

# School counselling work in Slovenia: between the normative and the ethic

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## Summary

This paper casts light on some formal aspects and aspects of professional ethics that bind and direct school counsellors in their work. Some basic principles of ethical treatment are presented, with focus on the principle of confidentiality and dilemmas that appear in its application. In striking a balance between the ethical and legal aspects in counselling work with children/pupils it is important that the counsellor accepts parents, teachers, head staff and other experts as allies and partners in the counselling process, as these people most often offer assistance to the child/pupil who is in need of help.

**Key words:** School counselling work, law, code of ethics, ethical principles, pupil, parents, teachers

## Introduction

The concept of school counselling work, as established in Slovenia today, began to form in the second half of the 1960s.<sup>3</sup> Today it can be maintained that the concept of counselling work as adopted by the Slovenian educational system is modern, topical and kept up-to-date with the counselling services of foreign school systems (cf. Bela knjiga o vzgoji in izobraževanju v Republiki Sloveniji (White Paper on Education in the Republic of Slovenia), 2011, 481). It serves as a basis of the substantive, organizational and professional activities within schools. However, in their work, school counsellors encounter some difficulties, among which the ever topical question of the proportion between normative and ethical acting of the school counsellors also appears.

In the field of counselling, questions on ethical and legal aspects emerged with the establishment of counselling or psychotherapy as a professional activity which required both expert knowledge and skills as well as respect of ethical and legal obligations (Strawbridge, 2003). Some fundamental texts on ethical and legal aspects in counselling can be found in the second half of the previous century (for example Kitchener, 1984; Van Hoose and Kottler, 1977). The authors then contended with two points: on the one hand that counsellors' practice was often ethically contestable, and on the other hand, that counsellors disposed with insufficient knowledge

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<sup>3</sup> The school counselling service in Slovenia is part of educational system and is involved in the complex solving of educational, psychological and social questions of educational work in kindergarten and school.

and guidelines to face and handle potential dilemmas in their work. In the last few decades an increase of texts dealing with legal and ethical aspects in the counselling or psychotherapeutic practice has been noticed (e.g. Bond, 2000; Corey, Corey and Callanan, 2003; Davies, 2015; Pope and Vasquez, 2013; Remley and Herlihy, 2007), and also in the practice of school counselling work (e.g. Bodenhorn, 2006; Glosoff and Pate, 2002; Thompson, 2012; Trice-Black, Riechel and Shillingford, 2013). In Slovenian literature, questions of legal and ethical aspects in counselling are dealt with within various forms of counselling, such as school counselling (e.g. Pečjak and Košir, 2012; Resman, 1999), counselling in the field of social work (e.g. Čačinovič Vogrinčič, 2003), and as part of the professional ethics in work with people in general (e.g. Toplak, 1996).

The purpose of this paper is to cast light on some formal aspects and aspects of professional ethics that bind and direct school counsellors in their work and to draw attention to potential dilemma or difficulties arising from these aspects.

## Integration of counselling in the school framework

When counselling as a discipline is put in the framework of a particular institution, such as a kindergarten and school, it acquires certain peculiarities that are typical of work within the institutional framework in question (Resman, 1999). When counsellors try to realize their mission, they cannot neglect the fact that they are an official working in an institution. However, in its activities the institution follows its own goals and rules (bylaws, regulations) which counsellors cannot and must not ignore. The mere fact that they are a “school” counsellor will never liberate them of their “employee status” (ibid.). Being officials and members of a specific organization, they must abide by laws and regulations if they want to participate in it.

The goals, tasks and also order of the institution within which counselling takes place can narrow the autonomy counsellors need for quality work (ibid.). When the state intervenes too strongly in the regulation of the educational or even learning process, in the best case the counselling work deals with problems individual pupils have with themselves, but with limited possibilities of changing the social and educational circumstances of school work that represent pupils’ setting. The situation is even worse for the discipline itself and the counsellors whose work is directly determined by tasks assigned by “the employer” (the state, the founder or school), which strengthens their “employee status” (ibid.).

Regardless of this starting point, it seems worthwhile to ascertain that school counselling work in Slovenia successfully evades too strong institutionalization. School counselling and counsellors are not as heavily regulated as teachers; they do not have their timetable, syllabus and curriculum as teachers do. A counsellor’s

timetable is more flexible (cf. Bowman, 2005, 15), in view of concept and contents they find guidance in the Programme Guidelines (Programske smernice, 2008)<sup>4</sup>.

