

EDUCATION ACT

TEACHERS' RIGHTS

In accordance with the educational project of the school and subject to the provisions of this Act, the teacher has the right to govern the conduct of each group of students entrusted to his care.

The teacher is entitled, in particular,

- to select methods of instruction corresponding to the requirements and objectives fixed for each group or for each student entrusted to his care;
- to select the means of evaluating the progress of students so as to examine and assess continually and periodically the needs and achievement of objectives of every student entrusted to his care.

TEACHERS' OBLIGATIONS

A teacher shall:

- contribute to the intellectual and overall personal development of each student entrusted to his care;
- take part in instilling into each student entrusted to his care a desire to learn;
- take the appropriate means to foster respect for human rights in his students;
- act in a just and impartial manner in his dealings with his students;
- take the necessary measures to promote the quality of written and spoken language;
- take the appropriate measures to attain and maintain a high level of professionalism;
- collaborate in the training of future teachers and in the mentoring of newly qualified teachers;
- comply with the educational project of the school.

TEACHING LICENCE

The Minister may verify a declaration concerning a judicial record required under this division, or have it verified, in particular by a Québec police force, and communicate and receive any information needed for the purposes of the verification.

For the purposes of this division, the information concerning a judicial record provided for in its provisions may be gathered, used and kept only with a view to ensuring the safety and well-being of the students.

To provide preschool education services or to teach at the elementary or secondary level, a teacher must hold a teaching licence determined by regulation of the Minister of Education, Recreation and Sports. Teaching licences shall be issued by the Minister of Education, Recreation and Sports.

The following persons shall be exempt from the obligation set out in the first paragraph:

- a teacher hired by the lesson or by the hour;
- a person who provides instruction in an enterprise that meets the conditions determined by the Minister in a regulation under paragraph 7 of section 111 of the Act respecting private education;
- a casual supply teacher;
- a person providing instruction which does not have as its object, within the meaning of the basic regulations, the obtaining of a diploma, certificate or other official attestation awarded by the Minister or the obtaining of an attestation of qualification issued by a school board pursuant to section 223 or 246.1;
- a person assigned to teaching duties by a school board pursuant to section 25.

In exceptional circumstances, the Minister may authorize a school board, on the conditions and for the period he determines, to engage as preschool education providers or elementary or secondary-level teachers persons who do not hold a teaching licence.

An applicant for a teaching licence must satisfy the requirements that the Minister prescribes by regulation and send the Minister an application and a declaration concerning the applicant's judicial record. That declaration must mention:

- any conviction for a criminal or penal offence committed in Canada or elsewhere, unless a pardon has been obtained for that offence;
- any charge still pending for a criminal or penal offence committed in Canada or elsewhere; and
- any court order subsisting against the applicant in Canada or elsewhere.

The declaration form established by the Minister must mention that the Minister may verify the declaration or have it verified, in particular by a Québec police force, and communicate and receive any information needed for the purposes of the verification.

If a teaching licence has been revoked because of a conviction which, in the Minister's opinion, is relevant to the practice of the teaching profession, or because of a serious fault committed in the exercise of the teacher's functions or an act derogatory to the honour or dignity of the teaching profession, the person

who held the teaching licence may not submit a new application to the Minister for a decision unless

- the person has obtained a pardon for the criminal or penal offence that was the reason for the revocation; or
- two years have passed since the date of the revocation and the person's behaviour has been above reproach during that time.

If the Minister has reasonable grounds to believe that a person holding a teaching licence has a judicial record, the person may be required to send the Minister a declaration concerning the person's judicial record. That declaration must mention:

- any conviction for a criminal or penal offence committed in Canada or elsewhere, unless a pardon has been obtained for that offence;
- any charge still pending for a criminal or penal offence committed in Canada or elsewhere; and
- any court order subsisting against the person in Canada or elsewhere.

The declaration form established by the Minister must mention that the Minister may verify the declaration or have it verified, in particular by a Québec police force, and communicate and receive any information needed for the purposes of the verification.

Within 10 days of being notified of a change in the judicial record referred to in section 25.3, a person holding a teaching licence must inform the Minister of the change, regardless of whether the person has already filed a declaration concerning the person's judicial record.

Any natural person may file a complaint with the Minister against a teacher for a serious fault committed in the exercise of his functions or for an act derogatory to the honour or dignity of the teaching profession.

An information stating that a teacher has had a conviction is not considered a complaint for the purposes of this subdivision.

The complaint must be in writing, include reasons and be made under oath. It must briefly state the nature of the fault alleged to have been committed by the teacher and the relevant circumstances, including the time and place. The complaint shall be received by a person designated by the Minister, who shall assist any person so requesting in drawing up the complaint.

The Minister shall send a copy of the complaint to the teacher and ask him to present observations in writing to the Minister within 10 days.

The Minister may dismiss any complaint he considers to be frivolous or excessive. He shall in that case notify the complainant and the teacher and give them the reasons for the dismissal.

Where the Minister considers that the complaint is admissible and the teacher has not admitted to having committed the alleged fault, the Minister shall set up an inquiry committee to which he shall submit the complaint.

