



AMENDMENTS TO THE ACT RESPECTING LABOUR STANDARDS

Introductory notes

March 2019

In response to pressure from unions and other community organizations, the previous Liberal government of Québec agreed to modernize the *Act respecting labour standards*. This imperfect update has both direct and indirect impacts on our members. Because of the way the Act is structured, some standards are effective immediately, but the application of others will depend on the results of bargaining talks. Most of the standards took effect on January 1, 2019.

This notice includes a section on the direct impacts, which we ask you to share with your members as per your methods and practices. Certain “indirect” impacts of the amendments are discussed in preparation for the next round of bargaining. When relevant, we also include a reminder of amendments that do not impact existing rights.

The *Act respecting labour standards* links the right to certain benefits to employment duration, which is referred to as “uninterrupted service.” Except in very rare cases, our member professors—whether they are part time, full time or hourly paid—start accumulating uninterrupted service within the meaning of the Act as soon as they are hired by the College.

Filing a grievance remains the recourse available to our members in the event of an employer’s non-compliance with the new provisions.

Family obligations

Definition

The new Act reflects the changing face of Québec families. The previous version of the Act defined the term “relative” as:

- Children, children of spouse, father, mother, sister, brother, and grandparents of the employee;

The definition of “relative” has now been expanded. According to the new Act:

- “Relative” includes—in addition to the employee’s spouse, the child, father, mother, brother, sister and grandparents of the employee or the employee’s spouse—those persons’ spouses, their children and their children’s spouses.

It also includes caregivers (as attested by a health care professional) and:

- a person having acted, or acting, as a foster family for the employee or the employee’s spouse;
- a child for whom the employee or the employee’s spouse has acted, or is acting, as a foster family;
- a tutor or curator of the employee or the employee’s spouse or a person under the tutorship or curatorship of the employee or the employee’s spouse;
- an incapable person having designated the employee or the employee’s spouse as mandatary; and
- a person for whom the employee receives caregiver support benefits from the government.

Leave for dependants or caregiver leave

Our collective agreement provides full-time professors with the option to take part-time leave to care for their dependent child (5-6.60). Furthermore, the collective agreement incorporates the Act's provisions on family obligations, with a few slight differences, in Article 5-9.06:

5-9.06 Leave for family reasons

A) A professor may take leave from work up to ten (10) days per year to fulfill obligations relating to the care, health or education of the employee's child or the child of the employee's spouse, or because of the state of health of the employee's spouse, father, mother, brother, sister or one of the employee's grandparents.

The professor must advise the College as soon as possible.

These days of absence shall be deducted from the annual bank of sick days, up to a maximum number of six (6) days, otherwise they are without pay. These days may be divided into half-days.

As this section of the Act is not exempt from the Act's binding force, access to family leave under our collective agreement has been automatically expanded to encompass the new definition of relatives described above.

Note that the Act expands access to other forms of leave for "family obligations" or for caregivers (5-9.06 b). For example, professors can take 16 weeks of leave without pay over a 12-month period to care for a dependant or act as a caregiver, as opposed to 12 in the previous version of the Act (Article 79.8, ALS). Under the new Act, the professor can also take 27 weeks (or up to 104 for a minor diagnosed with a terminal illness) over a 12-month period to care for a relative—other than their dependent child or a person for whom they act as a caregiver—owing to a serious and potentially life-threatening illness, attested by a medical certificate.

Furthermore, as explained below, the Act guarantees two paid sick days per year, which are non-cumulative and without cash surrender value. These days may be used for family obligation leave. Hourly paid professors are also entitled to this leave.

Bereavement leave

Professors can now take up to 104 weeks of leave owing to the death or disappearance of their minor child, regardless of the cause. The same leave can be used following the death of an adult child, spouse, mother or father by suicide.

Finally, it should be noted that professors have access to special leaves of absence (death, marriage, natural disaster, others) listed in Article 5-9.01 of the collective agreement. There are no provisions in the agreement excluding hourly paid professors from the application of this section.

Domestic or sexual violence

While other leave categories in the collective agreement may be used, directly or indirectly, to deal with the consequences of domestic violence, the Act now explicitly provides for 26 weeks of leave without pay within a 12-month period for professors who experience domestic or sexual violence. The professor must have at least three months of uninterrupted service at the College to be entitled to this leave.

Parental rights

The Act modifies the rights of employees when they have a child. These changes do not affect member professors; Article 5-6.05 guarantees all professors, including hourly paid professors, parental leave that exceeds that set out in the Act.

Sick leave

As mentioned above, an hourly paid professor employed by the College for three months or more is now entitled to a minimum of two paid sick days. This two-day bank is an annual maximum for all types of leave combined (illness and family obligations) and not two days per type of leave.

Schedule and right to refuse work

Given the disorganized administration of many Continuing Education offerings, the changes to the right to refuse work may have an impact on hourly paid professors. The Act expands the right to refuse work, which was previously limited to situations where the employee had worked more than 14 hours in a 24-hour period or 4 hours more than their regular schedule, to cases in which the schedule is received less than 5 days in advance. As there are no legal precedents to help us understand how this provision will apply to the relevant labour law principles, we encourage you to contact [your advisor¹] should such a situation arise.

Psychological and sexual harassment

A major modification to this category affects our collective agreement. Professors now have two years to report harassment, starting from the date of the last incident. This new time limit came into effect on June 12, 2018. The principles of statutory interpretation dictate that grievances exceeding their prescribed delays on June 12, 2018 under the previous time limits (grievances concerning harassment of which the last incident occurred more than 90 days prior to June 12, 2018) are still subject to those limits. Only grievances concerning harassment of which the latest incident occurred within the 90 days preceding June 12, 2018, or afterwards, are subject to the new time limits.

Policy

Employers are now required to adopt a policy to prevent and end psychological and sexual harassment. Most of our workplaces already have such policies in place but may decide to modify them—particularly if sexual harassment is not covered.

This provision also applies to unions that hire employees (such as an administrative assistant). The FNEEQ is currently working on a model policy for its unions as employers, as well as for relations between their members.

¹ To be adapted when sending to your members: change to “contact your union.”