

Draft Regulation

Professional Code
(chapter C-26)

**Guidance counsellors
— Code of ethics**

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Code of ethics of guidance counsellors, made by the board of directors of the Ordre des conseillers et conseillères d'orientation du Québec, appearing below, may be submitted to the Government which may approve it, with or without amendment, on the expiry of 45 days following this publication.

The draft Regulation has been entirely reviewed by the Order to take into account the fact that the psychoeducators integrated into the Order in 2000 have been regulated, since 2010, by a separate professional order, and the new realities of the practice of the profession.

The draft Regulation has no impact on the public and on enterprises, including small and medium-sized businesses.

Further information may be obtained by contacting Martine Lacharité, Director General and Secretary, Ordre des conseillers et conseillères d'orientation du Québec, 1600, boulevard Henri-Bourassa Ouest, bureau 520, Montréal (Québec) H3M 3E2; telephone: 1 800 363-2643 or 514 737-4717; fax: 514 737-2172; email: mlacharite@orientation.qc.ca

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to the Chair of the Office des professions du Québec, 800, place D'Youville, 10^e étage, Québec (Québec) G1R 5Z3. The comments will be forwarded by the Office to the Minister of Justice and may also be sent to the professional order that made the Regulation and to interested persons, departments and bodies.

JEAN PAUL DUTRISAC,
*Chair of the Office des
professions du Québec*

par: CHRISTIANE GAGNON,
Vice-présidente

Code of ethics of guidance counsellors

Professional Code
(chapter C-26, s. 87)

**DIVISION I
GENERAL**

1. This Code determines the duties and obligations that must be discharged by guidance counsellors, regardless of the context or manner in which they engage in their professional activities or the nature of their contractual relationship with clients.

The duties and obligations under the Professional Code (chapter C-26) and its regulations are not modified in any manner owing to the fact that a guidance counsellor practices within an organization, a partnership or a joint-stock company.

2. Guidance counsellors may not exempt themselves, even indirectly, from a duty or obligation contained in this Code.

3. Guidance counsellors must take reasonable measures to ensure that persons who collaborate with them in the practice of their profession and any organization, partnership or joint-stock company within which they carry on professional activities comply with the Professional Code (chapter C-26) and its regulations.

4. Guidance counsellors may not perform any act or behave in any manner that is contrary to what is generally admissible in the practice of the profession, or that is likely to adversely affect the honour and dignity of the profession or to compromise the public's confidence in the profession.

**DIVISION II
VALUES AND ETHICAL PRINCIPLES**

5. The foundation of the profession of guidance counsellor is based in particular on the following values and ethical principles:

(1) respect for the person's dignity and for that person's values and right to decide for themselves;

(2) professional integrity, independence, objectivity, skill, rigour and search of authenticity and honesty for the guidance counsellor and others;

(3) professional independence, professional judgment and the capacity to act based on their skills taking into account the complexity of the situations and the uniqueness of each person;

(4) social commitment and concern to engage the individual and collective skills of the members of the profession in order to take part in the collective and social well-being.

DIVISION III

DUTIES AND OBLIGATIONS TOWARDS CLIENTS, THE PUBLIC AND THE PROFESSION

§1. *Quality of the professional relationship*

6. Guidance counsellors must seek to establish and maintain a relationship of mutual trust with their clients.

7. In their practice, guidance counsellors must show respect for the dignity and freedom of persons and refrain from any form of discrimination.

Where guidance counsellors consider that they are unable to ensure the quality of the professional relationship, they must, in the interest of the client, refer the client to another guidance counsellor.

8. Guidance counsellors must respect the privacy of the persons with whom they enter into a professional relationship, in particular by refraining from gathering information and exploring aspects of private life that have no relation with the professional services agreed on with the client.

9. Guidance counsellors must refrain from acting in any manner that may affect the physical, mental or emotional integrity of the person with whom they establish a professional relationship.

10. During the professional relationship, guidance counsellors must not establish friendships likely to affect the quality of the professional services, or relations of an amorous or sexual nature with a client or a relative of the client. They must refrain from making improper remarks or gestures of a sexual nature to a client or a relative of the client.

