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Part

2

No. 32

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Laws and Regulations

Volume 144

Summary

Table of Contents

Acts 2012

Regulations and other Acts

Index

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Contents

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- (2) proclamations of Acts;
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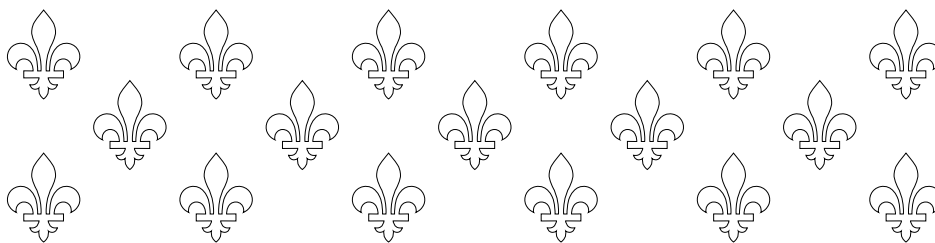
Table of Contents

Page**Acts 2012**

64	An Act to promote access to justice in family matters	2547
76	An Act to amend the Act respecting the Société de développement des entreprises culturelles	2563

Regulations and other Acts

	Certain conditions of employment of senior executives of general and vocational colleges	2567
	Certain conditions of employment of senior executives of school boards and of the Comité de gestion de la taxe scolaire de l'île de Montréal	2576
	Certain conditions of employment of senior staff of general and vocational colleges	2585



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-NINTH LEGISLATURE

Bill 64
(2012, chapter 20)

An Act to promote access to justice in family matters

Introduced 4 April 2012
Passed in principle 31 May 2012
Passed 13 June 2012
Assented to 15 June 2012

**Québec Official Publisher
2012**

EXPLANATORY NOTES

This Act establishes an administrative service in charge of recalculating child support within the Commission des services juridiques.

The Act respecting legal aid and the provision of certain other legal services is amended to provide persons, including persons who are not financially eligible for legal aid, with the professional services of a lawyer for the purpose of obtaining a judgment on an agreement, submitted in a joint application, for the review of a judgment, which settles all child custody matters or all matters relating to either child support alone or child and spousal support.

The Civil Code of Québec is amended to require parents to exchange information to update the level of child support and to allow a parent to claim child support for needs that existed more than one year before the date of application.

The Code of Civil Procedure is amended to require that the child support determination form that is used by the court to determine child support payments be attached to the judgment granting the support, and to provide that a certificate of participation is to be given by the Family Mediation Service to each of the parties present upon the completion of a group information session.

The Act to facilitate the payment of support is amended to authorize the Minister of Revenue to return a security provided by a debtor who is exempt, under the Act, from the collection of child support payments by Revenu Québec, provided the debtor has been exempted for at least two years, the creditor consents and no arrears or costs are owing.

Lastly, this Act contains consequential and transitional measures.

LEGISLATION AMENDED BY THIS ACT:

- Civil Code of Québec;
- Individual and Family Assistance Act (R.S.Q., chapter A-13.1.1);

- Act respecting legal aid and the provision of certain other legal services (R.S.Q., chapter A-14);
- Code of Civil Procedure (R.S.Q., chapter C-25);
- Act respecting the Ministère de la Justice (R.S.Q., chapter M-19);
- Act to facilitate the payment of support (R.S.Q., chapter P-2.2);
- Public Protector Act (R.S.Q., chapter P-32).

Bill 64

AN ACT TO PROMOTE ACCESS TO JUSTICE IN FAMILY MATTERS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

ESTABLISHMENT AND PURPOSE OF SERVICE

1. A child support recalculation service, to be known as the “Service administratif de rajustement des pensions alimentaires pour enfants” or “SARPA”, is established within the Commission des services juridiques, itself established under the Act respecting legal aid and the provision of certain other legal services (R.S.Q., chapter A-14).

SARPA is mandated to recalculate child support to the extent provided by this Act.

CHAPTER II

APPLICATION FOR RECALCULATION

2. An application for recalculation may, in the cases described in a government regulation, be made to SARPA by one or both of the child’s parents. The regulation also determines the application procedure and the information and documents needed for the recalculation that must be provided in support of the application.

The application may be withdrawn, in accordance with the procedure determined by government regulation, on the request of the parents or on the request of the parent who submitted it, so long as SARPA has not recalculated the child support.

3. SARPA must diligently examine all applications.

4. If an application for recalculation is made by only one parent, SARPA may, as part of its examination, require the other parent to provide the information and documents needed for the recalculation that are determined by government regulation.

If the context so requires, SARPA notifies its request for information or documents to the parent by any means that provides proof of sending. The

notification may be made by regular mail; in that case, the date of sending is the date on which the request is mailed.

5. If the parent fails to provide, within 30 days of the date of sending of the request referred to in the second paragraph of section 4, the information or documents that would allow SARPA to determine the parent's annual income, SARPA again notifies its request to the parent by registered or certified mail or by any other means that provides proof of the date of receipt of the request. If SARPA has such proof and the parent does not provide the information or documents within 10 days of the date of receipt of the request, the parent's annual income is determined, for the purposes of this Act, in accordance with the rules prescribed by government regulation.

If SARPA's request is notified, as provided for in the Code of Civil Procedure (R.S.Q., chapter C-25), by a bailiff who served it by leaving a copy intended for the parent on the premises, the parent is deemed to have received the request on the date indicated on the bailiff's certificate of service.

6. SARPA ceases to examine an application for recalculation if it is notified of a judicial demand between the parties that could have an impact on the child support that is the subject of the application. It does not resume its examination unless it is notified of a discontinuance of the judicial demand within one year following the date on which it was notified of the demand.

Likewise, SARPA ceases to examine an application for recalculation if the parent who made the application or, where both parents made the application, one of them informs SARPA that he or she has entered into family mediation that could have an impact on the child support that is the subject of the application. It does not resume its examination unless one of the parents so requests within three months following the date on which it was informed of the mediation.

7. The parents must promptly inform SARPA of any change in their situation or that of their child that could have an impact on the child support recalculation.

8. SARPA may, without the parent's consent, verify with the persons, departments and organizations determined by government regulation the accuracy of the information or documents that parent provided for the purposes of child support recalculation.

9. SARPA cannot recalculate child support if, after having examined the information and documents provided, it finds that the recalculation applied for requires a judicial assessment, unless there is an agreement between the parents in the cases and in accordance with the terms determined by government regulation.

If it cannot recalculate child support, SARPA notifies the parent who applied for the recalculation, or both parents where the application was submitted by the two of them. Where the application for recalculation was submitted by only

one of the parents, SARPA also sends a copy of the notice to the other parent if it previously notified a request for information or documents to that parent under section 4.

Upon being notified that SARPA cannot recalculate the child support, the parent who applied for the recalculation or, where the application was submitted by both parents, one of them may apply in writing for a re-examination of the application. The application is re-examined by the chair of the Commission des services juridiques or by the person appointed by the chair for that purpose.

CHAPTER III

RECALCULATION

10. SARPA recalculates child support in accordance with the rules for the determination of child support prescribed under the Code of Civil Procedure and in accordance with the terms prescribed by government regulation.

The child support is recalculated as of the date of the application for recalculation, taking into account the changes in the income of either parent that was used to determine the support being recalculated. However, if the income increased before the date of the application, SARPA recalculates the child support as of a date not earlier than one year prior to the date of the application; regardless of the number of increases, the child support is recalculated for each period in which the income increased, only taking into account the increase relating to that period.

11. SARPA notifies the parents in writing of the child support recalculation and sends a copy to the office of the court in the district where the last support order concerning the child was made.

The form of the recalculation notice and the documents that must be attached are prescribed by government regulation.

12. So long as the recalculation has not come into effect, SARPA may, on its own initiative or upon request, correct the recalculation notice if it contains a clerical error or calculation error.

In such a case, SARPA sends a corrected recalculation notice to the parents and to the office of the court in the district where the last support order concerning the child was made.

13. Before the recalculation takes effect, the recalculation notice can constitute a circumstance that warrants the review of the last support order concerning a child.

14. The child support recalculation takes effect upon expiry of a 30-day period following the date of the recalculation notice or, if a corrected recalculation notice was issued and has an impact on the child support, upon

expiry of a 30-day period following the date of the corrected notice. The recalculated child support is payable as of the effective date of the recalculation and is deemed, for all purposes, to be the amount determined in the last child support order.

However, if, before the expiry of the periods referred to in the first paragraph, SARPA is notified of a judicial demand between the parties that could have an impact on the child support that is the subject of the recalculation notice, the recalculation will not take effect as provided in that paragraph unless SARPA is notified of a discontinuance of the demand.

15. As soon as the recalculation takes effect, SARPA sends a copy of the recalculation notice to the Minister of Revenue.

If one or both of the child's parents are recipients under a last resort program established under the Individual and Family Assistance Act (R.S.Q., chapter A-13.1.1) or received benefits under such a program during a period covered by the recalculation, SARPA also sends a copy of the recalculation notice to the minister responsible for the administration of that program.

CHAPTER IV

ELIGIBLE EXPENSES, EXEMPTIONS AND REIMBURSEMENTS

16. Any parent who makes an application for recalculation of child support must pay the fees set by regulation, in the proportion and according to the terms prescribed.

However, any parent who is financially eligible for legal aid under section 4.1 of the Act respecting legal aid and the provision of certain other legal services is exempted from the payment of those fees, subject to section 17. In addition, any parent who is financially eligible for contributory legal aid under section 4.2 of that Act is only required to pay fees up to the amount of the contribution that would otherwise be payable by the parent under that Act.

The Government may by regulation determine other cases in which a parent may be dispensed from the payment of those fees.

17. To be exempted from the payment of fees, a parent must obtain a certificate of financial eligibility issued by a regional legal aid centre or by the director of a designated legal aid centre. The certificate is issued in accordance with Divisions VI and VI.2 of Chapter II of the Act respecting legal aid and the provision of certain other legal services, with the necessary modifications.

18. If a parent is exempted from the payment of fees, the fees payable may be recovered under sections 73.1 to 73.6 of the Act respecting legal aid and the provision of certain other legal services, with the necessary modifications.

19. The Government may by regulation determine the cases in which and the extent to which the Commission des services juridiques may reimburse a fee paid by a parent.

CHAPTER V

ADMINISTRATION AND MANAGEMENT

20. In the administration and management of SARPA, the Commission des services juridiques ensures that SARPA exercises its responsibilities in cooperation, if applicable, with the regional legal aid centres referred to in section 1 of the Act respecting legal aid and the provision of certain other legal services.

21. The members of the personnel of SARPA and the employees of a regional legal aid centre performing SARPA-related duties may not be prosecuted by reason of acts performed in good faith in the performance of their duties.

22. The Commission des services juridiques may, for the purposes of this Act, provide information concerning a parent to the other parent without the former's consent if child support could be recalculated on the basis of that information.

23. Upon request, the Commission des services juridiques must provide to the Minister any statistics, reports or other information which do not allow a person to be identified that the Minister requires regarding SARPA.

CHAPTER VI

PENAL PROVISIONS

24. Any person who, under this Act or the regulations,

(1) makes a declaration that he or she knows or should have known is false or misleading, or

(2) sends a document that he or she knows or should have known contains false or misleading information,

is guilty of an offence and liable to a fine of not less than \$500 and not more than \$5,000.

25. Any person who, by an act or an omission, helps or, by encouragement, advice, consent, authorization or command, induces another person to commit an offence under this Act is guilty of an offence and liable to the same fine as that prescribed in section 24.

26. In the case of a subsequent offence, the minimum and maximum fines prescribed by this Act are doubled.

CHAPTER VII

MISCELLANEOUS PROVISIONS

27. The Minister of Justice is responsible for the administration of this Act.

28. The Minister may, in accordance with the applicable legislative provisions, enter into an agreement with a government other than the Gouvernement du Québec, a department of such a government, an international organization, or a body of such a government or organization with a view to facilitating the recalculation of child support.

CHAPTER VIII

AMENDING PROVISIONS

ACT RESPECTING LEGAL AID AND THE PROVISION OF CERTAIN OTHER LEGAL SERVICES

29. Section 3.1 of the Act respecting legal aid and the provision of certain other legal services (R.S.Q., chapter A-14) is amended by striking out “financially”.

30. Section 3.2 of the Act is amended by striking out “financially” in paragraph 1.

31. Section 4 of the Act is amended

(1) by striking out “, on application,” and “and to the extent provided for therein”;

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

“It shall also be granted, for the legal services provided for in paragraph 1.1 of section 4.7, to a person who is not so financially eligible.”

32. Section 4.7 of the Act is amended

(1) by adding “, subject to paragraph 1.1” at the end of paragraph 1;

(2) by inserting the following paragraph after paragraph 1:

“(1.1) to provide parties with the professional services of an advocate for the purpose of obtaining a judgment on an agreement, submitted in a joint application for the review of a judgment, which settles all matters relating to

child custody or all matters relating to either child support alone or child and spousal support;”.

33. The Act is amended by inserting the following section after section 4.11:

“**4.11.1.** Legal aid granted for the legal services described in paragraph 1.1 of section 4.7 may be withdrawn if the advocate notes that an agreement is no longer possible between the parties.

In such a case, an advocate who is not employed by a centre or by the Commission is entitled to the payment of the professional fees set under section 83.21, and the parties are entitled to the reimbursement of the amount determined by regulation upon notification of the withdrawal of the legal aid.”

34. Section 5 of the Act is amended by replacing the introductory clause of the first paragraph by the following clause:

“**5.** Subject to the contribution that may be required under the regulations, a person eligible under the first paragraph of section 4 to whom legal aid is granted is dispensed from payment of:”.

35. The Act is amended by inserting the following section after section 5:

“**5.1.** A person eligible under the second paragraph of section 4 to whom legal aid is granted is required to pay only the professional fees of an advocate for the legal services described in paragraph 1.1 of section 4.7 and the court fees payable under the tariff applicable in civil matters, and only to the extent and according to the terms prescribed by regulation.

The professional fees referred to in the first paragraph are those set under section 83.21.”

36. Section 22 of the Act is amended by striking out “financially” in paragraphs *a* and *f*.

37. Section 32.1 of the Act is amended by striking out “financially” in the first paragraph.

38. Section 62 of the Act is replaced by the following section:

“**62.** A person must make an application in order to be granted legal aid.

As regards the legal services described in paragraph 1.1 of section 4.7, each of the parties to the agreement must make an application in order to be granted legal aid.

Applications must be submitted in the manner prescribed by regulation.

A person who is financially eligible for contributory legal aid must pay, for the examination of his or her application, a fee set by regulation, unless the person is granted legal aid for the legal services described in paragraph 1.1 of section 4.7.”

39. Section 64 of the Act is amended by replacing the first paragraph by the following paragraphs:

“**64.** An applicant must, in accordance with the regulations, disclose his financial situation and, if applicable, that of his family, unless he is eligible under the second paragraph of section 4 and declares, in the manner prescribed by regulation, that he is not financially eligible.

