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**AFFIDAVIT PERTAINING TO PROPOSED AMENDMENT TO RULE 35:
PHYSICAL AND MENTAL EXAMINATIONS**

I, Martha B. Mahaffey, Ph.D., make the following declaration based on personal knowledge and under penalty of perjury:

1. I am a licensed psychologist in the state of Nevada. I make this declaration based on my own personal knowledge.
2. As part of my practice I conduct forensic psychological and neuropsychological examinations to individuals involved in the judicial system. I am well versed in the standards and practices for the administration of said examinations.
3. I oppose the proposed revision to Rule 35 of the Nevada Rules of Civil Procedure.
4. I am opposed to third party observation of examinations because: a) it affects performance on tests, thereby rendering results and opinions invalid, b) it violates the ethics code for my profession and 3) it violates my profession's obligation to protect test security.
5. Third party observation (TPO) is defined as the direct or indirect presence of an individual other than the examinee and the psychologist or as the direct or indirect presence of an individual other than the examinee and the psychologist or her technician. Direct presence means a person physically present in the room other than the psychologist or her technician and the examinee. Indirect presence means viewing through a window, one-way mirror, use of any camera, audio or video recording device, electronic or communication device, and use of any on-site transcription by a court recorder, reporter, or other individual.
6. Controlled research studies and comprehensive literature reviews published in peer-reviewed journals have demonstrated that TPO effects may lead to the decreased validity of test results and opinions due to: 1) significant impairments in performance on tests of effort, attention, concentration, learning, memory, and executive functioning; 2) examinee anxiety and social facilitation or inhibition; and 3) coaching of examinees.
7. In a 2000 Official Statement of the National Academy of Neuropsychology regarding the presence of TPOs during neuropsychological testing, the Academy opined:

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The presence of third party observers during the administration of formal test procedures is inconsistent with recommendations promulgated in [standards of practice for psychological testing and standardized test manuals]], that the psychological testing environment be distraction free...

[Additionally], neuropsychological test measures have not been standardized in the presence of an observer...The presence of a third party observer introduces an unknown variable into the testing environment which may prevent the examinee's performance from being compared to established norms and potentially precludes valid interpretation of the test results.

8. In a 2016 Policy Statement of the American Board of Professional Neuropsychology regarding Third Party Observation and the Recording of Psychological Test Administration in Neuropsychological Evaluation, the Board opined that TPOs should not be allowed because:

Any observation or recording of neuropsychological tests or their administration has the potential to influence and compromise the behavior of both the examinee and the administrator, threatens the validity of the data obtained under these conditions and consequently limits normative comparisons, clinical conclusions, opinions, interpretations, and recommendations.

9. The Ethical Principles of Psychologists and Code of Conduct, published by the American Psychological Association in 2017, obligates psychologists as follows:

- A. If psychologists' ethical responsibilities conflict with law, regulations, or other governing legal authority, psychologists clarify the nature of the conflict, make known their commitment to the Ethics Code, and take reasonable steps to resolve the conflict consistent with the General Principles and Ethical Standard of the Ethics Code (Standard 1.02, Conflicts Between Ethics and Law).
- B. Psychologists administer, adapt, score, interpret or use assessment techniques, interviews, test, or instruments in a manner and for the purpose that are appropriate in light of the research on or evidence of the usefulness and proper application of the techniques (Standard 9.02, Use of Assessments).
- C. Psychologists make reasonable efforts to maintain the integrity and security of test material and other assessment techniques consistent with law and contractual obligations, and in a manner that permits adherence to this Ethics Code" (Standard 9.11, Maintaining Test Security).

10. In a 2007 Statement on Third Party Observers in Psychological Testing and Assessment: A Framework for Decision Making published by the American Psychological Association's Committee on Psychologist Tests and Assessment, the following was noted:

The use of uniform standardized evaluation procedures is one the fundamental canons upon which psychological assessment and testing is founded (American Educational Research Association, American Psychological Association, & National Council on Measurement in Education [AERA, APA, NCME], 1999). Failure to adhere to requisite data gathering procedures may compromise the validity of inferences made from these observations (cf. Anastasi & Urbina, 1997; Sattler, 2001, 2006). Research in social psychology demonstrates that

individual's behavior frequently changes in the presence of a third party (e.g., Chekroun & Brauer, 2002). Therefore, there is substantial reason to suspect that the inclusion of a third party in an assessment may influence the examinee's behavior....

Because psychological assessment procedures and tests typically are not standardized using scores obtained in the presence of third party observers, observation or surveillance may violate the conditions of standardization. Moreover, negative effects of observation on test performance may impair the validity of routine test interpretation strategies (e.g., Binder & Johnson-Greene, 1995; Isaacs & Chen, 1990; Kehrer, Sanchez, Habif, Rosenbaum, & Townes, 2000; Lynch, 2005; Lynch & McCaffrey, 2004; McCaffrey, Fisher, Gold, & Lynch, 1996; McSweeney et al., 1998; Masling, 1960; Sattler & Theye, 1967). Recent studies of neuropsychological evaluations indicate that the presence of observers increases performance errors and false positives on the measures used (Constantinou, Ashendorf, & McCaffrey, 2006; Gavett, Lynch, & McCaffrey, 2006; Lynch, 2005)....

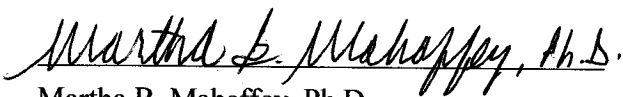
Because some examinees may be less likely to share personal information if they believe that others are observing or could observe their actual statements or behavior (e.g., Sattler, 1998), the validity of nonstandardized or non-test assessment procedures, such as interview or observations, may also be affected by the perceived or actual presence of a third party.... Examinees who are aware that their assessment is being recorded, either in audio only or in combined audio and video, may also alter their assessment behavior.

11. In September 2018, in opposition to the proposed changes to Rule 35, the State of Nevada Board of Psychological Examiners and the Nevada Psychological Association came out with statements opposing TPOs of the administration of standardized measures during psychological and/or neuropsychological independent medical evaluations (IMEs). I concur with the opinions of my licensing board and state psychological association.

12. If ordered to conduct IMEs with audio or video recording and/or observation, my psychology colleagues and I would be obligated to decline the IME or perform the IME absent testing of the mental abilities that are at issue in the legal case, thereby eliminating psychologists from participating in judicial matters due to ethical, legal, and test security concerns. This would have a deleterious effect on the judicial system's ability to assist the triers of fact in matters important to the pursuit of justice.

I HEREBY DECLARE THAT THE ABOVE STATEMENT IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT I UNDERSTAND IT IS MADE FOR USE AS EVIDENCE IN COURT AND IS SUBJECT TO PENALTY FOR PERJURY.

DATED this 9th day of October, 2018.


Martha B. Mahaffey, Ph.D.



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Presence of Third Party Observers During Neuropsychological Testing

Official Statement of the National Academy of Neuropsychology

Approved 5/15/99

Forensic neuropsychological evaluations are often constrained by the demand that a third party observer be present during the course of interview and formal testing. This demand may originate from counsel's desire to ensure that the neuropsychologist does not interrogate or unfairly question the plaintiff with respect to issues of liability and to ascertain if test procedures are accurately administered. In general, neuropsychologists should have the right to carry out their examination in a manner that will not in any way jeopardize, influence or unduly pressure their normal practice.

The presence of a third party observer during the administration of formal test procedures is inconsistent with recommendations promulgated in *The Standards for Educational and Psychological Testing* (APA, 1985) and Anastasi (1988), that the psychological testing environment be distraction free. More recently, standardized test manuals (for example, *The WAIS-III, WMS-III Technical Manual*; The Psychological Corporation, 1997) have specifically stated that third party observers should be excluded from the examination room to keep it free from distraction. The presence of a third party observer in the testing room is also inconsistent with the requirements for standardized test administration as set forth in the APA's *Ethical Principles Of Psychologists and Code Of Conduct* (APA, 1992) in that it creates the potential for distraction and/or interruption of the examination (McSweeny et al., 1998).

A second issue that relates to the potential influence of the presence of a third party observer is the reliance upon normative data. Neuropsychological test measures have not been standardized in the presence of an observer. In fact, neuropsychological test measures have been standardized under a specific set of highly controlled circumstances that did not include the presence of a third party observer. The presence of a third party observer introduces an unknown variable into the testing environment which may prevent the examinee's performance from being compared to established norms and potentially precludes valid interpretation of the test results (McCaffrey, Fisher, Gold, & Lynch, 1996). Observer effects can be such that performance on more complex tasks declines, in contrast to enhanced performance on overlearned tasks, leading to a spuriously magnified picture of neuropsychological deficit (McCaffrey et al., 1996). Likewise, observation of an examination being conducted for a second opinion may fundamentally alter the test session, in comparison to the initial examination that the patient has already undergone, potentially creating an adversarial atmosphere, and increasing the risk of motivational effects related to secondary gain. Observer effects can be magnified by the presence of involved parties who have a significant relationship with the patient (e.g.

legal representatives who have a stake in the outcome of the examination; cf. Binder and Johnson-Greene, 1995). Thus, the presence of a third party observer during formal testing may represent a threat to the validity and reliability of the data generated by an examination conducted under these circumstances, and may compromise the valid use of normative data in interpreting test scores. Observer effects also extend to situations such as court reporters, attorneys, attorney representatives, viewing from behind one-way mirrors and to electronic means of observation, such as the presence of a camera which can be a significant distraction (McCaffrey et al., 1996). Electronic recording and other observation also raises test security considerations that are detailed in the National Academy of Neuropsychology's position statement on Test Security.

It should be noted that there are circumstances that support the presence of a neutral, non-involved party in nonforensic settings. One situation might be when students or other professionals in psychology observe testing as part of their formal education. These trainees have sufficient instruction and supervision in standardized measurement and clinical procedures, such that their presence would not interfere with the assessment process. Other situations might include a parent's calming presence during an evaluation of a child.

The weight of accumulated scientific and clinical literature with respect to the issue of third party observers in the forensic examination provides clear support for the official position of the National Academy of Neuropsychology that neuropsychologists should strive to minimize all influences that may compromise accuracy of assessment and should make every effort to exclude observers from the evaluation.

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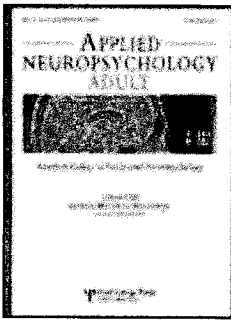
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Alan Lewandowski, W. John Baker, Brad Sewick, John Knippa, Bradley Axelrod & Robert J. McCaffrey

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GUEST EDITORIAL

Policy Statement of the American Board of Professional Neuropsychology regarding Third Party Observation and the recording of psychological test administration in neuropsychological evaluations

Alan Lewandowski^a, W. John Baker^b, Brad Sewick^c, John Knippa^d, Bradley Axelrod^e, and Robert J. McCaffrey^f

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General

Neuropsychologists are frequently presented with requests from parents, attorneys, nurse case managers, insurance representatives, school personnel, allied health professionals, family members, or other interested parties who have some type of relationship with a patient or client examinee to directly observe or record the administration of psychological and neuropsychological tests. Consequently, a number of practice concerns have been raised that include, but are not limited to, the effects on the examinee's performance and the neuropsychologist administering the assessment, violations of testing guidelines, the impact on standardization procedures, the appropriateness of applying test findings to normative samples established under standardized circumstances, and test security. These requests can become even more problematic and complicated when the request occurs within the adversarial process associated with the legal system, such as competency hearings, custody evaluations, divorce proceedings, civil litigation, and criminal investigations (Bush, Pimental, Ruff, Iverson, Barth & Broshek, 2009; Duff & Fisher, 2005; Howe & McCaffrey, 2010; Lynch, 2005; McCaffrey, Fisher, Gold, & Lynch, 1996; McCaffrey, Lynch, & Yantz, 2005; McSweeney et al., 1998; Sweet, Grote, & Van Gorp, 2002).

Definition of Third Party Observation

Third Party Observation (TPO) is defined in this practice guideline as the direct or indirect presence of an individual other than the patient or client and the psychologist or their technician administering a published psychological test in order to obtain objective data under standardized conditions for clinical, counseling, or forensic purposes in order to render

clinical conclusions, opinions, interpretations, or recommendations based on the data collected. Direct presence means a person(s) physically present in the room other than the psychologist or his/her technician and the examinee. Indirect presence means viewing through a window, two-way mirror, use of any camera, or audio or video recording device, or any electronic or communication device. The act of recording includes the on-site transcription by a court recorder or reporter during an examination by either direct or indirect involvement (Barth, 2007; Constantinou, Ashendorf, & McCaffrey, 2002; Constantinou, Ashendorf, & McCaffrey, 2005; Eastvold, Belanger, & Vanderploeg, 2012; McCaffrey, Fisher, Gold, & Lynch, 1996).

