

## **LEGAL CONSIDERATION IN THE PRACTICE OF GUIDANCE AND COUNSELLING IN NIGERIA**

**EZIGBO IJEOMA BONA**

**Department of Educational Foundations  
Faculty of Education,  
Chukwuemeka Odumegwu Ojukwu University  
Igbariam Campus**

**&**

**MADUBUGWU, NATHANIEL LOTANNA**

**Department of Educational Foundations  
Faculty of Education,  
Chukwuemeka Odumegwu Ojukwu University  
Igbariam Campus  
lotanath@gmail.com**

**&**

**ODOGWU JOY CHIOMA**

**Department of Educational Foundations  
Faculty of Education,  
Chukwuemeka Odumegwu Ojukwu University  
Igbariam Campus  
Odogwujoy081@gmail.com**

### **Abstract**

*History of guidance and counselling can never be totally complete without mentioning Frank Person and his organization of Boston Vocational bureau which provided needed vocational assistance to the many young people seeking employment and to train teachers to serve as vocational. These teachers were to help select students for vocational schools and to assist students in choosing a vocation wisely and making the transition from schools and to assist students in choosing a vocation. Hence the growth of guidance and counselling in Nigeria also started in like manner in St. Theresa's college, Oke-Ado in Ibadan, Oyo state. Guidance and counselling profession cannot succeed very well without the formulation of ethical and moral code of practice backed up by law (legislation) in line with these thoughts this paper takes a look at a brief history of guidance and counselling by its foundation father Frank Person down to its growth in Nigeria the ethics, morality, and the law in Nigeria context as it relates to the profession. Conclusions and recommendations were made. Counselling Association of Nigeria (CASSON) and American Counselling Association (APROCON) as the only recognized bodies in Nigeria should move for the body's legislation and recognition, establish national board for certified counsellors, Registration of practitioners, issue of licensure and inspection.*

**Keywords: Ethic Morality, Law and Counselling.**

## **Introduction**

History is often made when a person has an idea that meets a need and coincides with an opportunity. In 1908, Frank Parson organized the Boston vocational bureau to provide needed vocational assistance to the many young people seeking employment and to train teachers to serve as vocational counsellors. These teachers were to help select students for vocational schools and to assist student in choosing a vocation wisely and making the transition from school to suitable work. Odemelam & Uwani (2013) considered various factors necessary for wise choice of a vocation. A clear understanding of yourself, your aptitude, abilities, interest, ambitions, resources, limitation and other causes (Depauw, 2012).

Knowledge of the requirements and conditions of success, advantages and disadvantages, compensation opportunities and prospects in different lines of work is necessary

Knowledge of the requirements and conditions of success, advantages and disadvantages, compensation opportunities and prospects in different lines of work is necessary.

The American personal and guidance association and the American psychology association are educational, scientific as professional organization whose members are dedicated to the enhancement of the worth dignity, potential and uniqueness of each individual published the ethical and legal standard which form the basis for ethical behavior and practice. This document establishes principles which defined the ethical behavior of members. The codes does not contain any classification of misbehavior nor is there any specific penalty prescribed for misconduct, rather it focuses on guidelines of professional conduct the codes are made to seek the welfare of the client for instance “confidentiality” which is one of the most complex and pervasive problems confronting the counsellor brings into sharp focus the issue of the responsibilities of the counsellor to the profession, the institution that employ him and most of all, the individual who seeks his help.

The cases are made to improve the effectiveness and the expertness of the counsellor to foster the welfare of the institution and the individual within, to guard against the counsellor exploiting counselling session for his own interest, to ensure that the professionals public image is not tarnished that it general aims, functions, its objectives and purposes are adhered to.

The existence of such standards serves to stimulate greater concern by members for their own professional functioning and for the conduct of fellow professionals, such as counsellors, guidance and student personnel workers and others in the helping professions.

Therefore, the codes of ethics helps the counsellor to take appropriate decision when conflicts arise, though conflicts not existing in every activity are numerous enough to pose dilemmas for the school counsellors.

According to Stewart (2016), legal consideration refers to the exchange of two or more things of values in a legally binding contract. For instance money is exchanged for the type of goods or service. On the other hand, legal consideration refers to something of value given by both to enter into the agreement to exchange mutual performance. Legal consideration is used when something is legally sufficient and makes a contract binding.

The terms “guidance and counselling” have been conceived in different ways. Cobia (2011) defined them as an interaction process co-joining the counselee, who is vulnerable and who needs assistance and the counsellor who is trained and educated to give this assistance.

