

EMPLOYMENT LAW & & LABOUR STANDARDS Tutor Manual





Yamaska Literacy Council



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<u>Wills</u>	Health Law	Employment Law & Labour Standards
Tutor Manual Student Manual	Tutor Manual Student Manual	Student Manual

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YAMASKA LITERACY COUNCIL

MISSION STATEMENT

The Yamaska Literacy Council is a not-for-profit, Laubach-affiliated English language literacy organization, composed of trained volunteer tutors, students and community members serving the western section of the Eastern Townships School Board.

The Council is dedicated to helping adults and youth improve literacy, numeracy and other life skills, emphasizing one-on-one innovative teaching methods. The Council addresses prevention by offering family literacy programs in partnership with local groups and schools.

A program promoting respect for the individual, a passion for learning, teamwork, flexibility and quality standards is key to success.

Outreach and service to individuals and families in cooperation with other agencies and organizations at community, provincial and national levels, promotes a literate society.

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Introduction

To the Tutor:

This manual should be used conjointly with the *Health Law Student Manual*. It includes a discussion section listing questions you might want to raise with your student. There is also a Resource and Links section to direct you to sites that offer more detailed information at a higher reading level, and referral services.

The purpose of this manual is to provide a tool that literacy tutors can use to help students better understand some basic legal concepts. *The information contained in this manual is intended for general information purposes only. Students should consult a legal professional if they need advice regarding a specific question or issue.*

Background

As individuals, we must sometimes navigate our way through legal issues relating to our participation in society, work, and family life. Understanding that we have certain rights means that we are better equipped to make choices that will have a positive impact/result. Finding legal information, and then understanding the legal language can prove to be a challenge for many individuals.

For individuals with weak literacy skills the situation is magnified.

Individuals with weak literacy skills often lack the resources, the skills and the confidence to seek out legal information that will help them exercise their rights.

Adults with weak literacy skills who need legal information are faced with several barriers to access:

- 1. having the necessary skills to search for and locate the information, and then
- 2. decoding and understanding the information.

Without this information, individuals are often prevented from making informed decisions about issues that affect their lives.

The purpose of this manual is to provide a tool that literacy tutors can use to help students better understand some basic legal concepts.

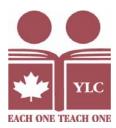
As a result, individuals with weak literacy skills will have increased access to legal information, thereby helping them make informed decisions about issues affecting their lives, and contributing to their independent participation in society.

		Vocabulary [Student Manual, page 1]
Abusive	ă -byoo -siv	To be insulting, to treat someone or something poorly.
Benefits	ben -ĕ-fitz	A payment made under a private or government program.
Collective agreement	kŏ- lek -tiv ă -gree -ment	A work contract that covers people in a group working for the same employer.
Confidential	kon-fi- den -shăl	To be kept secret.
Consecutive	kŏn- sek -yŭ-tiv	Following one after the other, with no interruption.
Contract	kŏn-trakt	An agreement between two people or companies where each person or company agrees to do something.
Deduct	di- dukt	To remove from, to make smaller by some amount.
Dismissal	dis- mis -ul	Being fired from your job.
Employee	em- ploi -ee	Someone who works for an employer and is paid a salary.
Environment	en-vır-ŏn-mĕnt	A certain setting, such as where you work, or your home.
Fatal	fay -tăl	Causing death or destruction.
Good cause	guud kawz	Good reason to dismiss or fire someone from a job.
Harassment	hă- ras -ment	On-going attacks and criticism causing worry and distress.
Hostile	hos-tĭl	Unfriendly.
Humiliating	hyoo-mil-i-ayt-ing	Shameful or embarrassing.
Integrity	in -teg -ri-tee	Quality of being whole or complete, in one piece, in perfect condition.
Maintain	mayn- tayn	To keep up, to keep in good condition.
Mediator	mee-di-ay-tor	A person who helps two people reach an agreement.
Offensive	ŏ- fen -siv	Causing insult or injury.
Rate	rayt	Amount of wages paid per hour, day or month.
Repetitive	ri- pet- ĭ-tiv	Repeating.
Wrongful dismissal	rawng -fŭl dis- mis -ul	Being fired from your job for no good reason.

Section 1:

Employment Law in Quebec

- 1.1 What is an employment contract?
- 1.2 Does an employment contract have to be in writing?
- 1.3 What does my employer have to do?
- 1.4 What do I have to do as an employee?
- 1.5 What are labour standards?
- 1.6 Who is covered under the labour standards law?
- 1.7 Who is not covered under the labour standards law?
- 1.8 What is the *Commission des normes du travail* (Labour Standards Commission)?



Section 1: Employment Law in Quebec



1.1 What is an employment contract? [Student Manual, page 3]

An employment contract is an agreement between the employer and the employee.

In an employment contract, the employee agrees to work for the employer, and the employer agrees to pay the employee for the work done.

Other details can be in the employment contract, such as when and where the work is to be done, the salary to be paid, vacation, etc.

The employer and the employee decide what is in the contract. However, the employment contract is also subject to other laws in Quebec, including the *Civil Code of Quebec*, the *Act respecting Labour Standards* (labour standards law), worker's compensation (CSST), etc.

These laws tell the employer and the employee what they must do, or not do.

Some people have a collective agreement. This means a group of people has the same employment contract with their employer. You have a collective agreement when you belong to a union.