Ethical considerations

The Ethical Principles of Psychologists and Code of Conduct of the American Psychological Association (hereafter called the Ethics Code) helps guide the thinking and behavior of psychologists, and provides direction with regard to clinical practice standards. Relevant to TPO and the Ethics Code are both the General Principles and a number of the Ethical Standards.

Within the Ethics Code a series of General Principles are outlined with the intent of guiding psychologists to practice at the highest professional level. Relevant to TPO are General Principle: A (Beneficence and Non-maleficence), B: (Fidelity and Responsibility), C (Integrity), and D (Justice).

In contrast to the General Principles, the Ethics Code offers specific standards that represent obligations to which psychologists are bound, and consequently form the basis for ethical violations and consequently the basis for sanctions. Most relevant to TPO are Ethical Standards 2 (Competence) and 9 (Assessment). (American Psychological Association, 2010).

Principle A: Beneficence and nonmaleficence

Principle A is applicable and is described as follows:

Psychologists strive to benefit those with whom they work and take care to do no harm. In their professional actions, psychologists seek to safeguard the welfare and rights of those with whom they interact professionally and other affected persons, and the welfare of animal subjects of research. When conflicts occur among psychologists' obligations or concerns, they attempt to resolve these conflicts in a responsible fashion that avoids or minimizes harm. Because psychologists' scientific and professional judgments and actions may affect the lives of others, they are alert to and guard against personal, financial, social, organizational, or political factors that might lead to misuse of their influence. Psychologists strive to be aware of the possible effect of their own physical and mental health on their ability to help those with whom they work (American Psychological Association, 2010, p. 3).

It is incumbent on neuropsychologists to be vigilant regarding the impact of their professional opinion on others, particularly with regard to diagnostic testing. Scientific and professional judgments and conclusions should be based on data from neuropsychological assessments gathered in a standardized manner and, therefore, without the influence of extraneous factors that might influence the collection of behavior samples. Neuropsychologists must always be mindful that their verbal and written opinions affect the medical, social, and legal lives of others and, therefore, must safeguard those with whom they interact professionally to do no harm.

Principle B: Fidelity and responsibility

Principle B is applicable and is described as follows.

Psychologists establish relationships of trust with those with whom they work. They are aware of their professional and scientific responsibilities to society and to the specific communities in which they work. Psychologists uphold professional standards of conduct, clarify their professional roles and obligations, accept appropriate responsibility for their behavior, and seek to manage conflicts of interest that could lead to exploitation or harm.

Psychologists consult with, refer to, or cooperate with other professionals and institutions to the extent needed to serve the best interests of those with whom they work. They are concerned about the ethical compliance of their colleagues' scientific and professional conduct. Psychologists strive to contribute a portion of their professional time for little or no compensation or personal advantage (American Psychological Association, 2010, p. 3).

It is the responsibility of all psychologists who elect to perform diagnostic testing, to do so within the established parameters of the instrument(s) they employ and therefore in a standardized manner. Whether or not a neuropsychologist is engaged in a patient-doctor relationship, acting as an independent clinician, a clinician for an institution, state or federal agency, or an independent examiner for an insurance carrier or legal counsel, a professional obligation exists to uphold standards for the delivery of scientific work commensurate with the responsibilities to the profession, community, and society in general.

Principle C: Integrity

Principle C is applicable and is described as follows.

Psychologists seek to promote accuracy, honesty, and truthfulness in the science, teaching, and practice of psychology. In these activities psychologists do not steal, cheat, or engage in fraud, subterfuge, or intentional misrepresentation of fact. Psychologists strive to keep their promises and to avoid unwise or unclear commitments. In situations in which deception may be ethically justifiable to maximize benefits and minimize harm, psychologists have a serious obligation to consider the need for, the possible consequences of, and their responsibility to correct any resulting mistrust or other harmful effects that arise from the use of such techniques (American Psychological Association, 2010, p. 3).

The practice and promotion of clinical assessment requires that neuropsychologists present themselves and their work to others in an accurate and honest manner and avoid any misrepresentation of their findings. A considerable body of research supports that TPO can affect the accuracy of test findings, and to purposefully disregard its potential impact can be construed as a misrepresentation of the data

Principle D: Justice

Principle D is applicable and is described as follows.

Psychologists recognize that fairness and justice entitle all persons to access to and benefit from the contributions of psychology and to equal quality in the processes, procedures, and services being conducted by psychologists. Psychologists exercise reasonable judgment and take precautions to ensure that their potential biases, the boundaries of their competence, and the limitations of their expertise do not lead to or condone unjust practices (American Psychological Association, 2010, p. 3-4).

In an attempt to provide fair and just treatment to all patients and clients, neuropsychologists do not modify assessment procedures or alter their work on the basis

of personal opinion or professional bias, nor do they neglect to maintain an awareness of their competency level and the limitations of their expertise. To this end, the American Psychological Association (APA), psychological state organizations, and neuropsychological specialty organizations, provide multiple continuing education opportunities for neuropsychologists to learn, maintain, and improve their professional expertise, and avoid practices that are irregular or not commensurate with accepted clinical practice. Given the body of literature that exists regarding observer effects, it is incumbent on neuropsychologists who provide evaluations to make clear to patients, clients, families, and other professionals that they do not endorse TPO and to try to avoid this type of intrusion in the assessment.

Ethical standard 2: Competence

Ethical Standard 2 is applicable to TPO and the recording of test administration. Section 2.04, Bases for Scientific and Professional Judgments states the following:

Psychologists' work is based upon established scientific and professional knowledge of the discipline. (American Psychological Association, 2010, p. 5; see also Standards 2.01e, Boundaries of Competence).

Ethical standard 2.04

Ethical Standard 2.04 requires neuropsychologists to conduct their practice within the boundaries of scientific knowledge. Texts on psychological testing have long cited the need to conduct testing in a distraction-free environment (Anastasi & Urbina, 1997). For example, the Wechsler Adult Intelligence Scale-Third Revision (WAIS-III) requires that, "As a rule, no one other than you and the examinee should be in the room during the testing" (1997, p. 29). The manual further directs, "Attorneys who represent plaintiffs sometimes ask to observe, but typically withdraw this request when informed of the potential effect of the presence of a third person" (Wechsler, 1997, p. 29). The requirement to avoid interference from others is noted in the Wechsler Intelligence Scale for Children-Fourth Edition (WISC-IV), which advises that no one other than the examiner and the examinee should be in the room during test administration (Wechsler, 2003, p. 23).

The concept of being free from distractibility is also emphasized in the Wechsler Adult Intelligence Scale-Fourth Revision (WAIS-IV) that instructs the examiner to provide a physical environment "free from distractions and interruptions" and stresses that "External distractions must be minimized to focus the examinee's attention on the tasks presented and not on outside

sounds or sights, physical discomfort, or testing materials not in use" (Wechsler, 2008, p. 24). This is also emphasized in the administration manual for the Rey Complex Figure Test (Meyers, 1995, p. 6). Similarly, the scoring manual for the California Verbal Learning Test-Second Edition (CVLT-II) instructs that only the examiner and examinee be present in the room during testing (Delis et al., 2000, p. 8). By eliminating the presence of third parties, the examiner eliminates potential interference and the possibility of their distracting from or influencing the testing process, hence variables that are inconsistent with test standardization.

Most test manuals specify that the examiner is responsible for ensuring that the testing environment is quiet and free from distractions (Meyers, 1995; Williams, 1991; Urbina, 2014) and are often very specific about the testing room being limited to "A table or desk and two chairs" (Meyers, 1995). Similarly, the manual for the California Verbal Learning Test-Second Edition (CVLT-II) states "as a rule, no one other than you and the examinee should be in the room during testing" (Delis, Dramer, Kaplan & Ober, 2000, p. 8). As described above, these instructions serve to emphasize the importance of controlling distraction as an important factor in assessment.

Ethical standard 9: Assessment

Ethical Standard 9 is applicable to TPO and recording. In Section 9.01, Bases for Assessments, the code notes "(a) Psychologists base the opinions contained in their recommendations, reports, and diagnostic or evaluative statements, including forensic testimony, on information and techniques sufficient to substantiate their findings" (American Psychological Association, 2010, p. 12; see also Standard 2.04, Bases for Scientific and Professional Judgments).

Test results generated by nonstandard methods that negatively impact the validity of the findings are insufficient. In forensic settings, neuropsychologists are often required to use their findings in comparison with other evaluations. The ability to compare separate data sets, when one evaluation was conducted following proper testing procedures and the other evaluation had inherent threats to validity such as a third party observer is dubious.

Under 9.01:

(a) the psychologist cannot provide opinions or evaluative statements because TPO presence yields the evaluation of questionable validity. (b) Except as noted in 9.01c, psychologists provide opinions of the psychological characteristics of individuals only after they have conducted an examination of the individuals adequate to

support their statements or conclusions. When, despite reasonable efforts, such an examination is not practical, psychologists document the efforts they made and the result of those efforts, clarify the probable impact of their limited information on the reliability and validity of their opinions, and appropriately limit the nature and extent of their conclusions or recommendations. (American Psychological Association, 2010, p. 12; see also Standards 2.01, Boundaries of Competence, and 9.06, Interpreting Assessment Results). (c) When psychologists conduct a record review or provide consultation or supervision and an individual examination is not warranted or necessary for the opinion, psychologists explain this and the sources of information on which they based their conclusions and recommendations.

Section 9.02: Use of assessments

Section 9.02 describes the following:

(a) Psychologists administer, adapt, score, interpret, or use assessment techniques, interviews, tests, or instruments in a manner and for purposes that are appropriate in light of the research on or evidence of the usefulness and proper application of the techniques. (b) Psychologists use assessment instruments whose validity and reliability have been established for use with members of the population tested. When such validity or reliability has not been established, psychologists describe the strengths and limitations of test results and interpretation. (c) Psychologists use assessment methods that are appropriate to an individual's language preference and competence, unless the use of an alternative language is relevant to the assessment issues (American Psychological Association, 2010, p. 12).

Section 9.02 (a) suggests that tests administered by a neuropsychologist in a manner that is inconsistent with the standardization of the instrument and contrary to the test manual, may be in violation of this standard. When an exception exists, it is incumbent on the neuropsychologist to provide a rationale or need that supports altering standardization in the report. Otherwise, TPO is contrary to this standard.

Section 9.06: Interpreting assessment results

Section 9.06 describes the following:

When interpreting assessment results, including automated interpretations, psychologists take into account the purpose of the assessment as well as the various test factors, test-taking abilities, and other characteristics of the person being assessed, such as situational, personal, linguistic, and cultural differences, that might affect psychologists' judgments or reduce the accuracy of their interpretations. They indicate any significant limitations of their interpretations (American Psychological Association, 2010, p. 13; see also Standards 2.01b and c, Boundaries of Competence).

Many authors and organizations (Anastasi & Urbina, 1997; National Academy of Neuropsychology, 2000a; Oregon Psychological Association, 2012; Michigan Psychological Association, 2014) emphasize that, during test development, procedures are standardized without the presence of an observer. Subsequently the data obtained outside of those parameters lacks corresponding assurance of validity and interpretive significance.

Section 9.11: Maintaining test security

Section 9.11 raises the importance of maintaining test security. "Psychologists make reasonable efforts to maintain the integrity and security of test materials and other assessment techniques consistent with law and contractual obligations, and in a manner that permits adherence to this Ethics Code" (American Psychological Association, 2010, p. 13). Test security is a critical issue, as it addresses the prevention of unnecessary exposure of psychometric materials that can result in diminishing a test's ability to accurately distinguish between normal and abnormal performance.

Several professional organizations have emphasized the importance of maintaining test security. The APA, the National Academy of Neuropsychology (NAN), and several state associations (among others) emphasize test security as essential to the practice of psychology, and that it is incumbent on neuropsychologists to protect the integrity of psychological test materials (American Psychological Association, 1999; National Academy of Neuropsychology, 2003; Michigan Psychological Association, 2014).

Other state and national psychological organizations as well as a number of authors have raised concerns about the potential for testing material to be used inappropriately by attorneys or become part of the public domain (American Academy of Clinical Neuropsychology, 2001; American Psychological Association, 1999; Bush et al., 2009; Canadian Psychological Association, 2009; Essig, Mittenberg, Petersen, Strauman, & Cooper, 2001; Kaufman, 2005, 2009; McCaffrey et al., 1996; Michigan Psychological Association, 2014; Morel, 2009; National Academy of Neuropsychology, 1999; Oregon Psychological Association, 2012; Victor & Abeles, 2004; Wetter & Corrigan, 1995). Public accessibility allows individuals involved in litigation to self-educate or be coached as to how to perform on certain measures or how to selectively pass or fail key components of the neuropsychological evaluation and thus invalidate the results of the assessment. As a result, several psychological organizations have taken a formal position against the presence of TPO during assessment.

