



PROTECTEUR
DU CITOYEN

Listening • Rigour • Respect

SPECIAL REPORT BY THE QUÉBEC OMBUDSMAN (EXCERPTS)

**Student Financial Assistance: Give
better support to students by being
transparent and truly listening**

Québec City, March 3, 2022



SUMMARY

The public student financial assistance system, better known as AFE, is managed by the Direction générale de l'accessibilité financière aux études of the Ministère de l'Enseignement supérieur. The nature of the problems denounced in the complaints about AFE received by the Québec Ombudsman, as well as their recurrence, prompted it to conduct a special investigation on three aspects of the system's management:

- The decisional process, at the first level as well as at the review level (Bureau des recours);
- Handling of applications to have a major functional disability recognized;
- The process for analyzing files which may contain misrepresentation.

Overall, based on the findings from the Québec Ombudsman's investigation, the conclusion is that AFE must adopt practices in keeping with the *Act respecting administrative justice*, which provides for public services' obligations towards their client population in matters of procedural fairness.

Lack of transparency and genuine listening

Decision-making

Among other failings, not all rules on which AFE decisions are based are accessible. AFE does not substantiate its decisions enough to enable students to understand the underlying reasons and logic, whether at the first level or, albeit to a lesser extent, at the review level.

The analysis notes which agents must enter in every student file are often insufficient or out-and-out lacking. This complicates communication with students who want more information about the grounds for a decision or to follow-up on it.

The Québec Ombudsman draws attention to the Bureau des recours' lack of independence given its status as an internal component of AFE. Neither the AFE website nor the documentation available provides information about deadlines for applying for review of an AFE decision by the Bureau des recours. Furthermore, in case of dissatisfaction with a review decision, the complainant cannot seek an appeal with the Tribunal administratif du Québec (TAQ). The Québec Ombudsman is critical of this.

Recognition of a major functional disability (MFD)

An MFD may be a severe visual or hearing impairment or an organic or a motor impairment that significantly and persistently limits a student's ability to perform his or her academic activities. When AFE recognizes that a student has an MFD, the entire financial assistance is awarded as a bursary. Since 2016, AFE has intended to review the definition of and requirements for recognizing MFDs. However, this reform is still pending.

As it now stands, lack of clarity about the purpose of the measures provided for people recognized as having a MFD and lack of uniformity in applying eligibility requirements create disparities and unfairness in handling applications. For example, a student will not be recognized as having an MFD if a Bureau des recours physician attests that the person will likely be able to hold a job after their studies. In addition to being ignored at the first level, this requirement is not written anywhere and excludes people who submitted a legitimate medical certificate and who meet all eligibility requirements.

During the investigation, the Québec Ombudsman also witnessed confusion at both levels about the retroactivity period that applies when a person requests backdated recognition of their condition, leading to inconsistency in decision-making.

Handling potential misrepresentation

Students who misrepresent their situation to AFE are excluded from the Loans and Bursaries Program for two years.

In cases of suspected misrepresentation, AFE sends the student a document titled *Avis relatif à la suspension de votre dossier d'aide financière aux études*. This notice should explicitly specify that the receiver is suspected of misrepresentation so that they can present any useful information demonstrating their good will. The notice says nothing about what will happen if the student does not respond to the AFE's satisfaction.

Students who may have misrepresented their situation are not always able to provide their version in writing, and they are given no opportunity to talk to agents. The decision is made without the students' having had the chance to complete their file, even if the extra documents or information could have complemented or clarified the initial explanations.

The Québec Ombudsman's recommendations

The Québec Ombudsman made 22 recommendations to the Ministère de l'Enseignement supérieur, and one to the Minister.

Among other recommendations, the Department must:

- Enrich the content of its website and of the guide for students so that they are better informed about the rules of the system managed by AFE;
- Make sure that the AFE staff responsible for entering analysis notes in student files at both levels (initial and review) do so more thoroughly and in greater detail; and establish training workshops;
- Better document decisions by, among other things, specifying the elements taken into account, the applicable laws and policies, and the deadlines for applying for a review;
- Allow students who so request it, at either level, to speak with the agent who analyzed their file;

- Review and clarify the Bureau des recours' mandate by providing for the obligation to take into account the rules applied at either level and for the staff concerned to apply a standardized method;
- Make the Bureau des recours a departmental body distinct from AFE in order to ensure its independence, impartiality and credibility;
- Regarding recognition of MFDs, clarify the purpose of the measures provided for and standardize application of the relevant requirements;
- Review the retroactivity period that applies when students request backdated recognition of a MFD by making it possible to set the clock back to the date of the onset of the significant and persistent impairments indicated in the medical certificate;
- Improve the clarity of communications about misrepresentation to explicitly state the nature of the alleged fault and the consequence.

Lastly, the Québec Ombudsman recommends that the Minister of Higher Education propose the legislative amendments required to create recourse with TAQ for people dissatisfied with a Bureau des recours decision.

This report is intended as an expose of possible solutions regarding AFE, which must engage in and maintain genuine dialogue with students and those who interact with them to support them throughout their education.

We must bear in mind that students' dealings with AFE may be their first contact with public services. In addition to learning in the classroom, these young people must learn lessons that will serve them in good stead as they become citizens.



Listening • Rigour • Respect

Québec City Office
800, place D'Youville, 19^e étage
Québec (Québec) G1R 3P4
Phone: 418 643-2688

Montréal Office
1080, côte du Beaver Hall
10^e étage, bureau 1000
Montréal (Québec) H2Z 1S8
Phone: 514 873-2032

protecteurducitoyen.qc.ca
Toll-free: 1 800 463-5070
Fax: 1 866 902-7130
protecteur@protecteurducitoyen.qc.ca