

# The Ministère de l'Éducation, du Loisir et du Sport

The primary mission of the Ministère de l'Éducation, du Loisir et du Sport is to oversee the delivery of quality educational services in Québec. It is notably responsible for ensuring that citizens have access to the public education system, and the Department's activities incorporate preschool education, elementary and secondary education, vocational training, college education and university education and research.

Through partnerships with the actors involved, the Department is also mandated to promote the development of sports and leisure within a safe and healthy environment. It is subsequently responsible for inciting Québec citizens to adopt a physically active lifestyle.

The Department makes few public services available to citizens, the delivery of most of these falling within the purview of learning establishments. The primary service offered directly by the Department is student financial assistance.

## THE DEPARTMENT AND NETWORK

The *Act respecting the Ministère de l'Éducation* gives the Department a general mandate over the educational system while also defining its obligations vis-à-vis learning establishments. Administrative rules and applicable legislation differ based on the level of education. For example, the Department is responsible for diplomas at the secondary and college levels, and is notably the body to sign them at these two levels. It has no such responsibility, however, at the university level.

In another vein, as the main funding party and the entity responsible for public funding, the Department exerts a major influence, through administrative controls and directives, over the delivery of services by establishments.

Notwithstanding complaints regarding financial assistance for students, which are fully within the jurisdiction of the Québec Ombudsman, the majority of the other complaints submitted require a targeted review. Such an analysis makes it possible to ascertain whether the Department, in acting or failing to do so, has impinged on the rights of citizens, from the perspective of its organizational duty or the quality of the education it must ensure at all educational levels. The Québec Ombudsman has the necessary authority to take action if the established regulations and rights are not respected or adhered to.

### Complaints Reviewed by the Québec Ombudsman

Education (except for student financial assistance)	Complaints*	Complaint Grounds	Unsubstantiated Grounds	Substantiated Grounds
2006-2007	20	21	12	9

\* Excluding complaints whose processing was interrupted or which were referred

#### TYPE OF COMPLAINTS

In 2006-2007, the complaints that prompted the Québec Ombudsman to request corrective measures involved financial assistance for students, problems related to diplomas (specifically, the management of transcripts and diplomas), teacher qualification, residence problems in Québec and access to English-language schools.

Notably, no complaints were submitted regarding the Department's activities in the area of sports and leisure.

#### L'AIDE FINANCIÈRE AUX ÉTUDES

Aide financière aux études (AFE) was created in 1966 under the *Student Loans and Scholarships Act*, which was replaced by the *Act respecting financial assistance for students* in 1990. An amendment passed on December 19, 1997 transformed this legislation into the *Act respecting financial assistance for education expenses*.

Aide financière aux études has been an independent unit of the Ministère de l'Éducation, du Loisir et du Sport since April 8, 1997. It is responsible for managing its primary program, the *Loans and Bursaries Program*, which incorporates supplementary programs for meeting specific needs, among them the:

- Allowance for Special Needs Program;
- Deferred Payment Plan;
- Loan Remission Program.

#### A MORE RELIABLE COMPUTER SYSTEM

Over the past three years, Aide financière aux études has completed an overall upgrade of its computer system, Contact, as part of its efforts to support the reform of the AFE program. Management of the Loans and Bursaries Program was enhanced by the introduction of monthly assistance

payments, which have proven effective in helping students better administer their budget throughout the entire year.

The Québec Ombudsman's 2004-2005 and 2005-2006 reports mainly addressed the numerous problems experienced during the first two years following the system's implementation. The verifications, tests and trials of the Contact computer system conducted by Aide financière aux études, in conjunction with the complaints received in this regard by the Québec Ombudsman, played a role in the resolution of the problems identified. The actions of the Québec Ombudsman were welcomed by authorities from the Department, which continued to strive to correct the known system deficiencies. This resulted in major improvements during the course of this last year. The Québec Ombudsman acknowledges the Department's efforts to solve these problems, as well as its generally successful results.