The National Academy of Neuropsychology (Axelrod et al., 2000) advises that TPO is inconsistent with psychological guidelines and practices, as it threatens the validity, reliability, and interpretation of test scores. The position of the academy is that TPO should be avoided whenever possible outside of necessary situations involving a nonforensic setting where the observer is both neutral and noninvolved (e.g., student training or an interpreter). This view is also held by the Canadian Psychological Association (CPA) that advises "It is not permissible for involved third parties to be physically or electronically present during the course of neuropsychological or similar psychological evaluations of a patient or plaintiff" (CPA, 2009).

The American Academy of Clinical Neuropsychology (AACN; 2001) has taken the position that "it is not permissible for involved third parties to be physically or electronically present during the course of an evaluation assessment of a plaintiff patient with the exception of those situations specified below" (p. 434). Exceptions are described that include as an example, the assessment of young children who require the presence of a family member.

The executive committee of the Oregon Psychological Association (2012) adopted a clear and unequivocal policy that the observation by a third party compromises test validity and security and therefore advises against the presence of TPO during assessment. Similarly, the Michigan Psychological Association Ethics Committee has advised against TPO for the same reasons (Michigan Psychological Association, 2014).

Research evidence

In support of professional ethics, there is a significant body of research indicating that TPO cannot be assumed as inconsequential to test findings. A review of the pertinent literature overwhelmingly supports the negative consequences of either direct or indirect TPO or recording on the behavior of both the examiner and the examinee, and the validity of findings obtained in a neuropsychological assessment.

It is self-evident that neuropsychological evaluations be conducted in a standardized fashion consistent with the publisher's directives to ensure valid and reliable results. Consistent with other major neuropsychological organizations, it is the position of the American Board of Professional Neuropsychology that altering test procedures to accommodate observation or recording compromises test standardization and affects the subsequent data set obtained. As there is no basis for accepting as valid an assessment under nonstandard (observed or recorded) conditions, it is questionable if findings

reflect a reasonable degree of certainty or fall within an accepted range of probability. Test results therefore lack the normal and accepted parameters of validity and, more importantly, do not reflect the expected standards of psychological care. Given current research it is not surprising that most publishers of psychological tests have cautioned against TPO in their instruction manuals and national organizations have advised against TPO (National Academy of Neuropsychology, 2000a; Committee on Psychological Tests and Assessment, 2007).

The issue of TPO has been investigated by numerous researchers, including an early case study by Binder and Johnson-Greene (1995). Multiple studies have established and replicated the dubious validity of data obtained during recorded or observed evaluations. A considerable amount of research now exists demonstrating the deleterious effect on data obtained during nonstandard evaluations involving executive functioning (Horowitz & McCaffrey, 2008), attention and processing speed (Binder & Johnson-Greene, 1995; Kehrer, Sanchez, Habif, Rosenbaum, & Townes, 2000), and memory/recall of information (Eastvold et al., 2012; Gavett, Lynch, & McCaffrey, 2005; Lynch, 2005; Yantz & McCaffrey, 2005). Eastvold et al. (2012) meta-analysis found negative effects on multiple cognitive measures and that attention, learning, and memory (delayed recall) were most adversely impacted by the presence of an observer.

Exceptions to TPO

Third party assistant (TPA)

In selected circumstances, the presence of an unbiased, impartial, and neutral third party observer may be necessary to proceed with or complete a neuropsychological assessment. In these cases, rather than an involved third party observing or monitoring the behavior of the test administrator or examinee, the third party holds a neutral position and acts in an indirect manner to assist or expedite the completion of the assessment. Given this significant difference of purpose, we suggest that the presence of an uninvolved and neutral observer during an evaluation is more accurately identified as a third party assistant (TPA).

A TPA may be deemed appropriate in clinical examinations in which the examiner is acting as a clinical treater with an established patient-doctor relationship, as opposed to an independent psychological examination for an insurance company or a forensic assessment in civil or criminal proceedings. A TPA may be appropriate in a testing situation in which the presence

of a parent, family member, guardian, family friend, or interpreter is necessary, and without whose presence the examination could not proceed because of a mental disability or clinical limitation that requires an accommodation. Examples might include a child with suspected or diagnosed autism, developmental disorders affecting intelligence, confirmed brain injury that precludes independent living, children who are either too young or severely anxious that they cannot be left alone, elderly adults with compromised cognition who are unwilling to participate without the presence of a trusted family member or friend, or patients who have a thought disorder impacting reality testing, among others.

Alternatively, there are cases in which a language barrier precludes valid test administration. While the preference is for the examination to be conducted in the examinee's native language, in some these cases an interpreter may be necessary because a native speaking psychological examiner is not available or within a practical distance. In these situations, to avoid potential conflicts of interest, if it is at all possible the interpreter should have no relationship (i.e., such as family member, close friend or social affiliation) to the person being examined.

Similarly, if an examinee is deaf or hearing impaired, an individual versed in American Sign Language (ASL) or a member of the deaf community would be necessary to complete an examination. Absent a qualified examiner fluent in sign language, a certified specialist or ASL interpreter may be needed.

Training presents another situation in which a TPA is considered appropriate. Not unlike medical students, psychology students and technicians learning the administration of psychology test procedures require direct observation, practice, and supervision to ensure accuracy and competence.

In the aforementioned cases, the examiner is ethically required to document in the neuropsychological report the use of a TPA and any deviations of standardization or modifications in test administration. The limitations of normative data with subsequent impact on the generalization of findings should be clearly noted.

Forensic examinations, independent medical examinations, and acting as an expert witness

Neuropsychologists who choose to perform forensic assessments are ethically required to be aware of the specialty guidelines pertinent to this area of expertise. In order to avoid potential conflict, neuropsychologists who regularly provide forensic consultations should inform referral sources that if TPO or recording

develops as an issue or is required by legal proceedings, they may elect to remove themselves from the assessment.

When retained as an expert witness in forensic situations, neuropsychologists should resist demands for TPO if requested by opposing counsel, retaining counsel, or the court. The neuropsychologist should educate the court or those involved as to the APA Ethics Code and the existing scientific research that supports the negative effects of this type of intrusion. However, it is recognized that often in forensic situations professional ethics and the adversarial nature of the legal system may not agree. If attempts to educate those involved fail and counsel insists, or the court directs to proceed with TPO, the neuropsychologist can consider removing himself/herself from the assessment.

In those exceptions in which a neuropsychologist is *compelled* by the court to evaluate with a TPO because of existing state statutes or if the neuropsychologist is placed in a situation whereby withdrawing will bring clear and substantial harm to the examinee, the manner in which test validity and clinical findings are affected and may be compromised should explicitly documented. The neuropsychologist should then follow existing recommendations and guidelines for protecting test security including requesting that test material and intellectual property be provided only to another licensed psychologist who would be bound by the same duty to protect.

If this is not possible, the neuropsychologist should request a protective order specifically prohibiting either party from copying test material or intellectual property, using them for any other purpose than the matter at hand, and directing that they be returned uncopied directly to the psychologist or destroyed in a manner verifiable by the psychologist.

Conclusion

Requests for TPO frequently create an ethical dilemma for neuropsychologists as any observation or recording of neuropsychological tests or their administration has the potential to influence and compromise the behavior of both the examinee and the administrator, threatens the validity of the data obtained under these conditions by, and consequently limits normative comparisons, clinical conclusions, opinions, interpretations, and recommendations. For these reasons, APA ethical standards support the position that TPO in neuropsychological testing should be avoided.

Ethical standards of practice compel neuropsychologists to avoid or resist requests for conducting assessments complicated by TPO, except for those situations

as described. Neuropsychologists should therefore not engage in, endorse, abet, or conduct assessments complicated by TPO or recording of any kind other than under the order of a court after all reasonable alternatives have been exhausted. It would be entirely appropriate for a neuropsychologist to decline to perform an examination under these conditions.

As an exception, TPA is acceptable under infrequent clinical circumstances that necessitate the involvement of an assistant or in a rare forensic case that might require a neutral or uninvolved party such as a language interpreter. A neuropsychologist is obligated to clarify in the report the rationale for the use of TPA, identify what procedures and standards have been modified, and how or to what degree the findings, results, and conclusions may be impacted. This should include limitations in the generalization of the diagnostic data and the impact on assessment's findings.

In summary, it is the position of the American Board of Professional Neuropsychology that it is incumbent on neuropsychologists to minimize variables that might influence or distort the accuracy and validity of neuropsychological assessment. Therefore, it is the recommendation of the American Board of Professional Neuropsychology that neuropsychologists should resist requests for TPO and educate the referral sources as to the ethical and clinical implications.

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ETHICAL PRINCIPLES OF PSYCHOLOGISTS AND CODE OF CONDUCT

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Effective June 1, 2003
(With the 2010 Amendments
to Introduction and Applicability
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Effective June 1, 2010)

With the 2016 Amendment
to Standard 3.04
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Effective January 1, 2017

ETHICAL PRINCIPLES OF PSYCHOLOGISTS AND CODE OF CONDUCT

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"ETHICAL PRINCIPLES OF
PSYCHOLOGISTS AND CODE OF
CONDUCT" IN 2010 AND 2016**

INTRODUCTION AND APPLICABILITY

The American Psychological Association's (APA's) Ethical Principles of Psychologists and Code of Conduct (hereinafter referred to as the Ethics Code) consists of an Introduction, a Preamble, five General Principles (A-E), and specific Ethical Standards. The Introduction discusses the intent, organization, procedural considerations, and scope of application of the Ethics Code. The Preamble and General Principles are aspirational goals to guide psychologists toward the highest ideals of psychology. Although the Preamble and General Principles are not themselves enforceable rules, they should be considered by psychologists in arriving at an ethical course of action. The Ethical Standards set forth enforceable rules for conduct as psychologists. Most of the Ethical Standards are written broadly, in order to apply to psychologists in varied roles, although the application of an Ethical Standard may vary depending on the context. The Ethical Standards are not exhaustive. The fact that a given conduct is not specifically addressed by an Ethical Standard does not mean that it is necessarily either ethical or unethical.

This Ethics Code applies only to psychologists' activities that are part of their scientific, educational, or professional roles as psychologists. Areas covered include but are not limited to the clinical, counseling, and school practice of psychology; research; teaching; supervision of trainees; public service; policy development; social intervention; development of assessment instruments; conducting assessments; educational counseling; organizational consulting; forensic activities; program design and evaluation; and administration. This Ethics Code applies to these activities across a variety of contexts, such as in person, postal, telephone, Internet, and other electronic transmissions. These activities shall be distinguished from the purely private conduct of psychologists, which is not within the purview of the Ethics Code.

Membership in the APA commits members and student affiliates to comply with the standards of the APA Ethics Code and to the rules and procedures used to enforce them. Lack of awareness or misunderstanding of an Ethical Standard is not itself a defense to a charge of unethical conduct.

The procedures for filing, investigating, and resolving complaints of unethical conduct are described in the current Rules and Procedures of the APA Ethics Committee. APA may impose sanctions on its members for violations of the standards of the Ethics Code, including termination of APA membership, and may notify other bodies and individuals of its actions. Actions that violate the standards of the Ethics Code may also lead to the imposition of sanctions on psychologists or students whether or not they are APA members by bodies other than APA, including state psychological associations, other professional groups, psychology boards, other state or federal agencies, and payors for health services.

In addition, APA may take action against a member after his or her conviction of a felony, expulsion or suspension from an affiliated state psychological association, or suspension or loss of licensure. When the sanction to be imposed by APA is less than expulsion, the 2001 Rules and Procedures do not guarantee an opportunity for an in-person hearing, but generally provide that complaints will be resolved only on the basis of a submitted record.

The Ethics Code is intended to provide guidance for psychologists and standards of professional conduct that can be applied by the APA and by other bodies that choose to adopt them. The Ethics Code is not intended to be a basis of civil liability. Whether a psychologist has violated the Ethics Code standards does not by itself determine whether the psychologist is legally liable in a court action, whether a contract is enforceable, or whether other legal consequences occur.

The American Psychological Association's Council of Representatives adopted this version of the APA Ethics Code during its meeting on August 21, 2002. The Code became effective on June 1, 2003. The Council of Representatives amended this version of the Ethics Code on February 20, 2010, effective June 1, 2010, and on August 3, 2016, effective January 1, 2017. (see p. 16 of this pamphlet). Inquiries concerning the substance or interpretation of the APA Ethics Code should be addressed to the Office of Ethics, American Psychological Association, 750 First St. NE, Washington, DC 20002-4242. This Ethics Code and information regarding the Code can be found on the APA website, <http://www.apa.org/ethics>. The standards in this Ethics Code will be used to adjudicate complaints brought concerning alleged conduct occurring on or after the effective date. Complaints will be adjudicated on the basis of the version of the Ethics Code that was in effect at the time the conduct occurred.