The committee shall be composed of three members, including a chair, selected from among the members of the Barreau, who in the opinion of the Minister is familiar with the educational community. The other two members shall be selected after consultation with bodies which the Minister considers to be most representative of administrators of educational institutions, of the teachers in those institutions and of the parents of students attending such institutions. The members shall serve until the committee has established whether or not the complaint is well-founded.

The salary of the committee members and the rules relating to the reimbursement of expenses incurred in the exercise of their functions shall be fixed by regulation of the Minister.

The Minister may, if the acts alleged to have been committed by the teacher are such that, were they to continue or be repeated, the quality of educational services or the safety of students would be seriously jeopardized, and after consultation with the inquiry committee, order the school board to relieve the teacher of his functions, with pay, for the duration of the investigation.

However, the Minister is not required to consult the committee if the urgency of the situation does not allow it.

Within 30 days following the filing of the complaint and of the documents relating to it, the committee shall meet the teacher and the complainant to endeavour to establish whether or not the complaint is well-founded.

The committee may require any person to provide it with any information it considers necessary, and examine any relevant file.

No person may hinder the inquiry committee in any way in the exercise of its functions, mislead the committee by withholding information or making false statements, or refuse to provide any information or document relating to the inquiry or to allow the committee to make copies of such a document.

The committee cannot sit if one of its members is absent.

In conducting their inquiry, the members of the committee have the immunity provided for in sections 16 and 17 of the Act respecting public inquiry commissions.

After giving the teacher the opportunity to present observations, and within 120 days of the filing of the complaint, the committee shall establish whether or not the complaint is well-founded.

The committee shall transmit its findings, with reasons, to the Minister, the complainant, the teacher and the school board.

The Minister shall issue or renew a teaching licence if the applicant respects the required conditions.

The Minister may not issue a teaching licence if the applicant has been convicted of a criminal or penal offence committed in Canada or elsewhere which, in the Minister's opinion, is relevant to the practice of the teaching profession, unless a pardon has been obtained for that offence.

If a charge for a criminal or penal offence is still pending in Canada or elsewhere against the applicant for the issue of a teaching licence, or if the applicant is under a court order in Canada or elsewhere, the Minister shall defer the examination of the application if of the opinion that the offence or order is relevant to the practice of the teaching profession.

The Minister may refuse to renew a teaching licence, or may suspend or revoke it or attach conditions to it if the licence holder

- has been convicted of a criminal or penal offence committed in Canada or elsewhere which, in the Minister's opinion, is relevant to the practice of the teaching profession, unless a pardon has been obtained for that offence;
- fails to provide a declaration concerning his judicial record or makes false statements on such a declaration;
- fails to inform the Minister of a change in his judicial record; or
- admits to having committed a serious fault in the exercise of his functions, or an act derogatory to the honour or dignity of the teaching profession, or, in the opinion of the inquiry committee, has committed such a fault or act.

In addition, the Minister may revoke a teaching licence if the licence holder has failed to respect the conditions attached to it by the Minister.

If a charge is still pending against a person holding a teaching licence for a criminal or penal offence committed in Canada or elsewhere which, in the Minister's opinion, is relevant to the practice of the teaching profession, the Minister shall submit the case to the inquiry committee so that it may establish whether, in its opinion, the teacher has committed a serious fault in the exercise

of the teacher's functions, or an act derogatory to the honour or dignity of the teaching profession. Sections 29 to 33 apply in such a case, with the necessary modifications.

The same applies if the person holding a teaching licence is under a court order in Canada or elsewhere which, in the Minister's opinion, is relevant to the practice of the teaching profession.

If the Minister considers it expedient, a committee of experts may be established to advise the Minister on how to assess the relevance of a judicial record to the practice of the teaching profession.

The committee is made up of persons appointed by the Minister who have expertise, experience and a marked interest in the protection of minors.

Before making a decision referred to in section 34.1, 34.2 or 34.3, the Minister must notify the applicant or the licence holder in writing as prescribed by section 5 of the Act respecting administrative justice and allow the applicant or licence holder at least 10 clear days, or, in the case of a revocation for non-compliance with the conditions attached to a teaching licence, at least 30 days, to submit observations.

The Minister must also notify the applicant or the licence holder in writing of the decision, giving the reasons for it, and inform the applicant or licence holder of the right to contest the decision before the Administrative Tribunal of Québec, and of the applicable time limit.

A decision of the Minister referred to in section 34.1, 34.2 or 34.3 may be contested before the Administrative Tribunal of Québec within 60 days of notification of the decision.

A proceeding brought before the Tribunal suspends the execution of the Minister's decision, unless the Tribunal, on a motion heard and decided by preference, orders otherwise owing to the serious risk to the quality of educational services or the safety of the students.

If applicable, the Minister shall give the school board that employs the person holding the teaching licence and the person who filed the complaint that gave rise to the decision a written notice of the decision not to renew the licence, to suspend or revoke it or to attach conditions to it, and include the reasons for the decision.

The Minister may at any time suspend, revoke or attach conditions to an authorization granted under section 25 if the school board fails to fulfil the conditions of the authorization. The Minister shall transmit a copy of his decision, with reasons, to the school board and to the teacher.