

Professional Code

of the association of
educationalists in the
Netherlands

Contents

| | |
|----|--|
| 4 | Professional code |
| 5 | Introduction |
| 10 | Articles of the professional code |
| 11 | NVO professional code <i>Articles 1-4</i> |
| 14 | Position of client and legal representatives <i>Articles 5 - 8</i> |
| 16 | General principles of professional practice <i>Articles 9 - 14</i> |
| 22 | Entering into a professional relationship <i>Articles 15 - 23</i> |
| 26 | Rules of conduct during the professional relationship <i>Articles 24 - 28</i> |
| 27 | Interdisciplinary cooperation and assistance <i>Articles 29 -30</i> |
| 28 | File <i>Articles 31 - 36</i> |
| 32 | Report <i>Articles 37 - 41</i> |
| 35 | Providing data for scientific research, education, supervision and intervision <i>Articles 42 - 44</i> |
| 36 | Supervisory Board and Appellate Board <i>Articles 45 - 46</i> |
| 38 | Appendix |
| 39 | Parenthood, authority and separation/divorce |

Professional Code

Introduction

The previous version of the NVO professional code dates back to 2008. A lot has changed since then. For example the legislation on (appropriate) education, youth care, social support and long-term care. Furthermore, new professional ethical issues have arisen concerning child refugees, complicated divorces, radicalization and the use of digital communication. These developments call for a revision of the NVO professional code.¹ Although a lot has changed, the revised NVO professional code builds on the previous version. Its structure and character match the new developments and thus remain the same.

Professional code and outlook of the NVO

The NVO represents the quality of its members and aims to guarantee the professional abilities of educationalists. The starting point is the educational identity of the professional group. Members of the NVO represent a safe childhood and optimal development of children and youths, and appropriate care if extra support is necessary. The same applies to (young) adults who are dependent on others. After all, many educationalists work with this group of clients, directly or indirectly. The educational relationship forms the pretext for the educationalists' actions; they search for explanations and solutions in this relationship. Educationalists primarily strive for normalization of the educational relationship, be it simple or very complex. The NVO professional code is the professional standard for members of the NVO.

Function of the NVO professional code

The NVO professional code gives direction and meaning to the term 'proper educationalist'. On the basis of the professional code, educationalists can determine and justify their actions and decisions from a professionally ethical point of view.

¹ In accordance with the annual report 2016 as decided upon by the General Assembly.

The professional code may offer support when certain demands or conditions are at odds with the quality the educationalist wants to offer. When this happens, educationalists may appeal to the NVO professional code. After all, they are bound by this professional code and the standards set for a proper educationalist. Lastly, the NVO professional code forms the standard against which the Supervisory Board – and if necessary the Appellate Board – tests the educationalists' actions when a client, colleague or other party concerned files a complaint against them.

Professional code and professional autonomy

The NVO professional code guarantees preconditions for quality professional relationships between educationalists and their clients. An important aspect is putting the client's interests first. This aspect can be found in conditions concerning the consent requirements for the educationalist's help, the requirement to provide information and of confidentiality by the educationalist, and the rights of clients with regard to the file and reports. Though the NVO professional code aims to serve the interests of the client, this may work out differently in exceptional cases. Especially when the interests and rights of young clients and their parents with authority may clash. It is in these types of situations that the question arises how much room the educationalist has, given their professional autonomy, to deviate from the professional code.

The NVO professional code – within the limits of legislation applied to educationalists' work – allows room for professional autonomy. Some conditions of the professional code, when necessary, allow the educationalist to reach another conclusion. This is stated in the so-called exception clause.

The general rule is followed by: 'unless the educationalist deems the application of this rule to be contrary to the care of a proper educationalist'. This clause offers the possibility, in rare occasions,

to deviate from the general instructions and decide otherwise. Of course this can only occur after a careful consideration of all interests. The decision the educationalist makes within the scope of the exception clause, should be based first and foremost on the interest of the child, even when the parent or educator of the child is their client. This is explicitly stated in article 2, paragraph 2 of the NVO professional code. The professional code thus gives interpretation to article 3 of the International Convention on the Rights of the Child, which enforces all of us to put the child's interests first in all our actions and all decisions we make. For educationalists, this standard applies not only to children, but also to clients of age who, due to their disability, are dependent on others.²

One professional code for all NVO members

Just like in previous versions of the NVO professional code, the choice has been made for a general code. The professional code offers general standards which apply to all NVO members, irrespective of their field of action and position. If we were to offer all kinds of specific rules, we would not do justice to the variety and complexity of professional relationships. Educationalists are expected to translate the standards of the NVO professional code to their respective fields of action and positions.

NVO professional code for educationalists without client relationships

Many conditions in the NVO professional code are directed at the professional relationship between the educationalist and the individual client and client system.

² Putting the interests of the child first may be seen as a core value of every professional relationship an educationalist enters in. For clients with a disability, this core value is confirmed by the purpose of the International UN Convention on the Rights of Persons with Disabilities, which has been effective in our country since 14 July 2016.

What does this mean for educationalists who do not maintain professional relationships with individual clients? And for educationalists who support other professionals in their contact with parents and children? For example educationalists who offer advice in education and support teams of teachers, who offer (professional) support or supervision to colleagues, who provide education and research, or who work as policy advisors, executives or managers for an organization or public body. These educationalists too are expected to respect the conditions on the relationship between the educationalist and the client, and the general conditions from the NVO professional code, when exercising their guiding, supporting or executive tasks. For a small group of educationalists, even the indirect educationalist-client relationship will not apply. For example an educationalist who teaches future economists, or one who works as a communication policy advisor for a city council. For these educationalists, the general conditions of the NVO professional code are most significant, for example the conditions on not damaging confidence in the professional group.

