

Departments

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 all citizens have access to the public education system. The department's activities incorporate preschool education, elementary and secondary education, vocational training, college education and university education and research. The department must also promote the development of leisure and sporting activities in a safe and healthy environment.

While educational services are delivered by learning establishments, the department offers certain services directly to citizens. In addition to financial assistance, the Ministère de l'Éducation also delivers diplomas, grants permits and certificates to educational system personnel, and provides general information to citizens through its regional directorates.

Type of complaints

Complaints reviewed by the Québec Ombudsman

Education						
Under investigation at April 1, 2007	Received	Investigated*				Under investigation at March 31, 2007
		Referred	Interrupted	Unsubstantiated	Substantiated	
60	117	-	54	30	12	61

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

The complaints reviewed in 2007-2008 mainly concern school adjustment, school organization, teacher qualification, the quality of educational services in both private and public institutions, as well as department issues and diploma equivalencies.

The Ministère de l'Éducation, du Loisir et du Sport's actions or failure to act were the issue in these cases. The situations brought to our attention revolved around the department's responsibility vis-à-vis institutions' compliance with the Education Act or established standards, or concerned decisions uniquely within its jurisdiction. The investigations conducted by the Québec Ombudsman indicate that very few of the complaints were substantiated, with the department notably acting within the confines of the law governing it.

Requests for intervention in the educational sector

Each year, over a hundred parents ask the Québec Ombudsman to intervene in matters involving the school system, school boards or school management. The main problems brought to our attention by parents include authorities' failure to listen, communicate and take concerns into consideration. These complaints apply to regular school routines as well as those situations where children require specific support in the area of school adjustment. Ongoing dissatisfaction is obvious as regards the services delivered to children with learning difficulties or behavioural problems, with parents of the opinion that schools offer them little support in such circumstances.

Problems concerning school organization were also voiced, citing a lack of resources, the excessive cost of some services, school transportation activities, and the conditions governing certain decisions regarding the expulsion or suspension of students. The complaints received in 2007-2008 concerned various educational levels, namely primary (19% of complaints), secondary (13%) and college and university (33%).

The Québec Ombudsman handles such complaints by first ascertaining the degree to which it can intervene. Admittedly it can ask the department to ensure the application of a regulation or specify an orientation, but notes that the department cannot involve itself in issues that are the sole purview of school boards. The Québec Ombudsman, in applicable circumstances, thus refers parents to the agencies and recourses provided for under the Education Act.

Because of parents' ongoing dissatisfaction with these recourses over the years, the Québec Ombudsman feels that it is both relevant and important to apprise the Ministère de l'Éducation, du Loisir et du Sport of this situation.

Overview of the situation

The department's powers and obligations

The Ministère de l'Éducation, du Loisir et du Sport is ultimately accountable for the organization and quality of educational services in Québec. The department's empowering legislation grants the Minister powers and obligations for overseeing the application of the laws and policies under the department's responsibility.

Its quality commitments, stated in its Declaration of Services to the Public, solely concern services delivered directly to citizens and where the department is the sole

decision-maker. The department then cannot address issues where the necessary decisions fall within the purview of a body in the system. It must instead refer the citizen to the body in question.

As for the Québec Ombudsman, its jurisdiction only covers the department, and not the various agencies constituting the system. It does ensure, however, that citizens are not prejudiced by the actions or failure to act of the Ministère de l'Éducation, du Loisir et du Sport.

Lack impartial recourse in the school system

The school system offers various mechanisms for addressing requests and concerns raised by parents and students. Certain cases are resolved by the institution directly, notably when teachers and the citizens involved agree on a solution acceptable to both parties. The school principal may or may not be involved in such instances. Ideally, all problems and tensions should always be resolved in such a manner. When a problem persists, however, the school board concerned can be notified of the facts by its board of school trustees. The school board, taking on the dual roles of judge and defendant, then examines its own actions and decisions.

Moreover the last few years, a few schools have established a Bureau of complaints, an “ombudsman for students” or an internal committee to support students experiencing difficulties. This role is generally entrusted to a teacher or other actor on the school’s team, as a result of which, regardless of the degree of rigour applied, professionals are ultimately judged by colleagues.

The Commission scolaire de Montréal in 2007 created its own Ombudsman’s office, which has been active for the past few months.