There has actually always been a certain reciprocity between formally (at the national level) as well as externally regulated school educational work and counselling work with children, pupils and parents, which finds its stronghold in expert findings, cultural, social and developmental characteristics of children or pupils. Namely, on the one hand, no discipline can ignore an institution and its order, conditions and frameworks in which it is active, while on the other, no institution willing to implement educational goals can (may) keep away from science and expert findings. Counselling work should not be subordinated and understood as a service for the school, the headmaster and teachers, but should rather present expert assistance to pupils to promote their learning and personal development.

## Between the law and ethics

### The law

Characteristics of the law are consistency, universality, publicity, obligatory acceptance and enforcement regardless of the situation, otherwise sanctions are envisaged for infringements.

Laws are a *consistent* set of rules that are *generally (publicly) accepted* and sometimes (for some people) imposed. This is the framework which has to be adhered to when working and relating (communicating) with people. Laws do not express expectations; they are not recommendations, but rather obligations that have to be respected and adhered to. They refer to a relatively closed (exhaustive) system of rules and regulations, backed with sanctions if the rules are not respected (Fischer and Sorenson, 1996).

The same holds true for legislation in the field of education. This legislation is the same for everybody; however, it is understandable that it cannot be always applicable in the same way to any situation and will not always offer optimally favoura-

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<sup>4</sup> The Programme Guidelines (Programske smernice, 2008) provide that the counselling service is involved in the complex solving of educational, psychological and social questions of educational work in kindergarten or school through three basic activities: *assistance, developmental and preventive activities* as well as *planning and evaluation*. Through these three basic types of activities they help all possible participants in kindergarten or school and cooperates with them in the following areas of everyday life and work in the kindergarten or school: *learning and teaching, school culture, education, climate and order, in the field of physical, personal and social development, in the field of schooling and career orientations, and in the area of social and economic distress*. The guidelines also give basic areas of work and suggest specific tasks for each system level of the educational system.

ble solutions for pupils and others who work at school. Nobody, neither teacher nor counsellor, is allowed to ignore legislation, to interpret or adapt it in their own way. Teachers and counsellors must be familiar with the legislation referring to pupils and adhere to it in their work.

## Ethics, ethical behaviour, code of ethics

*Ethics* are a set of concepts about good and evil (bad) behaviour, actions, attitudes in the professional context; their domain is distinguishing between right and wrong, good or bad, just or unjust. The ethics of counselling work are rooted in the nature of the work. They consist of unwritten rules respected by counsellors. *In opposition to a law which in principle allows (orders) only the prescribed behaviour, ethical conduct always means deciding between alternatives.*

However, there are different criteria to establish what is and what is not ethical in a particular situation. A decision adopted by a counsellor is always contrasted towards the specific value (moral) system of the social setting. Something can be seen as moral for members of a particular cultural group, but not for other groups. What is right and what is wrong for Roma people can perhaps differ from what is right or wrong for some other cultural communities.

*Codes of ethics* contain the most essential (focal) viewpoints which to the professional staff represent guidelines for the correct work, behaviour, and relationships between participants of the counselling process (Resman, 1999). The code of ethics gives a framework for conduct; it defines only principles without prescribing in detail what a professional must do in particular circumstances. The code of ethics helps counsellors decide in particularly complex cases (ibid.).

When a discipline drafts the code of its work, it gains in its own autonomy; the code is namely an important regulator of work (ibid.). It defines standards (norms) of work that originate in expert findings, goals and the mission of the work and its professionals. This empowers them to defend the code against those who would “mess around with it” in order to regulate their professional work or even against the manipulation of daily politics.

The code of ethics sets the rules that counsellors use to judge the ethical aspect of each particular case; in given situations it requires the counsellors to adopt their own decisions, in accordance with expert findings and their own “human conscience”. Consequently, they are themselves responsible for their actions.

## Personal ethics

Moreover, ethical decisions contain also a personal implication. Among others, an adopted ethical decision is always the result of considering professional and ethical conduct as well as conducting a personal and moral assessment of a situation or a measure (Resman, 1999).

