

## Using a Contextual Model in Ethical Decision-making

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### Abstract

School counselors work in a unique environment in which there are many contextual variables to consider when making ethical decisions. This article offers a heuristic structure that can give counselors an enhanced perspective in reflecting on context during an ethical review. It also elaborates the differences between modern and post-modern assumptions that are significant contextual influences on ethical decision making. Application examples for counseling professionals, including school counselors, are included.

**KEY WORDS:** ethics, ecology, model, education, confidentiality, mandated reporting, privileged communication

### Using a Contextual Model in Ethical Decision-making

All counseling occurs in a larger context of culture, politics, beliefs, and ideas that can have an impact on the decision-making process. To better understand what is occurring and the matters that are impinging on the decisions that are being made during an ethical review, ecological tools to examine and clarify the milieu could be useful. This article explores one such tool and applies it to a variety of established ethical decisions and lesser known provocative ones. There are implications for counselors practicing in a variety of settings and for school counselors, in particular.

This article is not attempting to create an entirely new ethical decision-making model but is rather trying to enlarge the perspective of counselors to consider possible influences on the already complicated ethical issues under

consideration. Proposed is a heuristic structure with four worldviews by which larger contextual issues can be examined; included are reflections on modernism and post-modernism.

### The Context

Whereas a surgeon deconstructs and repairs a problem often inside a small opening that allows for total focus on the incision, the stitch, or the relevant single issue that is to be addressed, counseling people and students with problems is just not that simple. In counseling, as rapport is built and central issues are defined, counselors begin to consider other contextual connections in successive circles of interaction and influence (Conyne & Cook, 2004). Similarly, ethical behavior must be brought into the larger context. Counselors must consider the concepts that are at the heart of ethical examination while understanding the environment within which the counseling occurs. It is also important to consider the interaction of one's perceptions of self, others, and the world, and others' perceptions of those issues at the same time (Betan, 1997). Additionally, promoting student and client welfare as an ethical responsibility often involves emotional responses to social issues and boundary questions (Neukrug & Milliken, 2011).

For school counselors, the environment in which ethical decisions are made can be even more complicated; there can be conflicts between legal and school policies, and interventions often involve collaborations with administrators and teachers (Stone, 2013; Hicks, Noble, Berry, Talbert, Crews, Li, & Castillo, 2014). Sullivan and Moyer (2008), in surveying school counselors, identified a whole range of contextual factors including

consequences for the family, family history, parental attitudes, mental health issues, input from administrators, school liability, and support systems outside the school.

Other contextual elements in counseling relationships include culture and community beliefs which may govern people's behaviors. An example of a core principle in ethics that naturally includes personal beliefs and values, is autonomy, both of the counselor and the client (Brennan, 2013). Another principle that envelops the relationship is beneficence, where the client's best interest is always a priority. Fidelity and justice also create the attitudes and ideas by which the counselor provides a safe environment for the prevention of discrimination of any form, but what that looks like in practice will depend on the definitions of the client, counselor, and culture. Creating a context of honesty and fairness in order to achieve non-maleficence, or preventing harm to the client (Brennan, 2013), is more than conforming to appropriate behaviors identified by the profession. Often neglected are the external influences in society such as politics, laws of the state or local area, and even religious rules and mores. In defining the ethical context of any situation, even time presses on the client and the counselor (Conyne & Cook, 2004).

### Further Contextual Considerations

In the discussion of ethics, the context is particularly dynamic. Bronfenbrenner (1977) introduced the complexity of ecology in human interactions much like conceptualizing the web of influences in nature (Conyne & Cook, 2004; Cook, 2012). Ecological counseling purports that no individual is isolated, but rather is a part of an interconnected and complex system within multiple systems, all of which add

to the conceptualization of any behavior or moment in time. Beginning with the individual as the center point of reference, the next contextual level of influence involves the most important personal relationships to the individual as proximal contexts. Each relationship ties the individual to a group, like extended families and close neighbors and co-workers. There are multiple structured social systems that are less proximal, that include school or church. Geography may limit the extent of some more distal relationships but impact the individual through social policy, laws, media, and economic factors. Time, or the chronosystem, is an ecological principle wrapping all the other specific elements within a framework of understanding (Cook, 2012). Counselors do well to consider these layers of influence on the individual and how the interaction of levels impacts choices of behavior.