1.2 Does an employment contract have to be in writing? [Student Manual, page 4]

No, the employment contract does not have to be in writing.

A contract means two people have agreed to something. There is an employment contract if an employee shows up at work, does the work, and is paid by the employer. It is important that both the employer and the employee agree on what the employee is to do, and how much the employee will be paid.



However, a written contract helps if there is a disagreement about the contract. It is easier to prove what the employer and employee agreed to if you have a written contract.



1.3 What does my employer have to do? [Student Manual, page 5]

Your employer has to:

- give you the tools, equipment and other things you need to work, including a workplace;
- give you the work you are supposed to do;
- pay you for the work you do;
- make sure your workplace is safe for your physical and mental health;
- give you enough notice (warning) that he/she does not need you to work any more if your contract does not include an end-date:
- pay you a certain sum if he/she does not give you enough notice when ending your job;

• treat you with respect and protect your dignity. Your employer must also make sure the other employees and customers treat you with respect.

You and your employer <u>can</u> change some of these conditions. For example, you might want to use your own tools.

The employer <u>cannot</u> change certain things, such as minimum wage, paid holidays or overtime.



1.4 What do I have to do as an employee? [Student Manual, page 6]

As an employee, you must:

- do the work you are supposed to do;
- do the work yourself;
- do what your supervisor tells you to do, unless it would put you or your co-workers in danger;
- be loyal to your employer. This means you cannot use confidential information you learned at work for your own profit. For example, you cannot use your employer's customer list to try and get customers for a business you are running on the side.





1.5 What are labour standards? [Student Manual, page 7]

The Act Respecting Labour Standards, the labour standards law, sets the minimum work conditions for employees in Quebec.

The law sets rules about:

- psychological harassment at work;
- the number of paid vacation days you can take;
- the number of overtime hours a week you can work;
- the number of hours in a normal workweek;
- uniforms:
- meal breaks;
- coffee breaks:
- holidays;
- sick and family leaves;
- dismissal;
- notice of dismissal.

The Act will tell you what the labour standards are in Quebec.





1.6 Who is covered under the labour standards law?

[Student Manual, page 7]

In general, most employees in Quebec are covered under the law. An employee is someone who works for an employer and is paid wages.



1.7 Who is not covered under the labour standards law?

[Student Manual, page 8]

The labour standards law does not cover:

- students being trained in their profession;
- people who run their own business;
- sitters who sometimes take care of children, sick or elderly people in their own homes;
- people who are covered under federal law, such as those who work in a bank, for the Canadian government, radio or television stations, etc.

Some people are covered under another law. However, they are still protected by the labour standards law in certain cases:

- construction workers are covered under the sections on psychological harassment, family leave and forced retirement;
- farm workers are covered under the sections on minimum wage, annual vacation and psychological harassment;
- live-in caregivers are covered under the sections on minimum wage, the regular workweek, and psychological harassment.



NOTE:

Your employer can improve the conditions under the labour standards law. However, your employer can never give you less that what is given under the labour standards law.

For example, the minimum wage is \$7.75 per hour. Your employer can pay you \$10.00 per hour, but not \$6.00 per hour.



1.8 What is the Commission des normes du travail (Labour Standards Commission)? [Student Manual, page 9]

The Commission des normes du travail (Labour Standards Commission) is the government body responsible for making sure the labour standards law is applied.

The Commission:

- informs the public about labour standards in Quebec;
- handles complaints from employees;
- can pay employees money they are owed by their employer.

You can contact the Commission for information about the labour standards law in Quebec, or to file a complaint. Information on how to contact the Commission is provided in Section 8.3.

NOTES

Section 2:

Psychological Harassment at Work

- 2.1 What is psychological harassment?
- 2.2 Who is protected against psychological harassment?
- 2.3 Does the harasser have to be a co-worker?
- 2.4 Can I be psychologically harassed at work if the act only happened once?
- 2.5 What is sexual harassment at work?
- 2.6 What can I do if I am psychologically or sexually harassed at work?
- 2.7 What should my employer do if I am being psychologically or sexually harassed at work?
- 2.8 What if I keep being harassed?



Section 2: Psychological Harassment at Work



2.1 What is psychological harassment? [Student Manual, page 13]

You may be a victim of psychological harassment at work if the following four (4) conditions exist:

1. Somebody at work acts in a way that is humiliating, offensive or abusive to you. A reasonable person in the same situation as you must also find this act troubling.

This behaviour must be repetitive <u>or</u> **serious.** What matters is not each act on its own, but all the acts taken together. Sometimes one act does not seem very harmful. However, all the acts taken together might make you feel badly.

One act can also be considered psychological harassment if it is very serious and you feel badly for a long time after; **and**

2. The act or acts is/are hostile or unwanted.

Hostile means unfriendly.

Unwanted means you do not welcome the act, even if you do not say so out loud. You can tell someone you do not like the way they are acting with body language, for example, by the way you stand, or the look on your face; <u>and</u>

3. The act or acts harm your **dignity** or psychological or physical integrity.

You feel ashamed or worthless because of the unwelcome act or acts. Your physical health may also suffer. For example, you get headaches, stomach-aches, or want to throw-up; **and**

4. You work in a **poisoned** work environment.

This means you do not feel welcome in your workplace. You feel distanced/isolated/set apart from the other workers, or you are afraid to talk to your boss or another supervisor.

