



# Verifications Concerning a Judicial Record

**INFORMATION DOCUMENT FOR APPLICANTS**

**FOR A TEACHING LICENCE AND TEACHING LICENCE HOLDERS**

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## Caveat

This document is primarily an information tool and is in no way intended to serve as a substitute for the current official laws and regulations to which it refers.

This document cannot provide answers to all questions relating to verifications of a judicial record. Its main objective is to provide information on the legislative provisions relating to such verifications for teaching licence holders and for applicants for a teaching licence or a renewal of a teaching licence.

The legislative provisions referred to in this document have been in effect since September 1, 2006.

## Introduction

Under the current legislation,<sup>1</sup> a person wishing to teach in Québec must hold a valid teaching licence. This is true for teaching at the preschool, elementary and secondary levels in general education, and in adult general education and vocational training, whether in a public or a private school. Each year the Minister of Education issues or renews numerous teaching licences.

Since September 1, 2006, teaching licence holders are required to declare to the Minister all changes in their judicial record. When a licence holder has a judicial record, their file must be analyzed by the Minister to determine how it may be relevant to the practice of the teaching profession, while respecting the person's basic rights.

All legislative provisions relating to the verification of a judicial record can be found in the *Education Act* and the *Act respecting private education*.

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<sup>1</sup> Section 23 of the [Education Act](#) and section 50 of the [Act respecting private education](#).

# PART 1 – GENERAL INFORMATION

## 1.1 Verification concerning a judicial record

Under the legislative provisions pertaining to judicial records, the Minister may verify, or have verified, in particular by a Québec police force, a declaration concerning a judicial record made by a teaching licence holder or by a person applying for a teaching licence or a renewal of a teaching licence. The Minister may also communicate and receive any information needed for the purposes of this verification. It is important to bear in mind that this information may be collected, used and stored only to ensure the safety and integrity of students.

## 1.2 Judicial records in question

The legislative provisions relating to a judicial record in the *Education Act* (CQLR c I-13.3) and the *Act respecting private education* (CQLR c E-9.1) cover:

- any conviction for a criminal or penal offence committed in Canada or elsewhere, unless a pardon has been obtained for that offence
- any charge still pending for a criminal or penal offence committed in Canada or elsewhere
- any court order subsisting against the person in Canada or elsewhere

The expression “unless a pardon has been obtained for that offence” refers to the concept of pardon used in section 18.2 of the *Charter of Human Rights and Freedoms* (CQLR, c. C-12). The term includes pardons granted by royal prerogative under the provisions of the *Criminal Code* and administrative rehabilitation obtained under the *Criminal Records Act* (R.S.C., 1985, c. C-47).

The rehabilitation of an exonerated person may be considered a pardon under the *Education Act* and the *Act respecting private education* after a period of one year following an unconditional discharge, or after a period of three years once the requirements of a conditional discharge have been met.

A person found guilty of an offence for which a pardon has been granted does not have to take this conviction into account in their declaration concerning a judicial record.

### 1.3 Obligations of teaching licence holders and of applicants for a teaching licence or a renewal of a teaching licence

#### For applicants for a teaching licence or a renewal of a teaching licence

The declaration concerning a judicial record is a requirement for a teaching licence or a renewal of a teaching licence in Québec. Therefore, applicants for either of the above must attach to their application a [declaration concerning a judicial record using a form](#) prepared by the Minister.

The Minister cannot follow up teaching licence applications made by individuals who refuse to file a declaration concerning a judicial record or to provide all the required information.

#### For teaching licence holders

Within 10 days of being informed of a change in their judicial record, teaching licence holders must declare this change to the Minister and to their employer,<sup>2</sup> whether or not they have previously made such a declaration.

The Minister can require that the teaching licence holder file a declaration concerning a judicial record if the Minister has reasonable grounds to believe that the holder has such a record.

At the employer's request, people who work with minor students or who are in regular contact with them must send their employer a declaration concerning a judicial record.

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<sup>2</sup> "Employer" here means the school service centres, school boards and private educational institutions that provide general education services in preschool, elementary school and secondary school as well as services in vocational training and adult education.