The applicant must also establish the facts on which the application is based, in accordance with the regulations.”

40. Section 66 of the Act is amended by replacing the first paragraph by the following paragraphs:

“**66.** The director general shall issue a certificate of eligibility to each person to whom legal aid is granted.

However, he shall issue only one certificate to the parties to an agreement who are granted legal aid for the legal services described in paragraph 1.1 of section 4.7.

The form and content of the certificate is determined by regulation.

The certificate must be delivered by the recipient without delay to his advocate or notary, who shall file it in the record of the court or, as the case may be, at the registry office.

The certificate is valid only for the period, dispute, proceeding or legal service determined by the director general.”

41. Section 80 of the Act is amended

(1) by inserting the following subparagraph after subparagraph *a.8* of the first paragraph:

“(a.9) determine what the legal aid costs of the services described in paragraph 1.1 of section 4.7 are, determine when such costs are payable by a person eligible for legal aid under the second paragraph of section 4 who has been granted legal aid, determine in what cases the person is required to pay interest and fix the rate of interest, and determine all other terms relating to the payment of those costs;”;

(2) by inserting “and of declarations made under the first paragraph of section 64,” after “legal aid” in subparagraph *h* of the first paragraph;

(3) by inserting the following subparagraph after subparagraph *s* of the first paragraph:

“(s.1) determine the amount and the terms of the reimbursement to which the parties are entitled in the case of a withdrawal of legal aid under section 4.11.1;”;

(4) by replacing “*a.8*” in the third paragraph by “*a.9*”.

CIVIL CODE OF QUÉBEC

42. Article 594 of the Civil Code of Québec is amended by replacing “whether it is indexed or not” in the first paragraph by “whether or not the support is indexed or recalculated”.

43. Article 595 of the Code is replaced by the following article :

“**595.** Child support may be claimed for needs that existed before the application; however, child support cannot be claimed for needs that existed more than three years before the application, unless the debtor parent behaved in a reprehensible manner toward the other parent or the child.

If the support is not claimed for a child, it may nevertheless be claimed for needs that existed before the application, but not for needs that existed more than one year before the application; the creditor must prove that it was in fact impossible to act sooner, unless a formal demand was made to the debtor within one year before the application, in which case support is awarded from the date of the demand.”

44. The Code is amended by inserting the following article after article 596:

“**596.1.** In order to update the amount of support payable to their child, parents must, on the request of one of them and no more than once a year, or as required by the court, keep each other mutually informed of the state of their respective incomes and provide, to that end, the documents determined by the rules for the determination of child support payments adopted under the Code of Civil Procedure (chapter C-25).

Failure by one parent to fulfill that obligation confers on the other parent the right to demand, in addition to the specific performance of the obligation and payment of the costs, damages in reparation for the prejudice suffered, including the professional fees and extrajudicial costs incurred.”

INDIVIDUAL AND FAMILY ASSISTANCE ACT

45. Section 93 of the Individual and Family Assistance Act (R.S.Q., chapter A-13.1.1) is replaced by the following section:

“93. Where a creditor of support is the subject of a court decision that retroactively varies support payable for a period in which he or she received a benefit under a last resort financial assistance program or is the subject of a notice that retroactively recalculates support for such a period in accordance with the Act to promote access to justice in family matters (2012, chapter 20), the Minister may, on application by the creditor of support or, as applicable, on a request by the Minister of Revenue under the Act to facilitate the payment of support (chapter P-2.2), recalculate the benefit granted for the months covered by such a variance or recalculation.

If, as a result, a benefit is owed to the creditor of support and the amount exceeds the amount owed to the Minister under section 92, the Minister remits the excess amount to the creditor of support or the Minister of Revenue, as the case may be.

For the purposes of this section, the application or request must be submitted to the Minister within a reasonable time after the judgment is rendered or the recalculation takes effect. The Minister may require new statements for the months covered by such a variance or recalculation, which must be filed within the next 30 days.”

CODE OF CIVIL PROCEDURE

46. Article 331.9 of the Code of Civil Procedure (R.S.Q., chapter C-25) is amended by replacing the last paragraph by the following paragraph:

“The child support determination forms attached to the judgment under article 825.13 are excepted from the above rules.”

47. Article 814.3 of the Code is amended by inserting “or, if applicable, a certificate of participation” after “a copy of the mediator’s report”.

48. Article 814.6 of the Code is amended by replacing the last sentence of the last paragraph by the following sentence: “At the end of the session, the Service gives a certificate of participation to each of the parties present.”

49. Article 814.13 of the Code is amended by inserting “or the certificate of participation in a group information session” after “The mediator’s report”.

50. Article 825.13 of the Code is amended by adding the following paragraph after the second paragraph:

“The child support determination form used by the court to determine child support payments must be attached to the judgment granting the support.”

ACT RESPECTING THE MINISTÈRE DE LA JUSTICE

51. Section 32.0.3 of the Act respecting the Ministère de la Justice (R.S.Q., chapter M-19) is amended by inserting the following paragraph after paragraph 2:

“(2.1) the amount of the fines paid under sections 24 to 26 of the Act to promote access to justice in family matters (2012, chapter 20);”.

ACT TO FACILITATE THE PAYMENT OF SUPPORT

52. Section 34 of the Act to facilitate the payment of support (R.S.Q., chapter P-2.2) is amended by inserting the following paragraph after the second paragraph:

“As well, where an exemption has been granted for at least two years, the Minister shall return the security to the debtor upon request if the creditor consents and no arrears or fees are owing.”

PUBLIC PROTECTOR ACT

53. Section 15 of the Public Protector Act (R.S.Q., chapter P-32) is amended by adding the following paragraph after paragraph 8:

“(9) SARPA, established under the Act to promote access to justice in family matters (2012, chapter 20).”

CHAPTER IX

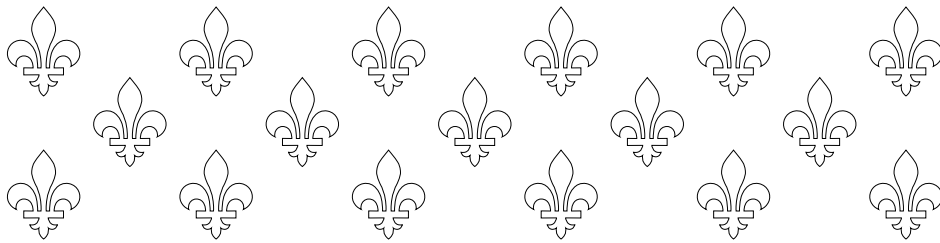
TRANSITIONAL AND FINAL PROVISIONS

54. The child support determination forms produced by the parties in a proceeding that ended before section 46 came into force are kept in the court records in accordance with article 331.9 of the Code of Civil Procedure (R.S.Q., chapter C-25) as it read before being amended by section 46.

55. Despite the fourth paragraph of section 80, the first regulation made after the coming into force of sections 29 to 41 under subparagraphs *e* and *n* of the first paragraph of section 80 of the Act respecting legal aid and the provision of certain other legal services (R.S.Q., chapter A-14) must be made by the Government.

56. This Act may be cited as the Act to promote access to justice through the establishment of the Service administratif de rajustement des pensions alimentaires pour enfants.

57. The provisions of this Act come into force on the date or dates set by the Government, except sections 43, 44, 52 and 55, which come into force on 15 June 2012.



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-NINTH LEGISLATURE

Bill 76
(2012, chapter 22)

**An Act to amend the Act respecting the
Société de développement des entreprises
culturelles**

**Introduced 29 May 2012
Passed in principle 5 June 2012
Passed 15 June 2012
Assented to 15 June 2012**

**Québec Official Publisher
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EXPLANATORY NOTES

This Act introduces into the Act constituting the Société de développement des entreprises culturelles a new governance rule, adapted to the Société, concerning the composition of the governance and ethics committee and the human resources committee established by the board of directors.

It stipulates that the majority of the members of these committees, including the chair, must be independent directors and that the president and chief executive officer of the Société may not be a member.

LEGISLATION AMENDED BY THIS ACT:

– Act respecting the Société de développement des entreprises culturelles (R.S.Q., chapter S-10.002).

Bill 76

AN ACT TO AMEND THE ACT RESPECTING THE SOCIÉTÉ DE DÉVELOPPEMENT DES ENTREPRISES CULTURELLES

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. The Act respecting the Société de développement des entreprises culturelles (R.S.Q., chapter S-10.002) is amended by inserting the following section after section 5.4:

“**5.5.** The governance and ethics committee and the human resources committee, established by the board of directors under section 19 of the Act respecting the governance of state-owned enterprises (chapter G-1.02), are composed in the majority of independent directors. The president and chief executive officer may not be a member of those committees, which must be chaired by an independent director.”

2. This Act comes into force on 15 June 2012.

Regulations and other Acts

M.O., 2012

Order of the Minister of Education, Recreation and Sports dated 11 July 2012

General and Vocational Colleges Act
(R.S.Q., c. C-29)

CONCERNING the Regulation to amend the Regulation respecting certain conditions of employment of senior executives of general and vocational colleges

THE MINISTER OF EDUCATION, RECREATION AND SPORTS,

WHEREAS in and by section 18.1 of the General and Vocational Colleges Act (R.S.Q., c. C-29);

WHEREAS the Regulation respecting certain conditions of employment of senior executives of general and vocational colleges was made by the Minister's Order dated 17 June 2005 approved by the Conseil du trésor on 21 June 2005 (C.T. 202573) and as amended;

WHEREAS it is expedient to amend the current Regulation and to make the Regulation attached hereto;

WHEREAS, pursuant to section 18.1 of the General and Vocational Colleges Act, the Conseil du trésor has given its authorization;

WHEREAS the Regulations Act (R.S.Q., c. R-18.1) does not apply to such a Regulation;

ORDERS THAT:

The Regulation to amend the Regulation respecting certain conditions of employment of senior executives of general and vocational colleges, herewith attached, be made.

MICHELLE COURCHESNE,
Minister of Education, Recreation and Sports

Regulation to amend the Regulation respecting certain conditions of employment of senior executives of general and vocational colleges*

General and Vocational Colleges Act
(R.S.Q., c. C-29, s. 18.1)

1. The Regulation respecting certain conditions of employment of senior executives of general and vocational colleges is amended by replacing Chapter IX with the following:

**“CHAPTER IX
PARENTAL RIGHTS**

**DIVISION I
GENERAL PROVISIONS**

118. Unless expressly stated otherwise, this schedule may not have the effect of granting monetary or non-monetary benefits that a senior executive would not have received had the senior executive remained at work.

For the purposes of this chapter, a “spouse” means either of two persons who:

- (1) are married or in a civil union and cohabiting;
- (2) are of opposite sex or the same sex and have been living together in a conjugal relationship and are the father and mother of the same child;
- (3) are of opposite sex or the same sex and have been living together in a conjugal relationship for at least one year.

* The Regulation respecting certain conditions of employment of senior executives of general and vocational colleges made by the Minister's Order dated 17 June 2005 approved by the Conseil du trésor, C.T. 202573 on 21 June 2005 (2005, *G.O.* 2, 2423) was amended by the Regulation made by the Minister's Order dated 18 May 2006 approved by the Conseil du trésor, C.T. 203754 (2006, *G.O.* 2, 1708), the Regulation made by the Minister's Order dated 18 November 2008 approved by the Conseil du trésor, C.T. 207141 (2008, *G.O.* 2, 5545), the Regulation made by the Minister's Order dated 18 June 2009 approved by the Conseil du trésor, C.T. 207980 (2009, *G.O.* 2, 2111) and the Regulation made by the Minister's Order dated 6 June 2011 (2011, *G.O.* 2, 1398).

However, persons shall cease to be considered as spouses upon dissolution of marriage by divorce or annulment, dissolution or annulment of civil union or, if they are living together in a conjugal relationship, upon a de facto separation for a period exceeding three months.

119. Compensation for maternity, paternity or adoption leave shall be paid only as a supplement to parental insurance benefits or Employment Insurance benefits, as the case may be, or in the cases mentioned below, as payments during a period of absence for which the Québec Parental Insurance Plan and the Employment Insurance Plan provide no benefit.

However, maternity, paternity or adoption leave benefits shall be paid only during the weeks the senior executive receives or would receive, after submitting an application for benefits, benefits under the Québec Parental Insurance Plan or the Employment Insurance Plan.

In the case where the senior executive shares adoption or parental benefits prescribed by the Québec Parental Insurance Plan or the Employment Insurance Plan with his or her spouse, compensation shall be paid only if the senior executive actually receives a benefit under either one of the plans during the maternity leave prescribed in section 122 or 122.1, the paternity leave prescribed in section 140 or the adoption leave prescribed in section 142.1.

120. Where both parents are women, the allowances and benefits granted to the father shall be granted to the mother who did not give birth.

121. The college shall not reimburse a senior executive for an amount that could be claimed from the senior executive by the Minister of Employment and Social Solidarity under the Act respecting parental insurance (R.S.Q., c. A-29.011) or Human Resources and Skills Development Canada (HRSDC) under the Employment Insurance Act (S.C. 1996, c. 23).

121.1 The salary, deferred salary and severance payments shall not be increased or decreased by the amounts received under the Québec Parental Insurance Plan or the Supplementary Employment Insurance Benefits Plan.

121.2 For the purposes of this chapter, the basic weekly salary means the senior executive's salary and the lump sum prescribed under section 26.

DIVISION II **MATERNITY LEAVE**

SUBDIVISION II.1 **LEAVE ENTITLEMENT**

122. The pregnant senior executive covered by section 131 is entitled to 21 weeks of maternity leave which, subject to sections 124, 125 and 126, must be consecutive.

The pregnant senior executive covered by section 136 or 137 is entitled to 20 weeks of maternity leave which, subject to sections 124, 125 and 126, must be consecutive.

The senior executive who is eligible for benefits under the Québec Parental Insurance Plan or the Employment Insurance Plan, but who has not completed the 20 weeks of service prescribed in sections 131 and 136 is also entitled to a leave of 21 or 20 weeks, as the case may be.

The senior executive covered by section 137 is entitled to a leave of 20 weeks if she has not completed the 20 weeks of service prescribed in that section.

Maternity leave may be for a shorter duration than the durations mentioned in the preceding paragraphs. A senior executive who returns to work within two weeks following the birth must, at the college's request, produce a medical certificate attesting that she has sufficiently recovered to return to work.

122.1 A senior executive who becomes pregnant while on a leave without pay prescribed in this chapter is also entitled to maternity leave and to the benefits prescribed in section 131, 136 or 137.

122.2 Where there is termination of pregnancy after the beginning of the 20th week preceding the expected date of delivery, a senior executive is also entitled to maternity leave.

SUBDIVISION II.2 **TERMS AND CONDITIONS OF MATERNITY LEAVE**

123. The distribution of maternity leave before and after delivery shall be decided by the senior executive. However, the leave of the senior executive eligible for benefits under the Québec Parental Insurance Plan or the Employment Insurance Plan shall be concurrent with the period during which benefits are paid under either one of these plans and must begin no later than the week following the start of benefits payment.