Hare (1991, in Cottone and Claus, 2000, 276) is convinced that the intuitive level plays an important role in everyday decision-making and solving of dilemmas, that it is the “main locus of everyday moral decisions” (ibid.). But he continues that mere intuition is not sufficient, that it must be subjected to critical consideration. If one acts only according to intuition without specific consideration and comparison with “external” criteria, the adopted decision can quickly turn unethical. Acting according to intuition does not signify what would be termed “personal ethics”. Personal ethics are the result of knowledge and experiences a person can rely on in order to facilitate decision-making in counselling. Personal ethics are built through analysing one’s own counselling successes and failures, and through discussing counselling measures with one’s colleagues (Gray, 1988, 64). It is formed through practice with a particular population of pupils or parents; getting experiences through practice you learn your own way to solve dilemmas you meet.

As a counsellor, one has his or her own intimate moral world which is more or less consistent; so the question is whether a counsellor can avoid subjective views when counselling pupils. Can a counsellor be partial?

## Basic principles of ethical behaviour

In their work, counsellors are guided by some basic attitudes (principles) that serve as foundation of any conduct. It is the issue of the counsellors’ (cf. Thompson, 2012; Trice-Black et al., 2013):

- Attitude towards the pupil to whom they should offer assistance, towards parents, teachers and others with whom they cooperate to the pupil’s benefit;
- Attitude towards colleagues and the profession, and last but not least,
- Attitude towards their own professional development.

The basic principles of ethical conduct of a counsellor are always written in codes of ethics of professional (counselling) associations, and these principles serve as the foundation of ethical standards of counsellors’ practice (cf. e.g. ACA Code of Ethics, 2014; ASCA Ethical Standards, 2016; NASW Code of Ethics, 2008).

School counselling theoreticians have not neglected the critical-evaluation model of ethical decision-making (practice) according to Kitchener (1984). Ethical principles were developed from principles of biomedical ethics, practiced by Beauchamp

and Childress (see Kitchener, 1984). Kitchener (ibid.; cf. Thompson, 2012, 441) thus emphasizes five principles, namely:

- Autonomy,
- Beneficence,
- Nonmaleficence,
- Justice, and
- Fidelity.

Ethical decisions are a challenge, because there are many paths, which consequently may cause tensions between different values, such as truth, justice, responsibility, autonomy, integrity, respect and consideration.

In terms of content (reason), these principles are congruent with the principles from the Slovenian school counsellors' code of ethics (*Etični kodeks svetovalnih delavcev ...* (The school counsellors' code of ethics), 1998; Resman, 1999):

- To work to the benefit of a pupil (or parent),
- The pupil must enter or cooperate in the counselling process voluntarily,
- Trust and confidentiality.

## Work to the benefit of the pupil

The counsellor's first professional duty is primarily to respect the personality of the pupil, teacher or parent as a human being and their integrity regardless of their development level. The counsellor should contribute to the pupils' growth and development by strengthening their interest and helping them in their choice of educational and vocational career. To work in the pupils' interest means also the counsellor should avoid directly fulfilling their current needs and interests, because in this way they become dependent. *Counselling work is aimed at capacitating pupils to face problems that originate in their development, learning and social relationships themselves.*

The essence of this principle is also defined in the autonomy principle according to Kitchener (1984). The individual should be in the position to make free choices and decisions, and it is the counsellor's responsibility to encourage such decision-making. The counsellor should help pupils understand their own decisions and make them according to the social context or help pupils avoid decisions that would harm them or others.

Counsellors should bear in mind that they influence pupils with their values and beliefs and convey them to pupils, which means that counselling is also prone to abuse. The risk of abuse increases with the acuteness of the counselee's distress, their young age and in case they are unable to make their own decisions due to their immaturity.

Acting to the benefit of the pupils simply means supporting them, being proactive and also preventing harm when necessary (Forester-Miller and Davis, 1996). With their actions, counsellors should not put pupils in further embarrassment or troubles.

This principle of counselling is substantively connected to the principle of justice according to Kitchener (1984). The principle of justice requires equal treatment (attitude, assistance) for all people with whom one enters into a professional relationship. Justice does not mean that everything is treated in the same way; it does not imply political democracy. Kitchener (*ibid.*) points out that those who are equal should be treated in the same way and those who are different in a different way. If a person is treated in a different way, then the counsellor should be able to substantiate why it is necessary (justified) to treat pupils differently.