The goal of which is to help the counselee learn to deal more effectively with himself and the reality of his environment.

Guidance and counselling is the process of helping individuals discover and develop their educational, vocational, and psychological potentials so as to achieve an optimal level of personal happiness and social usefulness (Heyden, 2011). Early guidance programs dealt with the immediate problem of vocational placement.

The complexities of the industrial economy and the unrealistic ambitions of many young people made it essential that machinery for bringing together jobs and workers be set up; vocational guidance became that machinery.

Today, school guidance programs include academic counselling for those students planning to attend college. School guidance counsellors have been recognized as the primary source for psychological counselling for students; including counselling in such areas as drug abuse and teenage pregnancy and referrals to other professionals.

Guidance and counselling services prepare students to assume increasing responsibility for their decisions and grow in their ability to understand and accept the results of their choices. The ability to make such intelligent choices is not innate but, like other abilities, must be developed. The aims of the guidance and counselling service are similar to the purposes of education in general which are to assist the students in fulfilling his or her basic physiological needs, understanding himself or herself and acceptance of others, developing associations with peers, balancing between permissiveness and controls in the educational setting, realizing successful achievement, and providing opportunities to gain independence.

### **The Growth of Guidance and Counselling in Nigeria**

The development of counselling has no systematic documentation in Nigeria. However, sources available stipulate that the development of formal guidance and counselling has its roots in the then western state of Nigeria and that the growth of guidance and counselling started at ST. Theresa's college, Oke ado around the 60's at Ibadan with a group of Reverend Sisters who saw the dire need to offer information on vocational guidance on the outgoing final year students in 1958, since then the practice of guidance and counselling has been on the background (Egbochukwu, 2012).

The provision for guidance and counselling in the Nigeria National Policy on Education (6-3-3-4) has been an issue of concern to professional counsellors for some time now. A critical appraisal of the provision reveals an obvious non-recognition, ignorance and neglect of the crucial contributions of counselling to the achievement of the goals and objectives of the national policy on education (Echebe (2012). The practice of guidance and counseling is based on ethics of the professor. The term ethics is seen as a philosophical discipline that is concerned with human conduct and ethics moral decision making (Van Hoose & Kotter 2013). Philosophy here is seen in six branches. Traditionally, Metaphysics set the questions for philosophy. Epistemology asks how do we know? Ethics and politics have to do with action and quality of life. Aesthetics or value theory has to do with beauty, balance and harmony. Logic has to do with the relations of things Epistemology sometimes replaces metaphysics these days because it has fewer religious overtones.

Many people think that ethics has to do with a set of social conventions or a religious decree. In professional philosophy ethics is the study of what is good and bad. Generally, philosophical ethics concerns itself with discovering a system one may use to determine who or what is good or with evaluating systems that others have proposed.

The pursuit of moral knowledge dates back to Ancient Greek philosophers, but it is mostly the influence of enlightenment moral thought that continues to shape ethics today. There are many well-known figures in the history of ethics –including the Greek philosophers Plato and

Aristotle, and some modern important influential ones like Immanuel Kant. Jeremy Bentham, John Stuart. Ethics is the philosophical attempt to answer Socrates question of how should I live.

Ethics deals with:

1. What Behaviour (or intentions) are good or bad.
2. What kind of things can be adduced as moral justifications (Justifying reasons) for certain kinds of behavior
3. Is killing another human being (murder) morally acceptable, killing an enemy in war? Ethnic cleansing? killing a person in self-defence? killing yourself? Abortion? Abortion of a deformed fetus? killing of an animal?
4. Do animals have right? Do women? Children? Mentally handicapped people?
5. Is torture even justified? Theft? Promise breaking?
6. What is the best way for human beings to live their lives?
7. What are the justifying reasons for war? Is there such a thing as a “Just war”?
8. Can the cultural practices of others times and societies be condemned as immoral? How about Nigerian slavery? African female genital mutilation, Nigerian corruption? (1999 constitution)
9. What are the proper bounds for the toleration of diversity or the respect for personal privacy? Is there a point at which the (proper) toleration of diversity or respect for privacy becomes (improper) passive acceptance or immorality? What is that point?

(Patterson, 2015). What do ethical words such as “good” “right”, “wrong”, “ought to” mean? Related to ethics is the issue of morality. It refers to the recognition of the distribution between good and evil, right or wrong, respect for and obedience to the rules of right conduct, the mental disposition or characteristic of behaving in a manner intended to Amakiri and Eremie (2016) produce morally good results.

It also refers to keeping a set of social rules, customs, traditions, beliefs or practices guiding principles.