### Thinking about Thinking about Issues

In counseling, counselors often step back and examine not only what is being said but consider the process; they become “mindful” (Siegel, 2000) of what is occurring and go “meta-” to the interaction and contemplate it as an outsider to gain perspective (Bateson, 1971). The facts of the discussion are one issue, but the understanding of the facts and the placement of those facts into some larger field of understanding can make considerable difference to the outcome of a counseling interaction. The differences in how people make meaning of their world and what happens in it makes each of them unique in how they do problem solving. How raw data is taken in from the world and transformed into meaningful information is likely “the most important tool that humans possess” (Cook, 2012,

p. 102).

For example, clients can offer a narrative about sleeplessness and later have surges of creativity, which the counselor would do well to summarize and attribute affect to. Now the counselor can take that information, the clients’ process of making and attending the appointment, their appearance at the appointment, the counselor’s personal reactions to clients, and a host of information and experience about humans, health, and pathology, and attribute meaning to the context. It could be that clients have finally found a career or activity that works for them, and they are confused by the power of such a revelation. It might be that they are slipping into bi-polar cycling and are excited by all of their imaginings. With some people the issues can be simple and straight-forward but often are not. The craftsmanship of counseling involves engaging all of these various contextual issues to establish meaning about what is occurring and what could be useful in counseling.

The authors attempt to perform a similar activity with ethical conversations and decisions that impact the profession. The desire is to analyze and better understand the ethical discussions that are occurring; what is occurring is more complicated than those clinical sounding words would indicate. Associating the behaviors that were documented with specific people in a specific situation, which is then embedded in layers of other cultural, legal, religious, and social systems, and defining appropriate ethical behavior is at least complicated.

### Ethical Decision-making Models

Ethical decision-making models have been formulated to guide counselors

and school counselors in working with clients according to standards of the profession. Most ethical decision-making models attempt to organize analysis into a reasonable manageable process. Professional organizations create and maintain ethical codes to standardize practice and hold their members to competency in practice and legal behaviors that provide for safety of their constituents. Welfel’s (2006) model stands out as one that begins with developing a sensitivity for ethics, whereas others begin with problem identification. Some discussions dissect ethical discussions by organizing legal and ethical standards of care including avoiding “violating criminal or civil law” (Hill, 2004), following professional ethical standards (Forrester-Miller & Davis, 1996), or aspiring to still a higher level of conduct based on “moral principles” (Wong, 1998, p. 4). Forrester-Miller and Davis (1996) presented a seven-step model that includes use of the American Counseling Association (ACA) ethical code. Stone (2013) designed the STEPS model specifically for school counselors; this model, which is cited in the American School Counselor Association’s (ASCA) Ethical Code for School Counselors provides school counselors with an enumerated approach which is clear and concise. Kitchener (1984) developed a model including intuitive elements that are additive to the knowledge base of the professional, offering personal moral beliefs and wisdom to the situation. Following the initial level of analysis, Kitchener then progressed to a more critical level of analysis to consider the five core ethical principles.

While Kitchener’s (1984) model is linear, Cottone’s (2001) model is described as relational. Betan (1997) and Cottone

have a sensitivity to the context, which is closer to the ideas in this article. Cottone diverged from the logical linear models with more focus on interpersonal and relational concepts rooted in systems theory. Highly ecological in its attention to the interaction of people with their environment, Cottone’s model emphasizes the reality that is beyond the individual’s reality, or the combined perception within the unique context of the situation (Cottone & Tarvydas, 2016). Forrester-Miller and Davis (1996) purported the use of a professional code in making ethical decisions; whereas, Cottone created a question about how a consensus of professional thought, like a fixed code of ethical rules, informs the decision in the immediacy of the situation.