The APA has previously published its Ethics Code, or amendments thereto, as follows:

- American Psychological Association. (1953). *Ethical standards of psychologists*. Washington, DC: Author.
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 - American Psychological Association. (2016). Revision of ethical standard 3.04 of the "Ethical Principles of Psychologists and Code of Conduct" (2002, as amended 2010). *American Psychologist*, 71, 900.
- Request copies of the APA's Ethical Principles of Psychologists and Code of Conduct from the APA Order Department, 750 First St. NE, Washington, DC 20002-4242, or phone (202) 336-5510.

The modifiers used in some of the standards of this Ethics Code (e.g., *reasonably, appropriate, potentially*) are included in the standards when they would (1) allow professional judgment on the part of psychologists, (2) eliminate injustice or inequality that would occur without the modifier, (3) ensure applicability across the broad range of activities conducted by psychologists, or (4) guard against a set of rigid rules that might be quickly outdated. As used in this Ethics Code, the term *reasonable* means the prevailing professional judgment of psychologists engaged in similar activities in similar circumstances, given the knowledge the psychologist had or should have had at the time.

In the process of making decisions regarding their professional behavior, psychologists must consider this Ethics Code in addition to applicable laws and psychology board regulations. In applying the Ethics Code to their professional work, psychologists may consider other materials and guidelines that have been adopted or endorsed by scientific and professional psychological organizations and the dictates of their own conscience, as well as consult with others within the field. If this Ethics Code establishes a higher standard of conduct than is required by law, psychologists must meet the higher ethical standard. If psychologists' ethical responsibilities conflict with law, regulations, or other governing legal authority, psychologists make known their commitment to this Ethics Code and take steps to resolve the conflict in a responsible manner in keeping with basic principles of human rights.

PREAMBLE

Psychologists are committed to increasing scientific and professional knowledge of behavior and people's understanding of themselves and others and to the use of such knowledge to improve the condition of individuals, organizations, and society. Psychologists respect and protect civil and human rights and the central importance of freedom of inquiry and expression in research, teaching, and publication. They strive to help the public in developing informed judgments and choices concerning human behavior. In doing so, they perform many roles, such as researcher, educator, diagnostician, therapist, supervisor, consultant, administrator, social interventionist, and expert witness. This Ethics Code provides a common set of principles and standards upon which psychologists build their professional and scientific work.

This Ethics Code is intended to provide specific standards to cover most situations encountered by psychologists. It has as its goals the welfare and protection of the individuals and groups with whom psychologists work and the education of members, students, and the public regarding ethical standards of the discipline.

The development of a dynamic set of ethical standards for psychologists' work-related conduct requires a

personal commitment and lifelong effort to act ethically; to encourage ethical behavior by students, supervisees, employees, and colleagues; and to consult with others concerning ethical problems.

GENERAL PRINCIPLES

This section consists of General Principles. General Principles, as opposed to Ethical Standards, are aspirational in nature. Their intent is to guide and inspire psychologists toward the very highest ethical ideals of the profession. General Principles, in contrast to Ethical Standards, do not represent obligations and should not form the basis for imposing sanctions. Relying upon General Principles for either of these reasons distorts both their meaning and purpose.

Principle A: Beneficence and Nonmaleficence

Psychologists strive to benefit those with whom they work and take care to do no harm. In their professional actions, psychologists seek to safeguard the welfare and rights of those with whom they interact professionally and other affected persons, and the welfare of animal subjects of research. When conflicts occur among psychologists' obligations or concerns, they attempt to resolve these conflicts in a responsible fashion that avoids or minimizes harm. Because psychologists' scientific and professional judgments and actions may affect the lives of others, they are alert to and guard against personal, financial, social, organizational, or political factors that might lead to misuse of their influence. Psychologists strive to be aware of the possible effect of their own physical and mental health on their ability to help those with whom they work.

Principle B: Fidelity and Responsibility

Psychologists establish relationships of trust with those with whom they work. They are aware of their professional and scientific responsibilities to society and to the specific communities in which they work. Psychologists uphold professional standards of conduct, clarify their professional roles and obligations, accept appropriate responsibility for their behavior, and seek to manage conflicts of interest that could lead to exploitation or harm. Psychologists consult with, refer to, or cooperate with other professionals and institutions to the extent needed to serve the best interests of those with whom they work. They are concerned about the ethical compliance of their colleagues' scientific and professional conduct. Psychologists strive to contribute a portion of their professional time for little or no compensation or personal advantage.

Principle C: Integrity

Psychologists seek to promote accuracy, honesty, and truthfulness in the science, teaching, and practice of

psychology. In these activities psychologists do not steal, cheat, or engage in fraud, subterfuge, or intentional misrepresentation of fact. Psychologists strive to keep their promises and to avoid unwise or unclear commitments. In situations in which deception may be ethically justifiable to maximize benefits and minimize harm, psychologists have a serious obligation to consider the need for, the possible consequences of, and their responsibility to correct any resulting mistrust or other harmful effects that arise from the use of such techniques.

Principle D: Justice

Psychologists recognize that fairness and justice entitle all persons to access to and benefit from the contributions of psychology and to equal quality in the processes, procedures, and services being conducted by psychologists. Psychologists exercise reasonable judgment and take precautions to ensure that their potential biases, the boundaries of their competence, and the limitations of their expertise do not lead to or condone unjust practices.

Principle E: Respect for People's Rights and Dignity

Psychologists respect the dignity and worth of all people, and the rights of individuals to privacy, confidentiality, and self-determination. Psychologists are aware that special safeguards may be necessary to protect the rights and welfare of persons or communities whose vulnerabilities impair autonomous decision making. Psychologists are aware of and respect cultural, individual, and role differences, including those based on age, gender, gender identity, race, ethnicity, culture, national origin, religion, sexual orientation, disability, language, and socioeconomic status, and consider these factors when working with members of such groups. Psychologists try to eliminate the effect on their work of biases based on those factors, and they do not knowingly participate in or condone activities of others based upon such prejudices.

ETHICAL STANDARDS

1. Resolving Ethical Issues

1.01 Misuse of Psychologists' Work

If psychologists learn of misuse or misrepresentation of their work, they take reasonable steps to correct or minimize the misuse or misrepresentation.

1.02 Conflicts Between Ethics and Law, Regulations, or Other Governing Legal Authority

If psychologists' ethical responsibilities conflict with law, regulations, or other governing legal authority, psychologists clarify the nature of the conflict, make known their commitment to the Ethics Code, and take reasonable

steps to resolve the conflict consistent with the General Principles and Ethical Standards of the Ethics Code. Under no circumstances may this standard be used to justify or defend violating human rights.

1.03 Conflicts Between Ethics and Organizational Demands

If the demands of an organization with which psychologists are affiliated or for whom they are working are in conflict with this Ethics Code, psychologists clarify the nature of the conflict, make known their commitment to the Ethics Code, and take reasonable steps to resolve the conflict consistent with the General Principles and Ethical Standards of the Ethics Code. Under no circumstances may this standard be used to justify or defend violating human rights.

1.04 Informal Resolution of Ethical Violations

When psychologists believe that there may have been an ethical violation by another psychologist, they attempt to resolve the issue by bringing it to the attention of that individual, if an informal resolution appears appropriate and the intervention does not violate any confidentiality rights that may be involved. (See also Standards 1.02, Conflicts Between Ethics and Law, Regulations, or Other Governing Legal Authority, and 1.03, Conflicts Between Ethics and Organizational Demands.)

1.05 Reporting Ethical Violations

If an apparent ethical violation has substantially harmed or is likely to substantially harm a person or organization and is not appropriate for informal resolution under Standard 1.04, Informal Resolution of Ethical Violations, or is not resolved properly in that fashion, psychologists take further action appropriate to the situation. Such action might include referral to state or national committees on professional ethics, to state licensing boards, or to the appropriate institutional authorities. This standard does not apply when an intervention would violate confidentiality rights or when psychologists have been retained to review the work of another psychologist whose professional conduct is in question. (See also Standard 1.02, Conflicts Between Ethics and Law, Regulations, or Other Governing Legal Authority.)

1.06 Cooperating with Ethics Committees

Psychologists cooperate in ethics investigations, proceedings, and resulting requirements of the APA or any affiliated state psychological association to which they belong. In doing so, they address any confidentiality issues. Failure to cooperate is itself an ethics violation. However, making a request for deferment of adjudication of an ethics complaint pending the outcome of litigation does not alone constitute noncooperation.

1.07 Improper Complaints

Psychologists do not file or encourage the filing of ethics complaints that are made with reckless disregard for or willful ignorance of facts that would disprove the allegation.

1.08 Unfair Discrimination Against Complainants and Respondents

Psychologists do not deny persons employment, advancement, admissions to academic or other programs, tenure, or promotion, based solely upon their having made or their being the subject of an ethics complaint. This does not preclude taking action based upon the outcome of such proceedings or considering other appropriate information.

2. Competence

2.01 Boundaries of Competence

(a) Psychologists provide services, teach, and conduct research with populations and in areas only within the boundaries of their competence, based on their education, training, supervised experience, consultation, study, or professional experience.

(b) Where scientific or professional knowledge in the discipline of psychology establishes that an understanding of factors associated with age, gender, gender identity, race, ethnicity, culture, national origin, religion, sexual orientation, disability, language, or socioeconomic status is essential for effective implementation of their services or research, psychologists have or obtain the training, experience, consultation, or supervision necessary to ensure the competence of their services, or they make appropriate referrals, except as provided in Standard 2.02, Providing Services in Emergencies.

(c) Psychologists planning to provide services, teach, or conduct research involving populations, areas, techniques, or technologies new to them undertake relevant education, training, supervised experience, consultation, or study.

(d) When psychologists are asked to provide services to individuals for whom appropriate mental health services are not available and for which psychologists have not obtained the competence necessary, psychologists with closely related prior training or experience may provide such services in order to ensure that services are not denied if they make a reasonable effort to obtain the competence required by using relevant research, training, consultation, or study.

(e) In those emerging areas in which generally recognized standards for preparatory training do not yet exist, psychologists nevertheless take reasonable steps to ensure the competence of their work and to protect clients/patients, students, supervisees, research participants, organizational clients, and others from harm.

(f) When assuming forensic roles, psychologists are

or become reasonably familiar with the judicial or administrative rules governing their roles.

2.02 Providing Services in Emergencies

In emergencies, when psychologists provide services to individuals for whom other mental health services are not available and for which psychologists have not obtained the necessary training, psychologists may provide such services in order to ensure that services are not denied. The services are discontinued as soon as the emergency has ended or appropriate services are available.

2.03 Maintaining Competence

Psychologists undertake ongoing efforts to develop and maintain their competence.

2.04 Bases for Scientific and Professional Judgments

Psychologists' work is based upon established scientific and professional knowledge of the discipline. (See also Standards 2.01e, Boundaries of Competence, and 10.01b, Informed Consent to Therapy.)

2.05 Delegation of Work to Others

Psychologists who delegate work to employees, supervisees, or research or teaching assistants or who use the services of others, such as interpreters, take reasonable steps to (1) avoid delegating such work to persons who have a multiple relationship with those being served that would likely lead to exploitation or loss of objectivity; (2) authorize only those responsibilities that such persons can be expected to perform competently on the basis of their education, training, or experience, either independently or with the level of supervision being provided; and (3) see that such persons perform these services competently. (See also Standards 2.02, Providing Services in Emergencies; 3.05, Multiple Relationships; 4.01, Maintaining Confidentiality; 9.01, Bases for Assessments; 9.02, Use of Assessments; 9.03, Informed Consent in Assessments; and 9.07, Assessment by Unqualified Persons.)

2.06 Personal Problems and Conflicts

(a) Psychologists refrain from initiating an activity when they know or should know that there is a substantial likelihood that their personal problems will prevent them from performing their work-related activities in a competent manner.

(b) When psychologists become aware of personal problems that may interfere with their performing work-related duties adequately, they take appropriate measures, such as obtaining professional consultation or assistance, and determine whether they should limit, suspend, or terminate their work-related duties. (See also Standard 10.10, Terminating Therapy.)

3. Human Relations

3.01 Unfair Discrimination

In their work-related activities, psychologists do not engage in unfair discrimination based on age, gender, gender identity, race, ethnicity, culture, national origin, religion, sexual orientation, disability, socioeconomic status, or any basis proscribed by law.

3.02 Sexual Harassment

Psychologists do not engage in sexual harassment. Sexual harassment is sexual solicitation, physical advances, or verbal or nonverbal conduct that is sexual in nature, that occurs in connection with the psychologist's activities or roles as a psychologist, and that either (1) is unwelcome, is offensive, or creates a hostile workplace or educational environment, and the psychologist knows or is told this or (2) is sufficiently severe or intense to be abusive to a reasonable person in the context. Sexual harassment can consist of a single intense or severe act or of multiple persistent or pervasive acts. (See also Standard 1.08, Unfair Discrimination Against Complainants and Respondents.)

