

## **It is OK to Speak Up: Know Your Right in Workplace**

Employment relationships create a spectrum of responsibilities and legal rights that can result in exploitation and discrimination. For youths, asserting their rights can be challenging and appear impossible at times. This workshop is one of a series of “In The Know Too (2)” workshops that can be used to meet the expectation of Civics and the Socio-cultural Competence under the Act Respecting Labour Standards of Quebec. Students will be provided with an initial positive interaction from professionals in the justice sector. This workshop provides a concrete understanding of the legal rights of youth in the work environment and the assertion of youth rights in the context of complex power dynamics. Other objectives are adaptation of the materials to the level and background of each group of students. In addition to varying language levels students will also have had a variety of prior experiences, positive or negative both good and bad, with the justice system.

### **Topic 1: The Act respecting Labour Standards**

This law stipulates what is legally acceptable with regards to salaries, the length of the work-week, holidays, termination, etc. An employer can go beyond the protections given under the Act and offer better working conditions, but he can never offer less. Employers must respect the standards set out in the Act. If they do not, they can be fined or sued. The Act respecting Labour Standards is a law of “public order”, which means that statements in work contracts that give an employee less than what is in the Act are not valid.

#### **What is covered by the Act Respecting Labour Standards?**

##### **Minimum Age to Work**

According to the Act, young workers have the same rights as other employees in most Quebec workplaces. It is important to know that in most types of workplaces in Quebec the minimum age for working is 14 years old. Regulations specify higher minimum wages for certain types of work and workplaces. For example, working in the kitchen at a restaurant requires minimum 15 years of age. The minimum age requirement to work in laundries, shipping and receiving areas in grocery stores, automotive service garages, produce and meat preparation areas, and warehouses is 15 years of age.

*As long as Zoie is above the age of 14, she will be legally allowed to work in the record store.*

##### **Minimum Wage**

Minimum wage is the lowest hourly wage an employer can pay employees. Employers must pay most employees, including young workers, at least the minimum wage. The minimum wage rate for a certain job can depend on what the kind of work an employee is doing and the age of the employee. In Quebec, there is a general minimum wage rate that applies to most employees \$13.10 per hour. There is also a minimum wage that applies to employees who get tips (\$10.45 per hour). Students must be paid at least the minimum wage if they:

- work no more than 28 hours a week when school is in session,
- or work during a school holiday (for example, March break, Christmas break, summer holidays).

*As Zoie is a high school student and working during holiday time, her employer will have to pay her minimum wage.*

Exceptions to the minimum wage requirements:

- Participation in a high school “co-op” or work experience program authorized by the school board that operates your school
- College or university student performing work through your school program
- Training for certain occupations such as architecture, law, professional engineering, medicine, optometry
- A student employed to instruct or supervise children and a person employed as a student at a camp for children (like a camp counselor)

Holidays

- These are the public holidays under Quebec law:
- January 1 (New Year’s Day)
- Good Friday or Easter Monday (employer’s choice).
- The Monday before May 25 (Journée nationale des patriotes)
- July 1, or July 2 if the 1st falls on a Sunday (Canada Day)
- The first Monday in September (Labour Day)
- The second Monday of October (Thanksgiving)
- December 25 (Christmas)

In addition, the National Holiday Act makes June 24 (Saint-Jean-Baptiste) a special public holiday. Special rules apply. Most employees who qualify are entitled to take these days off work and be paid public holiday pay. They can agree in writing to work on the holiday and they will be paid:

- public holiday pay plus premium pay for the hours worked on the public holiday
- or
- Their regular rate for hours worked on the holiday, plus they will receive another day off (called a “substitute” holiday) with public holiday pay.

If the employee has earned a substitute day off with public holiday pay, the public holiday pay calculation is done with respect to the four work weeks before the work week in which the substitute day off falls.

### **The Right to Refuse to Work on Public Holidays**

Most employees of a retail business have the right to refuse to work on a public holiday. *As Zoie is an employee in a retail business (record store), she should have the right to refuse to work and her employer can not threaten to fire her for this refusal. Even if Zoie agrees to work on the public holiday in writing, she can still decline to work by giving the employer at least 48 hours’ notice before her work on the public holiday was scheduled to begin.*

*What if Zoie must work on a public holiday?*

If she must work on a public holiday, her employer must pay her the regular wages for all the hours you worked. In addition, the employer must:

- pay her an additional compensation,

- give her a paid replacement holiday (time off with pay).

If she is given a paid replacement holiday, she must take it during the three weeks before or after the public holiday. To be entitled to the additional compensation or paid time off, she must have worked on her usual work day before or after the public holiday, unless she has had her employer's prior permission or a valid reason to be absent (see example above).

