

THEREFORE, the Minister of Health and Social Services determines 8 November 2004 to be the date on which sections 72 to 92 of the Act respecting bargaining units in the social affairs sector and amending the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors take effect for the following institutions:

Region 01 — Bas-Saint-Laurent

Le Centre régional de santé et de services sociaux Rimouski

Region 03 — Capitale-Nationale

Centre de santé et de services sociaux de Charlevoix

Region 04 — Mauricie et Centre-du-Québec

Centre de santé et de services sociaux de l'Énergie
Centre de santé et de services sociaux d'Arthabaska-Érable

Centre de santé et de services sociaux Nicolet-Yamaska, Les Blés d'Or

Centre de santé et de services sociaux de la Saint-Maurice

Region 06 — Montréal-Centre

The Salvation Army Catherine Booth Hospital
The Lindsay Rehabilitation Hospital

Region 07 — Outaouais

Centre de santé et de services sociaux des Collines

Region 08 — Abitibi-Témiscamingue

Réseau de la santé et des services sociaux des Aurores Boréales

Centre de santé et de services sociaux Les Eskers de l'Abitibi

Region 11 — Gaspésie-Îles-de-la-Madeleine

Centre de santé et de services sociaux Baie-des-Chaleurs
Centre de santé et de services sociaux du Rocher-Percé

Region 13 — Laval

Centre de santé et de services sociaux de Laval

Region 14 — Lanaudière

Centre de santé et de services sociaux du Sud de Lanaudière

Region 16 — Montérégie

Centre de santé et de services sociaux de la Haute-Yamaska

Centre de santé et de services sociaux la Pommeraie

PHILIPPE COUILLARD,
Minister of Health and Social Services

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Notice

An Act respecting the Agence nationale d'encadrement du secteur financier (R.S.Q., c. A-7.03)

**Bureau de décision et de révision
en valeurs mobilières
— Rules of procedure**

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Rules of procedure of the Bureau de décision et de révision en valeurs mobilières, the text of which appears below, was enacted by the Bureau de décision et de révision en valeurs mobilières.

The purpose of the Rules is to establish the procedure applicable to requests brought before the Bureau de décision et de révision en valeurs mobilières under sections 93 and 94 of the Act respecting the Agence nationale d'encadrement du secteur financier and to any other application filed with the board under that Act.

CLAUDE ST PIERRE,
*Secretary of the Bureau de décision
et de révision en valeurs mobilières*

Rules of procedure of the Bureau de décision et de révision en valeurs mobilières

Securities Act
(R.S.Q., c. V-1.1, s. 323.1)

DIVISION I GENERAL PROVISIONS (ss. 1 to 16)

Object

1. These Rules establish the procedure applicable to matters brought before the Bureau de décision et de révision en valeurs mobilières established by the Act respecting the Agence nationale d'encadrement du secteur financier (R.S.Q., c. A-7.03), in keeping with the principles of natural justice and equality of the parties.

The purpose of the Rules is to simplify and accelerate the conduct of hearings and foster the cooperation of the parties and advocates.

Application

2. The Rules of procedure established by the Bureau de décision et de révision en valeurs mobilières apply to requests made under sections 93 and 94 of the Act respecting the Agence nationale d'encadrement du secteur financier (R.S.Q., c. A-7.03).

Compatible procedure

3. In the absence of provisions applicable to a particular case, the tribunal or the board may remedy the inadequacy by any procedure compatible with law or with its rules of procedure.

These Rules of procedure are intended to render effective the substantive law and to ensure that it is carried out, and failing a provision to the contrary, failure to observe the rules which are not of public order can only affect a proceeding if the defect has not been remedied when it was possible to do so. The provisions of these Rules must be interpreted the one by the other, and, so far as possible, in such a way as to facilitate rather than to delay or to end prematurely the normal advancement of hearings.

Definitions

4. In these Rules, unless the context indicates otherwise,

“administrative authority” means the Agence nationale d'encadrement du secteur financier or a self-regulating organization;

“Agency” means the Agence nationale d'encadrement du secteur financier;

“board” means the Bureau de décision et de révision en valeurs mobilières;

“chair” means the chair of the Bureau de décision et de révision en valeurs mobilières or a member designated by the chair;

“secretary” means the secretary of the Bureau de décision et de révision en valeurs mobilières or the secretary's representative;

“tribunal” means the member or members of the board hearing a matter.