NVO professional code for SKJ educationalists

The NVO professional code also applies to (Post-)Master's educationalists registered in the Kwaliteitsregister Jeugd (SKJ, the Dutch Youth Quality Register Foundation), whether they are a member of the NVO or not.

Most important alterations

The main difference in this revised NVO code is that it is more detailed in certain aspects than the version of 2008. This applies to the position of both parents with authority, to the considerations for deciding to break professional confidentiality, to one's legal duty to report and demands concerning content of reports. The NVO professional code does not necessarily offer new, additional rules, but explicitly puts in writing rules which – sometimes because of legislation – have already been accepted as standards in the field of action. Detailed rules have been recorded to offer NVO members clarity on the (legal) framework

within which they operate. Questions to the legal help desk of the NVO prove this is what members need.

Appendix parenthood

Questions to the legal help desk and complaints also show that educationalists require more information about the legal aspects of parenthood, authority and separation/divorce. NVO members would like additional guidance when dealing with these topics in their professional practice. This is why an appendix has been added with legal information on the position of the parent with authority, the parent without authority, and consent requirements for helping a child when the parents with authority have a difference of opinion. This appendix offers a short summary and outline of various legal conditions on parenthood. It is an integral part of the NVO professional code.

Project group

The NVO professional code is revised by a project group, appointed by the board of the NVO. It consisted of NVO members, the jurist of the NVO office and an external project manager. In a preparatory stage, an inventory was made of all relevant alterations in legislation. Professional codes of other professional associations were analyzed, just as recent rulings of both disciplinary tribunals of the NVO. Finally, the most important questions to the legal help desk were collected, and the project group wrote a draft for the revised professional code. This draft was then presented for commentary to an expert group of NVO members from various fields of action. Members of the Supervisory Board and the Appellate Board were also asked for a response. A next draft, in which their comments were incorporated, was presented to the board of the NVO. The third draft, in which comments from the board were incorporated, was submitted to the General Assembly on 15 December 2016 for approval and enactment.

Articles of the professional code

NVO PROFESSIONAL CODE – GENERAL CONDITIONS

Article 1 Scope of application

1. This professional code will come into force on 1 January 2017, replacing the version of 2008.
2. All mentions of 'the educationalist' in this professional code refer to every (prospective) member of the NVO.
3. The professional code applies to all acts and omissions by the educationalist, regardless of any financial compensation. It applies for all roles in which the educationalist may function, such as: advisor, counsellor, practitioner, policy officer, director, diagnostician, teacher, (expert) witness, mediator, supervisor, (educational) advisor, researcher or therapist.
4. The professional code does not only apply to all acts and omissions of the educationalist in professional relationships. It also applies to all acts and omissions of the educationalist which may impact professional relationships, such as expressions in (social) media and personal actions, insofar as the educationalist explicitly manifests oneself as an educationalist.

Article 2 Acting on the contents and spirit of the professional code

1. Educationalists, in practicing their profession, will act in accordance with the contents and spirit of the professional code.
2. The educationalist will be guided by the interests of the child, as specified in this professional code. Whenever the educationalist needs to make an assessment of interest, a choice or decision based on this code, the interests of the child will be considered first.
3. The conditions of paragraph 2 also apply to clients of age who, due to their disability, are dependent on others.
4. The professional code is also guiding when the educationalist has no direct contact with clients, but offers advice, counsel, support, training or schooling to (future) colleagues, for example in the form of professional support, education or supervision.

Article 3 Right of complaint

All parties concerned reserve the right to file a complaint about the acts or omissions of a member of the NVO concerning non-compliance with the professional code. The complaint may be filed to the Supervisory Board as stipulated in article 45.

Article 4 Definition of terms

Regardless of the legal form in which the educationalist's services are rendered, terms in this code should be understood as follows:

assignment: the objective, presentation of the question, indication of activities, competences, rights and obligations, and the financial fulfillment, in relation to any professional practice;

child: the minor who is the direct subject of practice in a professional relationship, or the indirect subject of practice in a professional relationship because the parent or educator is the educationalist's client;

client: the (legal) person who is the direct subject of practice in a professional relationship;

client system: all people in (past) family relations with the client and any other people the client has a close personal connection with, insofar as they are relevant to the professional relationship;

commissioner: the (legal) person commissioning any professional practice;

educationalist: every (prospective) member of the NVO, the association of educationalists in the Netherlands;

external commissioner: the (legal) person, not the client or client system, commissioning any professional practice;

file: the collection of data (hard copy and digital) as recorded by the educationalist concerning the quality and/or continuity of the professional relationship, including audio and video recordings, raw test data and results of (neuro)biological measures;

legal representative: the person who has the authority over a minor, or the court-appointed legal representative of an adult;

personal notes: data recorded by the educationalist as part of the professional relationship, serving as a personal reminder on tentative thoughts and which do not belong in the file, unless the educationalist shares these notes with someone else;

persons involved: people who are not the educationalist's commissioner or client, but are involved with the client in a way that is relevant to the professional relationship;

professional practice: all acts and omissions carried out in the capacity of educationalist;

professional relationship: a relationship with a client started in one's professional capacity as a result of a request (for help) aimed at advising, consultation, diagnostics, guidance, mediation, treatment or scientific research;

right to block: the client has the right to block a report concerning that client, and created by the educationalist at the external commissioner's request, from being sent to that commissioner;

unable to give informed consent: when an expert deems the client unable to rationally estimate their interests at stake. By law³, all clients up to twelve years old are unable to give informed consent.

³Wet op de geneeskundige behandelovereenkomst (Wgbo, the Dutch Medical Treatment Agreement Act)

POSITION CLIENT AND LEGAL REPRESENTATIVES

Article 5 Position of the client and their legal representative(s)⁴

1. Unless paragraph 2 or article 7 determines otherwise, the educationalist will fulfill their obligations in the professional code towards the client, regardless of their age, and towards the representative of the client as mentioned in paragraph 2.
2. The educationalist will fulfill their obligations in the professional code, when concerning giving permission and/or practicing rights with respect to the file or (blocking of) the report, towards:
 - the legal representative(s)⁵ when the client is not yet twelve years old;
 - the client and the legal representative(s) when the client is over twelve but under sixteen years old;
 - the client when they are sixteen years or older.

