



Association of Administrators of English Schools of Quebec

Association des administrateurs des écoles anglaises du Québec

Legal Assistance Policy

To Members

And

Local Management Associations

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Legal Assistance Policy

Preamble

The Association of Administrators of English Schools of Quebec ¹ (AAESQ) believes the public interest is best served through assuring the availability of high quality education for all and that knowledgeable, ethical and effective administrators ² are essential to achieving educational excellence.

The AAESQ recognizes that we live in a complex society, a society which increasingly attempts to resolve its problems through litigation. Furthermore, the members of the AAESQ hold positions of responsibility within society which make them particularly vulnerable to legal action. Consequently, the AAESQ has established a Legal Assistance Policy with access to a Legal Support Fund. The main purpose of the policy is to aid the administrator experiencing difficulty by helping to defray legal fees for active members of the “Local Management Association” (“L.M.A.”) of an English School Board ³ of the Province of Quebec and of the AAESQ who may become involved in legal proceedings related to their profession.

General Description of the Legal Support Fund

The amount established to make provision for the Legal Support Fund is 30,000\$ per year. However, the Executive Committee of the AAESQ, when reviewing the proposed budget for each fiscal year will consider the amount set aside for the Legal Support Fund and make the appropriate recommendations to the Board of Directors of the AAESQ.

The Legal Support Fund is to be used to provide financial support in connection with the “Local Committee ⁴ and Appeals Committee” ⁵ of the

¹ Regulation respecting certain conditions of employment of senior staff of school boards and of the Comité de gestion de la taxe scolaire de l'île de Montréal, (Regulation), C.T.203162, 2005-12-13, Article 1, Education Act (R.S.Q., c. I-13.3, s. 451)

² Regulation respecting certain conditions of employment of senior staff of school boards and of the Comité de gestion de la taxe scolaire de l'île de Montréal, (Regulation), C.T.203162, 2005-12-13, Article 1, Education Act (R.S.Q., c. I-13.3, s. 451)

³ Regulation respecting certain conditions of employment of senior staff of school boards and of the Comité de gestion de la taxe scolaire de l'île de Montréal, (Regulation), C.T.203162, 2005-12-13, Article 1, Education Act (R.S.Q., c. I-13.3, s. 451)

⁴ Regulation respecting certain conditions of employment of senior staff of school boards and of the Comité de gestion de la taxe scolaire de l'île de Montréal, (Regulation), C.T.203162, 2005-12-13, Articles 173 to 176 and / or 254 to 257, Education Act (R.S.Q., c. I-13.3, s. 451)

⁵ Regulation respecting certain conditions of employment of senior staff of school boards and of the Comité de gestion de la taxe scolaire de l'île de Montréal, (Regulation), C.T.203162, 2005-12-13, Articles 177 to 192 and / or 258 to 273, Education Act (R.S.Q., c. I-13.3, s. 451)

“Regulation”⁶ or legal proceedings that meet the criteria for assistance. The AAESQ will consider requests for legal assistance up to a maximum of 10,000\$ per event.

It should be noted that all costs of the “Appeals Committee” are exclusive of the 10,000\$ amount and will be borne by the AAESQ. The administrator will be eligible to receive assistance only once for each event. Should the fund be exhausted, no further assistance will be provided without the approval of the Board of Directors of the AAESQ.

In the event of the deposit of a “Notice of Disagreement” with the *Greffe*, that a retainer be deposited by the member with AAESQ and that it be held “In Trust” until such time that it is required.

In the event that there is a conclusion/decision and/or the “Notice of Disagreement” is withdrawn and that the AAESQ’s portion has not been exhausted, the member’s deposit of retainer would be returned in its entirety.

In the event that there is a conclusion/decision and/or the “Notice of Disagreement” is withdrawn and that the AAESQ’s portion has been exhausted, the member’s deposit of retainer would be applied. In such a situation the member would be responsible for all further costs until there is a conclusion/decision or the case is withdrawn.