The professional relationship does not end with the last professional service provided. It continues for as long as there is a relationship of authority, vulnerability or dependence with respect to the client or a relative of the client.

For the purpose of determining the duration of the professional relationship, guidance counsellors must take into consideration, in particular, the nature of the problems to be addressed by and the duration of the professional services provided, the client's vulnerability and the likelihood of the guidance counsellors having to provide professional services to the client again.

11. Guidance counsellors may not refuse or cease to act on behalf of a client, without just and reasonable grounds, in particular

(1) the inability to establish or maintain a relationship of trust with their client;

(2) the client's inability to derive benefits from the professional services offered by the guidance counsellor;

(3) the likelihood that maintaining the professional services may, in the guidance counsellor's judgment, become more harmful than beneficial for the client;

(4) a real or apparent conflict of interest or in a situation in which their professional independence could be questioned;

(5) inducement by their client or a relative of the client to perform illegal acts or acts that are contrary to the provisions of this Code;

(6) non-compliance by their client with the conditions agreed on to provide services, including professional fees, and the impossibility of negotiating with the client a reasonable agreement to reinstate the conditions; and

(7) the guidance counsellor's decision to scale down his or her practice or to put an end to the practice for personal or professional reasons.

12. Guidance counsellors must inform their client as soon as possible of any action, taken in connection with a professional service, that may be prejudicial to the client.

13. Before ceasing to provide professional services to a client, guidance counsellors must so inform the client and take the steps necessary to avoid any prejudice to the client.

14. Guidance counsellors must at all times acknowledge their client's right to consult another professional or any other competent person.

§2. *Consent*

15. Before providing professional services, guidance counsellors must, except in an emergency, obtain the free and enlightened consent of the client, the client's legal representative or, in the case of a child under 14 years of age, the person having parental authority or the tutor.

To enable a client to give free and enlightened consent, guidance counsellors must inform the client of and ensure that the client understands

(1) the objective, nature, relevance and main terms of the professional services;

(2) the limits and constraints of the professional services;

(3) the use of information obtained;

(4) the implications of sharing information with third persons or sending a report to third persons; and

(5) the professional fees and terms of payment.

Communication of the information is adapted to the context of the professional services provided.

16. In providing their professional services, guidance counsellors must ensure that the consent of the client remains free and enlightened.

17. At all times, guidance counsellors must acknowledge the client's right to withdraw his or her consent.

§3. Confidential information

18. Guidance counsellors must preserve the secrecy of all confidential information obtained in the practice of their profession. Guidance counsellors may be released from their obligation of professional secrecy only with the authorization of their client or where so ordered by law.

In order to obtain such authorization, guidance counsellors must inform their client of the possible implications of the lifting of professional secrecy.

19. In addition to the cases provided for in the first paragraph of section 18, guidance counsellors may communicate information that is protected by professional secrecy, in order to prevent an act of violence, including a suicide, where the guidance counsellors have reasonable cause to believe that there is a serious risk of death or serious bodily injury to a person or an identifiable group of persons and where the nature of the threat generates a sense of urgency.

The term "serious bodily injury" means any physical or psychological injury that is significantly detrimental to the physical integrity or the health or well-being of a person or an identifiable group of persons.

However, guidance counsellors may only communicate the information to the person or persons exposed to the danger or their representative, or to the persons who can come to their aid.

Guidance counsellors may only communicate such information as is necessary to achieve the purposes for which the information is communicated.

20. Guidance counsellors who, pursuant to section 19, communicate information protected by professional secrecy to prevent an act of violence must

(1) communicate the information immediately; and

(2) indicate during the communication

(a) his or her name and membership in the Order;

(b) that the information to be communicated is protected by the counsellor's obligation to confidentiality;

(c) the act of violence to be prevented; and

(d) the identity and, if possible, the contact information of the person or group of persons exposed to the danger where the information is communicated to the representative or to persons who can come to their aid;

(3) enter in the client's record as soon as possible

(a) the reasons supporting the decision to communicate the information; and

(b) the subject of the communication, the mode of communication, and the name of the person to whom the information was given.