⁴The conditions of articles 5 and 8 differ slightly from the Wgbo, which in article 7:450 BW offers (very) limited room for treating children over twelve without consent of (one of) the parents with parental authority, if non-treatment seriously harms the child or if the child consciously wishes for this treatment even when the parents refuse permission. The NVO professional code does not offer this room, because of the way (disciplinary) law interprets these conditions and because it is essential to the educationalist's practice that both parents with authority and the child (over twelve years) agree to the educationalist's interventions.

Moreover, a parent with authority, in the case of divergence of views with the other parent, has the power to turn to a judge to request substitute permission.

⁵For the position of the legal representative of a minor, please refer to the appendix 'Parenthood, authority and separation/divorce'.

Article 6 Equality of two legal representatives⁶

When a client up to sixteen years old has two legal representatives, the educationalist will fulfill their obligations in this professional code equally towards both legal representatives. This means the educationalist:

- asks permission of both legal representatives before the assignment is started;⁷
- will not take on the assignment if one of the legal representatives refuses permission;
- actively and equally informs both legal representatives on the execution of the assignment;
- supports both legal representatives, if required, in their rights concerning the file and report as stated in articles 35, 36, 39 and 40.

Article 7 Clients unable to give informed consent

1. When an expert deems a minor client of twelve years or older unable to give informed consent, the educationalist will fulfill their obligations – when concerning giving permission and/or practicing rights with respect to the file or (blocking of) the report – towards the legal representatives.
2. When an expert deems a client of age unable to give informed consent, the educationalist will fulfill their obligations – when concerning giving permission and/or practicing rights with respect to the file or (blocking of) the report – towards:

⁶Please refer to footnote 2.

⁷For support after child abuse, please refer to the 'Handreiking dubbele toestemming na kindermishandeling' (Guidelines for double consent in cases of child abuse): www.rijksoverheid.nl/documenten/brochures/2016/11/11/handreiking-toestemmingsvereiste-voor-hulp-bij-kindermishandeling

- The person appointed by the court as representative of the client and in their absence:
 - the person with a written authorization by the client and in the absence of an authorized representative:
 - the spouse, registered partner or other life companion of the client and in their absence, or if they cannot or will not act as a representative:
 - a child of age or an adult brother or sister of the client.
3. The educationalist will fulfill their obligations based on this article and articles 5 and 6 towards the (legal) representative(s), unless the educationalist deems honoring these obligations to be contrary to care of a proper educationalist.
 4. In the file the educationalist records the facts as to why the client of twelve years or older was deemed unable to give informed consent and notes which expert was consulted. The educationalist also records who acts as a representative of the client.

Article 8 Appropriately valuing the opinion of the client unable to give informed consent

Whenever the educationalist fulfills their obligations based on article 5 or 6 towards the (legal) representative(s), they make sure to allow the client to express their opinion. The educationalist records this opinion in the file. The educationalist will appropriately value the opinion of the client, in accordance with the age and level of development of the client.

GENERAL PRINCIPLES OF PROFESSIONAL PRACTICE

Article 9 Professionalism and capabilities

1. The educationalist will maintain the level of their professionalism and will take relevant extra and continuing-education courses.

2. The educationalist practices their profession insofar as they are qualified by education, experience or registration.
3. The educationalist works efficiently, applies relevant directions and chooses, whenever possible, the most efficient and effective educational intervention or treatment.
4. The educationalist will make sure to only accept assignments they can perform as a proper educationalist, given their capabilities.
5. Regardless of the legal form of services, the educationalist is responsible for determining if they can perform an assignment considering their professionalism and capabilities.

Article 10 Carefulness

1. The educationalist respects the client's independence, responsibility and equality and makes an effort to actually cooperate with the client.
2. Within the scope of professional practice, the educationalist treats people in similar cases in a similar way.
3. In their professional acts and omissions, the educationalist exercises due care with all people.
4. The educationalist supports the client's right to consult other experts.

Article 11 Confidentiality

1. Due to the nature of the professional relationship, everything the educationalist learns in connection to the professional relationship with the client is confidential.
2. When the educationalist feels it is in the client's best interest to share information about the client with one or more other persons or bodies, the educationalist will try to persuade the client to pass this information on, or will explicitly ask for the client's permission to provide the necessary information.

3. Before the educationalist asks permission, they will explain to the client why they want to provide information, to whom and what information it concerns. Only after the client has been informed in this manner, will the educationalist ask the client for permission.
4. The educationalist will add the permission, in writing or by e-mail, to the file. When the client gives verbal consent, the educationalist makes a note in the file explaining who gave permission, when and for what information.
5. The educationalist shares only the information about the client necessary to the cause of the supplying of information.
6. The duty of confidentiality as described in paragraph 1 does not apply when the educationalist is legally obliged to provide information. They share only the information necessary. A legal obligation to provide information only applies when:
 - the family guardian requests information from the educationalist to execute a placing under supervision;
 - the Health Care and Youth Inspectorate⁸ requests access to the file in connection with supervisory tasks of this Inspectorate;
 - it concerns an educational report⁹ of a student in (special) primary or secondary education transferring to another school for (special) primary or secondary education. In this case the school should send the educational report, including information about the student provided by the educationalist, to the new school;
 - it concerns data for Statistics Netherlands (CBS) for the benefit of policy information for youth;
 - it concerns necessary data for the payment, verification and combating of fraud in youth care.

⁸The Dutch Ministry of Health, Welfare and Sports has announced that the Inspectorates for Health Care and Youth Care will be combined in 2017.

