



NATIONAL ASSEMBLY OF QUÉBEC

SECOND SESSION

FORTY-SECOND LEGISLATURE

Bill 9
(2022, chapter 17)

An Act respecting the National Student Ombudsman

**Introduced 23 November 2021
Passed in principle 3 February 2022
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Assented to 2 June 2022**

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EXPLANATORY NOTES

This Act proposes to replace the existing complaint processing procedure for school service centres.

To that end, the Act provides for the Government to appoint a National Student Ombudsman and for the Minister of Education to appoint regional student ombudsmen. The Act establishes that the function of the National Student Ombudsman and the regional student ombudsmen is to see that the rights of students, homeschooled children and the parents of those students or children are respected with regard to the services rendered to them by a school service centre, a private educational institution or an educational institution in matters under the jurisdiction of the Minister that the Minister determines.

In particular, the Act requires the National Student Ombudsman to be responsible for the adequate and optimal application of the provisions relating to the complaint processing procedure. For that purpose, the National Student Ombudsman must, among other things,

(1) ensure that regional student ombudsmen serve the entire territory of Québec;

(2) promote his or her role as well as that of the regional student ombudsmen;

(3) disseminate information on the rights of students and homeschooled children, and their parents;

(4) coordinate, distribute and supervise the regional student ombudsmen's work and encourage concerted action by them; and

(5) give an opinion to the Minister of Education on any matter the Minister submits to the Ombudsman.

The Act enacts a procedure for processing complaints by school service centres and private educational institutions. In particular, it establishes in the procedure that a student or child or their parents must first file a complaint with the person directly concerned by the complaint or that person's immediate supervisor. If they are dissatisfied

with the processing of the complaint, they can refer it to the person in charge of processing complaints designated among the personnel of the school service centre or private educational institution.

The Act also provides that the National Student Ombudsman may examine complaints processed by regional student ombudsmen and, if he or she considers it advisable, substitute his or her conclusions or recommendations for those of the regional student ombudsman. For that purpose, the Act grants the regional student ombudsmen, and the National Student Ombudsman, powers of investigation and immunity.

The Act provides for regional student ombudsmen to give their opinion to the board of directors of a school service centre, a governing board, a parents' or students' committee or a private educational institution on any matter those parties submit to them.

The Act grants protection against reprisals to persons who make a report or file a complaint, cooperate in the processing of a report or complaint or accompany a person who makes a report or files a complaint.

In respect of the fight against bullying and violence, the Act allows a person who is dissatisfied with the processing of a report or complaint to refer it to the person in charge of processing complaints, then to a regional student ombudsman. Where the complaint concerns an act of sexual violence, the Act allows for it to be filed directly with the regional student ombudsman. In those cases, in addition to the processing of the complaint, provision is made for the regional student ombudsmen to ensure the follow-up on actions taken by the institution in implementing the anti-bullying and anti-violence plan.

Regarding acts of sexual violence, the Act also entrusts regional student ombudsmen with the power to intervene following a report or on their own initiative and grants them powers of inspection for that purpose.

The Act requires the National Student Ombudsman and regional student ombudsmen to submit a report on their activities annually. The National Student Ombudsman's report may include any recommendation of collective scope that the Ombudsman considers useful with regard to the services provided by school service centres or private educational institutions. The Minister tables the report in the National Assembly.

The Act also contains various measures about bullying and violence, including the requirement for educational institutions to devote a separate section of the anti-bullying and anti-violence plan to sexual violence.

Lastly, the Act creates penal offences, makes consequential amendments and contains transitional and final provisions.

LEGISLATION AMENDED BY THIS ACT:

- Financial Administration Act (chapter A-6.001);
- Charter of human rights and freedoms (chapter C-12);
- Act respecting private education (chapter E-9.1);
- Education Act (chapter I-13.3);
- Act respecting labour standards (chapter N-1.1);
- Act to ensure the protection of trainees in the workplace (2022, chapter 2).

REGULATION AMENDED BY THIS ACT:

- Regulation respecting the application of the Act respecting private education (chapter E-9.1, r. 1).

Bill 9

AN ACT RESPECTING THE NATIONAL STUDENT OMBUDSMAN

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

NATIONAL STUDENT OMBUDSMAN AND REGIONAL STUDENT OMBUDSMEN

DIVISION I

APPOINTMENT AND ORGANIZATION

1. On the recommendation of the Minister, the Government appoints a National Student Ombudsman. The term of office must not exceed five years.

The person so appointed must have knowledge of the education system and dispute resolution mechanisms.

2. The National Student Ombudsman exercises the functions of office exclusively and on a full-time basis.

3. At the expiry of the term, the National Student Ombudsman remains in office until replaced or reappointed.

4. If the National Student Ombudsman is absent or unable to act, or the office is vacant, the Minister appoints one of the regional student ombudsmen acting on a full-time basis to act as interim National Student Ombudsman.

However, a regional student ombudsman who acts as interim National Student Ombudsman does not exercise the functions entrusted to the National Student Ombudsman under section 44 in respect of complaints that the regional student ombudsman has processed. Those functions are entrusted to another regional student ombudsman.

5. The Minister appoints regional student ombudsmen from among persons declared qualified for appointment to those functions by a selection committee and according to the recruiting and selection procedure established by regulation of the Minister. Their term of office must not exceed five years. Their term is renewable.

Regional student ombudsmen who exercise the functions of office on a full-time basis do so exclusively.

The regulation referred to in the first paragraph must, in particular,

- (1) determine the publicity to be made for recruitment purposes and its content;
- (2) determine the eligibility requirements and the application procedure to be followed by candidates;
- (3) determine the selection criteria to be taken into account by the selection committee;
- (4) determine the information the selection committee may require from a candidate and the consultations it may hold; and
- (5) determine the period for which a declaration of qualification is valid.

The recruiting and selection procedure referred to in the first paragraph does not apply to the regional student ombudsmen whose term is renewed.

