



NATIONAL ASSEMBLY

FIRST SESSION

FORTY-FIRST LEGISLATURE

Bill 62

(2017, chapter 19)

**An Act to foster adherence to State
religious neutrality and, in particular,
to provide a framework for requests for
accommodations on religious grounds in
certain bodies**

Introduced 10 June 2015

Passed in principle 15 November 2016

Passed 18 October 2017

Assented to 18 October 2017

EXPLANATORY NOTES

The purpose of this Act is to establish measures to foster adherence to State religious neutrality. For that purpose, it provides, in particular, that personnel members of public bodies must demonstrate religious neutrality in the exercise of their functions, being careful to neither favour nor hinder a person because of the person's religious affiliation or non-affiliation or because of their own religious convictions or beliefs or those of a person in authority. However, this duty does not apply to personnel members of certain bodies while they are providing spiritual care and guidance services, or providing instruction of a religious nature.

Under the Act, personnel members of public bodies and certain other bodies as well as elected persons must exercise their functions with their face uncovered. In addition, persons who request a service from such a personnel member or person must have their face uncovered when the service is provided.

The Act establishes the conditions under which accommodations on religious grounds may be granted as well as the specific elements that must be considered when dealing with certain accommodation requests.

Under the Act, the Minister must establish guidelines for dealing with requests for accommodations on religious grounds in order to support bodies in their application of such requests.

The Act specifies that the measures it introduces must not be interpreted as affecting the emblematic and toponymic elements of Québec's cultural heritage, in particular its religious cultural heritage, that testify to its history.

Lastly, special measures with respect to educational childcare services are introduced to ensure that, among other considerations, children's admission is not related to their learning a specific religious belief, dogma or practice and that the activities organized by subsidized childcare providers do not involve learning of a religious or dogmatic nature.

LEGISLATION AMENDED BY THIS ACT:

- Educational Childcare Act (chapter S-4.1.1).

Bill 62

AN ACT TO FOSTER ADHERENCE TO STATE RELIGIOUS NEUTRALITY AND, IN PARTICULAR, TO PROVIDE A FRAMEWORK FOR REQUESTS FOR ACCOMMODATIONS ON RELIGIOUS GROUNDS IN CERTAIN BODIES

AS Québec is a democratic, pluralistic and inclusive society that fosters harmonious intercultural relations;

AS the Québec State and its institutions are the reflection of Québec's history;

AS the Québec State and its institutions are founded, among other things, on the principles of the rule of law, separation between the State and religious institutions, and the State's religious neutrality;

AS the Charter of human rights and freedoms provides that every person is the possessor of the fundamental freedoms, including freedom of conscience, religion, opinion and expression, which includes the freedom to manifest one's religion and beliefs, alone or in community with others, both publicly and privately, by teaching, practices, worship and the performance of rites;

AS the Charter of human rights and freedoms recognizes the equality of women and men;

AS the rights and freedoms of the person are inseparable from the rights and freedoms of others and from the common well-being;

AS the State's religious neutrality is necessary to ensure that all are treated without discrimination based on religion, and as such neutrality is demonstrated, in particular, by the conduct of its personnel in the exercise of their functions;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

PURPOSE

1. This Act affirms the religious neutrality of the State in order to ensure that all are treated with proper regard for their recognized rights and freedoms, including freedom of religion for personnel members of public bodies. To that end, the Act imposes a duty of religious neutrality, in particular on personnel members of public bodies in the exercise of the functions of office.

A further purpose of the Act is to recognize the importance of having one's face uncovered when public services are provided and received so as to ensure quality communication between persons and allow their identity to be verified, and for security purposes.

The Act also sets out criteria to be taken into consideration when dealing with requests for accommodations on religious grounds resulting from the application of the Charter of human rights and freedoms (chapter C-12).

CHAPTER II

MEASURES FOSTERING ADHERENCE TO STATE RELIGIOUS NEUTRALITY

DIVISION I

SCOPE

2. The measures set out in this chapter apply to the personnel members of the following public bodies:

- (1) government departments;
- (2) budget-funded bodies, bodies other than budget-funded bodies and government enterprises listed in Schedules 1 to 3 to the Financial Administration Act (chapter A-6.001);
- (3) bodies whose personnel is appointed in accordance with the Public Service Act (chapter F-3.1.1);
- (4) government agencies listed in Schedule C to the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (chapter R-8.2);
- (5) municipalities, metropolitan communities, intermunicipal boards and municipal housing bureaus, with the exception of municipalities governed by the Cree Villages and the Naskapi Village Act (chapter V-5.1) or the Act respecting Northern villages and the Kativik Regional Government (chapter V-6.1);
- (6) public transit authorities, the Autorité régionale de transport métropolitain and any other operator of a shared transportation system;
- (7) school boards established under the Education Act (chapter I-13.3), the Comité de gestion de la taxe scolaire de l'île de Montréal, general and vocational colleges established under the General and Vocational Colleges Act (chapter C-29), and university-level educational institutions listed in paragraphs 1 to 11 of section 1 of the Act respecting educational institutions at the university level (chapter E-14.1);

(8) public institutions governed by the Act respecting health services and social services (chapter S-4.2), except public institutions referred to in Parts IV.1 and IV.3 of that Act, joint procurement groups referred to in section 383 of that Act, and health communication centres referred to in the Act respecting pre-hospital emergency services (chapter S-6.2); and

(9) bodies to which the National Assembly or any of its committees appoints the majority of the members.