In the event that the conclusion/decision is not in favour of the member all costs forthcoming must be borne by the member in the event that the total costs of the case exceed AAESQ’s portion as per the Legal Assistance Policy.

The expenses for the AAESQ appointee to the Appeals Committee in accordance with the Regulation are properly those of the AAESQ.

The Legal Support Fund does not automatically entitle a member to financial assistance.

The Executive Committee of the AAESQ will consider requests for assistance. In helping to make its decision the Executive Committee of the AAESQ may refer the request to the Board of Directors of the AAESQ for consideration and a recommendation as to whether or not to grant the request.

⁶ Regulation respecting certain conditions of employment of senior staff of school boards and of the Comité de gestion de la taxe scolaire de l’île de Montréal, (Regulation), C.T.203162, 2005-12-13, Education Act (R.S.Q., c. I-13.3, s. 451)

In the event that the Executive Committee refuses a request that has been brought to them for assistance, the “L.M.A.” concerned has the right to appeal to the Board of Directors of the AAESQ whose decision shall be binding.

Criteria for Assistance

1. The administrator requesting legal and / or financial assistance must be an active member in good standing of both the “L.M.A.” and the AAESQ.
2. Legal Support will be considered only for events directly related to a member’s normal duties as outlined in the person’s job description both at the school board ⁷ and / or in the Regulation. Excluded shall be cases involving management decisions whose defense, in the opinion of the Executive Committee of the AAESQ, is properly the responsibility of the School Board(s) by whom the administrator is employed. If the school board, in the opinion of the member, does not provide support then the member should contact the AAESQ for further advice
3. Any member who receives financial assistance must agree to reimburse the AAESQ for such assistance in the event the member recovers the cost of legal fees or receives an award of damages in the legal proceeding for which assistance is provided.
4. In order to obtain financial assistance from the Legal Support Fund in the case of a “disciplinary measure” or “dismissal” ⁸ or any other action for which there is provision as per the Local Committee and Appeals Committee of the Regulation, the administrator concerned must within the time limits specified, proceed according to the provisions of the Regulation.
5. At the same time the administrator concerned may seek legal consultation in order to obtain an opinion as to whether legal action is necessary. In this event, the administrator must advise his / her attorney in writing that there is provision as per the Local Committee and Appeals Committee of the Regulation and that action has been taken or will be taken within the specified “time limits”⁹. A copy of the communication must at the same time be sent to the AAESQ.

⁷ Regulation Montréal respecting certain conditions of employment of senior staff of school boards and of the Comité de gestion de la taxe scolaire de l’île de, (Regulation), C.T.203162, 2005-12-13, Article 1, Education Act (R.S.Q., c. I-13.3, s. 451)

⁸ Regulation Montréal respecting certain conditions of employment of senior staff of school boards and of the Comité de gestion de la taxe scolaire de l’île de, (Regulation), C.T.203162, 2005-12-13, Article 253, Education Act (R.S.Q., c. I-13.3, s. 451)

⁹ Regulation Montréal respecting certain conditions of employment of senior staff of school boards and of the Comité de gestion de la taxe scolaire de l’île de, (Regulation), C.T.203162, 2005-12-13, Articles 193 and / or 274, Education Act (R.S.Q., c. I-13.3, s. 451)