This elaboration of what is involved in ethical decision making is the purpose of this article. In addition to the laws and ethical principles of the profession, many attitudes and values are also present as Welfel (2006) noted; other related issues are involved as Betan (1997) offered; other relationships impinge on an ethical decision as Cottone (2001) suggested; and we suggest still other conceptualizations and offer examples.

### Four “Bins” of Ethical Practice

Another example of a model which incorporates the importance of context in ethical decision-making is the Four Bins of Ethical Practice put forth by Behnke (2014), a trained professional with degrees in law, theology, and psychology. He was tasked for years by the American Psychological Association to oversee ethical issues and balance ethical issues with three other aspects or “bins” of human services including contiguous considerations along with ethical ones: legal issues, clinical best-practice, and risk-management.

When an event occurs in counseling, all of these competing perspectives need to be acknowledged. They can be at odds with each other and particularly with ethics. Although a counselor might do well to focus on one person who is struggling in a relationship and justify narrowing of focus from a risk-management or even clinical perspective, that individual's work may actually sabotage the relationship—the very issue that the client may have wanted to address. The ethical principles of beneficence and integrity could have been marginalized while not breaking the law or otherwise doing anything wrong. In other situations, ethics may have been supported, but risk-management was threatened or the law violated such as occurs when rigorous confidentiality is maintained when a sexually transmitted disease (STD) is involved. Others may be harmed in the process. Supporting one of the bins often creates a problem for one or more of the other bins. Any combination of potential tensions among these components could create difficulty in ethical considerations.

### A Heuristic Model to Enhance Perspective

A model which further aids ethical decision-making for clients and students is Mobley's (2019) four-quadrant heuristic model which draws from millennia of philosophic thought about the human condition and the nature of the experienced world. Mobley's model incorporates thinking about patterns and choices in determining perspectives and allows for reflections on post-modernism and modernism. In general terms the world can be considered to either have reoccurring patterns (e.g., seasons, tides, cause-effect events) or not (e.g., any seemingly reoccurring pattern is an attempt by

humans to put structure where there is none and minimizes the details of what is occurring), and humans thought of as having the power to choose their fortunes (e.g., where to go or what to do) or not (e.g., circumstances limit choices to the point that no choice is actually occurring) (Mobley, Hall, & Crowell, 2008). The four quadrants that emerge from these intersecting assumptions about people and the world are 1) a no-choice no-pattern outlook, 2) a no-choice pattern perspective, 3) choice no-pattern view, and 4) choice pattern perspective. For simplicity, the odd quadrants that are colored grey can be associated with post-modern thinking while the even quadrants that are colored white (for black-and-white thinking) could be associated with modern thinking. (See Figure 1.)

**Figure 1.** Four worldviews based on two opposing assumptions about the human condition and about the world (Mobley, 2009).

		Assumptions about the WORLD	
		No Patterns (Post-modernity)	Patterns (Modernity)
P E O P L E	No Choice	Quadrant 1 Chaos	Quadrant 2 Cycles
	Choice	Quadrant 3 Chance/ Luck	Quadrant 4 Consequences

**Modern Ethics.** Modernity seeks to replace superstitions and un-verified guesses with reason, and ultimately the scientific process attempts to address the behavioral sciences like the physical sciences and establishes best-practices, which is reflected in principles (Quadrant 4) and precedents (Quadrant 3). Believing

that people can make meaningful choices and that stimulate cause-effect patterns (Consequences) pairing choices with outcomes, ethics in Quadrant 4 is about the quality of those decisions and places responsibility on individuals for their choices. Quadrant 4 optimistically makes a ruling about what occurred, based on the principles involved in the situation. Situations are considered based on the evidence, and their context is minimized.

An example that might be used here is the assassination attempt on President Ronald Reagan by John Hinckley on March 30, 1981. The facts are clear cut. Hinckley committed a crime and through due process was found guilty. The behavior was established, and the laws were clear. This application is modernism at its best.

