



The Ethics Guidelines are produced by the Office of the Syndic in collaboration with the Professional Inspection Committee. These guidelines do not constitute legal opinions; each case is particular and must be analyzed in the light of the circumstances peculiar to it.

**FOR PSYCHOLOGISTS,
THE DEMANDS OF THE
SCHOOL SETTING INCLUDE
THE COMPLEXITY OF DEALING
WITH MANY PEOPLE IN
THE COURSE OF THEIR WORK,
THE EXISTENCE OF THE
EMPLOYER'S EDUCATIONAL
MANDATE IN ADDITION TO
THE PSYCHOLOGIST'S
PROFESSIONAL REQUIREMENTS
AND THE INHERENT
CONSTRAINTS OF THE JOB.**

THE PRACTICE OF SCHOOL PSYCHOLOGISTS (PART 1)

- ▶ Context
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INTRODUCTION

The changes made to the *Education Act* in 1997 led to the organization of school boards on a linguistic basis and the decentralization of administrative powers to the schools. This reorganization made psychologists wonder about the application of their regulations. The publication by the Syndic's Office of the first ethics guidelines on consent, in January 2000, and an update on this subject in summer 2002, also created a need for clarification in view of the procedures put into place within educational institutions.

To respond to the concerns expressed by psychologists working in this field of practice, we have produced two ethics guidelines on this subject, of which this is the first. The purpose of these articles is first, to ensure wider dissemination of the relevant information and second, to identify some issues of concern to school psychologists and propose potential solutions, thereby helping the psychologists improve their work and the quality of their services to their employer and clients.

These ethics guidelines stem from a consultation held with a group of psychologists¹ who are very familiar with this environment, having worked in the field for many years. They aim to provide directions to school psychologists in their dealings with elected and appointed school board officials. This is necessary, as these officials tend to make differing demands of psychologists, in addition to the requests coming from other professionals, teachers, students and parents. What is more, school psychologists are frequently obliged, in a given week, to work with both elementary and high school students. These situations are very different and adjustment to them requires different approaches.

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SOME CLARIFICATIONS

1. Responsibilities towards the Employer and Clients

Psychologists employed by school boards are subject to their employer's managerial rights on all aspects related to their job, and to the management policies and rules associated with the schools' educational mandate. However, despite the claims made

in certain circles based on legal opinions obtained by school administrators, the rules in effect must comply with professional ethics and the legislation applying to professionals. The employer cannot act in ways that contravene these laws and ethics and the psychologist remains responsible for ensuring that they are observed in regard to his or her clients, including parents and students aged 14 and over.

This is supported by a theoretical doctrine cited by Professions Tribunal jurisprudence² (1999, p. 12). The case in question dealt with a psychologist's conduct and the Tribunal specified that an employer cannot "require that a professional behave in a manner contrary to that prescribed by his Code of Ethics, the Professional Code or, if applicable, the particular legislation and regulations governing his professional order [*translation*]." A similar viewpoint was expressed very recently in another decision: "It must be stressed that it is not the internal policies of the person requesting services which determine the ethical obligations of the professionals from whom these services are requested [*translation*]" (Professions Tribunal, 2003, p. 10).

It is a fact, however, that the *Education Act* and the *Basic school regulation for preschool, elementary and secondary education* constitute the essence of the mission of the psychologist's employer. This regulatory framework defines, particularly for the school board, the nature and objectives of the educational services established by the legislator. The psychologist cannot decide to stand apart from this reality. Therefore, given the co-existence of two realities, the psychologist has the responsibility to use his professional judgment and act in a manner that is guided by ethics.

School psychologists may feel placed in a situation of double constraint, which prevents them from acting. But in fact, this is a reflection of the complexity of professional work in the school setting. The work requires thinking, case by case, and using appropriate measures that take into account both the employer's mission and the psychologist's obligation towards his clients. The Syndic's Office is aware of the difficulty of this situation, and requests for investigations received from parents or school administrators are always examined with due regard for the particular context.