***If she works part-time, the rules are the same!***

### **Special Rules for the June 24 Holiday "Quebec Fete Nationale"**

The rules for this holiday apply to almost all workers even if they are not covered by the Act Respecting Labour Standards. If June 24 falls on a Sunday, then the holiday is pushed to June 25 (except for workers who usually work on Sunday). For workers who must work on June 24 and their employers give them a paid replacement holiday, the day must be taken on your usual working day before or after June 24 (and not in the three weeks leading up to or after June 24, as is the case for other public holidays). Employers who do not give workers a paid replacement holiday must give them additional compensation. The compensation is equal to 1/20 of the wages earned during the four complete work weeks leading up to the week of June 24. For workers paid in full or in part by commission, the amount is 1/60 of the wages earned during the 12 previous weeks. Tips are included in the calculation but overtime pay is not. Included in the calculation are tips but not overtime pay.

### **Important!**

- For federal employees working in Quebec, their right to the June 24 holiday depends on their union contracts of employment contracts.
- Self-employed workers do not have the right to this holiday.

### **Sick days and Getting Paid:**

Getting paid for sick days is not mandatory; your employer can choose to grant you pay for sick days but is not obliged to under the law. You are entitled to take up to 10 sick days a year without pay. However, this means that your employer cannot fire you for not showing up due to your own illness, or the illness of a close relative such as a sibling, a parent, a child or a grandparent. You can take an extended leave of absence from work if you have been employed there for more than 3 months, or if you or someone in your close family has had a serious injury or illness. Taking a leave of absence ensures that the job is still available on your return.

### **Vacation time:**

Vacation is only given to full time employees and therefore most minors would not be eligible for vacation days. For first year employees, every full month of employment entitles you to a day of vacation at the end of the year. For employees who have worked between 1 and 5 years, 2 weeks of vacation should be provided. Finally, employees who have worked for longer than 5 years, then 3 weeks of vacation can be taken at the end of the year.

### **Overtime:**

For most employees, overtime compensation is due after 40 hours of work during the same work week. For every hour worked past this point an employee is entitled to being paid "time and a half", which means that you would get a 50% increase in pay for those extra hours. You also have the option of asking for paid leave for the equivalent of those hours + 50%. So, if you

worked 2 hours overtime and your salary is 10\$ an hour you would have the option of getting paid 30\$ for those 2 hours or getting a paid leave of 3 hours.

**Termination of contract:**

The employer is required to give you written notice of employment termination if you have worked for more than 3 consecutive months. If you have worked between 3 months and a year, your employer is required to give you a one week notice. If you worked between 1 year and 5 years, your employer must give you 2 weeks’ notice. If he fails to do this, your employer must pay you in full for the notice period that wasn’t respected.

**What is the proper age to sign a contract?**

Contracts are agreements between you and another person to give each other something, such as: leases for apartments, cell phone contracts, or gym memberships. Verbal agreements are also considered to be contracts. When you are 18years of age or older, you may contract with others. If you are under 18, you may also be able to contract with others, but you can usually only enter into a contract for something that benefits you or that is a necessity for life (for example, food, shelter, or medical services). Depending on your financial means and maturity this can include more, such as a cell-phone, or even transportation. For any of these “extras” you have the option of cancelling your contract afterwards, which is why many companies will not let you sign a contract if you are younger than 18years. .

**Can my boss make me give her or him my tips? Or split them with anyone else?**

No, your boss t cannot make you split the tips that you received. If for example, you work at a restaurant and the waitresses decide to give some of their tips to hostesses then that is your choice whether or not you join in, but no one can force you to give away any of the wages you earn. Tips are part of your wages.

**Topic 2: Employment Law - Terms & Concepts**

<b>Term</b>	<b>Definition</b>
<b>Contract</b>	A written agreement between a worker and his/her employer about the job and the expectations of the worker and the employer. They will usually state the work hours, pay, holiday time, etc.
<b>Discrimination</b>	the unjust or prejudicial treatment of different categories of people or things, especially on the grounds of race, age, or sex. Discrimination occurs when a person is unable to enjoy his or her human rights or other legal rights on an equal basis with others because of an unjustified distinction made in policy, law or treatment.
<b>Employee</b>	A worker
<b>Employment Insurance</b>	If you have been working for a certain amount of time and then your employment ends - you may qualify for government assistance until you find a new job.