Quadrant 2 begins to place limits on the human condition and people's ability to make choices. Some events that impact people's lives are outside their responsibility and power. People cannot alter the coming and going of seasons or cataclysmic events; people, in large part, do not have the capacity to impact processes such as economics or politics. In Quadrant 2, the environment is less clear than in Quadrant 4. The application to ethics would most often rely on precedent to make any determination of right-ness or wrong-ness of behaviors. What has always been done is probably what should be done; a best-practice pattern should be established. If a principle (Quadrant 4) is not readily available to explain what needs to occur, a best-practice pattern should be established. The individual might choose to follow the precedent or not, but in Quadrant 2 humans are subservient to reoccurring patterns or cycles. It could be called the Cycle Quadrant.

As the Hinkley example illustrates, in spite of their disagreement on the role individuals play in the process, the contextual issues suggested by Quadrant 4's desire to establish rather unmovable rules and Quadrant 2's interest in finding suitable models on which to base its findings are discernable and reflect modernistic thinking. Patterns can be found and used as guidelines; this ecology, this perspective seemed to be involved in the initial Hinkley decisions.

**Post-modern Ethics.** Since Quadrant 1 says humans do not have the power of choice, and the world has no discernable organization to its events, it might be called the Chaos Quadrant. Nuances, complexities, and a multitude of options may abound here. Stuff happens, and people lack the capacity, power, or control to overcome a significant proportion of those events. In ethics, this perspective would drive the people involved to seek more details to attempt to understand the convolutions and minimize over-simplifications that are inherent in Quadrant 2 and 4 considerations of the ethics involved in a specific situation.

Quadrant 1 can also be illustrated by using John Hinckley's assassination attempt of President Reagan; the legal evidence for the crime was clear (Quadrant 4). However, when examined in light of Hinckley's mental disorder diagnosis, it can be concluded that he did not have the power of choice and that his view of the world was indeed chaotic. Going further than just saying he should be sentenced including mental health considerations (Quadrant 2), it was recently (Justia, 2014) determined that he should be essentially declared "Not Guilty" and released into the public when his mental

illness was managed. His mental illness was determined to have perpetrated the crime and was treated. The larger context changed significantly, and the resulting legal/ethical decision changed with it.

Finally, Quadrant 3 examines the perspective of someone who has the power to make choices, but the circumstances around those choices are like a roulette wheel and could give them great success or great failure or anything in between. People can do their part and choose a color and number, but winning may or may not happen. It is all about luck; this is the Chance Quadrant. Some people are lucky and have more colors and numbers--they are more likely to win. The opposite can also be true. Regardless of the facts and principles (Quadrant 4), the precedents (Quadrant 2) that could be brought to bear, or even the intricate details of the consideration (Quadrant 1), an ethical decision coming from this quadrant might be used to create a more-equal situation for those involved.

One more examination of the Hinckley case might clarify another aspect of the decision to release him. Under the lens of Quadrant 3, Hinckley would be viewed as having a choice, although limited by his mental disorder, of whether to carry out a specific socially unacceptable deed. It may well be that part of the context for discussion would be about past abuses and disservices extended to a variety of handicapped people who were imprisoned for a range of crimes that were actually committed against laws that were on the books (Quadrant 4). The precedents (Quadrant 2) may have been limited or poorly established—or just badly followed. In order to make a change, establish a new precedent, or possibly just do something

better, a more socially just decision might be made that thrusts these issues to a higher level of importance in the larger context than the specifics of the case. By itself, a Quadrant 3 righting the social status for mentally disabled people could be sufficient reason for Hinckley's release but in combination with the details of his illness (Quadrant 1), post-modern thinking overrides modern thinking (Quadrant 2 and 4).

**Comments.** The differences between modern and post-modern thinking are significant, but the battleground of their differences is clear in this heuristic model. Looking at the model, consider the diagonals. The strain across the diagonals is intense: Quadrant 1 keeps researching to understand all of the nuances of the situation while Quadrant 4 tries to offer clear directives and specifics in if-then propositions. Quadrant 4 addresses the high-relief of generalizations while Quadrant 1 thrives on details: all of the inequities, past conflicts, violations, and decisions.

