

## Article 30

### **The Case of Lucinda**

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Counseling students have a professional responsibility to act in accordance with the ethical standards of the profession. Multiple ethical issues exist in the case of Lucinda, many of which require cultural sensitivity on behalf of the ethical decision maker. The ethics competition team at the University of Iowa addressed the ethical issues presented in this case by examining professional literature and case law, choosing a culturally sensitive ethical decision making model, and observing the integrity of the

ACA Code of Ethics (2005). Limitations of the Transcultural Integrative Ethical Decision Making Model by Garcia, Cartwright, Winston, and Borzuchowska (2003), are included.

### **Ethics Scenario**

You are a doctoral student in a Counselor Education and Supervision (CES) program and are friends with one of your peers in the program, Lucinda. Lucinda went through a divorce last year and is worried about finances; she has recently started working as a Graduate Assistant in the Counseling Department to earn some additional money.

Lucinda has confided in you that she has been involved in a sexual relationship for several weeks with Dr. Suzanne Vegan, a new faculty member in the Counseling Department at your university. Dr. Vegan is 54, and Lucinda is 25. They met when Dr. Vegan needed assistance getting office supplies and navigating the university's webmail system.

Because she is familiar with the university system, Lucinda volunteered to help her. While talking, Dr. Vegan mentioned that she wanted to set up a Facebook page to stay connected to her students, but she had not had time to do so yet. Lucinda helped her set one up and taught her how to use it. Over the next few weeks, they spent more time together, initially working on Dr. Vegan's Facebook profile and then eventually going out for dinner. After two months, their interactions evolved into a sexual relationship.

Because Dr. Vegan only teaches courses in the master's degree program, Lucinda has not been (nor will she ever be) in any of her classes. She tells you that she is not worried about any conflicts of interest in this relationship and that for the first time since her divorce she feels "special" again.

### **The Case of Lucinda**

The case of Lucinda introduces several ethical issues that are both unique and challenging. After a thorough assessment of the case scenario, our team confronted the various aspects of this ethical dilemma by addressing our assumptions, applying an appropriate ethical decision making model, and discussing its limitations and implications. It is assumed that Lucinda is working as a counseling department graduate assistant for Dr. Vegan and there are no other professional relationships between them. The impact of these assumptions, along with potential biases, will be addressed in the limitations section of our paper.

We consulted the American Counseling Association Code of Ethics (ACA, 2005) as our primary guide for selection of the most appropriate ethical decision making model. The ACA Code of Ethics Preamble states: "Association members recognize diversity and embrace a cross-cultural approach in support of the worth, dignity, potential, and uniqueness of people within their social and cultural contexts." (ACA, 2005, p. 3). It is this ideology which guided our team to choose the Transcultural Integrative Model developed by Garcia, Cartwright, Winston, and Borzuchowska (2003), respecting the cultural and contextual elements in the case of Lucinda.

## **Introduction of Transcultural Integrative Ethical Decision Making Model**

Based on the Integrated Decision Making Model developed by Tarvydas (1998), the Transcultural Integrative Ethical Decision Making Model (Garcia et al., 2003) includes meaningful components of diversity and multiculturalism, virtue and principle ethics, along with crucial elements of Social Constructivist (Cottone, 2001) and Collaborative (Davis, 1997) ethical decision making models. The Transcultural Integrative Model has four major steps: 1. Interpreting the situation through awareness and fact finding; 2. Formulating an ethical decision; 3. Weighing competing, nonmoral values and affirming the course of action; and 4. Planning and executing the selected course of action (Garcia et al., 2003). Expanding from each step are secondary and tertiary subheadings to assist with general and transcultural components.

### **Step 1: Interpreting the Situation Through Awareness and Fact Finding**

**Enhancement of sensitivity and awareness.** Approaching this scenario as a friend of Lucinda, the team is cognizant that she has gone through a divorce within the last year and we are mindful of our friendship. We are sensitive to Lucinda's employment as a graduate assistant and her financial status. Even though Lucinda is not a client, it is imperative to be sensitive to the lesbian culture. We recognize that the statement about Lucinda being divorced does not imply she was married to a male in the past and it may be irrelevant to consider Lucinda's lesbian cultural identity as new. As doctoral students in CES, it's important to be aware of our multicultural competence and personal bias.