124. A senior executive may suspend her maternity leave and return to work if she has sufficiently recovered from delivery and the child is unable to leave the health institution. It shall be completed when the child is brought home.

125. Moreover, when a senior executive has sufficiently recovered from delivery, but the child is hospitalized after leaving the health institution, the senior executive may suspend her maternity leave, after agreement with the college, and return to work for the period during which the child is hospitalized.

126. Upon the senior executive's request, a maternity leave may be divided into weeks if her child is hospitalized or due to a situation, other than illness related to pregnancy, covered by sections 79.1 and 79.8 to 79.12 of the Act respecting labour standards (R.S.Q., c. N-1.1).

The maximum number of weeks during which the maternity leave may be suspended corresponds to the number of weeks during which the child is hospitalized. For any other possible divisions of the leave, the maximum number of weeks during which the leave is suspended is prescribed in the Act respecting labour standards for such a situation.

During those suspensions, the senior executive is considered on leave without pay and shall not receive any allowance or benefit from the college. The senior executive shall receive the benefits prescribed in section 150.3 during the suspension.

126.1 When the maternity leave suspended or divided under section 124, 125 or 126 resumes, the college shall pay the senior executive the allowance to which she would have been entitled had she not suspended or divided the leave. The college shall pay the allowance for the number of weeks remaining under section 131, 136 or 137, as the case may be, subject to section 119.

127. Where the spouse of a senior executive dies, the remainder of the maternity leave and the rights and benefits attached thereto shall be transferred to the senior executive.

128. If the birth occurs after the expected date, the senior executive is entitled to extend the maternity leave for the length of time the birth is overdue, unless she already has at least two weeks of maternity leave remaining after the birth.

Furthermore, a maternity leave may be extended if the state of health of the child or of the senior executive requires it. The duration of extended maternity leave shall be specified in the medical certificate provided by the senior executive.

During the extensions, the senior executive is considered on leave without pay and shall not receive any allowance or benefit from the college. During those extensions, the senior executive shall be covered by section 152.3 during the first six weeks and subsequently by section 150.3.

129. During the fourth week preceding the expiry date of a maternity leave, the college shall send the senior executive a notice indicating the date on which the leave expires.

A senior executive to whom the college has sent the notice prescribed in the first paragraph must report for work on the expiry date of the maternity leave, unless the leave is extended in the manner prescribed in Division V.

The senior executive who does not comply with the preceding paragraph is deemed on leave without pay for a period not exceeding four weeks. At the end of that period, the senior executive who has not reported for work is presumed to have resigned.

130. To obtain maternity leave, a senior executive must give written notice to the college not less than three weeks before the date of departure. The notice must be accompanied by a medical certificate or a written report signed by a midwife attesting to the pregnancy and the expected date of delivery.

Less than three weeks' notice may be given if a medical certificate attests that the senior executive must stop working earlier than expected. In case of unforeseen events, the senior executive shall not be required to give notice, subject to submitting a medical certificate to the college stating it is necessary to stop working immediately.

SUBDIVISION II.3

ENTITLEMENT OF A SENIOR EXECUTIVE TO AN ALLOWANCE UNDER THE QUÉBEC PARENTAL INSURANCE PLAN

131. A senior executive who has accumulated 20 weeks of service and who is eligible for benefits under the Québec Parental Insurance Plan is entitled to receive for 21 weeks of the maternity leave an allowance equal to the difference between 93% of the senior executive's basic weekly salary and the maternity or parental benefits that she receives or would receive under the Québec Parental Insurance Plan, after submitting an application for benefits.

The allowance shall be based on the benefits of the Québec Parental Insurance Plan that a senior executive is entitled to receive, without taking into account the

amounts subtracted from those benefits for repayment of benefits, interest, penalties and other amounts recoverable under the Act respecting parental insurance (R.S.Q., c. A-29.011).

However, if the benefit paid under the Québec Parental Insurance Plan is modified due to a change in the information provided by the college, the latter shall adjust the allowance accordingly.

A senior executive who works for more than one employer shall receive an allowance equal to the difference between 93% of the basic salary paid by the college and the benefits paid under the Québec Parental Insurance Plan that represent the proportion of the basic weekly salary paid by it compared to the sum of the basic weekly salaries paid by all the employers. For that purpose, the senior executive shall submit to each employer a statement of the weekly salary paid by each of them, together with the amount of benefits paid under the Act respecting parental insurance.

132. For the purposes of entitlement to maternity leave benefits, a senior executive who is absent shall accumulate service if the absence is authorized, particularly for total disability, and includes a benefit or remuneration.

133. The college may not offset, in the allowance it pays to a senior executive on maternity leave, the reduction in benefits under the Québec Parental Insurance Plan attributable to the salary earned from another employer.

134. Notwithstanding section 132, the college shall pay the compensation if the senior executive proves that the salary earned from another employer is a regular salary by means of a letter to that effect from the employer paying it. If the senior executive proves that only part of the salary is regular, the compensation shall be limited to that part.

134.1 The employer paying the regular salary prescribed in section 134 must provide such a letter at the request of the senior executive.

135. The total amounts received by the senior executive during the maternity leave in benefits under the Québec Parental Insurance Plan, allowances and salary may not exceed 93% of the basic salary paid by the senior executive's employer or, where applicable, employers.

SUBDIVISION II.4

ENTITLEMENT OF A SENIOR EXECUTIVE TO AN ALLOWANCE UNDER THE EMPLOYMENT INSURANCE PLAN

136. A senior executive who has accumulated 20 weeks of service and who is eligible for benefits under the Employment Insurance Plan, but is not eligible for benefits under the Québec Parental Insurance Plan is entitled to receive:

a) for each week of the waiting period prescribed by the Employment Insurance Plan, an allowance equal to 93% of the basic weekly salary;

b) for each week that follows the period prescribed in paragraph *a*, an allowance equal to the difference between 93% of her basic weekly salary and the maternity or parental benefit paid under the Employment Insurance Plan that the senior executive receives or could receive, after submitting an application for benefits, up to the end of the 20th week of maternity leave.

The allowance shall be based on the Employment Insurance benefits that a senior executive is entitled to receive without taking into account the amounts subtracted from those benefits for repayment of benefits, interest, penalties and other amounts recoverable under the Employment Insurance Plan.

However, if the Employment Insurance benefit is modified due to a change in the information provided by the college, the latter shall adjust the allowance accordingly.

A senior executive who works for more than one employer shall receive an allowance from each of her employers. In this case, the allowance is equal to the difference between 93% of the basic salary paid by the college and the percentage of the Employment Insurance benefits that represents the proportion of the basic weekly salary paid by it compared to the sum of the basic weekly salaries paid by all the employers. For that purpose, the senior executive shall submit to each employer a statement of the weekly salary paid by each of them, together with the amount of benefits paid by HRSDC.

Moreover, if HRSDC reduces the number of weeks of Employment Insurance benefits to which the senior executive would have been entitled if she had not received Employment Insurance benefits before her maternity leave, the senior executive shall continue to receive the

allowance prescribed in the first subparagraph of paragraph *b* for a period equal to the weeks subtracted by HRSDC as though the senior executive had received Employment Insurance benefits during that period.

Sections 133 to 135 apply to this subdivision with any necessary modifications.

SUBDIVISION II.5

ALLOWANCE ENTITLEMENT OF A SENIOR EXECUTIVE EXCLUDED FROM RECEIVING BENEFITS UNDER THE QUÉBEC PARENTAL INSURANCE PLAN AND THE EMPLOYMENT INSURANCE PLAN

137. A senior executive excluded from receiving benefits under the Québec Parental Insurance Plan and the Employment Insurance Plan shall also be excluded from receiving any compensation prescribed in sections 131 and 136.

However, a full-time senior executive who has accumulated 20 weeks of service is entitled to an allowance equal to 93% of the basic weekly salary for 12 weeks if she does not receive benefits under a parental rights plan established by another province or territory.

SUBDIVISION II.6

CALCULATION AND PAYMENT OF ALLOWANCE

138. In the cases prescribed in sections 131, 136 and 137:

a) No allowance may be paid during a vacation period during which a senior executive is paid.

b) Unless the salary is paid on a weekly basis, the allowance shall be paid at two-week intervals, the first payment being due, in the case of a senior executive eligible for benefits under the Québec Parental Insurance Plan, only 15 days after the college obtains proof that she is receiving benefits under that plan.

In the case of a senior executive eligible for benefits under the Employment Insurance Plan, the allowance due for the first two weeks shall be paid by the college in the first two weeks of the leave. Unless the applicable salary is paid on a weekly basis, the allowance due after that date shall be paid at two-week intervals, the first payment being due only 15 days after the college obtains proof that she is receiving benefits under that plan.

For the purposes of subparagraph *b*, a statement of benefits, a payment stub or information provided, by means of an official statement, by the Ministry of Employment and Social Solidarity or the HRSDC shall be accepted as proof.

c) Service shall be calculated with all employers of the public and parapublic sectors (public service, education, health and social services), health and social service agencies, all agencies for which, by law, the employees' salary standards and scales are determined or approved by the government, the Office franco-québécois pour la jeunesse, the Société de gestion du réseau informatique des commissions scolaires (GRICS) or any other agency listed in Schedule C of the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (R.S.Q., c. R-8.2).

Moreover, the requirement of 20 weeks of service under sections 131, 136 and 137 is deemed to have been met, where applicable, if the senior executive has satisfied that requirement with any employer mentioned in the preceding paragraph.

DIVISION III

PATERNITY LEAVE

SUBDIVISION III.1

LEAVE ENTITLEMENT

139. A senior executive is entitled to take paid leave for a maximum of five working days for the birth of his child. Where there is termination of pregnancy after the beginning of the 20th week preceding the expected date of delivery, the senior executive is also entitled to a paternity leave. The paid leave may be discontinuous, but must be taken between the beginning of the delivery and the 15th day following the mother's or the child's return home.

One of the five days may be used for the baptism or registration of the child.

The senior executive whose spouse gives birth is also entitled to the paternity leave if she is designated as one of the child's mothers.

The senior executive must inform the college of his absence as soon as possible.

140. A senior executive is also entitled to take paternity leave for the birth of his child for no more than five weeks which, subject to sections 152 and 152.1, must be consecutive. The leave must terminate no later than the end of the 52nd week following the week of the child's birth.

The paternity leave of a senior executive who is eligible for benefits under the Québec Parental Insurance Plan or the Employment Insurance Plan shall be concurrent with the period during which benefits are paid under either one of these plans and must begin no later than the week following the start of benefits payment.

The senior executive whose spouse gives birth is also entitled to the leave if she is designated as one of the child's mothers.

SUBDIVISION III.2 **ALLOWANCE ENTITLEMENT**

141. During the paternity leave prescribed in section 140, the senior executive shall receive an allowance equal to the difference between his basic weekly salary and the benefit that he is receiving or would receive, after submitting an application for benefits, under the Québec Parental Insurance Plan or the Employment Insurance Plan.

The second, third and fourth paragraphs of section 131 or subparagraph *b* of section 136, as the case may be, and sections 133 to 135 apply to this section with any necessary modifications.

141.1 A senior executive who is not entitled to paternity benefits under the Québec Parental Insurance Plan or to parental benefits under the Employment Insurance Plan shall receive during the paternity leave prescribed in section 140 an allowance equal to his basic weekly salary.

141.2 Subparagraphs *a* and *b* of section 138 apply to a senior executive receiving the allowances prescribed in section 141 or 141.1.

SUBDIVISION III.3 **TERMS AND CONDITIONS OF PATERNITY LEAVE**

141.3 The leave prescribed in section 140 shall be granted following a written request submitted to the college at least three weeks in advance. However, the time limit can be shorter if the birth occurs before the expected date of delivery. The request must specify the anticipated expiry date of the leave.

141.4 The senior executive must report for work upon the expiry of his paternity leave prescribed in section 140, unless the leave is extended in the manner prescribed in Division V.

The senior executive who does not comply with the preceding paragraph is considered to be on leave without pay for a period not exceeding four weeks. At the end of that period, the senior executive who has not reported for work is considered to have resigned.

141.5 A senior executive who, before the expiry date of his paternity leave prescribed in section 140, sends his college a notice accompanied by a medical certificate

attesting that the state of health of the child requires it, is entitled to extend his paternity leave for the duration indicated in the medical certificate.

During the extended leave, the senior executive is considered on leave without pay and section 150.3 applies. The senior executive shall not receive any allowance or benefit from the college.

DIVISION IV **ADOPTION LEAVE AND LEAVE FOR ADOPTION PURPOSES**

SUBDIVISION IV.1 **LEAVE ENTITLEMENT**

142. A senior executive is entitled to a paid leave of no more than five working days for the adoption of a child other than his or her spouse's child. The leave may be discontinuous, but must be taken within 15 days of the child's arrival home.

One of the five days may be used for the baptism or registration.

The senior executive must inform the college of his or her absence as soon as possible.

142.1 A senior executive who legally adopts a child, other than his or her spouse's child, is entitled to a leave not exceeding five weeks which, subject to sections 152 and 152.1, must be consecutive. The leave must expire not later than the end of the 52nd week following the week when the child arrives home.

The leave of the senior executive eligible for benefits under the Québec Parental Insurance Plan or the Employment Insurance Plan shall be concurrent with the period during which benefits are paid under either one of these plans and must begin no later than the week following the start of benefits payment.

The leave of the senior executive who is ineligible for benefits under the Québec Parental Insurance Plan must be taken after the order of placement of the child or the equivalent in the case of an international adoption in accordance with the adoption plan or at another time agreed with the college.

142.2 A senior executive who adopts his or her spouse's child is entitled to a leave of no more than five working days, of which only the first two shall be paid.

The leave may be discontinuous, but it cannot be taken after 15 days of filing the adoption papers.

SUBDIVISION IV.2 **ALLOWANCE ENTITLEMENT**

142.3 During the adoption leave prescribed in section 142.1, the senior executive shall receive an allowance equal to the difference between his or her basic weekly salary and the benefit that he or she is receiving or would receive, after submitting an application for benefits, under the Québec Parental Insurance Plan or the Employment Insurance Plan.

The second, third and fourth paragraphs of section 131 or subparagraph *b* of section 136, as the case may be, and sections 133 to 135 apply with any necessary modifications.

142.4 The senior executive who is ineligible for adoption benefits under the Québec Parental Insurance Plan or parental benefits under the Employment Insurance Plan and who adopts a child, other than his or her spouse's child, shall receive, during the adoption leave prescribed in section 142.1, an allowance equal to his or her basic weekly salary.

SUBDIVISION IV.3 **TERMS AND CONDITIONS OF ADOPTION LEAVE**

143. The leave prescribed in section 142.1 shall be granted following a written request submitted to the college at least three weeks in advance. The request must also specify the anticipated expiry date of the leave.