21. For the purpose of preserving professional secrecy, guidance counsellors must

(1) refrain from any indiscreet conversation, including in social media, about a client and the professional services provided to the client;

(2) take reasonable means with respect to their colleagues and persons under their supervision;

(3) not disclose that a person has requested their professional services.

22. Where guidance counsellors carry on their profession with a couple, a family or a group, they must preserve the right to professional secrecy of each member of the couple, family or group.

23. Where guidance counsellors carry on their profession with a group, they inform the members of the group that an aspect of their private life or that of a third person may be disclosed. They must secure a commitment from the members of the group to preserve the confidentiality of the information.

24. Where guidance counsellors ask a client to disclose confidential information or where they allow a client to disclose such information, they must clearly inform the client of the various uses that could be made of the information.

25. Where guidance counsellors transmit confidential information, in particular within a multidisciplinary team or an institutional program, they must limit the transmission to information that is useful, necessary and relevant to the achievement of the objectives pursued, provided that there will be no ensuing prejudice to their client.

26. Before transmitting a report to a third person, guidance counsellors must obtain explicit authorization from the client after the client has been made aware of the information in the report.

27. Guidance counsellors may not reveal or communicate the results of an evaluation obtained with measurement and evaluation tools without the written authorization of their client, except where the object of the evaluation so requires.

28. Guidance counsellors may not give to a third person other than a competent professional any raw, unprocessed data from an evaluation.

29. When guidance counsellors cease to perform their professional duties for an employer, they must inform their employer of the confidential information contained in the records for which they were responsible and propose the necessary measures to preserve the confidentiality of such information. If the confidentiality of the information could be compromised, they must notify the secretary of the Order.

§4. Accessibility and rectification of records

30. Guidance counsellors must respond promptly, at the latest within 30 days of its receipt, to any request made by a client to consult or obtain a copy of documents that concern the client in any record made in his or her respect.

Guidance counsellors may charge the client reasonable fees not exceeding the cost of reproducing or transcribing documents or the cost of transmitting a copy of the documents.

Guidance counsellors who intend to charge such fees must inform the client of the approximate amount to be paid before reproducing, transcribing or transmitting the information.

31. Guidance counsellors must respond promptly, at the latest within 30 days of its receipt, to any request made by a client to have information that is inaccurate, incomplete, ambiguous, outdated or unjustified corrected or deleted in any document concerning the client. In addition, guidance counsellors must notify the client of the client's right to make written comments and file them in the record.

Guidance counsellors must give the client, free of charge, a duly dated copy of the document or part of the document filed in the record so that the client may verify that the information has been corrected or deleted or, as applicable, give the client an attestation stating that the client's written comments have been filed in the record.

Guidance counsellors must forward a copy, free of charge, of the corrected information or an attestation stating that the information has been deleted or, as applicable, that the written comments have been filed in the record, to every person from whom guidance counsellors received the information that was the subject of the correction, deletion or comments, and to every person to whom the information was communicated.

32. Guidance counsellors who deny a client access to information contained in a record established in the client's respect, or who refuse to grant a request to correct or delete information in any document concerning the client must inform the client of the reasons for the refusal and inform the client of recourses.

33. Guidance counsellors must respond promptly, at the latest within 30 days of its receipt, to any written request from a client to have a document returned to the client.

§5. Professional independence and conflict of interest

34. Guidance counsellors must act with objectivity and subordinate their personal interests or, where applicable, those of their employer, persons who cooperate with them or the partnership or joint-stock company in which they carry on professional activities, or a third person who pays fees, to those of their client.

35. Guidance counsellors must safeguard their professional independence at all times.

36. Guidance counsellors must ignore any intervention by a third person that could influence their professional judgment or the performance of their professional duties to the detriment of the client or any person with whom they have a professional relationship.