Defects of form

5. The tribunal or the board may, on conditions it considers fair, accept a written proceeding despite a defect of form or an irregularity.

Failure

6. The tribunal may relieve a party from failure to comply with a time period prescribed by these Rules if the party establishes that it was unable, for serious reasons, to act otherwise and if the tribunal considers that no other party to the proceedings suffers serious harm therefrom.

Opening hours

7. The secretariat of the board is open to the public on juridical days from Monday to Friday between 9:00 a.m. and 5:00 p.m.

Assistance

8. The secretary shall advise any person who so requests on the documents required to file an application with the board.

Non-judicial days

9. The following are non-judicial days:

- (1) Saturdays and Sundays;
- (2) 1 and 2 January;
- (3) Good Friday;
- (4) Easter Monday;

- (5) the Monday preceding 25 May ;
- (6) 24 June ;
- (7) 1 July ;
- (8) the first Monday in September ;
- (9) the second Monday in October ;
- (10) 24, 25, 26 and 31 December ; and
- (11) any other holiday fixed by the Government.

Expiry of time period

10. If a time period expires on a non-judicial day, it is extended to the next judicial day.

Computing time periods

11. In computing any time period, the day which marks the start of the period is not counted and, except for periods counted in clear days, the terminal day is.

Non-judicial days are counted but a period that would normally expire on such a day is extended to the next judicial day.

Exemption from hearing

12. The tribunal is exempted from hearing a party

- (1) to grant an uncontested application ;
- (2) with the consent of all parties to proceed in the matter, subject to being able to call the parties to hear them ;
- (3) if a party called does not appear at the fixed time for the hearing, without having justified the absence to the satisfaction of the tribunal or, having appeared, refuses to be heard ; or
- (4) where, under section 323.7 of the Securities Act (R.S.Q., c. V-1.1), it is imperative to do so, subject to giving the person the opportunity to be heard within 15 days.

Joinder

13. Cases in which the questions in dispute are substantially the same or whose subject-matters could suitably be combined, whether or not the same parties are involved, may be joined by order of the chair of the board or a member of the board if the chair is unable to act, on such conditions as the chair or member fixes.

An order made under the first paragraph may be revoked by the tribunal on hearing the matter if the tribunal is of the opinion that the interests of justice will be better served by doing so.

Urgency

14. A party requesting to be heard by preference must substantiate the request.

Filing of notes and authorities

15. The tribunal may require that the parties file notes and authorities with the secretary. The tribunal shall determine the number of copies and the time period for such filing.

Service

16. Unless the board decides otherwise, service is made by a bailiff or by registered or certified mail.

Except for applications instituting proceedings, service of documents between the parties' advocates may be effected by fax machine.

The return of service, the notice of delivery or the fax transmission slip or affidavit from the person who effected the service is proof, where applicable, of the service. The proof must be filed with the secretariat.

DIVISION II

INTRODUCTION OF AN APPLICATION

(ss. 17 to 27)

Filing methods

17. An application instituting proceedings or any other application must be signed by the applicant or the applicant's advocate.

The application and any documents to be filed with the secretariat must

- (1) be filed at the office of the secretariat ;
- (2) be sent by mail to the address of the secretariat ;
or
- (3) be delivered to the secretariat by courier.

Content

18. An application must state, in addition to the facts giving rise to the application,

(1) the applicant's name, address, telephone number and, where applicable, e-mail address and fax number;

(2) if the applicant is represented, the advocate's name, address, telephone number and, where applicable, e-mail address and fax number;

(3) the grounds for the application in the form of allegations;

(4) the applicable statutory and regulatory provisions; and

(5) the conclusions sought.

An application for review must be filed within the period prescribed by law and must contain a copy of the contested decision.

Application based on an imperative reason

19. In the case of an application based on imperative reasons, the application instituting proceedings must be filed with a sworn affidavit in support of the facts of the application and imperative reasons on which it is based.

Oral application

20. An application may be presented orally if authorized by the tribunal or the board.

Filing date

21. The date of filing of an application is the date on which it is received at the secretariat.

Intervention

22. An interested person who makes a request pursuant to section 93 of the Act respecting the Agence nationale d'encadrement du secteur financier (R.S.Q., c. A-7.03) must serve a copy of the request on the Agency. Proof of service must also be filed with the secretariat.

Service of application

23. Unless the board decides otherwise, every application, except an application based on imperative reasons, must be served on the other party and include the proceeding and the documents in support of the proceeding.

