

Boundaries and Ethics

Basic Concepts and Best Practices

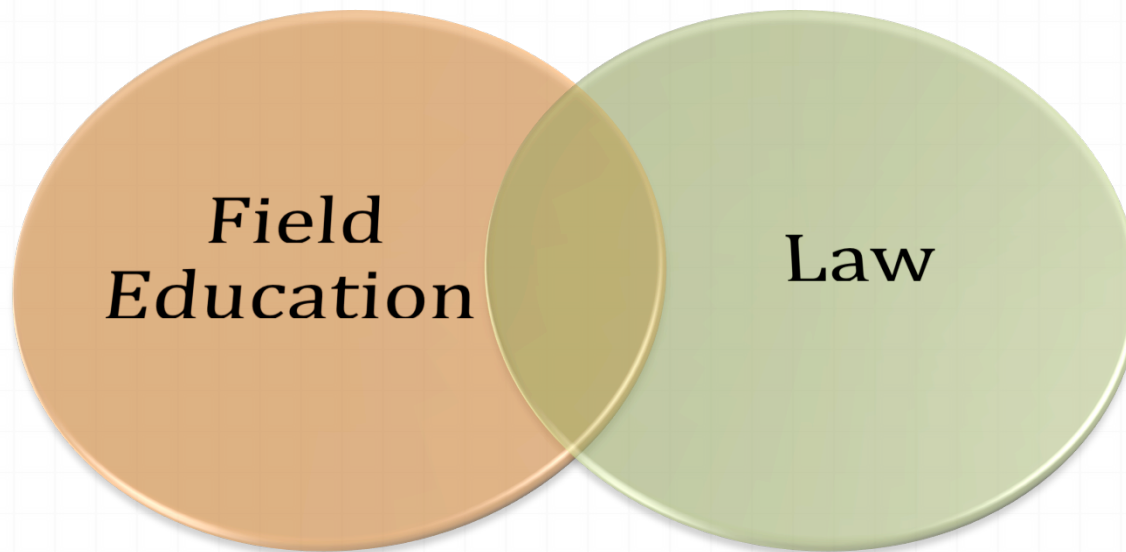
A word cloud of terms related to boundaries and ethics. The words are arranged in a roughly circular pattern and vary in size and color. The terms include: Child Abuse, Fiduciary Duty, Church Vans, Elder Abuse, Sexual Misconduct, Chaperones, Visitation, Policies, Confidentiality, and Transportation.

Child Abuse
Fiduciary Duty
Church Vans
Elder Abuse
Sexual Misconduct
Chaperones
Visitation
Policies
Confidentiality
Transportation

Trust

Internships are
built on trust

Civil law establishes
sanctions for
breaches of trust



Where supervised ministry and the law intersect is in their refusal to condone relationships that violate trust.

Two Key Areas of Concern

Handling Information



Handling Relationships



Minimize the Risk of Litigation

- 0 Ensure **written policies** exist that define expectations.
- 0 **Communicate** relevant policies and practices clearly with your intern and the mentoring team.
- 0 When calling an intern to your setting, ensure that all policies related to hiring of new employees are followed. This may include a **background check**.
- 0 Discuss with your **student communication boundaries**, e.g., criticism of others in public, appropriate use of email and the Internet, written publication etiquette, and appropriate sharing of sensitive information.
- 0 Discuss with your student and mentoring team the concepts of **confidentiality** and privileged communication.
- 0 Discuss the **mandatory reporting** laws of your state with your intern.
- 0 Be **conscious of situations** that could be interpreted as inappropriate or suspicious by an onlooker, e.g., meeting alone with your intern late in the evening, asking the intern to drive a teenager to camp by him- or herself.

Some Legal Minefields

Definitions and Examples

❖ Privileged
Communication &
Confidentiality

❖ Breach of
Fiduciary Duty

❖ Sexual Misconduct

❖ Abuse and Neglect
Reporting



The End



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Privileged Communication and Confidentiality

Privileged communication and confidentiality are strictly different, but related, concepts. Privileged communication is almost always established by a statute or case law, while what is “confidential” is both an ethical and legal concept. Parishioners or others can often sue for broken confidences and/or for breaking privileged communications.

Illustration:

Over dinner at the home of a parishioner, Carl, the student intern, learns that his hostess, Mary, was once a heroin user. She shares with him that upon meeting Christ, she gave up all drug use and sought help for her addictions. Carl is so impressed with this conversion experience that he uses Mary’s story as his sermon illustration the following Sunday. Mary flees the church during the sermon. Has Carl violated the principle of privileged communication? How about the ethical/legal concept of confidentiality?



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Breach of Fiduciary Duty

Fiduciary duty is a duty of utmost good faith, trust, confidence, and candor owed by a fiduciary (e.g., a minister or educator) to the beneficiary; a duty to act with the highest degree of honesty and loyalty toward another person and in the best interests of that person (Black). When a minister is sued in civil court for breach of fiduciary duty, it often involves a minister's having divulged confidences or having used a counseling session to initiate or engage in sexual activity.

Illustration:

A summer intern visits Ms. Martin, a home-bound member, who gives the student \$50 in cash to be used by the church, at its discretion. The intern interprets that rather broadly, and keeps the money to tide herself over until payday. When Ms. Martin receives her quarterly statement, she notices that the \$50 contribution is not recorded. After some investigation, the student's involvement is revealed. Does the student have a fiduciary duty to Ms. Martin and if so has it been breached?



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Sexual Misconduct:

“Sexual misconduct is one of the most multi-faceted legal violations a minister can commit. It is easier to understand when broken into four areas of law: (1) sexual abuse against children; (2) sexual misconduct against adults; (3) sexual harassment in the workplace; and (4) the liability of a church or denomination because of the misconduct of its employee or minister.” (Taylor)

Case Illustration:

John, the supervisor, and Bob, an academic year intern, have just wrapped up their first supervisory conference. John tells Bob he wants to show him an interesting site he has found on the internet. Bob is horrified when the computer opens to a pornographic web site. After he extricates himself from John’s office, he immediately calls his field educator to relate the incident. He is horribly embarrassed by the event, and feels that he cannot continue at the site since he has lost all confidence in John as a pastoral supervisor. Can this be construed as sexual harassment?



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Abuse and Neglect Reporting

Child Abuse: At a minimum, any recent act or failure to act on the part of a parent or caretaker, which results in death, serious physical or emotional harm, sexual abuse or exploitation, or an act or failure to act which presents an imminent risk or serious harm.

Elder Abuse: Physical abuse is the infliction of physical pain or injury or physical coercion (confinement against one's will). Active neglect is the intentional failure to fulfill a caretaking obligation, including a conscious and willful attempt to inflict physical or emotional distress on the older person. Passive neglect is the unintentional failure to fulfill a caretaking obligation. Psychological abuse is the infliction of mental anguish. Material abuse is the illegal or unethical exploitation and/or use of funds, property, or other assets belonging to the older person. (Basham and Liberness)

Illustration:

A student, Lilly, is interning as a chaplain at a children's home. While out of the playground with six- and eight-year olds, she notices a hand-shaped bruise on Ashley's forearm. Lilly asks Ashley about the bruise. Ashley tells her that at lights-out last night, she didn't move fast enough and the house parent harshly jerked her away from her desk and into her bed. Is this enough information to suspect child abuse? If it is, is the intern a mandatory reporter? What are appropriate next steps?