144. The senior executive must report for work upon the expiry of the adoption leave prescribed in section 142.1, unless the leave is extended in the manner prescribed in Division V.

The senior executive who does not comply with the preceding paragraph is considered to be on leave without pay for a period not exceeding four weeks. At the end of that period, the senior executive who has not reported for work is considered to have resigned.

145. A senior executive who, before the expiry date of the adoption leave prescribed in section 142.1, sends his or her college a notice accompanied by a medical certificate attesting that the state of health of the child requires it, is entitled to extend the adoption leave for the duration indicated in the medical certificate.

During the extended leave, the senior executive is deemed on leave without pay and section 150.3 applies. The senior executive shall not receive any allowance or benefit from the college.

146. Subparagraphs *a* and *b* of section 138 apply to the senior executive who receives the benefits prescribed in section 142.3 or 142.4 with the necessary changes.

147. A senior executive shall benefit for the purposes of adopting a child from a leave without pay of a maximum duration of 10 weeks as of the date on which he or she actually takes custody of the child, unless it involves the spouse's child.

148. On a written request to the college if possible two weeks in advance, a senior executive who travels outside of Québec to adopt a child, except for his or her spouse's child, shall obtain leave without pay for the required travel time.

However, the leave ends no later than the week following the start of benefits payment under the Québec Parental Insurance Plan or the Employment Insurance Plan and section 142.1 applies.

During the leave, the senior executive is entitled to the benefits prescribed in section 150.3.

DIVISION V **LEAVE WITHOUT PAY**

149. A senior executive wishing to extend her maternity leave prescribed in section 122, 122.1 or 127, a senior executive wishing to extend the paternity leave prescribed in section 140 and a senior executive wishing to extend the adoption leave prescribed in section 142.1 is entitled to:

a) a leave without pay for a period not exceeding two years, immediately following the maternity, paternity or adoption leave. However, in the case of a paternity leave, the duration of the leave must not exceed the 125th week following the child's birth or, in the case of an adoption leave, the duration of the leave must not exceed the 125th week following the child's arrival home;

or

b) a leave without pay of no more than 52 continuous weeks beginning at the time decided by the senior executive, but after the child's birth or adoption, and ending at the latest 70 weeks after the birth or, in the case of an adoption, 70 weeks after the child is placed with the senior executive. The latter leave also applies as extended leave for the adoption of his or her spouse's child prescribed in section 142.2.

A senior executive who does not take a leave without pay may, for the part of the leave that his or her spouse does not use, elect to benefit from a leave without pay.

150. The leave without pay prescribed in section 149 shall be granted upon written request submitted to the college at least three weeks in advance, and must also specify the return date.

150.1 A senior executive who wishes to terminate his or her leave without pay before the scheduled date must give written notice to this effect at least 21 days before he or she intends to return to work. In the case of a leave without pay exceeding 52 weeks, the notice is at least 30 days.

150.2 A leave without pay or partial leave without pay for a maximum period of one year shall be granted to a senior executive whose minor child experiences socioemotional problems or whose child is handicapped or suffers from a chronic illness requiring his or her care.

150.3 During the leave without pay, the senior executive shall accumulate experience for the purposes of determining his or her salary up to the first 52 weeks of his or her leave and continuous service shall not be interrupted. He or she shall continue to participate in the applicable compulsory basic health insurance plan by paying his or her share of the premiums for the first 52 weeks of the leave and the total amount of the premiums for the weeks that follow. Moreover, he or she may continue to participate in the other group insurance plans held before the leave by making a request at the beginning of the leave. If the senior executive pays his or her share of the premiums for these plans, the employer shall also pay its share, if need be, up to 52 weeks. Subsequently, the senior executive shall pay all the premiums.

150.4 The senior executive may take the deferred annual vacation prescribed in section 152.3 immediately before his or her leave without pay provided there is no interruption with the senior executive's paternity, maternity or adoption leave, as the case may be.

150.5 When a senior executive returns from a leave without pay, he or she shall be reinstated in the position that he or she would have had had he or she been at work, subject to the provisions of Chapter IV, if need be.

DIVISION VI OTHER SPECIAL LEAVES AND PREVENTIVE REASSIGNMENT

151. A senior executive is entitled to special leave in the following cases:

(1) where a complication in the pregnancy or a risk of miscarriage requires a work stoppage for a period prescribed by a medical certificate. The special leave may not be extended beyond the beginning of the fourth week before the expected date of delivery;

(2) upon presentation of a medical certificate prescribing the duration, when a spontaneous or induced miscarriage occurs before the beginning of the 20th week preceding the expected date of delivery;

(3) for medical examinations related to the pregnancy carried out by a health professional and attested to by a medical certificate or a written report signed by a midwife.

151.1 As regards the examinations mentioned in subparagraph 3 of section 151, the special leave shall be remunerated for a maximum duration of four days, which may be taken in half-days.

151.2 During the special leaves granted under this division, a senior executive may avail herself of the benefits prescribed in sections 152.3 and 152.4.

A senior executive covered by section 151 may also opt for salary insurance benefits. However, in the case of subparagraph 3 of section 151, the senior executive must first have used up the four days prescribed in section 151.1.

151.3 A senior executive shall benefit from preventive reassignment under the Act respecting occupational health and safety (R.S.Q., c. S-2.1) insofar as she is normally entitled to it.

DIVISION VII SUSPENSION, DIVISION AND OTHER TERMS AND CONDITIONS OF LEAVE

152. If the child is hospitalized, the senior executive may suspend the paternity leave prescribed in section 140 or the adoption leave prescribed in section 142.1, upon agreement with the college, and return to work for the period during which the child is hospitalized.

152.1 Upon the senior executive's request, the paternity leave prescribed in section 140, the adoption leave prescribed in section 142.1 or the leave without pay prescribed in section 149 may be divided into weeks before the expiry of the first 52 weeks.

The leave may be divided if the senior executive's child is hospitalized or due to a situation covered by sections 79.1 and 79.8 to 79.12 of the Act respecting labour standards (R.S.Q., c. N-1.1).

The maximum number of weeks during which the leave may be suspended corresponds to the number of weeks during which the child is hospitalized. For any other possible divisions of the leave, the maximum number of weeks during which the leave is suspended is prescribed in the Act respecting labour standards for such a situation.

During such a suspension, the senior executive is considered to be on leave without pay and shall not receive any allowances or benefits from the college. The senior executive is covered by section 150.3 during the suspension.

152.2 When the paternity or adoption leave suspended or divided under section 152 or 152.1 resumes, the college shall pay the senior executive the allowance to which he or she would have been entitled had he or she not suspended or divided the leave. The college shall pay the allowance for the number of weeks remaining under section 140 or 142.1, as the case may be, subject to section 119.

152.3 During the maternity leave and the extensions prescribed in section 128, the paternity leave prescribed in sections 139 and 140 and the adoption leave prescribed in sections 142, 142.1 and 142.2, a senior executive shall have, if he or she is normally entitled thereto, the following benefits:

(1) insurance plans excluding salary insurance benefits. However, in the case of a maternity leave, the senior executive shall be exempted from the payment of premiums to her insurance plans as prescribed in the provisions of the master policy;

(2) accumulation of vacation;

(3) accumulation of experience and continuous service for employment stability purposes.

A senior executive may defer annual vacation if it falls within the maternity, paternity or adoption leave and if he or she notifies the college in writing of the date of such deferral no later than two weeks before the termination of the said leave.

152.4 When a senior executive returns from a maternity leave and the extensions prescribed in section 128, a paternity leave or an adoption leave, he or she shall be reinstated in the position he or she would have had had he or she been at work, subject to the provisions of Chapter IV, if need be.

152.5 The senior executive who receives a premium for regional disparities shall continue to receive it during her maternity leave.

Moreover, the senior executive who receives a premium for regional disparities shall continue to receive it during the paternity leave prescribed in section 140 or the adoption leave prescribed in section 142.1.

152.6 A college and a senior executive shall agree, before the leave begins, on the terms and conditions of a maternity leave, a paternity leave, an adoption leave, a leave without pay or a partial leave without pay.”

2. The Regulation is amended by inserting, after Chapter IX, the following:

“CHAPTER IX.1 LEAVES FOR FAMILY RESPONSIBILITIES

153. A senior executive may be absent from work for up to 10 days per year to carry out obligations relating to the care, health or education of his or her child or spouse’s child or because of the state of health of his or her spouse, father, mother, brother, sister or one of his or her grandparents. The first six days thus used are considered as sick-leave days. The remaining days are considered as absences without pay.

153.1 A senior executive who is absent without pay for the reasons and under the conditions specified in sections 79.8 to 79.16 of the Act respecting labour standards (R.S.Q., c. N-1.1) must inform the college of the reason for his or her absence as soon as possible and provide proof thereof. During the absence without pay, the senior executive shall accumulate his or her experience for the purposes of determining his or her salary up to the maximum leave period prescribed in the Act respecting labour standards for the leave and his or her service shall not be interrupted. He or she shall continue to participate in the compulsory basic health insurance plan applicable to him or her by paying his or her share of the premiums. In addition, he or she may continue to participate in the other group insurance plans that he or she had prior to the leave after submitting an application at the beginning of the leave. If the senior executive pays his or her share of the insurance plan premiums, the college shall also pay its own, if need be, up to the maximum leave period prescribed in the Act respecting labour standards.

Upon his or her return, the senior executive shall be reinstated in the position prescribed in section 150.5.”

3. Section 182 of the Regulation is replaced with the following:

“**182.** If a maternity, paternity or adoption leave begins before, during or after the period of leave, participation in the plan shall be suspended for the duration of the leave and the plan is then extended for the same period.

Where the maternity, paternity or adoption leave is taken before the period of leave, the senior executive may terminate the plan. He or she shall then receive the unpaid salary without interest and the benefit prescribed for the said leave as prescribed in Chapter IX, Parental Rights. The amounts so reimbursed shall be subject to pension plan contributions.”.

4. This Regulation comes into force on the date of its publication in the *Gazette officielle du Québec*.

2220

M.O., 2012

Order of the Minister of Education, Recreation and Sports dated 11 July 2012

Education Act
(R.S.Q., c. I-13.3)

CONCERNING the Regulation to amend the Regulation respecting certain conditions of employment of senior executives of school boards and of the Comité de gestion de la taxe scolaire de l'île de Montréal

THE MINISTER OF EDUCATION, RECREATION AND SPORTS,

WHEREAS in and by section 451 of the Education Act (R.S.Q., c. I-13.3);

WHEREAS the Regulation respecting certain conditions of employment of senior executives of school boards and of the Comité de gestion de la taxe scolaire de l'île de Montréal was made by the Minister's Order dated 18 November 2004 approved by the Conseil du trésor on 30 November 2004 (C.T. 201768) and as amended;

WHEREAS it is expedient to amend the current Regulation and to make the Regulation attached hereto;

WHEREAS, pursuant to section 451 of the Education Act, the Conseil du trésor has given its authorization;

WHEREAS the Regulations Act (R.S.Q., c. R-18.1) does not apply to such a Regulation;

ORDERS THAT:

The Regulation to amend the Regulation respecting certain conditions of employment of senior executives of school boards and of the Comité de gestion de la taxe scolaire de l'île de Montréal, herewith attached, be made.

MICHELLE COURCHESNE,
Minister of Education, Recreation and Sports

Regulation to amend the Regulation respecting certain conditions of employment of senior executives of school boards and of the Comité de gestion de la taxe scolaire de l'île de Montréal*

Education Act
(R.S.Q., c. I-13.3, s. 451)

1. The Regulation respecting certain conditions of employment of senior executives of school boards and of the Comité de gestion de la taxe scolaire de l'île de Montréal is amended by inserting, after Division 4 of Chapter 4, the following division:

**“DIVISION 5
LEAVES FOR FAMILY RESPONSIBILITIES**

103.1 A senior executive may be absent from work for up to 10 days per year to carry out obligations relating to the care, health or education of his or her child or spouse's child or because of the state of health of his or her spouse, father, mother, brother, sister or one of his or her grandparents. The first six days thus used are considered as sick-leave days. The remaining days are considered as absences without pay.

103.2 A senior executive who is absent without pay for the reasons and under the conditions specified in sections 79.8 to 79.16 of the Act respecting labour standards (R.S.Q., c. N-1.1) must inform the school board of the reason for his or her absence as soon as possible and provide proof thereof. During the absence without pay, the senior executive shall accumulate his or her experience for the purposes of determining his or her salary up to the maximum leave period prescribed in the Act

* The Regulation respecting certain conditions of employment of senior executives of school boards and of the Comité de gestion de la taxe scolaire de l'île de Montréal made by the Minister's Order dated 18 November 2004 approved by the Conseil du trésor, C.T. 201768 on 30 November 2004 (2004, G.O. 2, 3529) was amended by the Regulation made by the Minister's Order dated 17 June 2005 approved by the Conseil du trésor, C.T. 202756 (2005, G.O. 2, 2483), the Regulation made by the Minister's Order dated 6 October 2005 approved by the Conseil du trésor, C.T. 202857 (2005, G.O. 2, 4715), the Regulation made by the Minister's Order dated 5 December 2005 approved by the Conseil du trésor, C.T. 203161 (2006, G.O. 2, 246), the Regulation made by the Minister's Order dated 2 December 2005 approved by the Conseil du trésor, C.T. 203163 (2006, G.O. 2, 318), the Regulation made by the Minister's Order dated 18 May 2006 approved by the Conseil du trésor, C.T. 203753 (2006, G.O. 2, 1698), the Regulation made by the Minister's Order dated 18 June 2009 approved by the Conseil du trésor, C.T. 207979 (2009, G.O. 2, 2110) and the Regulation made by the Minister's Order dated 6 June 2011 (2011, G.O. 2, 1399).

respecting labour standards for the leave and his or her service shall not be interrupted. He or she shall continue to participate in the compulsory basic health insurance plan applicable to him or her by paying his or her share of the premiums. In addition, he or she may continue to participate in the other group insurance plans that he or she had prior to the leave after submitting an application at the beginning of the leave. If the senior executive pays his or her share of the insurance plan premiums, the school board shall also pay its own, if need be, up to the maximum leave period prescribed in the Act respecting labour standards.

Upon his or her return, the senior executive shall be reinstated in the position prescribed in section 47 of Schedule 5, Parental Rights.”.

2. The Regulation is amended by replacing Schedule 5 with the following:

“**SCHEDULE 5** **PARENTAL RIGHTS**

DIVISION 1 **GENERAL PROVISIONS**

1. Unless expressly stated otherwise, this schedule may not have the effect of granting monetary or non-monetary benefits that a senior executive would not have received had the senior executive remained at work.

For the purposes of this schedule, a “spouse” means either of two persons who:

(1) are married or in a civil union and cohabiting;

(2) are of opposite sex or the same sex and have been living together in a conjugal relationship and are the father and mother of the same child;

(3) are of opposite sex or the same sex and have been living together in a conjugal relationship for at least one year.