Copy of file

24. The administrative authority whose decision is contested must, within 30 days of receipt of a copy of the application for review, send to the secretariat and the applicant, in addition to the name, address and telephone and fax numbers of its advocate, a true copy of

(1) the decision of the administrative authority;

(2) the observations of the applicant; and

(3) all the documents relating to the matter, subject to any prohibitions provided by law.

Acknowledgement of receipt

25. On receipt of an application, the secretary shall send an acknowledgement to the applicant or the applicant's advocate.

Written communications

26. Written communication from a party to the board or the tribunal must be sent by the party to the other parties to the proceeding.

Changes

27. Any change in the address or telephone number of a party or advocate must immediately be notified to the secretariat.

DIVISION III DETERMINATION OF HEARING DATE (ss. 28 to 30)

Determination of hearing date

28. The chair or a member of the board shall determine the date of the hearing when the file is ready to proceed.

Except in an emergency or where required by an imperative reason, a hearing date may be determined only if the applications to be heard and supporting documents have been filed with the secretariat two clear days before the date determined for the hearing.

Notice of hearing

29. The secretary shall send to the parties or their advocate, where applicable, a notice of hearing stating

- (1) the date, time and place of the hearing;
- (2) that the parties have the right to be assisted or represented by an advocate; and
- (3) that the board or the tribunal has the authority to proceed, without further delay or notice, despite the failure of a party to appear, if no valid excuse is provided.

Hearing roll

30. The hearing roll shall be published. The board may decide to postpone the publication of the roll in the interest of good morals and public order.

The hearing roll must specify

- (1) the name of the members, indicating the member presiding the hearing;
- (2) the file number;
- (3) the name of the parties and their advocates;
- (4) the nature of the proceeding; and
- (5) the date of the hearing.

DIVISION IV REPRESENTATION (ss. 31 to 36)

Advocate

31. A party is entitled to be represented by an advocate.

Legal persons and entities

32. Legal persons and entities who have no juridical personality are required to be represented by an advocate before the tribunal.

Representation

33. The advocate representing a party shall file a signed written appearance with the secretariat.

The designation of an advocate in an application or any document from a party constitutes a notice of representation for the entire matter.

Communications

34. The secretary shall communicate directly with the advocate who filed a written appearance or whose name appears in a document from a party as the party's advocate.

Service to an advocate

35. Valid service may be made upon the advocate having appeared on the file on behalf of a party.

Discharge or withdrawal

36. A party who discharges or replaces the advocate shall so inform the tribunal or the board and the other parties in writing without delay.

An advocate who wishes to withdraw from the file, must make and serve a written application on the board or the tribunal and on the other party. The tribunal or the board may authorize the withdrawal on the conditions it considers necessary according to the attendant circumstances.

DIVISION V INCIDENTAL PROCEEDINGS (ss. 37 to 52)

1. AMENDMENT (ss. 37 to 40)

Amendment before the hearing

37. At any time before the hearing, the parties may amend their application to

- (1) modify, correct or complete allegations or conclusions;
- (2) invoke facts arising during the proceedings; or
- (3) assert a right accrued since the filing of the application and relating to the right exercised in the original application.

The party filing the amendment must serve a copy on the other party.

Amendment during a hearing

38. During a hearing, no amendment shall be made without the authorization of the tribunal.

New party to proceedings

39. Where a party is added by amendment before a hearing, a copy of the original application must be served on the party; the application in respect of that party is considered to be produced only on the date of service.

Amendment refused

40. No amendment shall be permitted if the board or tribunal considers it to be unnecessary or contrary to the interests of justice or if the amendment results in an entirely new application unrelated to the original application.

2. DISCONTINUANCE (s. 41)

Discontinuance by written declaration

41. A party may, at any time before the decision is rendered, discontinue the application by filing a written declaration to that effect.

The party must notify the secretary and the other party of the discontinuance, unless it is made at the hearing in the presence of the other party.

3. INTERVENTION (ss. 42 to 44)

Written application for intervention

42. A person who wishes to intervene in an application before the board or the tribunal must file a written application and show sufficient interest. The application must be filed and served on all parties before the hearing.

Oral application for intervention

43. The tribunal may, during a hearing, authorize an intervention on an oral application recorded in the minutes of the hearing. Where an intervention is authorized, the tribunal may impose such conditions as it considers necessary for the protection of the rights of the parties.