<b>Employment Law</b>	The area of the law that deals with individual workers, their employers, and employment rights and responsibilities
<b>The Act respecting labour standards</b>	The <a href="#">Act respecting labour standards</a> of Quebec sets out the rules and conditions that employers observe and the minimum guarantees they must offer their employees.
<b>Employer</b>	The person (or organization/business) who hires a worker and to whom the worker must report
<b>Leave</b>	Allowed time away from work
<b>Ministry of Labour</b>	The government department which creates laws about employment, provides information about workers' rights and responsibilities, and helps solve conflicts between workers and their employers
<b>Minimum Wage</b>	The amount of money that the law says a worker must be paid for each hour worked; an employer cannot pay someone less than this amount.
<b>QC Human Rights Code</b>	A set of government laws which protect workers from discrimination by employers
<b>Overtime</b>	Work that is more than 44 hours a week
<b>Rest period</b>	Times during the day when the worker is allowed to take a break
<b>Termination (or dismissal)</b>	Being terminated means no longer working for the employer. The end of an employee's work with a company. The decision to terminate employment might be made by the worker, or it might be made by the employer. <b>Voluntary:</b> voluntary termination of employment is a decision made by the employee. Voluntary termination includes <a href="#">resignation</a> or retirement. <b>Involuntary:</b> termination is involuntary when an employee is <a href="#">terminated by the employer</a> .
<b>Union</b>	A workers' rights association that speaks to employers on behalf of employees. The area of the law that deals with this workers' rights association and employers is called "Labour Law".
<b>Wage</b>	Money that is paid or received for work
<b>Work permit</b>	An immigration document which allows a foreign national (someone who is not a Canadian citizen or permanent resident) to work in Canada for a stated period of time and under certain conditions. .

	<p>There are 2 types of work permits in Canada</p> <p>An employer-specific work permit lets you work in Canada according to the conditions on your work permit, such as:</p> <ul style="list-style-type: none"><li>how long you can work</li><li>the location where you can work</li></ul> <p>An open work permit lets you work for any employer in Canada, except for one that:</p> <ul style="list-style-type: none"><li>is listed as ineligible on the <a href="#">list of employers who have failed to comply with the conditions</a></li><li>or</li><li>regularly offers striptease, erotic dance, escort services or erotic massages</li></ul> <p>You can only get an openwork permit under specific situations.</p>
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### **Game time**

Let's find employment law terms below in this puzzle word :)

P	R	T	M	F	G	C	O	N	T	R	A	C	T	S	H	S	V	B	O
L	V	I	I	L	A	T	I	O	N	O	F	R	I	G	H	T	S	A	V
A	R	M	N	N	G	T	H	B	E	N	E	F	I	T	S	O	P	L	E
I	Q	S	I	Y	A	V	R	S	E	W	A	L	V	I	D	H	R	A	R
R	Y	X	M	I	B	S	A	G	R	H	J	S	H	J	J	U	O	N	T
E	R	H	U	W	O	R	K	P	E	R	M	I	T	R	G	H	H	C	I
Y	B	N	M	A	P	R	E	P	R	E	J	U	D	I	C	E	I	E	M
O	E	Q	W	N	A	L	M	D	M	R	A	H	D	G	R	H	B	O	E
L	T	Y	A	I	D	E	F	A	H	W	H	J	S	H	H	J	I	F	A
P	Y	H	G	A	E	M	P	L	O	Y	E	E	E	T	C	E	T	P	I
M	F	G	E	I	K	G	F	H	J	K	L	T	B	S	M	J	E	R	L
E	G	N	U	I	S	A	N	C	E	I	K	F	S	R	H	J	D	O	N
T	Y	S	D	C	S	G	S	G	H	Y	H	D	H	J	K	K	G	B	R
E	L	D	U	N	W	O	R	K	P	L	A	C	E	J	I	K	R	A	D
R	M	E	R	R	E	S	S	I	C	T	C	A	R	Y	N	O	C	B	A
M	P	L	K	D	E	R	E	S	T	T	I	O	N	A	K	D	U	I	M
I	N	D	G	D	J	D	T	G	H	J	G	B	F	P	G	H	N	L	A
N	Y	K	O	F	S	H	S	A	F	Y	D	O	T	S	U	C	D	I	G
A	J	U	D	G	E	D	A	R	A	S	T	S	M	N	O	I	N	U	E
T	S	T	E	R	C	O	W	O	R	K	E	R	F	R	G	Y	H	I	S
I	E	T	E	R	O	H	A	R	A	S	S	M	E	N	T	S	F	E	D
O	D	I	S	C	H	E	D	U	L	E	A	S	S	S	D	E	K	S	E
N	B	R	T	S	D	F	H	F	S	E	T	H	Y	U	H	I	K	E	X
I	E	Q	U	A	L	Y	T	L	I	T	N	A	D	N	E	V	A	E	L