You may suffer from psychological harassment only if all four of the above conditions exist.

Note:

You can be psychologically harassed at work even if the harasser did not mean to harass you. What matters is how you feel because of the behaviour. Some examples of psychological harassment include:

- Making rude, insulting or offensive remarks.
- Making gestures meant to scare a person; getting back at someone.
- Discrediting the person: spreading rumors, making fun of him, humiliating him, calling into question his beliefs or his private life, shouting abuse at him or sexually harassing him.
- Belittling the person: forcing him to do tasks that are belittling or below his skills.
- Preventing the person from expressing himself: yelling at him, threatening him, constantly interrupting him, not letting him speak to others.
- Isolating the person: no longer talking to him at all, pretending he does not exist, distancing him from others.
- Making fun of a person's beliefs, tastes and political choices.



2.2 Who is protected against psychological harassment? [Student Manual, page 15]

Every employee in Quebec covered under the labour standards law is protected against psychological harassment at work.

The law also protects managers, construction workers, farm workers and live-in caregivers against psychological harassment.



2.3 Does the harasser have to be a co-worker? [Student Manual, page 16]

No. You can be psychologically harassed at work by:

- a co-worker;
- a boss:
- a customer of the company;
- a supplier of the company.





2.4 Can I be psychologically harassed at work if the act only happened once? [Student Manual, page 16]

Yes. Usually an act must be repeated several times before it is considered psychological harassment. However, the act can be considered harassment if:

- the act is very serious, and
- it continues to have a harmful effect on you for a long time.



2.5 What is sexual harassment at work? [Student Manual, page 17]

Sexual harassment is a form of psychological harassment under the labour standards law.

You are being sexually harassed at work if:

- Someone at work is behaving in a sexual way toward you. This means sexual comments, acts, or physical contact, **and**
- This behaviour is usually repeated, and
- You do not want or welcome this behaviour, and
- The behaviour has a negative effect on your job. This can mean you are dismissed, or punished, or your workplace environment is poisoned.

Flirting is not the same as sexual harassment. If you flirt, you like or welcome the sexual behaviour. Harassment means you do not want or welcome the behaviour. You are being sexually harassed if you tell the person you do not want him/her to continue acting this way, and the person does not stop.

Remember not everyone takes things the same way. You might not like or welcome someone's behaviour. Someone else might. For example, you might not like it when Joe pinches you on the behind every morning, but Maria thinks it is just a joke. Once you tell Joe to stop pinching you, and Joe keeps pinching your behind, you are being sexually harassed.



2.6 What can I do if I am psychologically or sexually harassed at work? [Student Manual, page 18]

If possible:

- Talk to someone you trust about the problem you are having. Do not remain alone with your problem.
- Tell the harasser very clearly that you want this behaviour to stop right away. If you can, make sure someone else is with you during this conversation.
- If this doesn't work, try to note down in writing the times you are psychologically or sexually harassed. Write down the details such as the time and date, where, what was said or done, who was there, etc.
- Talk to other workers and see if other people are also being harassed.
- Check with your employer to see if there is a way that your report of the unwanted behaviour can be kept confidential.
- Tell your employer. Your employer must take steps to stop this behaviour. (If your employer is the harasser, see Section 2.8 on filing a complaint.)



2.7 What should my employer do if I am being psychologically or sexually harassed at work? [Student Manual, page 19]

Your employer must do two (2) things:

- **Prevent** psychological or sexual harassment at the workplace. The employer can do this by having company rules against psychological or sexual harassment. Your employer can also name an employee to make sure there is no workplace harassment.
- **Stop** any psychological or sexual harassment that happens at the workplace. The employer must listen to you if you think you are a victim of harassment, look into your complaint, talk to the people involved, and take other steps to stop the harassment.



2.8 What if I keep being harassed? [Student Manual, page 19]

If your employer does nothing, or if the harassment continues, you can file a complaint. You file the complaint against your employer, not the harasser, because your employer is supposed to make sure you are not harassed at work.

Where to file a complaint

Psychological harassment:

Where you file your complaint depends on what type of employee you are.

• If you are <u>non-unionized</u>, or are a manager in a private company, file your complaint with the Commission des normes du travail (Labour Standards Commission). You have **90 days** following the last act of harassment to file a complaint.

The Commission will decide if there is enough reason to look into your complaint. If it decides to continue with your complaint, it can name a person, called a mediator, to try to get you and your employer to solve the problem together.

If you and your employer cannot agree on how to solve the problem, the Commission will send your complaint to the *Commission des relations du travail* (Labour Relations Commission). This Commission will hear both of you and decide what to do.

- If you belong to a union and have a collective agreement, follow the steps in the agreement;
- If you work for the <u>Quebec government</u>, file your complaint with the *Commission de la fonction publique* (Public Service Commission).

Sexual harassment:

Sexual harassment is a kind of psychological harassment. If you are sexually harassed at work, you can file a complaint for psychological harassment with the *Commission des normes du travail* (Labour Standards Commission). See the above section.

You can file a complaint for sexual harassment in the following ways:

- file a complaint with the Commission des droits de la personne et des droits de la jeunesse du Québec (Quebec Human Rights Commission);
- get a lawyer and sue for damages in the regular courts;

• file a claim for compensation with the *Commission de santé et de sécurité au travail* (the CSST, or worker's compensation). You can do this if you suffer physical or mental problems because of very serious sexual harassment.