6. The selection committee, established by the National Student Ombudsman, is composed of the National Student Ombudsman, who acts as chair, and the following persons designated by the National Student Ombudsman from among the persons recommended by the associations or organizations most representative after consultation with those associations or organizations:

- (1) a parent of a student who attends an institution of a French-language school service centre;
- (2) a parent of a student who attends an institution of an English-language school service centre;
- (3) a parent of a student who attends an institution of a school board or of the Centre de services scolaire du Littoral established by the Act respecting the Centre de services scolaire du Littoral (1966-1967, chapter 125);
- (4) a parent of a student who attends a private educational institution;
- (5) a teacher;
- (6) a non-teaching professional staff member;
- (7) a member of the executive staff of a school service centre or private educational institution;
- (8) a principal of an educational institution of a school service centre;
- (9) a director general of a school service centre; and
- (10) a person who administers a private educational institution.

As part of the consultations, the National Student Ombudsman sees that associations or organizations representing English speakers and Indigenous persons are consulted.

If the National Student Ombudsman does not receive any recommendation for the designation of a person within the time he or she sets, the Ombudsman may designate a person after notifying the associations or organizations concerned.

7. The members of the selection committee receive no remuneration, except in the cases, on the conditions and to the extent as the Minister may determine.

However, they are entitled to the reimbursement of expenses incurred in the exercise of their functions on the conditions and to the extent determined by the Minister.

8. No judicial proceedings may be brought against the members of the selection committee for any act done in good faith in the exercise of their functions.

9. The National Student Ombudsman and a regional student ombudsman may not be

(1) a member of the board of directors, a parents' committee or a governing board or be the director general, an assistant director general or the secretary general of a school centre or the person in charge of processing complaints within such a centre;

(2) a director, shareholder, officer or person in charge of processing complaints of or within a private educational institution that provides educational services belonging to the categories referred to in paragraphs 1 to 5 of section 1 of the Act respecting private education (chapter E-9.1);

(3) an employee of a school service centre or a private educational institution that provides educational services belonging to the categories referred to in paragraphs 1 to 5 of section 1 of the Act respecting private education; or

(4) a relative or the spouse of a person referred to in paragraphs 1 and 2.

10. The Government fixes the National Student Ombudsman's and regional student ombudsmen's salary, conditions of employment and, where applicable, their additional salary, allowances or fees.

11. The National Student Ombudsman coordinates, distributes and supervises the work of regional student ombudsmen, who must comply with his or her orders and directives in that regard.

12. The National Student Ombudsman assigns each regional student ombudsman to a region and also designates, for each region, the regional student ombudsman in charge of accountability under section 58. The National Student Ombudsman ensures that regional student ombudsmen serve the entire territory of Québec.

For the purposes of assignment and designation under the preceding paragraph, the National Student Ombudsman may, when the territory of a school service centre exceeds the boundaries of a region, include the excess part of the territory of the school service centre as part of the region. The National Student Ombudsman may also include all the facilities of a private educational institution in the same region.

A part-time regional student ombudsman may be assigned to more than one region.

The National Student Ombudsman may modify the boundaries of a region to which a regional student ombudsman is assigned. The regional student ombudsman concerned completes the processing of complaints in progress at the time of the modification.

Where the National Student Ombudsman determines the territory of regions for the purposes of assignment and designation under the first paragraph, the National Student Ombudsman takes into account, wherever possible, factors such as the boundaries of administrative regions and municipalities, and the existence of common characteristics and physical barriers.

13. The members of the National Student Ombudsman's personnel are appointed in accordance with the Public Service Act (chapter F-3.1.1).

14. The National Student Ombudsman is deemed to be a body for the purposes of the law.

The National Student Ombudsman's head office is located at the place determined by the Government.

Notice of the location and any change of location of the head office is published in the *Gazette officielle du Québec*.

15. The National Student Ombudsman makes an office available to each regional student ombudsman. That office may not be located on the premises of a school service centre or private educational institution.

DIVISION II

FUNCTIONS AND RESPONSIBILITIES

16. The National Student Ombudsman and regional student ombudsmen see that the rights of students, homeschooled children, and their parents, are respected with regard to the services the school service centre provides to them.

In the same manner, they see that the rights of students who receive from a private educational institution educational services belonging to the categories referred to in paragraphs 1 to 5 of section 1 of the Act respecting private education, and their parents, are respected with regard to those services and to the follow-up on a report or complaint concerning an act of bullying or violence.

They also see that the rights of students who receive services from an educational institution in matters under the jurisdiction of the Minister other than those established in accordance with the Act respecting private education, the Education Act (chapter I-13.3) or the Education Act for Cree, Inuit and Naskapi Native Persons (chapter I-14) that the Minister determines are respected.

For the purposes of this Act, “parent” means the person having parental authority or, unless that person objects, the person having de facto custody of the student or child.

17. The National Student Ombudsman is responsible for the adequate and optimal application of the provisions relating to the complaint processing procedure provided for by this Act.

For that purpose, the National Student Ombudsman promotes his or her role and that of the regional student ombudsmen, and disseminates information on the rights of students and homeschooled children, and their parents, to improve knowledge of those roles. The National Student Ombudsman also promotes the complaint processing procedure provided for by this Act.

The National Student Ombudsman also encourages concerted action by the regional student ombudsmen and the sharing of good practices applicable in the exercise of their functions. The National Student Ombudsman sees that the regional student ombudsmen receive the training relevant to the exercise of their functions, including on racism and discrimination, Indigenous realities and sexual violence as well as any matter the Minister determines.

Lastly, the National Student Ombudsman provides support to any regional student ombudsman who requires it for the purposes of processing a complaint, with due regard to their functions and the confidentiality of information. The National Student Ombudsman may thus give regional student ombudsmen an opinion on the means to be favoured or the solutions to be considered in dealing with a problem related to the exercise of their functions. The National Student Ombudsman also examines the complaints where the regional student ombudsmen consider it advisable to make conclusions or recommendations.

