or otherwise endangered by the client or patient or another person with whom the client or patient has a relationship”

3.0: Human Relations

- **Standard 3.02:**

- prohibits sexual harassment, which it defines as behaviors that are sexual in nature and that a reasonable person knows are unwelcome or offensive or that create an unpleasant work environment

- **Standard 3.04:**

- states that psychologists “take reasonable steps” to avoid and minimize harm to clients, students, research participants, and others with whom they work

3.0: Human Relations

- **Standard 3.05:**

- requires psychologists to refrain from participating in multiple relationships that are likely to impair their objectivity or effectiveness or harm the other party
- states that, when psychologists accept multiple roles in forensic settings, they must clarify role expectations and issues related to confidentiality
- also states that when, psychologists find themselves in a potentially harmful multiple relationship, they take “reasonable steps to resolve it”

3.0: Human Relations

- **Standard 3.06:**

- requires psychologists to refrain from taking on a professional role when competing interests or relationships might impair their objectivity, competence, or effectiveness in performing that role

- **Standard 3.07:**

- requires psychologists who provide services at the request of a third party to clarify the nature of their relationships with all individuals at the outset of the delivery of services

3.0: Human Relations

- **Informed Consent:**

- covered in several Ethical Standards including Standard 3.10
- three conditions must be met for a consent to be truly “informed”
 - the person must have the capacity to make rational decisions
 - the person must be given adequate information
 - the person must give his/her consent freely

3.0: Human Relations

- **Informed Consent (cont.):**

- there are several factors to consider when obtaining an informed consent, including –
 - the type of information that must be provided
 - the timing of the informed consent process
 - the format of the informed consent
 - Standard 3.10 requires informed consents to be documented
- when the individual is not legally capable of giving consent, psychologists provide him/her with an explanation, seek the individual's assent, and obtain permission from a legally authorized person

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Ethics and Professional Issues

Ethical Standard 4

4.0: Privacy and Confidentiality

- **Confidentiality vs. Privilege:**
 - *confidentiality* refers to the obligation to protect clients from unauthorized disclosure of information revealed in the context of a professional relationship
 - confidentiality is an ethical principle and, in some situations, a legal requirement
 - *privilege* refers to protecting a client's confidentiality in legal proceedings
 - the client is ordinarily the holder of the privilege, but a psychologist can assert the privilege on the client's behalf
 - there are a number of legally defined exceptions to privilege

4.0: Privacy and Confidentiality

- **Standard 4.02:**

- requires psychologists to discuss the limits of confidentiality with people to whom they provide services
 - states that, unless not feasible, confidentiality should be discussed at the outset of the relationship and as new circumstances warrant
- requires psychologists to inform clients of the possible limits on confidentiality when they will be receiving services electronically
 - Standard 6.02 states that, when information can be accessed by others, psychologists must use coding or other techniques to restrict access to identifying information

4.0: Privacy and Confidentiality

- **Standard 4.04:**

- requires psychologists to minimize intrusion on the privacy of clients by providing only relevant information in reports and consultations

- **Standard 4.06:**

- states that, when consulting with others about a client, psychologists must discuss only information that is relevant to the purpose of the consultation
- also requires psychologists to obtain a signed release from the client before discussing the case with a consultant except when the client's identity can be disguised

4.0: Privacy and Confidentiality

- **Standard 4.05:**
 - allows psychologists to breach client confidentiality when to do so is mandated by law
- ***Tarasoff v. the Board of Regents:***
 - the original Tarasoff decision established a “duty to warn” an intended victim but, in a rehearing of the case, this was changed to a “duty to protect”
 - California subsequently adopted a statute requiring psychotherapists to warn an identifiable victim of a client or to contact the police
 - many jurisdictions have followed California’s lead, although the specific requirements vary

4.0: Privacy and Confidentiality

- **Standard 4.07:**
 - states that psychologists do not disclose confidential client information in lectures, writing or other public media unless the client has consented or the client’s identity is disguised

Ethics and Professional Issues

Ethical Standards 5 and 6

5.0: Advertisements and Other Public Statements

- **Standards 5.01 and 5.02:**
 - require psychologists to ensure that statements made by themselves or others about their services and products are not deceptive, misleading, or fraudulent
 - prohibit psychologists from compensating employees of the press, TV, and radio in return for publicity
 - require psychologists to ensure that paid ads about their products or services are clearly identified or recognizable as advertisements

