

M.O., 1998

**Order of the Minister of Education
dated 11 March 1998**

Regulation respecting the norms and methods for the transfer and reassignment on 1 July 1998 of support and professional staff of school boards not represented by a certified association within the meaning of the Labour Code

CONSIDERING THAT under section 523.3 of the Education Act (R.S.Q., c. I-13.3; 1997, chapter 47, section 40), the Minister of Education may, by regulation, establish for all members of the staff who are not represented by a certified association within the meaning of the Labour Code (R.S.Q., c. C-27) the transfer and reassignment norms and methods as well as the rights of and remedies available to a person who believes he has been wronged in the application of such norms and methods;

CONSIDERING THAT such section 523.3 prescribes that the Regulations Act (R.S.Q., c. R-18.1) does not apply to such regulation or proposed regulation and that the regulation comes into force on the date of its publication in the *Gazette officielle du Québec*;

IT IS ORDERED:

THAT the Regulation respecting the norms and methods for the transfer and reassignment on 1 July 1998 of support and professional staff of school boards not represented by a certified association within the meaning of the Labour Code, attached hereto, be made.

Québec, 11 March 1998

PAULINE MAROIS,
Minister of Education

Regulation respecting the norms and methods for the transfer and reassignment on 1 July 1998 of support and professional staff not represented by a certified association within the meaning of the Labour Code

Education Act
(R.S.Q., c. I-13.3, s. 523.3)

**CHAPTER I
APPLICATION**

1. In this Regulation, unless otherwise indicated by the context:

“association”: means an association established under the Professional Syndicates Act that is mandated to represent nonunionized support or professional staff in a school board;

“existing school board”: means any school board as defined in section 509 of the Education Act;

“new school board”: means any French-language or English-language school board as defined in section 509 of the Education Act;

“provisional council”: means the provisional council established under Division II of Chapter X of the Education Act;

“adult students”: means the number of students in the adult sector for 1995-1996 determined in accordance with the regulations or documents respecting the conditions of employment of management staff;

“youth students”: means the number of students in the youth sector on 30 September 1996 determined in accordance with the regulations or documents respecting the conditions of employment of management staff;

“employee”: means a member of the personnel who is not represented by a certified association within the meaning of the Labour Code and who performs duties prescribed in the Classification Plan for professionals or in the Classification Plan for support staff;

“establishment”: means a school or an adult education centre, as the case may be;

“administrative centre”: a building other than a school or an adult education centre.

2. This Regulation applies to employees who would have been employed by an existing school board on 1 July 1998, had French-language and English-language school boards not been implemented.

3. Notwithstanding any provision to the contrary, this Regulation does not apply to employees hired from 1 July 1998.

**CHAPTER II
DISTRIBUTION AND STAFFING PLAN**

**DIVISION 1
DISTRIBUTION**

4. The provisional council shall draw up, in cooperation with the other provisional councils concerned, the distribution plan for the employees of the administrative

centres of the existing school boards covered by the provisional council, based on the proportion of students (youth and adult) transferred, unless there is an agreement to the contrary among the provisional councils.

Also, the provisional council shall determine the distribution of employees of establishments where responsibility for the student population is assumed by several new school boards.

DIVISION II **STAFFING PLAN**

5. No later than 15 April 1998, the provisional council shall adopt a staffing plan for nonunionized regular professional and support staff. Where the personnel is represented by an association, the provisional council shall consult the said association before adopting the staffing plan. The staffing plan must determine a position for each regular employee who holds a position on 30 June 1998 and shall be forwarded, where applicable, to the association concerned.

6. The staffing plan shall include the following particulars for each position:

— the establishment or administrative centre, department, if need be;

— the place of work, employment group for a professional, class of employment for a support staff employee;

— the number of hours of the regular workweek;

— the fact that it is a full-time or part-time position.