### Complaints Reviewed by the Québec Ombudsman

Aide financière aux études	Complaints*	Complaint Grounds	Unsubstantiated Grounds	Substantiated Grounds
2006-2007	135	143	98	45

\* Excluding complaints whose processing was interrupted or which were referred

### TYPE OF COMPLAINTS

Complaints concerned the AFE's two main activity sectors, the granting of assistance and repayment procedures and policies. With regard to the former, students contacted the Québec Ombudsman mainly regarding the calculation method adopted and the amount subsequently granted. Processing times were also criticized. With regard to the eventual repayment of student loans, graduates contested the outstanding loan amounts and expressed dissatisfaction with repayment conditions.

### NOTEWORTHY IMPROVEMENTS

On November 2, 2000, under *A Public Administration Act*, Aide financière aux études officers explained their administrative management approach to the Committee on Public Administration. The Québec Ombudsman submitted a report to the Committee wherein it outlined

four problems concerning the *Loans and Bursaries Program* and asked for the implementation of measures to improve or correct the situations brought to its attention. These problems concerned:

1. Inappropriate procedures ensuing from the verification of student income with the Ministère du Revenu.
2. A lack of flexibility regarding the repayment of amounts due.
3. The AFE's failure to correct its errors.
4. The lack of credibility of the options for redress available to students.

### **What type of follow-up was done subsequent to the Québec Ombudsman's recommendations?**

This year, the Québec Ombudsman assessed the impact of the measures introduced by Aide financière aux études following the recommendations put forth previously. Following is a short recap of the respective problems, as well as follow-up of the changes made by Aide financière aux études and comments from the Québec Ombudsman. Generally speaking, the current situation can be considered positive.

#### **1. VERIFICATION OF THE INCOME OF STUDENTS WITH THE MINISTÈRE DU REVENU**

##### *Recap of the problem*

In order to determine the accuracy of the income declared by students, Aide financière aux études compared it with that reported on Québec income tax declarations. Whenever the AFE noted that the income declared to the Ministère du Revenu du Québec was higher than that used to calculate assistance amounts, it automatically issued a claim, considering that it had granted excess funds to the students in question.

Inversely, cases where the student's income was lower than that declared were ignored, and even though additional assistance could have been warranted, no follow-up was done. The AFE did not contact students to determine why there were such variances in the income amounts declared.

##### Québec Ombudsman's opinion:

The Québec Ombudsman felt that this procedure was inappropriate, and asked the AFE to provide an opportunity for students to justify any such variances before reaching a decision with a potential effect on a student's right to financial assistance. It also asked it to correct the assistance amounts originally granted in cases where data from the Ministère du Revenu du Québec was favourable to the student.

*Where are things at today?*

*Since the implementation of the Contact system, cases where a difference in income favours the Department are subject to a greater degree of flexibility, under the act and regulation. In fact, amounts up to \$1,000 are added to the final debt. Repayment of amounts of over \$1,000 constituting excess assistance can be spread out over more than one year, thereby taking the student's financial capacity into account.*

*When a variance favours the student and exceeds \$100, Aide financière aux études so notifies the student. It asks for an explanation of the variance, which can at times be due to a drop in earnings. Assistance amounts are then adjusted when and as necessary.*

Québec Ombudsman's opinion:

This measure has the added benefit of taking the student's financial capacity into consideration. The Québec Ombudsman remains alert regarding the effect of repayment of such amounts from assistance payments, to notably ensure that the educational success of students is not thwarted. One of the objectives of financial assistance, as stated by lawmakers, is to encourage students to continue their studies.

## 2. CONDITIONS FOR THE REPAYMENT OF AMOUNTS DUE

### Overpayments

*Recap of the problem*

The Québec Ombudsman felt that the lack of flexibility with regard to repayment due could hinder a beneficiary's studies. It recommended less rigid repayment conditions, and advocated spreading out payments while taking individual financial capacity into account.

*Where are things at today?*

*There are still cases where Aide financière aux études can inadvertently grant students amounts to which they are not entitled. This can occur when a student's circumstances change during the year in which the assistance was granted. If this change decreases the amount in question, assistance that has not yet been paid is cancelled or accordingly revised. However, if the assistance has already been paid in full, the AFE can, during or at the end of the year in question, seek repayment of all or a portion of the sum involved, by notably spreading out the amount in question. Whenever a debt exceeds \$1,000, the first \$1,000 is pushed back and included in the final amount to be repaid. Overpaid amounts can also be repaid in subsequent years if the total amount involved is significant or if a student has received all of the assistance to which he or she is entitled.*

Québec Ombudsman's opinion:

The Québec Ombudsman is satisfied with this method of spreading out repayments.

