



NATIONAL ASSEMBLY OF QUÉBEC

FIRST SESSION

FORTY-THIRD LEGISLATURE

Bill 397

**An Act to prevent and fight sexual violence
in educational institutions that provide
preschool education services, elementary
school instructional services or secondary
school instructional services in general or
vocational education, including adult
education services**

Introduction

**Introduced by
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Member for Mercier**

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EXPLANATORY NOTES

This bill provides that educational institutions that provide preschool education services, elementary school instructional services or secondary school instructional services in general or vocational education, including adult education services, must, within one year after the day on which this Act comes into force, adopt a policy to prevent and fight sexual violence. The bill specifies the procedure for developing, disseminating and reviewing the policy and requires institutions to report on its application in accordance with stated parameters.

The bill defines the sexual violence it seeks to fight and identifies the educational institutions to which it applies.

The bill also determines the elements the policy must set out or provide for, such as rules for student activities, safety measures, mandatory training, a complaint procedure and reception, referral, psychosocial and support services. The policy must, in addition, include a code of conduct specifying the rules with which a person who is in a teaching relationship with or a relationship of authority over a student must comply. The Minister may add to the elements required to be included in the policy, and is also authorized to determine, by regulation, the financial assistance that the Minister must pay to the educational institution for the implementation of the various measures.

Under the bill, the sexual violence-related services available within an educational institution must be grouped together or a person must be designated to be responsible for guiding persons toward available services and resources, and institutions may enter into agreements with other educational institutions and with external resources to offer services.

Lastly, the bill grants the Minister the power to impose oversight and monitoring measures and, if an educational institution fails to comply with one of its provisions, to cause the institution's obligations to be performed by a third person, at the institution's expense.

Bill 397

AN ACT TO PREVENT AND FIGHT SEXUAL VIOLENCE IN EDUCATIONAL INSTITUTIONS THAT PROVIDE PRESCHOOL EDUCATION SERVICES, ELEMENTARY SCHOOL INSTRUCTIONAL SERVICES OR SECONDARY SCHOOL INSTRUCTIONAL SERVICES IN GENERAL OR VOCATIONAL EDUCATION, INCLUDING ADULT EDUCATION SERVICES

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

GENERAL PROVISIONS

1. The purpose of this Act is to strengthen actions aimed at preventing and fighting sexual violence in educational institutions that provide preschool education services, elementary school instructional services or secondary school instructional services in general or vocational education, including adult education services, in order to help foster a healthy and safe living environment for students and personnel members. To that end, the Act provides in particular for the implementation of prevention, awareness-raising, accountability, support and assistance measures for those persons.

In this Act, the concept of sexual violence refers to any form of violence committed through sexual practices or by targeting sexuality, including sexual assault.

It also refers to any other misconduct, including that relating to sexual and gender diversity, in such forms as unwanted direct or indirect gestures, comments, behaviours or attitudes with sexual connotations, including by a technological means.

2. This Act applies to the following educational institutions:

(1) educational institutions that provide preschool education services, elementary school instructional services, or secondary school instructional services in general or vocational education governed by the Education Act (chapter I-13.3) or the Act respecting private education (chapter E-9.1);

(2) vocational training centres or adult education centres referred to in section 97 of the Education Act; and

(3) private educational institutions described in paragraphs 4 and 5 of section 1 of the Act respecting private education.

In addition, this Act applies to any other educational institution designated by the Minister.

3. Where it refers to an institution governed by the Act respecting private education, the expression “educational institution”, used in this Act as the subject of rights and obligations, designates the person operating the institution to which the provision concerned applies.

In the case of a body not endowed with legal personality, the provisions of this Act apply as if the body were endowed with legal personality; the obligation to comply with those provisions lies with the persons responsible for the administration of the body.

In the case of a partnership, the obligation lies with both the partnership and the partners.

CHAPTER II

POLICY

4. Every educational institution must establish a policy to prevent and fight all forms of sexual violence toward its students or personnel members.

The policy must take into account persons at greater risk of experiencing sexual violence, such as persons from sexual or gender minorities, cultural communities or Aboriginal communities, foreign students and persons with disabilities.

The policy must also be separate from the institution’s other policies. In addition to any elements the Minister may prescribe, it must set out or provide for at least the following:

(1) the roles and responsibilities of officers, personnel members, students and parents, if applicable, with regard to sexual violence;

(2) the implementation of prevention and awareness-raising measures to counter sexual violence, which must be adapted to the age of the students, including legal information and mandatory training activities for students;

(3) mandatory annual training activities for officers and personnel members;

(4) safety measures to counter sexual violence, including infrastructure adjustments to secure premises;

(5) rules for any activity, including an organized tour, organized by the institution, an officer, a personnel member or any other organization or association, whether the activity is held inside or outside the precincts of the institution;

(6) the measures the institution is to impose on third persons within the framework of its contractual relations;