⁹The educational report contains: administrative data, information on student results and non-attendance, information on the social-emotional development of the student, and on any guidance the student may have had or currently receives.

7. The duty of confidentiality as described in paragraph 1 does not apply to the legal representative(s) of a client not yet sixteen years old. The educationalist actively informs the legal representative(s) of a client up to sixteen years about the outcome of diagnostics or research and/or the course of guidance, therapy or treatment, unless the educationalist deems sharing this information with the legal representative(s) to be contrary to care of a proper educationalist.
8. The educationalist also monitors the duty of confidentiality as described in this article when using e-mail and other digital forms of communication and data exchange, or when using social media. The educationalist takes measures that are reasonably possible and necessary to assure the client's information will not be abused and will not be shared with unauthorized persons.

Article 12 Legal duty to report

1. When the educationalist has reasonable cause to suspect child abuse or domestic violence, they can – if necessary without the client's consent – report this to the Advies- en Meldpunt Huiselijk Geweld en Kindermishandeling (AMHK, the Dutch Advice and Contact Point for Domestic Violence and Child Abuse). In case of signs of child abuse or domestic violence, the educationalist follows the steps of the rules for reporting that apply to them in order to reach an adequate decision about reporting or not.
2. When the AMHK contacts the educationalist within the framework of the investigation to ask for information on the client, the educationalist may – if necessary without the client's consent – provide this information to the AMHK.
3. When the Raad voor de Kinderbescherming (Child Protection Council), as part of an investigation to the necessity of child protection measures, contacts the educationalist, the educationalist may – if necessary without the client's consent – provide information to the Council.

4. When the educationalist feels that the family guardian, with respect to executing a placing under supervision of a client or member of the client system, should be informed of the situation the client and/or members of the client system are in, the educationalist may provide this information to the family guardian – if necessary without the client’s consent.
5. Whenever the AMHK or the Child Protection Council asks the educationalist for information on a client or client system, the educationalist adheres to the following rules:
 - the educationalist asks the client if they are aware of the contact with the Council;
 - before sharing information, the educationalist contacts the client to discuss (the contents of) the information being shared, unless there are significant signs that this contact can endanger the safety of the client, a member of the client system, the educationalist or someone else;
 - the educationalist will preferably provide a digital or written answer to questions asked, also preferably digital or in writing;
 - in answering questions, the educationalist will keep to the facts as much as possible. If the educationalist finds it necessary to include an opinion or theory, they will make sure to provide a satisfactory foundation of this opinion or theory, and to remain within their field of expertise. In sharing information, the educationalist will explicitly mention that it concerns a professional opinion or theory;
 - the educationalist shares only the data required for the purpose of the request for information;
 - the educationalist will not speak about members of the client system they have not had direct contact with;
 - the educationalist will record the answering of questions in writing in the file. If the educationalist provided the information verbally or by phone, they will ask for a digital or written

rendition of the discussion for approval. The educationalist will record the approved text in the file. The educationalist will send a copy of the approved text, or the written answers, to the client.

6. Paragraph 5 also applies when the family guardian takes the initiative and asks the educationalist for information, as stated in article 11, paragraph 5.

Article 13 Conflict of obligations

1. Outside of the situations described in articles 11 and 12, the educationalist may find themselves in a conflict of obligations. This is the case when the educationalist is bound by confidentiality, but at the same time feels that sharing information is very necessary in connection to considerable interests of the client, or of a member of the client system, and feels there is no other way to serve these interests but to share information.
2. The educationalist will carefully consider their decision on breaking confidentiality, meaning the educationalist will at least:
 - make an effort to receive the client’s permission for sharing information, unless they deem asking permission is not possible in connection with considerable interests of the client and/or a member of the client system;
 - judge if sharing the intended information will reasonably serve the considerable interests of the client and/or a member of the client system;
 - consider both the client’s interests of confidentiality and the client’s interests for sharing information;
 - consult an expert colleague before making a decision;
 - share only the information required to serve the considerable interests of the client or a member of the client system, and will not share this information with more people or bodies

- than necessary in connection to these interests;
 - inform the client of the sharing of information as soon as possible.
3. The educationalist will record their considerations and decision in the file.

Article 14 Professional and social responsibility

1. In their professional practice, the educationalist will refrain from public conduct, for example in (social) media, which may undermine confidence in the field, the professional group or individual colleagues.
2. The educationalist who, in connection to their professional practice, knows of conducts or situations which may threaten or undermine a client, or a member of the client system, will do whatever is desirable to avert this threat and what fits the circumstances and their professional obligations, regardless of whether the educationalist deals with this client or member of the client system directly.

ENTERING INTO A PROFESSIONAL RELATIONSHIP

Article 15 Client consent¹⁰

Entering into a professional relationship requires consent of the client and/or their legal representative(s), in accordance with articles 5 to 8.

Article 16 Assessing one's own professionalism and capabilities and referring when necessary

1. The educationalist decides, based on their professionalism, capabilities and their options, if they enter into a professional relationship with the client, in accordance with article 9. When necessary the educationalist refers the client or commissioner to

another expert. In the case of referral, the educationalist makes an effort to realize the contact between the client and/or the commissioner and the expert.

2. When referring a client, the educationalist shares, after obtaining the client's consent as described in article 11, all relevant information with the person the client has been referred to. If necessary, the educationalist, also after obtaining the client's consent, will consult with the person the client has been referred to, insofar as this helps the interests of the client.

Article 17 Refusing a professional relationship due to conflict with the professional code

The educationalist will refuse to enter into or continue a professional relationship when they know or can reasonably suspect that this practice will cause a conflict with the professional code.