18. The National Student Ombudsman gives an opinion to the Minister on any matter the Minister submits to the National Student Ombudsman.

19. For the purposes of section 16, regional student ombudsmen process any complaint filed by a student who attends an educational institution located in the region to which the regional student ombudsmen are assigned, by a homeschooled child who resides in the region or by their parents. Regional student ombudsmen also process any complaint concerning an act of bullying or violence, as well as any report concerning an act of sexual violence against a student who attends an educational institution located in the region.

Regional student ombudsmen give their opinion to the board of directors of a school service centre, a governing board, a parents' committee, a students' committee or a private educational institution referred to in section 16 on any matter those parties submit to the regional student ombudsmen with regard to the services the school service centre or private educational institution provides to students, homeschooled children or their parents. Those opinions are posted on the website of the National Student Ombudsman within 30 days after they are sent.

20. Regional student ombudsmen disseminate information about the complaint processing procedure provided for by this Act as well as information about the possibility of making a report or filing a complaint concerning an act of sexual violence to or with regional student ombudsmen.

Regional student ombudsmen provide any information on applying the complaint processing procedure to persons who request it and inform them of the protection measures under the law against reprisals afforded to any person who makes a report or files a complaint, cooperates in the processing of a report or complaint or who accompanies a person who makes a report or files a complaint.

21. A school service centre or private educational institution must, not later than 30 September each year, inform the students, children and their parents of the possibility of filing a complaint under the complaint processing procedure provided for by this Act. The centre or institution must also inform the students and their parents of the possibility of making a report or filing a complaint concerning an act of sexual violence to or with the regional student ombudsman. To that end, the centre or institution must post in a visible manner, in each educational institution, a document provided by the National Student Ombudsman explaining who may file a complaint and how that right is to be exercised. The document must specify the contact information of the regional student ombudsman to whom the complaint must be referred.

The centre or institution must also disseminate such information by the same time limit in a section dedicated to that purpose which is accessible from the home page of the website of each educational institution.

The National Student Ombudsman may determine any other means of communication that centres and institutions, or some of them, must use to disseminate such information.

22. In exercising the functions conferred on them by this Act, the National Student Ombudsman and the regional student ombudsmen ensure that they take into account Indigenous realities.

CHAPTER II

COMPLAINT PROCESSING

DIVISION I

COMPLAINT PROCESSING BY A SCHOOL SERVICE CENTRE OR PRIVATE EDUCATIONAL INSTITUTION

23. A student or child referred to in section 16 or the parents of that student or child who are dissatisfied with a service they received, are receiving, ought to have received or require from the school service centre may file a complaint with the person directly concerned by the complaint or with the person's immediate supervisor.

If the complaint is filed with a personnel member of an educational institution, the member informs the principal of the institution without delay.

24. A person who is dissatisfied with the processing of their complaint or whose complaint has not been processed within 10 working days after it is received may refer the complaint to the person in charge of processing complaints within the school service centre. The person in charge of processing complaints is designated from among the school service centre personnel by the board of directors.

Despite section 23, a person who is dissatisfied with the follow-up on a report or complaint concerning an act of bullying or violence made to a principal of an educational institution under section 96.12 or 110.13 of the Education Act may file a complaint with the person in charge of processing complaints.

25. The person in charge of processing complaints must, within 15 working days after receiving the complaint, give the complainant and the person directly concerned by the complaint a written opinion on the merits of the complaint and specify any corrective measures the person in charge considers appropriate.

If the complaint concerns the follow-up on a report or complaint concerning an act of bullying or violence, the opinion is given to the complainant and the principal of the educational institution.

The person in charge of processing complaints must, before giving an opinion on the merits of the complaint, give the complainant and the person directly concerned by the complaint or the person's immediate supervisor the opportunity to be heard and, where applicable, invite the person or the person's supervisor to remedy the situation which gave rise to the complaint.

26. If the person in charge of processing complaints considers that facts brought to their attention raise questions of a disciplinary nature, the person notifies the human resources manager within the school service centre in writing without delay. If the person considers it expedient, the complainant is also notified.

In the same way, if the person in charge of processing complaints considers that facts brought to their attention concern a serious fault or derogatory act referred to in the first paragraph of section 26 of the Education Act, the person notifies the Minister in writing without delay of the facts relating to the fault or act concerned. The person also notifies the complainant.

The Minister ensures the follow-up with the complainant of any notice received under the preceding paragraph, in particular as regards the complainant's intention to file a complaint under section 26 of the Education Act.

The person in charge of processing complaints continues the examination of the complaint.

27. A person who is dissatisfied with the processing of their complaint by the person in charge of processing complaints, or whose complaint has not been processed within 15 working days after it is received, may refer the complaint to a regional student ombudsman in accordance with the provisions of Division II of this chapter.

28. The procedure set out in this chapter also applies, with the necessary modifications, to a private educational institution that provides educational services belonging to the categories listed in paragraphs 1 to 5 of section 1 of the Act respecting private education with regard to those services and to the follow-up on a report or complaint concerning an act of bullying or violence.

For the purposes of section 24, the board of directors of a school service centre means the board of directors of a private educational institution or, if there is no board of directors, the person operating that institution within the meaning of section 3 of the Act respecting private education.

29. For the purposes of this division, the Minister may, by regulation, establish any other terms relating to the filing of a complaint or the processing of complaints.

DIVISION II

COMPLAINT PROCESSING BY REGIONAL STUDENT OMBUDSMEN

§1. — General provisions

30. Regional student ombudsmen assist any persons who require it in drawing up a complaint or in taking any action relating to the complaint and inform them of their right to be accompanied by a person of their choice, at any step of the processing of the complaint.

31. Any complaint must be filed in writing and addressed to a regional student ombudsman.

The complaint must also be filed in accordance with the other terms that the Minister determines by regulation.

