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Ethics

for Behavior Analysts

by Jon S. Bailey
Mary R. Burch



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4TH
EDITION

Ethics for Behavior Analysts

This fully updated fourth edition of Jon S. Bailey and Mary R. Burch's bestselling *Ethics for Behavior Analysts* is an invaluable guide to understanding and implementing the newly revised Behavior Analyst Certification Board® (BACB) Ethics Code for Behavior Analysts.

Featured in this new edition are explanations of each code standard along with case studies drawn from questions submitted to Bailey's ABA Ethics Hotline (with permission of the writers of the cases) along with edited responses. New chapters include significant changes in this code, an elaboration of the core ethical principles, and the distinction between a client and stakeholder. Further new features include a chapter on ethical decision-making, including flowcharts demonstrating how to arrive at ethical decisions. Additional new chapters focus on finding an ethical place to work, an updated code of ethics for organizations, and how to file a Notice of Alleged Violation.

This text is the go-to ethics resource for behavior analysts in training and in practice.

Jon S. Bailey, PhD, BCBA-D, is Emeritus Professor of Psychology at Florida State University, where he has taught for over 50 years. Currently, he teaches ethics and other graduate courses for behavior analysts. He was a founding director of the Behavior Analyst Certification Board® and is past president of the Florida Association for Behavior Analysis.

Mary R. Burch, PhD, BCBA-D, is a Board Certified Behavior Analyst®. She has more than 25 years' experience in developmental disabilities. She has been a behavior specialist, QMRP, unit director, and consulting behavior analyst in developmental disabilities, mental health, and preschool settings.

“This book is an essential resource for behavior analytic ethics courses. The way that the fourth edition highlights the changes made in the 2022 version of the Behavior Analyst Certification Board® Ethics Code is invaluable and so helpful for anyone who uses the text. The presentation of considerations and a decision-making flowchart provides such a pragmatic way to solve ethical dilemmas.”

Adel C. Najdowski, PhD, BCBA-D, Associate Professor,
Pepperdine University

“The 4th edition of *Ethics for Behavior Analysts* is a must read for all behavior analysts. Professors, students, and practitioners have relied on Drs. Bailey and Burch as well-established experts in the areas of ethics and professional behavior in the field of ABA for years and will be well-served continuing to do so with the latest edition to this textbook.”

Stephanie Kuhn, PhD, LP, LBA, BCBA-D, Associate Professor;
Program Coordinator, Applied Behavior Analysis Program,
Western Connecticut State University

Praise for the previous edition:

“*Ethics for Behavior Analysts, 3rd Edition* by Bailey and Burch is another winner. It covers all the essential elements of ethics in an accessible and comprehensive manner. With valuable new chapters, the most up-to-date information, and numerous case examples that facilitate a problem-solving approach to ethical issues, this book is an invaluable resource. Students and professionals in behavior analysis should keep it close at hand.”

Raymond G. Miltenberger, PhD, BCBA-D,
Professor, University of South Florida

“This book is the ‘go-to’ ethics book for our field of applied behavior analysis. Bailey and Burch handle the universe of ethics with a perfect touch. Ranging from formal presentation of ethical requirements, to real-life examples that all readers will relate to, this book will raise the awareness of ethics and ethical conduct, which in turn will increase the chances that the clients who we serve will be treated humanely and safely.”

Thomas Zane, PhD, BCBA-D, Institute
for Behavioral Studies, Endicott College

“Bailey and Burch bring clarity to the BACB Professional and Ethical Compliance Code through cogent discussion of each element and thoughtful consideration of the myriad issues facing practicing behavior analysts. Practitioners of all levels will find valuable insight from numerous examples of real-life ethical dilemmas.”

Dorothea C. Lerman, PhD, BCBA-D,
University of Houston, Clear Lake

Ethics for Behavior Analysts

Fourth Edition

Jon S. Bailey and Mary R. Burch

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This 4th edition of our *Ethics for Behavior Analysts* book is dedicated to the memory of my dear friend and colleague, Gerald L. “Jerry” Shook, PhD, BCBA-D (1948–2011). You had a vision of a profession of behavior analysis and created the Behavior Analyst Certification Board as an instrument to bring it to life. You advocated for a code of ethics from the very beginning and encouraged me to promote it. You changed my life.

—Jon Bailey, BCBA-D



Photo of Jerry Shook



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Preface to the Third Edition

My first experience in ethics came when I was a graduate student in psychology in the late 1960s. I was working with a profoundly developmentally disabled young man who was confined to a heavy metal crib in the small ward of a private institution in Phoenix, Arizona. Blind, deaf, non-ambulatory, and not toilet trained, my “subject” engaged in self-injurious behavior virtually all day long. His head-banging behavior against the metal bars could be heard 25 yards away and greeted me each time I entered his depressing, malodorous living unit. Day after day, I sat by his crib taking notes on a possible thesis concerning how one might try to reduce his chronic self-injurious behavior or SIB (we called it self-destructive behavior in those days). After a few informal observation sessions, and reading through his medical chart, I had some ideas. I set up a meeting with one of my committee members, Dr. Lee Meyerson, who was supervising the research at the facility. “I’m observing a subject who engages in self-destructive behavior,” I began. “He hits his head 10 to 15 times per minute throughout the day. I’ve taken informal data at different times

of the day, and I don't see any consistent pattern," I offered. Dr. Meyerson let me go on for about 10 minutes, nodding and occasionally taking a puff on his pipe (smoking was allowed everywhere in those days). Then he stopped me abruptly and, gesturing with his pipe, began to ask me questions that I had never thought about. Did I know my "subject's" name? Did I have permission to observe and report on this individual? Who gave me permission to look at this medical record? Had I discussed this case with any of my graduate student colleagues or shown the data in class? I had no good answers to any of Dr. Meyerson's questions. I wasn't thinking of my "subject" as a person, only as a source of data for my thesis. It never dawned on me that "Billy" had rights to privacy and confidentiality and that he needed to be treated with dignity and respect, not as just another "subject" to help me complete a degree requirement. As it turns out, Dr. Meyerson was ahead of his time in grilling me with ethical questions that would not be addressed in legal circles for another ten years (see Chapter 1). Dr. Meyerson's questions helped sensitize me to looking at what I was doing from an extra-experimental perspective. How would I like to be treated if I was a subject in someone's experiment? Or how would I want my mother or sister to be treated? "With kindness, compassion and respect" is no doubt the quick response that most of us would offer. And so it is that ethics in psychology, and particularly in behavior analysis, can be easily personalized and made tangible if we will just stop and think about what we are doing.