The greatest risk with this requirement is the counsellors' subjectivity, stereotypes and abuse of power pertinent to their position for their own profit.

### **The pupil enters or cooperates in the counselling process voluntarily**

The principle of voluntary consent presupposes the way of cooperation in which the counsellor and the pupil work together in a programme of assistance and development. Pupils have the opportunity to set ideas about their educational, vocational and personal perspectives; this is the best opportunity for pupils to identify with it, and thus a greater chance of success is assured.

Voluntary consent is also the best guarantee that good communication and trustful relationship will be established between the pupil (counselee) and the counsellor.

In minor pupils and in those who for various reasons (at that very moment or on a permanent basis) are incapable of judgement, the agreement (consent) of the pupil's parents or guardians has to be obtained for work with pupils. These are then more present (included) in the counselling process.

Many pupils and parents who meet counsellors for the first time are most often unaware of their rights and what to expect from the counsellor and the counselling process, thus an ethical requirement of counselling work with older pupils and adults is to familiarize them with what they can expect from counselling assistance, ensuring that their expectations regarding help are realistic.

The principle of voluntarily entering the counselling relationship means that the pupil or parent may withdraw from it any time. Also counsellors may terminate the process of providing assistance (counselling), namely, when they find that:

- The pupil no longer need their assistance, because the problem has been solved in a satisfactory way, or
- It is no longer in their power to help the pupil.



## Trust and confidentiality

Beside the principles of working in the pupil's interest and that of voluntary consent, the principle of trust and confidentiality is one of the basic principles found at the forefront of codes of professionals who are in one way or another linked to helping people (e.g. ACA Code of Ethics, 2014; ASCA Ethical Standards, 2016; NASW Code of Ethics, 2008). Trust is a category that refers to a person's privacy, to their intimate sphere, without which they become disposed, helpless and left at the mercy of others. Violating human privacy, disclosing their intimate life is therefore one of the severest interventions into the person's dignity and human rights. Violating a person's privacy or what was confided can be so damaging to the person in question that it has received legal (normative) support. Confidentiality is a legal category referring to protection of what was said from disclosure. It is supplemented with the rules of personal data protection.

Preserving human dignity, respecting it and ensuring that what was confided will not be disclosed, is the basis of establishing a counselling relationship and providing counselling assistance (cf. Thompson, 2012; Trice-Black et al., 2013). Trust is present in every communication and is in general a precondition to enable communication and exchange of information between the counsellor and the pupil, parent or teacher.

From the point of view of counselling, trust is thus the central condition for success. Trust between the pupil and the counsellor is a guarantee for the necessary confidence during the counselling process. Without a firm conviction that anything disclosed will stay confidential, it is uncertain how much pupils who actually need support will turn to the counsellor for it.

Pupil's trust in the counsellor is evident in their voluntary entry into the process. Without explicitly stating it, without formal procedures, pupils start revealing their story. It is the matter of an unspoken or "tacit agreement" (Resman, 1999) for a confession of the pupil who trusts in advance that the counsellor will not violate his confidence. From the point of view of professional ethics in establishing and maintaining trust there is also the unwritten and most often unspoken "word of honour", which the pupil recognizes in the counsellor's behaviour.

The trust between the counsellor and the pupil is reinforced when the pupil progresses or recognizes (experiences) that the counsellor is helping him/her solve difficulties or problems.

There are primarily two aspects that influence the establishment of trust and confidentiality between the pupil and the counsellor, namely the:

- Position of the pupil, and the
- Position of the counsellor in school.

The first aspect refers to the fact that counsellors in school counselling work meet with children and pupils (minors) who are not responsible before the law due to their minority. Because of that they also lack some of the rights that adults have. Although children and adolescents have their own rights, legislation still defines their parents or guardians as those who have the right to their children. The Marriage and Family Relations Act (*Zakon o zakonski zvezi in družinskih razmerjih*, 2015) provides: In order to provide healthy growth, well-adjusted personal development and the capacity for independent life and work, parents shall have the right and obligation to care for the subsistence, personal development, rights and benefits of their young children. These rights and responsibilities shall compose parental rights (*ibid.*, Article 4). Article 107 stipulates: Children under age shall be represented by their parents (*ibid.*, Article 107).