37. Where guidance counsellors practice their profession with several clients who may have divergent interests, they must inform them of their duty to be objective and of the specific actions that will be undertaken to provide professional services.

If the situation becomes irreconcilable with their duty to be objective, the guidance counsellors must inform their clients that they must terminate the professional relationship.

38. In any situation where guidance counsellors are called on to intervene in more than one role, they must clarify with the persons concerned the purpose of each of their roles and the implications in the situation.

Where the roles conflict, the guidance counsellors must take the necessary measures to avoid causing prejudice to the client.

39. Guidance counsellors must, except in an emergency, avoid providing professional services to persons with whom they have a relationship that is likely to affect the professional nature of the relationship and the quality of the professional services.

40. Guidance counsellors must not use confidential information to obtain directly or indirectly a benefit for themselves or for third persons.

41. Guidance counsellors must avoid any situation in which they would be in conflict of interest. Guidance counsellors are in conflict of interest particularly when they use the professional relationship for other purposes and when the interests concerned are such that

(1) they might tend to favour certain interests over those of their client;

(2) their judgment and loyalty towards their client might be adversely affected; or

(3) they could gain personal benefit therefrom, whether direct or indirect, real or possible, to the detriment of the client.

42. When guidance counsellors become aware that they are in a real or apparent conflict of interest, they must notify their client and take the necessary measures to ensure that the situation will not cause prejudice to the client.

43. Guidance counsellors must not urge anyone insidiously, pressingly or repeatedly to retain their professional services or to participate in research.

44. Guidance counsellors must not perform unwarranted professional acts or unnecessarily increase the number of such professional acts, and must refrain from performing acts that are inappropriate or disproportionate to the client's needs.

45. Guidance counsellors must not seek to obtain a contract for professional services knowing that a contract has already been given to another guidance counsellor.

46. Except for the remuneration to which they are entitled, guidance counsellors may not receive, pay or offer to pay any benefit, rebate or commission relating to the practice of their profession other than customary tokens of appreciation or gifts of small value.

47. Guidance counsellors must refrain from exerting any undue pressure or accepting or offering money or any other consideration to influence the board of directors, one of its committees or any other person acting on behalf of the Order.

§6. Quality of practice

48. Guidance counsellors must discharge their professional obligations with competence, integrity and diligence.

49. Guidance counsellors must avoid any misleading representation as to their level of competence or the scope or effectiveness of their professional services or of those generally offered by other members of their profession or, where applicable, those generally provided by persons who work with them or who carry on their activities within the same partnership or joint-stock company as them.

50. Guidance counsellors must practise their profession in keeping with good practice and the generally accepted standards of practice of the profession.

Guidance counsellors who practice psychotherapy, family mediation or who evaluate mental disorders do so by complying with the provisions of this Code and the specific standards relating to those types of practice.

51. Guidance counsellors must not, out of kindness or for any other reason, falsify or destroy part of or an entire report or record.

52. Guidance counsellors must ensure the quality of their professional services offered to the public, in particular,

(1) by ensuring that their level of competence is kept up to date, maintained and developed;

(2) by assessing the quality of their evaluations and actions; and

(3) by promoting education and information measures in the field in which they practise.

53. Before providing professional services, guidance counsellors must evaluate their proficiency, knowledge and the means at their disposal. Where they consider that they cannot act adequately for a client, they must obtain the necessary assistance after obtaining the client's consent or refuse to provide services.

54. Guidance counsellors must, as soon as the interest of their client so requires and after having obtained their consent, consult another guidance counsellor or another professional, or refer the client to one of those persons.

55. Guidance counsellors must refrain from giving opinions, recommendations or advice that are contradictory or incomplete. To that end, guidance counsellors must endeavour to gain sufficient knowledge and understanding of the facts.

56. Guidance counsellors who produce a written or oral report must limit its content to the interpretations, findings and recommendations based on their professional expertise and related to the practice of their profession.

57. Guidance counsellors must not, by any means of communication whatsoever, utter words, publish writings, distribute photographs, pictures, videos or perform any other act that is contrary to the provisions of this Code or urge any person to do so.