Complaints regarding students with special needs are heard by an advisory committee specifically dedicated to this issue. Apart from these resources, which are all the responsibility of school boards, certain cases – albeit much fewer in number – are within the purview of the department or the courts of the Commission des droits de la personne et des droits de la jeunesse, in which case the responsible body will reach a decision vis-à-vis any lack of respect for fundamental rights or the organization’s mission.

In this manner, for most cases where citizens have a problem with any aspect of the educational environment, they must rely on varied recourses that are an integral part of this environment and offer no guarantee as to independence or impartiality. Year in and year out, the Québec Ombudsman receives around one hundred complaints concerning this structure and parents’ concerns with regard to its inherent failings.

The Fédération des comités de parents, in turn, condemns the lack of a neutral arbiter: parents do not feel that institutions and school boards take their preoccupations seriously and wish to rely on the presence of a neutral actor to decide someone’s case and render a decision.

In other respects, the Québec Ombudsman learned that the department was made aware, during the Forum sur la démocratie et la gouvernance des commissions scolaires, of the problems resulting from the lack of an impartial recourse mechanism for handling complaints in these institutions.

The department acknowledged this deficiency, adding that solutions should be sought out as part of the activities ensuing from this Forum.

2007-2008 recommendations

Recommendation :

- Given the school system's lack of impartial recourses for settling issues causing parent and student dissatisfaction ;
- Given the Fédération des comités de parents' statements to the Québec Ombudsman ;
- Given that the Québec Ombudsman receives over one hundred complaints regarding the school system each year.

THE QUÉBEC OMBUDSMAN RECOMMENDS :

That the Ministère de l'Éducation, du Loisir et du Sport determine the most appropriate conditions for providing the school system with a manner for handling complaints capable of ensuring the impartiality and credibility necessary to meet the needs of parents, students and institutions.

Comments from the department

Comments from Ministère de l'Éducation, du Loisir et des Sports, as provided by the Deputy Minister:

"The comments concerning Ministère de l'Éducation, du Loisir et du Sport contained in this report illustrate that our efforts in recent years, often in close cooperation with the Québec Ombudsman, have paid off and helped enhance the quality of the services we provide. However, we must keep up our efforts and pay special attention to the quality of the information we provide to our clientele (...).

The MELS has been made aware of the Québec Ombudsman's recommendation, and has issued the following statement:

"The meetings and work leading up to the Forum on School Board Democracy and Governance brought to light a number of different problems, including the lack of impartial recourse for complaints processing within school boards. This issue was also raised at the Forum on February 20 and 21, 2008. In the wake of the Forum, a number of possible solutions have been proposed and the department will analyze their legal and regulatory impact."

L'Aide financière aux études (Financial assistance)

L'Aide financière aux études is an independent entity within the Ministère de l'Éducation, du Loisir et du Sport which is responsible for managing the Loans and Bursaries Program, its primary program to which complementary programs are attached.

Type of complaints

Complaints reviewed by the Québec Ombudsman

Aide financière aux études						
Under investigation at April 1, 2007	Received	Investigated*				Under investigation at March 31, 2007
		Referred	Interrupted	Unsubstantiated	Substantiated	
58	198	2	32	153	23	34

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

The complaints reviewed this year mostly concern two of Aide financière aux études' activity sectors, namely the allocation of assistance (calculation and remittance of assistance) and the management of loans (overpayment of bursary amounts, loans in default, delayed reimbursements). The relatively low number of substantiated complaints indicates that requests for assistance are usually handled appropriately.

Allocation of financial assistance

The Québec Ombudsman checks to ensure that students have received the financial assistance to which they are entitled. It can also ask the department to make any necessary adjustments. Students contacted the Québec Ombudsman to complain about :

- The monthly distribution of the allocated assistance ;
- Claims concerning surplus assistance ;
- Confirmation of educational information ;
- Confirmation of financial resources ;
- Parents' financial contribution ;
- Problems related to calculations for the purchase of computer equipment ;
- Recognition of a major functional deficiency ;
- Verification of the rationale for claims.

Loan management

As regards loan management, students contacted the Québec Ombudsman to:

- Contest the payment terms established for the reimbursement of their student loan (loans in default);
- Contest the legal compensation applicable to income tax refunds; and,
- Contest the various legal procedures employed (putting in default, judgment imposing an attachment on salary).

