

Standard 2 Professionalism and Ethics



Standard 2 requires the student:

- A. Understand the concept of “a code of ethics”.
- B. Understand the state and federal rights of children (3-17 year of age) with developmental disabilities.
- C. Understand the ethical procedures for working with children with intensive behavioral challenges.
- D. Know the confidentiality rules pertaining to children with developmental disabilities.
- E. Understand child abuse reporting procedures.

Key Terms for Standard 2:

Protection of records: The prevention of unauthorized disclosure of personally identifiable information pertaining to a child.

A. Understand the concept of “a code of ethics”.

Webster’s dictionary defines **ethics** as the system or code of morals of a particular group or profession. Many organizations and professions have a code of ethics (e.g., social workers, psychologists, physicians). A code of ethics creates the foundation for how the people in an organization will behave and provide services. For example, the Council for Exceptional Children has a Code of Ethics and Standards of Practice for their work with people with “exceptionalities.”

Their opening statement reads:

We declare the following principles to be the Code of Ethics for educators of persons with exceptionalities. Members of the special education profession are responsible for upholding and advancing these principles. Members of the Council for Exceptional Children agree to judge and be judged by them in accordance with the spirit and provisions of this Code.

A few of these principles include:

- A. Special education professionals are committed to developing the highest educational and quality of life potential of individuals with exceptionalities.
- B. Special education professionals promote and maintain a high level of competence and integrity in practicing their profession.
- C. Special education professionals engage in professional activities which benefit individuals with exceptionalities, their families, other colleagues, students, or research subjects.

(For a complete list of principles please go to www.cec.sped/org/ps/code.html)

A developmental specialist who works for a DDA or a school system needs to be familiar with the code of ethics or principles from the organization or school district. The Idaho Training Cooperative has not mandated a specific code of ethics but expects trainers and students to adhere to ethical standards set forth in the Idaho Code, IDEA, and local school district policy.

B. Understand the state and federal rights of children (3-17 years of age) with developmental disabilities.

Children with developmental disabilities have **rights** under the Rules Governing Developmental Disability Agencies 16.04.11.760 and also under state and federal law (e.g., IDEA). For example, children have the right to have their personal records kept confidential. They are not to be shared with other people without the permission of their parent or legal guardian. They have

the right to humane care. They have the right to be treated in a courteous manner and be protected from harm at all times. The Individuals with Disabilities Education Act (IDEA) and the local school district (LEA-Local Educational Agency) assures the rights of children and their parents/guardians as they progress through the school system.

A DDS who is working for a developmental disability agency (DDA) is expected to comply with the state rules that govern DDA's. The specific Idaho Code 16.04.11.760 for Consumer Rights can be found on page 12 in Appendix D.

DDA rules require that DDA's also have a written grievance policy that is shared with families so they know what steps they need to take to file a complaint regarding treatment or programming issues.

A DDS who is working in a school district needs to be aware of the rights of students and parents under the Individuals with Disabilities Education Act (IDEA) Amendments of 1997.

A **parent** is defined as "a natural or adoptive parent, a legal guardian, a person acting as a parent, or a surrogate parent who has been appointed by the district" (Idaho Special Education Manual, 2001, p.113). A parent has procedural safeguards that are guaranteed to him or her under IDEA and state law. These safeguards are called "special education rights." A school district should provide a Special Education Rights Statement to parents of children with disabilities.

This statement is provided to parents when:

- An initial referral to consider a special education placement is made.
- An invitation is made to an IEP team meeting.
- Informing the parent of the need to conduct a reevaluation.
- A due processing hearing is requested.
- The student turns 18 years old or when rights transfer.

The **Special Education Rights Statement** should be written in the **parent's native language** unless it is unfeasible to do so. This statement includes information about student and parent rights including:

- 1) Consent
- 2) Written notice
- 3) Evaluation
- 4) Independent education evaluation
- 5) Individualized education program
- 6) Least restrictive environment
- 7) Placement in an interim education setting
- 8) Access to education records and confidentiality

- 9) Requirements for unilateral placement of students in private schools at public expense
- 10) Mediation
- 11) Complaint procedures and how to file a complaint
- 12) Due process hearing procedures and how to initiate a hearing
- 13) Placement during pendency of due process procedures
- 14) Civil action (appeals to a civil court)
- 15) Attorney's fees; and 160 sources to contact for assistance in understanding special education rights

C. Understand the ethical procedures for working with children with intensive behavioral challenges.

Each DDA is required by the Rules Governing Developmental Disability Agencies 16.04.11.763 to develop and implement written policies and procedures that address the development of appropriate social behaviors and the management of inappropriate behavior.