**Reflection to analyze whether a dilemma is involved.** In this scenario, Lucinda does not perceive a conflict of interest in her relationship with Dr. Vegan. We are aware of ethical implications and issues resulting from this inappropriate relationship, particularly as it applies to the ACA Code of Ethics (2005). Ethical guidelines about the types of relationships between counselor educators and students are addressed in Section F.10.

Welfel (2009) notes that sexual relationships between counselor educators and students are prohibited because of the student's vulnerability to exploitation, critical effects, and the reputation of the profession. In addition, because the counseling department currently employs Lucinda as a graduate assistant, ethical violations may also arise pertaining to Section D.1. of the ACA Code of Ethics (2005). Lucinda's worldview encompasses her awareness of being newly divorced, her cultural identity development as a lesbian, her financial situation, and her role as a doctoral student, along with other psychosocial factors. As outsiders to this situation, we can objectively address the situation involving counselor educator roles and responsibilities in maintaining professional relationships with counseling students.

**Determination of major stakeholders.** Garcia et al. (2003) encourage the individual to identify parties who are affected and their ethical and legal relationships to the client. The major parties affected in this ethical dilemma are Lucinda, Dr. Vegan, and Lucinda's friend, as represented by our team. Potential stakeholders include other counselor educators in the department, other counseling students (both master's and doctoral students), and any clients that Lucinda or Dr. Vegan are seeing or will see for counseling services. Stakeholders may also expand to the college community, other

community members that may interact with Dr. Vegan or Lucinda, or those associated with affected counseling department faculty or students.

**Engagement in the fact finding process.** There is no information presented in the scenario that Dr. Vegan confirms there is a romantic relationship with Lucinda. Further fact finding includes gathering relevant cultural information such as immigration (history, reasons, patterns), family values, and community relationships. Cultural issues that may impact the lesbian relationship and age differential between Lucinda and Dr. Vegan will be considered. If possible, it would be important to assess past patterns of relationships, family values, and community relationships which may influence this relationship.

Sensitivity to intra-group differences should be also safeguarded. Lucinda and Dr. Vegan's ethnic backgrounds, gender identities, socio-economic status, and sexual orientation identity development (Troiden, 1989) should be considered as influencing factors on the dynamics of their relationship. If either Dr. Vegan or Lucinda have not "come out" to the community, a public disclosure of this relationship could result in involuntary disclosure of their sexual orientation, as well as potential damage to current and future careers.

## **Step 2: Formulating an Ethical Decision**

**Review the dilemma.** After collecting further information and carefully considering the genders, ethnicities, socio-economic statuses, and sexual orientations of Lucinda and Dr. Vegan, our team better understands the perspective of Lucinda and the dynamics of the relationship. After the fact finding and cultural assessment of this romantic relationship, it appears that there is still a violation of the ACA Code of Ethics by both the counselor educator and student. Concurrently, we would seek out information on the coercive or exploitive elements of sexual relationships between students and faculty.

As the definition of sexual harassment has expanded, more American universities and colleges have developed prohibitive regulations for consensual sexual relationships between faculty and students (Jafar, 2003). In the *Korf v. Ball State University* (1984) case, the Seventh Circuit Court examined ethical obligations regarding university professors' sexual relationship with students. Although a good reference while examining the case of Lucinda, these authors recognized that the case itself is over 25 years old. The most recent case available to us involved a situation with a professor at the University of Florida, Dr. Michael Garrett, who was accused of engaging in sexual conduct with both current and former students (Stripling, 2009). In review of this case, valuable perspectives were gained regarding key administrator and faculty response to situations involving sexual relationships between students and counselor educators.

**Determine ethical codes, laws, ethical principles, institution policies, and procedures.** Among these codes of ethics, the authors decided to apply the ACA Code of Ethics (2005) to this case, as it is the Code of Ethics we as a group adhere to. Additionally, if the CES program is accredited by the Council for Accreditation of Counseling and Related Education Programs (CACREP), the program must implement pedagogy utilizing the ACA Code of Ethics (2005) as required content of curriculum (CACREP, 2009). Depending on the organization membership status of the all those involved, the codes of ethics from the National Board of Certified Counselors (NBCC,

2005), American Mental Health Counselor Association (AMHCA, 2000), and American School Counselor Association (ASCA) may also be applicable to this case.