3.03 Other Harassment

Psychologists do not knowingly engage in behavior that is harassing or demeaning to persons with whom they interact in their work based on factors such as those persons' age, gender, gender identity, race, ethnicity, culture, national origin, religion, sexual orientation, disability, language, or socioeconomic status.

3.04 Avoiding Harm

(a) Psychologists take reasonable steps to avoid harming their clients/patients, students, supervisees, research participants, organizational clients, and others with whom they work, and to minimize harm where it is foreseeable and unavoidable.

(b) Psychologists do not participate in, facilitate, assist, or otherwise engage in torture, defined as any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person, or in any other cruel, inhuman, or degrading behavior that violates 3.04a.

3.05 Multiple Relationships

(a) A multiple relationship occurs when a psychologist is in a professional role with a person and (1) at the same time is in another role with the same person, (2) at the same time is in a relationship with a person closely associated with or related to the person with whom the psychologist has the professional relationship, or (3) promises to enter into another relationship in the future with the person or a person closely associated with or related to the person.

A psychologist refrains from entering into a multiple relationship if the multiple relationship could reasonably be expected to impair the psychologist's objectivity, competence, or effectiveness in performing his or her functions as a psychologist, or otherwise risks exploitation or harm to the person with whom the professional relationship exists.

Multiple relationships that would not reasonably be expected to cause impairment or risk exploitation or harm are not unethical.

(b) If a psychologist finds that, due to unforeseen factors, a potentially harmful multiple relationship has arisen, the psychologist takes reasonable steps to resolve it with due regard for the best interests of the affected person and maximal compliance with the Ethics Code.

(c) When psychologists are required by law, institutional policy, or extraordinary circumstances to serve in more than one role in judicial or administrative proceedings, at the outset they clarify role expectations and the extent of confidentiality and thereafter as changes occur. (See also Standards 3.04, Avoiding Harm, and 3.07, Third-Party Requests for Services.)

3.06 Conflict of Interest

Psychologists refrain from taking on a professional role when personal, scientific, professional, legal, financial, or other interests or relationships could reasonably be expected to (1) impair their objectivity, competence, or effectiveness in performing their functions as psychologists or (2) expose the person or organization with whom the professional relationship exists to harm or exploitation.

3.07 Third-Party Requests for Services

When psychologists agree to provide services to a person or entity at the request of a third party, psychologists attempt to clarify at the outset of the service the nature of the relationship with all individuals or organizations involved. This clarification includes the role of the psychologist (e.g., therapist, consultant, diagnostician, or expert witness), an identification of who is the client, the probable uses of the services provided or the information obtained, and the fact that there may be limits to confidentiality. (See also Standards 3.05, Multiple Relationships, and 4.02, Discussing the Limits of Confidentiality.)

3.08 Exploitative Relationships

Psychologists do not exploit persons over whom they have supervisory, evaluative or other authority such as clients/patients, students, supervisees, research participants, and employees. (See also Standards 3.05, Multiple Relationships; 6.04, Fees and Financial Arrangements; 6.05, Barter with Clients/Patients; 7.07, Sexual Relationships with Students and Supervisees; 10.05, Sexual Intima-

cies with Current Therapy Clients/Patients; 10.06, Sexual Intimacies with Relatives or Significant Others of Current Therapy Clients/Patients; 10.07, Therapy with Former Sexual Partners; and 10.08, Sexual Intimacies with Former Therapy Clients/Patients.)

3.09 Cooperation with Other Professionals

When indicated and professionally appropriate, psychologists cooperate with other professionals in order to serve their clients/patients effectively and appropriately. (See also Standard 4.05, Disclosures.)

3.10 Informed Consent

(a) When psychologists conduct research or provide assessment, therapy, counseling, or consulting services in person or via electronic transmission or other forms of communication, they obtain the informed consent of the individual or individuals using language that is reasonably understandable to that person or persons except when conducting such activities without consent is mandated by law or governmental regulation or as otherwise provided in this Ethics Code. (See also Standards 8.02, Informed Consent to Research; 9.03, Informed Consent in Assessments; and 10.01, Informed Consent to Therapy.)

(b) For persons who are legally incapable of giving informed consent, psychologists nevertheless (1) provide an appropriate explanation, (2) seek the individual's assent, (3) consider such persons' preferences and best interests, and (4) obtain appropriate permission from a legally authorized person, if such substitute consent is permitted or required by law. When consent by a legally authorized person is not permitted or required by law, psychologists take reasonable steps to protect the individual's rights and welfare.

(c) When psychological services are court ordered or otherwise mandated, psychologists inform the individual of the nature of the anticipated services, including whether the services are court ordered or mandated and any limits of confidentiality, before proceeding.

(d) Psychologists appropriately document written or oral consent, permission, and assent. (See also Standards 8.02, Informed Consent to Research; 9.03, Informed Consent in Assessments; and 10.01, Informed Consent to Therapy.)

3.11 Psychological Services Delivered to or Through Organizations

(a) Psychologists delivering services to or through organizations provide information beforehand to clients and when appropriate those directly affected by the services about (1) the nature and objectives of the services, (2) the intended recipients, (3) which of the individuals are clients, (4) the relationship the psychologist will have with each person and the organization, (5) the probable uses of services

provided and information obtained, (6) who will have access to the information, and (7) limits of confidentiality. As soon as feasible, they provide information about the results and conclusions of such services to appropriate persons.

(b) If psychologists will be precluded by law or by organizational roles from providing such information to particular individuals or groups, they so inform those individuals or groups at the outset of the service.

3.12 Interruption of Psychological Services

Unless otherwise covered by contract, psychologists make reasonable efforts to plan for facilitating services in the event that psychological services are interrupted by factors such as the psychologist's illness, death, unavailability, relocation, or retirement or by the client's/patient's relocation or financial limitations. (See also Standard 6.02c, Maintenance, Dissemination, and Disposal of Confidential Records of Professional and Scientific Work.)

4. Privacy and Confidentiality

4.01 Maintaining Confidentiality

Psychologists have a primary obligation and take reasonable precautions to protect confidential information obtained through or stored in any medium, recognizing that the extent and limits of confidentiality may be regulated by law or established by institutional rules or professional or scientific relationship. (See also Standard 2.05, Delegation of Work to Others.)

4.02 Discussing the Limits of Confidentiality

(a) Psychologists discuss with persons (including, to the extent feasible, persons who are legally incapable of giving informed consent and their legal representatives) and organizations with whom they establish a scientific or professional relationship (1) the relevant limits of confidentiality and (2) the foreseeable uses of the information generated through their psychological activities. (See also Standard 3.10, Informed Consent.)

(b) Unless it is not feasible or is contraindicated, the discussion of confidentiality occurs at the outset of the relationship and thereafter as new circumstances may warrant.

(c) Psychologists who offer services, products, or information via electronic transmission inform clients/patients of the risks to privacy and limits of confidentiality.

4.03 Recording

Before recording the voices or images of individuals to whom they provide services, psychologists obtain permission from all such persons or their legal representatives. (See also Standards 8.03, Informed Consent for Recording Voices and Images in Research; 8.05, Dispensing with Informed Consent for Research; and 8.07, Deception in Research.)

4.04 Minimizing Intrusions on Privacy

(a) Psychologists include in written and oral reports and consultations, only information germane to the purpose for which the communication is made.

(b) Psychologists discuss confidential information obtained in their work only for appropriate scientific or professional purposes and only with persons clearly concerned with such matters.

4.05 Disclosures

(a) Psychologists may disclose confidential information with the appropriate consent of the organizational client, the individual client/patient, or another legally authorized person on behalf of the client/patient unless prohibited by law.

(b) Psychologists disclose confidential information without the consent of the individual only as mandated by law, or where permitted by law for a valid purpose such as to (1) provide needed professional services; (2) obtain appropriate professional consultations; (3) protect the client/patient, psychologist, or others from harm; or (4) obtain payment for services from a client/patient, in which instance disclosure is limited to the minimum that is necessary to achieve the purpose. (See also Standard 6.04e, Fees and Financial Arrangements.)

4.06 Consultations

When consulting with colleagues, (1) psychologists do not disclose confidential information that reasonably could lead to the identification of a client/patient, research participant, or other person or organization with whom they have a confidential relationship unless they have obtained the prior consent of the person or organization or the disclosure cannot be avoided, and (2) they disclose information only to the extent necessary to achieve the purposes of the consultation. (See also Standard 4.01, Maintaining Confidentiality.)

4.07 Use of Confidential Information for Didactic or Other Purposes

Psychologists do not disclose in their writings, lectures, or other public media, confidential, personally identifiable information concerning their clients/patients, students, research participants, organizational clients, or other recipients of their services that they obtained during the course of their work, unless (1) they take reasonable steps to disguise the person or organization, (2) the person or organization has consented in writing, or (3) there is legal authorization for doing so.

5. Advertising and Other Public Statements

5.01 Avoidance of False or Deceptive Statements

(a) Public statements include but are not limited to paid or unpaid advertising, product endorsements, grant applications, licensing applications, other credentialing applications, brochures, printed matter, directory listings, personal resumes or curricula vitae, or comments for use in media such as print or electronic transmission, statements in legal proceedings, lectures and public oral presentations, and published materials. Psychologists do not knowingly make public statements that are false, deceptive, or fraudulent concerning their research, practice, or other work activities or those of persons or organizations with which they are affiliated.

(b) Psychologists do not make false, deceptive, or fraudulent statements concerning (1) their training, experience, or competence; (2) their academic degrees; (3) their credentials; (4) their institutional or association affiliations; (5) their services; (6) the scientific or clinical basis for, or results or degree of success of, their services; (7) their fees; or (8) their publications or research findings.

(c) Psychologists claim degrees as credentials for their health services only if those degrees (1) were earned from a regionally accredited educational institution or (2) were the basis for psychology licensure by the state in which they practice.

5.02 Statements by Others

(a) Psychologists who engage others to create or place public statements that promote their professional practice, products, or activities retain professional responsibility for such statements.

(b) Psychologists do not compensate employees of press, radio, television, or other communication media in return for publicity in a news item. (See also Standard 1.01, Misuse of Psychologists' Work.)

(c) A paid advertisement relating to psychologists' activities must be identified or clearly recognizable as such.

5.03 Descriptions of Workshops and Non-Degree-Granting Educational Programs

To the degree to which they exercise control, psychologists responsible for announcements, catalogs, brochures, or advertisements describing workshops, seminars, or other non-degree-granting educational programs ensure that they accurately describe the audience for which the program is intended, the educational objectives, the presenters, and the fees involved.

5.04 Media Presentations

When psychologists provide public advice or comment via print, Internet, or other electronic transmission,

they take precautions to ensure that statements (1) are based on their professional knowledge, training, or experience in accord with appropriate psychological literature and practice; (2) are otherwise consistent with this Ethics Code; and (3) do not indicate that a professional relationship has been established with the recipient. (See also Standard 2.04, Bases for Scientific and Professional Judgments.)

5.05 Testimonials

Psychologists do not solicit testimonials from current therapy clients/patients or other persons who because of their particular circumstances are vulnerable to undue influence.

5.06 In-Person Solicitation

Psychologists do not engage, directly or through agents, in uninvited in-person solicitation of business from actual or potential therapy clients/patients or other persons who because of their particular circumstances are vulnerable to undue influence. However, this prohibition does not preclude (1) attempting to implement appropriate collateral contacts for the purpose of benefiting an already engaged therapy client/patient or (2) providing disaster or community outreach services.

6. Record Keeping and Fees

6.01 Documentation of Professional and Scientific Work and Maintenance of Records

Psychologists create, and to the extent the records are under their control, maintain, disseminate, store, retain, and dispose of records and data relating to their professional and scientific work in order to (1) facilitate provision of services later by them or by other professionals, (2) allow for replication of research design and analyses, (3) meet institutional requirements, (4) ensure accuracy of billing and payments, and (5) ensure compliance with law. (See also Standard 4.01, Maintaining Confidentiality.)

6.02 Maintenance, Dissemination, and Disposal of Confidential Records of Professional and Scientific Work

(a) Psychologists maintain confidentiality in creating, storing, accessing, transferring, and disposing of records under their control, whether these are written, automated, or in any other medium. (See also Standards 4.01, Maintaining Confidentiality, and 6.01, Documentation of Professional and Scientific Work and Maintenance of Records.)

(b) If confidential information concerning recipients of psychological services is entered into databases or systems of records available to persons whose access has not been consented to by the recipient, psychologists use coding or other techniques to avoid the inclusion of personal identifiers.

(c) Psychologists make plans in advance to facilitate the appropriate transfer and to protect the confidentiality of records and data in the event of psychologists' withdrawal from positions or practice. (See also Standards 3.12, Interruption of Psychological Services, and 10.09, Interruption of Therapy.)

6.03 Withholding Records for Nonpayment

Psychologists may not withhold records under their control that are requested and needed for a client's/patient's emergency treatment solely because payment has not been received.