Information on how to contact these organizations is provided in Section 8.3.

NOTES

Section 3:

Leave, Vacation and Holidays

3.1	What is leave?
3.2	Can I take leave if someone in my family dies?
3.3	Can I take leave if I get married?
3.4	Can I take leave if I am sick?
3.5	Can I take leave to take care of my family?
3.6	Can I take leave if I am pregnant?
3.7	How much leave can I take when I give birth or adopt a child?
3.8	How much leave can I take after I give birth or adopt a child?
3.9	Can I take paid vacation?
3.10	How much paid vacation can I take?
3.11	Can I take paid vacation if I work part-time?
3.12	Can I take the money and keep working?
3.13	Can I take unused vacation time later?
3.14	What happens if my company shuts down for vacation?
3.15	Can my employer decide when I take vacation?

Section 3:

Leave, Vacation and Holidays

cont.

- Can my employer refuse to pay me my vacation pay before my 3.16 vacation?
- What if I quit or am fired before I take my vacation? 3.17
- What is a holiday? 3.18
- 3.19 Which days are holidays?
- 3.20 Am I paid for a holiday?
- What if I work on a holiday? 3.21



Section 3: Leave, Vacation and Holidays



3.1 What is leave? [Student Manual, page 26]

Leave means you can miss work for a good reason. Usually you take leave when you get married, have a child, or someone in your family is sick and needs care or has died.

Your employer cannot dismiss you because you took leave.

Leave is either paid or unpaid.



3.2 Can I take leave if someone in my family dies? [Student Manual, page 26]

You can take **one (1) day's paid** leave and up to **four (4) more days unpaid** leave from work if the person who died is:

- your child;
- your spouse;
- your mother or father; or
- your brother or sister.

You can take **one (1) day's unpaid** leave if the person who died is:

- your son-in-law or daughter-in-law;
- your grandmother or grandfather;
- your mother-in-law or father-in-law; or
- your brother-in-law or sister-in-law.





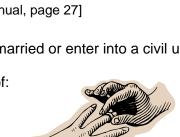
3.3 Can I take leave if I get married? [Student Manual, page 27]

Yes, you can take **one (1) day's paid** leave on the day you get married or enter into a civil union.

You can take **one (1) day's unpaid** leave to go to the wedding of:

- your child;
- your spouse's child;
- your mother or father; or
- your brother or sister.

You must tell your employer **one (1) week** ahead of the wedding that you will not be at work that day.

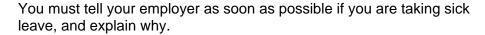




3.4 Can I take leave if I am sick? [Student Manual, page 28]

Your employer does <u>not</u> have to pay you for the days you cannot work because you are sick.

You can take **unpaid** leave up to **twenty-six (26) weeks** per year if you are sick or were in an accident, provided you have worked for the same employer for **at least three (3) months**.





You can ask for employment insurance benefits for up to **fifteen (15) weeks** if you cannot work because you are sick. For more information, contact your nearest Employment Insurance office and ask about *sickness benefits*. See Section 8.3 for contact information.



3.5 Can I take leave to take care of my family? [Student Manual, page 28]

You can take up to **ten (10) unpaid days** per year off work to look after the **care**, **health**, or **education** of:

- your children.
- or your spouse's children.

You can take up to **ten (10) unpaid days** per year off work to look after the **health** of:

- your spouse;
- your mother or father;
- your brother or sister; or
- your grandmother or grandfather.

You can take up to **twelve (12) weeks** off work per year if you have been working for the same employer for **at least three (3) months**, and you need to look after one of the following family members who is very sick or has had a serious accident:

- your child;
- your spouse;
- your spouse's child;
- your mother or father;
- your brother or sister; or
- your grandmother or grandfather.

Your employer does <u>not</u> have to pay you during this leave.

You must tell your employer as soon as possible if you are taking leave, and explain why.

You can take up to **one hundred and four (104) unpaid weeks** off work if your minor child has a serious and possibly fatal illness.

You can ask for employment insurance benefits for up to six (6) weeks if you cannot work because you need to care for a family member who is very sick and may die within twenty-six (26) weeks. For more information, contact your nearest Employment Insurance office and ask about *compassionate care benefits*. See Section 8.3 for contact information.



3.6 Can I take leave if I am pregnant? [Student Manual, page 30]

You can take as much leave as you need to go to medical appointments if you are pregnant.

You will <u>not</u> be paid for any of this time off.

You must tell your employer as soon as possible that you will be missing work to go to an appointment.





3.7 How much leave can I take when I give birth or adopt a child? [Student Manual, page 31]

You can take up to five (5) days leave after the birth or adoption of your child.

You and your spouse can also take up to **five (5) days** leave if you miscarry or have an abortion during or after the **20**th **week** of pregnancy.

However:

- the first **two (2) days** of the leave are **paid** if you have been working at least **sixty (60)** consecutive days for the same employer;
- the other days are unpaid;
- all **five (5) days** will be **unpaid** if you have been working less than 60 consecutive days for the same employer;
- you must tell your employer as soon as possible that you are taking leave; and
- you must take the leave within fifteen (15) days of the event.



3.8 How much leave can I take after I give birth or adopt a child? [Student Manual, page 32]

A <u>female employee</u> can take up to **eighteen (18) consecutive weeks unpaid** maternity leave. The leave can be taken before or after the birth or adoption of her child.