As a counselor educator, Dr. Vegan directly violated ACA code F.10.a. which prohibits sexual contact between faculty and current students. Violation of ACA code F.6.a. is also apparent; by engaging in a sexual relationship with a CES student, Dr. Vegan has not applied the counseling ethics in her practice as a counselor educator. Additionally, Dr. Vegan violates the ethical codes regarding modeling ethical and appropriate behavior. Violation of ACA code F.10.f. also seems likely, as Dr. Vegan should have taken precautions prior to entering a non-professional relationship with Lucinda. If Lucinda or Dr. Vegan intended to exploit the relationship, each could be in violation of the ACA code C.6.d. regarding the non-exploitation of others in professional relationships.

Lucinda appears to be negligent in her responsibility under the code, specifically identified in ACA code F.8.a. Lucinda has a responsibility to understand and follow applicable laws, regulatory policies, and rules of the university and department regarding sexual relationships between faculty and students. It is likely the department or university has a policy prohibiting sexual interaction between faculty and students due to power inequalities (Herlihy & Corey, 2006). Depending on this policy, an evaluation procedure and potential sanctions could be applied to both Dr. Vegan and Lucinda.

The ACA Code of Ethics (2005) also provides implications to those who discover ethical violation by peers under the section H.2. ACA code H.2.a states that appropriate actions must be taken when there are doubts that individuals are acting in an ethical manner. ACA codes H.2.b and H.2.d suggest the first step is to attempt to resolve the issue informally, with the other counselors if feasible, and to get consultation with colleagues or appropriate authorities. Our team would be mindful about consultation with other professors or students within the CES program, as it may impact the reputation of both Dr. Vegan and Lucinda. Additionally, once this issue is discussed with any faculty member in the program, responsibility to deal with this ethical dilemma would be handed to that professor, circumventing further discussions with Lucinda.

From a multicultural perspective, the ACA Code of Ethics (2005) articulates that counselor educators should consider diversity of faculty and students to actively infuse multicultural/diversity competence (ACA codes F.11.a and F.11.b.). ACA code C.5. also conveys that counselors do not condone or engage in discrimination against clients, students, employees, supervisees, or research participants. There are typically non-discrimination policies at universities which would also protect individuals from discrimination on the basis of race, national origin, color, creed, religion, sex, age, disability, veteran status, sexual orientation, gender identity, or associational preference. Our team, as representatives of Lucinda's friend, would consider and implement appropriate actions regarding the relationship between Dr. Vegan and Lucinda in a non-discriminatory manner.

**Generate courses of action and consider potential positive and negative consequences for each course of action.** The authors generated four potential courses of action listed in the tables below. For clearer understanding, principle analysis tables have been included based on our courses of action.

1. Encourage Lucinda to discuss and terminate the relationship with Dr. Vegan. During this time, we would carefully observe Lucinda's and Dr. Vegan's actions.

| <b>Principles</b> | <b>Upheld</b> | <b>Not-upheld</b> | <b>Justification</b>                                                                                                                                                                             |
|-------------------|---------------|-------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Autonomy          | X             |                   | As Lucinda and Dr. Vegan possess inherent dignity, they should be free to make choices for themselves.                                                                                           |
| Nonmaleficence    | X             |                   | Serious personal and professional harm could befall Dr. Vegan and Lucinda by disclosing the information or by taking further actions without their agreement.                                    |
| Beneficence       | X             |                   | Not disclosing the information or not taking further actions without their agreement allows Lucinda to have financial and emotional supports and allows Dr. Vegan to pursue her academic career. |
| Justice           |               | X                 | We must provide a rationale why we do not disclose the information or take further actions without their agreement. The rationale must have either sound legal or ethical foundation.            |
| Fidelity          | X             |                   | If we disclose the information or take further actions without their agreement, loyalty and faithfulness to the relationship are violated.                                                       |