## 1.4 Obligations of the employer

The legal provisions pertaining to judicial records also set out obligations for the employer. More particularly, before hiring individuals who will work with minor students or be in regular contact with them, the employer must ensure that these candidates do not have a judicial record in connection with the functions that would normally be assigned to them. Moreover, if an employer has reasonable grounds to believe that a person who works with minor students, or is in regular contact with them, has a judicial record, the employer must ask the person to submit the associated declaration.

The employer is required to inform the Minister of each case in which it considers the judicial record of a teaching licence holder to be relevant to the functions that the latter exercises or may be called upon to exercise.

In analyzing a judicial record, the employer's task is to determine whether the record is relevant to the functions that the teaching licence holder exercises or may be called upon to exercise. The decision of the Minister, on the other hand, concerns the ways in which the judicial record may be relevant to the practice of the teaching profession. As a result, the respective decisions are not inherently linked. It is possible, therefore, to have a situation in which the Minister considers a judicial record to have no bearing on the practice of the teaching profession while the employer sees it as compromising the specific employment relationship.

The legal provisions relating to judicial records have goals that vary, depending on whether they relate to the Minister or to educational institutions. Declarations concerning a judicial record submitted to the Minister concern an individual's entitlement to practise the teaching profession whereas those sent to educational institutions pertain to the employability of the holder of the teaching licence. Therefore, it is sometimes necessary to submit more than one declaration concerning a judicial record simultaneously, or nearly at the same time.

## 1.5 Transmission of the declaration concerning a judicial record

The second paragraph of section 25.1 of the *Education Act* requires that all applicants for a teaching licence or a renewal of a teaching licence and all teaching licence holders declaring any changes relating to a judicial record must complete the [Declaration Concerning a Judicial Record](#) form established by the Minister. The form can also be found at [www.quebec.ca/becomingateacher](http://www.quebec.ca/becomingateacher).

Students who have successfully completed an accredited Québec teacher training program receive the Declaration Concerning a Judicial Record form from their university at the appropriate time. Once they have completed the form, they must submit it to their university in accordance with its terms and conditions. This declaration must be sent to the Ministère at the same time as the Application for a Québec Teaching Licence.

All other applicants for a teaching licence or a renewal of a teaching licence must send the declaration at the same time as their teaching licence application<sup>3</sup> to the following address:

**Direction de la titularisation du personnel scolaire**  
Ministère de l'Éducation  
1035, rue De La Chevrotière, **28<sup>e</sup> étage**  
Québec (Québec) G1R 5A5

All teaching licence holders must inform the Minister of any changes relating to their judicial record by sending their declaration to the above address.

Declarations of a judicial record are processed as confidential information by authorized personnel at the Direction de la titularisation et de la formation du personnel scolaire of the Ministère and by high-level authorities at the Ministère.

All unsigned or partially completed declarations concerning a judicial record will be considered incomplete and will be returned to the sender.

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<sup>3</sup> To apply for a teaching licence, please go to: <https://prod.education.gouv.qc.ca/formulairewebj/accueil.do?methode=accéder>.

## PART 2 – THE DECISION-MAKING PROCESS RELATING TO JUDICIAL RECORDS

### 2.1 When the applicant or holder does not have a judicial record

When a file does not indicate the existence of a judicial record, a teaching licence is issued or renewed if the applicant complies with the relevant provisions of the *Education Act* and the *Regulation respecting teaching licences* (CQLR, c. I-13.3, r. 2.01).

The current legal provisions relating to teaching licences can be found online at [www.québec.ca/becomingateacher](http://www.québec.ca/becomingateacher).

### 2.2 When the applicant or holder has a judicial record

The legislative provisions relating to judicial records do not provide a list of offences incompatible with the practice of the teaching profession. Instead, they give the Minister the power to determine whether a judicial record is relevant to the practice of the profession, without any automatic determination. In deciding whether there is a link with the functions and responsibilities inherent in the practice of the teaching profession, the Minister must consider the nature and seriousness of the judicial record, along with the time and circumstances of the offence.

When a file indicates the existence of a judicial record, the Minister can, if deemed appropriate, create a committee of experts tasked with assessing how the judicial record relates to the practice of the teaching profession. This committee is composed of people appointed by the Minister; its members should have a clear interest in the protection of minors as well as expertise and experience in the area. This committee plays an advisory role. While not bound by the committee's advice, the Minister always takes it into consideration.