Article 18 Providing the client with information on the nature and purpose of the professional relationship

1. The educationalist will provide the client who is the subject of the professional relationship with information on the nature, the purpose of the professional relationship and the methods of the educationalist. The educationalist will do so in a manner that is understandable to the client. Articles 5, 6, 7 and 8 apply.
2. The information as mentioned in paragraph 1 contains at least:
 - the purpose and nature of the professional relationship (advising, consultation, diagnostics, guidance, treatment or scientific research), including the position of the client and the role of the educationalist in this process;
 - when the educationalist works with others (multidisciplinary or intersectorally) as part of the professional relationship: a description of the tasks and responsibilities of the various professionals involved;

¹⁰Please refer to footnote 7.

- the method of working during the professional relationship: the methods and means used and the nature of data collected about the client;
- possible (side) effects of the methods and means used;
- if applicable, the fee the educationalist will bill to the client;
- the rights of the client, including rights concerning the file and any reports, as stated in articles 35, 36, 39 and 40. If the client does not have the right to block reports to an external commissioner based on article 40, the educationalist will explicitly mention this;
- the educationalist's restriction to the NVO professional code;
- the manner in which the professional relationship is terminated, without effecting the possibility of extension.

Article 19 Informing the commissioner on financial and other conditions

Before the educationalist enters into a professional relationship, they inform the commissioner – preferably in writing – about the fees due and any other conditions applicable to the acceptance of the assignment. Information about fees may be omitted if the educationalist receives payment from someone other than the commissioner.

Article 20 Freely deciding on entering into a professional relationship

The educationalist aims to achieve a situation in which the client and/or commissioner can responsibly and freely decide whether or not to enter into a professional relationship.

Article 21 Professional relationships not requiring consent

The educationalist does not require consent for entering into a professional relationship within the framework of an (urgent) authorization for closed youth care, a child protection measure or youth rehabilitation.

Article 22 Describing the assignment to an external commissioner

1. The educationalist entering into a professional relationship with a client at the request of an external commissioner will make sure the assignment is clearly specified, in accordance with article 18.
2. The educationalist will make sure the assignment is signed in writing by the commissioner, the client and the educationalist. When the commissioner or educationalist wants to adjust or expand the assignment in the course of the assignment, written consent of all parties is required.
3. When client consent for entering into a professional relationship is not required, as stated in article 21, the educationalist will inform the client of the alteration of the assignment as soon as possible.

Article 23 Incongruous assignments or roles

1. The educationalist will not accept an assignment that is incongruous with an assignment accepted earlier, even if the assignments do not involve the same client. In their motivation for the refusal, the educationalist will honor their duty of confidentiality, as described in article 11.
2. The educationalist makes their various roles explicit if they act in different roles toward the client at the same time or in succession. The educationalist avoids mixing these various professional roles insofar as they are incongruous from the viewpoint of the care of a proper educationalist.
3. The educationalist remains alert to situations in which the interests of the client, the commissioner, and/or members of the client system are incongruous. When such a situation arises, the educationalist will make their chosen position explicit to all those involved and as soon as possible.

4. The educationalist will not accept an assignment in which the professional relationship will (possibly) blend with the informal relationship the educationalist maintains with the client. For example when the educationalist and the client or member of the client system are in a relationship based on family, love or friendship.

RULES OF CONDUCT DURING THE PROFESSIONAL RELATIONSHIP

Article 24 Respecting the client's dignity and private life

During the professional relationship, the educationalist will not use methods which harm the client's dignity or which impact the client's private life more than is necessary to the purpose of the professional relationship.

Article 25 No transgressive behavior

The educationalist refrains from all forms of transgressive behavior toward the client and members of the client system, even when the client or member of the client system explicitly requests this kind of behavior, or invites the educationalist to behave in this manner.

Article 26 Sharing information with other parties involved in the assignment

The educationalist will provide necessary data to those who, for example within the framework of multidisciplinary or intersectoral cooperation, offer professional support to the execution of the professional relationship. The educationalist will comply with articles 11, 12 and 13.

Article 27 Evaluation upon terminating the professional relationship

The educationalist concludes the professional relationship with an evaluation. They strive to discuss the client's view, and if applicable the commissioner's view, in the evaluation. The evaluation will be recorded in the file.

Article 28 Audio and video recordings of the client and others

1. When the educationalist feels it is necessary to make audio and/or video recordings of the client for the purpose of the professional relationship, they will ask the client's consent first, in accordance with articles 5 to 8. Before asking consent, the educationalist informs the client on the purpose of the recordings and the applicable retention period.
2. When it cannot be avoided that other people, besides the client, are recorded in the video recordings of the client, the educationalist will also ask their consent before making any recordings, in accordance with articles 5 to 8. The educationalist, when sharing information with others, before they ask consent, will comply with the rules of confidentiality as described in article 11.
3. Audio and video recordings as mentioned in paragraph 1 are a part of the file. For these recordings, the retention period of article 34 is applicable, with the exception of recordings made by the educationalist as a personal reminder to make notes in the file or to write a report based on these recordings. In this case, the educationalist will destroy the recordings immediately after the notes have been added to the file or the report is written. For audio and video recordings intended for training and education, the retention period as mentioned in article 43 applies.

INTERDISCIPLINARY COOPERATION AND ASSISTANCE

Article 29 Cooperating with colleagues and actively seeking out cooperation

1. In connection to colleagues of the same or similar discipline or sector, the educationalist is willing to exchange knowledge, to cooperate and to give account for their conduct. When, in this case, the educationalist needs to provide a client's data, they will ask for consent in accordance with article 11.

2. The educationalist will adopt a verifiable attitude towards colleagues of similar or other disciplines.
3. Whenever the educationalist feels it is in the interest of the client and/or members of the client system to include other professionals in the execution of the professional relationship, the educationalist – in close consideration and with permission of the client – actively seeks out cooperation with these professionals.