Law: The body of rules and standards issued by a government or to be applied by courts and similar authorities (1999 Constitution of the Federal Republic of Nigeria). Law is the specialized form of social control familiar in modern, secular, politically organized societies. The profession of counselling is governed not only by ethical standards but by legal ones as well. Legal refers to “law or state of being lawful, and law refers to “a body of rules recognized by a state or community as binding on its members.

### **The Status of Guidance and Counselling in Nigeria**

Guidance literature has provided a very important perspective about the status of professional counselling in Nigeria, to include the following:

- i. School counselling programmes exist in some secondary schools;
- ii. All the federal government owned secondary schools have functional school counselling centres with professional counsellors in charge;
- iii. In most state –owned secondary schools some form of career counselling programmes exist and usually provided by career masters/mistresses;
- iv. in most secondary schools, counsellors are saddled with teaching and other ancillary responsibilities to the detriment of their counselling practice;
- v. Many Nigerian counsellor education departments are making remarkable contributions to the development of counselling practice in Nigeria through the training of potential counsellors even at the undergraduate levels so as to meet with the high demand in the society;

- vi. Many universities have/are establishing counselling and guidance departments and recruiting specialists for teaching appointments. Many of these counsellor educators are now in the ranks of professors.

### **Basic Moral Principles of Counselling**

- i. **Autonomy**—This principle refers to the promotion of self-determination, or the freedom of clients to choose their own direction. This principle reflected in the Humanist Theory promoted by Carl Rogers (2011). He suggested that human being is an organism that constantly moves independently to find homeostasis in life, and therefore gained independence and autonomy. To display respects for autonomy, the counsellor must acknowledge the right of clients to choose and act in accordance with their wishes, and a professional counsellor must behave in a way that promotes autonomy.
- ii. **Non-maleficance**—It means avoiding doing harm, which includes refraining from actions that could risk or hurt the client. Professional counsellor has the responsibility to avoid engaging in practices that causes either physical, emotional or psychological harms, or behave in a way that could provide potential harm or threat to the clients. Inevitably, counsellors should be more careful when creating therapeutic conditions so as not to promote dual or multiple relationship, or when handling information (or transferring client's information to a third party via electronic mode) given by clients so as to promote confidentiality. Counsellors must at all times review their behaviors to identify patterns that might suggest inclination towards development of dual or multiple relationship or even behaviours that could suggest bartering (exchanging goods with services) that could harm the clients. These patterns can be identified from the conversation or non-verbal behavior displayed during counselling sessions. Last but not the least, counsellors must also be very careful when developing treatment plan to ensure that it will benefit the clients and not the counsellors. Herlily & Corey, (2015).
- iii. **Beneficence**— This moral principle indicates promoting good for others. By nature, counselling profession contributes to the growth and healthy wellbeing of the clients within their own cultural context. But what is morally acceptable in a culture, sometimes is not acceptable to another culture. Therefore, although the counsellor's intention in helping is good, but due to cultural differences, it can cause more harm than good. For instance, following a behavioral approach, a very passive client is asked to be more assertive towards his or her parents which can be quiet unfitting and thereby raising family conflict between children and parents. Swanson, (2014).
- iv. **Justice**— The principle of justice requires begin just and fair to all clients and respecting their human rights and dignity. It directs attention to considering conscientiously any legal requirements and obligations, and remaining alert to potential conflicts between legal and ethical obligations. Justice is the distribution of services requires the ability to determine impartially the provision of services for clients and the allocation of services between clients. A commitment to fairness requires the ability to appreciate difference between people and to be contrary to their legitimate personal or social characteristics. Practitioners have a duty to strive to ensure a fair provision of counselling and psychotherapy services, accessible and appropriate to the needs of potential clients (Gumaer and Scott, 2013).
- v. **Fidelity**— Fidelity means that the professional counsellor must make honest promises and honor their commitments to those they serve. This entails fulfilling one's responsibilities of trust in a counselling relationship. When in a counsellor-client relationship, a counsellor must inform his or her client about. The ACA Code of Ethics (2015) suggests that "When counselling is initiated... the counsellor must inform clients

of the purpose, goals, techniques, procedures, limitations, potential risks, and benefits of services...” the clients will gain throughout the session. This can be done quickly by providing a one page professional statement for client to read prior to the session. The statement must clearly states the theory and techniques used by the counsellor (and it must reflect his or her expertise), and how the client can benefit from the counselling services.