2. The Work Environment

A common feature of the work environment of school psychologists is the fact of being assigned to several schools. Consequently, the premises in which they conduct their work may not be conducive to observing confidentiality or the *Regulation respecting the keeping of records and consulting-rooms by psychologists*. It is important that measures be taken to prevent adverse external factors from affecting the students, the quality of clinical observations, and record keeping and the evaluation report. The psychologist may have to work with the school administration to find a suitable solution to this problem.

Because of the need to travel from school to school, psychologists may carry student records with them. To ensure the confidentiality of documents containing nominative information, a locked briefcase can be used. Upon arrival at the destination, the psychologist must secure the storage of the documents. Section 7 of the *Regulation respecting the keeping of records and consulting-rooms by psychologists* mentions the psychologist's obligation to keep his records in a cabinet locked with a key. In the school setting, all the professionals may share a single filing cabinet. In this case, the psychologist must ensure that psychological records are not accessible to other professionals by keeping them in a separate locked drawer. This regulatory requirement has to be made clear to the employer. In some cases, due to limited resources, the psychologist may have to devise ways of complying with the guidelines in a manner adapted to the existing reality.

3. Working with School Personnel

A psychologist receives requests from a variety sources: the principal, other members of the school staff (such as teachers), other professionals and people outside the school system (such as Youth Protection agents or police officers). He has to determine how he can respond in the light of his obligations to his employer and the requirements for professional secrecy. If information is to be provided to others for the purpose of helping the student, he should, when obtaining the client's consent, provide the client with the names of the people who will be receiving the information.

CONFIDENTIALITY OF PREMISES

TRANSPORTATION AND
STORAGE OF RECORDS

REFERRALS AND MANDATE

PSYCHOLOGIST'S ROLE

Teachers and other professionals may seek input from the psychologist as a consultant. These consultations may relate to any of the students in the school. There is no obligation to keep a record unless the student involved is someone currently receiving the psychologist's services. In this case, he must consider the nature of the consent he has obtained from the student or his parents and, if applicable, make a note in the record. Otherwise, when the psychologist's expertise is tapped for a theoretical viewpoint on a student, he can rely on his clinical experience. There will be no nominative information and no obligation to keep a record.

AVOIDING CONFLICT OF INTEREST

In some cases, the problem raised could put the psychologist in a conflict of interest, for example, because of past discussions with a student or his parents or commitments made to them. He can resolve this conflict by limiting his involvement, or by clarifying the situation to the clients concerned and obtaining their consent to conduct the required work.

REQUEST FOR ACCESS TO THE RECORD

When agencies or individuals request information, the psychologist can ask for reasons justifying their request. He should determine under which legislative provision they are seeking access to nominative information entered in a psychological record. We note that section 62 of the *Act respecting access to documents held by public bodies and the protection of personal information* permits the communication of nominative information on students to "every person qualified to receive nominative information within a public body." However, the psychologist is responsible for ensuring that this request is associated with the exercise of the requestor's functions (see situational scenario #3). In the event of a dispute, the psychologist should consult the person responsible for access to documents at the school board in order to ensure the conformity of the access.

The communication of personal information without the consent of the person concerned is not a discretionary exercise. It must be understood as a process that is related to specific needs and comes under a clear legal framework.

INTERPRETATION OF TESTS BY OTHER PROFESSIONALS

If the psychologist is asked to interpret results obtained in tests administered by other persons, he should be cautious and avoid stating opinions without having the elements to support these opinions. The same is true for opinions about children whom he has not evaluated. Since he is dealing with information obtained from other sources, rather than his own clinical observations, he should limit himself to expressing hypotheses.

