

**ETHICAL GUIDELINES AND PROCEDURES**  
**2008**

## **ETHICAL GUIDELINES AND PROCEDURES**

### **I. The AGAP Code of Ethics as Contained in the Constitution**

All members commit themselves to uphold the Code of Ethics as follows:

1. The analyst strives to the best of his or her ability to promote the analysand's psychological development and to protect his/her health.
2. Under no circumstances may the analyst abuse his/her position as an analyst to the detriment of the analysand.
3. The non-medical analyst is obligated to consult a physician/psychiatrist specialist or to refer the analysand to such a person if necessary.
4. The analyst is bound to professional confidentiality.
5. The analyst commits him/herself to collegial relations with fellow analysts.

### **II. Ethical Guidelines**

N.B. In the following Guidelines, where "analyst" appears, it is to be understood as *member of AGAP*. Where "analysand" appears, it is to be understood as *patient/client/analysand* according to local custom.

#### **Some Important Responsibilities of Analyst to Analysand**

1. Financial dealings between analysts and analysands shall be restricted to matters concerning professional fees.
2. Analysts should not enter into a sexual relationship with any patient. Terminating a therapeutic relationship in order to have a sexual one is also unethical. An analyst is ethically responsible for knowing the danger signals which indicate that she/he is seriously tempted to violate the container and for seeking help either through professional advice or the Ethics Committee.
3. As practitioners, analysts bear the responsibility of clarifying the working agreement between themselves and their analysands. This working agreement may include such considerations as: length and frequency of sessions, the cost and method of payment, the conditions of cancellation of sessions and where the meetings shall be held. Other contractual agreements are discussed when they arise in treatment
4. During treatment, restraint should be exercised with regard to social contacts with an analysand. After treatment, analysts should also keep in mind the possible continuation of transference feelings and use discretion in any social contacts.

Social contact with an analysand's relatives should be approached with great caution and should occur only with the knowledge and consent of the analysand. Exceptions may be made in certain circumstances, such as in the treatment of children, or when an analysand is a danger to himself/herself or others.

5. If the analyst judges that medical advice, consultation or possible treatment is needed, she/he shall inform the analysand. If the analysand cannot implement this medical contact, then the analyst must ask for her/his permission to contact a relevant doctor.
6. Analysts shall terminate an analytical relationship when it is reasonably clear that the analysand is not benefiting from it. At an appropriate time the analyst shall initiate a discussion with the analysand about the termination of the relationship and attempt to secure a mutual agreement with the analysand. An analyst shall not cease treatment without giving the analysand adequate notice to locate an alternative. Where appropriate, the analyst shall offer to help the analysand locate alternative sources of assistance.
7. **Clinical Material.** Confidentiality and the preservation of a patient's anonymity are of primary importance. Particular care must be taken in the publication of clinical material and the presentation of clinical material at clinical seminars. The analyst seeks written permission from the analysand to use clinical case material in the public domain. If a patient requests that his/her material should not be published or presented, this shall be respected. Discretion should also be exercised when professional consultation is utilized. Exceptions may have to be made when a lawsuit is threatened or when the law requires a breach of confidentiality, as in the case of child abuse, requirement to warn of danger to others, by court order, etc., where the circumvention of confidentiality is mandated by local law.

#### **Responsibilities of Analyst to Supervisee (Control Candidate)**

8. The supervisor or control analyst shall respect the particular relationship that is established in training with a supervisee or control analysand. The supervisor or control analyst shall not take advantage of his/her greater authority to become personally involved to the detriment of their professional agreement with someone he/she is to evaluate, grade, promote or recommend for promotion.

#### **Responsibilities of Analyst to Self, Colleagues and Ethics Committee**

9. Analysts shall not continue to practice when seriously or persistently impaired
  - (a) by the use of alcohol or other substances or
  - (b) by a physical or psychological illness that would impair the ability to practice and exercise adequate skill and judgment.
10. In areas of their personal analysis, supervision and education, analysts shall continue to pursue their professional growth. They are receptive to new procedures and changes in expectations and values over time.
11. Analysts shall refrain from claiming to possess qualifications which they do not possess.
12. If an analyst is convicted of a criminal offence, or has proceedings commenced against him or her by a professional body or licensing agency in the

state or country in which he/she resides, it is his/her duty to inform the Chairperson of the AGAP Ethics Committee with the relevant facts.