- **Positive social skills** – the goal of this policy is to develop functional, adaptive behaviors for a child so that they can participate in preferred activities and interact with family, peers, and members of the community.
- **Positive approaches/least restrictive alternatives** – this procedure is written to ensure that positive approaches are employed when developing intervention plans. Utilizing Positive Behavioral Supports (PBS) ensure that strategies are employed that are respectful of a child, value their communication system, and do not cause the child pain or emotional distress.
- **Protected rights** – refer students to the section referenced above on state and federal rights.
- **Underlying causes** – it is important to remember that all behaviors have a function. Behavior is not random. A child may have a challenging behavior because they are not understood, don't feel well, need a break, are bored, or are overly stimulated by the environment.
- **Objectives and plans** – Objectives and intervention plans should be developed or obtained and implemented to address self-injurious behavior, aggressive behavior,

inappropriate sexual behavior, and any other behaviors that significantly interfere with the child's independence or ability to participate in the community.

- **Training alternate behavior** – after a hypothesis is developed as to the purpose of a behavior (e.g., the child bites because they need help) it is important to replace the unacceptable behavior, biting, with something that is more acceptable and efficient and will accomplish the desired outcome (e.g., teach the child to pat their arm to ask for help).
- **Consumer involvement** – it is always important to problem-solve on how a child can be involved in their own behavioral support (e.g., recognizing and valuing a child's current communication system is one way of involving the child, and teaching the child self-management strategies)
- **Written informed consent** – any behavior support plan should be developed and implemented with the written informed consent of the child's parent/guardian.
- **Review and approval** – all behavioral support plans should be reviewed and approved by the child (if possible) and the child's parent/guardian.
- **Appropriate use of interventions** – remind the students that this policy re-emphasizes the importance of respecting the child and not implementing interventions that are harmful, disrespectful or cause the child distress (e.g., tying a child in a chair). A good question for the students at this point – what would they want done to their own child and what wouldn't they want done?

A DS working for a school district should adhere to the requirements of "Health Related Services Provided by Idaho Public School Districts or **Other Public Education Agency**" in Medical Assistance Rule at 16.03.09.560-577 and, are bound by IDEA for procedural safeguards around behavioral interventions. See Appendix G.

It is the DDA's responsibility to provide parents a packet of information that outlines their rights and the rights of their children, specific grievance procedures, and protection and advocacy contacts in the state. The parent must be able to easily understand this information. All center-based programs must also have consumer rights posted at the facility.

D. Know the confidentiality rules pertaining to children with developmental disabilities.

A DS who works for a DDA must be particularly aware of a child's right to privacy. Any disclosure of information obtained by the Department of Health and Welfare is subject to restrictions contained in 16.05.01, "Protection and Disclosure of Department Records." Which states that "all information as to personal facts and circumstances, including lists of names and

addresses, must be disclosed only in direct connection with the administration of the developmental disability program. Otherwise, consent of the client to whom the information applies must be given (45 CFR 416.27).”

Each agency is responsible for making sure that their employees are familiar with their specific policies.



Student Note: A parent should **always give permission** for a release of information. Personally identifiable information about the child should **never** be shared with other people.

A DS providing services in a school must adhere to the provisions for confidentiality as stated in the Individuals with Disabilities Education Act (IDEA) and the Family Educational Rights and Privacy Act (FERPA) as well as any state and local rules.

Both IDEA and FERPA contain provisions to protect the confidentiality of personally identifiable information in student special education records. These laws also provide the right for parents to review and inspect the records.

A **record** is defined as personally identifiable information directly related to the student and maintained by the district. A student record can be written or electronic and may include, but is not limited to:

1. Identifying data (name, address, parents, siblings, social security number, list of personal characteristics making identification possible);
2. Academic work completed (courses taken, transcript);
3. Level of achievement (grades, portfolios, performance assessments, scores on standardized achievement tests);
4. Attendance data;
5. Scores and protocols of standardized intelligence, aptitude and psychological tests;
6. Records of teachers, counselors, medical personnel, and psychologists working directly with a student if disclosed to others;
7. Interest inventory results;
8. Observations and verified reports of serious or recurring behavior patterns;
9. Videotapes or audiotapes;
10. Health data including medical assessments;
11. Family background information;

12. Transportation records, and
13. Student records maintained by agencies that or individuals who contract with the district.

With regards to the **protection of records**, a district must prevent unauthorized disclosure of personally identifiable information pertaining to students with disabilities. **Disclosure** is the release, transfer, or other communication of education records, or of personally identifiable information contained in those records to any party, by any means, including oral, written or electronic. The specific steps a district must take to ensure the protection of records can be found on page 22 of the Idaho Special Education Manual 2001 at www.sde.state.id.us/SpedEd/. Parents of students with disabilities must be **notified annually of their rights** under FERPA. Information that is contained in this notice can be found on pages 123-125 in the above referenced web site.

Consent is usually required to disclose a child's personally identifiable information to others. Consent is not required for certain purposes including: a school official or employee who has a legitimate educational interest to access the records; when necessary to protect the health and safety of the child or other individuals in connection with an emergency. For a full list of reasons when consent is not required refer to pages 125 at the above referenced web site.

A school district is also required to maintain a student's education records for at least 5 years. A parent or an adult student must be notified when personally identifiable information is to be destroyed because it is no longer needed to provide an educational service to the student.