5.0: Advertisements and Other Public Statements

- **Standard 5.05:**

- prohibits psychologists from soliciting testimonials “from current therapy clients or other persons who, because of their particular circumstances are vulnerable to undue influence”

- **Standard 5.06:**

- prohibits uninvited, in-person solicitation of business from people who are “vulnerable to undue influence”
 - this prohibition does not apply to disaster or community outreach services or to inviting a family member of a current client to participate in therapy that would benefit the client

6.0: Record Keeping and Fees

- **Standard 6.02:**

- states that psychologists must maintain confidentiality in creating, storing, and disposing of records under their control
- requires psychologists to have a plan for protecting the confidentiality of records in the event of their death, illness, or withdrawal from practice

6.0: Record Keeping and Fees

- **Standard 6.02 (cont.):**
 - client access to records is addressed by laws and institutional regulations
 - in many jurisdictions, laws grant ownership of the physical record to the practitioner but give clients the right to inspect the record
 - many laws provide exceptions to client access
- **Standard 6.03:**
 - prohibits psychologists from withholding a client's records because of nonpayment of fees when they're needed for the client's emergency treatment

6.0: Record Keeping and Fees

- **Standard 6.04:**
 - requires psychologists to discuss fees and other financial matters "as early as is feasible"
 - when a client does not pay for services in the agreed upon manner, psychologists may use a collection agency after notifying the client of the intent to do so
 - the psychologist must provide the collection agency only with the information it needs to seek payment
 - psychologists must not bill third parties for services they have not actually rendered

6.0: Record Keeping and Fees

- **Standard 6.05:**

- states that barter may be acceptable when it's not clinically contraindicated and when the client is clearly not being exploited

- **Standard 6.07:**

- states that when referral fees are paid to an individual professional, they must be based on the actual services provided by the person making the referral
 - according to a statement by the APA, the fee should be "within a reasonable range of the fair market value of the services provided"

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Ethics and Professional Issues

Ethical Standards 7 and 8

7.0: Education and Training

- **Standard 7.02:**
 - requires psychologists to “take reasonable steps” to make sure education and training programs are accurately described
- **Standard 7.03:**
 - requires psychologists to make sure that course syllabi are accurate
 - also requires psychologists to present accurate information in education and training programs

7.0: Education and Training

- **Standard 7.06:**
 - states that “psychologists establish a timely and specific process for providing feedback to students and supervisees” and inform them of this process at the beginning of the academic or supervisory relationship
- **Standard 7.07:**
 - prohibits psychologists from having sexual relationships with students or supervisees “who are in their department, agency, or training center or over whom they have or are likely to have evaluative authority”

8.0: Research and Publication

- **Standard 8.02:**
 - lists the minimum information that must be addressed during the informed consent process
 - purpose of the research and expected duration
 - right to decline to participate and to withdraw
 - foreseeable consequences of declining or withdrawing
 - factors that may influence willingness to participate
 - potential benefits of the research
 - limits of confidentiality
 - incentives for participation
 - whom to contact for questions about the research

8.0: Research and Publication

- **Standard 8.04:**

- states that, when participation in research is a course requirement or opportunity for extra credit, prospective participants are given a choice of alternative activities

- **Standard 8.05:**

- states that an informed consent is not always required
 - for instance, it may not be necessary when the study is not likely to cause harm or distress or is part of normal educational or occupational practice

8.0: Research and Publication

- **Standard 8.07:**

- prohibits the use of deception except when the following conditions are met –
 - its use is justified by the study's prospective value
 - alternative non-deceptive procedures are not feasible
 - participants are not deceived about conditions that are likely to cause pain or severe emotional distress
 - participants are debriefed at the conclusion of their participation (or no later than at the conclusion of the data collection)

8.0: Research and Publication

- **Standard 8.09:**

- requires psychologists to act responsibly when using animals in research
 - handling of animals must comply with applicable laws, institutional requirements, and professional standards
 - procedures involving pain, stress, or privation can be used only when justified by the potential findings of the study and alternative procedures are unavailable
 - when an animal's life has to be terminated, it must be done as rapidly and painlessly as possible