The employee must give her employer written notice at least **three (3) weeks** before she takes maternity leave. She must also tell the employer the date she expects to return to work.

The <u>father</u> can take up to **five (5) consecutive weeks unpaid** paternity leave. Paternity leave can be taken any time during the **fifty-two (52) weeks** after the birth or adoption, but cannot begin before the child is born or adopted.

.../

<u>Either parent</u> can take up to **fifty-two (52) weeks unpaid** parental leave after the birth or adoption of their child. The parents can share the parental leave. They can take the leave one after the other, or both at the same time. Parental leave is <u>in addition to</u> the maternity or paternity leave.

For example, John and Jane have a baby. Jane takes five (5) days of leave when the baby is born, plus eighteen (18) weeks maternity leave. John takes five (5) days of leave when the baby is born, plus five (5) weeks paternity leave after that. He then takes thirteen (13) weeks of parental leave while Jane is on maternity leave. Jane takes the remaining thirty-nine (39) weeks of parental leave and John goes back to work.

Or, John and Jane have a baby. Jane takes five (5) days of leave when the baby is born, plus eighteen (18) weeks maternity leave. She then takes the full fifty-two (52) weeks of parental leave. John takes five (5) days of leave when the baby is born, plus five (5) weeks paternity leave after that. John goes back to work.



You can apply for maternity, paternity, parental or adoption benefits under the new *Quebec Parental Insurance Plan*. This new plan replaces the benefits paid under Employment Insurance. See Section 8.3 for information on how to contact the Minister of Employment and Social Solidarity.

3.9 Can I take paid vacation? [Student Manual, page 33]

As a general rule, you can take a paid vacation if you are covered under the labour standards law.

3.10 How much paid vacation can I take? [Student Manual, page 33]

It depends on how long you have been working for your employer and your employer's reference year.

The **reference year** is a **twelve (12) month** period chosen by your employer. If no reference year has been chosen, the legal period of May 1 to April 30 must be used.

The amount of paid vacation depends on if you have worked:

Less than one (1) year:

You get **one (1) day** of paid vacation per month worked by the end of the reference period, up to a maximum of two (2) weeks.

For example, you started working for your employer on July 1. The reference period is January 1 to December 31. You will have worked six (6) months by December 31, the end of the reference year. So, you can take six (6) days of paid vacation.



Between one (1) and five (5) years:

You get two (2) weeks of paid vacation if you have worked for the same employer between one (1) and five (5) years at the end of the reference year.

You can also ask to take one (1) more week of vacation without pay.

More than five (5) years:

You get three (3) weeks of paid vacation if you have worked five (5) or more years for the same employer at the end of the reference year.

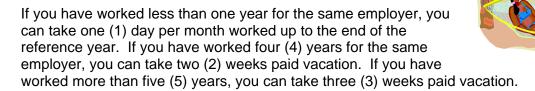
The general rule is you must take your vacation all at once. You can split your vacation weeks if your employer lets you.

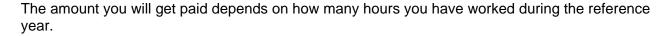


3.11 Can I take paid vacation if I work part-time? [Student Manual, page 35]

Yes, you can take paid vacation even if you work part-time.

The same rule applies as for full-time employees. The number of paid vacation days depends on how long you have worked for your employer.





If you have worked less than five (5) years, you will get 4% of your gross wages (before taxes and deductions). This works out to about two weeks pay.

If you have worked more than five (5) years, you will get 6% of your gross wages (before taxes and deductions). This works out to about three weeks pay.



3.12 Can I take the money and keep working? [Student Manual, page 36]

The general rule is that you must take your vacation.

However, you can decide to keep on working and take the money instead if you and your employer agree to this.



3.13 Can I take unused vacation time later? [Student Manual, page 36]

Usually you have to take your vacation within **one (1) year** of your employer's reference year.

If you cannot take them within one (1) year, you and your employer must agree on when you can take your vacation.



3.14 What happens if my company shuts down for vacation? [Student Manual, page 36]

Some companies close for vacation during the summer or over the Christmas holidays.

You usually take your vacation during this time. If your company shuts down for two (2) weeks, and you have three (3) weeks vacation, you can take your other week at another time.

However, you must take all three (3) weeks during this time if your company shuts down for three (3) weeks.



3.15 Can my employer decide when I take vacation? [Student Manual, page 37]

Yes, your employer can decide when you can take vacation.

- Your employer can make you take your vacation when the business is not busy.
- Your employer can also refuse to let you take your vacation when the business is very busy.



3.16 Can my employer refuse to pay me my vacation pay before my vacation? [Student Manual, page 37]

No. Your employer must pay you all your vacation pay before you begin your vacation.

If you take your vacation at two (2) different times, your employer only has to pay you for the time you are taking.

For example, you have three (3) weeks paid vacation. You decide to take two (2) weeks in the summer, and one (1) week at Christmas. Your employer must pay you the two (2) weeks in the summer, and the one (1) week at Christmas.



3.17 What if I quit or am fired before I take my vacation?

[Student Manual, page 38]

Your employer must pay you:

- any vacation days you haven't used from the last completed reference year, and
- 4% or 6% of your gross salary (before taxes) earned during the reference year, depending on how many years you have worked.



3.18 What is a holiday? [Student Manual, page 38]

A holiday is a day where you normally do not work, but you get paid for that day.