- vi. **Self-Respect**– The principle of self-respect means that the practitioner appropriately applies all the above principles as entitlements for self. This includes seeking counselling therapy and other opportunities for personal development as required. There is an ethical responsibility to use supervision for appropriate personal and professional support and development, and to seek training and other opportunities for containing professional development. Guarding against financial liabilities arising from work undertaken usually requires obtaining appropriate insurance. The principle of self-respect encourages active engagement to life-enhancing activities and relationship that are independent of relationships in counselling or psychotherapy.

### **Legal Consideration in the practice of Guidance and Counselling in Nigeria**

The relationship between client and psychotherapist is a unique one. The patient divulges large amount of personal information in an emotion laden setting and places her or his future in the hands of the psychotherapist.

This in fact places the counsellor/therapist in a position of power relative to the client. It is therefore, essential that the highest ethical and legal standards be followed in the practice of psychotherapy.

Counselling/ psychotherapy is considered to be ethical and legal only under the following circumstances;

1. The goals of treatment must be carefully considered with the client. These goals should be in the best interest of the client and society and that must be fully understood by the client.
2. The choices for alternative treatment method should be carefully considered
3. The therapist must only treat problems that she or he is qualified to treat. No therapist is trained to use all forms of therapy or to handle all types of problems (adults, children, material problems, etc). Therefore the therapist must refer cases that fall outside his or her expertise to qualified therapists.
4. The effectiveness of treatment must be evaluated in some way. The best way to doing this is to use meaningful measures of the problem and progress in treating it.
5. The rules and laws regarding confidentiality of all information obtained about the client during treatment must be fully explained to the client. Under most circumstances it is unethical and illegal for the therapist to reveal any information about the person (even the fact that a person is client in therapy) to anyone without the written permission of the client.

Secondly, if the therapist is still in training and being supervised by a professional therapist, it is essential that the client be told of that fact and the name of the supervisor.

Third, in some circumstances regarding court matters the court can require the therapist to reveal confidential information.

Fourth, if the therapist learns that the client is in immediate danger of harm or of harming anyone else, the therapist is obligated to report that information to the proper authorities.

- The therapist must not use the power of the intense relationship with the client to exploit the client in sexual or other ways. Sexual or romantic intimacies with clients have long

been strictly forbidden, but in contrast to novels and movies in which therapist and current or former client fall in love and marry, ethical regulations even forbid romantic or sexual relationships with former clients under virtually all circumstance. Sexual harassment of client is similarly strictly forbidden.

- The counsellor/ therapist must treat human being with dignity and must understand and respect differences based on gender, ethnicity, sexual orientation and other socio-cultural factors. To the greatest extent possible therapist must understand and respect human differences and not try sway clients to their own beliefs and ways.

### **Ethical Codes**

Does the counselling discipline has ethical codes. It is important to note that this will help the body.

Ethical standards/code protect the profession from government, they allow the profession to regulate itself and to function autonomously instead of been controlled by legislation. Ethical standards help in controlling internal disagreement and bickering, thus promoting stability within the profession (Van Hoose & Kortler (2013).

Ethical standards protect practitioners from the public. When we talk of ethics, morality and the law in the counselling profession, there is more to be done in Nigeria since guidance and counselling as a body is still not rooted in the Nigerian education system and the society in terms of organization, legislation, policy statement and practicability. Nigerian guidance and counselling borrow everything from American Psychological Association (APA), AACD and ACA without considering the;

- Environment
- Culture
- Morals
- Value

What is tenable in America environment, may not be wholly accepted in Nigeria so the counselling discipline should think about having a legislation through the National Assembly, for proper laws to govern the body, just like the lawyers, medical doctors, estate surveyors and values etc. all of these bodies have their legislation through the national assembly and a professional registration board, all in Nigeria that monitors, guides and regulate the activities of its members (Nigerian Constitution 1999). Ethics and morality of the counselling profession: Confidentiality of the client, Counsellor competence, Role conflict, Privacy, Ethical judgment / reasoning etc are what the legislation should cover. (Dagogo, 2015).