Despite the first paragraph, the National Student Ombudsman may, if warranted by the circumstances, entrust the processing of a complaint to a regional student ombudsman other than the one to whom it was addressed.

32. Regional student ombudsmen may, if they consider that circumstances so warrant, refuse to examine a complaint or terminate the examination of a complaint where a proceeding is brought by the complainant before a court of justice or before a person or body of the administrative branch exercising adjudicative functions and the proceeding regards the facts on which the complaint is based and where, in the regional student ombudsmen's opinion, the conclusions sought by bringing the proceeding are similar to the conclusions sought by drawing up the complaint.

They may also refuse to examine a complaint if they consider that another proceeding could adequately and within a reasonable time correct the situation giving rise to the complaint.

33. If the steps of the complaint processing procedure under Division I of this chapter have not been followed, regional student ombudsmen may examine the complaint regardless, in the following cases:

(1) they are of the opinion that following the steps of the procedure could not adequately correct the situation or that the time taken for processing the complaint at the previous steps makes their intervention unnecessary; or

(2) the complaint concerns an act of sexual violence.

34. Regional student ombudsmen may, upon summary examination, refuse or cease to examine any complaint if, in their opinion, it is frivolous, vexatious or made in bad faith.

Regional student ombudsmen may also refuse or cease to examine a complaint if

(1) the complainant refuses or neglects to provide any information or document that the regional student ombudsmen consider relevant for a clear understanding of the facts;

(2) they have reasonable grounds to believe that their intervention would clearly serve no purpose; or

(3) the lapse of time between the facts on which the complaint is based and the receipt of the complaint makes it impossible to examine the complaint.

Regional student ombudsmen may, with the consent of the complainant, suspend the processing of the complaint if they consider that their intervention would be premature with regard to the complaint processing procedure provided for in Division I of this chapter.

35. Each time regional student ombudsmen refuse to examine a complaint or terminate the examination of a complaint, they must notify the complainant in writing without delay, giving reasons and, in the case of the second paragraph of section 32, indicating the proceedings to be brought.

Regional student ombudsmen must also, if they are of the opinion that the complaint may be processed by another person or organization and with the complainant's consent, send the information relating to the complaint to that person or organization.

36. When regional student ombudsmen examine a complaint, they must inform the school service centre or private educational institution concerned by the complaint. The centre or institution must in that case send the information it holds relating to the complaint to the regional student ombudsmen without delay.

Regional student ombudsmen give the complainant and the person directly concerned by the complaint or the person's immediate supervisor the opportunity to be heard and, where applicable, invite those persons to remedy the situation which gave rise to the complaint.

When the complaint concerns an act of bullying or violence, regional student ombudsmen give the complainant and the principal of the educational institution or the person designated by the private educational institution in accordance with section 63.5 of the Act respecting private education, as applicable, the opportunity to be heard.

37. In addition to what is provided for in section 36, if the complaint concerns an act of sexual violence, regional student ombudsmen send the complaint without delay to the principal of the institution or to the person designated by the private educational institution, as applicable, unless they have reasonable grounds to believe that the sending could impede an investigation or unless the complainant objects.

When the complaint is sent, regional student ombudsmen ensure the follow-up on actions taken by the institution in implementing the anti-bullying and anti-violence plan.

38. During the examination of a complaint, regional student ombudsmen may, if they consider it expedient, conduct an investigation.

They may also entrust the investigation to a person authorized by the National Student Ombudsman for that purpose.

39. Section 26 applies, with the necessary modifications, to the processing of complaints by regional student ombudsmen.

40. Regional student ombudsmen may, if they consider it useful, if circumstances permit and if the complainant and the other persons concerned consent to it in writing, meet with them to attempt to bring the parties to an agreement. The complaint processing is suspended for the duration of the process.

41. For the purposes of this division, the Minister may, by regulation, establish any other terms relating to the processing of complaints by regional student ombudsmen.

§2. — *Special provisions applicable to the processing of complaints concerning acts of sexual violence*

42. Complaints concerning acts of sexual violence are processed as urgent.

43. On receiving a complaint concerning an act of sexual violence, regional student ombudsmen must inform the student that it is possible to refer the complaint to the Commission des services juridiques. If the student is under 14 years of age, the regional student ombudsmen also inform their parents of that option, and if the student is 14 years of age or over, the regional student ombudsmen may also inform their parents of that option, with the student's consent.

DIVISION III

CONCLUSIONS AND RECOMMENDATIONS

44. Regional student ombudsmen must, within 20 working days after receiving a complaint, complete the examination of the complaint and determine the conclusions and, if applicable, the recommendations they consider advisable to make to the school service centre or private educational institution.

Regional student ombudsmen send their conclusions and recommendations as well as the information they hold relating to the complaint to the National Student Ombudsman. The National Student Ombudsman then has five working days to inform the regional student ombudsmen of his or her intention to examine the complaint.

Where the National Student Ombudsman examines the complaint, he or she has 10 working days to complete the examination and, if he or she considers it advisable, substitute his or her conclusions or recommendations for those of the regional student ombudsman. The National Student Ombudsman may, for the purposes of examining the complaint, conduct an investigation.

On the expiry of the time limit prescribed in the first, second or third paragraph, as applicable, the regional student ombudsmen inform the complainant and the school service centre or private educational institution in writing of the conclusions and the grounds on which they are made and of any recommendations.

If the complaint concerns an act of sexual violence and it was sent in accordance with section 37, the regional student ombudsmen inform, in the manner set out in the preceding paragraph, the principal of the institution or the person designated by the private educational institution concerned.

If the processing of the complaint is not completed within 25 working days after it is received, the regional student ombudsmen so inform the complainant and the school service centre or private educational institution, indicating the reasons for an extension.

The time limit provided for in the previous paragraph is extended by the number of days equivalent to the period during which the processing of the complaint was suspended under the third paragraph of section 34 or section 40, as applicable.