2. Encourage Lucinda to disclose their relationship to her advisor.

| <b>Principles</b> | <b>Upheld</b> | <b>Not-upheld</b> | <b>Justification</b>                                                                                                                                                                                                                               |
|-------------------|---------------|-------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Autonomy          | X             |                   | As Lucinda has inherent dignity, she should be free to make choices for herself.                                                                                                                                                                   |
| Nonmaleficence    |               | X                 | Serious personal and professional harm may befall Dr. Vegan and Lucinda by encouraging her to disclose the relationship to her advisor                                                                                                             |
| Beneficence       | X             |                   | Disclosing the relationship to her advisor will prevent her from being potentially eliminated in the program in the future when this relationship is exposed to the program. This experience will also help her develop her professional identity. |
| Justice           | X             |                   | Treating Lucinda differently than other students in the program is based upon an ethical concern.                                                                                                                                                  |
| Fidelity          | X             |                   | The faithfulness and loyalty in the current relationship is retained. Loyalty and faithfulness can be violated if Lucinda is not assisted in being ethical                                                                                         |

3. Encourage Lucinda to terminate the relationship with Dr. Vegan and notify Lucinda that we, as representatives of Lucinda's friend, will be disclosing this case to the appropriate academic advisor.

| Principles     | Upheld | Not-upheld | Justification                                                                                                                                                    |
|----------------|--------|------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Autonomy       |        | X          | Disclosing the relationship to the advisor may take away Lucinda's ability to make choices on this issue professionally by herself.                              |
| Nonmaleficence |        | X          | Serious personal and professional harm may befall Dr. Vegan and Lucinda by disclosing the relationship to the advisor                                            |
| Beneficence    | X      |            | Disclosing the relationship to the advisor will prevent her from being eliminated in the program in the future when this relationship is exposed to the program. |
| Justice        | X      |            | Treating Lucinda differently than other students in the program is based upon an ethical concern.                                                                |
| Fidelity       |        | X          | The faithfulness and loyalty in the current relationship would not be retained.                                                                                  |

4. Choose to take no action at all.

| Principles     | Upheld | Not-upheld | Justification                                                                                                                                                               |
|----------------|--------|------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Autonomy       | X      |            | As Lucinda and Dr. Vegan possess inherent dignity, they should be free to make choices for themselves.                                                                      |
| Nonmaleficence |        | X          | Not taking any actions may be harmful for both Dr. Vegan and Lucinda as well as their careers due to the nature of their unethical behaviors.                               |
| Beneficence    | X      |            | Not disclosing the information or not taking further actions will allow Lucinda to have financial and emotional supports and allow Dr. Vegan to pursue her academic career. |
| Justice        |        | X          | A rationale must be provided for why no information is disclosed or further actions taken. The rationale must have either sound legal or ethical foundation.                |
| Fidelity       | X      |            | If information is disclosed, or further action taken, loyalty and faithfulness to the relationship are violated.                                                            |

**Consultation.** It may be helpful to approach the *ACA Ethics and Professional Standard Department* or other knowledgeable professionals, prior mentors, previous

supervisors, or even legal representatives at the university level or through liability insurance for consultation. Consultation with an expert who can provide insight into the ethical decision-making process with a culturally sensitive lens, knowledge, and experience in the area of lesbian culture and counseling ethics would be warranted.

**Select the best ethical course of action.** The best ethical course of action would be to first encourage Lucinda to discuss and terminate her relationship with Dr. Vegan, while obtaining consultation. At the same time, Lucinda would be strongly encouraged to discuss this situation with her advisor. If Lucinda continues the relationship with Dr. Vegan, we, as representatives of Lucinda's friend, would disclose details of this relationship with her advisor, with notice to Lucinda that this step had become ethically necessary.

### **Step 3: Weighing Competing Nonmoral Values and Affirming the Course of Action**

**Engage in reflective recognition and analysis of personal blind spots and consider contextual influences on values selection.** The locus of a particular moral standard resides in a family or an individual and each group may have its own moral code. However, no one can define it or give it boundaries (Stace, 1994). It will be important to engage in a respectful dialogue to help Lucinda clarify her values and professional behaviors. It is imperative to be mindful of the dynamics generated by non-moral values in the decision-making process.