13. It is the responsibility of the analyst to report his/her unprofessional conduct to the AGAP Ethics Committee even when this conduct is not known to any official governing body. Self-reporting does not in and of itself relieve the AGAP member of responsibility for misconduct nor will it avoid disciplinary action by the Ethics Committee. In cases where disciplinary action is not called for, however, such self reporting may allow for essential collegial and professional help to be put in place.
14. When an AGAP analyst is called on by the Ethics Committee to respond to a complaint or a grievance in order to clarify a possible breach of ethics, refusal to respond to the Ethics Committee and cooperate in good faith could itself be interpreted as unprofessional behavior. This non-compliance could be grounds for Committee action, including a recommendation of suspension or expulsion from membership in AGAP.
15. Learning of a colleague's unethical behavior outside of the analytic container:
  - (a) Whenever an analyst has clear evidence , outside of the analytical container, of a colleague's serious ethical misconduct, it is his/her responsibility to act on behalf of the AGAP membership. He/she may do so by confronting the colleague and informing him/her that the analyst is obliged to inform the AGAP Ethics Committee of this misconduct, or, if such a confrontation is not possible, then the analyst shall inform the AGAP Ethics Committee directly, except when patient confidentiality must be maintained.
  - (b) When an analyst is simply concerned about the unethical behavior of a colleague, he/she should first talk to the colleague and try to stop the behavior in question and, if necessary, encourage consultation or further personal analysis. If the concerned member cannot do this directly, and/or needs to maintain confidentiality, and/or the colleague in question is not at all receptive, then the concerned member may contact the Chairperson of the AGAP Ethics Committee.
16. Learning of unethical behavior of a colleague within the analytical container:
  - (a) Analysts are sensitive and responsive to information received during analytical sessions concerning unethical behavior of a colleague or other professional. After careful exploration of the circumstances, if appropriate, the analyst shall inform and confirm to the analysand that the reported behavior is or may be unethical and that guidelines for ethical conduct have been formulated and are available.
  - (b) If the analyst receives irrefutable information about the unethical conduct of a colleague that the analyst considers to be very serious, then action must be considered. The analyst may give the analysand the name of a member of AGAP Ethics Committee and suggest the analysand contact this person to inform them of the ethics violation. The Ethics Committee member would then inform the analysand of his/her options including the

possibility of bringing an official complaint. Or, if after due time, the analysand declines to do so, the analyst may do so him or herself. In both cases, the analysand must agree to such action. No action can be taken if the analysand does not want the information to leave the analytical container. At all times the principle of confidentiality and the rights and wishes of the analysand shall be the priority consideration.

### III. ETHICAL PROCEDURES

N.B. In the relation between AGAP and analysts and analysands or vice versa only Swiss law is applicable. A *legal complaint* against AGAP must be filed in Zurich where it is domiciled.

#### Prelude (before investigation)

1. All ethical complaints must be directed to the Chair of the Ethics Committee.
2. The Ethics Committee decides if the complaint has merit and may request more information from the complainant.
3. The Ethics Committee instructs the complainant to put the complaint in writing and asks him/her to give written permission through a Release of Information form to inform the accused of the complaint and to request from the accused any relevant documentation including personal or professional notes or correspondence.
4. Upon acceptance of a complaint, the Ethics Chair shall inform the accused in writing with a copy of the complaint and require a response to the charges by the accused member within 30 days.
5. The accused's response may constitute:
  - (a) admitting or denying having acted out the behavior complained about;
  - (b) accepting or contesting that such behavior constitutes an ethical violation.
6. If the Ethics Committee members are unable geographically to investigate the complaint, then the Ethics Committee appoints an Investigating Committee of 3 AGAP members 'in situ' to investigate and recommend actions to the Ethics Committee which will make the final decisions.
7. The Ethics Committee will consider objections by the complainant or accused to the composition of the Investigating Committee and appoint substitutes if appropriate and necessary.

#### **Investigation**

8. The Ethics Committee will keep an official record of all information and interviews of the investigation for the protection of all the parties concerned. The record shall consist of a secretary's notes of the content of all meetings as well as all documents submitted by the complainant, accused, witnesses and investigators. Records shall be kept for six years.