The other aspect refers to the position of the counsellor in school, being on the other side than pupils; they see the counsellor as a teacher who has particular authority and power over the pupils; therefore the pupil's relation towards the counsellor can be already anticipated as a relation of distrust. A special relationship can form when, for example, counsellors are also the teachers of the subject matter and thus have the destiny of the pupils' grades in their hands.

Otherwise, the two central questions of the confidentiality principle in school counselling work revolve around the question of collecting and keeping data on pupils, parents or their family, and the question of revealing confidential information shared by pupils in their conversations with counsellors.

## Collecting data and confidentiality

### Formal aspect

The starting point of both the formal aspect and drawing up of this type of legislation is *protection* of the individual against unauthorized data collection and irresponsible treatment of the collected data. The starting point of drawing up such legislation is in principle distrust in data collection, which means an attitude that every data may be used to harm an individual. Such an attitude is intended to prevent every abuse, therefore when drawing up legislation "the worst case" method is used. Namely, if you don't have data, you cannot use it against the individual.

Therefore, from the formal point of view, the mere obtaining of personal data may be contestable, so a lot of attention is given to the conditions of their collection. Data that may be collected is prescribed in the legislation. To collect any other personal data, the individual person's consent has to be obtained.

What is the situation in the school setting? The methodology of collecting and protecting personal data, such as that used in defining the relation between the state and individual, is also used to determine the relation between the school or counsellor and the pupil. According to the Elementary School Act in Slovenia (Zakon o osnovni šoli, 2016) and in the perspective of school counselling work, the school or counsellor keeps, among other things, a collection of data on pupils in need of assistance or counselling. Data collected within the frame of counselling work, such as data pertaining to family and social history, development anamnesis, procedures of professional assistance and expert opinions of other institutions, such as social work centres, healthcare institutions, counselling centres, etc. shall be collected with the consent of the pupil's parents, except in cases when pupils are endangered by their families and need protection (ibid., Article 95). The counsellor shall be obligated to treat this data as a professional secret (ibid.). Other professionals having received such data due to the nature of their work shall also treat them as a professional secret (ibid.).

### The aspect of professional ethics

The starting point of the criterion of professional ethics or counselling criterion is *assisting* children in their growth, development and learning. More than possession of data, what matters in the perspective of professional ethics is what this data means and what message it conveys. Personal data collection is intended to serve the needs of a pupil's personal and school life and development. Data is the starting point and a condition for the counselling help given to the pupil.

### Exceptional cases

School legislation in Slovenia thus allows for exceptional cases when it is admissible to collect personal data even without parents' consent, namely in cases when pupils are endangered by their families and need protection (Zakon o osnovni šoli (Elementary School Act), 2016, Article 95). These and similar formulations enable flexible activities and consideration of very concrete and specific conditions, at the same time allowing the legal requirement to be respected.

The headmaster or authorized workers who during their work find out that a pupil is endangered are, regardless of their duty to protect professional secret, obligated, in accordance with the social security act, to inform the local social work centre thereof. Pupils are presumably endangered when they have actually suffered or are very likely to suffer obvious harm to their health and development. (Pravilnik o zbiranju in varstvu osebnih podatkih na področju osnovnošolskega izobraževanja (Rules on the collection and protection of personal data in elementary education),

2004, Article 28). The school is also obliged to protect pupil's best interests and for that purpose inform authorized bodies of criminal prosecution (the police or state prosecution service) of cases when professional workers learn about instances of physical and psychic violence, injuries or abuse, neglect or negligent behaviour, cruel treatment, exploiting and sexual abuse (*ibid.*).

However, exceptional cases may occur even when pupils are not directly endangered in their families. In such cases the formal provision may even put schools and counsellors into difficulties.

Considering that each counselee (pupil, parent) is a personality on their own and due to unpredictable needs of counselling and unique circumstances, no legislation can predict the data the counsellor will need. If that would be feasible at all, we would no longer have a school counselling service, but rather one of the most de-personalized bureaucratic services.

Such is one of the justifications and one of the reasons why school counsellors have to be relatively unrelated, professionally autonomous and independent, in order to be able to follow principles of professional ethics within the framework of their institution.