However, persons shall cease to be considered as spouses upon the dissolution of their marriage through divorce or annulment, the dissolution or nullity of the civil union or, if they are living in a conjugal relationship, upon a de facto separation for a period exceeding three months.

2. Compensation for maternity, paternity or adoption leave shall be paid only as a supplement to parental insurance benefits or Employment Insurance benefits, as the case may be, or in the cases mentioned below, as

payments during a period of absence for which the Québec Parental Insurance Plan and the Employment Insurance Plan provide no benefit.

However, maternity, paternity or adoption leave benefits shall be paid only during the weeks the senior executive receives or would receive, after submitting an application for benefits, benefits under the Québec Parental Insurance Plan or the Employment Insurance Plan.

In the case where the senior executive shares the adoption or parental benefits prescribed by the Québec Parental Insurance Plan or the Employment Insurance Plan with his or her spouse, compensation shall be paid only if the senior executive actually receives a benefit under either one of the plans during the maternity leave prescribed in section 6 or 7, the paternity leave prescribed in section 25 or the adoption leave prescribed in section 33.

3. Where both parents are women, the allowances and benefits granted to the father shall be granted to the mother who did not give birth.

4. The school board shall not reimburse a senior executive for an amount that could be claimed from the senior executive by the Minister of Employment and Social Solidarity under the Act respecting parental insurance (R.S.Q., c. A-29.011) or by Human Resources and Skills Development Canada (HRSDC) under the Employment Insurance Act (S.C. 1996, c. 23).

5. The salary, deferred salary and severance payments shall not be increased or decreased by the amounts received under the Québec Parental Insurance Plan or the Supplementary Employment Insurance Benefits Plan.

DIVISION 2 **MATERNITY LEAVE**

§1. Leave Entitlement

6. A pregnant senior executive covered by section 17 is entitled to 21 weeks of maternity leave which, subject to sections 11 and 12, must be consecutive.

The pregnant senior executive covered by section 21 or 22 is entitled to 20 weeks of maternity leave which, subject to sections 11 and 12, must be consecutive.

The senior executive who is eligible for benefits under the Québec Parental Insurance Plan or the Employment Insurance Plan, but who has not completed the 20 weeks of service prescribed in sections 17 and 21 is also entitled to a leave of 21 or 20 weeks, as the case may be.

The senior executive covered by section 22 is entitled to a leave of 20 weeks if she has not completed the 20 weeks of service prescribed in that section.

Maternity leave may be for a shorter duration than the durations mentioned in the preceding paragraphs. A senior executive who returns to work, within two weeks following the birth, shall provide, upon the school board's request, a medical certificate attesting that she has sufficiently recovered to return to work.

7. A senior executive who becomes pregnant while on a leave without pay prescribed in this schedule is also entitled to maternity leave and to the benefits prescribed in sections 17, 21 and 22.

8. Where there is termination of pregnancy after the beginning of the 20th week preceding the expected date of delivery, a senior executive is also entitled to maternity leave.

9. Where the spouse of a senior executive dies, the remainder of the maternity leave and the rights and benefits attached thereto shall be transferred to the senior executive.

§2. *Terms and Conditions of Maternity Leave*

10. The distribution of maternity leave before and after delivery shall be decided by the senior executive. However, the leave of the senior executive eligible for benefits under the Québec Parental Insurance Plan or the Employment Insurance Plan shall be concurrent with the period during which benefits are paid under either one of these plans and must begin no later than the week following the start of benefits payment.

11. A senior executive may suspend her maternity leave and return to work if she has sufficiently recovered from delivery and the child is unable to leave the health institution. It shall be completed when the child is brought home.

Moreover, when a senior executive has sufficiently recovered from delivery, but the child is hospitalized after leaving the health institution, the senior executive may suspend her maternity leave, after agreement with the school board, and return to work for the period during which the child is hospitalized.

12. Upon the senior executive's request, a maternity leave may be divided into weeks if her child is hospitalized or due to a situation, other than illness related to pregnancy, covered by sections 79.1 and 79.8 to 79.12 of the Act respecting labour standards (R.S.Q., c. N-1.1).

The maximum number of weeks during which the maternity leave may be suspended corresponds to the number of weeks during which the child is hospitalized. For any other possible divisions of the leave, the maximum number of weeks during which the leave is suspended is prescribed in the Act respecting labour standards for such a situation.

During those suspensions, the senior executive is considered on leave without pay and shall not receive any allowance or benefit from the school board. The senior executive shall receive the benefits prescribed in section 45 during the suspension.

13. When the senior executive resumes the maternity leave suspended or divided under section 11 or 12, the school board shall pay the senior executive the allowance to which she would have been entitled had she not suspended or divided the leave. The school board shall pay the allowance for the number of weeks remaining under section 17, 21 or 22, as the case may be, subject to section 2.

14. If the birth occurs after the expected date, the senior executive is entitled to extend the maternity leave for the length of time the birth is overdue, unless she already has at least two weeks of maternity leave remaining after the birth.

Furthermore, a maternity leave may be extended if the state of health of the child or of the senior executive requires it. The duration of extended maternity leave shall be specified in the medical certificate provided by the senior executive.

During the extensions, the senior executive is considered on leave without pay and shall not receive any allowance or benefit from the school board. During those extensions, the senior executive shall be covered by section 56 for the first six weeks and subsequently by section 45.

15. During the fourth week preceding the expiry date of a maternity leave, the school board must send the senior executive a notice indicating the date on which the leave expires.

A senior executive to whom the school board has sent the notice prescribed in the first paragraph must report for work on the date on which the maternity leave expires, unless the leave is extended in the manner prescribed in Division 5.

A senior executive who does not comply with the preceding paragraph is deemed to be on leave without pay for a period not exceeding four weeks. At the end of that period, the senior executive who has not reported for work is deemed to have resigned.

16. To obtain maternity leave, a senior executive must provide the school board with at least three weeks' written notice before the date of departure. The notice must be accompanied by a medical certificate or a written report signed by a midwife attesting to the pregnancy and the expected date of delivery.

Less than three weeks' notice may be given if a medical certificate attests that the senior executive must stop working earlier than expected. In case of unforeseen events, the senior executive shall not be required to give notice, subject to submitting a medical certificate to the school board stating it is necessary to stop working immediately.

§3. *Entitlement of a senior executive to an allowance under the Québec Parental Insurance Plan*

17. A senior executive who has accumulated 20 weeks of service and who is eligible for benefits under the Québec Parental Insurance Plan is also entitled to receive for 21 weeks of the maternity leave an allowance equal to the difference between 93% of the senior executive's basic weekly salary and the maternity or parental benefits that she receives or would receive under the Québec Parental Insurance Plan, after submitting an application for benefits.

The allowance shall be based on the benefits of the Québec Parental Insurance Plan that a senior executive is entitled to receive, without taking into account the amounts subtracted from those benefits for repayment of benefits, interest, penalties and other amounts recoverable under the Act respecting parental insurance (R.S.Q., c. A-29.011).

However, if the benefit paid under the Québec Parental Insurance Plan is modified due to a change in the information provided by the school board, the latter shall adjust the allowance accordingly.

A senior executive who works for more than one employer shall receive an allowance equal to the difference between 93% of the basic salary paid by the school board and the benefits paid under the Québec Parental Insurance Plan that represent the proportion of the basic weekly salary paid by it compared to the sum of the basic weekly salaries paid by all the employers. For that purpose, the senior executive shall submit to each employer a statement of the weekly salary paid by each of them, together with the benefits paid under the Act respecting parental insurance.

18. For the purposes of entitlement to maternity leave benefits, a senior executive who is absent shall accumulate service if the absence is authorized, particularly for total disability, and includes a benefit or remuneration.

19. For the purposes of this schedule, basic weekly salary means the salary of the senior executive, including the lump sums resulting from the salary readjustment procedure.

20. The school board may not offset, in the allowance it pays to a senior executive on maternity leave, the reduction in benefits under the Québec Parental Insurance Plan attributable to the salary earned from another employer.

Notwithstanding the provisions of the preceding paragraph, the school board shall pay the compensation if the senior executive proves that the salary earned from another employer is a regular salary by means of a letter to that effect from the employer paying it. If the senior executive proves that only part of the salary is regular, the compensation shall be limited to that part.

The employer paying the regular salary mentioned in the preceding paragraph must provide such a letter at the request of the senior executive.

However, the total amounts received by the senior executive during the maternity leave in benefits under the Québec Parental Insurance Plan, allowances and salary cannot exceed 93% of the basic salary paid by the senior executive's employer or, where applicable, employers.

§4. *Entitlement of a senior executive to an allowance under the Employment Insurance Plan*

21. A senior executive who has accumulated 20 weeks of service and who is eligible for benefits under the Employment Insurance Plan, but is not eligible for benefits under the Québec Parental Insurance Plan is entitled to receive:

a) for each week of the waiting period prescribed by the Employment Insurance Plan, an allowance equal to 93% of the basic weekly salary;

b) for each week that follows the period prescribed in paragraph *a*, an allowance equal to the difference between 93% of her basic weekly salary and the maternity or parental benefit paid under the Employment Insurance Plan that the senior executive receives or could receive, after submitting an application for benefits, up to the end of the 20th week of maternity leave.

The allowance shall be based on the Employment Insurance benefits that a senior executive is entitled to receive without taking into account the amounts subtracted from those benefits for repayment of benefits, interest, penalties and other amounts recoverable under the Employment Insurance Plan.

However, if the Employment Insurance benefit is modified due to a change in the information provided by the school board, the latter shall adjust the allowance accordingly.

A senior executive who works for more than one employer shall receive an allowance equal to the difference between 93% of the basic salary paid by the school board and the percentage of the Employment Insurance benefits that represents the proportion of the basic weekly salary paid by it compared to the sum of the basic weekly salaries paid by all the employers. For that purpose, the senior executive shall submit to each employer a statement of the weekly salary paid by each of them, together with the amount of benefits paid by HRSDC.

Moreover, if HRSDC reduces the number of weeks of Employment Insurance benefits to which the senior executive would have been entitled had she not received Employment Insurance benefits before her maternity leave, the senior executive shall continue to receive the allowance prescribed in the first subparagraph of paragraph *b* of this section for a period equal to the weeks subtracted by HRSDC as though the senior executive had received Employment Insurance benefits during that period.

Section 20 applies to this subdivision with any necessary modifications.

§5. Allowance entitlement of a senior executive excluded from receiving benefits under the Québec Parental Insurance Plan and the Employment Insurance Plan

22. A senior executive excluded from receiving benefits under the Québec Parental Insurance Plan and the Employment Insurance Plan shall also be excluded from receiving any compensation prescribed in sections 17 and 21.

However, a full-time senior executive who has accumulated 20 weeks of service is entitled to an allowance equal to 93% of her basic weekly salary for 12 weeks if she does not receive benefits under a parental rights plan established by another province or territory.

The part-time senior executive who has accumulated 20 weeks of service is entitled to an allowance equal to 95% of her basic weekly salary for 12 weeks if she does not receive benefits under a parental rights plan established by another province or territory.

If a part-time senior executive is not required to pay contributions to the pension plans and to the Québec Parental Insurance Plan, the allowance shall be set at 93% of her basic weekly salary.

§6. Calculation and Payment of Allowance

23. In the cases prescribed in sections 17, 21 and 22:

a) No allowance may be paid during a vacation period during which a senior executive is paid.

b) Unless the salary is paid on a weekly basis, the allowance shall be paid at two-week intervals, the first payment being due, in the case of a senior executive eligible for benefits under the Québec Parental Insurance Plan, only 15 days after the school board obtains proof that she is receiving benefits under that plan.

In the case of a senior executive eligible for benefits under the Employment Insurance Plan, the allowance due for the first two weeks shall be paid by the school board in the first two weeks of the leave. Unless the applicable salary is paid on a weekly basis, the allowance due after that date shall be paid at two-week intervals, the first payment being due only 15 days after the school board obtains proof that she is receiving benefits under that plan.

For the purposes of subparagraph *b*, a statement of benefits, a payment stub or information provided by means of an official statement by the Ministry of Employment and Social Solidarity or the HRSDC shall be accepted as proof.

c) Service shall be calculated with all employers of the public and parapublic sectors (public service, education, health and social services), health and social services agencies, all bodies for which, by law, the salary standards and scales are determined according to the conditions defined by the government, the Office franco-québécois pour la jeunesse, the Société de gestion du réseau informatique des commissions scolaires (GRICS) or any other body listed in Schedule C of the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (R.S.Q., c. R-8.2).

Moreover, the requirement of 20 weeks of service under sections 17, 21 and 22 is deemed to have been met, where applicable, if the senior executive has satisfied that requirement with any employer mentioned in the preceding paragraph.

d) The basic weekly salary of the part-time senior executive is the average basic weekly salary of the last 20 weeks before her maternity leave.

If, during that period, the senior executive received benefits based on a certain percentage of her regular salary, it shall be understood that, for the purposes of calculating her basic salary during her maternity leave, the basic salary referred to is that on the basis of which such benefits are determined.

Any period during which the senior executive on preventive reassignment under section 52 does not receive any benefit under the CSST shall not be taken into account in the calculation of her average basic weekly salary.

Where the last 20 weeks before the maternity leave of the part-time senior executive includes the date on which the salary rates and scales are increased, the basic weekly salary shall be based on the salary rate in effect on that date. If, however, the maternity leave includes that date, the basic weekly salary changes on that date according to the applicable salary scale adjustment formula.

The provisions of subparagraph *d* constitute one of the provisions specified in section 1.

DIVISION 3 **PATERNITY LEAVE**

§1. Leave Entitlement

24. A senior executive is entitled to take paid leave for a maximum of five working days for the birth of his child. Where there is termination of pregnancy after the beginning of the 20th week preceding the expected date of delivery, the senior executive is also entitled to a paternity leave. The paid leave may be discontinuous, but must be taken between the beginning of the delivery and the 15th day following the mother's or the child's return home.

One of the five days may be used for the baptism or registration of the child.

The senior executive whose spouse gives birth is also entitled to the paternity leave if she is designated as one of the child's mothers.

The senior executive must inform the school board of his absence as soon as possible.

25. A senior executive is also entitled to take paternity leave for the birth of his child for no more than five weeks which, subject to sections 53 and 54, must be consecutive. The leave must terminate no later than the end of the 52nd week following the week of the child's birth.

The paternity leave of a senior executive who is eligible for benefits under the Québec Parental Insurance Plan or the Employment Insurance Plan shall be concurrent with the period during which benefits are paid under either one of these plans and must begin no later than the week following the start of benefits payment.

The senior executive whose spouse gives birth is also entitled to the leave if she is designated as one of the child's mothers.

§2. Allowance Entitlement

26. During the paternity leave prescribed in section 25, the senior executive shall receive an allowance equal to the difference between his basic weekly salary and the benefit that he is receiving or would receive after submitting an application for benefits under the Québec Parental Insurance Plan or the Employment Insurance Plan.