45. The school service centre or private educational institution must, within 10 working days after receiving any conclusion or recommendation, inform the complainant and the regional student ombudsman in writing of the action it intends to take on such a recommendation or conclusion and, if applicable, of the grounds for any refusal to take action on such a recommendation or conclusion.

CHAPTER III

REPORTS AND INITIATIVE OF REGIONAL STUDENT OMBUDSMEN

46. Regional student ombudsmen must, after receiving a report or on their own initiative and if they are of the opinion that the information in their possession could show that an act of sexual violence was committed against a student who attends an educational institution located in the region to which they are assigned, send the information to the principal of the institution concerned or to the person designated by the private educational institution unless they have reasonable grounds to believe that sending the information could impede an investigation.

Regional student ombudsmen assist any person who requires it in making a report or in taking any action relating to it.

Such information is processed by the principal of the institution or by the person designated by the private educational institution, as applicable, as a report received in accordance with section 96.12 of the Education Act or section 63.5 of the Act respecting private education.

In addition, regional student ombudsmen process such information as a complaint that they examine in accordance with the provisions of Divisions II and III of Chapter II, with the necessary modifications.

47. Regional student ombudsmen take all necessary measures to preserve the confidentiality of any information allowing a person who has made a report to be identified, unless the person consents to being identified. However, regional student ombudsmen may communicate the identity of the person to the director of youth protection or to the police force concerned.

48. In exercising functions assigned under this chapter, regional student ombudsmen or any person authorized by the National Student Ombudsman may act as inspectors.

49. Persons acting as inspectors may

(1) enter, at any reasonable time, the premises and immovables of a school service centre, including the premises and immovables that are placed at the disposal of the educational institutions of the school service centre, and the facilities of any private educational institution;

(2) require, for examination or reproduction purposes, any information or document relating to the application of this chapter;

(3) take photographs or make recordings; and

(4) require a person, by any means that allows proof of receipt and of the exact time of receipt, to communicate to them any information or document required for exercising inspection functions conferred on them by this chapter, within the time and according to the conditions they specify.

50. Persons acting as inspectors must, on request, identify themselves and produce a certificate of authority.

No judicial proceedings may be brought against such persons for any act done in good faith in the exercise of their functions.

CHAPTER IV

INVESTIGATIONS AND IMMUNITY

51. For the conduct of an investigation, the National Student Ombudsman, regional student ombudsmen and any other person authorized for such purpose have the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (chapter C-37), except the power to impose imprisonment.

52. Despite any other general law or special Act, the National Student Ombudsman, regional student ombudsmen and members of the National Student Ombudsman's personnel may not be compelled to make a deposition relating to information obtained in the exercise of their functions or produce any document containing such information.

Despite section 9 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1), no person has a right of access to such a document.

53. No judicial proceedings may be brought against the National Student Ombudsman, regional student ombudsmen and members of the National Student Ombudsman's personnel for an omission or act in good faith in the exercise of their functions.

No judicial proceedings may be brought against a person who, in good faith, has made a report or filed a complaint, cooperated in the processing of a report or complaint or accompanied a person who has made a report or filed a complaint in accordance with this Act.

54. No civil action may be instituted because of the publication of conclusions or recommendations, or reports of the National Student Ombudsman or regional student ombudsmen or the publication, in good faith, of an extract from or summary of such conclusions or recommendations or of such reports.

55. Except on a question of jurisdiction, no application for judicial review under the Code of Civil Procedure (chapter C-25.01) may be exercised nor any injunction granted against the National Student Ombudsman, a regional student ombudsman or a member of the National Student Ombudsman's personnel in the exercise of their functions.

CHAPTER V

PROTECTION AGAINST REPRISALS

56. Reprisals are prohibited against a person who, in good faith, makes a report or files a complaint, cooperates in the processing of a report or complaint or accompanies a person who makes a report or files a complaint in accordance with this Act.

It is also prohibited to threaten to take a reprisal against a person to dissuade them from performing an act described in the first paragraph.

The demotion, suspension, termination of employment or transfer of a person or any disciplinary or other measure that adversely affects the employment or working conditions of a person is presumed to be a reprisal. Depriving a student, child or their parents of any right or subjecting them to differential treatment or suspending or expelling a student who makes a report or files a complaint is also presumed to be a reprisal.

CHAPTER VI

REPORTS

57. The person in charge of processing complaints at a school service centre or private educational institution must, not later than 30 September of each year, send the regional student ombudsman in charge of accountability an activity report for the preceding school year. The report indicates the number and nature of complaints received from students attending an educational institution located in the regional student ombudsman's assigned region and homeschooled children residing in that region, or from their parents. The report also includes the time taken to examine the complaints, the nature of the corrective measures recommended and any follow-up to those measures. The report must separately list complaints concerning acts of bullying or violence. It must also separately list reports and complaints concerning acts of sexual violence.

58. The regional student ombudsmen in charge of accountability must, not later than 31 October of each year, send a report of their activities for the preceding school year to the National Student Ombudsman and to each school service centre and private educational institution located in the region in which they are assigned. The report must separately list complaint referrals concerning acts of bullying or violence. It must also separately list reports and complaints concerning acts of sexual violence.

The report states, in particular,

- (1) the number of complaints received, examined, refused or abandoned since the last report, and the nature of and grounds for those complaints;
- (2) the time taken for complaint examination;
- (3) the nature of the recommendations and the action taken on those recommendations within the scope of the examination of a complaint; and
- (4) the number and nature of the matters submitted to the regional student ombudsmen for an opinion.

The regional student ombudsmen send the reports received under section 57 to the National Student Ombudsman at the same time.

The Minister may, by regulation, prescribe any other information that regional student ombudsmen's annual reports must contain as well as the form of the reports.

The regional student ombudsmen's reports must bear their signature.

59. The National Student Ombudsman must, not later than 31 December of each year, send an activity report for the preceding school year to the Minister.