**CONTRACT**  
**COWORKER**  
**MINIMUM**  
**WAGE PAY**  
**EMPLOYEE**  
**EMPLOYER**

**LAW**  
**LEAVE**  
**OVERTIME**  
**REST**  
**RIGHTS**  
**SCHEDULE**

**TERMINATION**  
**UNION**  
**WORK**  
**PERMIT**  
**WORKPLACE**  
**MINIMUM WAGE**

### Topic 3: Harassment

Workplace harassment can be described as the act of submitting a person to repeated attacks – verbal, behavioral or otherwise – with the intent to weaken or intimidate that person. These attacks may come in the form of criticisms, demands, offers or other forms of pressure. The law emphasizes that it is the repetition of such behavior that constitutes harassment, but also allows for the possibility that a single act, if serious enough in nature, can be considered harassment. It's a misconception that harassment in the workplace can only happen in the context of a hierarchical relationship – for example, between an employer and an employee. In fact, harassment in the workplace can be present in any number of work situations: it can happen between an employee and their superior; between a client and an employee or supplier; or between two employees in the same organization. The law makes it clear that the hierarchical

relationship between people involved in a harassment claim, if such a relationship exists, is not considered relevant to the alleged harassment.

### **Québec's Workplace Legislation**

The Act respecting labour standards, precisely defines the concept of psychological harassment, and there are four criteria that must be met in order for behavior to be considered harassment under the law.

To be considered harassment, a person's conduct must be:

1. Vexatious behavior (humiliating or offensive to any person who experiences it) and repeated (or very serious).
2. Hostile (aggressive or menacing) or unwanted conduct (meaning non-solicited or unwelcome. It is not necessary for a refusal or disagreement to be uttered by the victim in order for conduct to be considered harassment).
3. The conduct must attack a person's physical or psychological integrity, or their dignity.
4. The conduct must create a harmful workplace environment.

### **What is not considered workplace harassment?**

Any conduct that does not meet all four of the above criteria is not considered harassment under the law. For example, if an employee does not want to work with a colleague because they dislike the way the person works, and expresses this opinion in one way or another, this does not constitute harassment. This is because an individual may be particularly sensitive and simply refuse to accept any criticism or comment made by their colleagues. The person may feel offended – but the law says they haven't been harassed. Employers can also voice constructive criticism of an employee's work, as well as the work of suppliers or clients, without the criticism being considered harassment. Harassment must not be confused with the right of a business owner or manager to fulfill their duties.

### **Who is protected against harassment? Who is responsible when it happens?**

It's important to remember that Quebec's workplace legislation does not apply to all workers in the province. Self-employed workers and employees of federally-regulated organizations – including government offices, banks, and national media – are not protected by the legislation. These workers are covered by federal workplace protection laws. The Act Respecting Labour Standards is very clear about the rights and obligations of individuals to whom the law applies. Every worker has the right to enjoy a harassment-free workplace, which includes freedom from harassment of a moral or sexual nature. Every employer must take steps to prevent psychological harassment, and address every situation of harassment that is brought to their attention.

### **The Obligations of Employers**

The primary obligation of the an employer is to prevent all forms of discrimination in the workplace. This does not mean that the employer's organization will never be the site of discrimination, but simply that the employer must take all reasonable steps to prevent discrimination from occurring. The prevention of discrimination can be promoted in several ways. Specialized training for new employees, the appointment of an employee to bring any harassment concerns presented by colleagues to the attention of the organization, or the development of an anti-harassment policy as part of workplace regulations are all useful tactics for preventing discrimination.

The second obligation of employers is to take steps to resolve any claim of harassment that is brought to their attention. The appropriate steps to take in response to a claim of harassment can range from having a one-on-one discussion with the person who is being harassed, to taking disciplinary measures against the alleged harasser.

### **What are the available resources for the victim of workplace harassment?**

Under the law a person who feels that they have been, or is being harassed at work has several avenues of recourse available. They can:

1. Tell their employer about the situation.
2. Get in touch with the member of the organization who is tasked with handling harassment claims, if there is such a person.
3. Contact their union representative.
4. Attempt to remedy the situation by themselves by speaking with the person who they feel is harassing them.
5. Speak with a lawyer or legal counselor.
6. File a complaint against their employer or the person they are accusing of harassment.
7. If the worker who believes they have been the victim of harassment is protected under Québec's workplace legislation, they can prompt their employer to action by filing a complaint against them. This complaint is valid under the law, because the employer is obligated to take action in response to any report of harassment within their organization.
8. If the employee claiming harassment wants to file a complaint against their harasser, this is also possible under other legislation. For example, the victim could file a complaint with the police, or bring their alleged harasser to court.

