

La famille, une histoire de générations.

GUIDE TO PREVENTION AND TREATMENT OF INAPPROPRIATE ATTITUDES AND PRACTICES

For recognized childcare providers and home childcare coordinating offices

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BACKGROUND

On December 8, 2017, the Educational Childcare Act (CQLR, chapter S-4.1.1), hereinafter called the "Act", was amended by the Act to improve the educational quality and foster the harmonious development of educational childcare services (SQ, 2017, chapter 31). Further to this legislative change, the Ministère de la Famille (Ministère) is making this Guide available to inform childcare providers about the scope of section 5.2 of the Act, the general obligations arising from it and the treatment of complaints for inappropriate attitudes and practices.

This guide is addressed to all childcare providers. Its purpose is to define what the Ministère means by inappropriate attitudes and practices, promote prevention of such attitudes and such practices, and explain the interventions that may be made in such situations.

Section 5.2 of the Act does not apply to non-recognized persons who provide childcare services in a family setting. They must refer instead to their own guide, which mentions, in particular, the similar prohibition against applying inappropriate attitudes and practices, stipulated in section 6.2 of the Act. The Guide for non-recognized persons who provide childcare services in a family setting is available at the following address: <https://www.mfa.gouv.qc.ca/en/services-de-garde/legal-illegal-reconnu/services-de-garde-non-reconnus/Pages/pnr.aspx>.

The Act provides that a childcare centre, a day care centre or a recognized home childcare provider must ensure the health, safety and well-being of the children to whom they provide childcare¹.

For this purpose, it also prohibits a childcare provider from applying degrading or abusive measures, using exaggerated punishment, denigration or threats, or employing abusive or disparaging language that could humiliate or frighten the child or undermine the child's dignity or self-esteem². This Guide summarizes all of these behaviours under the expression "applying inappropriate attitudes or practices" regarding children received by a childcare provider. Nor may childcare providers tolerate such behaviour from their employees³.

¹ Section 5.2 of the Act, paragraph 1.

² Section 5.2 of the Act, paragraph 2.

³ *Idem*.

The Ministère's intervention to counter and penalize inappropriate attitudes and practices is part of its mission and is complementary to the mission of the Director of Youth Protection (DYP) and the police forces. For its implementation, the Ministère is inspired, in particular, by certain principles of the Convention on the Rights of the Child⁴, adopted by the United Nations.

Four guiding principles apply to the Convention on the Rights of the Child:

1. *Non-discrimination (art. 2) – The rights apply equally to each child;*
2. *The best interests of the child (art. 3) – In any decision or intervention concerning children, the best interests of the child shall be a primary consideration.*
3. *The right to life, survival and development (art. 6) – In addition to the right to life and its protection, the child must evolve in conditions conducive to his or her development.*
4. *Respect for the child's opinion – Children must have the opportunity to give their opinion, according to their abilities, on the questions that interest them and to be taken into consideration.*

In addition to offering quality educational childcare services, the childcare providers must offer the children they receive services that assure their health, safety and well-being, in particular.

⁴ *Convention on the Rights of the Child*, November 20, 1989, 1577 UNTC 3 (No. 27531).

1- LEGAL AND REGULATORY FRAMEWORK

The Guide refers to certain sections of the Act and the Educational Childcare Regulation (CQLR, chapter S-4.1.1, r. 2), hereinafter called the "Regulation", which are the following⁵ :

Educational Childcare Act

"**5.2.** Childcare providers must ensure the health, safety and well-being of the children to whom they provide childcare.

Among other things, childcare providers may not apply degrading or abusive measures, use exaggerated punishment, denigration or threats, or employ abusive or disparaging language that could humiliate or frighten a child or undermine the child's dignity or self-esteem. Nor may they tolerate such behaviour from their employees. "

"**28.** The Minister may suspend, revoke or refuse to renew a permit if

[...]

(5) the permit holder contravenes section 5.2;

[...]. "

"**113.2.** A childcare provider that contravenes section 5.2 is guilty of an offence and is liable to a fine of \$5,000 to \$75,000."

Educational Childcare Regulation

"**75.** The coordinating office may refuse to renew recognition or suspend or revoke the recognition of a home childcare provider if any of the following circumstances exist:

(1) the provider has committed or authorized, consented to or participated in the commission of an offence under any of sections 5.2, 53, 54, 58, 86 and 95 of the Act;

[...]"