The report must set out, in particular and separately for each region,

- (1) the number of complaints received, examined, refused or abandoned since the last report, and the nature of and grounds for those complaints;
- (2) the time taken for complaint examination;
- (3) the nature of the recommendations and the action taken on those recommendations within the scope of the examination of a complaint; and
- (4) the number and nature of the matters submitted to the National Student Ombudsman for an opinion.

The report must separately list complaints concerning acts of bullying or violence. It must also separately list reports and complaints concerning acts of sexual violence.

The Minister may, by regulation, prescribe any other information that the National Student Ombudsman's annual report must contain as well as the form of the report.

The Minister tables the report in the National Assembly within 30 days after receiving it or, if the Assembly is not sitting, within 30 days of resumption.

60. The National Student Ombudsman may, in the annual report, make any recommendation of collective scope that he or she considers useful with regard to the services provided by school service centres or private educational institutions.

CHAPTER VII

MISCELLANEOUS PROVISIONS

61. The National Student Ombudsman may determine the information asset that school service centres and private educational institutions must use for complaint examination.

The information asset must comply with the standards for record keeping and make it possible to enter the information determined by the Minister by regulation.

62. The Minister may, by regulation, prescribe the use of a complaints register whose form, content and conditions governing access and preservation the Minister determines.

63. The Minister determines the manner in which this Act is to apply to educational institutions in matters coming under the Minister's jurisdiction other than educational institutions established in accordance with the Act respecting private education, the Education Act or the Education Act for Cree, Inuit and Naskapi Native Persons referred to in the third paragraph of section 16.

64. Within the meaning of this Act, "school service centre" includes a school board, with the necessary modifications.

65. The fiscal year of the National Student Ombudsman ends on 31 March.

CHAPTER VIII

PENAL PROVISIONS

66. Anyone who threatens or intimidates or attempts to threaten or intimidate a person or takes or attempts to take reprisals against a person because the person complies with this Act, exercises a right provided for by this Act or reports conduct that contravenes this Act commits an offence and is liable to a fine of \$2,000 to \$20,000 in the case of a natural person and \$10,000 to \$250,000 in any other case.

For a subsequent offence, the amounts are doubled.

67. Anyone who in any way hinders or attempts to hinder an inspector in the performance of inspection functions, including by misleading the inspector, by withholding information or making false statements or by refusing to provide a document or information that the inspector is entitled to require under this Act, commits an offence and is liable to a fine of \$500 to \$5,000 in the case of a natural person and \$1,500 to \$15,000 in any other case.

For a subsequent offence, the amounts are doubled.

CHAPTER IX

AMENDING PROVISIONS

FINANCIAL ADMINISTRATION ACT

68. Schedule 1 to the Financial Administration Act (chapter A-6.001) is amended by inserting “National Student Ombudsman” in alphabetical order.

CHARTER OF HUMAN RIGHTS AND FREEDOMS

69. Section 75 of the Charter of human rights and freedoms (chapter C-12) is amended

(1) by inserting “or a regional student ombudsman” after “Public Protector” in the first paragraph;

(2) by inserting “or a regional student ombudsman” after “Public Protector” in the second paragraph.

ACT RESPECTING PRIVATE EDUCATION

70. The Act respecting private education (chapter E-9.1) is amended by inserting the following section after section 63:

“63.0.1. An institution dispensing educational services belonging to the categories referred to in paragraphs 1 to 5 of section 1 shall establish a procedure for processing complaints related to its functions.

The procedure does not apply, however, to complaints filed by a student or the parents of that student with regard to the educational services belonging to the categories referred to in paragraphs 1 to 5 of section 1 that the institution provides to them or to the follow-up to a report or complaint concerning an act of bullying or violence. Those complaints are subject to the procedure provided for by the Act respecting the National Student Ombudsman (2022, chapter 17).”

71. Section 63.1 of the Act is amended

(1) by replacing “3” in the first paragraph by “5”;

(2) in the third paragraph,

(a) by inserting “to or with the institution” after “violence” in subparagraph 4;

(b) by inserting “or when a report or complaint is sent to the institution by the regional student ombudsman” at the end of subparagraph 5;

(3) by inserting the following paragraph after the third paragraph:

“A separate section of the anti-bullying and anti-violence plan must be for sexual violence. That section must include, in addition to the elements prescribed by the preceding paragraph, the following elements:

(1) compulsory training activities for management and other personnel; and

(2) safety measures to stop sexual violence.”;

(4) by inserting the following sentence after the first sentence in the fourth paragraph: “The document must indicate that it is possible to make a report or file a complaint concerning an act of sexual violence to or with the regional student ombudsman and, for a person who is dissatisfied with the follow-up on a complaint filed with the institution, to use the complaint processing procedure provided for in the Act respecting the National Student Ombudsman (2022, chapter 17).”;

(5) by adding the following sentence at the end of the last paragraph: “The institution sends a copy of the anti-bullying and anti-violence plan and any updated version to the National Student Ombudsman.”

72. Section 63.5 of the Act is amended

(1) by adding the following sentences at the end of the fourth paragraph: “In the case of a complaint concerning an act of sexual violence, the designated person shall also inform the student who is the victim that it is possible to refer the complaint to the Commission des services juridiques. If the student is under 14 years of age, the designated person also informs their parents of that option, and if the student is 14 years of age or over, the designated person may also inform their parents of that option, with the student’s consent.”;

(2) by adding the following paragraph at the end:

“For each report and complaint received with regard to an act of sexual violence, the designated person shall send the regional student ombudsman a summary report on the nature of the incident and the follow-up measures taken.”

73. Section 63.8 of the Act is amended

(1) by replacing “, the institution shall send the Minister a yearly report” by “each year, the institution shall send the Minister a report”;

(2) by replacing “complaints” by “reports and complaints concerning an act of bullying or violence”.

74. Section 63.9 of the Act is amended by adding the following paragraph at the end:

“The institution shall send a copy of the agreement to the regional student ombudsman in charge of accountability assigned to the region in which the institution is located.”