8.0: Research and Publication

- **Standard 8.12:**

- requires that publication credit be based on each person's contribution rather than on his/her status
 - students must be listed a principal author on multi-authored articles based substantially on their doctoral dissertations except "under exceptional circumstances"
 - dissertation supervisors and others are ordinarily credited through second authorship or in footnotes or an introductory statement

Ethics and Professional Issues

Ethical Standards 9 and 10

9.0: Assessment

- **Standard 9.02:**
 - states that psychologists use instruments that are appropriate for the purpose of testing and whose reliability and validity have been established for members of the population being tested
- **Standard 9.03:**
 - states that the individual must be given information about the nature and purpose of the assessment, fees, limits on confidentiality, and the involvement of any third parties
 - in certain circumstances, an informed consent does not have to be obtained (e.g., when testing is routine or required by law)

9.0: Assessment

- **Standard 9.04:**

- defines *test data* as raw and scaled scores, client responses to test questions, and a psychologist's notes concerning the client's statements and behavior during testing
- requires psychologists to provide test data to the client or other person specified in the client's release
 - however, psychologists may refrain from releasing test data to protect the client or others

9.0: Assessment

- **Standard 9.11:**

- describes *test materials* as including manuals, instruments, protocols, and test questions or stimuli
 - clients are usually not given access to test material

- **Standard 9.08:**

- requires psychologists to make sure that tests and other measures are not outdated and that any recommendations or decisions are not based on the results of obsolete test data

10.0: Therapy

- **Standard 10.01:**

- requires psychologists to provide clients with all information that might influence the decision to participate in therapy “as early as is feasible”
 - issues that should be discussed include the nature of treatment, fees, and confidentiality
 - when the therapist is a trainee and his/her supervisor has legal responsibility for treatment, the client must be informed that the therapist is being supervised and given the supervisor’s name

10.0: Therapy

- **Standard 10.04:**

- states that, when a client or prospective client is receiving services from another mental health professional, a psychologist must “proceed with caution”
 - the overriding consideration in this situation is the client’s welfare

10.0: Therapy

- **Standard 10.05:**
 - prohibits psychologists from having sexual intimacies with a current therapy client
- **Standard 10.06:**
 - prohibits psychologists from engaging in sexual intimacies with people they know to be close relatives, guardians or significant others of current therapy clients
- **Standard 10.07:**
 - prohibits psychologists from providing therapy to people with whom they have had sexual relationships in the past

10.0: Therapy

- **Standard 10.08:**
 - prohibits psychologists from having a sexual relationship with a former client for at least two years after cessation of therapy
 - even after two years, the relationship may be acceptable only in the “most unusual circumstances”
 - the psychologist bears the burden of demonstrating that the relationship is not exploitative

10.0: Therapy

- **Standards 10.09 and 10.10:**

- require psychologists to make sure they don't abandon their clients or continue a therapeutic relationship when the client is not benefiting from it
 - to avoid abandonment, psychologists should offer pre-termination counseling or provide appropriate referrals
 - if psychologists feel therapy is not helping a client, they should discuss this issue with the client and offer referrals to other therapists
 - when a client can no longer afford therapy, the best course of action is to offer therapy at a reduced fee or help the client locate alternative services

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Ethics and Professional Issues

Other APA Documents

Specialty Guidelines for Forensic Psychologists

- **Evaluation:**
 - unless an evaluation is court-ordered, psychologists must obtain an informed consent from the person to be evaluated or the person's legal representative
 - when an evaluation is court-ordered, a psychologist must notify the person about the nature and purpose of the evaluation
 - psychologists also notify the subjects of their evaluations of any limits on confidentiality
 - psychologists do not use evaluation data for any other purpose without the consent of the person or his/her legal representative

Specialty Guidelines for Forensic Psychologists

- **Contingent Fees:**
 - psychologists do not accept contingent fees in forensic settings
- **Documentation:**
 - the standard of documentation in forensic settings “is higher than the normative standard for clinical practice”

Guidelines for Child Custody Evaluations in Divorce Proceedings

- **Evaluations:**
 - “the child’s interests and well-being are paramount in child custody evaluations”
 - the purpose of the evaluation “is to assess the individual and family factors that affect the best psychological interests of the child”
 - custody evaluations generally require an evaluation of all parents or guardians and the children
 - when the psychologist is unable to evaluate all parties, he/she must present only the results of the evaluation