⁵ This document has no official value. The texts presented are updated to February 1, 2018. To obtain an official updated version of the legislation and regulations, go to the LégisQuébec website at www.legisquebec.gouv.qc.ca. We also invite you to consult the Ministère's website at <https://www.mfa.gouv.qc.ca/en/ministere/ministere/lois-et-reglements/services-de-garde/Pages/index.aspx>.

2- DYP REPORTING SITUATIONS

Most of the time, the complaints concerning inappropriate attitudes and practices are addressed to the childcare providers themselves, the home childcare coordinating offices (CO) or the Ministère, which deal with them. However, certain situations may lead to a report to the DYP. Certain situations thus may both constitute inappropriate attitudes or practices on the part of the childcare providers, handled according to the Act or the Ministère, and constitute situations under the authority of the DYP.

It is up to the DYP to determine the handling of the reports received. In addition, the DYP may decide to enforce the Multi-sectoral Agreement concerning children who are victims of sexual abuse or physical ill-treatment, or whose physical health is threatened by the lack of appropriate care (Entente multisectorielle relative aux enfants victimes d'abus sexuels, de mauvais traitements physiques ou d'une absence de soins menaçant leur santé physique), hereinafter called the "Multi-sectoral Agreement".

The section below allows a better understanding of what the Multi-sectoral Agreement involves and what situations may lead to its enforcement.

The Multi-sectoral Agreement

This Agreement allows departments, institutions and partner bodies to act concertedly to ensure better protection of children who are victims of abuse and provide them with the necessary assistance.

In the childcare services governed by the Act, the Multi-sectoral Agreement applies when there is reasonable cause to believe:

- that a child has been a victim of sexual abuse, physical abuse or a lack of care threatening his or her physical health;
- that a crime has been committed against the child;
- that the child needs protection.

Since 2001, the Ministère has been one of the partners of the Multi-sectoral Agreement. This Agreement can be consulted at the following address: <https://www.mfa.gouv.qc.ca/fr/services-de-garde/cpe-garderies/sante-securite/entente-multisectorielle/Pages/index.aspx>.

It is up to the DYP to decide whether it is appropriate to apply the Multi-sectoral Agreement.

In cases of sexual abuse, it is exceptional not to apply the Multi-sectoral Agreement. In cases of physical abuse, it happens more frequently that the Agreement is not applied. A physical abuse report is made when one of these situations occurs:

- the child has marks;
- the child spontaneously verbalizes physical abuse and speaks about to different people, always using the same terms;
- the child has received a blow in the head or the face;

- one or more persons witnessed the abuse;
- the report is made by a healthcare professional.

Lack of care threatening a child's physical health occurs in most cases within the family and, on rare occasions, in childcare. To threaten a child's physical health, it is generally considered that the lack of care must have been perpetrated repeatedly during a long enough period to result in health problems.

For example:

- depriving a child of food for a long period;
- depriving a child of the necessary medications to maintain his or her health;
- neglecting to call for medical assistance for a child showing signs of illness that are cause for concern, such as loss of consciousness, or who has suffered a serious accident.

The obligation to report to the DYP

In cases of sexual abuse, physical abuse, lack of care, serious negligence or situations that could threaten the child's safety or development, the event must always be reported to the DYP. This applies both to childcare providers and to parents and citizens.

3- BEHAVIOURS CONSTITUTING INAPPROPRIATE ATTITUDES OR PRACTICES

What constitutes an inappropriate attitude or practice?

An inappropriate attitude or practice is behaviour that may consist of speech, actions or educational methods that may harm the health, safety or well-being of a child received in childcare.

EXAMPLES OF INAPPROPRIATE ATTITUDES AND PRACTICES

The following table presents examples of inappropriate attitudes and practices. It does not present exhaustively everything that may constitute an inappropriate attitude or practice prohibited under section 5.2 of the Act and does not seek to define the notions of severity, dangerousness, reasonableness, abuse, repetition, etc. In practice, each case is examined, placed in a context, presents special conditions and leads to certain interventions. The same example presented in the table may illustrate more than one type of inappropriate practice.