75. Section 63.10 of the Act is amended by adding the following paragraph at the end:

“The institution shall send a copy of the agreement to the regional student ombudsman in charge of accountability assigned to the region in which the institution is located.”

76. The Act is amended by inserting the following section after section 63.10:

“63.11. Regional student ombudsmen shall, on request, present the report of their activities sent in accordance with section 58 of the Act respecting the National Student Ombudsman (2022, chapter 17) to the institution. Regional student ombudsmen must answer any questions addressed to them concerning the report.”

77. The Act is amended by inserting the following section after section 65.1:

“65.2. Any agreement between an institution and a body or person as part of providing extracurricular services or carrying out a special school project for the provision of services other than education services must be made in writing.

The agreement must provide for measures to prevent and stop any form of bullying or violence during the provision of extracurricular services or implementation of the special school project and, where applicable, require that persons who would be required to work with minor students and persons regularly in contact with minor students inform the person designated in accordance with section 63.5 of any act of bullying or violence that they observe. The agreement must also require that, in collaboration with the institution, persons who would be required to work with minor students and persons regularly in contact with minor students complete proper anti-bullying and anti-violence training as soon as possible.”

EDUCATION ACT

78. Sections 9 to 12 of the Education Act (chapter I-13.3) are replaced by the following section:

“9. The school service centre’s board of directors may overturn, entirely or in part, a decision referred to in conclusions or recommendations made under section 44 of the Act respecting the National Student Ombudsman (2022, chapter 17) and make the decision which, in its opinion, ought to have been made in the first instance.”

79. Section 75.1 of the Act is amended

(1) in the third paragraph,

(a) by inserting “to or with the institution” after “violence” in subparagraph 4;

(b) by inserting “or when a report or complaint is sent to the institution by the regional student ombudsman” at the end of subparagraph 5;

(2) by inserting the following paragraph after the third paragraph:

“A separate section of the anti-bullying and anti-violence plan must be for sexual violence. That section must include, in addition to the elements prescribed by the preceding paragraph, the following elements:

(1) compulsory training activities for management and other personnel; and

(2) safety measures to stop sexual violence.”;

(3) by inserting the following sentence after the first sentence in the fourth paragraph: “The document must indicate that it is possible to make a report or file a complaint concerning an act of sexual violence to or with the regional student ombudsman and, for a person who is dissatisfied with the follow-up on a complaint filed with the institution, to use the complaint processing procedure provided for in the Act respecting the National Student Ombudsman (2022, chapter 17).”;

(4) by adding the following sentence at the end of the last paragraph: “The principal of the school sends a copy of the anti-bullying and anti-violence plan and any updated version to the National Student Ombudsman.”

80. Section 83.1 of the Act is amended by replacing “Student Ombudsman” in the second paragraph by “regional student ombudsman in charge of accountability assigned to the region in which the school is located”.

81. Section 96.12 of the Act is amended

(1) by replacing “and shall receive and promptly deal with all reports or complaints concerning bullying or violence” in the third paragraph by “and shall promptly deal with any report or complaint concerning an act of bullying or violence that the principal receives or that the regional student ombudsman sends to the principal”;

(2) by adding the following sentences at the end of the fourth paragraph: “In the case of a complaint concerning an act of sexual violence, the principal shall also inform the student who is the victim that it is possible to refer the complaint to the Commission des services juridiques. If the student is under 14 years of age, the principal also informs their parents of that option, and if the student is 14 years of age or over, the principal may also inform his or her parents of that option, with the student’s consent.”;

(3) by replacing the fifth paragraph by the following paragraph:

“For each complaint received concerning bullying or violence and each report received relating to an act of sexual violence, the principal shall send the director general of the school service centre a summary report on the nature of the incident and the follow-up measures taken. The summary report concerning an act of sexual violence shall also be sent to the regional student ombudsman.”

82. Section 96.14 of the Act is amended by replacing “school service centre’s complaint examination procedure provided for in section 220.2” in the first paragraph by “complaint processing procedure provided for by the Act respecting the National Student Ombudsman (2022, chapter 17)”.

83. Section 187.1 of the Act is amended by replacing “requests for reconsideration made under section 9 relating to” in the second paragraph by “complaints filed with the person in charge of processing complaints regarding”.

84. Section 214.1 of the Act is amended by replacing “the school principals and the Student Ombudsman” in the fourth paragraph by “the principals of the educational institutions and the regional student ombudsman in charge of accountability assigned to the region in which the institutions are located”.

85. Section 214.2 of the Act is amended by replacing “the school principals and the Student Ombudsman” in the second paragraph by “the principals of the educational institutions and the regional student ombudsman in charge of accountability assigned to the region in which the institutions are located”.

86. The Act is amended by inserting the following section after section 214.3:

“215. Any agreement between a school service centre and a body or person as part of providing extracurricular services or carrying out a special school project for the provision of services other than educational services must be made in writing.

The agreement must provide for measures to prevent and stop any form of bullying or violence during the provision of extracurricular services or implementation of the special school project and, where applicable, require that persons who would be required to work with minor students and persons regularly in contact with minor students inform the principal of the school attended by the students directly involved of any act of bullying or violence that they observe. The agreement must also require that, in collaboration with the educational institution, persons who would be required to work with minor students and persons regularly in contact with minor students complete proper anti-bullying and anti-violence training as soon as possible.”

87. Section 220 of the Act is amended by replacing “the nature of the complaints” and “with the Student Ombudsman” in the second paragraph by “the nature of the reports and complaints” and “in accordance with the complaint processing procedure provided for by the Act respecting the National Student Ombudsman (2022, chapter 17)”, respectively.

