

INFORMED CONSENT PROCESS For Psychology Staff

A referral for Psychological Services involves two steps. First, the parent \ guardian or student consents to the referral to Psychological Services by signing the Support Services Referral Form. This consent must be obtained by the Principal for any student who is under the age of eighteen.

General Guidelines for completing the Completing the Informed Consent Process:

The Psychology staff member completes the informed consent process with the parent/guardian or student, with the use of an interpreter, where necessary. It is best to obtain the consent in person, but if this is not possible it is acceptable to obtain a consent by telephone as long as you have carefully documented the identity of the person from whom the consent was obtained. When taking the consent by telephone, a copy of the completed consent form should be sent by mail to the person from whom consent was obtained. If you have any doubts at all about whether the person giving consent has understood what you are saying to them, or where the individual has a history of misunderstandings or other difficulties in dealing with Board Staff a consent should be obtained in person.

The Psychology staff member fills out the Psychological Services Record of Informed Consent Process during the discussion, checking off the issues as they are discussed. In that conversation the Psychology staff member must fulfil the requirements of the *Health Care Consent Act*, which are set out below. It is especially important to give the person the opportunity to ask questions and receive answers.

The Psychology Staff member keeps this original record in the student's psychological record file. Where applicable, a copy may be given or sent by mail to the parent/guardian or student.

Students who are capable may give their own consent for counselling services and for assessment. Ordinarily we obtain parental consent on behalf of children under the age of 16. If uncertain about whose consent to obtain, or if a child requests confidentiality, consult with your Co-ordinator of Psychology. Students under 16 must be informed that the psychological records for these contacts may be accessed by their parents/guardians until the student is 16 years of age or older.

It is good psychological practice to take the informed consent in person and as close as possible in time to the provision of the service. A Psychology staff member must always obtain and document informed consent before providing any service.

If, upon completion of the psychological services, the Psychology staff member

recommends that further services be provided, a second informed consent process is needed. In this second process, the Psychology staff member would again comply with the standard set by the *Health Care Consent Act*, and this Guideline.

Jurisprudence Considered in the Development of the Informed Consent Process:

Health Care Consent Act, 1996

-pertains to treatment by Regulated Health Care Professionals including Psychologists, Psychological Associates, supervised Psycho-educational Consultants

- treatment means anything that is done for a therapeutic, preventative, palliative, diagnostic, cosmetic or other health-related purpose

Components of informed consent to be discussed with the client:

the nature of the treatment

the expected benefits of the treatment

the material risks of the treatment

the material side effects of the treatment

alternative courses of actions

the likely consequences of not having the treatment

-the information should be of the sort that a reasonable person in the same circumstances would require in order to make a decision about the treatment. The person must also have received responses to his or her requests for additional information about those matters.

-consent may be express or implied

-consent may be withdrawn at any time by the person

Who may Consent:

20. (1) If a person is incapable with respect to a treatment, consent may be given or refused on his or her behalf by a person described in one of the following paragraphs:

1. The incapable person's guardian of the person, if the guardian has authority to give or refuse consent to the treatment.

2. The incapable person's attorney for personal care, if the power of attorney confers authority to give or refuse consent to the treatment.

3. The incapable person's representative appointed by the Board under section 33, if the representative has authority to give or refuse consent to the treatment.
4. The incapable person's spouse or partner.
5. A child or parent of the incapable person, or a children's aid society or other person who is lawfully entitled to give or refuse consent to the treatment in the place of the parent. This paragraph does not include a parent who has only a right of access. If a children's aid society or other person is lawfully entitled to give or refuse consent to the treatment in the place of the parent, this paragraph does not include the parent.
6. A parent of the incapable person who has only a right of access.
7. A brother or sister of the incapable person.
8. Any other relative of the incapable person. 1996, c. 2, Sched. A, s. 20 (1).

Requirements

- (2) A person described in subsection (1) may give or refuse consent only if he or she,
- (a) is capable with respect to the treatment;
 - (b) is at least 16 years old, unless he or she is the incapable person's parent;
 - (c) is not prohibited by court order or separation agreement from having access to the incapable person or giving or refusing consent on his or her behalf;
 - (d) is available; and
 - (e) is willing to assume the responsibility of giving or refusing consent. 1996, c. 2, Sched. A, s. 20 (2).

Ranking

- (3) A person described in a paragraph of subsection (1) may give or refuse consent only if no person described in an earlier paragraph meets the requirements of subsection (2). 1996, c. 2, Sched. A, s. 20 (3).

Same

- (4) Despite subsection (3), a person described in a paragraph of subsection (1) who is present or has otherwise been contacted may give or refuse consent if he or she believes that no other person described in an earlier paragraph or the same paragraph exists, or that although such a person exists, the person is not a person described in

paragraph 1, 2 or 3 and would not object to him or her making the decision. 1996, c. 2, Sched. A, s. 20 (4).

No person in subs. (1) to make decision

(5) If no person described in subsection (1) meets the requirements of subsection (2), the Public Guardian and Trustee shall make the decision to give or refuse consent. 1996, c. 2, Sched. A, s. 20 (5).

Conflict between persons in same paragraph

(6) If two or more persons who are described in the same paragraph of subsection (1) and who meet the requirements of subsection (2) disagree about whether to give or refuse consent, and if their claims rank ahead of all others, the Public Guardian and Trustee shall make the decision in their stead. 1996, c. 2, Sched. A, s. 20 (6).

Meaning of "spouse"

(7) Subject to subsection (8), two persons are spouses for the purpose of this section if they are of opposite sex and,

(a) are married to each other; or

(b) are living in a conjugal relationship outside marriage and,

(i) have cohabited for at least one year,

(ii) are together the parents of a child, or

(iii) have together entered into a cohabitation agreement under section 53 of the Family Law Act. 1996, c. 2, Sched. A, s. 20 (7).

Not spouse

(8) Two persons are not spouses for the purpose of this section if they are living separate and apart within the meaning of the Divorce Act (Canada). 1996, c. 2, Sched. A, s. 20 (8).

Meaning of "partner"

(9) Two persons are partners for the purpose of this section if they have lived together for at least one year and have a close personal relationship that is of primary importance in both persons' lives. 1996, c. 2, Sched. A, s. 20 (9).

Meaning of "relative"

(10) Two persons are relatives for the purpose of this section if they are related by blood, marriage or adoption. 1996, c. 2, Sched. A, s. 20 (10).

Meaning of "available"

(11) For the purpose of clause (2) (d), a person is available if it is possible, within a time that is reasonable in the circumstances, to communicate with the person and obtain a consent or refusal. 1996, c. 2, Sched. A, s. 20 (11).

Municipal Freedom of Information and Protection of Privacy Act

-allows for the collection of personal information for the purpose specified or for a consistent purpose

The College of Psychologists of Ontario Standards of Professional Conduct

Principle 5

A member of the College shall respect the user's right to know the nature of the services to be rendered.

- 5.1 A member shall seek an agreement with a user as early as possible in the relationship as to the general nature and extent of services to be rendered.
- 5.3 A member shall fulfil the terms of an agreement with a user. Services departing from the agreement must have the sanction of the user prior to their initiation.

Education Act

-requires that the principal obtain the prior written permission from the pupil, or from the parent of the pupil if the pupil is under age eighteen, before administering a proposed test of intelligence or personality.