### **How do I file a workplace harassment complaint?**

Under Québec law, a harassment complaint must be filed within 90 days of when the most recent alleged harassment occurred and must be filed with the Commission des normes, de l'équité, de la santé et de la sécurité du travail (CNESST). In order for the complaint to be considered by the Commission, it must be submitted:

1. By a person protected under Québec's workplace protection legislation;
2. Within a maximum of 90 days after the most recent harassment occurred;
3. Based on alleged behavior that meets the four criteria necessary to be considered harassment by the law.

What happens if the CNESST considers the complaint actionable?

**Mediation:** the CNESST will name an official mediator, who will work with the employee and the employer to establish a line of communication and work toward a solution, without involving the justice system. Either of the parties can choose to refuse mediation.

**Investigation:** If mediation is refused or fails to reach a solution, the CNESST will begin an investigation. The investigator can meet with the parties involved, interview witnesses or visit the officers of the employer.

### **Decision of whether or not the employee will be represented by the CNESST:**

Based on the findings of the investigation, the CNESST will decide whether or not they will represent the complainant before the "Tribunal administratif du travail". This is the tribunal that

will hear the complaint and decide if the worker has been the victim of harassment. The CNESST will handle the case on behalf of the alleged victim and provide the victim with a lawyer to represent them before the tribunal.

If the CNESST declines to represent the worker alleging harassment, the worker can request an appeal of the decision or provide their own representation before the tribunal.

**Arbitration:** With the approval of both parties, the tribunal can name an arbitrator who will work to find a solution that will satisfy both parties. At this stage, the defending and prosecuting parties can be assisted by their respective legal representatives.

**The hearing:** If arbitration fails, the tribunal will decide after the hearing if harassment took place, and if the employer fulfilled their legal duties to prevent harassment.

**The decision:** If harassment and inaction by the employer are proven during the hearing, the tribunal may decide to: take steps to ensure the harassment stops, return the employee to their job, mandate that the employer pay a cash sum to the employee to compensate for the harassment they suffered, or to punish the employer for their inaction.

Whether you are an employer or an employee, it's crucial that you react quickly when harassment is brought to your attention – the situation cannot be allowed to get worse. Take action!

### **Game on**

Let's form a group of two and conduct an interview with the following questions, which of these questions are not proper to ask?

1. How old are you?
2. Is this your first job?
3. Do you have a criminal record?
4. Do you have a driver's license?
5. What are your religious beliefs?
6. Are you married?
7. Where do you go to school?
8. What is your sexual orientation?
9. How much do you weigh?
10. Do you ever have to work on holidays?
11. Are you an immigrant?
12. Do you ever work more than 44 hours a week?
13. If so, do you get paid for this?
14. How do you feel about getting a tattoo? Do you have one?
15. How many vacation days do you get a year?
16. What do you like most about your job?
17. Do you practice your religion? How about your family?
18. What do you dislike most about your job?
19. Do you have any advice for a young worker?
20. Do you have an Instagram account?
21. How about if I add you on my tweeter and get back to you with some good news?

### **Discussion Scenarios for the Group:**

Ask students to make 3 groups and each discusses on Scenario:

**No 1:** Zoie just started her internship at a new office three weeks ago. There are only two other women who work in the office. She has been feeling uncomfortable about the comments her boss makes about her appearance. At first she thought he was just being nice. He would compliment her on what she was wearing, but in the last week he has been sending her emails which make her uncomfortable. She has been avoiding him, but yesterday he called her into his office for a meeting; as she left his office, her boss touched her backside. She has spoken to other women (her two co-worker) about what happened, and they say to “just let it go” or else she will be fired.

**No 2.** Eric and a few of his friends are students. They are also working at a clothing factory and feel like they are not getting a fair wage for the work they are doing. They plan to make a complaint to their union. When their employer heard this rumor, he began to threaten Eric and his coworkers by telling them he would cut their shift hours or fire them if they made their complaints public. When Eric got to work on Monday there was a letter waiting for him, it says that the company no longer needs his services.

**No3:** Jérôme recently applied for a summer job working as a receptionist at the hair salon. After he sent in his job application the employer requested his photograph. At the interview the employer asked a number of questions which Jerome considered that he thought were private. He asked him how old he was, whether he had a criminal record, whether he is interested in dating other guys and what does he think about wearing makeup? Although he answered the questions but felt a bit strange about this afterwards.