Behaviour	Clarification	Examples
Degrading measures	Acts, words or attitudes that constitute an attack on a person's well-being or psychological integrity.	<ul style="list-style-type: none"> • Humiliation • Ridicule • Leaving a child in a soiled diaper for a long period
Abusive measures	Inappropriate acts or omissions that harm the child's well-being or physical or psychological integrity	<ul style="list-style-type: none"> • Inflicting physical violence on a child⁶ • Tying up a child • Shutting a child alone in a room
Exaggerated punishments	Excessive and inappropriate intervention methods	<ul style="list-style-type: none"> • Obliging the child to face the wall • Making the child kneel • Isolating the child or excluding the child from activities as punishment • Restraining or tying the child in a highchair, a car seat or a stroller for disciplinary purposes or to replace surveillance by staff

⁶ Different situations require reporting to the DYP, such as bodily harm. However, the Ministère reserves the right to intervene and apply the appropriate penalties which may result, in particular, to the transmission of the case to the Director of Criminal and Penal Prosecutions for analysis, if the permit holder or a member of the permit holder's personnel neglects to apply section 5.2 of the Act. In such a case, the Ministère will intervene after the DYP's intervention. On this subject, see Section 3 of this document – DYP reporting situations

Behaviour	Clarification	Examples
Denigration	Actions, speech or attitudes that harm self-esteem or dignity	<ul style="list-style-type: none"> • Insulting the child, either alone or in front of other people • Labelling the child with hurtful nicknames • Denigrating a parent in front of his or her child • Mocking a child
Threats	Speech or actions used to sustain fear	<ul style="list-style-type: none"> • Threatening to break a child's toy • Threatening to take away a child's teddy bear, pacifier, stuffed toy, etc. • Threatening to hurt the child • Engaging in emotional blackmail
Using abusive language	Inappropriate language showing disrespect or in order to intimidate	<ul style="list-style-type: none"> • Cursing at or in front of a child • Quarrelling with other adults in front of a child
Other inappropriate attitudes and practices	Acts that affect the physical or psychological health, safety or well-being of children in a manner that is cause for concern	<ul style="list-style-type: none"> • Ignoring a child's food allergies • Depriving the child of food • Shouting or speaking loudly when addressing a child • Dressing a child inappropriately in cold weather • Neglecting to hydrate the child • Letting the child cry a long time without comforting him or her • Adopting an aggressive or impatient attitude toward the child • Frightening the child • Lacking supervision

4- PREVENTING INAPPROPRIATE ATTITUDES AND PRACTICES

While section 5.2 of the Act provides for the prohibition of certain specific behaviour on the part of childcare providers, it also obliges them to ensure the health, safety and well-being of the children to whom they provide services. In this sense, the childcare providers and the COs, like the Ministère, must be proactive to prevent inappropriate attitudes and practices.

The deployment of prevention mechanisms notably depends on the use of the existing prevention tools, their improvement, the creation of new prevention tools and the adoption of winning strategies, including:

- update of the rules for organization and delivery of services;
- development of a prevention policy;
- adoption of a code of ethics or guidelines;
- an offering of adequate training to staff, executives and directors;
- periodic reminders to staff and parents;
- coaching for staff in difficult situations or after risky behaviour;
- etc.

Regardless of the strategy and the tools chosen, the childcare providers and the COs must ensure they deploy sustainable and concrete means to prevent and control inappropriate attitudes and practices. The content of the tools and strategies should be known by the persons who interact with the children received.

5- INTERVENTIONS FOLLOWING BEHAVIOUR THAT MAY CONSTITUTE AN INAPPROPRIATE ATTITUDE OR PRACTICE

A person who wishes to report a situation where inappropriate attitudes or practices are applied or tolerated by a childcare provider may file a complaint.

Complaint concerning a childcare centre or a day care centre

A complaint may be filed directly with the childcare centre or the day care centre, which must see that the complaint is handled in accordance with its complaints procedure. The adoption of such a procedure is mandatory and it should be shared with the parents and the staff. A sample procedure is available at the following address:

<https://www.mfa.gouv.qc.ca/fr/publication/Documents/fiche-procedure-traitement-plaintes.pdf>.

A complaint may also be submitted to the Ministère. Three ways of communicating a complaint to the Ministère are offered:

- via the Internet, at the following address:
<https://www.mfa.gouv.qc.ca/fr/pour-nous-joindre/Pages/formulaire-deposer-plainte.aspx>
- by phone, at the following number: 1-855-336-8568
- by email, to the following address:
Bureau des plaintes et de l'amélioration de la qualité
Ministère de la Famille
600 Rue Fullum, 5th floor
Montréal, Québec H2K 4S7

Complaints received by the Ministère are handled in the manner provided for in the established procedure. To obtain more information concerning complaints or the Ministère's procedure, we invite you to visit the website at the following address:
<https://www.mfa.gouv.qc.ca/fr/pour-nous-joindre/Pages/deposer-plainte.aspx>.

After a preliminary analysis of the complaint, the Ministère determines whether it considers it necessary to report the situation to the DYP⁷. It also determines the type of processing that will be done at the Ministère, notably depending on the severity of the allegations and the relevance of the information gathered.