Quadrant 2 is trying to maintain the status quo and re-invent the past while Quadrant 3 is working just as hard to alter the future and make a more perfect union. Quadrant 3 would be interested in having Quadrant 1 keep researching as long as the research pointed to inequities, past conflicts, violations, and decisions that would probably be affirmed by Quadrant 2. Quadrant 2 would like Quadrant 4 to make stronger guidelines that it could apply to make more and better precedents in order to speak to the barrage of issues raised by Quadrant 3. The world of ideas that is swirling around a specific ethical consideration seems to be considerable, but the application of this tool allows them to become more recognizable and

facilitates their incorporation into ethical decision making.

### **Difficult Decisions**

By locating a counseling ethical issue in a particular quadrant, the contextual difficulties can be clarified. In the next discussion, each quadrant considers an ethical decision. The sequence moves from modernity (Quadrants 4 then 2) to post-modernity

### **(Quadrants 1 then 3) perspectives. Quadrant 4 (Consequences)**

Example: Child abuse reporting. Appropriate and inappropriate child welfare responses are clear and based on years of law and practice; professionals are trained and re-trained to make sure they avoid legal issues by reporting suspected child abuse. Even though the guidelines and laws are clear for mandated reporters, in deciding whether making a report is justified, professionals must weigh many factors: is there enough evidence, what will happen to relationship with client? Without exploring far from the basics of what is required in this modernistic structure, challenges can occur, but the issues seem to be clearer in this quadrant than the other three.

### **Quadrant 2 (Cycles)**

#### **Example: Use of Qualified Privilege.**

In the school setting, counselors may convey information to teachers or other school personnel if the purpose is to assist and enhance the education of students (Stone, 2013). This behavior is standard practice in schools because it is believed that teachers need to know what is going on with students in order to serve them more effectively--there is an established pattern. By offering direction to faculty and administration about possible appropriate

interventions about the client, the school counselor might make a case for using the privileged information rather than disclosing it to others. The reason(s) for the suggested intervention might not be offered to avoid exposing confidential information. Precedents offer guidelines that counselors can follow in order to be ethical in their helping students even in this compromising environment. The context of the school can offer some interesting limitations to privilege in order to do what is best for the student.

### **Quadrant 1 (Chaos)**

#### **Example: Confidentiality Is Not an Absolute Right.**

Application of the well-known Tarasoff ruling to protect potential, identifiable persons from HIV/AIDS (Cleveland & Hook, 1999) has been examined. In situations in which counselors have referenced the Tarasoff ruling in deciding whether to breach confidentiality, actually breaking confidentiality was the fourth most frequently occurring action employed to protect others. Counselors have the choice of whether to break confidentiality and warn possible victims, which gives them much power. However, there is a randomness here in patterns of reporting: 1) state laws vary in whether clinicians have a duty to warn; 2) there is variation in ethical codes (ACA, APA) in defining "high risk" and "identifiable" persons; 3) in some states counselors could be held liable for disclosing information, whereas in other states, counselors could be held liable for failing to disclose information. Thus, protecting clients and getting into trouble for disclosure are up to chance, depending on what state you are in and what ethical codes you are responsible to. The larger context can become quite significant.



### Quadrant 3 (Chance/luck)

#### Example: Providing Services to Clients.

A suicidal “undocumented immigrant who had been physically abused by her former partner” was seeking counseling. But citing the current budget crisis, “the state’s governor recently issued an executive order prohibiting state-funded agencies from providing health and social services to undocumented immigrants” (Reamer, 2008, para. 2-3). The counselor can take a chance in this situation and render services and get caught or not, or not see the client because he is bound by the agency from providing services and possibly be censured for an ethical lapse. Chance abounds. Random events influence the provision of services: the person being in the country, the events that caused the immigrant to seek counseling, her showing up at the agency in that state, the state’s money issues, and the governor’s response. The context can be powerful. One more case illustrates the situation and the quadrants profoundly.

