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## **Report by the Québec Ombudsman (summary)**

Handling of complaints within the education system:  
For a simple, quick, effective and impartial procedure

Québec city, October 31, 2017

# Summary

## Background

In 2008, the Ministère de l'Éducation et de l'Enseignement supérieur proposed amendments to the *Education Act* (the Act) by which each school board established a complaint examination procedure and appointed a Student Ombudsman. In so doing, the Department acted on the Québec Ombudsman's recommendation to establish recourse that enables parents and students to express their dissatisfaction with the education system.

All 70 school boards subject to the Act had complied with this obligation by 2010. Despite this, every year the Québec Ombudsman continues to receive some 200 complaints about school boards or their institutions, even though it has no direct jurisdiction regarding the education system. Some of the complaints concern the complaint processing mechanism itself. That is why, at the end of the two three-year terms of office of most Student Ombudsmen, **the Québec Ombudsman wished to take stock of the application of this recourse as well as of the role of the Student Ombudsman.**

## Intake and procedure

First, it is worth pointing out that the complaint examination procedure consists of a series of steps and players, four and sometimes five, before complainants gain access to the Student Ombudsman. This trajectory, as well as the long delays at each of these steps, makes the process unwieldy and has a dissuasive effect on complainants.

Because the Student Ombudsman acts late in the process, intervention generally occurs after repeated refusals, intractable positions and solutions that are more difficult to consider. In the Québec Ombudsman's opinion, **Student Ombudsmen must become the gateway to the complaint examination procedure within the education system**, notably so they can better play an advisory role as an independent form of recourse (Recommendation 1).

Even if they became first-level recourse, Student Ombudsmen could, if they felt that certain direct steps could foster settlement of a dispute, suggest that the complainant approach the staff member involved or the director of the section of the institution or school board concerned (Recommendation 2). At this stage, a deadline would be set. Once it expired, the complainant would proceed to the next phase (Recommendation 3).

Anyone who is dissatisfied with the Student Ombudsman's conclusions or follow-up by the school board should be able to seek **recourse with the Québec Ombudsman** (Recommendation 4), whose mandate would be extended accordingly. The Québec Ombudsman could also handle complaints from anyone who is dissatisfied with a review decision by the Council of Commissioners or the Executive Committee of a school board (Recommendation 13).

Most of the complaint examination procedures examined defined complainants as "students of the age of majority or if they are minors, their parents." Since the Act does not make this distinction, the Department must ensure that school boards **include all students, of the age of majority or not, in the definition of complainant** (Recommendation 5).

## Visibility and independence

To be effective, accessible and credible, the complaint examination mechanism and the Student Ombudsman must be known by students and parents, which is not the case right now. In its report, the Québec Ombudsman posits that **the Department, school boards and Student Ombudsmen alike must do more to abide by their obligations in matters of informing the public and accountability** (Recommendations 6, 7, 8 and 9).

The credibility of the Student Ombudsman hinges on his or her independence. Appointed by the Council of Commissioners to which they report, Student Ombudsmen are not school board employees. The purpose is to remove all administrative pressure that could compromise the impartial and most objective examination possible of the complaints submitted to them. However, the problem is that they are not perceived as such by parents and students (when they are aware of them at all), who see them instead as an extension of the school board. In the opinion of the Québec Ombudsman, **the independence of the Student Ombudsman must be established more clearly** in terms of principle and of his or her action (Recommendations 10 and 11).

## Mandate and scope of opinions

During the investigation, the Québec Ombudsman saw that Student Ombudsmen were not working with the same definition of admissible complaints and the powers stemming from their mandate. Some reject all complaints concerning labour relations, teacher competency or staff attitude. Others turn down complaints when they feel they cannot make a recommendation. In this regard, the Québec Ombudsman recommended that the applicable regulation require that **Student Ombudsmen explain each of their decisions**, in writing when so requested by the complainant (Recommendation 14). This would make it easier for the complainant to understand the decision and foster greater consistency by Student Ombudsmen when exercising their discretion in choosing the complaints they will or will not handle.

Once Student Ombudsmen have concluded their investigation, some of them feel they are not empowered to, where applicable, **render a decision which has a collective impact**. This is a misperception that must be corrected (Recommendation 15). The Québec Ombudsman also recommended that Student Ombudsmen be allowed to **act on their own initiative**, without having to wait for a complaint first, in situations in which it appears reasonable to do so (Recommendation 16).

Moreover, the Québec Ombudsman pinpointed substantial shortcomings in terms of Student Ombudsman training. In the performance of their duties, Student Ombudsmen work alone, with no opportunities to exchange views with their counterparts, and without assistance from a resource person or adviser with whom they could confer as needed. More than six years after the creation of the position of Student Ombudsman, it seems crucial to enrich the practice and better equip them by offering them **professional development** (Recommendation 17).

Lastly, depending on the trajectory of a complaint, the Council of Commissioners receives the opinion of the Student Ombudsman when the analysis is completed and decides as to follow-up. Currently, Student Ombudsmen are hard pressed to obtain information enabling them to verify whether their recommendations have indeed been implemented, and if so, how. The applicable regulation must be amended to facilitate follow-up on the recommendations made by Student Ombudsmen and render it more effective (Recommendations 18 and 19).

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Assemblée nationale  
Québec

Bureau de Québec  
525, boul. René-Lévesque Est  
Bureau 1.25  
Québec (Québec) G1R 5Y4  
Téléphone : **418 643-2688**

Bureau de Montréal  
1080, côte du Beaver Hall  
10<sup>e</sup> étage, bureau 1000  
Montréal (Québec) H2Z 1S8  
Téléphone : **514 873-2032**

Téléphone sans frais : **1 800 463-5070**

Télécopieur : **1 866 902-7130**

Courriel : [protecteur@protecteurducitoyen.qc.ca](mailto:protecteur@protecteurducitoyen.qc.ca)