⁷ A report is made to the DYP when a situation of sexual abuse, mistreatment or lack of care is suspected and when the safety and development of the child could be compromised or threatened. See Section 3 of this document – DYP reporting situations

The Ministère, among other actions, may communicate with the childcare centre or the day care centre to inform it of the complaint and remind it of its obligations concerning inappropriate attitudes and practices. As in the handling of any complaint, the Ministère undertakes to respect the confidentiality of the complainant's identity. It asks the childcare centre or the day care centre to remedy the situation.

The Ministère may also decide to forward the complaint for investigation. After an investigation, the case may be sent to the Director of Criminal and Penal Prosecutions (DCPP).

Complaint that may be investigated

According to some criteria, notably the seriousness of the situation, complaints for inappropriate attitudes and practices applied or tolerated in childcare may be investigated by the Ministère. At the end of the investigation, the appropriate penalty may be applied, including sending the case to the DCPP for analysis.

Complaint concerning an HCP

A person who wishes to report an inappropriate attitude or practice applied or tolerated by an HCP must address the CO with authority over the HCP. It is up to the CO to handle complaints related to HCPs concerning the enforcement of the Act, including the provisions related to inappropriate attitudes and practices. The CO should also ensure that the HCPs know and comply with the Act and that the HCPs and the parents know its complaints policy.

A CO may visit the HCP in the context of handling the complaint. According to the provisions of section 86 of the Regulation, a CO may make this visit unannounced to verify the object and validity of the complaint. It must notify the HCP of the nature of the complaint at the time of its visit. It should be noted that this visit is not one of the three unannounced monitoring visits that a CO must make annually to each HCP.

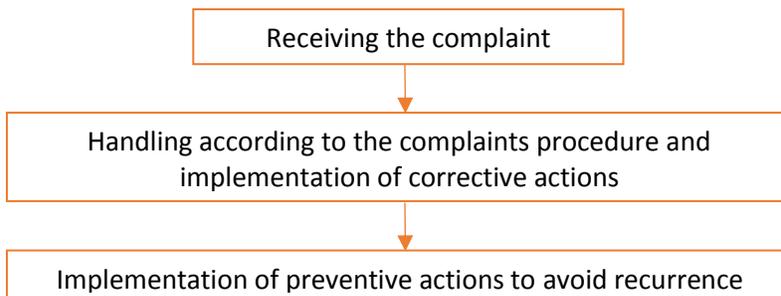
The visits and the follow-up of a complaint must be the subject of a report. Moreover, after the complaint is handled, the CO generally informs the complainant of the result of the handling of the complaint and, if applicable, the corrective actions required.

The Ministère could conduct an investigation after a situation reported by a CO, notably in a serious situation or when the CO has already handled complaints of the same nature at the same HCP. The COs thus are invited to consult the Ministère's Bureau des plaintes et de l'amélioration de la qualité when they consider they have enough information for the Ministère to intervene.

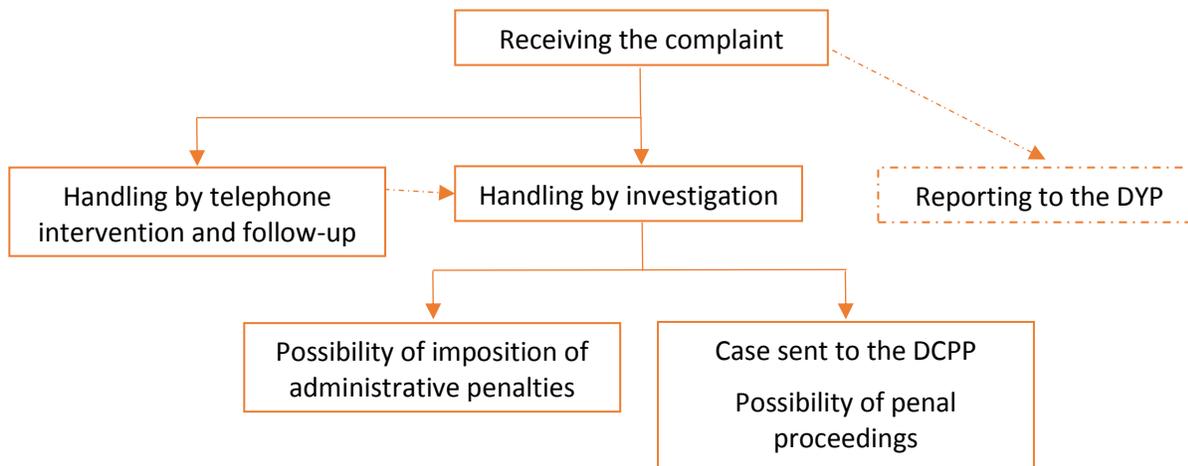
Complaint handling diagram

The following diagram presents the handling by the different stakeholders of complaints for inappropriate attitudes and practices.