### **“Silent, tacit agreement”**

Counsellors are present at school not only to help pupils with learning difficulties, but also to provide information on professions and education options and similar. Pupils seek refuge in counsellors when facing serious personal (psychological) problems. What to do or how to handle the situation when for example we notice the distress of a pupil who shows suicidal tendencies and we know that he has difficult (unfavourable) conditions at home? When such a pupil looks for a counsellor, you know that he wants to confide in someone. You receive the pupil, you listen to his problem and confession. A parent may seek help in the same way. Thus it is not the counsellor who forced a pupil or a parent into a discussion, but rather they came out of their own free will. With this consent given without words you can speak to them, - the so called “institute of tacit agreement” (Resman, 1999), which has extraordinary significance in counselling work.

From a professional point of view, it would be formalist and also contestable if in such critical situations, pupils or parents were called on to sign a form intended to later prove they entered into the counselling relationship voluntarily and provided their permission to collect data. Professional ethics thus allow “tacit agreement” as it complies with the principle of voluntary participation and the principle of acting in the counselee's interest.

However, “tacit agreement” does not suffice in all cases. For counselling work with pupils, it will often be necessary to obtain written consent, i.e. when other data (information) is collected, showing the characteristics, conditions or relationship of a pupil (see *Zakon o osnovni šoli* (Elementary School Act), 2016). If pupils or parents resist giving information, without which help is not possible, then the counsellor should consider the reasons why they do not want to disclose it.

## Confidentiality and release of data

The counsellor can only reveal pupils’ data if the pupils’ or their parents’ consent has been obtained. The right to reveal what was confessed can be renounced only by the counselee or his/her legal guardian. However, there are exceptional cases.

### Exceptions and dilemmas

As established by various authors and demonstrated by some studies in the field of school counselling (e.g. Bodenhorn, 2006; Bond, 2000; Glossoff and Pate, 2002; Moyer and Sullivan, 2008; Moyer, Sullivan and Growcock, 2012; Pečjak and Košir, 2012; Resman, 1999; Trice-Black et al. 2013) among other things, the principle of confidentiality most often serves as a source of dilemmas to counsellors, namely in terms of questioning in which cases to reveal confidential data, which data and in what way.

The counsellor can partly avoid dilemmas related to breaching the confidentiality principle by ensuring confidentiality to the counselee at the beginning of the counselling discussion, and at the same time explaining that the counsellor is obligated to breach this confidentiality if the counselee confides something that will put him/her or others in danger (Pečjak and Košir, 2012, 234). In such case, the counsellor can behave in two ways in order to best preserve the integrity of the counselling process and protect the wellbeing of counselees (Sullivan et al., 2002, in *ibid.*): by encouraging the counselees to tell about their behaviour to their parents or another person in presence of the counsellor; or by the counsellor informing the parents or another person in the presence of the counselee.

Taylor and Adelman (1989, in Pečjak and Košir, 2012) and Bor, Ebner-Landy, Gill and Brace (2002) refer to guidelines in cases of breaching the confidentiality principle in counselees who are minors. Taylor and Adelman (1989, in Pečjak and Košir, 2012) point out that it has to be explained to the counselee why it is necessary to breach their confidentiality. It is sensible to discuss with him/her all possible consequences of breaching their confidentiality and finally, they have to consider how to breach confidentiality in order to avoid negative consequences for the counselee and to continue to work in his/her interest. Bor et al. (2002, 69) add that it is necessary:

- During the discussion, to explain to the child the positive rationale of breaching the confidentiality principle;
- To reaffirm the counsellor's commitment to creating a safe environment for the child;
- To explain that in the short term there may be some disruption and upset, but in the longer term, the aim is to ensure that things improve significantly for the child;
- To remind the child that the counselling relationship need not change and sessions can continue to be arranged.

In spite of breaching the confidentiality principle, the counsellor should continue to preserve the mutual trust, as this is the foundation of counselling work. At the same time, when forwarding data to other institutions, the welfare of the counsellee must be protected.

As pointed out by Resman (1999; cf. Thompson, 2012), a counsellor will most often disclose confidential data without the pupil's or parent's consent:

- When estimating the pupil is a risk of committing suicide;
- When the counselees (pupils) indicate that they may commit a crime, or when it is established that they are a danger to society or themselves;
- When they are involved in a criminal offence;
- In the case of a minor whom the counsellor suspects of being a victim of a crime or abuse (violence, incest, molestation, rape, etc.). In the case of domestic violence the conduct of counsellors and other professional workers in school in Slovenia is prescribed in the Rules on the Treatment of Domestic Violence for Educational Institutions (Pravilniku o obravnavi nasilja v družini za vzgojno-izobraževalne zavode, 2009).