6.04 Fees and Financial Arrangements

(a) As early as is feasible in a professional or scientific relationship, psychologists and recipients of psychological services reach an agreement specifying compensation and billing arrangements.

(b) Psychologists' fee practices are consistent with law.

(c) Psychologists do not misrepresent their fees.

(d) If limitations to services can be anticipated because of limitations in financing, this is discussed with the recipient of services as early as is feasible. (See also Standards 10.09, Interruption of Therapy, and 10.10, Terminating Therapy.)

(e) If the recipient of services does not pay for services as agreed, and if psychologists intend to use collection agencies or legal measures to collect the fees, psychologists first inform the person that such measures will be taken and provide that person an opportunity to make prompt payment. (See also Standards 4.05, Disclosures; 6.03, Withholding Records for Nonpayment; and 10.01, Informed Consent to Therapy.)

6.05 Barter with Clients/Patients

Barter is the acceptance of goods, services, or other nonmonetary remuneration from clients/patients in return for psychological services. Psychologists may barter only if (1) it is not clinically contraindicated, and (2) the resulting arrangement is not exploitative. (See also Standards 3.05, Multiple Relationships, and 6.04, Fees and Financial Arrangements.)

6.06 Accuracy in Reports to Payors and Funding Sources

In their reports to payors for services or sources of research funding, psychologists take reasonable steps to ensure the accurate reporting of the nature of the service provided or research conducted, the fees, charges, or payments, and where applicable, the identity of the provider, the findings, and the diagnosis. (See also Standards 4.01, Maintaining Confidentiality; 4.04, Minimizing Intrusions on Privacy; and 4.05, Disclosures.)

6.07 Referrals and Fees

When psychologists pay, receive payment from, or divide fees with another professional, other than in an employer-employee relationship, the payment to each is based on the services provided (clinical, consultative, administrative, or other) and is not based on the referral itself. (See also Standard 3.09, Cooperation with Other Professionals.)

7. Education and Training

7.01 Design of Education and Training Programs

Psychologists responsible for education and training programs take reasonable steps to ensure that the programs are designed to provide the appropriate knowledge and proper experiences, and to meet the requirements for licensure, certification, or other goals for which claims are made by the program. (See also Standard 5.03, Descriptions of Workshops and Non-Degree-Granting Educational Programs.)

7.02 Descriptions of Education and Training Programs

Psychologists responsible for education and training programs take reasonable steps to ensure that there is a current and accurate description of the program content (including participation in required course- or program-related counseling, psychotherapy, experiential groups, consulting projects, or community service), training goals and objectives, stipends and benefits, and requirements that must be met for satisfactory completion of the program. This information must be made readily available to all interested parties.

7.03 Accuracy in Teaching

(a) Psychologists take reasonable steps to ensure that course syllabi are accurate regarding the subject matter to be covered, bases for evaluating progress, and the nature of course experiences. This standard does not preclude an instructor from modifying course content or requirements when the instructor considers it pedagogically necessary or desirable, so long as students are made aware of these modifications in a manner that enables them to fulfill course requirements. (See also Standard 5.01, Avoidance of False or Deceptive Statements.)

(b) When engaged in teaching or training, psychologists present psychological information accurately. (See also Standard 2.03, Maintaining Competence.)

7.04 Student Disclosure of Personal Information

Psychologists do not require students or supervisees to disclose personal information in course- or program-related activities, either orally or in writing, regarding

sexual history, history of abuse and neglect, psychological treatment, and relationships with parents, peers, and spouses or significant others except if (1) the program or training facility has clearly identified this requirement in its admissions and program materials or (2) the information is necessary to evaluate or obtain assistance for students whose personal problems could reasonably be judged to be preventing them from performing their training- or professionally related activities in a competent manner or posing a threat to the students or others.

7.05 Mandatory Individual or Group Therapy

(a) When individual or group therapy is a program or course requirement, psychologists responsible for that program allow students in undergraduate and graduate programs the option of selecting such therapy from practitioners unaffiliated with the program. (See also Standard 7.02, Descriptions of Education and Training Programs.)

(b) Faculty who are or are likely to be responsible for evaluating students' academic performance do not themselves provide that therapy. (See also Standard 3.05, Multiple Relationships.)

7.06 Assessing Student and Supervisee Performance

(a) In academic and supervisory relationships, psychologists establish a timely and specific process for providing feedback to students and supervisees. Information regarding the process is provided to the student at the beginning of supervision.

(b) Psychologists evaluate students and supervisees on the basis of their actual performance on relevant and established program requirements.

7.07 Sexual Relationships with Students and Supervisees

Psychologists do not engage in sexual relationships with students or supervisees who are in their department, agency, or training center or over whom psychologists have or are likely to have evaluative authority. (See also Standard 3.05, Multiple Relationships.)

8. Research and Publication

8.01 Institutional Approval

When institutional approval is required, psychologists provide accurate information about their research proposals and obtain approval prior to conducting the research. They conduct the research in accordance with the approved research protocol.

8.02 Informed Consent to Research

(a) When obtaining informed consent as required in Standard 3.10, Informed Consent, psychologists inform participants about (1) the purpose of the research, expect-

ed duration, and procedures; (2) their right to decline to participate and to withdraw from the research once participation has begun; (3) the foreseeable consequences of declining or withdrawing; (4) reasonably foreseeable factors that may be expected to influence their willingness to participate such as potential risks, discomfort, or adverse effects; (5) any prospective research benefits; (6) limits of confidentiality; (7) incentives for participation; and (8) whom to contact for questions about the research and research participants' rights. They provide opportunity for the prospective participants to ask questions and receive answers. (See also Standards 8.03, Informed Consent for Recording Voices and Images in Research; 8.05, Dispensing with Informed Consent for Research; and 8.07, Deception in Research.)

(b) Psychologists conducting intervention research involving the use of experimental treatments clarify to participants at the outset of the research (1) the experimental nature of the treatment; (2) the services that will or will not be available to the control group(s) if appropriate; (3) the means by which assignment to treatment and control groups will be made; (4) available treatment alternatives if an individual does not wish to participate in the research or wishes to withdraw once a study has begun; and (5) compensation for or monetary costs of participating including, if appropriate, whether reimbursement from the participant or a third-party payor will be sought. (See also Standard 8.02a, Informed Consent to Research.)

8.03 Informed Consent for Recording Voices and Images in Research

Psychologists obtain informed consent from research participants prior to recording their voices or images for data collection unless (1) the research consists solely of naturalistic observations in public places, and it is not anticipated that the recording will be used in a manner that could cause personal identification or harm, or (2) the research design includes deception, and consent for the use of the recording is obtained during debriefing. (See also Standard 8.07, Deception in Research.)

8.04 Client/Patient, Student, and Subordinate Research Participants

(a) When psychologists conduct research with clients/patients, students, or subordinates as participants, psychologists take steps to protect the prospective participants from adverse consequences of declining or withdrawing from participation.

(b) When research participation is a course requirement or an opportunity for extra credit, the prospective participant is given the choice of equitable alternative activities.

8.05 Dispensing with Informed Consent for Research

Psychologists may dispense with informed consent only (1) where research would not reasonably be assumed to create distress or harm and involves (a) the study of normal educational practices, curricula, or classroom management methods conducted in educational settings; (b) only anonymous questionnaires, naturalistic observations, or archival research for which disclosure of responses would not place participants at risk of criminal or civil liability or damage their financial standing, employability, or reputation, and confidentiality is protected; or (c) the study of factors related to job or organization effectiveness conducted in organizational settings for which there is no risk to participants' employability, and confidentiality is protected or (2) where otherwise permitted by law or federal or institutional regulations.

8.06 Offering Inducements for Research Participation

(a) Psychologists make reasonable efforts to avoid offering excessive or inappropriate financial or other inducements for research participation when such inducements are likely to coerce participation.

(b) When offering professional services as an inducement for research participation, psychologists clarify the nature of the services, as well as the risks, obligations, and limitations. (See also Standard 6.05, Barter with Clients/Patients.)

8.07 Deception in Research

(a) Psychologists do not conduct a study involving deception unless they have determined that the use of deceptive techniques is justified by the study's significant prospective scientific, educational, or applied value and that effective nondeceptive alternative procedures are not feasible.

(b) Psychologists do not deceive prospective participants about research that is reasonably expected to cause physical pain or severe emotional distress.

(c) Psychologists explain any deception that is an integral feature of the design and conduct of an experiment to participants as early as is feasible, preferably at the conclusion of their participation, but no later than at the conclusion of the data collection, and permit participants to withdraw their data. (See also Standard 8.08, Debriefing.)

8.08 Debriefing

(a) Psychologists provide a prompt opportunity for participants to obtain appropriate information about the nature, results, and conclusions of the research, and they take reasonable steps to correct any misconceptions that participants may have of which the psychologists are aware.

(b) If scientific or humane values justify delaying or withholding this information, psychologists take reasonable measures to reduce the risk of harm.

(c) When psychologists become aware that research procedures have harmed a participant, they take reasonable steps to minimize the harm.

8.09 Humane Care and Use of Animals in Research

(a) Psychologists acquire, care for, use, and dispose of animals in compliance with current federal, state, and local laws and regulations, and with professional standards.

(b) Psychologists trained in research methods and experienced in the care of laboratory animals supervise all procedures involving animals and are responsible for ensuring appropriate consideration of their comfort, health, and humane treatment.

(c) Psychologists ensure that all individuals under their supervision who are using animals have received instruction in research methods and in the care, maintenance, and handling of the species being used, to the extent appropriate to their role. (See also Standard 2.05, Delegation of Work to Others.)

(d) Psychologists make reasonable efforts to minimize the discomfort, infection, illness, and pain of animal subjects.

(e) Psychologists use a procedure subjecting animals to pain, stress, or privation only when an alternative procedure is unavailable and the goal is justified by its prospective scientific, educational, or applied value.

(f) Psychologists perform surgical procedures under appropriate anesthesia and follow techniques to avoid infection and minimize pain during and after surgery.

(g) When it is appropriate that an animal's life be terminated, psychologists proceed rapidly, with an effort to minimize pain and in accordance with accepted procedures.

8.10 Reporting Research Results

(a) Psychologists do not fabricate data. (See also Standard 5.01a, Avoidance of False or Deceptive Statements.)

(b) If psychologists discover significant errors in their published data, they take reasonable steps to correct such errors in a correction, retraction, erratum, or other appropriate publication means.

8.11 Plagiarism

Psychologists do not present portions of another's work or data as their own, even if the other work or data source is cited occasionally.

8.12 Publication Credit

(a) Psychologists take responsibility and credit, in-

cluding authorship credit, only for work they have actually performed or to which they have substantially contributed. (See also Standard 8.12b, Publication Credit.)

(b) Principal authorship and other publication credits accurately reflect the relative scientific or professional contributions of the individuals involved, regardless of their relative status. Mere possession of an institutional position, such as department chair, does not justify authorship credit. Minor contributions to the research or to the writing for publications are acknowledged appropriately, such as in footnotes or in an introductory statement.

(c) Except under exceptional circumstances, a student is listed as principal author on any multiple-authored article that is substantially based on the student's doctoral dissertation. Faculty advisors discuss publication credit with students as early as feasible and throughout the research and publication process as appropriate. (See also Standard 8.12b, Publication Credit.)

8.13 Duplicate Publication of Data

Psychologists do not publish, as original data, data that have been previously published. This does not preclude republishing data when they are accompanied by proper acknowledgment.

8.14 Sharing Research Data for Verification

(a) After research results are published, psychologists do not withhold the data on which their conclusions are based from other competent professionals who seek to verify the substantive claims through reanalysis and who intend to use such data only for that purpose, provided that the confidentiality of the participants can be protected and unless legal rights concerning proprietary data preclude their release. This does not preclude psychologists from requiring that such individuals or groups be responsible for costs associated with the provision of such information.

(b) Psychologists who request data from other psychologists to verify the substantive claims through reanalysis may use shared data only for the declared purpose. Requesting psychologists obtain prior written agreement for all other uses of the data.

8.15 Reviewers

Psychologists who review material submitted for presentation, publication, grant, or research proposal review respect the confidentiality of and the proprietary rights in such information of those who submitted it.

9. Assessment

9.01 Bases for Assessments

(a) Psychologists base the opinions contained in their recommendations, reports, and diagnostic or evaluative statements, including forensic testimony, on informa-

tion and techniques sufficient to substantiate their findings. (See also Standard 2.04, Bases for Scientific and Professional Judgments.)

(b) Except as noted in 9.01c, psychologists provide opinions of the psychological characteristics of individuals only after they have conducted an examination of the individuals adequate to support their statements or conclusions. When, despite reasonable efforts, such an examination is not practical, psychologists document the efforts they made and the result of those efforts, clarify the probable impact of their limited information on the reliability and validity of their opinions, and appropriately limit the nature and extent of their conclusions or recommendations. (See also Standards 2.01, Boundaries of Competence, and 9.06, Interpreting Assessment Results.)