Students today have a great advantage over my generation. We had no code of ethics to guide us; we had one foot in the animal lab and one in the world of academia, and we were trying to figure out how to transform powerful operant conditioning principles into effective treatments. It didn't dawn on us at the time that ethics was involved at all, until, of course, we encountered Dr. Meyerson. Today, graduate students in behavior analysis have nearly 50 years of applied research and practice to fall back on (and to learn from and be held accountable for knowing). In addition, they have a wealth of resources on ethics, including

case law and precedent-setting legal findings. Finally, students today have a perfectly legitimate, thoroughly researched, and well-vetted ethics code specifically designed for our field. The current version of this document is the BACB Ethics Code for Behavior Analysts. In teaching the graduate course “Professional and Ethical Issues in Behavior Analysis” for the past 15 years, I have learned a great deal about the ethical issues that appear to be unique to our field and have been developing lectures and trying to discover ways of making ethics interesting, informative, and engaging for students who do not quite see the relevance or appreciate our cautious approach. One thing I’ve discovered is that although we now have an excellent ethics code, it is somewhat dry and by itself, it does not convey the urgency and relevance that it should. Reading the Code is something like reading instructions for computer software: it’s clearly important, but you would rather just start using it.

Years ago, I was scheduled to give a half-day workshop at Penn State on ethics at the urging of Dr. Jerry Shook. In the process of preparing my materials, I wondered what kind of ethical questions the participants might have. Dr. Shook arranged in advance to have each participant write and submit to us two questions or “scenarios” that they had confronted in the work setting. When I got the questions, I realized that reading the scenarios suddenly made the ethical issues jump right off the page. I began trying to look up the correct responses (according to what was then called the BACB Guidelines), and this turned out to be quite difficult. Something was missing. An index of some sort would help, but none was available that I could find. Several all-nighters later, I had developed one. By the time Dr. Shook and I traveled to the conference, I had a new approach to teaching ethics. It involved presenting scenarios, having the students look up the relevant sections in the Guidelines for Responsible Conduct, and then having them present their proposed ethical actions. This approach teaches students that sometimes broad, ethical considerations always come down to some specific code items. My experience in using this

method over the past several years is that it brings the topic to life and generates excellent discussions of very relevant issues.

One troubling problem I encountered in teaching the “Ethics for Behavior Analysis” course was that specific code items were often very much out of context or written in such stilted legalese that students did not understand why they were necessary or how they were relevant. I found myself often “translating” specific items into plain English. This process, along with providing some historic context and background about how and why certain items were important in our field, seemed to increase the level of understanding for the students.

This book, then, is the culmination of this attempt to present a practical, student-centered approach to teaching ethics in behavior analysis. All of the cases are based on real examples but edited so as to avoid embarrassment or legal hassles, and the authors of the cases gave permission for their use (those in quotation marks are direct quotes from submitted cases). In addition, for each case, there is a commentary at the end of each chapter.

A final word about using this volume: this text is intended to be a practical handbook, and we specifically attempted to avoid making this an academic or theoretical work. Many people teaching ethics courses will routinely have students read the US Constitution, view *One Flew Over the Cuckoo’s Nest*, and research their state laws on limits of treatment, requirements for keeping documents, maintaining confidentiality, and other relevant issues. My experience is that it takes some creative digging to find relevant readings. Exposing students to a variety of sources, from Skinner and Sidman to Association for Behavior Analysis International (ABAI) position statements, is useful in preparing them to tackle the world of ethical issues they will confront. We have tried to summarize what we consider the most important and pressing issues for new Board Certified Behavior Analysts (BCBAs) in Chapter 15, “A Dozen Practical Tips for Ethical Conduct on Your First Job.” We hope you enjoy using this book and welcome input and dialogue on effective ways of teaching this most important topic.

Preface to the Fourth Edition

Much has happened in the world of behavior analysts in the last five years. The profession has nearly doubled in size, and the demand for services has totally outstripped our ability to provide qualified therapists, supervisors, and administrators. Economic pressures have come into play, as government agencies and insurance companies are tightening the purse strings, making it harder and harder to get reimbursement for services, while more and more families are desperate to receive the Association for Behavior Analysis International (ABAI) gold standard treatment for their loved one. There is a concern in many agencies that new behavior analysts are not being trained as thoroughly as they have been in the past in part due to the pressure to rush them out the door. This demand may have come at the cost of thorough hands-on training at practicum sites. There is an equal fear that new graduates are not receiving intensive enough training in the ethics of service delivery and even the basic principles and worldview of behavior analysis. Others are pointing out that trainees in ABA are not being properly schooled in cultural responsiveness and are

not prepared to deal with diversity issues with their clients and colleagues. This new code deals extensively with these concerns plus additional questions of exploitative relationships, and a long-standing and pervasive problem of dual relationships. All these topics and more are presented in preview format in Chapter 2. As in the previous edition, we rely heavily on case examples based on questions submitted to the ABA Ethics Hotline to illustrate the ethical problems that behavior analysts can expect to encounter on a weekly basis. It is hoped by studying actual practice and ethical dilemmas that new Board Certified Behavior Analysts (BCBAs) will be better prepared to take on a complex world of behavior analysis service delivery.

HOW TO USE THIS FOURTH EDITION

Each year, I teach a semester-long graduate course called “Ethics and Professional Issues for Behavior Analysts.” I use *Ethics for Behavior Analysts* for the first half of the semester, and for the second half I use *25 Essential Skills for the Successful Behavior Analyst* (Bailey & Burch, 2022). By covering ethics first, I find the students become sensitized to the new way of thinking about how they should conduct themselves; then I introduce them to all the other professional skills they will need to be successful in following through with the intent of the new ethics code.

We hope that this fourth edition of *Ethics for Behavior Analysts* will be useful as you learn about and teach others about ethics.