Revealing what was said in confidence in cases of risky behaviours of a pupil, such as smoking, abuse of alcohol, drugs, violent conduct, etc., depends on the intensity, frequency and duration of the particular risky behaviour. The more intensive, frequent and longer in duration the risky behaviour is, the more likely the counsellor is to disclose such behaviour to others, e.g. parents (Moyer and Sullivan, 2008).

Consequently, not all that is told in private is confidential, and maintaining confidentiality is not always in the counsellee's best interest. From the point of view of professional ethics it is sometimes more ethical (in the name of the principle of "working in the counsellee's best interest") to disclose the matter. Sometimes it is only the disclosure of confided facts that motivate the social services, the wider public and politicians to help a person (pupil, parent) and change their view of similar phenomena in society.

## Consultation with parents and colleagues

In order to provide help to the pupil, the counsellor has to cooperate with others, e.g. parents, teachers, school head staff, other external professionals, etc. In order for pupils, parents and others to get to know the real role of the counsellor in school, it is recommended that the counsellor be presented, at the beginning of the school year, to pupils, parents, teachers and school head staff (Glosoff and Pate, 2002; Huss, Bryant and Mulet, 2008; Moyer et al., 2012). The work programme, its forms and methods should be presented, so that they know what to expect from the counsellor and what the counselling service expects from them. Their work should also be presented at other occasions during the school year, e.g. at workshops for pupils, parents or teachers, additional trainings, etc. They should also inform pupils, parents and teachers of their role and responsibilities at the beginning of the counselling process. It is important especially to emphasize the confidential nature of the counselling relationship and the basic principles of counselling, as foreseen in the code of ethics (Etični kodeks svetovalnih delavcev ... (The school counsellors' code of ethics), 1998).

When cooperating with parents, teachers and others, the counsellor faces the dilemma arising from being obligated to reveal confidential data to another person if the pupil is to be helped successfully (cf. Glosoff and Pate, 2002; Huss et al., 2008; Moyer and Sullivan, 2008; Moyer et al., 2012; Trice-Black et al., 2013). In that case one has to consider who that person is, whether the person is reliable and trustworthy, what data are to be disclosed and in which form. The counsellor has to make sure that the information will be safe with that person and that he/she will not disclose it irresponsibly. This is the question that school counsellors meet again and again when they, together with parents and teachers, plan and coordinate counselling assistance for pupils.

Although consultations with parents, colleagues or other experts are invaluable for facing ethical dilemmas, information that reveals the privacy of pupils or their parents or family of course requires appropriate handling. This means that the counsellor does not automatically disclose confidential data to others; in the counselling process they rather open possibilities for potential cooperation with others from the beginning, and ensure that the counsellor shares with the pupil who needs help and the pupil's parents.

It is desirable for the counsellor to answer two questions before disclosing confidential information: whether it is necessary for the others, such as teachers, to know this information, and how the disclosure of confidential information will help the child or pupil (Glosoff and Pate, 2002).

## Should all information be disclosed to parents?

The counsellor unites efforts for cooperation with parents and exchanges pieces of information that may benefit the pupil with them. This, however, raises one of the more relevant questions and dilemmas, i.e. whether the information obtained from the pupil or about the pupil, can also be kept secret from parents.

When a parent of a minor asks the counsellor about some details of the counselling discussion with the pupil, the counsellor has to consider the legal provisions and ethical standards referring to counselling work with minors. Parents have a right to the information about pupils, obtained by the counsellor, while on the other hand disclosure of personal information can instigate reactions in parents that are definitely not in the pupil's interest. In our opinion, it is therefore not necessary to disclose to parents details of the counselling process or reveal all confidential information that the counsellor obtained from the pupil or elsewhere about the pupil.

Parents should have at their disposal those pieces of information collected by school or teachers about the pupil that are necessary for the development of the educational process. However, data about the pupil collected by the counsellor is not deemed "public" data like e.g. academic achievement. Data, collected separately by the counsellor in order to help the pupil, belong to the so called "sole possession" data. This includes more or less arranged notes, shorter or more extensive remarks, summaries, considerations, etc. that serve the counsellor as a memory aid for subsequent recognition of past events and conduct of counselling discussion. As already mentioned, these are not revealed to anybody, and even the parents are not always informed. How much and what will be revealed to the parents again depends on the assessment of circumstances, the level of trust in parents and primarily on the degree of trust the counsellor has managed to evoke in parents.

