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EDITORIAL

Violence in school against students is a no!

Me Danilo Di Vincenzo, CIRC, Le Corre Lawyers

Who hasn't heard of the infamous "Ms. Chantal", a teacher who made headlines in the spring of 2023 for terrorizing her first-grade students with her aggression.

However, the legislator's intent to intervene in response to violence in schools is not recent. As early as 2012, schools were required to adopt and implement a plan to prevent bullying and violence[1]. Recently, *An Act to reinforce the protection of students, including with regard to acts of sexual violence* [2] was adopted.

This Act notably promotes the exchange of information between all educational organizations when a person working or regularly in contact with minor or disabled students, exhibits behavior that could reasonably raise concerns for their physical or psychological safety[3].

In this context, schools should not hesitate to severely punish any behavior involving violence towards students. For example, we refer you to the case *Alliance des professeurs de Montréal* et *Centre de services scolaire de Montréal*[4] in which a teacher with 44 years of seniority, contested a reprimand and the termination of his contract due to incidents involving violence towards his students.

The events that led to the written reprimand are as follows: the complainant did not intervene during a fight between two students in his class, and he expelled a student from his class by firmly holding his arm behind his back, pushing him, and striking him on the backside with his knee. Given the objective seriousness of these offenses, the arbitrator concluded that the school service center was justified in issuing a written reprimand to the complainant, even though it had not been preceded by a warning, as stipulated by the collective agreement.

The event that led to the termination of the employment contract is as follows: the complainant removed two students from his class using the "potato sack" technique and delivered a knee strike to one of the students' lower back. While acknowledging that he used this technique to remove the students from his class, the complainant denied delivering a knee strike to a student, which the arbitrator did not uphold. It should be noted that these events led to charges of assault: the employee was found guilty by the Quebec Court, but the Superior Court later overturned this judgment.

The arbitrator concluded that the school service center had demonstrated that this event constituted serious misconduct. He emphasized that the complainant seemed to trivialize the use of physical force and intimidation toward his students, regularly resorting to it. He wrote the following regarding violence in school environments [translation]:

> [364] In the school environment, any form of gratuitous violence is highly reprehensible;
>
> [365] It is common knowledge that schools must deal with a serious phenomenon of violence and bullying. In this context, teachers must be flawless;
>
> […] [367] Regarding gratuitous violence in schools, the standard required of teachers allows for no exceptions.

The arbitrator concluded that this misconduct justified the school service center bypassing the principle of progressive discipline and that the termination of the complainant's contract was justified, notably for the following reasons:

- The objective seriousness of the alleged facts, which occurred quickly following the written reprimand;
- The consequences for students who are particularly vulnerable and require reassuring presence in the classroom;
- The complainant's attitude, which involved denying the facts and the lack of genuine regrets or remorse;
- The complainant's many years of service.

With the strengthening of legislation aimed at addressing violence in school environments, educational institutions should impose strict sanctions for any behavior involving violence toward a student, whether physical or psychological, and whether it comes from a teacher, a professional, or support staff. In this regard, it is important to note that disciplinary measures aimed at sanctioning acts of violence will remain on an employee's record, despite the amnesty clauses found in collective agreements[5].

1. *Loi visant à lutter contre l'intimidation et la violence,* L.Q., 2012, c. 19
2. L.Q., 2024, c. 9 (Bill 47). See our Fall 2024 editorial, which presents the main provisions of this law
3. Bill 47, article 19 not in force
4. 2024EXPT-1925, 2024 QCTA 419, SAE 9775, Jean-Yves Brière
5. Article 97.1 of the *Act Respecting Labour Standards*, RLRQ, c. N-1.1; .L.Q., 2024, c. 9 (Bill 47), article 19 not in force

RECENT DECISIONS

1 No-show at a training session: salary cut justified even if they performed other duties during the pedagogical day

The union is challenging the employer's decision to cut the salary of teachers who failed to attend mandatory training on a pedagogical day. Instead, these teachers decided to go to their school to perform other tasks within the scope of their duties. The arbitrator first had to determine whether the salary cut constituted a disciplinary or administrative measure. He concluded that it was an administrative measure: although the teachers had provided a work performance, it was by no means the one expected by the employer. Consequently, this was not a case of faulty work performance, but rather of non-performance comparable to unjustified absence. In the absence of proof that the measure was abusive or discriminatory, and since the cut in salary was proportional to the length of training missed by the employees, the arbitrator concluded that the measure was justified. The grievance was dismissed.