58. Guidance counsellors must refrain from practising their profession in a condition or in a state that may compromise the quality of their professional services or the dignity of the profession.

59. Guidance counsellors must refrain from consuming, distributing or selling psychotropic substances in the practice of their profession.

60. Guidance counsellors must refrain from committing an act involving collusion, corruption, malfeasance, breach of trust or influence peddling.

61. Guidance counsellors must take the means necessary to not compromise the validity of a test or evaluation tool and not reveal the protocol to their client.

62. Guidance counsellors must recognize the inherent limits of the measurement instruments they use and exercise caution in interpreting the psychometric material, in particular by taking into account

(1) the specific characteristics of the tests or of the client that may interfere with their judgment or affect the validity of their interpretation;

(2) the context of the intervention; and

(3) factors that could affect the validity of the measurement instruments or evaluation tools and necessitate changes in the administering of tests or the weighting of standards.

63. Guidance counsellors must assume full personal civil liability. They may not exclude, limit or attempt to exclude or limit personal civil liability, by any means whatsoever, in particular by invoking the liability of the partnership or joint-stock company within which they carry on their professional activities or that of another person practising within that partnership or joint-stock company or by requesting that their client or the client's representative renounce any recourse in case of professional negligence on their part.

§7. Professional commitment and collaboration

64. To the extent of their resources, qualifications and experience, guidance counsellors must participate in the development and quality of the profession in particular by accompanying students and by sharing with other guidance counsellors.

To the same extent, guidance counsellors must collaborate with the Order in fulfilling its duties, including its duty to ensure the protection of the public.

65. Guidance counsellors consulted by another guidance counsellor must provide their opinion and recommendations within a reasonable time. If unable to do so, they must so notify the other guidance counsellor as quickly as possible.

66. Guidance counsellors may not, with respect to another guidance counsellor or any person with whom they have a professional relationship, damage the person's reputation, denigrate or harass the person or breach the person's trust, voluntarily mislead the person, betray good faith or use unfair practices.

67. Guidance counsellors refrain from criticizing, overtly or without evidence to the public, the standard or new guidance methods, different from those they use in the practice of the profession, when the methods meet the generally recognized professional and scientific principles in guidance.

68. Guidance counsellors may not take credit for work not performed by them.

69. Guidance counsellors recognize the Order's responsibility to ensure the protection of the public and the practice of the profession by competent professionals. For that purpose, they must, in particular,

(1) inform the Order that a person is appropriating the title of guidance counsellor or carries on illegally activities reserved to them;

(2) inform the syndic that they have reason to believe in the existence of a situation likely to affect the competence or the integrity of another guidance counsellor;

(3) promptly reply to all verbal or written requests from the secretary of the Order, a syndic, a member of the review committee or the professional inspection committee, an inspector of the committee, an investigator or an expert; and

(4) respect any agreement made with any of the persons referred to in paragraph 3.

70. A guidance counsellor who is requested by the Order to become a member of a council for the arbitration of accounts, a disciplinary council, a review committee or a professional inspection committee must agree to serve, unless there are reasonable reasons preventing the guidance counsellor from becoming a member.

71. In no circumstances may a guidance counsellor, on being informed of an inquiry into the guidance counsellor's professional conduct or competence or that of persons who work with them or who carry on their activities within the same partnership or joint-stock company as them or on being served with a complaint, communicate with the person who requested the inquiry or made the complaint or with any other person involved in the inquiry or complaint, without the prior written authorization of the syndic.

72. Guidance counsellors must not mislead in particular the secretary of the Order, a syndic, an investigator, an expert or an inspector.

§8. Research

73. Guidance counsellors who undertake, participate or collaborate in research involving persons must ensure that the project has been approved by a recognized research ethics committee. To that end, guidance counsellors must refer to and comply with the methodology approved by the committee in particular to

(1) inform each of the subjects or representative of the project's objectives and the manner in which it will be conducted and the advantages, risks or disadvantages related to the person's participation;

(2) obtain free and enlightened consent;

(3) inform the research subject or representative that the consent is revocable at any time; and

(4) ensure measures for the protection of the confidentiality of the information collected as part of the research project.