CHAPTER III **TRANSFER AND REASSIGNMENT**

DIVISION I **TRANSFER**

7. No later than 31 May 1998, regular employees of administrative centres and establishments of existing school boards covered by the provisional council shall be transferred in accordance with the following provisions:

1° in the case where all the students (youth and adult) of the existing school board are transferred to a new school board, all the regular employees shall be transferred to that new school board;

2° in the case where a proportion of the students are transferred, employees shall be transferred according to

the decreasing order of the period of employment in the existing school board on 1 February 1998 and, subsequently, according to the increasing order of such period of employment.

8. Employees who are not regular employees shall be transferred, where applicable, to the new school board which has staffing needs, failing this, their names shall be forwarded, prior to 30 June 1998, to each new school board that receives employees from the existing school board to which they belong.

DIVISION II **REASSIGNMENT**

9. A regular employee who has been transferred shall be reassigned to a position located in an establishment or administrative centre. The regular employee in surplus who has not been reassigned to a position prescribed in the staffing plan shall remain in surplus in the new school board.

10. No later than 31 May 1998, the provisional council shall reassign the regular employee who has been transferred to a position in his or her employment group or class of employment in accordance with the staffing plan and as agreed to with the employee concerned.

Failing an agreement, the provisional council shall assign, in accordance with the staffing plan, a regular employee to a position in his or her employment group or class of employment with no reduction in hours.

CHAPTER IV **TRANSITIONAL PROVISIONS RESPECTING** **WORKING CONDITIONS OF EMPLOYEES**

11. Unless otherwise provided, this chapter applies solely to the transfer and reassignment of an employee to a new school board on 1 July 1998.

12. A regular employee shall transfer his or her vacation days including his or her sick-leave days accumulated on 30 June 1998 to his or her new school board. The provisional council shall confirm this information in writing to each employee.

13. No regular employee may be reassigned to a position located at more than 50 kilometres from his or her place of work and his or her domicile, unless there is an agreement between the employee concerned and the provisional council.

However, a regular employee who accepts a position where the distance between the new place of work and his or her present domicile is greater than 65 kilometres

shall be entitled to the reimbursement of his or her moving expenses as prescribed in the conditions of employment applicable to him or her. However, at the employee's request, the new school board may implement an equivalent measure.

14. No regular employee may be laid off, nonreengaged or placed in surplus between 1 July 1998 and 30 June 1999. However, in 1998-1999, the new school board may reach a decision in this respect that will take effect on 1 July 1999.

CHAPTER V RECOURSE

15. This chapter applies to an employee who believes he or she has been treated unjustly by the application of this Regulation or an agreement pursuant thereto. Employees who are not regular employees are entitled to recourse only as regards the provisions of section 8 of this Regulation.

16. An employee may, within 20 days of the fact or knowledge of the fact giving him or her right to recourse, submit his or her complaint to the provisional council in writing.

17. The employee and the provisional council shall have 20 days thereafter to agree on an arbitrator. Failing agreement on the choice of an arbitrator, it shall be the duty of the chief arbitrator in charge of the records office of the arbitration tribunals in the education sector for unionized personnel to choose an arbitrator from the list of arbitrators in the collective agreements for professionals or support staff, as the case may be.

18. The arbitrator shall convene the parties as quickly as possible; he or she shall proceed in such manner as he or she may determine and must make his or her decision with reasons in support thereof within 30 days following the end of the parties' arguments. However, the decision shall not be null solely because it is made after the expiry of the prescribed time limit.

19. The arbitrator shall determine whether the decision of the provisional council complies with the provisions of this Regulation.

20. Where the arbitrator determines that a decision does not comply with the provisions of this Regulation, he or she may modify his or her decision wholly or in part.

21. An arbitrator may not, by his or her decision, modify, subtract from or add to the provisions of this Regulation.

22. The arbitrator's decision shall be final, executory and binding on the parties.

23. The expenses and fees of the arbitrator shall be borne by the ministère de l'Éducation.

CHAPTER VI FINAL PROVISIONS

24. Unless there is an agreement to the contrary between the parties concerned, the time limits mentioned in Chapter V of this Regulation are mandatory.

The other time limits mentioned in this Regulation are not mandatory.

25. In the event that working conditions applicable to the personnel concerned are incompatible with this Regulation, this Regulation takes precedence.

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

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