### Resuming studies

#### *Recap of the problem*

According to the rules then in force, a student who wished to resume studying had to have repaid at least 50% of his or her debt in order to be eligible for further financial assistance, in addition to reaching an agreement regarding repayment. Given the potential impact of this condition on a successful resumption of studies, the Québec Ombudsman recommended greater flexibility.

#### *Where are things at today?*

*With the Contact computer system, repayments due (50% of a debt) can be obtained directly from future assistance amounts. As per a request from the Québec Ombudsman, this information is now included in the Student Financial Assistance booklet. The Québec Ombudsman made this request after having observed that students were unaware of this rule, which could be critical to their decision to resume studying, a move that can involve leaving one's job or incurring significant expenses.*

Québec Ombudsman's opinion:

The Québec Ombudsman considers it critical that students and future students have access to all of the information regarding the *Loans and Bursaries Program* if they are to make sound decisions. It advocates regularly updating the information communicated on the Internet, in brochures and through other Aide financière aux études communication tools. It strongly urges the Department to continue producing and disseminating information in this regard.

### 3. AIDE FINANCIÈRE AUX ÉTUDES' ACCOUNTABILITY FOR ITS ERRORS

#### Financial assistance overpayments

#### *Recap of the problem*

Errors would sometimes occur when calculating financial assistance amounts, and students would receive funds to which they were not entitled. In such cases, Aide financière aux études would claim repayment of amounts overpaid. When students were responsible for such an error, they were held accountable and expected to repay all amounts claimed.

However, in the opinion of the Québec Ombudsman, when such an error was solely caused by the AFE and could not be easily discerned by the student involved, Aide financière aux études should have assumed full responsibility rather than opting to penalize the student.

*Where are things at today?*

*The situation has changed following a series of amendments to the Act respecting financial assistance for education expenses. Currently, if a student receives financial assistance in the form of a bursary, and this solely because of an administrative error he could not reasonably be expected to have any knowledge of, he or she is not bound to repay the amount to which he or she was not entitled. In November 2005, a committee was formed to reassess student requests regarding overpaid assistance or bursary amounts (AVT-BVT). AFE authorities confirmed to the Québec Ombudsman that all instances of assistance overpayments are carefully scrutinized by this committee to ensure that the student in question is treated equitably. The committee's decision can subsequently be appealed by communicating with the Bureau de révision of the Unité des droits de recours.*

Québec Ombudsman's opinion:

The Québec Ombudsman had asked that such a provision be included in the *Act respecting financial assistance for education expenses*, and is satisfied with the Department's response.

### Accountability

*Recap of the problem*

In a similar vein, the Québec Ombudsman felt that Aide financière aux études representatives and public employees should be responsible and accountable for the information communicated to students.

*Where are things at today?*

*Since February 2004, a cooperation agreement between the Department and the learning establishments includes a provision whereby except in instances of gross or intentional negligence, Aide financière aux études is accountable for any administrative errors made by any educational institution employees during the course of their duties.*

Québec Ombudsman's opinion:

The Québec Ombudsman considers this acknowledgement of accountability in the cooperation agreements an impressive step forward, and will stay alert to any action contrary to this principle of responsibility.

#### 4. THE CREDIBILITY OF THE OPTIONS FOR REDRESS AVAILABLE TO STUDENTS

##### *Recap of the problem*

The Québec Ombudsman favoured the introduction of accessible, credible and efficient avenues of recourse. Impartiality and independence were considered indispensable to ensuring credibility and efficiency. Not only must justice be done, but it must be seen to be done.

The Québec Ombudsman opined that the AFE's Bureau de révision did not adequately ensure the true right to a review. The head of the Bureau de révision, while appointed by the Minister, had no decision-making authority and reported directly to the head of the AFE. The same held true for the Bureau des plaintes, whose role was limited to forwarding complaints to the directorates involved.