74. Where the carrying out of a research project is likely to cause prejudice to persons or the community, guidance counsellors who participate in the research must notify the research ethics committee or another appropriate authority.

75. Guidance counsellors must cease any form of participation in a research project if the disadvantages for the subjects appear to outweigh the expected benefits after having notified the research ethics committee or any other appropriate authority.

§9. Fees

76. Guidance counsellors must charge and accept fair and reasonable fees. To determine their fees, guidance counsellors must consider in particular

(1) their experience or expertise;

(2) the time required to perform the professional services;

(3) the nature and complexity of the professional services; and

(4) competence or celerity necessary to provide professional services.

77. Guidance counsellors must produce an intelligible and detailed statement of fees to their clients and provide them with all explanations necessary to an understanding of the statement.

78. Guidance counsellors must claim from their client in writing their fees and administrative fees for any missed or cancelled appointment.

79. Guidance counsellors may, by written agreement with the client,

(1) require partial payment where they act as consultant as part of a long-term contract;

(2) require administrative fees for a missed or cancelled appointment by the client according to the conditions agreed to in advance, the fees must not exceed the amount of fees lost; and

(3) subject to the law, require fees in addition to those reimbursed by a third person.

80. Guidance counsellors must not issue, out of kindness or for any other reason, inaccurate receipts.

81. Guidance counsellors may share their fees only insofar as the sharing corresponds to the sharing of services and responsibilities and does not affect their professional independence.

82. Outstanding accounts of guidance counsellors bear interest at the reasonable rate agreed in writing with their client.

83. Before instituting legal proceedings, guidance counsellors must have exhausted all means available to recover their fees and other expenses.

84. Guidance counsellors who appoint a third person to collect their fees must ensure that the latter proceeds with tact, moderation and respect for the confidentiality and practices relating to the collection of accounts authorized by law.

§10. Advertising

85. In their advertising, guidance counsellors must not impart a mercantile character or character likely to tarnish the image of the profession.

86. Guidance counsellors' advertising may contain only information that will help the public to make an enlightened choice.

87. Guidance counsellors may not claim, in their advertising, specific qualities or skills, in particular as to their level of competence or the scope or effectiveness of their professional services, unless they can be substantiated.

88. Guidance counsellors may not engage in or allow advertising, by any means whatsoever including social media, that is false, deceitful, incomplete or likely to be misleading.

89. Guidance counsellors who advertise their fees must

(1) specify the fees required for their professional services;

(2) specify the nature and extent of the professional services included in the fees;

(3) indicate whether costs are included in the fees; and

(4) indicate whether additional services or costs which are not included in the fees might be required.

The fees advertised are to remain in effect for a minimum of 90 days after the date they were last broadcast or published.

Guidance counsellors may, however, agree with the client on rates lower than those advertised.

90. In any advertising involving a special price, guidance counsellors must specify the period during which the price is valid, if applicable.

91. In any statement or advertisement, guidance counsellors may not give more importance to a price than to the services offered.

92. All advertising must indicate the name and professional title of the guidance counsellor. Where there are members of various professions included in the name of a partnership or joint-stock company, the title of each professional must appear.

93. Guidance counsellors who reproduce the graphic symbol of the Order for advertising purposes must ensure that the symbol conforms to the original held by the secretary of the Order.

94. Guidance counsellors who reproduce the name of the Order in their advertising must use the following wording: "member of the Ordre des conseillers et conseillères d'orientation du Québec".

95. Guidance counsellors must keep a copy of every advertisement for a period of 3 years following the date on which it was last broadcast or published. The copy must be given, on request, to the syndic, an inspector or a member of the professional inspection committee.

DIVISION IV **FINAL**

96. This Regulation replaces the Code of ethics of the members of the Ordre des conseillers et conseillères d'orientation du Québec (chapter C-26, r. 68).

97. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.