Guidelines for Child Custody Evaluations in Divorce Proceedings

• Informed Consent:

- Psychologists obtain informed consents from all adult participants
- they also provide information to children to the extent they're able to understand it

Guidelines for Child Custody Evaluations in Divorce Proceedings

• Multiple Relationships:

- psychologists generally avoid multiple relationships
- however, in some circumstances it may be acceptable for psychologists to testify in a custody case even though they have a prior relationship with one of the parties
 - for example, it would be acceptable for a psychologist who has a therapeutic relationship with a child to act as a fact witness

Guidelines for Child Custody Evaluations in Divorce Proceedings

- **Fact vs. Expert Witness:**

- a *fact witness* testifies about what he or she has seen, heard, or otherwise observed regarding a specific circumstance
- an *expert witness* has been qualified by the court as an expert and is allowed to offer opinions and provide testimony related to hypothetical scenarios

Guidelines for Providers of Psychological Services to Ethnic, Linguistic, and Culturally Diverse Populations

- **Ethnicity and Culture:**

- psychologists must be aware of how factors related to ethnicity and culture impact psychological processes
- psychologists must respect their clients' religious and cultural beliefs and practices

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Guidelines for Providers of Psychological Services to Ethnic, Linguistic, and Culturally Diverse Populations

- **Language:**

- psychologists must interact with a client in the language requested by the client
 - if this is not possible, the psychologist should make a referral
 - if another professional is not available, the psychologist should retain the services of translator
 - the translator should not have a dual relationship with the client since this can jeopardize the validity of the translation

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Ethics and Professional Issues

Miscellaneous Issues

Miscellaneous Issues

- **Psychology Licensing Boards:**
 - given authority to set requirements for licensure by state and provincial licensing laws
 - primary function is to protect the public from “grossly unqualified practitioners”
- **EPPP:**
 - one of the requirements for licensure
 - designed to assist the licensing boards in evaluating the qualifications of applicants for licensure

Miscellaneous Issues

- **Sexual Relationships with Clients:**

- surveys have found that psychologists who report sexual involvements with clients are more likely to have a history of non-sexual boundary violations
- male therapists are more likely than female therapists to become sexually involved with clients
 - males therapists who become sexually involved are usually about 10 years older than the female client they become involved with

Miscellaneous Issues

- **Malpractice:**

- four conditions must be met to establish a psychologist's liability in a malpractice suit –
 - there must be a professional relationship that established a legal duty of care
 - there must be a demonstrable standard of care that was breached
 - the person must have suffered harm or injury
 - there must be evidence that the breach of duty was the cause of the harm or injury

Miscellaneous Issues

- **Vicarious Liability:**

- a psychologist may be liable for the actions of a supervisee or employee when he/she is responsible for or has control over that person
 - the determination of vicarious liability is usually based on the disparity in training or experience between the psychologist and the supervisee or employee

Miscellaneous Issues

- **Insanity:**

- refers to a defendant's mental state at the time he/she committed the crime
 - its determination requires evidence that the defendant did not know right from wrong or was unable to control an "irresistible impulse"

- **Competence to Stand Trial:**

- refers to a defendant's current mental state
- the evaluation of competence includes assessing the defendant's current mental state and functional ability to consult with his/her attorney and participate in the legal process

Miscellaneous Issues

- **Subpoena:**

- a *subpoena* requires the recipient to appear at a deposition, trial, or other legal proceeding
- a *subpoena duces tecum* requires the recipient to provide documents or records, usually in conjunction with an appearance at a legal proceeding

Miscellaneous Issues

- **Responding to a Subpoena:**

1. Determine if the subpoena is legally valid.
2. Contact the client or client's attorney and, if appropriate, obtain a release of information from the client.
3. If the client does not consent to the release, negotiate with the requester.
4. Seek guidance from the court informally by letter or formally with a motion to quash the subpoena or protective order.
5. If requested to provide testimony in court or at a deposition and you do not have the client's permission to do so, assert the privilege.
6. If a court order is issued, you must comply or risk being held in contempt of court.