

## Case Notes and Subpoenas



### ARE CASE NOTES TRULY MY OWN OR DO I HAVE TO SHARE THEM IF EVER LAWYERS GET INVOLVED?

#### DO I HAVE TO TESTIFY?

The sharing of case notes depends on your state statutes and often your ability to advocate using the legal muscle your ethical standards provide you. In some states, the conversations between school counselors and students are considered privileged communication. In most states, however, school counselors are required to testify in court proceedings. Visit [www.schoolcounselor.org/ethics](http://www.schoolcounselor.org/ethics) to see your state's statutes. Even when your state statute grants privilege for the school counselor/student relationship, the statute often contains exceptions and caveats allowing a judge to determine when the needs of the state

outweigh the privilege. If the case is tried in federal court, then the state statute may or may not extend.

If you deem it important to avoid testifying, then inform the attorney that you do not have any information to help the case (if this is true). Explain that your obligations are to your student, and cite your ethical standards, which support you in safeguarding your student's confidences. Explain that the state will gain no new knowledge should you testify, but on the flip side your student may be harmed and cite your reasons. If all else fails, you must testify unless your student has privilege under state statute.

Never respond to a subpoena until you have consulted with the legal representative for your school district, who may be able to get a motion to quash the subpoena. Try to keep your records and opinions out of court unless in a case of abuse. Our loyalty is to our students and the confidentiality we owe them.

We want to protect their privacy to the extent possible. However, if all attempts to avoid relinquishing your records to the court fail, you must submit them for the court.



### WHAT DETAIL IS NECESSARY FOR CASE NOTES? IS IT NECESSARY TO HAVE NOTES ON EVERY CONVERSATION WE HAVE WITH STUDENTS?

#### WHAT DO WE HAVE TO DISCLOSE TO PARENTS FROM THESE NOTES?

Typically school counselors only keep minimal notes, containing student name, time and a few details as a memory aid. However, when we do write detailed notes, for example in the case of a child-abuse situation, you must write with great care as others can see your notes. In most states, your case notes can be subpoenaed, and parents can access

## WHAT WILL YOU DO?

If you don't believe that the early bird gets the worm, you need to meet Sofia. The Public Relations major recently finished an internship with Hot 106, a Providence-based radio station where she worked on the morning show. With her alarm set for 4:45 a.m. twice a week, Sofia was off to rub elbows with local celebrities, work on marketing and promotions and occasionally, jump in on-air. This semester Sofia is studying in London where she is combining her love of fashion with her public relations expertise, as a PR intern with top fashion designer Henrietta Ludgate—just in time for London's fashion week. Sofia is turning her interests into internships around the world. What will you do?

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DISCOVER YOURSELF



**Sofia**  
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