Impleading

44. The tribunal or the board may, on its own initiative, order the impleading of any person whose interests may be affected by its decision.

4. RECUSATION (ss. 45 to 47)

Notice of cause for recusation

45. A member who has knowledge of a valid cause for the member's recusation must so advise the parties.

Application for recusation

46. A party may, provided the party acts with dispatch, apply for the recusation of a member seized of the matter if the party has valid reason to believe that a cause for recusation exists.

Application to the chair

47. The application for recusation must be addressed to the chair of the board or to the tribunal. Except in the event of the member's own removal from the matter, the application shall be decided by the chair, the vice-chair or a member designated by either of them.

5. POSTPONEMENT (ss. 48 to 50)

Object

48. The tribunal or the board, as applicable, may, on its own initiative or at the request of a party, postpone the hearing to a date as close as possible, if it is of the opinion that the adjournment will not cause unreasonable delay in the proceeding or that it may foster a settlement.

Postponement before the hearing

49. A party who wishes to obtain a postponement before the hearing must file an application to that effect with the secretariat.

Postponement during the hearing

50. During the hearing, the tribunal may postpone the hearing on the written or oral request of a party.

A decision relating to a request for postponement must be recorded in the minutes of the hearing.

6. REPLACEMENT OF A MEMBER OF THE TRIBUNAL (ss. 51 and 52)

One-member tribunal

51. Where a member cannot continue a hearing owing to an inability to act, another member designated by the chair of the board may, with the consent of the parties, continue the hearing.

That member may, with the consent of the parties, rely on the evidence already submitted, but may also, on the member's own initiative or at the request of a party, recall a witness or require any other evidence.

Tribunal of more than one member

52. Where an application is heard before a tribunal composed of more than one member and one of them cannot continue the hearing, the hearing shall be continued by the remaining member or members.

DIVISION VI

PRE-HEARING CONFERENCE (ss. 53 to 55)

Convening

53. The chair of the board or a member designated by the chair may call the parties or their advocates to a pre-hearing conference. The conference may be held by telephone or by any other appropriate means.

Object

54. The purpose of the pre-hearing conference is to

- (1) define the questions to be dealt with at the hearing;
- (2) assess the advisability of clarifying and specifying the pretensions of the parties and the conclusions sought;
- (3) facilitate the exchange of evidence between the parties;
- (4) plan the proceedings and the evidence to be presented;
- (5) examine the possibility of admitting certain facts or of proving them by means of sworn statements; and
- (6) examine any other question likely to simplify or accelerate the conduct of the hearing.

Minutes

55. The secretary shall draw up the minutes of the pre-hearing conference so as to record any admissions, agreements and undertakings, and sign them.

The minutes of the pre-hearing conference may be subject of a publication ban.

DIVISION VII

HEARING (ss. 56 to 63)

Conduct of the hearing

56. The tribunal has full authority over the conduct of the hearing.

Incidental proceeding

57. The tribunal may render a decision during the hearing or take under reserve any proceeding or preliminary, interlocutory or incidental objection.

Dismissal of an application

58. The board or tribunal may, on its own initiative or on request, summarily dismiss an application it considers to be frivolous, excessive or dilatory or subject it to certain conditions.

Public hearings

59. The hearings of the tribunal are public. The tribunal may, on its own initiative or at the request of a party, order a closed-door hearing in the interest of good morals and public order.

Conduct during the hearing

60. Every person addressing the tribunal or a witness shall, except with leave of the tribunal, rise and remain standing.

Attendance

61. Persons attending the hearing shall behave with dignity and respect towards justice. They shall refrain from any conduct that may interfere with the proper conduct of the hearing.

Prohibited publication

62. The tribunal may, on its own initiative or at the request of a party, prohibit or restrict the disclosure, publication or release of the information or documents it indicates, if doing so is necessary to preserve public order.

Copy of documents produced

63. A party who produces documents at a hearing must provide copies to the members of the tribunal, the secretary and the other parties.

DIVISION VIII

WITNESSES (ss. 64 to 71)

Subpoena

64. Any party who wishes to summon a witness shall do so by means of a subpoena signed by a member of the board or the advocate representing the party.

Summons from the tribunal

65. The tribunal may, on its own initiative, summon a person to appear to testify or to produce a document at the hearing.

Service

66. The subpoena must be served by a bailiff, at the expense of the party summoning the witness and it is incumbent on the party to prove the date of service.