##### *Where are things at today?*

*Aide financière aux études created the Unité des droits de recours, which includes the Bureau de révision, the Secrétariat au Comité d'examen des demandes dérogatoires and the Bureau des plaintes. The unit now reports to the General Secretary of the Ministère de l'Éducation, du Loisir et du Sport. In addition to processing individual student files, it can also recommend improvements with regard to Aide financière aux études and its management.*

Québec Ombudsman's opinion:

The Québec Ombudsman is satisfied with this measure, for it guarantees the right to a review under improved conditions.

#### THE EXAMINATION COMMITTEE FOR EXCEPTIONAL CASES

##### *Recap of the problem*

A student could submit a request to the Comité d'examen des demandes dérogatoires if he considered that his ability to continue studying was in jeopardy. He or she could also appeal to this committee if his or her circumstances were not addressed in an AFE program rule, if the maximum number of months of eligibility for financial assistance had been reached, or if he or she had no more borrowing capacity. The Québec Ombudsman deemed the response times of the committee, which sometimes stretched to several months, as too lengthy.



*Where are things at today?*

*According to Aide financière aux études, if a student's file is complete and submitted prior to the deadline on the meeting schedule, it will be reviewed by the Comité d'examen des demandes dérogatoires. The committee's scheduled meetings are published on the ExtraAFE site<sup>1</sup>. The Department's decisions are now rendered within two to three weeks, and students are notified by mail as well as through their online file. The Aide financière aux études Web site states that the Comité d'examen des demandes dérogatoires will usually review a file and submit a recommendation to the Ministère de l'Éducation, du Loisir et du Sport within 30 days. The Department is responsible for making the final decision.*

Québec Ombudsman's opinion:

The Québec Ombudsman appreciates that Aide financière aux études is striving to reduce the time periods necessary to process such requests, but wishes to nonetheless emphasize that students need a quick response to requests concerning special circumstances. It specifically notes that the education of students taking such a step is in jeopardy, and can be further harmed by the combination of insufficient financial resources and uncertainty.

The Québec Ombudsman is continuing to generally monitor the application of all of these measures.

The follow-up report on its recommendations prepared by the Québec Ombudsman for its appearance in front of the Committee on Public Administration attests to numerous improvements in several areas. Of the complaints reviewed by the Québec Ombudsman, the following is a testimony to the type of circumstance that can result when the AFE fails to assume responsibility for its mistakes.

#### **Aide financière aux études shoulders responsibility for its mistake**

On June 23, 2005, a student submitted a request for financial assistance. On August 26, surprised by the lack of response, she contacted the general information centre, from which she learned that her file included an error with regard to the number of credits in her program of studies. Her request indicated that she was enrolled for a total of 90 credits... in one single session! Such a scenario was literally impossible, as it would have equated completing a Bachelor's degree during one session. The standard number of credits per session was in fact 15.

1/ Restricted Web site for learning establishment partners.

The establishment confirmed the accurate information to the Aide financière aux études on three separate occasions. The student also attempted to have the number of credits in her file changed to reflect the actual situation. As time passed, and this despite acknowledgement of the problem, the student continued receiving monthly assistance amounts. Obviously, there was no reason for her to think that all was not well.

On May 29, 2006, a change in the student's situation prompted the *Contact* system to perform new calculations. Because the initial error had never been corrected, the system generated overpaid assistance for a total of \$9,494, and the AFE proceeded to generate a claim calling for repayment of this amount. The student, having tried to have this erroneous information corrected as best as she could, contested the claim, at which point the AFE referred her to the Comité d'examen des demandes dérogatoires. This committee, as previously mentioned, is mandated to focus on situations where ongoing studies are imperilled. Three scenarios in this regard can be evoked: the maximum number of months of eligibility for financial assistance has been reached, the student's debt limit has been reached, or yet still, the student is in a situation not covered by the rules of an AFE program. In this student's case, none of the above three situations applied. She contacted the Québec Ombudsman, who felt that she had been directed towards an inappropriate avenue of recourse.

In November 2005, a committee mandated to perform re-evaluations in such cases was created. Its role was to ascertain whether administrative errors resulting in the overpayment of a loan or financial assistance amount could or could not be contested. The Québec Ombudsman recommended to the student that she contact this new body, which rendered a decision in her favour on July 5, 2006. Aide financière aux études did not insist on repayment of the overpaid amount, but rather, converted it into a bursary.