3.19 Which days are holidays? [Student Manual, page 38]

The following days are holidays in Quebec under the labour standards law:

- New Year's Day (January 1st)
- Good Friday or Easter Monday (the employer's choice)
- Patriot's Day or Victoria Day (3rd Monday in May)
- St. Jean Baptiste (June 24)
- Canada Day (July 1)
- Labour Day (1st Monday in September)
- Thanksgiving (2nd Monday in October)
- Christmas (December 25)





3.20 Am I paid for a holiday? [Student Manual, page 39]

In order to be paid for the holiday, you must:

- be covered under the labour standards law:
- not have missed work the day before or after the holiday, unless you had a good reason or your employer gave you permission to miss work.

The only exception is June 24, St. Jean Baptiste, which is covered by a separate law. All employees are paid for this holiday.



You get paid holidays even if you only work part-time.

For example, you normally work Monday to Thursday every week. The holiday falls on a Monday. You would be paid for the holiday even though you did not work on Friday, the day before the holiday, because you do not usually work Fridays.

Another example would be if the holiday fell on a Friday. You missed work Wednesday and Thursday because you were sick. You would be paid for the holiday because you had a good reason for missing work the day before the holiday.

The paid holiday rules do not apply if you have a collective agreement, or work in a company where there is a collective agreement, and you already get seven paid holidays and June 24th.



3.21 What if I work on a holiday? [Student Manual, page 40]

Your employer must pay you your normal wages and:

- pay you an amount usually equal to one day's wages; or
- offer you a paid day off.

If you want to be paid, your employer must pay you a certain amount. In general, this comes out to one day's pay.

If you want the paid day off, you must take it within three (3) weeks before or after the holiday.

NOTES

Section 4: <u>Salary and Overtime</u>

- 4.1 How much is minimum wage?
- 4.2 What is a tip employee?
- 4.3 I am a tip employee. What is my salary?
- 4.4 What do I do if my employer called me in to work, then sent me home after just two (2) hours?
- 4.5 Does the employer have to pay me if he is trying me out for the job?
- 4.6 How often does my employer have to pay me?
- 4.7 I travel for work. Am I paid for my travel time?
- 4.8 What is overtime?
- 4.9 How much am I paid if I work overtime?
- 4.10 Can I take paid time off instead of the money?
- 4.11 Can I refuse to work overtime?



Section 4: Salary and Overtime



4.1 How much is minimum wage? [Student Manual, page 43]

Minimum wage means the employer cannot pay the employee less than the rate set by the government. There are three (3) different minimum wage rates. The rate depends on the kind of job. As of August 2006:

- the general rate is \$7.75 per hour;
- the minimum wage for tip employees is \$7.00 per hour;
- the minimum rate for workers in the clothing industry is \$8.25 per hour.

The employer can pay an employee more than minimum wage, but never <u>less</u>. It depends on the agreement between the employer and employee.



4.2 What is a tip employee? [Student Manual, page 43]

A tip employee is paid an hourly rate plus money left by the customer. Tip employees work in:

- a hotel;
- a restaurant that serves customers at the table;
- a campground;
- a bar
- a restaurant that delivers.



4.3 I am a tip employee. What is my salary? [Student Manual, page 44]

The salary for a tip employee includes the hourly minimum wage rate of \$7.00 plus all tips you get from customers.

If you get your tips **directly** from the customers, you must tell your employer **in writing** how much you received during each pay period. You must do so because your tips are part of your salary. Your employer must know the total amount you earned so he can know how much vacation and holiday pay to give you.

Do not forget that you must report your full income to the government on your **income tax** return. This includes the tips as well as your hourly salary.

Sometimes your employer collects the tip for you, for example, when the tip is automatically included in the bill. He must pay you these tips. You do not have to declare these tips on your income tax return if your employer has already added them to your salary.

Finally, your employer cannot force you to share your tips with other workers. You and the other workers can decide to share your tips, but you must **all agree**.





4.4 What do I do if my employer called me in to work, then sent me home after just two (2) hours? [Student Manual, page 45]

Your employer must pay you for a minimum of three (3) hours work if he called you in, or you showed up for your normal workday and were sent home early.



4.5 Does the employer have to pay me if he is trying me out for the job? [Student Manual, page 45]

Yes, the law says the employer must pay you at least minimum wage for any work you do.



4.6 How often does my employer have to pay me? [Student Manual, page 45]

As a general rule, your employer must pay you at least every sixteen (16) days.





4.7 I travel for work. Am I paid for my travel time? [Student Manual, page 45]

Your employer must pay you for the time you spend travelling if it is part of your job. This does not include the time you spend going to and from work each day.



4.8 What is overtime? [Student Manual, page 46]

The normal workweek for most workers is **forty (40) hours**. The forty (40) hours includes time spent:

- waiting at the workplace for work;
- on breaks (not meal breaks, unless you work during the meal);
- travelling for work.

You work overtime when you work more than forty (40) hours. Your employer must pay you for hours worked overtime.

Some workers do not get paid overtime because they do not work a regular week. These include:

- workers who work outside the employer's workplace where the employer does not control the work hours;
- farm workers;
- workers who look after someone in their home.





4.9 How much am I paid if I work overtime? [Student Manual, page 47]

The general rule is you are paid **one-and-a-half times** your regular hourly rate for every hour worked overtime.

