

Exemplar 5: *Woodlock v. Orange Ulster B.O.C.E.S.* (2006/2008)
Ethics Case Study
CSP 740: Law and Ethics in Schools, Spring 2013
Standards Addressed: 17, 18, 28

Introduction:

As a school counselor, we have to abide by legal and ethical mandates. Following laws and regulations help us maintain a united professional image, uphold accountability, and provide appropriate services to our students. Unfortunately, there are times when a school counselor may follow all regulations and ethical mandates, yet still be penalized for his/her actions. In this exemplar, I was given the opportunity to research and review a court case in which the school counselor violated ethical codes and then discuss the outcome. In collaboration with my instructor, Ms. Gomez-Lee, we modified the assignment so I could examine a case in which the school counselor did not violate any legal or ethical codes, was forced to choose between resigning from her position or receive a negative review and be terminated, and when the case went to trial, the court did not rule in her favor.

In the case of *Woodlock v. Orange Ulster B.O.C.E.S.*, the school counselor, N.W., noticed that the school was lacking certified teachers in art and physical education and was not meeting requirements. N.W. advocated for hiring qualified teachers, first at the site level, then at the district level after she received no response from site administrators. During N.W.'s contact with the district administration, she also expressed her concerns with the lack of responsiveness from the site administrators. The site administrator reprimanded N.W. for insubordination and "taking it upon [herself] to go out of process". N.W. was later informed that she would not be recommended for tenure and should resign or receive a negative review. N.W. resigned and sued the district for violating her First Amendment right to free speech and for subsequently penalizing her with adverse employment action.

The court ruled in favor of the district for multiple reasons. First, a public employee's speech made as part of the job duty is not protected by the First Amendment. Secondly, N.W. chose to resign, therefore she suffered no adverse employment action. Most importantly, N.W. failed to establish a connection that the site administrator's actions were a retaliation of her insubordination. These factors created an unfavorable ruling for N.W. despite the fact that she acted in accordance with ethical and legal mandates. This case illustrated that in addition to following legal and ethical rules, school counselors must also utilize sensitivity and diplomacy to avoid putting their own employment at risk.

Standard 17: Foundation of School Counseling Profession

- This case study helped me learn about the current trends guiding the school counseling profession. Historically, school counselors worked in a silo in isolation from instruction and administration teams. Current trends show that school counselors can no longer function alone without consulting and collaborating with others at the site, district, and state levels. To be effective systemic change agents, school counselors must collaborate with others to create a united front to voice our concerns. As illustrated by this case, the school counselor's voice alone was not enough to effect change, even though change was necessary and ultimately served to protect the school from legal ramifications. I believe that the outcome could have been different if she had enlisted the help from those who could raise the issue in a different context or those who had more influence in the school and district.
- In addition to developing, implementing, and evaluating the school counseling program, changing trends are calling upon the school counselor to examine school programs as well. As illustrated by this case, the school counselor was the only employee who noticed and voiced her concerns on the issue of an insufficient amount of qualified teachers in the school. We must expand our horizons beyond our own school counseling programs and examine other factors in the system and vocalize our concerns and advocate for our students.

Standard 18: Professionalism, Ethics & Legal Mandates

- I have always been a strong believer that one should speak up against injustice and inequity in order to serve our students. I also believe that as an employee, part of my duty in the line of work is to notify my supervisors when the institution fails to meet regulations and guidelines. At the minimum, staying in line with laws and regulations helps the institution avoid legal troubles. I now have a better understanding that simply acting out of good intentions can sometimes have negative repercussions. School counselors must also exercise diplomacy and political finesse to successfully navigate the bureaucratic maze.
- During our class discussion of various case studies, we also discussed the membership benefits of state and national level professional school counselor organizations such as American School Counselors Association (ASCA) and California Association of School Counselors (CASC). Not only do these associations serve as a networking and consulting

service for practicing school counselors, they also provide legal representation as part of the membership benefits. Though membership often comes with dues that are not likely to be reimbursed, professional school counselors can better serve themselves by obtaining membership so we can consult each other and receive legal representation in times of need.

Standard 28: Organizational & System Development

- While studying this case, I learned that school counselors need to be aware of the social and cultural forces at play during times of change. As previously mentioned, simply having good intentions will not suffice. In this case, the school counselor was seen as not following the chain of command and perhaps even being disrespectful to her site administrators when she bypassed them to speak with the district administrators. From the ethical and legal perspectives, N.W. did no wrong. Unfortunately, N.W.'s lack of tact and consideration for her site administrators resulted in penalties against her. This illustrates the need to be tactful and aware of social forces at play in the organization and system.
- An interesting factor I noticed was the school counselor's failure to notice the significance of the problem. An egregious violation of state regulations, such as not having any certified teachers in multiple subject areas, should not have gone unnoticed at both the site and district levels. The fact that no one besides the new school counselor brought up this issue indicated that there were significant issues at the school, such as a culture of silence. A school counselor who is culturally and politically savvy should have noticed that one person cannot undertake this challenge. It is vital to collaborate with others and garner their support before taking important actions to effect large-scale changes to the organization's culture.

Conclusion:

Ethics and legal mandates have always been a straight forward process for me: either I follow ethical and legal regulations or I do not, there is no spectrum in between. In other cases studied, failure to abide by these laws and regulations on the school counselor's part, whether intentional or accidental was always evident. In the case of *Woodlock v. Orange Ulster B.O.C.E.S.*, the school counselor acted in accordance with all ethical and legal mandates. Nevertheless, the court did not rule in her favor. Reflecting upon my own experiences, there have certainly been moments where I was not as tactful as I should have been when addressing

systemic issues with my supervisors, such as pointing out deficiencies due to lack of funding. This case study served as a great reminder that while advocating for our students and acting as system change agents, we must be aware of the school's social and cultural considerations. If I had the opportunity to complete additional work on this project, I would like to find and study other similar cases where the school counselor committed no wrong legally or ethically, but are still penalized for other reasons.

Another lesson I learned is the need to maintain focus on the message I want to deliver. I think N.W. undermined her purpose of advocating for her students by airing her grievances about site administrators with the district administrators. This distracted her audience, the district administrators, from her original message, which was to hire qualified teachers to fill the gaps. The timing of her complaint also created the impression that she was opportunistic in making others appear incompetent. As a school counselor and student advocate, I will need to ensure that I first reach my original goal of serving my students, then address other professional concerns and any negative feelings surrounding the process.