In the search of the balance between ethical and legal aspects of counselling work with pupils and parents on the one hand and with the related data collection and provision of the confidentiality principle on the other hand, our opinion is that it is useful for the school counsellor to accept parents as allies and partners in the counselling process (Glossoff and Pate, 2002; Huss et al., 2008), as they are most often the ones who offer support to pupils that are in need of help. The partner relationship between the counsellor and parents means sharing expertise and control with the purpose of providing optimal help to the child. We can speak of a partner relationship when joint planning and sharing of responsibilities take place as well as some long-term engagement and implementation of certain activities. The same holds true for counsellor's cooperation with teachers and other experts whom they consult about assisting the pupil (Glossoff and Pate, 2002).



A dilemma, similar to the question whether the counsellor should reveal all information about the child to the parents, is formulated in the question *whether the counsellor should reveal to the pupil all information received from their parents*. Counsellors will have to make their own decision and assume responsibility in reference to when and how to disclose confidential data, after having carefully considered the pros and cons.

There is no unanimity among counsellors in deciding when to discontinue the confidentiality principle and convey information to others, e.g. parents, school head staff, etc., and in the case of such dilemmas they act differently (cf. Moyer and Sullivan, 2008; Moyer et al., 2012; Trice-Black et al., 2013). That is also our belief. When to breach the confidentiality principle depends on the situation analysis. The main criterion of discontinuing silence is the judgment whether the revelation will not harm, but rather benefit the pupil.

## Confidentiality and group counselling

A special problem is the question of confidentiality in *group counselling at school*. This refers to the question whether something that was said among e.g. fifteen members of a group can be confidential at all, and consequently whether the confidentiality principle can be used in group work in the first place. In group counselling, it seems that the principle of voluntary consent takes priority. A condition for counselees (pupils, parents) being included in group counselling is of course their consent or their voluntary decision. This agreement in principle should be combined with their readiness to actively participate in the group, to be ready to speak about themselves and to listen to others and help them in the scope of their powers.

## Conclusion

In view of their starting points, although the aspect of professional ethics is opposed to the formal aspect, each of them possesses its own merit and justification, so it is wrong to consider that the aspect of professional ethics can replace the formal aspect. Both will continue to be present in counselling work at schools.

The counsellor is obligated to look for solutions between these two criteria or aspects; they have to abide by the principles of professional ethics without violating the formal aspect of their work. Let us emphasize that decision-making and conduct involves a set of attainments, skills, abilities and experiences which are needed in situations questionable from the point of view of professional ethics. Therefore it is sensible for future counsellors to learn the process of legally and morally appropriate

decision-making and conduct already during their education (Bond, 2000; Sullivan et al., in Pečjak and Košir, 2012; Trice-Black et al., 2013).

At least from the point of view of school counselling, it is estimated that the formal aspect puts the counsellor into greater passivity (the policy of waiting) when establishing relationships with pupils and parents. Such a policy in general narrows the possibilities for counsellors to work preventively. No legislation can actually prevent counsellors from keeping their own personal notes, remarks, data on pupils, collected in different ways, including “tacit agreement”; however, it is clear that they are ever more responsible in cases of potential revelation and abuse of this data.

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## Školski savjetodavni rad u Sloveniji: između normativa i etike

### Sažetak

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Rad se bavi proučavanjem nekih formalno-pravnih i strukovno-etičkih aspekata koji su obvezujući i usmjeravajući za rad školskoga savjetodavnoga djelatnika. Razjašnjene su temeljne etičke odrednice s naglaskom na načelo povjerljivosti i ostalih dilema koje su povezane s time. U traženju ravnoteže između etičkih i pravnih odrednica u savjetodavnom radu s djecom/učenicima, neophodno je da savjetodavni djelatnik uspostavi partnerski odnos s roditeljima, učiteljima, rukovodećim strukturama i ostalim stručnjacima koji također predstavljaju važnu polugu pomoći djetetu.

Ključne riječi: školski savjetodavni rad, zakon, etički kodeks, etička načela, učenik, roditelji, učitelji