—Jon S. Bailey

Acknowledgments

To paraphrase an African proverb, “It takes a village to write a book.” I arrived at this conclusion about one month into gathering notes, quotes, references, questions, case examples, and nuggets of wisdom from many people that I know, have just met, and deeply respect. I would first like to thank those members of the Ethics Hotline Advisory Committee who contributed directly to this work. Thomas Zane, Yulema Cruz, Mary Jane Weiss, Noor Syed, Devon Sundberg, Rosemary Condillac, and Michele Silcox always responded immediately to my pleas and gave good honest advice. Tom wrote the chapter on research, Yulema tracked down supervision ethics questions, and the rest wrote responses to those questions or reviewed draft pages and offered their expertise graciously on every occasion that I made a request. I would also like to thank Zack Stevens, a former student who now has his own ABA agency in Tennessee and who provided sample documents that could be used to illustrate specific aspects of the new ethics code. Other former students who reviewed pages of writing were Loren Eighme and Hope McNally. Their experience in the field as Registered Behavior Technicians (RBTs) and Board Certified Behavior Analysts (BCBAs) added an extra dimension

of authenticity to the book. Robert Wallander and Ken Wagner helped me sort through the OBM side of the ethics equation. Lauren Beaulieu educated me about cultural competence. Noor Syed and Nasiah Cirincione-Ulezi shared their expertise on cultural humility, which is far more complicated than it sounds. Elizabeth Zeppernick reviewed drafts of my commentaries on using testimonials from current and former clients in advertising and non-advertising campaigns. Two additional former students, Nikki Dickens and Kolton Sellers, gave me a better understanding of the ins and outs of social media. This book would not have been possible without all of you—Thank You.

Disclaimer

This book does not represent an official statement by the Behavior Analyst Certification Board, the Association for Behavior Analysis International, the Florida Association for Behavior Analysis, or any other behavior analysis organization of which the authors are members. This text cannot be relied on as the only interpretation of the meaning of the Ethics Code for Behavior Analysts or the application of this code to specific situations. Each Board Certified Behavior Analyst, supervisor, or relevant agency must interpret and apply the code as they believe proper, given all the circumstances.

The cases used in this book are based on the authors' combined 75 years of experience in behavior analysis. In all cases, we have disguised the situations and used pseudonyms to protect the privacy of the parties and organizations involved. At the end of some of the chapters, we offer "Responses to Cases" as examples of real solutions to the ethical problems posed by the case. We do not hold these to be the only ethical solutions, but rather, each response is an example of one ethical solution. We encourage instructors who use the text to create alternate solutions based on their own

experiences. Finally, we hope that the responses offered here will stimulate discussion, debate, and thoughtful consideration about ways of handling what are by definition very delicate matters with possible life-changing consequences.

Unit

One

**Background for Ethics
in Behavior Analysis**



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How We Got Here

There is nothing more shocking and horrific than the abuse and maltreatment of innocent people who are unable to protect and defend themselves. Atrocious incidents of physical and emotional abuse toward animals, children, women, and elderly people occur every single day in our culture, and they are often reduced to a few lines in the local news of the daily paper.

Individuals with developmental disabilities can also be the victims of abuse. The reprehensible mistreatment of children and adults with disabilities is especially disturbing when the abuses come at the hands of your chosen profession. But this is exactly what happened in Florida in the early 1970s. These abuses changed the course of history for behavior analysis and the treatment of people with disabilities.

The story of the evolution of our Ethics Code for Behavior Analysts began in the late 1960s, when “behavior modification” was all the rage. Having started only in the mid-1960s (Krasner & Ullmann, 1965; Neuringer & Michael, 1970; Ullmann & Krasner, 1965), some of behavior modification’s early

Aversive consequences were used with abandon in informal reactions to self-injurious, destructive, and inappropriate behaviors.

promoters promised dramatic changes in behavior that were quick and easy to produce and could be carried out by almost anyone with an attendance certificate from a daylong “behavior mod” workshop. People calling themselves “behavior modifiers” offered rented-hotel-ballroom training sessions in abundance. There were no prerequisites for registering, and no questions were asked about the speaker’s qualifications. The basic pitch was this:

You don’t have to know why a behavior occurs (it was assumed to be learned—an “operant behavior”); you need to know only how to manipulate consequences. Food is a primary reinforcer for almost everybody; just make it contingent on the behavior you want. For inappropriate or dangerous behavior, use consequences (punishers) to “decelerate” the behavior.

There was no consideration given to the notion of “causes” of behavior or that there might be a connection between a likely cause and an effective treatment. Further, no thought was given to possible side effects of using food (e.g., food allergies, weight gain) or how the food, often candy, might be handled. Indeed, Cheerios, M&Ms, pretzels, and other bite-sized snacks and treats were loaded in the pockets of the “behavior specialist” in the morning and used throughout the day as needed (a hungry behavior specialist might even have a few from time to time). Likewise, aversive consequences were used with abandon in informal, impromptu, and spontaneous reactions to self-injurious, destructive, and inappropriate behaviors. Some staff members were urged to “be creative” in coming up with consequences. As a result, hot pepper sauces such as Tabasco and undiluted lemon juice might be seen in the jacket pockets of staff members who were on their way to work on “the behavior unit.”

In the early 1970s, “the unit” was frequently a residential facility for individuals with developmental disabilities who had moderate to severe mental retardation, some physical disabilities, and troublesome behaviors. It was most likely a former veterans’ or tuberculosis hospital, which might house 300 to 1,500 “patients.”

Custodial care was the norm until “behavior mod” came along and offered dramatic treatment for severe behavior problems. With no code of ethics and essentially no restrictions, this “treatment” quickly drifted into flat-out abuse.

THE SUNLAND MIAMI SCANDAL

The Sunland Training Center in Miami became ground zero for an abuse investigation that rocked the state of Florida in 1972. The center had been plagued by high turnover rates since it opened in 1965, resulting in frequent understaffing and low-quality training. Surprisingly, the majority of staff serving as “cottage parents” were college students. In 1969, the superintendent resigned under pressure from an investigation into “allegations of resident abuse.” It seems that he confined two residents in a “cell improvised from a large trailer” (McAllister, 1972, p. 2). Then, in April 1971, the Florida Division of Mental Retardation and the Dade County Attorney’s office began an intensive investigation of resident abuse and concluded after a 6-month inquiry regarding allegations of “infrequent and isolated cases of abuse” (p. 2) that the superintendent had dealt with the employees involved and taken appropriate disciplinary action. One of those professional employees, Dr. E., challenged his reassignment, and a grievance committee then uncovered what it considered to be a “highly explosive situation” involving resident abuse with the apparent knowledge and approval of top administrators. As a result, seven individuals were immediately suspended, including the superintendent, the director of cottage life, the staff psychologist, three cottage supervisors, and a cottage parent. Each was charged with “misfeasance, malfeasance, negligence, and contributing to the abuse of residents” (p. 4). Subsequently, Jack McAllister, the director of the State Health and Rehabilitative Services (HRS) Division of Retardation, formed a nine-member blue-ribbon panel, the “Resident Abuse Investigating Committee,” composed of experts in retardation as well as an attorney, a social worker, a client advocate, and

two behavior analysts (Dr. Jack May Jr. and Dr. Todd Risley). Interviews were set up with more than 70 individuals, including current staff members, former employees, residents, and relatives of residents (including one whose son died at Sunland Miami), with some interviews lasting 10 hours. The committee also examined original logs, internal memoranda, a personal diary, and personnel records.