For example, Susan worked forty-five (45) hours last week. Her regular workweek is forty (40) hours, so she worked five (5) hours overtime. Her regular hourly rate is \$10.00 per hour. Susan will be paid \$475.00 for that week:

\$400.00 (40 hours X \$10.00)

- + \$ 75.00 (5 hours X \$15.00 in overtime)
- = \$475.00

The overtime rate does not apply to evening or night shift premiums. If you are paid \$10.00 per hour, plus an evening premium of \$0.50 per hour, your overtime will be one-and-a-half of your regular hourly rate of \$10.00.

Overtime is based on weekly hours worked, not daily. For example, if you normally work three (3) days per week for eight (8) hours per day, your normal workweek is twenty-four (24) hours. Your employer asks you to work an extra four (4) hours per day, for a total of thirty-six (36) hours. The total number of hours worked is still less than forty (40), so you have not worked overtime.



4.10 Can I take paid time off instead of the money? [Student Manual, page 48]

You can take the overtime in paid time off instead of money if:

- you agree to this;
- you ask to do so; or
- you are covered by a collective agreement.

For example, you work four (4) hours of overtime. Four (4) times one-and-a-half equals six (6). You can take six (6) paid hours off. You must take the time off within one year. If you do not, your employer must pay you the six (6) hours of overtime.



4.11 Can I refuse to work overtime? [Student Manual, page 48]

As a general rule, you cannot refuse to work overtime. However, you do not have to work:

- more than four (4) hours more than the normal workday;
- more than **fourteen (14) hours** in the same day if the normal workday is ten (10) hours or more:
- more than twelve (12) hours in a twenty-four (24) hour period if you do not have set daily working hours;
- more than fifty (50) hours in the same week (unless you have a different regular workweek under the law).

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You do not have to work overtime if:

- you have to look after the care, health or education of your or your spouse's children;
- you have to look after the health of a family member.

However, you must have tried to find a way to look after your family without missing work. This means trying to find someone to look after the family member while you work.

NOTES

Section 5: Iniforms Breaks

Uniforms, Breaks and Weekly Rest

- 5.1 Who pays for my uniform?
- 5.2 Who pays for cleaning my uniform?
- 5.3 Am I allowed to take a coffee break?
- 5.4 Do I get paid for a coffee break?
- 5.5 How long do I have for my meal break?
- 5.6 Do I get paid for my meal break?
- 5.7 What if I work during my meal break?
- 5.8 How much weekly rest do I get?



Section 5: Uniforms, Breaks and Weekly Rest



5.1 Who pays for my uniform? [Student Manual, page 53]

It depends on how much you are paid and the clothing you must wear.

If you get paid **minimum wage**, the general rule is that your **employer must pay** if you have to wear **specific clothing**.

If you earn **more than minimum wage**, your employer can **deduct part of your salary** to pay for the uniform. The amount your employer deducts cannot reduce your salary to less than minimum wage.



For example, your employer wants you to wear a uniform that costs \$100.00. You earn \$10.00 per hour and usually work twenty (20) hours per week for a total of \$200.00 per pay period. Your employer deducts \$50.00 from your first pay cheque to pay for the uniform, leaving you with \$150.00. Your employer cannot do this because it means you will be paid \$7.50 per hour, instead of the minimum wage of \$7.75 (or \$7.00 for tip employees).

The **employer must pay** for the uniform if it has the **company name** on it. It does not matter how much you earn.



5.2 Who pays for cleaning my uniform? [Student Manual, page 54]

Your employer must pay for cleaning and maintaining your uniform if you get minimum wage.

Your employer can deduct the costs of cleaning and maintaining your uniform **only if**:

* 1

- you make more than minimum wage; and
- you make minimum wage or more after your employer has deducted the cost of maintaining your uniform.



5.3 Am I allowed to take a coffee break? [Student Manual, page 54]

You can take a coffee break if your employer says it is okay. You cannot take a coffee break if your employer does not permit coffee breaks.



5.4 Do I get paid for a coffee break? [Student Manual, page 54]

If you can take a coffee break, your employer must pay you during this time. Your employer decides how long your break will be.



5.5 How long do I have for my meal break? [Student Manual, page 54]

You can take a meal break of at least **thirty (30) minutes** after you have worked **five (5) hours** in a row.



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5.6 Do I get paid for my meal break? [Student Manual, page 55]

The general rule is you are not paid during your meal break.

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5.7 What if I work during my meal break? [Student Manual, page 55]

You must be paid if your employer makes you work during your meal break, such as answering the phones or supervising equipment.



5.8 How much weekly rest do I get? [Student Manual, page 55]

The general rule is you are to have thirty-two (32) consecutive hours of rest each week.

The rule is different for farm workers. The rest period can be moved to the next week, but only if the employee agrees.

NOTES

Section 6: Dismissal

- 6.1 Can my employer dismiss me?
- 6.2 When can my employer dismiss me?
- 6.3 What is good cause?
- 6.4 Does my employer have to give me notice before dismissing me?
- 6.5 How much notice does my employer have to give me?
- 6.6 What if my employer dismisses me without giving me notice?
- 6.7 Does my employer have to give me notice if I am laid off?
- 6.8 What is a work certificate and does my employer have to give me one?
- 6.9 How do I file a complaint if I do not think I should have been dismissed?
- 6.10 What happens after I file a complaint?