Procedures for Assistance

1. In the event that a member is of the opinion that legal assistance may be required, the member notifies his / her “L.M.A.” in writing that legal assistance may be necessary giving preliminary information.
2. In reviewing the situation to determine whether or not to support the request, the “L.M.A.” may seek the advice of the Executive Director and / or the Executive Assistant of the AAESQ. The “L.M.A.” supplies any additional information or comments it may have concerning the request for assistance. At the same time the “L.M.A.” must confirm that all the provisions of the Local Management Policy (“L.M.P.”)¹⁰ between the senior staff¹¹ and their school board have been followed.
3. If the “L.M.A.” can resolve the situation locally, then any costs incurred at this point will be assumed by the “L.M.A.”
4. If the “L.M.A.” cannot resolve the situation at the local level then the “L.M.A.” may, after ensuring that all the provisions of the “L.M.P.” between the senior staff and their school board have been respected, refer the matter to the AAESQ.
5. In the event that a “L.M.A.” refuses a member’s request the member may appeal directly to the Executive Committee of the AAESQ for assistance by writing to the Executive Director of the AAESQ.
6. The Executive Committee of the AAESQ shall review the information in relation to the Legal Assistance Policy criteria and procedures and shall determine the eligibility of the member for assistance.
7. If the request is accepted, the Executive Committee of the AAESQ shall notify the member and the “L.M.A.” and upon receipt of a properly completed authorized affidavit, and a copy of the legal counsel’s statement of account, the AAESQ will review the data and, if all criteria have been met, shall issue a cheque to the member for the appropriate amount not to exceed the specified maximum amount payable.

¹⁰ Regulation Montréal respecting certain conditions of employment of senior staff of school boards and of the Comité de gestion de la taxe scolaire de l’île de, (Regulation), C.T.203162, 2005-12-13, Articles 194 to 196 and / or 275 to 277, Education Act (R.S.Q., c. I-13.3, s. 451)

¹¹ Regulation Montréal respecting certain conditions of employment of senior staff of school boards and of the Comité de gestion de la taxe scolaire de l’île de, (Regulation), C.T.203162, 2005-12-13, Article 1, Education Act (R.S.Q., c. I-13.3, s. 451)

8. In the event that the request for legal and / or financial assistance is refused the Executive Committee of the AAESQ shall notify the member and the "L.M.A." The "L.M.A." may appeal a refusal for support by the Executive Committee of the AAESQ to the Board of Directors of the AAESQ whose decision shall be binding.
9. Whenever the AAESQ receives a request for legal and / or financial assistance the Executive Director of the AAESQ must receive at the same time a summary of the past interventions taken by the individual and / or the "L.M.A." The Executive Director will add any pertinent information that the AAESQ possesses and may also refer the problem to the appropriate committee and / or sub-committee for consideration and study.
10. The Executive Director and / or the Executive Assistant of the AAESQ will review requests to see that procedural details have been followed and that due process has been exercised. The purpose of their actions is to facilitate the finding of appropriate solutions and to advise the member and his / her "L.M.A." The Executive Director and / or the Executive Assistant of the AAESQ may consult with other individuals to help resolve the situation.
11. Requests for referral to the Local Committee and Appeals Committee of the Regulation are required in the appropriate form and within the time delay provided in the Regulation Respecting Certain Conditions Of Employment Of Senior Staff Of School Boards And Of The Comité de Gestion De L'île De Montréal (Regulation).
12. Falsification of the affidavit or submission of fraudulent statements shall render the application null and void. Moreover, if such falsification or fraudulence is discovered after payment is made, the AAESQ reserves the right to take whatever action is necessary to secure reimbursement.

**ASSOCIATION OF ADMINISTRATORS
OF ENGLISH SCHOOLS
OF QUEBEC**

Legal Support Fund Affidavit

This is to certify that in connection with my request for financial assistance from AAESQ for legal counsel fees:

_____ I do not have access to any other source of funds for legal counsel fees.

or

_____ I have access to funds for legal fees from:

_____ AAESQ "L.M.A." in the amount of \$_____

_____ Other (specify) in the amount of \$_____

I, _____, the undersigned, hereby agree to:

reimburse the AAESQ in the event that I recover the cost of legal fees or receive an award for damages.

reimburse the AAESQ in the event that the funds from other sources exceed my legal fees.