Overview of the situation

The Québec Ombudsman notes that the Loans and Bursaries Program as well as the information produced by the department are at times difficult to understand. Despite the fact that the information is easily available (from persons in charge of financial assistance at learning establishments, on the department's Web site, and in forms, brochures and flyers), the Québec Ombudsman often finds itself having to provide students directly with information or additional details when asked to intervene with regard to the rules and conditions of the Loans and Bursaries Program.

Ombudsman follow-up and actions

In 2007-2008, we therefore paid particular attention to two specific issues:

Accuracy and rigour of information

In addition to general information on the Loans and Bursaries Program, the Québec Ombudsman is also concerned by the accuracy and exactness of the information involved when individual cases are handled. We received a certain number of complaints in this regard, and subsequently intervened with the Direction de l'Aide financière aux études to incite it to be more accurate when responding to students' queries regarding the handling of their files. Furthermore we asked the Direction de l'Aide financière aux études to provide us with more specific explanations of its decisions.

For example, the Québec Ombudsman stepped in with regard to a student who failed to understand the rationale for a claim that she had received surplus assistance.

Providing citizens with straight answers

A student received a letter from the Direction de l'Aide financière indicating that she had to repay surplus assistance – in the amount of \$3,000 – that had been paid to her in excess. Upon contacting the directorate for explanations regarding this claim, she was told that subsequent to verification with the Ministère du Revenu, a discrepancy between her declared and actual income had been noted. The student proceeded to file a complaint with the Québec Ombudsman.

As a result of the Québec Ombudsman's involvement, the Direction de l'Aide financière aux études re-examined the file and learned that the student had not been told the true reason for the claim. At our request, the Direction de l'Aide financière aux études provided the student with all of the relevant information regarding this overpayment of bursary amounts. It was only then that she learned that financial assistance had been granted to her for a period during which she was not considered a full-time student.

Possible recourse

Under the Act respecting financial assistance for education expenses, a student can ask that a decision concerning his or her eligibility for financial assistance or the amount of this assistance be reviewed. In November 2005, the Direction de l'Aide financière aux études established a new method of recourse, in the form of a re-evaluation committee whose role consisted in determining whether surplus assistance paid could have resulted from an administrative error that a student could not reasonably be expected to discover. Students who are not satisfied with the decision rendered by this committee can file an application for review.

The Québec Ombudsman notes that students are truly confused by the existence of these two entities, namely the Bureau de révision (for reviews) and the committee mandated to re-evaluate specific cases. In order to avoid unwarranted delays, the Direction de l'Aide financière aux études should provide, through its various communication channels, more accurate information on the two mechanisms. This would help improve the process by which files are handled.

Lastly, the Québec Ombudsman intervenes in situations where the department's actions, in spite of complying with the laws and standards in force, do not take the specific circumstances of individuals into account. Below is a specific case that reflects this fact.

A situation calling for good judgment

A citizen had a debt for surplus bursary amounts totalling \$416, which she was reimbursing through instalments of \$25 a month, subsequent to an agreement reached with the collection department. Her 2006 income tax refund, in the amount of \$151, was garnished.

A single mother of a 3-year old child, she is also unemployed. Given her precarious situation, she contacted her officer to ask that this situation be corrected, and failing to obtain an immediate decision, turned to the Québec Ombudsman.

Under the Act respecting the Ministère du Revenu, income tax refunds can be assigned to the payment of any debts citizens may have. However, subsequent to our intervention, the Aide financière aux études' collection department agreed to allow her to receive her income tax refund for humanitarian reasons. The citizen, moreover, will be able to continue repaying her debt as per the agreement originally entered into.

Comments from the department

Through its Deputy Minister, the Ministère de l'Éducation, du Loisir et du Sport commented on the possible confusion between the two avenues of recourse offered by Aide financière aux études, namely the Bureau de révision (for reviews) and the Comité de réexamen, a committee mandated to re-evaluate specific cases :

“Subsequent to the Québec Ombudsman’s observations, Aide financière aux études will again distribute information on the recourse mechanism and related conditions, and this to avoid any confusion with the recourse offered through the Bureau de révision.”