Time for service

67. The subpoena must be served at least ten days before the date of the hearing.

However, in cases of urgency, a member of the board or tribunal may allow a shorter time for service.

Assistance of an advocate

68. A person called to testify may be assisted by an advocate of the person's choosing.

Swearing in

69. Witnesses are authorized to testify only if they have been sworn or have made a solemn affirmation to tell the truth.

Presence at the hearing

70. Every person present at a hearing may be required to testify and the person is required to answer as if the person had been duly summoned.

Exclusion of witnesses

71. The tribunal may, on its own initiative or at the request of a party, order that witnesses testify outside each other's presence.

DIVISION IX

EVIDENCE (ss. 72 to 81)

Relevance of the evidence

72. Each party may present evidence relevant to the determination of the party's rights and obligations.

Order of presentation

73. Where the tribunal hears a matter in the first instance, the applicant's advocate shall be given the first opportunity to present evidence and to examine witnesses.

In a review hearing, the tribunal shall determine the order of presentation of the evidence. In the exercise of that discretion, the tribunal shall consider, among other things,

(1) the nature and conduct of the decision-making process of the body whose decision is contested;

(2) the applicant's opportunity to be heard and to contest the evidence;

(3) the degree of adherence to the rules of natural justice and the equitable nature of the proceedings of the body whose decision is contested; and

(4) the existence of a file allowing the tribunal to recreate the full conduct of the proceedings of the body whose decision is contested.

Admissibility of evidence

74. The tribunal may make the admission of evidence subject to rules on prior communication.

Ordinary rules in civil matters

75. The tribunal is not required to follow the ordinary rules of evidence in civil matters.

Dismissal of evidence

76. The tribunal may dismiss any evidence obtained under such circumstances that fundamental rights and freedoms are breached and that its use would tend to bring the administration of justice into disrepute.

Judicial notice

77. The tribunal must take judicial notice of the law in force in Québec.

Statutory instruments not published in the *Gazette officielle du Québec* or in any other manner provided for by law must be pleaded.

The tribunal may take judicial notice of the law in the other provinces or in the territories of Canada and of the law of a foreign state in the fields within its jurisdiction.

Knowledge of facts

78. A member may take notice of generally recognized facts, opinions and information within the scope of the member's speciality.

Opening statements

79. Each party must, before commencing the evidence, present a summary of the facts the party intends to prove and the conclusions sought.

Hearsay

80. Hearsay is admissible if such evidence offers reasonable safeguards of credibility, subject to the rules of natural justice.

Preponderance of evidence

81. The tribunal is subject to the rule of preponderance of evidence.

DIVISION X

DECISION (ss. 82 to 90)

Advisement

82. In any matter of whatever nature, the decision must be rendered within six months after being taken under advisement. The chair of the board must take into account the circumstances and interests of the parties, however, to extend that period or withdraw the matter from a member who has not rendered a decision within the required time.

Withdrawal

83. Where a member seized of a matter is unable or fails to render a decision within six months or, as the case may be, within such additional time as has been granted, the matter may be withdrawn from the member by the chair on the chair's own initiative or at the request of a party.

Quorum

84. In the event that an application is withdrawn from a member, it may be continued as provided in section 51 or 52 of these Rules.

Filing of the original with the secretary

85. The written decision of the tribunal terminating a matter shall be signed and filed with the secretary and constitutes the original of the tribunal's decision.

Decision from the bench

86. Decisions rendered orally during the hearing shall be recorded in the minutes of the hearing.

Reopening of the inquiry

87. A tribunal who takes a matter under advisement may, on its own initiative or at the request of a party, and until it renders its decision, order the inquiry reopened for the purposes and on the conditions it determines.

Filing in the register of decisions and true copy

88. The secretary shall file and keep the original of the decision in the register of decisions and a true copy of the decision in the record. The secretary is also responsible for issuing true copies of the decision, on request.

Transmittal

89. The secretary shall send a true copy of the decision to the parties and advocates and to the intervenors, if any.

Correction

90. A decision of the tribunal containing an error in writing or in calculation or any other clerical error may be corrected by the signatories of the decision, on their own initiative or at the request of a party. A copy of the correction shall immediately be sent to the interested parties.

DIVISION XI

COMING INTO FORCE (s. 91)

Coming into force

91. These Rules of procedure come into force on the fifteenth day following the date of their publication in the *Gazette officielle du Québec*.

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