Article 30 Responsibilities in cooperation and the efforts of others

1. In cooperating with other professionals, the educationalist is responsible for compliance with the professional code concerning their own contributions and their part in the cooperation.
2. The educationalist will not support or use the services of others in conflict with the professional code.
3. To the best of their abilities, the educationalist offers help and support to colleagues, students and supervisees to help them carry out the occupation professionally. The educationalist will refrain from conduct which may undermine that purpose.
4. The educationalist is responsible for compliance with the professional code by assistants and interns under their direction.

FILE

Article 31 Creation of the file

1. In the file, the educationalist records all data necessary to the quality and continuity of the professional relationship, and for bearing responsibility within the framework of the professional relationship.
2. In the file, the educationalist distinguishes between facts and opinions and states sources whenever data belonging to someone else are recorded. The educationalist makes an effort to include the view of the client and, if relevant, the (various) views of members of the client system in the file.

3. The file should also include raw test data and audio and video recordings of the client. Audio and video recordings made by the educationalist solely as a temporary reminder to use as a basis for notes in the file or to write a report, should not be included in the file. These recordings will be destroyed once notes have been added to the file or once the report is finished.
4. The educationalist records their personal notes outside of the file. The educationalist will immediately destroy any personal notes once they are no longer useful to the tentative thoughts, and in any case when the professional relationship is terminated.
5. When the educationalist shares their personal notes with someone else, these notes are no longer personal notes. The notes are then a part of the file and may be perused, no matter where these data are saved.

Article 32 Educationalist's responsibility for storing the file

The educationalist is responsible for storing the file. An educationalist in employment or in an official function may assume this responsibility, with respect to a central database, to be the employer's, without effecting article 33.

Article 33 Storing data in a (common) database

When client's data are being recorded in an (automated) database, the educationalist ascertains that access to the database, both technical and by regulation, is protected in such a way that the conditions of the professional code are adhered to, especially considering confidentiality as described in article 11.

Article 34 Retention period of files

The educationalist will hold on to the file for fifteen years¹¹, or as long as it takes to provide care as a proper educationalist. The retention period starts in the year the professional relationship is concluded. The educationalist working in education may decide to adhere to the retention period applying to the school where the educationalist works.

Article 35 Right to perusal and copies

1. The client has the right to perusal and copies of their own file, unless granting perusal and/or copies is in disproportionate conflict with others. Articles 5, 6, 7 and 8 apply. The educationalist will respond within four weeks of receiving a request for perusal and/or copies.
2. The right to copies does not apply to raw test data, in connection with copyright on tests and because the validity of tests decreases when clients are familiar with the content before tests have been administered. Though raw test data are not subject to the right of copies, they are part of the file and as such the retention period of article 34 applies.¹²
3. When the educationalist provides the client perusal or copies, they offer the client clarification of the contents of the file.

¹¹At this time (fall of 2016) the Rutte II government is preparing a bill to extend the legal retention period for files in the Medical Treatment Agreement Act (Wgbo) and the Jeugdwet (Youth Act) to 20 years. When this bill is passed, the retention period for files of the educationalist will also be 20 years, counting from the year the file is concluded.

¹²Please refer to the *Zienswijze van het College Bescherming Persoonsgegevens* (View of the Board for Protection of Personal Details), now the Dutch Data Protection Authority, of 15 July 2008. Reference z2008-00333.

4. When a lawyer or other counselor requests perusal and/or copies on behalf of their client, the educationalist will clarify to the lawyer or counselor that they may only comply with requests for perusal and/or copies made directly by the client or their legal representative(s). The client may then decide if they wish to share their information, and if so with whom they wish to share the copies received from the educationalist.
5. When the educationalist, based on article 7, paragraph 3, feels perusal and/or copies to the legal representative(s) should be refused, the legal representative(s) may appoint a third party with the right to perusal of the file to offer a second opinion on the grounds of the refusal for perusal. This third party must be an educationalist bound by the professional code.
6. The parent without authority of a client up to sixteen years old, is not entitled to perusal and/or copies of the client's file. However, the educationalist may, at their request, inform the parent about the outline of the professional relationship with the client, unless the educationalist deems informing the parent to be contrary to the care of a proper educationalist.¹³

Article 36 Right to correction, clarification and deletion

1. The client reserves the right to correct, add or delete data recorded in the file when the data recorded are evidently incorrect or incomplete, or given the purpose of the professional relationship are not relevant.
2. The request for correcting, adding or deleting data should be submitted in writing or digitally, unless this has an unnecessary inhibiting effect. The educationalist will respond to this request within four weeks.

¹³The right to information of the parent without authority is based on art. 1:377c BW.

3. If requested by the client, the educationalist records the client's personal clarification in the file. The educationalist will respond to this request within four weeks.
4. The client may ask the educationalist to delete (parts of) the file. In response to this request, the educationalist will delete (parts of) the file, unless data in the file are of considerable interest to someone other than the client. When the legal representative asks for deletion on behalf of the client, deletion may also be refused by the educationalist if they deem deleting (parts of) the file to be contrary to the care of a proper educationalist.

REPORT

Article 37 Reporting with care

1. When the educationalist makes a report, they will restrict themselves to sharing data required for answering the question and will state the restrictions applying to their findings. In writing the report, the educationalist will adhere to the following rules:
 - the report contains the facts, circumstances and findings it is based on;
 - the report shows an adequate method of research to answer the submitted question;
 - the report explains in a comprehensible and consistent manner the basis for the conclusions of the report;
 - the report mentions sources it is based upon, including literature used and persons or bodies consulted;
 - the reporter remains within the limits of their expertise.
2. Since the report is part of the file, the conditions of article 32 to 36 apply.