**May v. Georgia.** Another example helps to illustrate how using the lens of the proposed contextual model might help in examining an ethical dilemma. While this case involves a teacher (Justia, 2014) rather than a counselor, it is an example of a collision between more traditional interpretations and postmodern views. In *May v. Georgia*, the Georgia Supreme Court heard a case involving a teacher, Kristin May, who was charged with not following Georgia’s mandated child abuse reporting guidelines. A student who had transferred from the teacher’s school, confided to her after transferring about sexual involvement with a male teacher at the school. She was charged with not reporting this information.

Traditionally, most professionals would

probably look at this dilemma in terms of Quadrant 4, involving no choice and patterns, in that laws and guidelines are in place for mandated reporters who receive training on such, or Quadrant 2, involving patterns or precedents. Professionals can decide whether they abide by the legal and ethical demands of reporting, both by weighing whether there is enough credible evidence to report and by choosing whether or not to report, but the seemingly established response is clear. Thus, these modern views to this possible ethical dilemma would lead to a fairly clear-cut decision.

Ms. May appealed her charge to the Georgia Supreme Court on the grounds that she was not required to report due to not having an existing relationship with the student at the time of the report and because she believed the authorities must prove she had an evil purpose in not reporting—based on Georgia laws’ assertion that the law is violated if the reporter knowingly and willfully did not report. These details go beyond a typical application of the law (Quadrant 4) and precedents (Quadrant 2) and propel the discussion into Quadrant 1, the myriad of details. Georgia having this “evil purpose” clause inserts a state variation that can create chaos among professionals about the mandated reporter role. These details changed the entire outcome, and the failure to report decision was reversed by the Georgia Supreme Court.

In this case it was later learned that some incredible coincidences (Quadrant 3) were occurring: the teacher, who was a mandated reporter, was also having an affair with the alleged perpetrator. Her failure to report may have had other motivations associated with it. This point

is a reminder that many ethical decisions might be influenced by school and local politics, donors and other significant people in the school and community, or still other outside influences.

Ultimately, the Georgia Supreme Court (Justia, 2014) threw, or added, a wrench into the decision-making process by rendering a decision based on a more postmodern view—that of Quadrant 3 in which choice is involved, yet the patterns are unclear. The court wrote, “In our search for the meaning of a particular statutory provision, we look not only to the words of that provision, we consider its legal context as well” (p. 6). The pattern of reporting all suspected cases of child abuse was challenged because the court ruled that in order for the teacher to have been required to report she would have had to have a current professional relationship with the student and an evil intent by not reporting.

Others may view this scenario from the Quadrant 1 lens of chaos. Seemingly, the mandated reporters had no choice but to report alleged abuse, but the dynamics of this case were much less clear than some. The context here, which resulted in more postmodern interpretations being thrown into the mix, yields a less rigid and less clear approach. The laws, ethical guidelines, and best-practices need to be followed, but the specific application of those rules, guidelines, and attitudes can be strongly informed by events and considerations occurring in the context around the ethical consideration.

### Conclusion

As the world has changed from a modern perspective, where clear guidelines and definable directives are available, to a post-modern environment, with an emphasis

on individual perception and situational nuances, counseling ethical discussions can be as concerned with the context in which they occur as the principles and precedents that are involved. Behavior that is adaptive in one setting may not work elsewhere or in other situations or even in the same setting at another time. Contexts are proximal, salient, and embedded in human and nonhuman features within the interactions of humans with their environments. People experience attempts to understand human behavior with what is called an “uneasy reconciliation between individual motivations and social imperatives” (Cook, 2012, p. 3). Natural laws govern our daily lives within each ecosystem. What makes people different from the metaphor of ecology in physical science is humans’ ability to think and act upon their lives. Complexity reigns. Making sense out of this complexity is a worthwhile undertaking.

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