88. Section 220.1 of the Act is amended

- (1) by replacing “The meeting” in the first paragraph by “Such a meeting”;
- (2) by replacing “the meeting” in the second paragraph by “such a meeting”;
- (3) by replacing the third paragraph by the following paragraph:

“During such a meeting, the school service centre’s board members must present to the public the content of the annual report provided for in section 220, subject to the content of the regional student ombudsman’s annual activity report which the regional student ombudsman must present. The board members and regional student ombudsman must answer any questions addressed to them concerning the report.”

89. Section 220.2 of the Act is amended by replacing the second, third, fourth and fifth paragraphs by the following paragraph:

“The procedure does not apply, however, to complaints filed by a student, homeschooled child or the parents of either with regard to the services the school service centre provides to them. Those complaints are subject to the procedure provided for in the Act respecting the National Student Ombudsman (2022, chapter 17).”

90. Section 242 of the Act is amended by replacing “Student Ombudsman” in the third paragraph by “regional student ombudsman in charge of accountability assigned to the region in which the school is located”.

91. Section 457.3 of the Act is repealed.

92. Section 479 of the Act is replaced by the following section:

“479. The Minister may, during or after the verification or investigation, order all or part of the powers and functions of a school service centre or of the Comité de gestion de la taxe scolaire de l’île de Montréal to be suspended for a period not exceeding six months and appoint an administrator to exercise the functions and powers of the school service centre’s board of directors or of the Comité de gestion de la taxe scolaire de l’île de Montréal that have been suspended.

The administrator may, subject to the rights of third persons in good faith, annul any decision made by the school service centre or by the Comité de gestion de la taxe scolaire de l’île de Montréal under the powers which have been suspended.

The administrator may not be prosecuted for acts performed in good faith in the exercise of his functions.

The administrator shall, before the date set for the expiration of his term of office and of any extension, submit to the Minister, within the time limit determined by the Minister, a report of his findings, together with his recommendations. The report must contain any information required by the Minister.

After examining the administrator’s report, the Minister may extend the period provided for in the first paragraph for one or more periods not exceeding 120 days.”

ACT RESPECTING LABOUR STANDARDS

93. Section 3.1 of the Act respecting labour standards (chapter N-1.1) is amended by replacing “19” in the second paragraph by “20”.

94. Section 122 of the Act is amended by adding the following subparagraph at the end of the first paragraph:

“(20) on the ground that the employee has made a report or filed a complaint, cooperated in the processing of a report or complaint or accompanied a person who has made a report or filed a complaint under the Act respecting the National Student Ombudsman (2022, chapter 17).”

95. Section 140 of the Act is amended by replacing “, 13 and 14 to 19” in paragraph 6 by “and 13 to 20”.

ACT TO ENSURE THE PROTECTION OF TRAINEES IN THE WORKPLACE

96. Section 20 of the Act to ensure the protection of trainees in the workplace (2022, chapter 2) is amended by replacing “19” in subparagraph 5 of the first paragraph by “20”.

REGULATION RESPECTING THE APPLICATION OF THE ACT RESPECTING PRIVATE EDUCATION

97. The Regulation respecting the application of the Act respecting private education (chapter E-9.1, r. 1) is amended by inserting the following section after section 21:

“21.1. In the case of educational services belonging to the categories listed in paragraphs 1 to 5 of section 1 of the Act respecting private education (chapter E-9.1), the contract or registration form must also contain the complaint processing procedure provided for in Chapter II of the Act respecting the National Student Ombudsman (2022, chapter 17).”

CHAPTER X

TRANSITIONAL AND FINAL PROVISIONS

98. The examination of complaints by a Student Ombudsman in progress on the date of coming into force of section 23 of this Act is continued in accordance with section 220.2 of the Education Act (chapter I-13.3) and with the complaint examination procedure established by the school service centre under that section, as it read before being amended by section 89 of this Act. The Student Ombudsman has 30 days after that date to complete the examination of complaints. Section 9 of the Education Act, as replaced by section 78 of this Act, applies, with the necessary modifications, to a recommendation of the Student Ombudsman.

Any complaint under examination at a step previous to a Student Ombudsman’s examination in accordance with the procedure referred to in the first paragraph on the same date is sent, along with all information relating to the complaint, to the person in charge of processing complaints within the school service centre. The person in charge of processing complaints must inform the complainant without delay of its reception and the time period applicable for its examination.

Despite the time periods provided for in sections 25 and 27 of this Act, the person in charge of processing complaints has 30 working days after receiving the complaints to complete the examination.

Despite the second paragraph, a request for reconsideration made in accordance with sections 9 to 12 of the Education Act, as they read before being replaced by section 78 of this Act, that was in progress on the same date is sent, along with all information relating to the complaint, to a regional student ombudsman for examination in accordance with Divisions II and III of Chapter II of this Act.

99. A Student Ombudsman in office on the date of coming into force of section 23 remains in office, on the same terms, until the Student Ombudsman has completed the examination of complaints in progress on that date.

100. A suspension of a school service centre's functions and powers in effect on 2 June 2022 that was ordered by the Government in accordance with section 479 of the Education Act, as it read before being amended by section 92 of this Act, is deemed to have been ordered and extended by the Minister in accordance with section 479 of the Education Act, as amended.

An administrator appointed by the Government to exercise the functions and powers of the board of directors of the school service centre that were suspended before the coming into force of section 92 of this Act whose term of office is in effect on 2 June 2022 is deemed to have been appointed and his or her term of office is deemed to have been extended by the Minister in accordance with section 479 of the Education Act, as amended.

101. The National Student Ombudsman must, not later than five years after the date of coming into force of section 23 of this Act, report to the Minister on the implementation of this Act. The report may contain recommendations to improve the complaint processing scheme and the protection of the rights of students, homeschooled children and their parents covered under this Act.

The Minister must table the report in the National Assembly within 30 days after receiving it or, if the Assembly is not sitting, within 30 days of resumption.

102. The Minister of Education, Recreation and Sports is responsible for the administration of this Act.

103. The provisions of this Act come into force on the date or dates to be set by the Government, except sections 92 and 100, which come into force on 2 June 2022.