It seems that Dr. E., a psychologist who had joined the staff in 1971 and who had presented himself as an *expert* in behavior modification, had set up a truly ironically named program called the “Achievement Division” in three cottages, allegedly to study “some rather esoteric questions of statistical models for economic analysis” (McAllister, 1972, p. 15). Dr. E., over the next year, established a “treatment” program that consisted of, or evolved into, abusive incidents including the following: forced public masturbation (for residents caught masturbating); forced public homosexual acts (again for those caught in the act); forced washing of the mouth with soap (as punishment for lying, abusive language, or simply speaking at all); beatings with a wooden paddle (ten “licks” for running away); and excessive use of restraints, including one resident who was restrained for more than 24 hours and another who was forced to sit in a bathtub for 2 days. Restraints were routinely used as punishment rather than an emergency method of preventing self-injury. As if this were not enough, the list of horrific, systematic abuses goes on: a male client required to wear women’s underpants; excessive use of lengthy (e.g., four-hour) seclusions in barren and unpadded rooms with no permission to leave to use

Dr. E. established a “treatment” program that consisted of forced public masturbation, forced public homosexual acts, forced washing of the mouth with soap, beatings with a wooden paddle, and excessive use of restraints.

the bathroom; public shaming by forcing a resident to wear a sign that said “The Thief”; food or sleep withheld as a form of punishment; another resident forced to hold feces-stained underwear under his nose for 10 minutes as punishment for incontinence; and another resident forced to lie on urine-soaked sheets for repeated incontinence (pp. 10–11).

The “milieu” of the Achievement Division consisted of an utter lack of programmed activities, which resulted in “profound boredom and deterioration, unattractive surroundings, complete lack of privacy, public humiliation, nakedness . . . and lack of any means of residents to express their grievances” (McAllister, 1972, p. 13). One resident died from dehydration, and another drowned in a nearby canal in his futile attempt to escape his cottage at Sunland Miami.

At first glance it might appear that such abuses would certainly have to be the work of a few frustrated, angry,

These revolting acts of abuse were the result of an attempt by Dr. E. to create a “superb behavior modification program.”

poorly trained employees bent on sadistic acts. However, the investigation revealed the contrary: these revolting acts of abuse were the result of an attempt by Dr. E. to create a “superb behavior modification program” (McAllister, 1972, p. 14) using routine “behavior shaping devices” (p. 15). The committee’s explanation was that this program “degenerated . . . into a bizarre, abusive, and ineffective system of punishment” (p. 17). In the Achievement Division, these procedures were systematically applied, condoned by supervisors and professional staff, and recorded in daily living unit logs. The procedures not only were used openly but also were, at least initially, well researched. Dr. James Lent, a well-respected expert in behavioral treatment, for example, modeled a token program after one first developed in Parsons, Kansas. One key ingredient was left out of this and other aspects of the Achievement Division: monitoring of individual resident behavior. Rather, the

emphasis was on guidelines for treatment that gave the otherwise poorly trained employees a great deal of latitude in their reactions. The three guidelines were as follows: (1) emphasize “natural consequences of behavior”; (2) devise your own immediate response to problem behaviors that might crop up where no other instructions apply; and (3) do not threaten; if you verbalize a consequence to a resident, “follow through on every contingency.”

The investigating committee was adamant in its observation that none of the cruel and abusive procedures employed in the Achievement Division had any basis in the behavior modification literature or “any other modern therapeutic or educational methodology.” They went on to suggest that because the cottage where the abuses took place was totally isolated from outside monitoring, it was entirely possible for “well-meaning but poorly trained personnel” to try some mild form of these procedures and then gradually escalate to the bizarre applications that were ultimately achieved. Each instance was, as noted previously, in a daily logbook, and, given no corrective action or response, a cottage parent would naturally assume tacit approval and then perhaps employ a “slightly more extreme form” of the procedure.

In this way, quite extreme procedures evolved in gradual steps from spontaneous initiation of less extreme procedures by the cottage staff, until . . . a pattern had been established of dealing with recurrent problems by escalating the intensity of whatever procedures happened to be in use for a particular resident.

(McAllister, 1972, pp. 17–18)

This natural tendency toward “behavior drift” on the part of the staff is certainly not uncommon in residential treatment facilities. In the case of Sunland Miami, it was facilitated by a nearly total lack of monitoring by upper-level management. The written policies at Sunland Miami clearly prohibited abusive practices, but there was no evidence that these were “forcefully communicated” to employees, and, as was previously mentioned, the facility

suffered from chronic turnover of staff, so ongoing staff training was superficial at best.

Another concern of the investigating committee had to do with the training and credentials of Dr. E. As it turns out, he had recently graduated with his doctoral degree from the University of Florida and then had completed some postdoctoral work at Johns Hopkins University. He claimed to have worked with some of the biggest names in the field. However, when the committee contacted them, these eminent researchers “vaguely remembered a brash young man who visited their laboratories on several occasions,” but none would claim him as his student (McAllister, 1972, p. 19). It must be remembered that Dr. E. was trained in the late 1960s when the field was in its infancy, and it appeared that the sky was the limit as far as behavior modification was concerned. The *Journal of Applied Behavior Analysis*, the professional journal of behavior analysis, had first been published only in 1968, so there was very little research on the application of behavior principles, and there was no code of ethics for behavioral researchers or practitioners.