Date

Signature

Summary of the acronyms

Association of Administrators of English Schools of QuebecAAESQ

Association of Directors General of English School Boards of Quebec..... ADGESBQ

Local Management AssociationsLMA

Local Management Policy.....LMP

Ministère de l'Éducation, du Loisirs et du SportMELS

Quebec English School Boards AssociationQESBA

Regulation Montréal respecting certain conditions of employment of senior staff of school boards and of the Comité de gestion de la taxe scolaire de l'île de,(Regulation), C.T.203162, 2005-12-13, Article 1, Education Act (R.S.Q., c. I-13.3, s. 451).....REGULATION

Summary of the footnotes

¹ Regulation respecting certain conditions of employment of senior staff of school boards and of the Comité de gestion de la taxe scolaire de l'île de Montréal, (Regulation), C.T.203162, 2005-12-13, Article 1, Education Act (R.S.Q., c. I-13.3, s. 451)

² Regulation respecting certain conditions of employment of senior staff of school boards and of the Comité de gestion de la taxe scolaire de l'île de Montréal, (Regulation), C.T.203162, 2005-12-13, Article 1, Education Act (R.S.Q., c. I-13.3, s. 451)

³ Regulation respecting certain conditions of employment of senior staff of school boards and of the Comité de gestion de la taxe scolaire de l'île de Montréal, (Regulation), C.T.203162, 2005-12-13, Articles 194 to 196 4 and Articles 275 to 277 and Articles 254 to 273, Education Act (R.S.Q., c. I-13.3, s. 451)

⁴ Regulation respecting certain conditions of employment of senior staff of school boards and of the Comité de gestion de la taxe scolaire de l'île de Montréal, (Regulation), C.T.203162, 2005-12-13, Articles 173 to 192 and Articles 254 to 273, Education Act (R.S.Q., c. I-13.3, s. 451)

⁵ Regulation respecting certain conditions of employment of senior staff of school boards and of the Comité de gestion de la taxe scolaire de l'île de Montréal, (Regulation), C.T.203162, 2005-12-13, Education Act (R.S.Q., c. I-13.3, s. 451)

⁶ Regulation respecting certain conditions of employment of senior staff of school boards and of the Comité de gestion de la taxe scolaire de l'île de Montréal, (Regulation), C.T.203162, 2005-12-13, Articles 177 to 192 and Articles 258 to 273, Education Act (R.S.Q., c. I-13.3, s. 451)

⁷ Regulation Montréal respecting certain conditions of employment of senior staff of school boards and of the Comité de gestion de la taxe scolaire de l'île de, (Regulation), C.T.203162, 2005-12-13, Article 1, Education Act (R.S.Q., c. I-13.3, s. 451)

⁸ Regulation Montréal respecting certain conditions of employment of senior staff of school boards and of the Comité de gestion de la taxe scolaire de l'île de, (Regulation), C.T.203162, 2005-12-13, Articles 30 and 49, Education Act (R.S.Q., c. I-13.3, s. 451)

⁹ Regulation Montréal respecting certain conditions of employment of senior staff of school boards and of the Comité de gestion de la taxe scolaire de l'île de, (Regulation), C.T.203162, 2005-12-13, Article 171 and / or 253, Education Act (R.S.Q., c. I-13.3, s. 451)

¹⁰ Regulation Montréal respecting certain conditions of employment of senior staff of school boards and of the Comité de gestion de la taxe scolaire de l'île de, (Regulation), C.T.203162, 2005-12-13, Articles 194 or 275, Education Act (R.S.Q., c. I-13.3, s. 451)

¹¹ Regulation Montréal respecting certain conditions of employment of senior staff of school boards and of the Comité de gestion de la taxe scolaire de l'île de, (Regulation), C.T.203162, 2005-12-13, Article 1, Education Act (R.S.Q., c. I-13.3, s. 451)

¹² Regulation respecting certain conditions of employment of senior staff of school boards and of the Comité de gestion de la taxe scolaire de l'île de Montréal, (Regulation), C.T.203162, 2005-12-13, Articles 171 to 193, Education Act (R.S.Q., c. I-13.3, s. 451)