(c) When psychologists conduct a record review or provide consultation or supervision and an individual examination is not warranted or necessary for the opinion, psychologists explain this and the sources of information on which they based their conclusions and recommendations.

9.02 Use of Assessments

(a) Psychologists administer, adapt, score, interpret, or use assessment techniques, interviews, tests, or instruments in a manner and for purposes that are appropriate in light of the research on or evidence of the usefulness and proper application of the techniques.

(b) Psychologists use assessment instruments whose validity and reliability have been established for use with members of the population tested. When such validity or reliability has not been established, psychologists describe the strengths and limitations of test results and interpretation.

(c) Psychologists use assessment methods that are appropriate to an individual's language preference and competence, unless the use of an alternative language is relevant to the assessment issues.

9.03 Informed Consent in Assessments

(a) Psychologists obtain informed consent for assessments, evaluations, or diagnostic services, as described in Standard 3.10, Informed Consent, except when (1) testing is mandated by law or governmental regulations; (2) informed consent is implied because testing is conducted as a routine educational, institutional, or organizational activity (e.g., when participants voluntarily agree to assessment when applying for a job); or (3) one purpose of the testing is to evaluate decisional capacity. Informed consent includes an explanation of the nature and purpose of the assessment, fees, involvement of third parties, and limits of confidentiality and sufficient opportunity for the client/patient to ask questions and receive answers.

(b) Psychologists inform persons with questionable

capacity to consent or for whom testing is mandated by law or governmental regulations about the nature and purpose of the proposed assessment services, using language that is reasonably understandable to the person being assessed.

(c) Psychologists using the services of an interpreter obtain informed consent from the client/patient to use that interpreter, ensure that confidentiality of test results and test security are maintained, and include in their recommendations, reports, and diagnostic or evaluative statements, including forensic testimony, discussion of any limitations on the data obtained. (See also Standards 2.05, Delegation of Work to Others; 4.01, Maintaining Confidentiality; 9.01, Bases for Assessments; 9.06, Interpreting Assessment Results; and 9.07, Assessment by Unqualified Persons.)

9.04 Release of Test Data

(a) The term *test data* refers to raw and scaled scores, client/patient responses to test questions or stimuli, and psychologists' notes and recordings concerning client/patient statements and behavior during an examination. Those portions of test materials that include client/patient responses are included in the definition of *test data*. Pursuant to a client/patient release, psychologists provide test data to the client/patient or other persons identified in the release. Psychologists may refrain from releasing test data to protect a client/patient or others from substantial harm or misuse or misrepresentation of the data or the test, recognizing that in many instances release of confidential information under these circumstances is regulated by law. (See also Standard 9.11, Maintaining Test Security.)

(b) In the absence of a client/patient release, psychologists provide test data only as required by law or court order.

9.05 Test Construction

Psychologists who develop tests and other assessment techniques use appropriate psychometric procedures and current scientific or professional knowledge for test design, standardization, validation, reduction or elimination of bias, and recommendations for use.

9.06 Interpreting Assessment Results

When interpreting assessment results, including automated interpretations, psychologists take into account the purpose of the assessment as well as the various test factors, test-taking abilities, and other characteristics of the person being assessed, such as situational, personal, linguistic, and cultural differences, that might affect psychologists' judgments or reduce the accuracy of their interpretations. They indicate any significant limitations of their interpretations. (See also Standards 2.01b and c, Boundaries of Competence, and 3.01, Unfair Discrimination.)

9.07 Assessment by Unqualified Persons

Psychologists do not promote the use of psychological assessment techniques by unqualified persons, except when such use is conducted for training purposes with appropriate supervision. (See also Standard 2.05, Delegation of Work to Others.)

9.08 Obsolete Tests and Outdated Test Results

(a) Psychologists do not base their assessment or intervention decisions or recommendations on data or test results that are outdated for the current purpose.

(b) Psychologists do not base such decisions or recommendations on tests and measures that are obsolete and not useful for the current purpose.

9.09 Test Scoring and Interpretation Services

(a) Psychologists who offer assessment or scoring services to other professionals accurately describe the purpose, norms, validity, reliability, and applications of the procedures and any special qualifications applicable to their use.

(b) Psychologists select scoring and interpretation services (including automated services) on the basis of evidence of the validity of the program and procedures as well as on other appropriate considerations. (See also Standard 2.01b and c, Boundaries of Competence.)

(c) Psychologists retain responsibility for the appropriate application, interpretation, and use of assessment instruments, whether they score and interpret such tests themselves or use automated or other services.

9.10 Explaining Assessment Results

Regardless of whether the scoring and interpretation are done by psychologists, by employees or assistants, or by automated or other outside services, psychologists take reasonable steps to ensure that explanations of results are given to the individual or designated representative unless the nature of the relationship precludes provision of an explanation of results (such as in some organizational consulting, preemployment or security screenings, and forensic evaluations), and this fact has been clearly explained to the person being assessed in advance.

9.11 Maintaining Test Security

The term *test materials* refers to manuals, instruments, protocols, and test questions or stimuli and does not include *test data* as defined in Standard 9.04, Release of Test Data. Psychologists make reasonable efforts to maintain the integrity and security of test materials and other assessment techniques consistent with law and contractual obligations, and in a manner that permits adherence to this Ethics Code.

10. Therapy

10.01 Informed Consent to Therapy

(a) When obtaining informed consent to therapy as required in Standard 3.10, Informed Consent, psychologists inform clients/patients as early as is feasible in the therapeutic relationship about the nature and anticipated course of therapy, fees, involvement of third parties, and limits of confidentiality and provide sufficient opportunity for the client/patient to ask questions and receive answers. (See also Standards 4.02, Discussing the Limits of Confidentiality, and 6.04, Fees and Financial Arrangements.)

(b) When obtaining informed consent for treatment for which generally recognized techniques and procedures have not been established, psychologists inform their clients/patients of the developing nature of the treatment, the potential risks involved, alternative treatments that may be available, and the voluntary nature of their participation. (See also Standards 2.01e, Boundaries of Competence, and 3.10, Informed Consent.)

(c) When the therapist is a trainee and the legal responsibility for the treatment provided resides with the supervisor, the client/patient, as part of the informed consent procedure, is informed that the therapist is in training and is being supervised and is given the name of the supervisor.

10.02 Therapy Involving Couples or Families

(a) When psychologists agree to provide services to several persons who have a relationship (such as spouses, significant others, or parents and children), they take reasonable steps to clarify at the outset (1) which of the individuals are clients/patients and (2) the relationship the psychologist will have with each person. This clarification includes the psychologist's role and the probable uses of the services provided or the information obtained. (See also Standard 4.02, Discussing the Limits of Confidentiality.)

(b) If it becomes apparent that psychologists may be called on to perform potentially conflicting roles (such as family therapist and then witness for one party in divorce proceedings), psychologists take reasonable steps to clarify and modify, or withdraw from, roles appropriately. (See also Standard 3.05c, Multiple Relationships.)

10.03 Group Therapy

When psychologists provide services to several persons in a group setting, they describe at the outset the roles and responsibilities of all parties and the limits of confidentiality.

10.04 Providing Therapy to Those Served by Others

In deciding whether to offer or provide services to those already receiving mental health services elsewhere, psychologists carefully consider the treatment issues and the potential client's/patient's welfare. Psychologists discuss these issues with the client/patient or another legally authorized person on behalf of the client/patient in order to minimize the risk of confusion and conflict, consult with the other service providers when appropriate, and proceed with caution and sensitivity to the therapeutic issues.

10.05 Sexual Intimacies with Current Therapy Clients/Patients

Psychologists do not engage in sexual intimacies with current therapy clients/patients.

10.06 Sexual Intimacies with Relatives or Significant Others of Current Therapy Clients/Patients

Psychologists do not engage in sexual intimacies with individuals they know to be close relatives, guardians, or significant others of current clients/patients. Psychologists do not terminate therapy to circumvent this standard.

10.07 Therapy with Former Sexual Partners

Psychologists do not accept as therapy clients/patients persons with whom they have engaged in sexual intimacies.

10.08 Sexual Intimacies with Former Therapy Clients/Patients

(a) Psychologists do not engage in sexual intimacies with former clients/patients for at least two years after cessation or termination of therapy.

(b) Psychologists do not engage in sexual intimacies with former clients/patients even after a two-year interval except in the most unusual circumstances. Psychologists who engage in such activity after the two years following cessation or termination of therapy and of having no sexual contact with the former client/patient bear the burden of demonstrating that there has been no exploitation, in light of all relevant factors, including (1) the amount of time that has passed since therapy terminated; (2) the nature, duration, and intensity of the therapy; (3) the circumstances of termination; (4) the client's/patient's personal history; (5) the client's/patient's current mental status; (6) the likelihood of adverse impact on the client/patient; and (7) any statements or actions made by the therapist during the course of therapy suggesting or inviting the possibility of a posttermination sexual or romantic relationship with the client/patient. (See also Standard 3.05, Multiple Relationships.)

10.09 Interruption of Therapy

When entering into employment or contractual relationships, psychologists make reasonable efforts to provide for orderly and appropriate resolution of responsibility for client/patient care in the event that the employment or contractual relationship ends, with paramount consideration given to the welfare of the client/patient. (See also Standard 3.12, Interruption of Psychological Services.)

10.10 Terminating Therapy

(a) Psychologists terminate therapy when it becomes reasonably clear that the client/patient no longer needs the service, is not likely to benefit, or is being harmed by continued service.

(b) Psychologists may terminate therapy when threatened or otherwise endangered by the client/patient or another person with whom the client/patient has a relationship.

(c) Except where precluded by the actions of clients/patients or third-party payors, prior to termination psychologists provide pretermination counseling and suggest alternative service providers as appropriate.

AMENDMENTS TO THE 2002 “ETHICAL PRINCIPLES OF PSYCHOLOGISTS AND CODE OF CONDUCT” IN 2010 AND 2016

2010 Amendments

Introduction and Applicability

If psychologists’ ethical responsibilities conflict with law, regulations, or other governing legal authority, psychologists make known their commitment to this Ethics Code and take steps to resolve the conflict in a responsible manner. ~~If the conflict is unresolvable via such means, psychologists may adhere to the requirements of the law, regulations, or other governing authority in keeping with basic principles of human rights.~~

1.02 Conflicts Between Ethics and Law, Regulations, or Other Governing Legal Authority

If psychologists’ ethical responsibilities conflict with law, regulations, or other governing legal authority, psychologists clarify the nature of the conflict, make known their commitment to the Ethics Code, and take reasonable steps to resolve the conflict consistent with the General Principles and Ethical Standards of the Ethics Code. ~~If the conflict is unresolvable via such means, psychologists may adhere to the requirements of the law, regulations, or other governing legal authority. Under no circumstances may this standard be used to justify or defend violating human rights.~~

1.03 Conflicts Between Ethics and Organizational Demands

If the demands of an organization with which psychologists are affiliated or for whom they are working are in conflict with this Ethics Code, psychologists clarify the nature of the conflict, make known their commitment to the Ethics Code, and to the extent feasible, resolve the conflict in a way that permits adherence to the Ethics Code. take reasonable steps to resolve the conflict consistent with the General Principles and Ethical Standards of the Ethics Code. Under no circumstances may this standard be used to justify or defend violating human rights.

2016 Amendment

3.04 Avoiding Harm

(a) Psychologists take reasonable steps to avoid harming their clients/patients, students, supervisees, research participants, organizational clients, and others with whom they work, and to minimize harm where it is foreseeable and unavoidable.

(b) Psychologists do not participate in, facilitate, assist, or otherwise engage in torture, defined as any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person, or in any other cruel, inhuman, or degrading behavior that violates 3.04a.

Statement on Third Party Observers in Psychological Testing and Assessment: A Framework for Decision Making

Committee on Psychological Tests and Assessment
American Psychological Association

This Statement does not constitute an official policy of the American Psychological Association (APA), does not purport to dispense legal advice, and is not intended to establish standards or guidelines for conduct by practitioners. The statement may prove useful in analyzing and responding to situations in which third parties request to be present, either in person or by electronic proxy, at the time that psychological evaluations are conducted.

INTRODUCTION

Psychologists occasionally receive requests that observers be allowed to witness or record the administration of a psychological evaluation. An evaluation is broadly defined as a standardized or non-standardized observation, interview, or test. An evaluation may occur in any number of clinical, educational, employment, and forensic contexts. For example, attorneys may desire to obtain additional information about the processes contributing to the formation of an expert psychological opinion. Examinees may attempt to condition their participation in an evaluation upon the presence of a trusted friend or relative. Professors and supervisors may seek to provide qualified students or trainees with an in vivo demonstration of advanced evaluation techniques. Hence, the observer may be a psychologist or trainee and, in such cases, all the same issues and concerns apply. The styling of and motivation behind requests to observe psychological assessment and test-

ing are as varied and multifaceted as the purposes, settings, and conduct of the assessments themselves.