The second, third and fourth paragraphs of section 17 or subparagraph *b* of section 21, as the case may be, and section 20 apply to this section with any necessary modifications.

27. A senior executive who is not entitled to paternity benefits under the Québec Parental Insurance Plan or to parental benefits under the Employment Insurance Plan shall receive during the paternity leave prescribed in section 25 an allowance equal to his basic weekly salary.

28. Subparagraphs *a*, *b* and *d* of section 23 apply to a senior executive receiving the allowances prescribed in section 26 or 27.

§3. Terms and Conditions of Paternity Leave

29. The paternity leave prescribed in section 25 shall be granted following a written request submitted to the school board at least three weeks in advance. However, the time limit can be shorter if the birth occurs before the expected date of delivery. The request must specify the anticipated expiry date of the leave.

30. The senior executive must report for work upon the expiry of his paternity leave prescribed in section 25, unless the leave is extended in the manner prescribed in Division 5.

The senior executive who does not comply with the preceding paragraph is considered to be on leave without pay for a period not exceeding four weeks. At the end of that period, the senior executive who has not reported for work is considered to have resigned.

31. A senior executive who, before the expiry date of his paternity leave prescribed in section 25, sends his school board a notice accompanied by a medical certificate attesting that the state of health of the child requires it, is entitled to extend his paternity leave for the duration indicated in the medical certificate.

During the extended leave, the senior executive is considered on leave without pay and section 45 applies. The senior executive shall not receive any allowance or benefit from the school board.

DIVISION 4

ADOPTION LEAVE AND LEAVE FOR ADOPTION PURPOSES

§1. Leave Entitlement

32. A senior executive is entitled to a paid leave of no more than five working days for the adoption of a child other than his or her spouse's child. The leave may be discontinuous, but must be taken within 15 days of the child's arrival home.

One of the five days may be used for the baptism or registration.

The senior executive must inform the school board of his or her absence as soon as possible.

33. A senior executive who legally adopts a child, other than his or her spouse's child, is entitled to an adoption leave not exceeding five weeks which, subject to sections 53 and 54, must be consecutive. The leave must expire not later than the end of the 52nd week following the week when the child arrives home.

The leave of the senior executive eligible for benefits under the Québec Parental Insurance Plan or the Employment Insurance Plan shall be concurrent with the period during which benefits are paid under either one of these plans and must begin no later than the week following the start of benefits payment.

The leave of the senior executive who is ineligible for benefits under the Québec Parental Insurance Plan must be taken after the order of placement of the child or the equivalent in the case of an international adoption in accordance with the adoption plan or at another time agreed with the school board.

34. A senior executive who adopts his or her spouse's child is entitled to a leave of no more than five working days, of which only the first two shall be paid.

The leave may be discontinuous, but it cannot be taken after 15 days of filing the adoption papers.

§2. Allowance Entitlement

35. During the adoption leave prescribed in section 33, the senior executive shall receive an allowance equal to the difference between his or her basic weekly salary and the benefit that he or she is receiving or would receive, after submitting an application for benefits, under the Québec Parental Insurance Plan or the Employment Insurance Plan.

The second, third and fourth paragraphs of section 17 or subparagraph *b* of section 21, as the case may be, and section 20 apply with any necessary modifications.

36. The senior executive who is ineligible for adoption benefits under the Québec Parental Insurance Plan or parental benefits under the Employment Insurance Plan and who adopts a child, other than his or her spouse's child, shall receive, during the adoption leave prescribed in section 33, an allowance equal to his or her basic weekly salary.

§3. Terms and Conditions of Adoption Leave

37. The leave prescribed in section 33 shall be granted following a written request submitted to the school board at least three weeks in advance. The request must also specify the anticipated expiry date of the leave.

38. The senior executive must report for work upon the expiry of the adoption leave prescribed in section 33, unless the leave is extended in the manner prescribed in Division 5.

The senior executive who does not comply with the preceding paragraph is considered to be on leave without pay for a period not exceeding four weeks. At the end of that period, the senior executive who has not reported for work is considered to have resigned.

39. A senior executive who, before the expiry date of the adoption leave prescribed in section 33, sends his or her school board a notice accompanied by a medical certificate attesting that the state of health of the child requires it, is entitled to extend the adoption leave for the duration indicated in the medical certificate.

During the extended leave, the senior executive is considered on leave without pay and section 45 applies. The senior executive shall not receive any allowance or benefit from the school board.

40. Subparagraphs *a*, *b* and *d* of section 23 apply to the senior executive who receives the benefits prescribed in section 35 or 36 with the necessary changes.

41. A senior executive shall benefit for the purposes of adopting a child from a leave without pay of a maximum duration of 10 weeks as of the date on which he or she actually takes custody of the child, unless it involves the spouse's child.

On a written request to the school board if possible two weeks in advance, a senior executive who travels outside of Québec to adopt a child, except for his or her spouse's child, shall obtain leave without pay for the required travel time.

However, the leave ends no later than the week following the start of benefits payment under the Québec Parental Insurance Plan or the Employment Insurance Plan and section 33 applies.

During the leave, the senior executive is entitled to the benefits prescribed in section 45.

DIVISION 5

LEAVE WITHOUT PAY

42. A senior executive wishing to extend the maternity leave prescribed in section 6, 7 or 9, a senior executive wishing to extend the paternity leave prescribed in section 25 and a senior executive wishing to extend the adoption leave prescribed in section 33 is entitled to:

a) a leave without pay for a period not exceeding two years, immediately following the maternity, paternity or adoption leave. However, in the case of a paternity leave, the duration of the leave must not exceed the 125th week following the child's birth or, in the case of an adoption leave, the duration of the leave must not exceed the 125th week following the child's arrival home;

or

b) a leave without pay of no more than 52 continuous weeks beginning at the time decided by the senior executive, but after the child's birth or adoption, and ending at the latest 70 weeks after the birth or, in the case of an adoption, 70 weeks after the child is placed with the senior executive. The latter leave also applies as extended leave for the adoption of his or her spouse's child prescribed in section 34.

A senior executive who does not take a leave without pay may, for the part of the leave that his or her spouse does not use, elect to benefit from the leave without pay.

43. The leave without pay prescribed in section 42 shall be granted upon written request submitted to the school board at least three weeks in advance, and must also specify the return date.

44. A senior executive who wishes to terminate his or her leave without pay before the scheduled date must give written notice to this effect at least 21 days before he or she intends to return to work. In the case of a leave without pay exceeding 52 weeks, the notice is at least 30 days.

45. During the leave without pay, the senior executive shall accumulate experience for the purposes of determining his or her salary, up to the first 52 weeks of his or her leave and continuous service shall not be

interrupted. He or she shall continue to participate in the applicable compulsory basic health insurance plan by paying his or her share of the premiums for the first 52 weeks of the leave and the total amount of the premiums for the weeks that follow. Moreover, he or she may continue to participate in the other group insurance plans held before the leave by making a request at the beginning of the leave. If the senior executive pays his or her share of the premiums for these plans, the employer shall also pay its share, if need be, up to 52 weeks. Subsequently, the senior executive shall pay all the premiums.

46. The senior executive may take the deferred annual vacation prescribed in section 56 immediately before his or her leave without pay provided there is no interruption with the senior executive's paternity, maternity or adoption leave, as the case may be.

47. When a senior executive returns from a leave without pay, he or she shall be reinstated in the position he or she would have had had he or she been at work, subject to employment stability provisions, if need be.

48. A leave without pay or partial leave without pay for a maximum period of one year shall be granted to a senior executive whose minor child experiences socioemotional problems or whose child is handicapped or suffers from a chronic illness requiring his or her care.

DIVISION 6

OTHER SPECIAL LEAVES AND PREVENTIVE REASSIGNMENT

49. A senior executive is entitled to special leave in the following cases:

(1) when a complication in the pregnancy or a risk of miscarriage requires a work stoppage for a period prescribed by a medical certificate. The special leave may not be extended beyond the beginning of the fourth week before the expected date of delivery;

(2) upon presentation of a medical certificate prescribing the duration, when a spontaneous or induced miscarriage occurs before the beginning of the 20th week preceding the expected date of delivery;

(3) for medical examinations related to the pregnancy carried out by a health professional and attested to by a medical certificate or a written report signed by a midwife.

50. As regards the examinations mentioned in subparagraph 3 of section 49, the special leave shall be remunerated for a maximum duration of four days, which may be taken in half-days.

51. During the special leaves granted under this division, a senior executive may avail herself of the benefits prescribed in sections 56 and 59.

A senior executive covered by section 49 may also opt for salary insurance benefits. However, in the case of subparagraph 3 of section 49, the senior executive must first have used up the four days prescribed in section 50.

52. A senior executive shall benefit from preventive reassignment under the Act respecting occupational health and safety (R.S.Q., c. S-2.1) insofar as she is normally entitled to it.

DIVISION 7

SUSPENSION, DIVISION AND OTHER TERMS AND CONDITIONS OF LEAVE

53. If the child is hospitalized, the senior executive may suspend the paternity leave prescribed in section 25 or the adoption leave prescribed in section 33, upon agreement with the school board, and return to work for the period during which the child is hospitalized.

54. Upon the senior executive's request, the paternity leave prescribed in section 25, the adoption leave prescribed in section 33 or the leave without pay prescribed in section 42 may be divided into weeks before the expiry of the first 52 weeks.

The leave may be divided if the senior executive's child is hospitalized or due to a situation covered by sections 79.1 and 79.8 to 79.12 of the Act respecting labour standards (R.S.Q., c. N-1.1).

The maximum number of weeks during which the leave may be suspended corresponds to the number of weeks during which the child is hospitalized. For any other possible divisions of the leave, the maximum number of weeks during which the leave is suspended is prescribed in the Act respecting labour standards for such a situation.

During such a suspension, the senior executive is considered to be on leave without pay and shall not receive any allowances or benefits from the school board. The senior executive is covered by section 45 during the suspension.

55. When the paternity or adoption leave suspended or divided under section 53 or 54 resumes, the school board shall pay the senior executive the allowance to which he or she would have been entitled had he or she not suspended or divided the leave. The school

board shall pay the allowance for the number of weeks remaining under section 25 or 33, as the case may be, subject to section 2.

56. During the maternity leave and the extensions prescribed in section 14, the paternity leave prescribed in sections 24 and 25 and the adoption leave prescribed in sections 32, 33 and 34, a senior executive shall have, if he or she is normally entitled thereto, the following benefits:

(1) insurance plans excluding salary insurance benefits. However, in the case of a maternity leave, the school board shall pay all the premiums of the compulsory basic plans and the senior executive shall be exempted from the payment of premiums to her insurance plans as prescribed in the provisions of the master policy;

(2) accumulation of vacation;

(3) accumulation of experience and continuous service for employment stability purposes.

A senior executive may defer annual vacation if it falls within the maternity, paternity or adoption leave and if he or she notifies the school board in writing of the date of such deferral no later than two weeks before the termination of the said leave.

57. During a maternity leave and the extensions prescribed in section 14, a paternity leave prescribed in section 25 or an adoption leave prescribed in section 33, a senior executive shall receive a premium for regional disparities, provided that he or she is normally entitled to it.

58. A school board and a senior executive shall agree, before the leave begins, on the terms and conditions of a maternity leave, a paternity leave, an adoption leave or a leave without pay.

59. When a senior executive returns from a maternity leave and the extensions prescribed in section 14, a paternity leave or an adoption leave, he or she shall be reinstated in the position he or she would have had had he or she been at work by applying the employment stability provisions, if need be."

3. Section 25 of Schedule 6 is replaced with the following:

"**25.** Where a senior executive obtains a maternity, paternity or adoption leave during the contract, the sabbatical leave plan shall be interrupted for the duration of the leave and the contract shall be extended accordingly.

Where the maternity, paternity or adoption leave is taken before the sabbatical leave, the senior executive may terminate the contract and paragraph 2 of section 22 of this schedule applies.”.

4. This Regulation comes into force on the date of its publication in the *Gazette officielle du Québec*.

2221

M.O., 2012

Order of the Minister of Education, Recreation and Sports dated 11 July 2012

General and Vocational Colleges Act
(R.S.Q., c. C-29)

CONCERNING the Regulation to amend the Regulation respecting certain conditions of employment of senior staff of general and vocational colleges

THE MINISTER OF EDUCATION, RECREATION AND SPORTS,

WHEREAS in and by section 18.1 of the General and Vocational Colleges Act (R.S.Q., c. C-29);

WHEREAS the Regulation respecting certain conditions of employment of senior staff of general and vocational colleges was made by the Minister’s Order dated 17 June 2005 approved by the Conseil du trésor on 21 June 2005 (C.T. 202574) and as amended;

WHEREAS it is expedient to amend the current Regulation and to make the Regulation attached hereto;

WHEREAS, pursuant to section 18.1 of the General and Vocational Colleges Act, the Conseil du trésor has given its authorization;

WHEREAS the Regulations Act (R.S.Q., c. R-18.1) does not apply to such a Regulation;

ORDERS THAT:

The Regulation to amend the Regulation respecting certain conditions of employment of senior staff of general and vocational colleges, herewith attached, be made.

MICHELLE COURCHESNE,
Minister of Education, Recreation and Sports

Regulation to amend the Regulation respecting certain conditions of employment of senior staff of general and vocational colleges*

General and Vocational Colleges Act
(R.S.Q., c. C-29, s. 18.1)

1. The Regulation respecting certain conditions of employment of senior staff of general and vocational colleges is amended by replacing Chapter VIII with the following:

“CHAPTER VIII PARENTAL RIGHTS

DIVISION I GENERAL PROVISIONS

97. For the sole purposes of this chapter, the terms “au cadre” and “le cadre” are used in the French text to expressly designate a male senior staff member and the terms “la cadre” and “à la cadre” are used to expressly designate a female senior staff member.

For the purposes of this chapter, a “spouse” means either of two persons who:

- (1) are married or in a civil union and cohabiting;
- (2) are of opposite sex or the same sex and have been living together in a conjugal relationship and are the father and mother of the same child;
- (3) are of opposite sex or the same sex and have been living together in a conjugal relationship for at least one year.

However, persons shall cease to be considered as spouses upon dissolution of marriage by divorce or annulment, dissolution or annulment of civil union or, if they are living together in a conjugal relationship, upon a de facto separation for a period exceeding three months.

* The Regulation respecting certain conditions of employment of senior staff of general and vocational colleges made by the Minister’s Order dated 17 June 2005 approved by the Conseil du trésor, C.T. 202574 dated 21 June 2005 (2005, *G.O.* 2, 2449) was amended by the Regulation made by the Minister’s Order dated 18 May 2006 approved by the Conseil du trésor, C.T. 203752 (2006, *G.O.* 2, 1688), the Regulation made by the Minister’s Order dated 16 June 2009 approved by the Conseil du trésor, C.T. 207978 (2009, *G.O.* 2, 2108) and the Regulation made by the Minister’s Order dated 6 June 2011 (2011, *G.O.* 2, 1400).