When an applicant has a judicial record, the time required to process their application for a teaching licence may vary since analyzing the file involves additional steps and a decision must be made by the Minister.

## 2.3 Decisions with respect to a person who has a judicial record deemed not relevant to the practice of the teaching profession

The Minister issues or renews a teaching licence when the applicant meets the required conditions and does not have a judicial record relevant to the practice of the teaching profession.

The Minister informs the teaching licence holder that their judicial record is not relevant to the practice of the teaching profession. As a result, the licence remains valid.

## 2.4 Decisions with respect to a person who has a judicial record deemed relevant to the practice of the teaching profession

### Applicants requesting a teaching licence

- The Minister cannot issue a teaching licence if the applicant has been convicted of a criminal or penal offence committed in Canada or elsewhere if the offence, in the Minister's opinion, is relevant to the practice of the teaching profession, except when a pardon has been obtained for this offence.
- If an applicant for a teaching licence is subject to a pending charge for a criminal or penal offence or to a court order, whether committed in Canada or elsewhere, and if the Minister considers that this charge or court order is relevant to the practice of the teaching profession, the Minister defers the examination of the application.

### Teaching licence holders

The Minister can refuse to renew a teaching licence or suspend, revoke or maintain it, with conditions attached, when the holder:

- has been convicted of a criminal or penal offence committed in Canada or elsewhere which, in the Minister's opinion, is relevant to the practice of the teaching profession, unless a pardon has been obtained for that offence;
- fails to provide a declaration concerning their judicial record or makes false statements on such a declaration;
- fails to inform the Minister of a change in their judicial record; or
- admits to having committed a serious fault in the exercise of their functions, or an act derogatory to the honour or dignity of the teaching profession, or, in the opinion of the inquiry committee, has committed such a fault or act.

In addition, the Minister may revoke a teaching licence if the licence holder has failed to respect the conditions attached to it by the Minister.

## Inquiry committee

In the case of a teaching licence holder who is subject to a pending charge relating to a criminal or penal offence or a court order, if this charge or order is, in the Minister's opinion, relevant to the practice of the teaching profession, it is submitted to an inquiry committee. The role of this committee is to establish if the teacher has committed a serious fault in the exercise of their functions or an act derogatory to the honour or dignity of the profession. The inquiry committee transmits its decision, along with the reasons for it, to the Minister.

### Prior notice and communication of the Minister's decision

Before making a decision referred to in this section, the Minister must notify the applicant or the licence holder in writing and allow the applicant or licence holder at least 10 clear days, or, in the case of a revocation for non-compliance with the conditions attached to a teaching licence, at least 30 days, to submit observations.

The Minister must subsequently notify the applicant or the licence holder in writing of the decision, giving the reasons for it, and inform the applicant or licence holder of the right to contest the decision before the Administrative Tribunal of Québec within 60 days of receipt of the notice. A proceeding brought before the Tribunal suspends the execution of the Minister's decision, unless the Tribunal, on a motion heard and decided by preference, orders otherwise owing to the serious risk to the quality of educational services or the safety of the students.

If applicable, the Minister gives the educational institution that employs the person holding the teaching licence a written notice of the decision not to renew the licence, to suspend or revoke it or to attach conditions to it and includes the reasons for the decision.

## 2.5 New application for a teaching licence following a refusal

Any person whose application for a teaching licence has been refused because of their judicial record can submit a new application to the Minister if the person feels that a significant change to their situation could justify a different decision on the Minister's part, such as having obtained a pardon for the criminal or penal offence on which the refusal to issue the teaching licence was based.

To do this, the person must submit a new application for a teaching licence and include with it their declaration concerning a judicial record.

## 2.6 New application for a teaching licence following a revocation

If a teaching licence has been revoked because of a conviction which, in the Minister's opinion, is relevant to the practice of the teaching profession, or because of a serious fault committed in the exercise of the teacher's functions or an act derogatory to the honour or dignity of the teaching profession, the person who held the teaching licence may not submit a new application to the Minister for a decision unless:

- the person has obtained a pardon for the criminal or penal offence that was the reason for the revocation; or
- two years have passed since the date of the revocation and the person's behaviour has been above reproach during that time.

To do this, the person must submit a new application for a teaching licence in writing and include with it their declaration concerning a judicial record.

All new applications submitted to the Minister are subjected to thorough and objective analysis.