All directors or members of a body referred to in the first paragraph, except elected persons, who receive remuneration, other than a reimbursement of expenses, from such a body are also considered personnel members of the body.

3. For the purposes of this chapter, the following are also personnel members of a public body:

(1) National Assembly personnel members and Lieutenant-Governor staff members;

(2) persons appointed or designated by the National Assembly to an office under its authority and the personnel directed by them;

(3) persons whose personnel is appointed in accordance with the Public Service Act and the personnel directed by them;

(4) commissioners appointed by the Government under the Act respecting public inquiry commissions (chapter C-37) and the personnel directed by them;

(5) any other person appointed by the Government or by a minister to exercise an adjudicative function within the administrative branch, including arbitrators whose names appear on a list drawn up by the Minister of Labour in accordance with the Labour Code (chapter C-27);

(6) peace officers; and

(7) physicians, dentists and midwives who practise in a centre operated by a public institution referred to in subparagraph 8 of the first paragraph of section 2.

DIVISION II

DUTY OF PERSONNEL MEMBERS OF PUBLIC BODIES

4. Adherence to the principle of State religious neutrality includes, in particular, the duty for personnel members of public bodies to act, in the exercise of their functions, so as to neither favour nor hinder a person because of the person's religious affiliation or non-affiliation or because of their own religious convictions or beliefs or those of a person in authority.

5. The duty of religious neutrality does not apply to personnel members while they are providing spiritual care and guidance services in a university-level educational institution or general and vocational college referred to in subparagraph 7 of the first paragraph of section 2, in a centre operated by a public institution referred to in subparagraph 8 of that paragraph or in a correctional facility governed by the Act respecting the Québec correctional system (chapter S-40.1).

Nor does that duty apply to personnel members while they are providing instruction of a religious nature in a university-level educational institution.

6. Despite the duty of religious neutrality, health professionals may refuse to recommend or provide professional services because of their personal convictions, as permitted by law.

DIVISION III

CONTRACTUAL MEASURES

7. A public body referred to in the first paragraph of section 2 may require any person or partnership with whom it has entered into a service contract or subsidy agreement to fulfill the duty set out in Division II if the contract or agreement relates to the provision of services that are inherent in the body's mission or that are performed in its personnel's place of work. The same applies to any person in authority referred to in any of paragraphs 2 to 4 of section 3.

CHAPTER III

MEASURES WITHIN VARIOUS BODIES

DIVISION I

SCOPE

8. The measures set out in this chapter apply to the personnel members of a body who are referred to in Chapter II and to the personnel members of the following bodies:

(1) childcare centres, home childcare coordinating offices and subsidized day care centres governed by the Educational Childcare Act (chapter S-4.1.1);

(2) institutions accredited for the purposes of subsidies under the Act respecting private education (chapter E-9.1) and institutions whose instructional program is the subject of an international agreement within the meaning of the Act respecting the Ministère des Relations internationales (chapter M-25.1.1); and

(3) private institutions under agreement, intermediary resources and family-type resources governed by the Act respecting health services and social services.

For the purposes of this chapter, recognized subsidized home childcare providers governed by the Educational Childcare Act and persons directed by them are also considered personnel members of a body. The same applies to persons not otherwise subject to this chapter, while they are exercising functions provided for by law for which they were appointed or designated by the Government or a minister.

9. Section 10 applies, with the necessary modifications, to

(1) Members of the National Assembly;

(2) elected municipal officers, except the officers of municipalities governed by the Cree Villages and the Naskapi Village Act or the Act respecting Northern villages and the Kativik Regional Government; and

(3) commissioners of school boards established under the Education Act.

DIVISION II

SERVICES WITH FACE UNCOVERED

10. Personnel members of a body must exercise their functions with their face uncovered.

Similarly, persons who request a service from a personnel member of a body referred to in this chapter must have their face uncovered when the service is provided.