RECOMMENDATIONS OF THE BLUE-RIBBON COMMITTEE

The investigating committee took on itself the additional responsibility of making recommendations to hopefully prevent any future systematic abuses in the name of behavior modification in the state of Florida. These included strong support for a statewide advocacy program in which staff members would be allowed to make unannounced visits to residential institutions and to collect information from key personnel as well as residents, parents, staff, and concerned citizens. In addition, the committee recommended professional peer review of all behavior programs to ensure that treatment was derived from the literature and that no procedures would be used that were considered “experimental.” Experimental programs would come under standard review

for human experimentation in the HRS Division of Retardation. Other recommendations of the committee included (1) the prohibition of certain bizarre examples of punishment and (2) abandoning seclusion in favor of “positive and appropriate ‘time out’ techniques” (McAllister, 1972, p. 31).

FOLLOW-UP

In most cases, a report such as that produced by the blue-ribbon committee would simply find its way to the shelves of state bureaucrats and languish with no lasting effect. Such was not the case in Florida. The Florida Association for Retarded Children (now the Arc of Florida) took up the cause of humane treatment and ultimately endorsed the notion of supporting data-based behavioral treatment, using strict guidelines, under close supervision by properly trained professionals.

The Division of Retardation, under the guidance of Charles Cox, instituted reforms including setting up both statewide and local peer review committees for behavior modification programming in facilities throughout Florida.

The Statewide Peer Review Committee for Behavior Modi-

fication (PRC) then established a set of guidelines for the use of behavioral procedures, which were subsequently adopted by the National Association for Retarded Citizens and by the Florida Division of Retardation in the Health and Rehabilitative Services Manual (HRSM) 160-4 (May et al., 1976). The state-funded PRC proceeded to make visits to institutions around the state over the next several years, educating staff members about the guidelines and making recommendations for more ethical treatment. By 1980, the PRC reached a consensus that it was time to encourage

Charles Cox instituted reforms including setting up both statewide and local peer review committees for behavior modification programming in facilities throughout Florida.

all the institutions, group homes, and smaller residential facilities to begin networking with one another and to begin to bring some sense of professionalism to behavior analysis in Florida. The “First Florida Work Session on Behavior Analysis in Retardation” was held in September 1980 and drew nearly 300 administrators, treatment specialists, behavior analysts, and direct care staff to the two-day conference, held in Orlando. At this historic conference, a meeting was held to organize an official state association. The first annual conference of the Florida Association for Behavior Analysis (FABA) was held in 1981, again in Orlando. None other than B. F. Skinner was the keynote speaker. The formation of FABA marked a turning point in behavior analysis, not only in Florida but also in the rest of the country. It was now possible to set high expectations for behavioral treatment because leaders in the field were routinely being brought to state conferences to present their latest applied behavioral research, and practitioners had an opportunity to see firsthand what others were doing in other parts of the country to solve some of the most intractable behavior problems of the day. Administrators from state government and private facilities were able to see that behavior analysis was not just some local phenomenon but rather was an approach to treatment that was legitimate, effective, and humane. The PRC, in conjunction with FABA, began the process of certifying behavior analysts via a testing program sponsored by the Division of Retardation. In 1988, FABA membership adopted the FABA Code of Ethics, the first state association to do so.

THE SUNLAND MIAMI LEGACY

In retrospect, the horrific abuses at Sunland Miami in the early 1970s were probably necessary for half-baked, unregulated behavior modification to evolve into professional, respected, behavior analysis. Without the abuses, there would have been no blue-ribbon committee formed to think seriously about how to protect individuals with developmental disabilities from systematic abuse

of behavioral procedures. The headlines resulted in the intense scrutiny of a treatment mode that was in its infancy and that needed guidelines and oversight. The pain and suffering of the individuals with developmental disabilities involved in the abuses amplified the need to think clearly about the ethics of treatment. Although it would have been easier to prohibit behavior modification altogether, the blue-ribbon committee was convinced by its two behavioral advocates, Dr. May and Dr. Risley, that a better alternative was to establish strict guidelines for treatment and to set up an infrastructure for oversight involving community citizens who would bring their values, common sense, and good judgment to evaluate behavioral treatment strategies on an ongoing basis. The notion of oversight by both human rights and peer review committees gave teeth to the public appraisal of behavior analysis. These actions, plus the development of a state-endorsed mechanism of certification, the evolution of a strong state professional organization, and its promotion of a code of ethics for behavior analysts, put in place all the necessary elements of control and management to prevent future abuses. And ethics, after all, is concerned primarily with the edict to “do no harm.” In the Florida case, we saw how great harm could be done by well-meaning people, and that abuse was prevented when appropriate, comprehensive strategies were adopted. Although ethics is usually seen as an individual professional engaging in responsible behavior of his or her own volition, the Florida case suggests that responsible conduct can be encouraged by other means as well. It is certainly painful and embarrassing for a profession to undergo such public scrutiny and scorn, but it was clearly warranted in this case. Indeed, it is hard to imagine such powerful procedures as

The pain and suffering of the individuals with developmental disabilities involved in the abuses amplified the need to think clearly about the ethics of treatment.

behavioral treatments being used consistently across the board in the absence of such obvious forms of oversight and control.

It is also clear that, even given these mechanisms, the behavior analyst faces numerous questions every day about the appropriateness of treatment decisions. What is fair? What is right? Am I qualified to administer this treatment? Can I do no harm? Am I taking enough data? Am I interpreting it correctly? Would my client be better off with no treatment? It is the purpose of this volume to try to elucidate the current Behavior Analyst Certification Board (BACB) Ethics Code for Behavior Analysts to assist the behavior analyst in making right choices on a daily basis.

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2

Changes to the 2022 Ethics Code

IF YOU ARE NEW TO THE BACB ETHICS FOR BEHAVIOR ANALYSTS 2022

If you are a new BCBA who will be starting in our field in 2022 or after, the changes to the previous code will probably not be of much relevance to you. You may want to proceed directly to Chapter 3.

Prior to 2022, the name of the ethics code for behavior analysts was the Professional and Ethical Compliance Code for Behavior Analysts (2014). The name of the code has changed. While in our field we often refer to “the code” or the “ethics code,” the official name of the code that will go into effect in 2022 is the Ethics Code for Behavior Analysts.

ADDITIONS TO THE 2022 ETHICS CODE FOR BEHAVIOR ANALYSTS

There were some significant modifications to the 2022 ethics code and some minor ones as well. In addition to a major reorganization and reduction of the code categories from ten to six, there were 20 additions¹ and 17 deletions or “moved” changes. Some of the changes will affect practitioners daily, and others (such as diversity) represent larger social movements in our culture that may be difficult to operationally define, measure, and enforce. We’ll talk more about this later.