9. The Ethics Committee or the Investigating Committee invites the complainant for a personal interview to describe and clarify the nature of the alleged unethical behavior.
10. The Ethics Committee or the Investigating Committee holds a separate meeting with the accused to respond to the complaint.
11. The Ethics Committee or the Investigating Committee may request written records from the accused before or after this meeting.
12. After both the above initial meetings, the Ethics Committee or the Investigating Committee may request more information in writing or person from either the complainant or the accused.
13. The Ethics Committee or the Investigating Committee may request that the two parties resolve by discussion their differences in the presence of two or more members of the Ethics Committee or the Investigating Committee.
14. The Ethics Committee or the Investigating Committee may request mediation between the accused and the complainant rather than making a determination of ethical violation.
15. If there is no resolution, the Ethics Committee or the Investigating Committee may proceed to a hearing before the Ethics Committee or Investigating Committee in which each party presents its case and evidence. The Chair of the Ethics Committee shall inform both parties of this hearing 30 days before it takes place.
16. Each party has the right to hear and be heard and to question the testimony of the other party.
17. After the hearing, the Ethics Committee shall deliberate and communicate its findings to both parties in writing not more than 45 days after the hearing. Or, the Investigating Committee shall deliberate and communicate its findings to the Ethics Committee which will come to a final decision and communicate its findings to both the complainant and the accused not more than 45 days after the hearing.
18. Notification of the AGAP Executive Committee and/or others, in the case of sanctions, can take place only after 90 days following the notice of the Ethics Committee's findings or after the completion of the appeal process.
19. The Ethics Committee will also decide on the degree to which the findings may be disseminated more generally except that action taken to suspend or expel an analyst for ethical reasons shall be reported to the President of IAAP and to all IAAP Groups of which the sanctioned analyst is a member when such reporting would be in accordance with local law.
20. If the Ethics Committee comes to the conclusion that expulsion or suspension of an analyst is called for and recommends this to the AGAP Executive Committee, special care shall be taken to protect the identity of the complainant.

#### **IV. Sanctions**

The following findings may issue from the Ethics Committee investigation:

- dismissal of charges;
- finding of unprofessional behavior that is not an ethical violation;
- finding of unethical behavior.

In the case of unethical behavior, (subject to local laws), any one or more of the following actions or requests may be taken or asked by the Ethics Committee of the accused:

1. mediated resolution with the complainant;
2. apology to the complainant;
3. reparation to the complainant as far as possible;
4. individual therapy with an approved senior colleague or outside person;
5. supervision with an approved senior colleague, the frequency and period of the supervision to be approved by the Ethics Committee;
6. regular follow-up meetings with the Ethics Committee;
7. independent medical and/or psychological examination with consultant approved by the Ethics Committee and report sent to the Ethics Committee;
8. reprimand;
9. censure;
10. probation;
11. apology to the AGAP Society.

Or the Ethics Committee may:

12. recommend to the AGAP Executive Committee suspension of the accused analyst from position of responsibility within AGAP;
13. recommend to the AGAP Executive Committee suspension from AGAP;
14. recommend to the AGAP Executive Committee expulsion from AGAP;
15. decide on the release of information concerning the Committee's findings.

N.B. AGAP members found to be in violation of the AGAP Code of Ethics are liable to pay the cost of Ethics Committee proceedings.

#### **V. Appeals**

1. Both complainant and accused will be given notice of the right to appeal the Ethics Committee's decision, including the right to appeal a recommendation to expel a member.
2. Analysts recommended for expulsion or suspension shall be denied all membership privileges pending appeal.
3. The party wishing to appeal must file notice with the President of AGAP within 45 days of the notice of the action taken by the Ethics Committee. He or she will be asked to show good cause and to submit any information which

- would support the appeal. Appeals filed later than this period will not be considered valid.
4. Grounds for overturning the decision of the Ethics Committee involve procedural errors or new evidence, which brings into question the substantive validity of the Ethics Committee's action.
  5. The President of AGAP, in consultation with the Executive Committee members, will appoint a committee to hear the appeal. The Appeals Committee shall be composed of 3 senior AGAP members. The President shall consider any objections to the membership of the Appeals Committee by any of the parties involved and make reasonable efforts to appoint substitute members, when appropriate.
  6. The Appeals Committee shall decide its own procedures but normally it will rely on the written submission of the individual making the appeal, and the records of the Investigation Committee and/or the Ethics Committee. It will consider the grounds for the appeal and if they are upheld, it will send the case back to the Ethics Committee for reconsideration, unless the Appeals Committee determines that the Ethics Committee would be unable to fairly decide the case in which case it may make recommendations of its own to the Executive Committee.
  7. In the event that the recommendations of the Appeals Committee contradict those of the Ethics Committee, both committees' findings will be presented to the AGAP Executive Committee. A 2/3 majority of the Executive Committee shall be required to rescind or to revise the Ethics Committee's recommendation.
  8. A second appeal will not be permitted except in the extraordinary circumstance where a new (second) ethics hearing and determination has been held after a first appeal has been successful (see 6, above), and may be presented by either the complainant or the accused to the President of AGAP and the same procedures will be followed as described in 1-6 above.