Article 38 No opinions and advice on other members of the client system

1. In their report, the educationalist will only give opinions and advice on the client. The educationalist will not offer opinions and advice concerning other members of the client system, with the exception of paragraph 2 and paragraph 3.
2. When the purpose of the report requires data on another member of the client system besides the client, then the educationalist, subject to the exception of paragraph 3, will only use data obtained from their own observation or research. Sharing these data requires specific consent from the other member of the client system, subject to the contents of article 13.
3. When the educationalist feels the report requires data from another member of the client system besides the client, which are not obtained through their own observation or research, the educationalist will explicitly state this. They will also state the source of the data and the relevance of said data for the report. Sharing these data requires consent from the other member of the client system, subject to the contents of article 13.

Article 39 Perusal and copy of the report

1. If the educationalist reports in writing to an external commissioner, the educationalist will offer the client the chance to peruse the report before it is published. They will also provide the client with a copy.
2. The right to perusal and copy does not apply to parts of the report (partly) concerning other members of the client system, when refusing perusal and copy is necessary in the interest of protecting the private lives of these other persons.
3. The client has the right to correct, add or delete data concerning the client, if they can reasonably prove the data to be incorrect or

incomplete, or given the purpose of the investigation are not relevant or are obtained unlawfully. The educationalist incorporates the adjustments and additions before they submit the report to the external commissioner.

4. If requested by the client, the educationalist adds a personal clarification by the client to the report. The educationalist adds this clarification before the report is sent to the external commissioner.

Article 40 Right to block

1. The client has the right to block a report from being sent to the external commissioner.
2. The right to block does not apply when the report also concerns others from the client system and the purpose of the report or interests of these others oppose the blocking.
3. The client does not have the right to block when this is a result of the law, for example when:
 - the educationalist reports to the court on behalf of the Child Protection Council;
 - the educationalist reports as an independent behavioral scholar on their research into the necessity of closed youth care, as mentioned in article 6.1.2 paragraph 6 of the Youth Act;
 - the family guardian commissioned the report in connection to executing a placing under supervision and, based on the duty to inform by the educationalist, requests the educationalist to share the contents of the report, as mentioned in article 7.3.11 paragraph 4 of the Youth Act;
4. When the exceptions of the right to block as mentioned in paragraphs 2 and 3 do not apply, the client in principle has the right to block. However, the educationalist may find that granting the right to block to the client, in connection to a considerable interest, is contrary to the care of a proper educationalist. In this case, the educationalist may still provide the external commissioner with the report.

5. When the client does not have the right to block based on paragraph 2, 3 or 4 of this article:
 - the educationalist will inform the client of this situation before entering into a professional relationship, or in the case of paragraph 4, as soon as they assess that the right to block should be refused;
 - the educationalist will inform the client of the possibility to express objections to the report and to add these, as a personal clarification, to the report before it is sent to the external commissioner.

Article 41 Requesting data for the report

The educationalist asks the client's consent when they wish to request data about the client from the commissioner, persons involved or third parties for the purpose of the report, unless the educationalist has the legal power to request this information without the client's consent. For asking consent, articles 5 to 8 apply.

PROVIDING DATA FOR SCIENTIFIC RESEARCH, EDUCATION, SUPERVISION AND INTERVISION

Article 42 Providing data for research and education

For the purpose of scientific research, statistics or publications intended for educational purposes, the educationalist may provide third parties with data when asked, insofar as individual persons cannot be recognized in these data. For sharing data in which individual persons can be recognized, the educationalist will ask the client's consent, in accordance with articles 5 to 8.

Article 43 Audio and video recordings for teaching and education

When the educationalist makes audio and video recordings for teaching and/or education, they will ask the client's written

consent beforehand, in accordance with articles 5 to 8. When using these recordings, the educationalist tries to guarantee the anonymity of the client to the best of their abilities. The audio and video recordings will be used no longer than five years. After this period, the recordings will be destroyed, unless the educationalist asks the client's consent once more and receives permission to use the recordings another five years.

Article 44 Providing data for supervision and intervision

Within the framework of supervision and intervision, the educationalist provides strictly anonymized data to participants. The educationalist ensures the destruction of these data after the meeting.

SUPERVISORY BOARD AND APPELLATE BOARD

Article 45 Supervisory Board and Appellate Board

For the purpose of enforcing this professional code, the NVO has a Supervisory Board and an Appellate Board.

Article 46 Regulations for the Supervisory Board and Appellate Board

The composition and methods of both Boards are regulated in the Regulations for the Supervisory Board and the Appellate Board of the NVO, as defined by the board of the NVO and as part of the professional code.

As specified by the General Assembly of the NVO on 15 December 2016.

Appendix

PARENTHOOD, AUTHORITY AND SEPARATION/DIVORCE

Legal parenthood: describes the formal parent-child relationship

By law, the *legal mother* is the woman who gave birth to the child. An exception to this rule applies in the case of adoption. The woman adopting the child becomes the legal mother through adoption. The biological mother then relinquishes her legal motherhood through adoption.

By law, the *legal father* is the man who:

- is married to the mother¹⁴ at the time of the birth;
- (with the mother's consent) acknowledges a fatherless child¹⁵;
- adopts a child;
- is appointed by the court as the father of the child (at the request of the mother or the child).

NB:

- Since 2015, a woman can also become the second legal parent by: marriage with the mother, acknowledgement, adoption or arrangement of parenthood. This is called dual parenthood.
- A child has a maximum of two legal parents.

Authority: clarifies who has a say over a child up to 18 years

The person with parental authority is the legal representative. This means the person will make important decisions in the child's upbringing, such as choice of schooling and whether or not to use guidance or treatment.

¹⁴In this appendix, marriage also includes civil union. As of 1 April 2014, this union, as concerns legal parenthood and authority, holds the same consequences as a marriage.

¹⁵The Dutch House of Representatives is currently (fall 2016) dealing with a bill to ensure a person acknowledging a child also immediately gains parental authority over the child, together with the mother.