In the 2022 code, there is one clarification about romantic and sexual relationships that is much needed but is still left vague. We have provided some discussion about this topic at the end of this chapter.

In this chapter, the additions to the 2022 code as written by the BACB are listed first. Immediately after each addition is a summary statement by the authors. The section on additions to the code is followed by the deletions or “moved” items, and finally, one clarification concludes the chapter.

We intend the term *supervisees* to include trainees, students and RBTs. When we say *clients*, this includes stakeholders of all sorts including parents, and when we refer to a *company*, we mean for this to include agencies, clinics, businesses, and organizations both for profit and non-profit.

1.07 Cultural Responsiveness and Diversity

Behavior analysts actively engage in professional development activities to acquire knowledge and skills related to cultural responsiveness and diversity. They evaluate their own biases and ability to address the needs of individuals with diverse needs/backgrounds (e.g., age, disability, ethnicity, gender expression/identity, immigration status, marital/relationship status, national origin, race, religion, sexual orientation, socioeconomic status). Behavior analysts also evaluate biases of their supervisees and trainees, as well as their supervisees’ and trainees’ ability to address the needs of individuals with diverse needs/backgrounds.

Summary: This new code requires that behavior analysts “acquire knowledge and skills related to cultural responsiveness and diversity” and that they “evaluate their own biases” as well as those of their supervisees and their ability to meet the needs of clients with “diverse needs/backgrounds.” [See Chapter 6 for details.]

1.10 Awareness of Personal Biases and Challenges

Behavior analysts maintain awareness that their personal biases or challenges (e.g., mental or physical health

conditions; legal, financial, marital/relationship challenges) may interfere with the effectiveness of their professional work. Behavior analysts take appropriate steps to resolve interference, ensure that their professional work is not compromised, and document all actions taken in this circumstance and the eventual outcomes.

Summary: This new code is related to 1.07 and additionally requires one to “maintain awareness” of their personal biases and certain health and other conditions that might affect their work. Behavior analysts are advised to “take appropriate steps” to resolve any issues so that their work is not compromised. [See Chapter 6.]

1.11 Multiple Relationships

Because multiple relationships may result in a conflict of interest that might harm one or more parties, behavior analysts avoid entering into or creating multiple relationships, including professional, personal, and familial relationships with clients and colleagues. Behavior analysts communicate the risks of multiple relationships to relevant individuals and continually monitor for the development of multiple relationships. If multiple relationships arise, behavior analysts take appropriate steps to resolve them. When immediately resolving a multiple relationship is not possible, behavior analysts develop appropriate safeguards to identify and avoid conflicts of interest in compliance with the Code and develop a plan to eventually resolve the multiple relationship. Behavior analysts document all actions taken in this circumstance and the eventual outcomes.

Summary: While mention of multiple relationships is not new, what is changed here is that a description of conflict of interest has been moved to the Glossary. This standard does say that a multiple relationship may cause a conflict of interest, and it goes on to say that if either of these occurs, the situation needs to be “resolved.” [See Chapter 6.]

1.12 Giving and Receiving Gifts

Because the exchange of gifts can invite conflicts of interest and multiple relationships, behavior analysts do not give gifts to or accept gifts from clients, stakeholders, supervisees, or trainees with a monetary value of more than \$10 US dollars (or the equivalent purchasing power in another currency). Behavior analysts make clients and stakeholders aware of this requirement at the onset of the professional relationship. A gift is acceptable if it functions as an infrequent expression of gratitude and does not result in financial benefit to the recipient. Instances of giving or accepting ongoing or cumulative gifts may rise to the level of a violation of this standard if the gifts become a regularly expected source of income or value to the recipient.

Summary: Gifts of “gratitude” up to \$10 are now allowed on an “infrequent” basis and ongoing or cumulative gifts may be a violation. We interpret “infrequent” to mean *annually*, such as at annual traditional gift giving holidays like Christmas, Hanukkah, or Chinese New Year. [See Chapter 6.]

1.15 Responding to Requests

Behavior analysts make appropriate efforts to respond to requests for information from and comply with deadlines of relevant individuals (e.g., clients, stakeholders, supervisees, trainees) and entities (e.g., BACB, licensure boards, funders). They also comply with practice requirements (e.g., attestations, criminal background checks) imposed by the BACB, employers, or governmental entities.

Summary: Behavior analysts respond to requests for information from clients when given deadlines and from employers, the BACB, or government agencies for practice requirements. The nature of information to be shared should be delineated in the service agreement. [See Chapter 6.]

2.02 Timeliness

Behavior analysts deliver services and carry out necessary service-related administrative responsibilities in a timely manner.

Summary: This code item is self-explanatory. The idea is that not only should clinical sessions and supervision be carried out in a timely manner, but administrative responsibilities such as filing reports and staying current with billing are also important. [See Chapter 7.]

2.17 Collecting and Using Data

Behavior analysts implement fee practices and share fee information in compliance with applicable laws and regulations. They do not misrepresent their fees. In situations where behavior analysts are not directly responsible for fees, they must communicate these requirements to the responsible party and take steps to resolve any inaccuracy or conflict. They document all actions taken in this circumstance and the eventual outcomes.

Summary: Behavior analysts use appropriate data collection procedures, and they graphically display, summarize, and use the data to make decisions about continuing, modifying, or terminating services. [See Chapter 7.]

3.02 Identifying Stakeholders

Behavior analysts identify stakeholders when providing services. When multiple stakeholders (e.g., parent or legally authorized representative, teacher, principal) are involved, the behavior analyst identifies their relative obligations to each stakeholder. They document and communicate those obligations to stakeholders at the outset of the professional relationship.

Summary: Behavior analysts identify stakeholders and their obligations to each; these obligations are documented when services begin. [See Chapter 8.]

3.15 Appropriately Discontinuing Services

Behavior analysts include the circumstances for discontinuing services in their service agreement. They consider discontinuing services when: (1) the client has met all behavior-change

goals, (2) the client is not benefiting from the service, (3) the behavior analyst and/or their supervisees or trainees are exposed to potentially harmful conditions that cannot be reasonably resolved, (4) the client and/or relevant stakeholder requests discontinuation, (5) the relevant stakeholders are not complying with the behavior-change intervention despite appropriate efforts to address barriers, or (6) services are no longer funded. Behavior analysts provide the client and/or relevant stakeholders with a written plan for discontinuing services, document acknowledgment of the plan, review the plan throughout the discharge process, and document all steps taken.