The primary purpose of this Statement is to provide psychologists with information to assist them in (a) reaching a conclusion concerning the appropriateness of observation of psychological evaluations, (b) conveying the scientific and professional bases for such a conclusion, and (c) identifying options in light of such a conclusion, with sensitivity to the particular source and substance of a request for observation and the specific nature and circumstances of the assessment in question. A secondary purpose is to inform and educate nonpsychologists regarding these issues and the consequences of such observations.

Psychologists need to be aware of relevant ethics code provisions regarding uses of assessment to facilitate valid results (see Section 9 of the APA Ethics Code). Psychologists enhance the validity of evaluation results by adhering to standardized procedures (when the techniques they use outline standardized administration procedures) and by developing and sustaining rapport with the examinee. In most testing manuals, standardized procedures and recommended practices for developing and sustaining rapport specify that only the psychologist and the examinee are present in the assessment setting. However, in some cases, the presence of a third party may help develop and sustain rapport in order to facilitate validity. Examples of such cases include the use of sign or voice language interpreters, an assistant or aide to support physical accessibility, or the inclusion of a caregiver for an examinee

This document is the product of over 7 seven years of American Psychological Association (APA) volunteer and staff effort. The Committee on Psychological Tests and Assessment (CPTA) and the Science Directorate wish to thank current and former members of CPTA for their efforts in conceiving, drafting, and producing this document. In addition, the members of CPTA wish to extend special appreciation to the APA's Committee on Legal Issues for their thoughtful critique and suggestions for improvement of earlier drafts. Correspondence concerning this article should be addressed to the Science Directorate, Office of Testing and Assessment, 750 First St. NE, Washington, DC 20002-4242.

whose ability to perform may be significantly impaired when the examinee is separated from the caregiver. Another example is the case of an immigrant from a substantially different culture who may not feel comfortable with one-on-one testing. In addition, the question of an observer may be introduced by psychologists in an effort to address questions of the validity of the assessment process. Specifically, if the validity of the evaluation may be compromised without a third party observer, the psychologist may want to consider requesting that a third party observer be present (e.g., a parent). In all of these situations, the psychologist may want to take steps (discussed later) to ensure that the presence of the third party facilitates or affects minimally the validity and fairness of the assessment.

ASSESSMENT ISSUES

The use of uniform, standardized evaluation procedures is one of the fundamental canons upon which psychological assessment and testing is founded (American Educational Research Association, American Psychological Association, & National Council on Measurement in Education [AERA, APA, NCME], 1999). Failure to adhere to requisite data gathering procedures may compromise the validity of inferences made from these observations (cf. Anastasi & Urbina, 1997; Sattler, 2001, 2006). Research in social psychology demonstrates that individuals' behavior frequently changes in the presence of a third party (e.g., Chekroun & Brauer, 2002). Therefore, there is substantial reason to suspect that the inclusion of a third party in an assessment may influence the examinee's behavior.

The effects of observation upon an examinee's test performance may vary as a function of the identity of the observer, the purpose of observation, the manner of observation, the assessment instruments involved, the examinee's sensitivity to observation, and many other factors. Because psychological assessment procedures and tests typically are not standardized using scores obtained in the presence of third party observers, observation or surveillance may violate the conditions of standardization. Moreover, negative effects of observation on test performance may impair the validity of routine test interpretation strategies (e.g., Binder & Johnson-Greene, 1995; Isaacs & Chen, 1990;

Kehrer, Sanchez, Habif, Rosenbaum, & Townes, 2000; Lynch, 2005; Lynch & McCaffrey, 2004; McCaffrey, Fisher, Gold, & Lynch, 1996; McSweeney et al., 1998; Masling, 1960; Sattler & Theye, 1967). Recent studies of neuropsychological evaluations indicate that the presence of observers increases performance errors and false positives on the measures used (Constantinou, Ashendorf, & McCaffrey, 2006; Gavett, Lynch, & McCaffrey, 2006; Lynch, 2005). One neuropsychological study suggests that negative effects may occur even in cases where the psychologist requests, and the examinee consents to, observation—such as when a clinical supervisor observes a supervisee conducting an assessment (Yantz & McCaffrey, 2005).

Because some examinees may be less likely to share personal information if they believe that others are observing or could observe their actual statements or behavior (e.g., Sattler, 1998), the validity of nonstandardized or non-test assessment procedures, such as interviews or observations, may also be affected by the perceived or actual presence of a third party. For example, one study suggests that interviews conducted in the presence of a third party may elicit qualitatively or quantitatively different (though not necessarily invalid) responses than those conducted in the absence of a third party (Podmore, Chaney, & Golder, 1975).

Psychologists may also want to consider carefully the issues involved in recording evaluations for observation by third parties not present during the testing. Examinees who are aware that their assessment is being recorded, either in audio only or in combined audio and video, may also alter their assessment behavior (Constantinou, Ashendorf, & McCaffrey, 2005). Although surreptitious observation and recording (in which the examinee is unaware of the observation) may minimize the examinee's reactivity to observation, surreptitious surveillance may also raise ethical (e.g., APA, 2002; AERA, APA, NCME, 1999) and legal issues regarding the psychologist's obligation to disclose to the examinee the fact that the session is being observed or recorded and the identity of individuals who may have access to the observation or recording.

With regard to test security and potential misuse of tests, the cautions that apply in allowing observation

or recording of test administrations by unqualified individuals are essentially the same as those that have been presented in reference to the disclosure of test data (cf. American Academy of Clinical Neuropsychology, 2001; Committee on Legal Issues, 2006; Committee on Psychological Tests and Assessment, 1996a, 1996b; National Academy of Neuropsychology, 2000a, 2000b). These sources indicate that by creating a retrievable record of test items and responses and by making this record available to nonpsychologists, the security of test materials and the copyright may be compromised. Information contained in that record may also be subject to misuse. For example, observers who learn the specific item content of psychological tests could potentially use this information to “coach” or otherwise prepare subsequent clients (Cato, Brewster, Ryan, & Giuliano, 2002; Rosen, 1995; Victor & Abeles, 2004; Youngjohn, 1995).

Given that validity and test security may be compromised when third parties are allowed to observe or otherwise survey the process of test administration, some have proffered specific recommendations against allowing third party observation (e.g., American Academy of Clinical Neuropsychology, 2001; Anastasi & Urbina, 1997, p. 13; Duff & Fisher, in press; National Academy of Neuropsychology Policy and Planning Committee, 2000a; Sattler, 1988, p. 109; Wechsler, 1997a, p. 29; Wechsler, 1997b, p. 30). However, other research also indicates that in some situations failure to include a third party may undermine the validity of assessment results. These situations are guided by the principle of ensuring access to the assessment setting for the examinee. There are important differences between access skills (i.e., skills and capabilities needed to comprehend and respond to the assessment) and target skills (i.e., the skills and capabilities that are the focus of the assessment). Barriers posed when examinees do not have prerequisite access skills (e.g., linguistic comprehension and expression, the physical ability to see or physically access materials, the emotional security needed to engage in cognitive processes) should be either removed or controlled as best as possible, while concurrently retaining the target skills demanded in the assessment. In some cases, access is facilitated through physical changes to the assessment environment (e.g., wheelchair accessible furniture, use of large

print materials). In other cases, access is facilitated by a third party (e.g., voice or sign language interpreters, physical assistants, and caregivers to reduce anxiety). Psychologists may initiate a request to include a third party when, in their judgment, such inclusion would reduce barriers posed by access skills without altering the target skills demanded in the assessment.

POTENTIAL OPTIONS

In those situations in which psychologists are faced with requests for observation or participation of a third party, they may wish to consider one or more of the following options, when such options are both ethical and practical in the context of the particular assessment in question:

1. Conduct the Evaluation in the Presence of a Third Party Observer

In some instances, the psychologist may conclude that the assessment can be conducted with an observer in a way that would neither impair the validity or fairness of the evaluation and findings, nor raise ethical or legal problems. When a request for such an assessment is accepted, it may be appropriate to consider ways to minimize the impact of observation on the validity and fairness of the evaluation. Such steps include, but are not limited to, seating the observer behind the examinee and ensuring the observer consents to not speaking or otherwise influencing the examinee during the assessment. In cases in which the psychologist decides that participation of a third party in a role other than observing will facilitate the validity and fairness of the assessment, the psychologist may work with that party to ensure that their participation facilitates and does not undermine or impair the assessment. It may be useful for the psychologist to inform the examinee that the results of the evaluation may be altered by the process when seeking the examinee's consent to be observed and to document this potential limitation in the report.

2. Minimize the Intrusion Afforded by Observation

If third parties request to observe or record an evaluation session, the psychologist may request that the observation occur in the least intrusive fashion reasonably available (e.g., through a one-way mirror as opposed to the actual presence of the observer in the testing room). For example, if the assessment and/or test administration is to be recorded, an audio recording may be less intrusive than a video recording. When recordings are made, the psychologist may want to take steps to limit the availability of such recordings to individuals not immediately involved with the evaluation. For example, for evaluations that take place in the context of litigation, a protective order from the judge may be obtained, obligating all parties to maintain test security and to destroy the recordings at the conclusion of legal proceedings. In forensic or other legally indicated contexts, psychologists may wish to document and assist in clarifying the reasons for which observation was ultimately permitted.

Provisions for the safekeeping, maintenance, and proper disposal of such records may be addressed via consultation with existing sources of scientific and professional guidance (e.g., COLI, 2006; Committee on Professional Practice & Standards, 1993; CPTA, 1996). Alternative approaches should take into account measures to avoid compromising the validity or fairness of the assessment.

3. Utilize Assessment Measures Less Affected by Observation

If observation is to occur, the employment of assessment measures less affected by observation may be appropriate. Observation of these alternative assessment approaches may be less intrusive to examinees. The purpose of choosing alternative instruments and/or methods is to help decrease the potential reduction of reliability and validity of the evaluation. However, there may be no psychometrically equivalent test instrument or procedure that provides the same quality of data, which may obviate these alternatives.

4. Recommend That the Request for Observation be Withdrawn

Psychologists may decide to inform the requesting party of the potentially deleterious influence of third parties upon a particular evaluation situation. If the request comes from an attorney or a court of law—perhaps even in the form of a court order—psychologists may file an affidavit with the court, or serve as a resource for an attorney seeking to file such an affidavit, to inform the court of the reasons why observation may be inadvisable. Under some circumstances, the request for inserting a third party into the assessment may be withdrawn. In some cases, judges have ruled in favor of following a strict evaluation and test administration protocol, specifying the exclusion of third parties (see McCaffrey et al., 1996).

5. Decline to Perform the Assessment Under Observation

If psychologists are unable to resolve observation issues to their satisfaction (e.g., a third party observer is requested to be present, but the psychologist has concluded that such presence could affect the validity and fairness of the evaluation), the psychologist may decide to decline to conduct the assessment even if such observations are required by law. They may choose to cite in this regard the possibility that the validity of certain assessment procedures would be compromised by the presence of the third party observer.

DOCUMENTING OBSERVATION AND THIRD PARTY PARTICIPATION

Psychological assessments where a psychologist permits observation by, or participation of, a third party, need to document the observation by the third party. The provisions of Standard 9.06 of the *APA Ethical Principles and Code of Conduct* may be relevant. Standard 9.06 provides as follows:

When interpreting assessment results, including automated interpretations, psychologists take into account

the purpose of the assessment as well as the various test factors, test-taking abilities, and other characteristics of the person being assessed such as situational, personal, linguistic, and cultural differences, that might affect psychologists' judgments or reduce the accuracy of their interpretations. They indicate any significant limitations of their interpretations.

CONCLUSION

This Statement on Third Party Observers in Psychological Testing and Assessment is intended to be informational, rather than prescriptive. The inclusion of a third party in psychological evaluations raises complex and sometimes paradoxical issues. Inclusion of a third party in the assessment and testing process may affect validity of an evaluation or threaten test security and copyright. However, a third party may facilitate validity and fairness of the evaluation or be required by law. Options to address the request for external observation include, but are not limited to (1) conducting the evaluation in the presence of an observer, (2) minimizing the intrusion afforded by observation, (3) utilizing assessment measures that are less affected by observation, (4) recommending that the request for a third party be withdrawn, and (5) declining to perform the assessment under observation. Psychologists will need to exercise their own professional judgment in choosing the appropriate course of action. Regardless of reasons for such a request (e.g., forensic case, supervision of a trainee, etc.) and/or option(s) chosen, further empirical studies are needed to address the multifaceted situations that psychologists may face with third party participants. The overall goal of any situation surrounding the formal psychological evaluation of an individual is to maximize the assessment conditions to complete the most valid and fair evaluation in order to obtain the best data possible.

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