98. Unless expressly stated otherwise, this chapter may not have the effect of granting monetary or non-monetary benefits that a senior staff member would not have received had the senior staff member remained at work.

99. Compensation for maternity, paternity or adoption leave shall be paid only as a supplement to parental insurance benefits or Employment Insurance benefits, as the case may be, or in the cases mentioned below, as payments during a period of absence for which the Québec Parental Insurance Plan and the Employment Insurance Plan provide no benefit.

However, maternity, paternity or adoption leave benefits shall be paid only during the weeks the senior staff member receives or would receive, after submitting an application for benefits, benefits under the Québec Parental Insurance Plan or the Employment Insurance Plan.

In the case where the senior staff member shares adoption or parental benefits prescribed by the Québec Parental Insurance Plan or the Employment Insurance Plan with his or her spouse, compensation shall be paid only if the senior staff member actually receives a benefit under either one of the plans during the maternity leave prescribed in section 103 or 104, the paternity leave prescribed in section 123 or the adoption leave prescribed in section 124.1.

100. Where both parents are women, the allowances and benefits granted to the father shall be granted to the mother who did not give birth.

101. The college shall not reimburse a senior staff member for an amount that could be claimed from the senior staff member by the Minister of Employment and Social Solidarity under the Act respecting parental insurance (R.S.Q., c. A-29.011) or Human Resources and Skills Development Canada (HRSDC) under the Employment Insurance Act (S.C. 1996, c. 23).

102. The salary, deferred salary and severance payments shall not be increased or decreased by the amounts received under the Québec Parental Insurance Plan or the Supplementary Employment Insurance Benefits Plan.

DIVISION II **MATERNITY LEAVE**

SUBDIVISION II.1 **LEAVE ENTITLEMENT**

103. The pregnant senior staff member covered by section 112 is entitled to 21 weeks of maternity leave which, subject to sections 108 and 108.1, must be consecutive.

The pregnant senior staff member covered by section 119 or 120 is entitled to 20 weeks of maternity leave which, subject to sections 108 and 108.1, must be consecutive.

The senior staff member who is eligible for benefits under the Québec Parental Insurance Plan or the Employment Insurance Plan, but who has not completed the 20 weeks of service prescribed in sections 112 and 119 is also entitled to a leave of 21 or 20 weeks, as the case may be.

The senior staff member covered by section 120 is entitled to a leave of 20 weeks if she has not completed the 20 weeks of service prescribed in that section.

Maternity leave may be for a shorter duration than the durations mentioned in the preceding paragraphs. A senior staff member who returns to work within two weeks following the birth must, at the college's request, produce a medical certificate attesting that she has sufficiently recovered to return to work.

104. A senior staff member who becomes pregnant while on a leave without pay prescribed in this chapter is also entitled to maternity leave and to the benefits prescribed in sections 112, 119 and 120.

105. Where there is termination of pregnancy after the beginning of the 20th week preceding the expected date of delivery, a senior staff member is also entitled to maternity leave.

106. Where the spouse of a senior staff member dies, the remainder of the maternity leave and the rights and benefits attached thereto shall be transferred to the senior staff member.

SUBDIVISION II.2 **TERMS AND CONDITIONS OF MATERNITY LEAVE**

107. The distribution of maternity leave before and after delivery shall be decided by the senior staff member. However, the leave of the senior staff member eligible for benefits under the Québec Parental Insurance Plan or the Employment Insurance Plan shall be concurrent with the period during which benefits are paid under either one of these plans and must begin no later than the week following the start of benefits payment.

108. A senior staff member may suspend her maternity leave and return to work if she has sufficiently recovered from delivery and the child is unable to leave the health institution. It shall be completed when the child is brought home.

Moreover, when a senior staff member has sufficiently recovered from delivery, but the child is hospitalized after leaving the health institution, the senior staff member may suspend her maternity leave, after agreement with the college, and return to work for the period during which the child is hospitalized.

108.1 Upon the senior staff member's request, a maternity leave may be divided into weeks if her child is hospitalized or due to a situation, other than illness related to pregnancy, covered by sections 79.1 and 79.8 to 79.12 of the Act respecting labour standards (R.S.Q., c. N-1.1).

The maximum number of weeks during which the maternity leave may be suspended corresponds to the number of weeks during which the child is hospitalized. For any other possible divisions of the leave, the maximum number of weeks during which the leave is suspended is prescribed in the Act respecting labour standards for such a situation.

During those suspensions, the senior staff member is considered on leave without pay and shall not receive any allowance or benefit from the college. The senior staff member shall receive the benefits prescribed in section 136 during the suspension.

108.2 When the maternity leave suspended or divided under section 108 or 108.1 resumes, the college shall pay the senior staff member the allowance to which she would have been entitled had she not suspended or divided the leave. The college shall pay the allowance for the number of weeks remaining under section 112, 119 or 120, as the case may be, subject to section 99.

109. If the birth occurs after the expected date, the senior staff member is entitled to extend the maternity leave for the length of time the birth is overdue, unless she already has at least two weeks of maternity leave remaining after the birth.

Furthermore, a maternity leave may be extended if the state of health of the child or of the senior staff member requires it. The duration of extended maternity leave shall be specified in the medical certificate provided by the senior staff member.

During the extensions, the senior staff member is considered on leave without pay and shall not receive any allowance or benefit from the college. During those extensions, the senior staff member shall be covered by section 143 during the first six weeks and subsequently by section 134.

110. During the fourth week preceding the expiry date of a maternity leave, the college shall send the senior staff member a notice indicating the date on which the leave expires.

A senior staff member to whom the college has sent the notice prescribed in the first paragraph must report for work on the expiry date of the maternity leave, unless the leave is extended in the manner prescribed in Division V.

The senior staff member who does not comply with the preceding paragraph is deemed on leave without pay for a period not exceeding four weeks. At the end of that period, the senior staff member who has not reported for work is presumed to have resigned.

111. To obtain maternity leave, a senior staff member must give written notice to the college not less than three weeks before the date of departure. The notice must be accompanied by a medical certificate or a written report signed by a midwife attesting to the pregnancy and the expected date of delivery.

Less than three weeks' notice may be given if a medical certificate attests that the senior staff member must stop working earlier than expected. In case of unforeseen events, the senior staff member shall not be required to give notice, subject to submitting a medical certificate to the college stating it is necessary to stop working immediately.

SUBDIVISION II.3

ENTITLEMENT OF A SENIOR STAFF MEMBER TO AN ALLOWANCE UNDER THE QUÉBEC PARENTAL INSURANCE PLAN

112. A senior staff member who has accumulated 20 weeks of service and who is eligible for benefits under the Québec Parental Insurance Plan is also entitled to receive for 21 weeks of the maternity leave an allowance equal to the difference between 93% of the senior staff member's basic weekly salary and the maternity or parental benefits that she receives or would receive under the Québec Parental Insurance Plan, after submitting an application for benefits.

The allowance shall be based on the benefits of the Québec Parental Insurance Plan that a senior staff member is entitled to receive, without taking into account the amounts subtracted from those benefits for repayment of benefits, interest, penalties and other amounts recoverable under the Act respecting parental insurance (R.S.Q., c. A-29.011).

However, if the benefit paid under the Québec Parental Insurance Plan is modified due to a change in the information provided by the college, the latter shall adjust the allowance accordingly.

A senior staff member who works for more than one employer shall receive an allowance equal to the difference between 93% of the basic salary paid by the college and the benefits paid under the Québec Parental Insurance Plan that represent the proportion of the basic weekly salary paid by it compared to the sum of the basic weekly salaries paid by all the employers. For that purpose, the senior staff member shall submit to each employer a statement of the weekly salary paid by each of them, together with the amount of benefits paid under the Act respecting parental insurance.

113. For the purposes of entitlement to maternity leave benefits, a senior staff member who is absent shall accumulate service if the absence is authorized, particularly for total disability, and includes a benefit or remuneration.

114. For the purposes of this chapter, basic weekly salary means the salary and the lump sums prescribed in sections 28 and 29.

115. The college may not offset, in the allowance it pays to a senior staff member on maternity leave, the reduction in benefits under the Québec Parental Insurance Plan attributable to the salary earned from another employer.

116. Notwithstanding section 115, the college shall pay the compensation if the senior staff member proves that the salary earned from another employer is a regular salary by means of a letter to that effect from the employer paying it. If the senior staff member proves that only part of the salary is regular, the compensation shall be limited to that part.

117. The employer paying the regular salary prescribed in section 116 must provide such a letter at the request of the senior staff member.

118. The total amounts received by the senior staff member during the maternity leave in benefits under the Québec Parental Insurance Plan, allowances and salary may not exceed 93% of the basic salary paid by the senior staff member's employer or, where applicable, employers.

SUBDIVISION II.4

ENTITLEMENT OF A SENIOR STAFF MEMBER TO AN ALLOWANCE UNDER THE EMPLOYMENT INSURANCE PLAN

119. A senior staff member who has accumulated 20 weeks of service and who is eligible for benefits under the Employment Insurance Plan, but is not eligible for benefits under the Québec Parental Insurance Plan is entitled to receive:

a) for each week of the waiting period prescribed by the Employment Insurance Plan, an allowance equal to 93% of the basic weekly salary;

b) for each week that follows the period prescribed in paragraph *a*, an allowance equal to 93% of her basic weekly salary and the maternity or parental benefit paid under the Employment Insurance Plan that the senior staff member receives or could receive, after submitting an application for benefits, up to the end of the 20th week of maternity leave.

The allowance shall be based on the Employment Insurance benefits that a senior staff member is entitled to receive without taking into account the amounts subtracted from those benefits for repayment of benefits, interest, penalties and other amounts recoverable under the Employment Insurance Plan.

However, if the Employment Insurance benefit is modified due to a change in the information provided by the college, the latter shall adjust the allowance accordingly.

A senior staff member who works for more than one employer shall receive an allowance from each of her employers. In this case, the allowance is equal to the difference between 93% of the basic salary paid by the college and the percentage of the Employment Insurance benefits that represents the proportion of the basic weekly salary paid by it compared to the sum of the basic weekly salaries paid by all the employers. For that purpose, the senior staff member shall submit to each employer a statement of the weekly salary paid by each of them, together with the amount of benefits paid by HRSDC.

Moreover, if HRSDC reduces the number of weeks of Employment Insurance benefits to which the senior staff member would have been entitled if she had not received Employment Insurance benefits before her maternity leave, the senior staff member shall continue to receive the allowance prescribed in the first subpara-

graph of paragraph *b* for a period equal to the weeks subtracted by HRSDC as though the senior staff member had received Employment Insurance benefits during that period.

Sections 115 to 118 apply to this subdivision with any necessary modifications.

SUBDIVISION II.5

ALLOWANCE ENTITLEMENT OF A SENIOR STAFF MEMBER EXCLUDED FROM RECEIVING BENEFITS UNDER THE QUÉBEC PARENTAL INSURANCE PLAN AND THE EMPLOYMENT INSURANCE PLAN

120. A senior staff member excluded from receiving benefits under the Québec Parental Insurance Plan and the Employment Insurance Plan shall also be excluded from receiving any compensation prescribed in sections 112 and 119.

However, a full-time senior staff member who has accumulated 20 weeks of service is entitled to an allowance equal to 93% of the basic weekly salary for 12 weeks if she does not receive benefits under a parental rights plan established by another province or territory.

SUBDIVISION II.6

CALCULATION AND PAYMENT OF ALLOWANCE

121. In the cases prescribed in sections 112, 119 and 120:

a) No allowance may be paid during a vacation period during which a senior staff member is paid.

b) Unless the salary is paid on a weekly basis, the allowance shall be paid at two-week intervals, the first payment being due, in the case of a senior staff member eligible for benefits under the Québec Parental Insurance Plan, only 15 days after the college obtains proof that she is receiving benefits under that plan.

In the case of a senior staff member eligible for benefits under the Employment Insurance Plan, the allowance due for the first two weeks shall be paid by the college in the first two weeks of the leave. Unless the applicable salary is paid on a weekly basis, the allowance due after that date shall be paid at two-week intervals, the first payment being due only 15 days after the college obtains proof that she is receiving benefits under that plan.

For the purposes of subparagraph *b*, a statement of benefits, a payment stub or information provided, by means of an official statement, by the Ministry of Employment and Social Solidarity or the HRSDC shall be accepted as proof.

c) Service shall be calculated with all employers of the public and parapublic sectors (public service, education, health and social services), health and social service agencies, all agencies for which, by law, the employees' salary standards and scales are determined or approved by the government, the Office franco-québécois pour la jeunesse, the Société de gestion du réseau informatique des commissions scolaires (GRICS) or any other agency listed in Schedule C of the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (R.S.Q., c. R-8.2).

Moreover, the requirement of 20 weeks of service under sections 112, 119 and 120 is deemed to have been met, where applicable, if the senior staff member has satisfied that requirement with any employer mentioned in the preceding paragraph.

DIVISION III

PATERNITY LEAVE

SUBDIVISION III.1

LEAVE ENTITLEMENT

122. A senior staff member is entitled to take paid leave for a maximum of five working days for the birth of his child. Where there is termination of pregnancy after the beginning of the 20th week preceding the expected date of delivery, the senior staff member is also entitled to a paternity leave. The paid leave may be discontinuous, but must be taken between the beginning of the delivery and the 15th day following the mother's or the child's return home.

One of the five days may be used for the baptism or registration of the child.

The senior staff member whose spouse gives birth is also entitled to the paternity leave if she is designated as one of the child's mothers.

The senior staff member must inform the college of his absence as soon as possible.

123. A senior staff member is also entitled to take paternity leave for the birth of his child for no more than five weeks which, subject to sections 141 and 142, must be consecutive. The leave must terminate no later than the end of the 52nd week following the week of the child's birth.

The paternity leave of a senior staff member who is eligible for benefits under the Québec Parental Insurance Plan or the Employment Insurance Plan shall be concurrent with the period during which benefits are paid under either one of these plans and must begin no later than the week following the start of benefits payment.

The senior staff member whose spouse gives birth is also entitled to the leave if she is designated as one of the child's mothers.

SUBDIVISION III.2 **ALLOWANCE ENTITLEMENT**

123.1 During the paternity leave prescribed in section 123, the senior staff member shall receive an allowance equal to the difference between his basic weekly salary and the benefit that he is receiving or would receive, after submitting an application for benefits, under the Québec Parental Insurance Plan or the Employment Insurance Plan.

The second, third and fourth paragraphs of section 112 or subparagraph *b* of section 119, as the case may be, and sections 115 to 118 apply to this section with any necessary modifications.

123.2 A senior staff member who is not entitled to paternity benefits under the Québec Parental Insurance Plan or to parental benefits under the Employment Insurance Plan shall receive during the paternity leave prescribed in section 123 an allowance equal to his basic weekly salary.

123.3 Subparagraphs *a* and *b* of section 121 apply to a senior staff member receiving the allowances prescribed in section 123.1 or 123.2.