### **Theoretical Framework**

#### **Psychoanalytic Theory**

According to Corey (1986) Freud gave psychology a new look and new horizons. He called attention to psychodynamic factors that motivate behavior, focused on the role of the unconscious and developed most of the first therapeutic procedures for understanding and modifying the structure of one's basic character. He stimulated a great deal of controversy, exploration, and further development of personality theory and laid the foundation on which later psychodynamic systems rest. His theory is a benchmark against which many other theories are measured. The psychoanalytic theory views the structure of personality as separated into three major systems, the id, the ego and superego. Hereditary factors are represented by the id, which functions in the inner world of one's personality and is largely unconscious. It is usually viewed as the original system personality that is inherent and present at birth. It is believed that the id is ruled by the 'pleasure principle', and thus it seeks to avoid tension and pain, seeking

instead gratification and pleasure. Corey (1986) describes it as ‘the spoiled brat of personality’. The ego, which is only viewed as the only rational element of personality, has contact with the world of reality, controls consciousness and provides realistic and logical thinking and planning. If counselling could bring parents of children with hearing impairment to this realization, then they would apply logic and reason to solve their problems and to plan ahead for their children. The superego represents the conscience of the mind and operates on the principle of moral realism. It represents the moral code of the person, usually based on one’s perceptions of the moralities and values of society. As a result of its role, the superego provides rewards such as pride and self-love, and punishments, such as feelings of guilt or inferiority, to its owner. When a child with hearing impairments is born in a family, parents lose pride, self-love, feel punished by the creator and suffer feelings of guilt and inferiority.

### **Conclusion**

Guidance and counselling profession will certainly be accorded an enviable status in Nigeria if the Counselling Association of Nigeria (CASSON) is able to make the Nigerian society recognize that it has a unique contribution to an individual’s total well being.

Through licensure, certification, continuing education and more importantly, pressuring for the inclusion of counselling as an aspect of the Nigerian health scheme, CASSON would have provided a professional identity for its members.

### **Recommendations**

The American Counselling Association (ACA) publishes its code of ethics backed up by legislation to serve as basic for ethical behavior for counsellors, this will help in solving ethical questions, procedure for filing and responding to ethical complaints (ACA 2015).

This code has been on since 1961 and has undergone five revisions to update both its content and format. ACA Code of Ethics:

Section A: The Counselling Relationship

Section B: Confidentiality, Privileged Communication and Privacy

Section C: Professional Responsibility

Section D: Relationships with other Professionals

Section E: Evaluation, Assessment and Interpretation

Section F: Supervision, Training and Teaching

Section G: Ethical Issues.

1. So the Nigerian CASSON and APROCON as the only recognized bodies in Nigeria in this profession should work through the various States Houses of Assembly and the National Assembly and give these bodies ethical and legal voice for professional and proper guidance and counselling practice in Nigeria for better global competitiveness.
2. Counsellors should be licensed. This is the highest form of credentialing.
3. Counsellors should be certificated Certification is a recognition that occurs when the state board or department issues a certificate to an individual in a specialty.
4. Registration: The practitioners of a profession such as counselling should submit information to the of their practice.
5. Inspection: A state agency periodically should examine the activities of the profession. If it is consistent with public safety, health and welfare.

### **REFERENCES**

ACA Code of Ethics (2015). Retrieved 30th July, 2016 from <http://www.counselong.org/knowledge-centre/ethics>

- Cobia J. S. (2011). Guidance and counselling in schools. In O. Aluede (Ed.). *Guidance and counselling for Nigerian schools* (pp1- 21). Agbor, Nigeria: Krisbec Publications
- Corey, G., (1986). Issues & ethics in the helping profession.
- Dagogo A. F. (2015). Educational law: The implication for the school administration of Society. port Harcourt: Okoga Publishers.
- Depauw, M. E. (2012). Avoiding ethical violations: A timeline perspective for individual counselling, *Journal of counselling and development*, 64, 303 –305.
- Egbochuku, E.O. (2012). Guidance and Counselling: A comprehensive text. Benin City: Uniben press.
- Gumaer, J. and Scott, L. (2013). Training group leaders in ethical decision making *Journal for specialists in group work*. 10, 198-204
- Herlily, H. & Corey, C. (2015). Mastering, the national counsellor examination and the Counsellor preparation comprehensive. Boston: Houghton Mifflin.
- Heyden, O. O. (2011). The realities of Guidance and Counselling in Nigeria Secondary Schools: Issues and benefits. *Guidance and Counselling* 15 (2). 22 – 26
- Odoemelam, A. M & Uwam, Y. A. (2013). A guide to the establishment of model guidance and counselling/career centre's for the development of Nigeria University Students. Owerri: Bond Press.
- Patterson, C. H. (2015). Are ethics different in different settings? *Personnel and Guidance Journal* 50, 254 – 259.
- Stewart, H. (2016). Preface to the special issue. *Journal of Counselling and Development*. 64, 291.
- Swanson, C. D. (2014). Ethical standards, assets and limitations. *Personnel and Guidance Journal*, 60, 110 – 112.
- Van Hoose, W. H, & Kottler, J. (2013). Counselling: A comprehensive profession. Ohio: A Bell & Howell information company.