Parental authority or guardianship

Authority almost always lies with the parent(s) of the child. When a non-parent holds authority, it is called *guardianship*. The court appoints a guardian when both parents are deceased or if the authority of both parents, as a child protection measure, has been terminated. Unaccompanied minor aliens are also appointed a guardian (Nidos Foundation).

NB:

- In case of a *placing under supervision*, the *family guardian* organizes help and support in the family. A family guardian does not have authority, since parents maintain authority in a placing under supervision.¹⁶
- Adoptive parents practice authority over the child starting the moment of adoption.
- In principle, authority lies with an adult. When a woman of sixteen or seventeen years is expecting a child, the court may announce her adult so she can practice authority. If the woman is not yet sixteen, or if the woman of sixteen or seventeen does not make a request, or if the court refuses the request, the court will appoint a guardian for the child. This is often a parent or other relative of the woman expecting the child.

Joint authority of parents

Parents automatically receive joint parental authority when their child is born in wedlock. If the parents are not married, only the mother gains authority automatically after the birth. Parents may obtain joint authority in two steps:

1. The mother's partner acknowledges the child in city hall, creating a legal parenthood without authority;
2. The parents register their joint authority (digitally) with the Centraal Gezagsregister (the Dutch Parental Authority Register).

Joint authority of parents after a relationship has ended

Parents with joint authority continue to – in over 90% of cases – practice joint authority after their separation or divorce. This means both parents, no matter where the child lives, have an equal say. Only when the interests of the child structurally and seriously suffer, without the prospect of improvement, can *the court*, at the request of the parent(s), appoint authority to a single parent. In this case, only one parent has authority and say over the child. The other parent no longer holds authority, but remains the legal parent of the child.

Permission of both parents with authority required?

Help, treatment, guidance, diagnostics, scientific research and more require permission of both parents with authority.

In the case of *sharing information*, one may assume that one parent with authority consents also on behalf of the other parent with authority, unless:

- there are signs that the other parent may not agree;
- the sharing of information involves the other parent;
- the sharing of information may have far-reaching/dramatic consequences;

In these cases, both parents with authority should be asked for consent.

¹⁶ Only when a child is placed out of their home, the court may, in special cases, authorize the family guardian to make decisions about help, treatment and/or choice of schooling.

Lawyer's request for research or report

When a lawyer of a parent requests research, report or advice, the lawyer is not an external commissioner. The lawyer makes this request on behalf of a parent. Thus this research, report or advice requires consent of both parents with authority.

When two parents cannot agree on the treatment, guidance or diagnostics

If one parent with authority gives consent and the other one does not, this is a refusal and the treatment, guidance or diagnostics may not continue.

Substitute permission by the court

When it proves impossible for the two parents with authority to reach an agreement, a parent with authority (not the educationalist) may request the court, through a lawyer, to provide substitute permission, for example for: treatment, guidance or diagnostics, a relocation or a choice of school.

Obligation to provide information to the parent without authority

Professionals have a *legal duty* to inform the legal parent without authority, at their request, of the (contents of) help to their child: when this started, whether or not it has concluded, the purpose of aid and the results. The parent with authority does not need to consent to this. The educationalist is obligated to share this information, unless they deem this to be contrary to the care of a proper educationalist. This obligation to provide information applies to children up to sixteen years old.

NB: The parent without authority does *not* have the right to peruse the file.

Position foster parent

A foster parent raises a child in their family, but does not have authority. When a child has been placed under supervision,

out of their home and into a foster family, authority remains with the parents. They need to consent to help, treatment, research and more. When the court has terminated the parents' authority and has placed the child in a foster family, (an employee of) a certified organization will usually act as a guardian for the foster child. In this case the guardian must consent to help, treatment, research and more.

Foster guardianship

When the foster child is permanently placed in a foster family, sometimes the foster parent requests the court the right to practice authority over the foster child. Granting of this request results in *foster guardianship*. The foster parent then becomes the legal representative and the person responsible for consenting to guidance, treatment and diagnostics.

Position young people between twelve and sixteen years

Authority remains valid until the age of eighteen. In health care and youth care, young persons are independent as of the age of sixteen. They get to decide on help and treatment and practice their rights independently. Between the ages of twelve and sixteen, young people practice their rights together with their parents with authority. Consent of the parents with authority and the young person is required.

Parental Authority Register

The Parental Authority Register is public. Information on authority over a child may be requested in writing (and sometimes by phone) in any courthouse.

The Parental Authority Register does not offer a complete summary of authority over minors. The register only contains *legal decisions* on the authority and the registration of joint authority of the mother and the person acknowledging the child.

The Parental Authority Register does not contain:
the authority obtained automatically after birth;
the authority practiced by a single parent after the death of the other parent with authority;
the authority both parents continue to practice together after their divorce.

Establishing parenthood and authority schematically

1. *Was the mother married at the time of the birth?*

If so, both spouses are automatically the legal parents of the child and hold joint parental authority.

2a. *Was the mother not married at the time of the birth?*

If so, the mother (18+) is automatically the legal mother and practices sole authority.

2b. *Did a man/woman acknowledge the child of an unmarried mother before, during or after the birth?*

If so, the person acknowledging the child is the father or dual mother of the child (acknowledgement does not entail authority!).

2c. *Have the mother and person acknowledging the child registered their joint authority in the Parental Authority Register?*

If so, the mother and the person acknowledging the child share joint authority and have an equal say on the child. If not, then the person acknowledging the child is the legal parent of the child, but only the mother has authority (and say in for example treatment and guidance).

Colophon

Design:
de Toekomst
www.detoekomst.nl

Printing:
drukkerij de Toekomst
www.detoekomst.nl

Published by:
Nederlandse vereniging van
pedagogen en onderwijskundigen

Catharijnesingel 47
3511 GC Utrecht

t (030) 232 24 07

info@nvo.nl
www.nvo.nl