DIVISION III

ACCOMMODATIONS ON RELIGIOUS GROUNDS

11. When dealing with a request for an accommodation on religious grounds resulting from the application of section 10 of the Charter of human rights and freedoms, the body must make sure that

(1) the request is serious;

(2) the accommodation requested is consistent with the right to equality of women and men and the right of every person to be treated without discrimination;

(3) the accommodation requested is consistent with the principle of State religious neutrality; and

(4) the accommodation is reasonable in that it does not impose undue hardship with regard to, among other considerations, the rights of others, public health and safety, the proper operation of the body, and the costs involved.

An accommodation may be granted only if the person making the request has cooperated in seeking a solution that meets the criterion of reasonableness.

12. The Minister must establish guidelines for dealing with requests for accommodations on religious grounds in order to support bodies in their application of section 11.

The guidelines must be published on the website of the Ministère de la Justice.

13. When a request for an accommodation on religious grounds by a personnel member involves an absence from work, more specific consideration must be given to the following factors:

- (1) the frequency and duration of absences on such grounds;
- (2) the size of the administrative unit to which the person making the request belongs, the ability of the unit to adapt, and the interchangeability of the body's workforce;
- (3) the consequences of the absence on the work of the person making the request, on the work of other personnel members and on the organization of services;
- (4) the possible arrangements by the person making the request, including modifying their work schedule, accumulating or using their bank of hours or vacation days, or their undertaking to make up the hours missed; and
- (5) fairness with regard to the employment conditions of other personnel members, including the number of days of paid leave and work schedules.

14. If a request for an accommodation on religious grounds concerns a student attending an educational institution established by a school board, the school board must take into account the objectives set out in the Education Act to ensure that the request does not compromise

- (1) compulsory school attendance;
- (2) the basic school regulations established by the Government;
- (3) the school's educational project;

(4) the mission of schools, which is to impart knowledge to students, foster their social development and give them qualifications, in keeping with the principle of equal opportunity, while enabling them to undertake and achieve success in a course of study; and

(5) the ability of the institution to provide students with the educational services provided for by law.

This section also applies to institutions accredited for purposes of subsidies under the Act respecting private education, except such institutions that provide college instruction services, with the necessary modifications.

DIVISION IV

CONTRACTUAL MEASURES

15. A public body to which the first paragraph of section 2 or subparagraphs 1 to 3 of the first paragraph of section 8 apply may require, of any person or partnership with whom it has entered into a service contract or subsidy agreement, that the person or partnership's personnel members exercise their functions with their face uncovered if the contract or agreement relates to the provision of services that are inherent in the body's mission or that are performed in its personnel's place of work. The same applies to any person in authority referred to in any of paragraphs 2 to 4 of section 3.

CHAPTER IV

INTERPRETATIVE AND MISCELLANEOUS PROVISIONS

16. The measures introduced in this Act must not be interpreted as affecting the emblematic and toponymic elements of Québec's cultural heritage, in particular its religious cultural heritage, that testify to its history.

17. It is incumbent on the person exercising the highest administrative authority over the personnel members referred to in Chapters II and III to take the necessary measures to ensure compliance with the measures set out in those chapters. For that purpose, the person must designate an accommodation officer within the personnel.

The functions of the officer are to consist in advising the person and the personnel members of the body regarding accommodation matters, and making recommendations or giving opinions to assist them in dealing with any requests received.

18. The first guidelines established by the Minister in accordance with section 12 must be examined by the competent committee of the National Assembly within 60 days of their publication.

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

CHAPTER V**AMENDING PROVISIONS****EDUCATIONAL CHILDCARE ACT**

20. The Educational Childcare Act (chapter S-4.1.1) is amended by inserting the following section after section 90:

“90.1. In order to foster social cohesion and facilitate the integration of children without regard to social or ethnic origin or religious affiliation, subsidized childcare providers must ensure that

(1) children’s admission is not related to their learning a specific religious belief, dogma or practice;

(2) the objective of educational activities and communication is not to teach such a belief, dogma or practice; and

(3) a repeated activity or practice stemming from a religious precept is not authorized if its aim, through words or actions, is to teach children a specific religious belief, dogma or practice.

However, the purpose of the first paragraph is not to prevent

(1) a special cultural event linked to a celebration with a religious connotation or a celebration originating from a religious tradition;

(2) a diet based on a religious precept or a tradition;

(3) the establishment of a program of activities to reflect the diversity of cultural and religious realities; and

(4) participation in an activity whose theme is inspired by a custom.

The Minister may, by a directive to subsidized childcare providers and home childcare coordinating offices, prescribe special terms to govern the application and implementation of this section.”

21. Section 97 of this Act is amended by adding the following subparagraph at the end of the first paragraph:

“(9) refuses or neglects to comply with section 90.1 or a directive given by the Minister under that section.”

CHAPTER VI**FINAL PROVISION**

22. The provisions of this Act come into force on the date of assent, except sections 11, 13, 14, 20 and 21, which come into force on the date or dates to be set by the Government or not later than 1 July 2018.