There are several contextual influences in this case scenario. They include the following:

*Collegial:* Students who become aware of this relationship may experience concern about their own position as students, and if Lucinda will receive special awards/accommodations as a result (Welfel, 2009). Students within the graduate assistant employment system may also be concerned Lucinda would be granted a position in place of them, or receive a more favorable appointment. These concerns may persist even with the termination of the relationship.

*Professional Team:* Potential professional team issues would involve any agencies or institutions that Lucinda or Dr. Vegan are working with. Considerations in this context would be client factors regarding the ongoing and continued services to clients.

*Institutional.* A review of the university / departmental policy may shed light on more explicit consequences for behavior. As Barnett-Queen and Larabee (2000) noted, counseling students who acknowledged engaging in previously consensual sexual relationships with faculty tend to view the sexual relationship as being more coercive in later years. Further, legal ramifications for the institution may influence both future policy and procedure.

*Societal:* Counselor education programs aspire to the highest level of ethical conduct, not only as a means of upholding an ethical code as a component of professional identity, but also as a means of modeling for students appropriate conduct when serving clients. Counselor educators serve to teach students beyond course content, by appropriately modeling ethical behavior.

Having gone through a recent divorce also presents unique challenges. Kress and Dixon (2007) state when a student has gone through a recent divorce, it is possible they



will be less likely to make a fully informed decision given a more fragile emotional state. As such, there is greater risk of the influence of power from another individual, in this case Dr. Vegan, to exploit the situation. This could also be addressed by counseling.

#### **Step 4: Planning and Executing the Selected Course of Action**

**Develop a reasonable sequence of concrete actions.** Our chosen course of action is to further discuss the situation with Lucinda, and specifically request she terminate the relationship with Dr. Vegan. In our course of action, we specifically seek to uphold the following principles as delineated in the American Counseling Association's Code of Ethics (2005) : C.6.d., F.10.a., F.6.a., and F.8.a.

Our team expectations of the individual referenced in this scenario would be to appropriately document the steps taken in this matter, including results of all consultation, along with dates and times specific actions were taken. It would be important to inform Lucinda of our duty to report this situation to our academic advisor in keeping with institutional and ethical policy. During this discussion, it would be appropriate to recommend Lucinda receive personal support through a LGBTQ resource center and/or the college counseling center. It would also be imperative to offer support resources to Lucinda in areas related to her recent divorce and socioeconomic status.

**Anticipate personal and contextual barriers and counter measures.** This complex situation may increase Lucinda's personal anxiety, as she deals with concerns over the potential for loss of a relationship and concerns she may lose her income if this situation creates issues with her position. Furthermore, it may impact her developmental progress as a future counselor educator, in both emotional and practical ways. The potential exists that Lucinda may feel singled out, hurt, or as we previously noted by Barnett-Queen and Larabee (2000), may view the relationship negatively. Practically, this situation may cause her to question her career path, to drop out of the program, or to wonder if she will be unfairly judged if others become aware of the situation.

**Implementation, documentation, and evaluation of the course of action.** It would be imperative to document the process and outcome of this case scenario, including specifics regarding relevant dates and courses of action undertaken by involved parties. Of further importance, Herlihy and Corey (2006) state it is imperative for individuals who become involved in ethical dilemmas to remember that their duty is not to judge or punish, but instead to leave these steps to legal or administrative authorities who have the power to do so.

#### **Limitations**

Limitations in our case conceptualization involve potential institutional religious affiliation, institutional or community demographics, and availability of LGBTQ resources. Were these factors to be known, the outcome of this case scenario may be altered. Although thorough and sensitive to culture, social construction, and collaborative approaches, this model can be redundant while working through all of the steps. In addition, a model of this nature can be challenging to implement if time is a factor in making an ethical decision. Due to its multiple steps, this model is time consuming for the individual needing to make the ethical decision.

## **Conclusion**

Our ethics team decided to utilize the Transcultural Integrative Ethical Decision Making Model in order to arrive at the best ethical decision given the various cultural dynamics in the case of Lucinda. This model provided a framework in which our team could effectively examine cultural implications that may impact the ethical decision making process. Our team was able to conclude appropriate courses of action that best uphold standards identified by the ACA Code of Ethics (2005), along with being sensitive to cultural issues. As future counselor educators, we must continue to be advocates that uphold the ethics and integrity of the counseling profession.

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