Syndicat de l'enseignement de la Jamésie et de l'Abitibi-Témiscamingue and *Centre de services scolaire de l'Or-et-des-Bois*
2025EXPT-96, 2024 QCTA 531, Sébastien Beauregard

2 Snowstorm: head office employees were required to work remotely

The union challenges the decision to require employees at the headquarters to perform their duties remotely during a snowstorm. While schools were closed and the head office was closed to visitors, the employer required employees who could perform their work remotely to do so. The union argues that such a decision contradicts the employer's weather-related policy, which provides for the closure of establishments in cases of force majeure. According to the arbitrator, the employer could require these employees to work remotely. Indeed, the policy did not specifically refer to the headquarters, and remote work allowed employees to perform their duties without compromising their safety due to travel. Furthermore, even though other employees were exempt from performing their duties, the employer's decision was neither abusive nor discriminatory. The grievance was dismissed.

Syndicat des employées et employés professionnels-les et de bureau, section locale 578 and *Centre de services scolaire Marie-Victorin*
2025 EXPT-34, 2024 QCTA 517, Denis Nadeau

3 Obligation to consult the union: not an obligation to co-manage

The union is challenging the reorganization of a pedagogical unit under which four teachers were placed on surplus assignment. It alleges that this reorganization was carried out without prior consultation, thereby infringing the collective agreement, the local agreement and the *Education Act*. According to the Court, to be authentic, consultation must be carried out in good faith by the employer. The relevant information must be provided to the union in good time, the union must be given a reasonable period of time to analyze it, and the union must have had the opportunity to present its point of view before the decision was made. However, the proposed pedagogical changes were the subject of numerous discussions and meetings over the two years preceding their application. These consultation obligations do not imply co-management in the administration and pedagogical direction proposed by the school management. In the absence of agreement with the teachers' representatives who had the opportunity to express their views on the reorganization, the latter can be implemented. The grievance is dismissed.

Syndicat de l'enseignement des Deux Rives and *Centre de services scolaire des Découvreurs*
2025EXPT-93, 2024 QCTA 545, Robert L. Rivest

RECENT DECISIONS

4 Full-time remote work constituted an excessive burden

A career counselor based in Montreal is challenging the employer's refusal to accommodate her by allowing her to perform her duties remotely. She claims that she can work remotely and that her condition only prevents her from traveling. In the absence of any provision in the collective agreement, it is the employer who determines the location and mode of work. In this case, the employer's requirement to work from its premises was justified by the needs of its clientele, which faces several integration challenges, requiring in-person service. In this context, full-time remote work for an indefinite period was deemed an excessive burden. The Tribunal also found that the employee had not fully cooperated with the employer. Indeed, the employee, finding adapted transport services too restrictive, never informed the union or the employer that her request for the service had been accepted. Her lack of cooperation led to the failure of the accommodation process and justified the dismissal of her grievance.

Syndicat des professionnelles et professionnels en milieu scolaire du Nord-Ouest and *Commission scolaire Crie*
2025EXPT-246, 2025 QCTA 8, Éric-Jan Zubrzycki

5 Relationship difficulties and job dissatisfaction: nothing beyond the normal scope of work

The employer challenges the eligibility of a physical education teacher's claim for adjustment disorder with anxious mood. It maintains that the situations described by the employee were not outside the normal and usual scope of work. Although an arbitrator ruled that the employee had been the victim of psychological harassment, the Court is not bound by this decision, since determining whether an employment injury has occurred is a different matter altogether. Thus, the events alleged by the employee, taken together or individually, correspond more to relational difficulties and job dissatisfaction, and are coloured by the employee's subjective perception. According to the Court, the employee seems to interpret trivial behaviour in a negative light, reacts to employer decisions that fall within the employer's right of management, pays unfounded attention to others, and his apprehensions are based on his own perceptions. The contestation is upheld; the employee has not suffered an employment injury.

Cégep de Jonquière and *Girard*
2025 QCTAT 112, Frédéric Dubé

6 Unduly burdened with the cost of an employment injury caused by COVID-19

The employer challenges the refusal of its request for a cost transfer under section 326 of the LATMP. The employer argues that the employment injury of a documentation technician, an epicondylitis, resulted from rare, unusual, and exceptional circumstances, namely the COVID-19 pandemic. The state of emergency in Quebec forced the employer to implement urgent and exceptional measures, including remote work, a new practice for the employer. This led to a significant change in the employee's tasks, requiring her to work in a non-ergonomic workstation. According to the Tribunal, the pandemic played a decisive role in the occurrence of the employment injury. Furthermore, it was demonstrated that the employer had indeed fulfilled its obligation to maintain and control the work environment by providing a remote work guidelines document and publications on best practices. The contestation was upheld, and the cost of the benefits related to the work-related injury was transferred to the employers of all units.

Centre de services scolaire des Premières-Seigneuries
2025 QCTAT 74, Sophie Sénéchal