SITUATIONAL SCENARIOS

1. *A multidisciplinary team of which the school psychologist is a member meets to review the status of 12 children receiving remedial instruction. The psychologist assessed eight of these children the previous year. Can he participate in the team discussion?*

In this situation, the psychologist can act as a consultant. He has to take care to maintain confidentiality, but can express a theoretical viewpoint based on his clinical experience, as when he deals with non-nominative information. There is no need to obtain permission because no record is open.

2. *A Youth Protection agent calls the school psychologist. She claims to know that a certain child has a psychological record at the school. She says that she has his parent's verbal permission to talk to him. She wants to obtain information on the record content.*

The psychologist must obtain written authorization in order to disclose any information. The Youth Protection agent does not have the authority to lift the obligation of professional secrecy. In certain difficult situations, it could be acceptable, in ethical terms, for the psychologist himself to contact the parent in order to verify his or her consent and note the information in the record. In the event of the parent's refusal to disclose information, or the agent's refusal to provide a written document justifying her request, the psychologist is obliged to maintain confidentiality. The only exception is in an emergency, for example, if the parents cannot be reached and the psychologist himself has reasonable grounds to believe that the child is in danger.

3. *The Quebec Department of Education asks the school boards to have their psychologists produce a report containing nominative information to prove that children should receive special coding giving them access to specialized services. The record contains reports by child psychiatrists.*

Section 67 of the *Act respecting access to documents held by public bodies and the protection of personal information* permits, without the consent of the person concerned, the communication of nominative information in such a situation inasmuch as this communication is necessary for the application of a Quebec law. The *Act respecting the Ministère de l'éducation* gives this power to the Minister and the *Education Act* stipulates that the school board "may require from its educational institutions any information or document it considers necessary for the exercise of its functions and powers" (sec. 218.1). However, it is up to the psychologist to determine which nominative information satisfies the request, to ensure that detrimental information on a child is not disclosed unnecessarily.

4. *A psychologist works in five elementary schools where there is no waiting room and therefore no place to post her permit to practice.*

The psychologist could carry her permit or membership card with her and present it when introducing herself in meetings with parents or youths aged 14 or over. As this is a problem with limited consequences, the psychologist should be able to find a reasonable accommodation.

5. *A 13-year-old Grade 7 student who has been placed in a temporary individualized path for learning is failing at the end of a term. He could be reclassified into a permanent individualized path for learning. The psychologist knows the student. She knows that he is of average intelligence and has severe attention deficit disorder, which was controlled by medication when he was in elementary school. The psychologist's hypothesis is that the boy has stopped taking his medication in high school. The psychological record is closed and there is no authorization to communicate the information.*

The psychologist can easily take the role of consultant and express her hypothesis in this situation. She can thereby help her team members better understand the problem without disclosing the content of the past record. She could also request parental permission for a psychological intervention to assess the boy's present status in the light of his past situation. Given the impact of the decision to be made, the parents should be involved, and this would be the case even if the student were over 14.

In the second part of this article, which will be published in September 2003, we will deal with issues relating to consent and record-keeping and present some additional situational scenarios.

REFERENCES

1. We would like to acknowledge the input of the following psychologists: Solange De Garie and Jean-Marie Michaud of the Association québécoise des psychologues scolaires, Gaëtan Langlois, Théobald Grimard and Michel Dyotte, inspectors, and Pierre Desjardins, professional development advisor.
2. Jurisprudence consists of decisions of tribunals which interpret legislation and establish the law

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THE PSYCHOLOGIST MAY NEED TO IDENTIFY THE INTERESTS HE HAS IN COMMON WITH HIS EMPLOYER AND DISCUSS WITH HIM THE POTENTIAL PROBLEMS AND MUTUALLY ACCEPTABLE SOLUTIONS.

The practice of a profession is defined by two co-existing realities: one the one hand, a recognition of the professional's right to decide on the most appropriate course of action, with every decision having an underlying ethical dimension, and on the other, the existence of a regulatory mechanism aimed at ensuring the protection of the public. The ethics guidelines are intended to inform psychologists about the existing regulatory framework to help them in the process of making informed decisions.



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