Summary: This section now includes a fifth reason for discontinuation, when “relevant stakeholders are not complying with the behavior-change intervention.” This is a significant addition to the ethics code. [See Chapter 8.] These contingencies should be spelled out at the onset of services in the written service agreement.

3.16 Appropriately Transitioning Services

Behavior analysts include in their service agreement the circumstances for transitioning the client to another behavior analyst within or outside of their organization. They make appropriate efforts to effectively manage transitions; provide a written plan that includes target dates, transition activities, and responsible parties; and review the plan throughout the transition. When relevant, they take appropriate steps to minimize disruptions to services during the transition by collaborating with relevant service providers.

Summary: This includes the circumstances for transitioning the client to another behavior analyst, including providing a written plan and transition activities; behavior analysts take steps to minimize disruptions during the transition. [See Chapter 8.] This appears to replace the previous statement about not *abandoning* clients.

4.05 Maintaining Supervision Documentation

Behavior analysts create, update, store, and dispose of documentation related to their supervisees or trainees by following all applicable requirements (e.g., BACB rules, licensure requirements, funder and organization policies), including those relating to confidentiality. They ensure that their documentation, and the documentation of their supervisees or trainees, is accurate and complete. They maintain documentation in a manner that allows for the effective transition of supervisory oversight if necessary. They retain their supervision documentation for at least seven years and as otherwise required by law and other relevant parties and instruct their supervisees or trainees to do the same.

Summary: Behavior analysts are responsible for all documentation related to their supervisees. Documentation must be accurate and complete, must allow for transition, and must be kept for seven years. Supervisees must do the same. [See Chapter 9.]

4.07 Incorporating and Addressing Diversity

During supervision and training, behavior analysts actively incorporate and address topics related to diversity (e.g., age, disability, ethnicity, gender expression/identity, immigration status, marital/relationship status, national origin, race, religion, sexual orientation, socioeconomic status).

Summary: It is necessary to include a wide variety of diversity topics in supervision and training. In the new code, many categories are listed, but the “topics” to be discussed are left up to supervisors. [See Chapter 9.]

4.11 Facilitating Continuity of Supervision

Behavior analysts minimize interruption or disruption of supervision and make appropriate and timely efforts to facilitate the continuation of supervision in the event of planned interruptions (e.g., temporary leave) or unplanned interruptions (e.g., illness, emergencies). When an interruption or disruption

occurs, they communicate to all relevant parties the steps being taken to facilitate continuity of supervision.

Summary: BCBAs minimize interruption of supervision and make appropriate efforts to facilitate the continuation of supervision in the event of interruptions. If interruptions occur, steps should be taken to facilitate the continuity of supervision, and these steps are shared with relevant parties. [See Chapter 9.]

4.12 Appropriately Terminating Supervision

When behavior analysts determine, for any reason, to terminate supervision or other services that include supervision, they work with all relevant parties to develop a plan for terminating supervision that minimizes negative impacts to the supervisee or trainee. They document all actions taken in this circumstance and the eventual outcomes.

Summary: When supervision is terminated, behavior analysts work with all parties on a plan that minimizes negative impacts to the supervisee; all of these steps need to be documented. [See Chapter 9.]

5.01 Protecting Clients, Stakeholders

Behavior analysts take appropriate steps to protect the rights of their clients, stakeholders, supervisees, and trainees in all public statements. Behavior analysts prioritize the rights of their clients in all public statements.

Summary: Behavior analysts protect the rights of their clients and supervisees in public statements; the rights of their clients are given priority in these statements. [See Chapter 10.]

5.06 Advertising Nonbehavioral Services

Behavior analysts do not advertise nonbehavioral services as behavioral services. If behavior analysts provide nonbehavioral services, those services must be clearly distinguished from their behavioral services and BACB certification with the following

disclaimer: “These interventions are not behavioral in nature and are not covered by my BACB certification.” This disclaimer is placed alongside the names and descriptions of all non-behavioral interventions. If a behavior analyst is employed by an organization that violates this Code standard, the behavior analyst makes reasonable efforts to remediate the situation, documenting all actions taken and the eventual outcomes.

Summary: Behavior analysts do not advertise non-behavioral services as ABA. If they provide non-behavioral services, they must be clearly distinguished from ABA services and certification and must use a disclaimer to this effect. If your company does not make this distinction, you need to try and remediate the situation and document everything. [See Chapter 10.]

5.08 Using Testimonials From Former Clients for Advertising

When soliciting testimonials from former clients or stakeholders for use in advertisements designed to obtain new clients, behavior analysts consider the possibility that former clients may re-enter services. These testimonials must be identified as solicited or unsolicited, include an accurate statement of the relationship between the behavior analyst and the testimonial author, and comply with all applicable privacy and confidentiality laws. When soliciting testimonials from former clients or stakeholders, behavior analysts provide them with clear and thorough descriptions about where and how the testimonial will appear, make them aware of any risks associated with the disclosure of their private information, and inform them that they can rescind the testimonial at any time. If a behavior analyst is employed by an organization that violates this Code standard, the behavior analyst makes reasonable efforts to remediate the situation, documenting all actions taken and the eventual outcomes.

Summary: When asking former clients for statements to use in advertisements to attract new clients, it is necessary to consider that they may re-enter services at a later time and that a disclaimer

is required. It is also necessary to tell them how the testimonial will be used and let them know of the dangers associated with the disclosure of their private information. If your company violates this code, you need to try and remediate the situation and then document everything. [See Chapter 10.]

5.09 Using Testimonials for Non-advertising Purposes

Behavior analysts may use testimonials from former or current clients and stakeholders for nonadvertising purposes (e.g., fundraising, grant applications, dissemination of information about ABA) in accordance with applicable laws. If a behavior analyst is employed by an organization that violates this Code standard, the behavior analyst makes reasonable efforts to remediate the situation, documenting all actions taken and the eventual outcomes.

Summary: Behavior analysts may use testimonials from former or current clients for non-advertising purposes. If your company violates this code, you should do your best to remediate the situation, and document everything along the way. [See Chapter 10.]