A parent can also request that a district amend information in a student's records if they believe the information is inaccurate, misleading, or in violation of the privacy or other rights of the student. Information regarding this procedure can be found on pages 126-127 of the Idaho Special Education Manual.

E. Understand child abuse reporting procedures.

There are different kinds of abuse and neglect. In Idaho **physical abuse** is defined as any physical injury to a child which has been caused by other than accidental means, including any injury which appears to be inconsistent with explanation given for the injury (e.g., child fell off the bed and broke her arm).

Physical neglect occurs when a parent or caregiver does not provide adequate food, clothing, shelter, medical treatment, or supervision due to the conduct, omission or refusal of the parent or caregiver to provide them to the child.

Sexual abuse includes sexual acts and exploitation of a child done for the sexual gratification of the offender or another person.

Under Idaho law, any person who has reason to believe that a child is being abused, neglected or abandoned **MUST** report this to the local law enforcement agency or the Department of Health and Welfare within 24 hours. Failure to report suspected abuse, neglect or abandonment is a misdemeanor. Anyone making a referral, in good faith, is immune from prosecution.

Points to Remember

- ✓ Adhere to the principles that guide your agency or school.
- ✓ Always use ethical procedures in working with children.
- ✓ Respect the child's right to privacy.



Student Project: Write a 1-2 page paper that describes the:

- a) Code of ethics/principles that guide an agency or school, and
- b) Confidentiality rules for your agency or school, and
- c) Abuse reporting procedures for your agency or school.

References:

Idaho Special Education Manual (2001). Bureau of Special Education. Boise, Idaho: Idaho State Department of Education.

IDAPA 16.04.11 Rules Governing Developmental Disabilities Agencies.

CARE ENOUGH

TO CALL

Children have the right to be safe and have their basic needs met. Yet, thousands of Idaho children suffer from abuse or neglect each year. Please care enough to keep children safe. Call and report your concerns.

When do you call?

Call whenever you have a reason to believe that a child under the age of 18 has been abused, neglected, or abandoned (Child Protective Act, 16-1619).

Call when you observe these things:

Physical Abuse:

- Injuries such as bruises, cuts, burns, bit marks or broken bones with no appropriate explanation.
- Burns or bruises that look like the object with which they may have been inflicted.
- Extra clothing that may be worn to hide injuries to arms or legs.
- Pattern of repeated injuries.

Sexual Abuse:

Anytime an adult uses a child in a sexual way it is abuse. It may be sexual touching, molestation, incest or rape, or photographing a child for obscene or pornographic purposes.

- Call when a child tells you about inappropriate touching
- "Games" they don't like
- Secrets
- Threats

Neglect means children are not getting the care and protection they need. Some examples include:

- Young children left alone.
- A house where health or safety hazards are present.
- Parent fails to provide housing or emergency shelter
- Parent does not provide food.

Who is required to call?

Everyone-- This includes doctors, hospital residents, therapists, interns, nurses, coroners, school teachers, day care providers, social workers, relatives, friends, and private citizens.

Who do you call?

A report must be made to your local law enforcement agency such as the police or sheriff's office or to the Department of Health and Welfare, Child Protective Services.

How soon do you call?

You must call and report within 24 hours.

What If You Are Not Sure?

Call and let the Department of Health and Welfare or law enforcement decide if they have enough information to respond. You need not be prepared to prove that abuse or neglect has occurred before making a report.

What kinds of Information will you need to provide when you call?

- Child and family's names, address, and phone number.
- Current location of the child and if they are in immediate danger.
- Description of any injury to the child, and when and where the incident occurred.
- Names of any person who may have witnessed your concern.
- Explanation of your concerns regarding the child's safety.
- Any additional information you have about the child, family or caregivers that may be helpful.
- Your name, address, phone number and relationship to the child. You can make an anonymous report.

What happens after you call?

- Someone from Children and Family Services (CFS) or the police, or both, will look into the situation to determine if there are current and ongoing safety issues for the child.
- CFS will work with the family to try to create a plan so that the child can stay in his/her home.
- If a child's safety can not be ensured with a safety plan, the child may temporarily be removed from his/her home by law enforcement or the court.
- If children are removed from their homes, CFS is required to work with the child and family toward safe reunification.

Can You Get in Legal Trouble for Calling?

Reports of child abuse or neglect made in "good faith and without malice" are immune for civil liability. It is a crime to intentionally make a false report (Idaho Child Protective Act, 16-1620).

Will the Family Find Out that You Called?

Every reasonable effort is made to maintain confidentiality of an individual who reports child abuse or neglect. However, sometimes the family can identify who made the call.

What if you don't call?

Failure to call may mean that a child is hurt. Therefore, in Idaho, it is a misdemeanor if you fail to report child abuse, neglect, or abandonment.

How can you get more information?

You can call the Idaho CareLine at

1-800-926-2588 (ask for the child protection number in your area)

The CareLine can connect you with someone who can listen to and document your concerns.

Please Call

It Shouldn't Hurt to be a Child.