Complaint received by a childcare centre, a day care centre or a CO



Complaint received by the Ministère



6- ROLES AND RESPONSIBILITIES

The Ministère, the childcare providers and the COs all have a role to play in the enforcement of the provisions of the act pertaining to inappropriate attitudes and practices.

The Ministère

The Ministère, among others, is responsible for promoting and monitoring the quality of educational childcare services offered by the childcare providers, notably to ensure the health, safety, development, educational success, well-being and equal opportunity of the children who receive these services.

The Ministère must make the Act known. It must ensure that the childcare providers and their staff apply it adequately.

The Ministère must handle the complaints addressed to it when a childcare centre or a day care centre is involved. It refers the complaints involving a HCP to the CO and supports the COs when they require its support.

The Ministère must decide on the handling of a complaint and apply a penalty, if applicable, notably suspension, revocation or refusal to renew the permit of the childcare provider.

Childcare providers

The childcare providers have primary responsibility for the quality of the services offered to the children they receive and must ensure their health, safety and well-being.

The childcare centres and the day care centres deal with the complaints they receive that concern them.

COs

The COs ensure the enforcement of the Act with the HCPs and must support them in the performance of their duties.

The COs must handle the complaints concerning the HCPs and ensure the appropriate corrective actions are deployed. They impose penalties, if applicable.

In case of a situation that may lead to an investigation following a complaint, the COs may consult the Ministère to check if there will be an investigation.

7- ADMINISTRATIVE PENALTIES AND PENAL PROCEEDINGS

The Act provides for two types of penalties when a childcare provider applies or tolerates an inappropriate attitude and practice: administrative penalties and penal proceedings. The application of one of the two types of penalties does not exclude the application of the other.

Administrative penalties for childcare centres and day care centres

The Ministère may send the childcare centre or the day care centre a notice of non-compliance, namely a notice enjoining the childcare provider to take a corrective action. This notice includes the actions to be taken to remedy the situation and sets a time limit for acting on them. The Ministère verifies implementation of the corrective actions.

The Ministère may decide to suspend, revoke or refuse to renew the permit of the childcare centre or the day care centre. The childcare centre or the day care centre is then given written notice of the grounds for this decision and has a time limit of at least ten days to submit its observations. The final decision is sent to the childcare centre or the day care centre in writing after the expiry of the deadline granted. The childcare centre or the day care centre may contest the decision to the Administrative Tribunal of Québec, within 60 days of notification of the decision.

Administrative penalties for HCPs

When the CO finds that the HCP has contravened section 5.2 of the Act, it gives the HCP written notice, indicating the corrective actions to take. The CO verifies implementation of the corrective actions.

If the CO finds that the HCP has not remedied the situation, it may send the HCP a notice of its intention to refuse to renew, suspend or revoke the recognition. The HCP then is given written notice of the grounds for this decision and generally has a period of fifteen days after receipt of this notice to submit its observations. The final decision of the board of directors of the CO is sent to the HCP in writing after the HCP has submitted its observations or after the fifteen-day period expires.

Penal proceedings

Following an investigation, the Ministère may send the case to the DCP. The DCP is the competent authority to decide whether or not to bring charges. As an indication, a childcare provider that contravenes section 5.2 of the Act is guilty of an offence and is liable to a fine of \$5,000 to \$75,000.

ADDITIONAL INFORMATION

The Ministère's educational program proposes a framework for making respect for the child's rights a reality in childcare environments. Information on the educational program is available at the following address.

<https://www.mfa.gouv.qc.ca/fr/services-de-garde/cpe-garderies/programme-educatif/programme-educatif/Pages/index.aspx>.

More information on the Act can be obtained by consulting the Ministère's website at the following address:

<https://www.mfa.gouv.qc.ca/en/ministere/ministere/Lois-et-reglements/services-de-garde/Pages/index.aspx>.

More information on reporting to the DYP can be found at the following address:

<http://sante.gouv.qc.ca/programmes-et-mesures-daide/faire-un-signalement-au-dpj/>.

For more information on inappropriate attitudes and practices or for any other questions, the Ministère's Service des renseignements can be contacted by phone at 1-855-336-8568.

