Breaching Confidentiality

Confidentiality can be broken for the following reasons:
1. Threat to Self
2. Threat to Others
3. Suspicion of Abuse

Duty to Warn

Duty to warn is a legal precedent set by Tarasoff vs. Regents of the University of California case. It refers to the responsibility of a counselor to breach confidentiality if a client or other identifiable person is in clear or imminent danger. In the Tarasoff case, The Supreme Court ruled that a counselor must not only notify the police, but also notify the victim. Only notifying the police is not sufficient to protect a counselor from a lawsuit.

The duty to warn also refers to a client who is a threat to self. For instance, if a student tells a counselor that he/she is going to commit suicide, it is the counselor’s responsibility to contact the student’s parents/guardians and not leave him/her alone until the parents’ arrive.

In addition to having a valid reason to believe the client is a danger to self or others, the following 3 principles are applied when assessing duty to warn:

Foreseeability of harm(e.g., a verbal threat to an identifiable victim).

Identifiability of a victim.

Feasibility of intervention.

If you are working with a student and feel that the above three criteria are met, it is important to document everything that happened. Make sure to document who you spoke to, what you said and the date and time.

Information taken from: http://www.4therapy.com/professional/research/lawandethics
Duty to Report

The duty to report applies to anyone who has reason to believe that a child has been or is likely to be abused or neglected, or may need protection, to promptly report the matter to a child protection worker.

- Child abuse can be emotional, physical or sexual and includes neglect, abandonment, and failure to meet the needs of a child.

The duty to report overrides the rules of confidentiality.

Even if you believe someone else is reporting the abuse, you still have a legal obligation to report. If you do not report the abuse, you are liable.

Report all incidents to the child protection worker, even if you are aware that DSS is already involved with the family.

Report the incident immediately. The child’s safety is at stake.

DO NOT contact the alleged perpetrator. This is the responsibility of the police or the child protection worker.

How to Report:

Contact the Department of Social Services (864-638-4400). Ask to speak to the Intake Worker for Child Protective Services. Do NOT leave a message and assume that someone will follow up. Keep calling until you speak to someone in person.

The report should include the following:

- your name and contact information (it will be kept confidential)
- the child's name and age
- the location of the child
- your relationship to the child
- any immediate concerns you have about the child's safety
- information on the situation including all physical and behavioral indicators observed
- information about the family, parents and alleged offenders
- other child(ren) who may be affected, if known.

For your records, record the name of the intake worker, date and time that you made the report.

Information taken from:  http://www.safekidsbc.ca/comm_report.htm