5.10 Social Media Channels and Websites

Behavior analysts are knowledgeable about the risks to privacy and confidentiality associated with the use of social media channels and websites and they use their respective professional and personal accounts accordingly. They do not publish information and/or digital content of clients on their personal social media accounts and websites. When publishing information and/or digital content of clients on their professional social media accounts and websites, behavior analysts ensure that for each publication they (1) obtain informed consent before publishing, (2) include a disclaimer that informed consent was obtained and that the information should not be captured and reused without express permission, (3) publish on social media channels in a manner that reduces the potential for sharing, and (4) make appropriate efforts to prevent and correct misuse of the shared information, documenting

all actions taken and the eventual outcomes. Behavior analysts frequently monitor their social media accounts and websites to ensure the accuracy and appropriateness of shared information.

Summary: You need to be aware of the risks to privacy and confidentiality when using *social media* such as Facebook and Twitter. Do not publish client information on your *personal* social media; when putting client information on your *professional* social media, make sure that you have their *informed* consent. Check your social media accounts often, making sure of their accuracy. [See Chapter 10.]

5.11 Using Digital Content in Public Statements

Before publicly sharing information about clients using digital content, behavior analysts ensure confidentiality, obtain informed consent before sharing, and only use the content for the intended purpose and audience. They ensure that all shared media is accompanied by a disclaimer indicating that informed consent was obtained. If a behavior analyst is employed by an organization that violates this Code standard, the behavior analyst makes reasonable efforts to remediate the situation, documenting all actions taken and the eventual outcomes.

Summary: Before sharing client information using digital content, make sure to obtain *informed* consent and ensure that all shared media is has a disclaimer indicating informed consent was obtained. If your company violates this code, try to remediate the situation and document everything. [See Chapter 10.]



DELETIONS FROM THE 2016 PROFESSIONAL AND ETHICAL COMPLIANCE CODE FOR BEHAVIOR ANALYSTS

1.0 Responsible Conduct of Behavior Analysts. This has been moved the Introduction.

2.15 Interrupting or Discontinuing Services. Section (e) “Behavior analysts do not *abandon* clients and supervisees” has been deleted and replaced by Code 3.15. A new section (5) has been added that states if the stakeholders are not cooperating with the behavior program services may be discontinued.

3.01 Behavior-Analytic Assessment. “When behavior analysts are developing a behavior-reduction program, they must first conduct a functional assessment” has been dropped and replaced by Codes 2.13 and 2.14, which do not mention behavior reduction.

5.05 Communication of Supervision Conditions. This has been dropped; it is now considered a certification requirement.

6.0 Behavior Analysts’ Ethical Responsibility to the Profession of Behavior Analysis. This has been moved to the introduction.

6.01 Affirming Principles. This has been dropped as not enforceable. Code 6.01(a) said: “Above all other professional training, behavior analysts uphold and advance the values, ethics, and principles of the profession of behavior analysis.” This seems to be a major loss.

6.02 Disseminating Behavior Analysis. This has also been moved to the Introduction.

7.0 Behavior Analysts’ Ethical Responsibility to Colleagues. Another item moved to the Introduction.

7.01 Promoting an Ethical Culture. Also moved to the Introduction.

8.0 Public Statements. Also moved to the Introduction.

8.06 In-Person Solicitation. This has been deleted because it was confusing to people who did not know what *solicitation* meant.

9.0 Behavior Analysts and Research. Moved to the Introduction.

9.04 Using Confidential Information for Didactic or Instructive Purposes. This is now covered by 6.05 Confidentiality in Research.

9.05 Debriefing. This has been dropped, covered by other standards.

10.02 Timely Responding, Reporting, and Updating of Information Provided to the BACB. Now covered by Codes 1.15 and 1.16.

10.04 Examination Honesty and Irregularities. This has been removed, now covered by Code 1.01 Being Truthful and the certification requirements.

10.07 Discouraging Misrepresentation by Non-certified Individuals. This has been moved to the Introduction and covered by 1.01 Being Truthful.

•••••

STILL NEEDS CLARIFICATION

New Code 1.14 Romantic and Sexual Relationships. This code item still does not clarify the question about *social* relationships with *former* clients. Our understanding is that in the absence of some restriction, once a client is a *former* client, it is acceptable for behavior analysts to have normal social relationships (friendship) with them. However, one cannot discuss their behavioral services or the behavior analyst’s current clients.

SUMMARY

There were both significant and minor modifications to the 2022 Ethics Code for Behavior Analysts. In addition to a major reorganization and reduction of the code categories from ten to six, there were 20 additions² and 17 deletions or “moved” changes. In the new Code, for the first time, attention is drawn to cultural responsiveness and diversity. Behavior analysts are encouraged to be aware of their personal biases and to avoid entering into multiple relationships. Gifts of “gratitude” with a value up to \$10 are not permitted, and clients and stakeholders should be made aware of this limitation at the beginning of the professional relationship. Behavior analysts should be timely in their work and administrative duties, and they should respond in a timely fashion to requests for information. With regard to programming, the new code addresses and further delineates requirements for data collection, discontinuing and transitioning services, and supervision. Finally, testimonials,

advertising, and social media should be handled with care to protect the reputation of individual behavior analysts and our field.

NOTES

1. The BACB lists only nine.
2. The BACB lists only nine.

3

Everyday Ethical Challenges for Average Citizens and Behavior Analysts

As they travel down the bumpy, pothole-riddled road to adulthood, children absorb the rules of their families, communities, religions, and cultures. Over a surprisingly short time, parents, relatives, teachers, and the occasional coach or scoutmaster pave the way for future ethical conduct. These unsuspecting adults may not realize that every day they are playing a key role in clarifying unwritten rules, giving sage advice, serving as role models, and delivering the consequences that will determine future adult behavior.

From the time people are young children, we can safely say that there is no consistent set of rules of ethical conduct for all citizens. If a junior high school student cheats on a test, gets an “A,” and does not get caught, he may come to believe that cheating is okay regardless of what his parent or religious leader says. A pattern can develop where “Don’t get caught” becomes the rule rather than “Don’t cheat.” A child who routinely fails to do her after-school chores, makes excuses, and is forgiven may grow up to be an adult who learns to make up

When students decide to enter a graduate program in behavior analysis, they are entering a world where suddenly the rules are different.

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