



NATIONAL ASSEMBLY

FIRST SESSION

FORTY-FIRST LEGISLATURE

Bill 151
(2017, chapter 32)

An Act to prevent and fight sexual violence in higher education institutions

Introduced 1 November 2017
Passed in principle 30 November 2017
Passed 8 December 2017
Assented to 8 December 2017

Québec Official Publisher
2017

EXPLANATORY NOTES

This Act provides that higher education institutions must, before 1 January 2019, adopt a policy to prevent and fight sexual violence. The Act specifies the procedure for developing, disseminating and reviewing the policy and requires institutions to report on its application in accordance with stated parameters.

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

The Act also determines the elements the policy must set out or provide for, such as rules for student social or welcoming 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 that a person who is in a teaching relationship with or a relationship of authority over a student must comply with if the person has an intimate relationship with the student. The Minister may add to the elements required to be included in the policy.

The Act furthermore provides that the sexual violence-related services available within an educational institution must be grouped together and that institutions may enter into agreements with other educational institutions and with external resources to offer services.

Lastly, the Act 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 151

AN ACT TO PREVENT AND FIGHT SEXUAL VIOLENCE IN HIGHER EDUCATION INSTITUTIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

GENERAL PROVISIONS

1. The purpose of this Act is to strengthen actions to prevent and fight sexual violence in higher education institutions and 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 individual assistance measures.

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) university-level educational institutions referred to in paragraphs 1 to 11 of section 1 of the Act respecting educational institutions at the university level (chapter E-14.1);

(2) colleges and regional colleges established by the General and Vocational Colleges Act (chapter C-29);

(3) educational institutions holding a permit for college-level educational services issued under the Act respecting private education (chapter E-9.1);

(4) the Institut de tourisme et d'hôtellerie du Québec established by the Act respecting the Institut de tourisme et d'hôtellerie du Québec (chapter I-13.02);

(5) the Institut de technologie agroalimentaire;

(6) the Conservatoire de musique et d'art dramatique du Québec established by the Act respecting the Conservatoire de musique et d'art dramatique du Québec (chapter C-62.1);

(7) the École nationale de police du Québec established by the Police Act (chapter P-13.1); and

(8) the École du Barreau established under the Act respecting the Barreau du Québec (chapter B-1).

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

CHAPTER II

POLICY

3. Every educational institution must establish a policy to prevent and fight sexual violence.

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 Native communities, foreign students and persons with disabilities.

The policy must 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, student association representatives and students with regard to sexual violence;

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

(3) mandatory annual training activities for officers, personnel members, representatives of their respective associations and unions, and student association representatives;

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

(5) rules for social or welcoming activities organized by the educational institution, a personnel member, an officer, a sports organization or a student association;

(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 educational 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 studies;

(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 educational institution and by officers, personnel members, student association representatives and students 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, 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 educational 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 that a person who is in a teaching relationship with or a relationship of authority over a student must comply with if the person has an intimate relationship, such as an amorous or sexual relationship, with the student.

The code of conduct must include a framework aimed at avoiding any situation where such relationships could coexist 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.

4. The educational institution may communicate to a person the information necessary to ensure his or her safety.

5. The educational institution must group all the available sexual violence-related services and resources together in a known and readily accessible place.

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

7. The educational institution must establish a standing committee made up of students, officers and personnel members, among others, 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, officers, personnel members and their respective associations and unions are consulted during the policy development or review process.

8. The educational institution's board of governors or equivalent board must adopt the policy and any amendments to it. If the educational institution does not have such a board, those responsibilities fall to the institution's most senior officer.

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

10. The educational institution must ensure that its policy is readily accessible and brought to the attention of each student at the time of his or her admission and at the beginning of each term.

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

CHAPTER III

ACCOUNTABILITY

12. 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 policy application 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, personnel members and student association representatives;

(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.

13. 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.

14. The Minister must, not later than 8 December 2022, 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

15. 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.

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

17. 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 educational 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 8 on the date determined by the Minister.

CHAPTER V

MISCELLANEOUS AND FINAL PROVISIONS

18. Every educational institution must adopt its policy before 1 January 2019 and implement it not later than 1 September 2019.

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

20. This Act comes into force on 8 December 2017.