SUBDIVISION III.3 **TERMS AND CONDITIONS OF PATERNITY LEAVE**

123.4 The leave prescribed in section 123 shall be granted following a written request submitted to the college at least three weeks in advance. However, the time limit can be shorter if the birth occurs before the expected date of delivery. The request must specify the anticipated expiry date of the leave.

123.5 The senior staff member must report for work upon the expiry of his paternity leave prescribed in section 123, unless the leave is extended in the manner prescribed in Division V.

The senior staff member who does not comply with the preceding paragraph is considered to be on leave without pay for a period not exceeding four weeks. At the end of that period, the senior staff member who has not reported for work is considered to have resigned.

123.6 A senior staff member who, before the expiry date of his paternity leave prescribed in section 123, sends his college a notice accompanied by a medical

certificate attesting that the state of health of the child requires it, is entitled to extend his paternity leave for the duration indicated in the medical certificate.

During the extended leave, the senior staff member is considered on leave without pay and section 134 applies. The senior staff member shall not receive any allowance or benefit from the college.

DIVISION IV **ADOPTION LEAVE AND LEAVE FOR ADOPTION PURPOSES**

SUBDIVISION IV.1 **LEAVE ENTITLEMENT**

124. A senior staff member is entitled to a paid leave of no more than five working days for the adoption of a child other than his or her spouse's child. The leave may be discontinuous, but must be taken within 15 days of the child's arrival home.

One of the five days may be used for the baptism or registration.

The senior staff member must inform the college of his or her absence as soon as possible.

124.1 A senior staff member who legally adopts a child, other than his or her spouse's child, is entitled to a leave not exceeding five weeks which, subject to sections 141 and 142, must be consecutive. The leave must expire not later than the end of the 52nd week following the week when the child arrives home.

The leave of the senior staff member eligible for benefits under the Québec Parental Insurance Plan or the Employment Insurance Plan shall be concurrent with the period during which benefits are paid under either one of these plans and must begin no later than the week following the start of benefits payment.

The leave of the senior staff member who is ineligible for benefits under the Québec Parental Insurance Plan must be taken after the order of placement of the child or the equivalent in the case of an international adoption in accordance with the adoption plan or at another time agreed with the college.

124.2 A senior staff member who adopts his or her spouse's child is entitled to a leave of no more than five working days, of which only the first two shall be paid.

The leave may be discontinuous, but it cannot be taken after 15 days of filing the adoption papers.

SUBDIVISION IV.2

ALLOWANCE ENTITLEMENT

124.3 During the adoption leave prescribed in section 124.1, the senior staff member shall receive an allowance equal to the difference between his or her basic weekly salary and the benefit that he or she is receiving or would receive, after submitting an application for benefits, under the Québec Parental Insurance Plan or the Employment Insurance Plan.

The second, third and fourth paragraphs of section 112 or subparagraph *b* of section 119, as the case may be, and sections 115 to 118 apply with any necessary modifications.

124.4 The senior staff member who is ineligible for adoption benefits under the Québec Parental Insurance Plan or parental benefits under the Employment Insurance Plan and who adopts a child, other than his or her spouse's child, shall receive, during the adoption leave prescribed in section 124.1, an allowance equal to his or her basic weekly salary.

SUBDIVISION IV.3

TERMS AND CONDITIONS OF ADOPTION LEAVE

125. The leave prescribed in section 124.1 shall be granted following a written request submitted to the college at least three weeks in advance. The request must also specify the anticipated expiry date of the leave.

126. The senior staff member must report for work upon the expiry of the adoption leave prescribed in section 124.1, unless the leave is extended in the manner prescribed in Division V.

The senior staff member who does not comply with the preceding paragraph is considered to be on leave without pay for a period not exceeding four weeks. At the end of that period, the senior staff member who has not reported for work is considered to have resigned.

127. A senior staff member who, before the expiry date of the adoption leave prescribed in section 124.1, sends his or her college a notice accompanied by a medical certificate attesting that the state of health of the child requires it, is entitled to extend the adoption leave for the duration indicated in the medical certificate.

During the extended leave, the senior staff member is deemed on leave without pay and section 134 applies. The senior staff member shall not receive any allowance or benefit from the college.

128. Subparagraphs *a* and *b* of section 121 apply to the senior staff member who receives the benefits prescribed in section 124.3 or 124.4 with the necessary changes.

129. A senior staff member shall benefit for the purposes of adopting a child from a leave without pay of a maximum duration of 10 weeks as of the date on which he or she actually takes custody of the child, unless it involves the spouse's child.

On a written request to the college if possible two weeks in advance, a senior staff member who travels outside of Québec to adopt a child, except for his or her spouse's child, shall obtain leave without pay for the required travel time.

However, the leave ends no later than the week following the start of benefits payment under the Québec Parental Insurance Plan or the Employment Insurance Plan and section 124.1 applies.

During the leave, the senior staff member is entitled to the benefits prescribed in section 134.

DIVISION V

LEAVE WITHOUT PAY

130. A senior staff member wishing to extend her maternity leave prescribed in section 103, 104 or 106, a senior staff member wishing to extend the paternity leave prescribed in section 123 and a senior staff member wishing to extend the adoption leave prescribed in section 124.1 is entitled to:

a) a leave without pay for a period not exceeding two years, immediately following the maternity, paternity or adoption leave. However, in the case of a paternity leave, the duration of the leave must not exceed the 125th week following the child's birth or, in the case of an adoption leave, the duration of the leave must not exceed the 125th week following the child's arrival home;

or

b) a leave without pay of no more than 52 continuous weeks beginning at the time decided by the senior staff member, but after the child's birth or adoption, and ending at the latest 70 weeks after the birth or, in the case of an adoption, 70 weeks after the child is placed with the senior staff member. The latter leave also applies as extended leave for the adoption of his or her spouse's child prescribed in section 124.2.

A senior staff member who does not take a leave without pay may, for the part of the leave that his or her spouse does not use, elect to benefit from a leave without pay.

131. The leave without pay prescribed in section 130 shall be granted upon written request submitted to the college at least three weeks in advance, and must also specify the return date.

132. A senior staff member who wishes to terminate his or her leave without pay before the scheduled date must give written notice to this effect at least 21 days before he or she intends to return to work. In the case of a leave without pay exceeding 52 weeks, the notice is at least 30 days.

133. A leave without pay or partial leave without pay for a maximum period of one year shall be granted to a senior staff member whose minor child experiences socioemotional problems or whose child is handicapped or suffers from a chronic illness requiring his or her care.

134. During the leave without pay, the senior staff member shall accumulate experience for the purposes of determining his or her salary up to the first 52 weeks of his or her leave and continuous service shall not be interrupted. He or she shall continue to participate in the applicable compulsory basic health insurance plan by paying his or her share of the premiums for the first 52 weeks of the leave and the total amount of the premiums for the weeks that follow. Moreover, he or she may continue to participate in the other group insurance plans held before the leave by making a request at the beginning of the leave. If the senior staff member pays his or her share of the premiums for these plans, the employer shall also pay its share, if need be, up to 52 weeks. Subsequently, the senior staff member shall pay all the premiums.

135. The senior staff member may take the deferred annual vacation prescribed in section 143 immediately before his or her leave without pay provided there is no interruption with the senior staff member's paternity, maternity or adoption leave, as the case may be.

136. When a senior staff member returns from a leave without pay, he or she shall be reinstated in the position that he or she would have had had he or she been at work, subject to the provisions of Chapter XIV, Stability of Employment, if need be.

DIVISION VI

OTHER SPECIAL LEAVES AND PREVENTIVE REASSIGNMENT

137. A senior staff member is entitled to special leave in the following cases:

(1) where a complication in the pregnancy or a risk of miscarriage requires a work stoppage for a period prescribed by a medical certificate. The special leave may not be extended beyond the beginning of the fourth week before the expected date of delivery;

(2) upon presentation of a medical certificate prescribing the duration, when a spontaneous or induced miscarriage occurs before the beginning of the 20th week preceding the expected date of delivery;

(3) for medical examinations related to the pregnancy carried out by a health professional and attested to by a medical certificate or a written report signed by a midwife.

138. As regards the examinations mentioned in subparagraph 3 of section 137, the special leave shall be remunerated for a maximum duration of four days, which may be taken in half-days.

139. During the special leaves granted under this division, a senior staff member may avail herself of the benefits prescribed in sections 143 and 144.

A senior staff member covered by section 137 may also opt for salary insurance benefits. However, in the case of subparagraph 3 of section 137, the senior staff member must first have used up the four days prescribed in section 138.

140. A senior staff member shall benefit from preventive reassignment under the Act respecting occupational health and safety (R.S.Q., c. S-2.1) insofar as she is normally entitled to it.

DIVISION VII

SUSPENSION, DIVISION AND OTHER TERMS AND CONDITIONS OF LEAVE

141. If the child is hospitalized, the senior staff member may suspend the paternity leave prescribed in section 123 or the adoption leave prescribed in section 124.1, upon agreement with the college, and return to work for the period during which the child is hospitalized.

142. Upon the senior staff member's request, the paternity leave prescribed in section 123, the adoption leave prescribed in section 124.1 or the leave without pay prescribed in section 130 may be divided into weeks before the expiry of the first 52 weeks.

The leave may be divided if the senior staff member's child is hospitalized or due to a situation covered by sections 79.1 and 79.8 to 79.12 of the Act respecting labour standards (R.S.Q., c. N-1.1).

The maximum number of weeks during which the leave may be suspended corresponds to the number of weeks during which the child is hospitalized. For any other possible divisions of the leave, the maximum number of weeks during which the leave is suspended is prescribed in the Act respecting labour standards for such a situation.

During such a suspension, the senior staff member is considered to be on leave without pay and shall not receive any allowances or benefits from the college. The senior staff member is covered by section 134 during the suspension.

142.1 When the paternity or adoption leave suspended or divided under section 141 or 142 resumes, the college shall pay the senior staff member the allowance to which he or she would have been entitled had he or she not suspended or divided the leave. The college shall pay the allowance for the number of weeks remaining under section 123 or 124.1, as the case may be, subject to section 99.

143. During the maternity leave and the extensions prescribed in section 109, the paternity leave prescribed in sections 122 and 123 and the adoption leave prescribed in sections 124, 124.1 and 124.2, a senior staff member shall have, if he or she is normally entitled thereto, the following benefits:

(1) insurance plans excluding salary insurance benefits. However, in the case of a maternity leave, the senior staff member shall be exempted from the payment of premiums to her insurance plans as prescribed in the provisions of the master policy;

(2) accumulation of vacation;

(3) accumulation of experience and continuous service for employment stability purposes.

A senior staff member may defer annual vacation if it falls within the maternity, paternity or adoption leave and if he or she notifies the college in writing of the date of such deferral no later than two weeks before the termination of the said leave.

144. When a senior staff member returns from a maternity leave and the extensions prescribed in section 109, a paternity leave or an adoption leave, he or she shall be reinstated in the position he or she would have had had he or she been at work, subject to the provisions of Chapter XIV, Stability of Employment, if need be.

145. A college and a senior staff member shall agree, before the leave begins, on the terms and conditions of a maternity leave, a paternity leave, an adoption leave, a leave without pay or a partial leave without pay."

2. The Regulation is amended by inserting, after Chapter VIII, the following:

"CHAPTER VIII.1 LEAVES FOR FAMILY RESPONSIBILITIES

146. A senior staff member may be absent from work for up to 10 days per year to carry out obligations relating to the care, health or education of his or her child or spouse's child or because of the state of health of his or her spouse, father, mother, brother, sister or one of his or her grandparents. The first six days thus used are considered as sick-leave days. The remaining days are considered as absences without pay.

146.1 A senior staff member who is absent without pay for the reasons and under the conditions specified in sections 79.8 to 79.16 of the Act respecting labour standards (R.S.Q., c. N-1.1) must inform the college of the reason for his or her absence as soon as possible and provide proof thereof. During the absence without pay, the senior staff member shall accumulate his or her experience for the purposes of determining his or her salary up to the maximum leave period prescribed in the Act respecting labour standards for the leave and his or her service shall not be interrupted. He or she shall continue to participate in the compulsory basic health insurance plan applicable to him or her by paying his or her share of the premiums. In addition, he or she may continue to participate in the other group insurance plans that he or she had prior to the leave after submitting an application at the beginning of the leave. If the senior staff member pays his or her share of the insurance plan premiums, the college shall also pay its own, if need be, up to the maximum leave period prescribed in the Act respecting labour standards.

Upon his or her return, the senior staff member shall be reinstated in the position prescribed in section 136."

3. Section 176 of the Regulation is replaced with the following:

“**176.** If a maternity, paternity or adoption leave begins before or after the period of leave, participation in the plan shall be suspended for the duration of the leave and the plan is then extended for the same period.

Where the maternity, paternity or adoption leave is taken before the period of leave, the senior staff member may terminate the plan. He or she shall then receive the unpaid salary without interest and the benefit prescribed for the said leave as prescribed in Chapter VIII, Parental Rights. The amounts so reimbursed shall be subject to pension plan contributions.”

4. This Regulation comes into force on the date of its publication in the *Gazette officielle du Québec*.

Index

Abbreviations : **A**: Abrogated, **N**: New, **M**: Modified

	Page	Comments
Certain conditions of employment of senior executives of general and vocational colleges (General and Vocational Colleges Act, R.S.Q., c. C-29)	2567	N
Certain conditions of employment of senior executives of school boards and of the Comité de gestion de la taxe scolaire de l'île de Montréal (Education Act, R.S.Q., c. I-13.3)	2576	N
Certain conditions of employment of senior staff of general and vocational colleges (General and Vocational Colleges Act, R.S.Q., c. C-29)	2585	N
Civil Code of Québec, amended (2012, Bill 64)	2547	
Code of Civil Procedure, amended (2012, Bill 64)	2547	
Education Act — Certain conditions of employment of senior executives of school boards and of the Comité de gestion de la taxe scolaire de l'île de Montréal (R.S.Q., c. I-13.3)	2576	N
Facilitate the payment of support, An Act to..., amended (2012, Bill 64)	2547	
General and Vocational Colleges Act — Certain conditions of employment of senior executives of general and vocational colleges (R.S.Q., c. C-29)	2567	N
General and Vocational Colleges Act — Certain conditions of employment of senior staff of general and vocational colleges (R.S.Q., c. C-29)	2585	N
Individual and Family Assistance Act, amended (2012, Bill 64)	2547	
Legal aid and the provision of certain other legal services, An Act respecting..., amended (2012, Bill 64)	2547	
Ministère de la Justice, An Act respecting the..., amended (2012, Bill 64)	2547	
Promote access to justice in family matters, An Act to... (2012, Bill 64)	2547	
Public Protector Act, amended (2012, Bill 64)	2547	
Société de développement des entreprises culturelles, An Act respecting the..., amended (2012, Bill 76)	2563	
Société de développement des entreprises culturelles, An Act to amend the Act respecting the... (2012, Bill 76)	2563	