(7) procedures for reporting incidents of sexual violence to the institution or for filing complaints with or disclosing information to the institution in connection with such incidents, including the possibility of doing so at any time;

(8) the follow-up that must be given to the complaints, reports and information received, and accommodation measures to protect the persons concerned and, if applicable, limit the impact on their schooling;

(9) the reception, referral, psychosocial and support services offered by specialized resources with sexual violence-related training;

(10) the actions that must be taken by the institution and by officers, personnel members, students and parents, if applicable, when incidents of sexual violence are brought to their attention;

(11) the response times for accommodation measures to be implemented under subparagraph 8, services to be offered under subparagraph 9 and actions to be taken under subparagraph 10, which may not exceed 7 days, and the time frame for processing complaints and reports, which may not exceed 90 days;

(12) measures to ensure the confidentiality of the complaints, reports and information received in connection with incidents of sexual violence;

(13) measures governing the communication to a person of the information necessary to ensure his or her safety but which may not include any means to compel a person to keep silent for the sole purpose of not damaging the institution's reputation;

(14) measures to provide protection against reprisals to the person who filed a complaint, reported an incident or disclosed information; and

(15) the penalties applicable for policy breaches, taking into account their nature, seriousness and repetitive pattern.

The policy must also include a code of conduct specifying the rules with which a person who is in a teaching relationship with or a relationship of authority over a student must comply.

If the institution provides educational or instructional services to students of full age, the code of conduct must include a framework aimed at avoiding any situation where an intimate relationship, such as an amorous or sexual relationship, could exist if such a situation might affect the objectivity and impartiality required in the teaching relationship or relationship of authority or might encourage an abuse of power or sexual violence.

5. The educational institution may communicate to a person the information necessary to ensure his or her safety or that of his or her child, if applicable.

6. The educational institution must, as it chooses, group all the available sexual violence-related services and resources together in a known and readily accessible place, or designate, from among its personnel members, a person to be responsible, as part of the performance of the person's work, for guiding persons toward available services and resources with respect to sexual violence.

7. The educational institution may enter into agreements with other educational institutions and with external resources to offer the services provided for in the policy.

8. The educational institution must establish a standing committee made up of officers, personnel members, students and parents, if applicable, to develop and review the policy and make sure it is followed.

The standing committee must, in addition, implement a process to ensure that students, personnel members and their respective associations and unions, if applicable, are consulted during the policy development or review process.

9. The educational institution's governing board must adopt the policy and any amendments to it. In the case of an educational institution governed by the Act respecting private education, that responsibility falls to the person referred to in section 3.

10. The policy must be sent to the Minister as soon as it is adopted or amended.

11. The educational institution must ensure that its policy is readily accessible and brought to the attention of each student or his or her parents, if applicable, at the beginning of each school year.

12. The educational institution must review its policy at least once every five years.

13. The Minister determines, by regulation, the terms and conditions for granting financial assistance to the educational institution to facilitate the implementation of the various measures provided for in its policy.

CHAPTER III

ACCOUNTABILITY

14. The educational institution must report on the application of its policy in its annual report or in any other document determined by the Minister. The report must set out, using the methodology determined by the Minister,

- (1) the prevention and awareness-raising measures implemented, including the training activities offered to students;
- (2) the training activities taken by officers and personnel members;
- (3) the safety measures implemented;
- (4) the number of complaints and reports received and the time frame in which they were processed;
- (5) the actions taken and the nature of the penalties applied;
- (6) the consultation process used in developing or amending the policy; and
- (7) any other element determined by the Minister.

15. The Minister may require that the educational institution provide any additional information the Minister considers necessary about its policy and may prescribe any other accountability measure.

16. The Minister must, not later than (*insert the date that is five years after the date of assent to this Act*), report to the Government on the implementation of this Act. The report is tabled in the National Assembly within the next 30 days or, if the Assembly is not sitting, within 30 days of resumption.

CHAPTER IV

OVERSIGHT AND MONITORING MEASURES

17. The Minister must publish, on the department's website or on any other medium the Minister determines, a list of the educational institutions that have adopted a policy.

18. The Minister may impose oversight and monitoring measures on any educational institution that fails to comply with any of its obligations under this Act.

19. If an educational institution fails to comply with its obligations under this Act, the Minister may, at the institution's expense, cause those obligations to be performed by a person the Minister designates.

The institution must collaborate with the person designated by the Minister.

A policy developed or amended pursuant to the first paragraph is deemed adopted in accordance with section 9 on the date determined by the Minister.

CHAPTER V

MISCELLANEOUS AND FINAL PROVISIONS

20. Every educational institution must adopt its policy within one year after the day on which this Act comes into force and implement it not later than nine months after it is sent to the Minister.

21. The minister responsible for education is responsible for the administration of this Act.

22. This Act comes into force on (*insert the date of assent to this Act*).