Section 6: Dismissal



6.1 Can my employer dismiss me? [Student Manual, page 59]

Yes. Your employer can dismiss you. How you are dismissed depends on:

- how long you have worked for your employer, and
- if your employer has good cause for dismissing you.





6.2 When can my employer dismiss me? [Student Manual, page 59]

Your employer can dismiss you because:

- there is no work for you to do;
- your contract is finished;
- your employer has good cause to dismiss you.



6.3 What is good cause? [Student Manual, page 60]

Good cause means you did not act properly while at work. This can mean you:

- were often late for work;
- could not, or did not, do your job properly;
- did not follow directions;
- lied to your boss or supervisor;
- stole from work;
- endangered your co-workers.





6.4 Does my employer have to give me notice before dismissing me? [Student Manual, page 60]

Yes, your employer must normally give you notice in writing before dismissing you.

However, you will not get a notice if:

- you have worked <u>less than</u> three (3) uninterrupted months for your employer;
- · your job is supposed to end on a certain date;
- your employer has good cause for dismissing you; or
- there is no work because of an accident, like a fire, or a big storm.



6.5 How much notice does my employer have to give me? [Student Manual, page 61]

Notice means your employer must let you know **in writing** a certain number of days before your job finishes. How many days depends on how long you have been working for your employer:

- you must be given **one (1) week's written** notice if you have been working between three (3) months and one (1) year;
- you must be given **two (2) weeks written** notice if you have been working between one (1) to five (5) years:
- you must be given **four (4) weeks written** notice if you have been working between five (5) to ten (10) years;
- you must be given **eight (8) weeks written** notice if you have been working more than ten (10) years.



6.6 What if my employer dismisses me without giving me notice? [Student Manual, page 61]

Your employer must pay you if you were dismissed without the proper notice. You should be paid the salary you would have earned between the day you got the notice and the day you stopped working.

For example, you have worked six years for the same company. You show up for work one day and are told to go home, there is no more work for you. You should have been told four (4) weeks earlier that your job was going to end that day. Your employer owes you four (4) weeks salary because you were not given notice.



6.7 Does my employer have to give me notice if I am laid off? [Student Manual, page 62]

You should receive notice if you are going to be laid off for six (6) months or longer.

Your employer must pay you if you were laid off without notice because:

- your employer did not know how long you were going to be laid off; or
- the lay-off was supposed to be less than six (6) months;

and

your employer does not call you back to work after six months.

You should be paid for the number of days notice you should have received. For example, you have worked for two (2) years. You should receive two (2) weeks salary because you should have been given two (2) weeks notice before the lay-off.



6.8 What is a work certificate and does my employer have to give me one? [Student Manual, page 63]

You can ask your employer to give you a work certificate when your job ends.

A work certificate states:

- what you did;
- how long you were employed;
- when you started and ended work;
- your position;
- your employer's name and address.



The work certificate does not state if you were a good worker or not. It just gives details about your work.

A work certificate is not a Record of Employment, which your employer must give you when you stop work. You need the Record of Employment if you are going to apply for employment insurance benefits.



6.9 How do I file a complaint if I do not think I should have been dismissed? [Student Manual, page 64]

Your employer has dismissed you for good cause without notice. You do not agree and do not think you should have been dismissed. You think this is wrongful dismissal. You can file a complaint with the *Commission des normes du travail* (Labour Standards Commission).

In order to file a complaint, you must:

- be an employee covered under the labour standards law;
- have worked for your employer for two (2) consecutive years:
- have been dismissed;
- have no other way of filing a complaint (such as under a collective agreement, another law, or your own employment contract).

You have **forty-five (45) days** after you are dismissed to mail or deliver your **written complaint** to the *Commission des normes du travail* (Labour Standards Commission). If you mail the complaint, it is best to send it by registered mail.



6.10 What happens after I file a complaint? [Student Manual, page 65]

The Commission will first make sure it can look into your complaint. It will inform you in writing once it decides it can handle your complaint.

The Commission will then contact your employer. It will ask both you and your employer if you would like a mediator. A mediator is a person who will try and help you and your employer reach a solution that satisfies both of you. Everything you tell the mediator will remain confidential. The Commission can also ask your employer to write down the reason(s) you were dismissed. You can ask for a copy of the reason(s).

If the mediator cannot help you reach an agreement, your complaint will be sent to the *Commission des relations du travail* (Labour Relations Commission).

The Commission will listen to both sides during a hearing and make a decision. If it decides you were dismissed without good cause, it can:

- order your employer to give you back your job;
- order your employer to pay you the wages you would have earned (up to the date of the decision) had you not been dismissed;
- order your employer to take some other action, such as suspending you instead of dismissing you;
- order your employer to write you a reference letter;
- make any other order it thinks is required.

The Commission's decision is usually final, which means it cannot be changed. The decision can be contested in court, but only in special situations.

Contact the *Commission des normes du travail* (Labour Standards Commission) and the *Commission des relations du travail* (Labour Relations Commission) for more information on filing a complaint when you have been dismissed. See Section 8.3 for contact information.



Yamaska Literacy Council

NOTES

Section 7: <u>Exercising Your Rights</u>

- 7.1 When should I file a complaint with the Labour Standards Commission?
- 7.2 How does the Labour Standards Commission handle complaints?
- 7.3 Is there a time limit to file a complaint with the Commission?



Section 7: Exercising Your Rights



7.1 When should I file a complaint with the Labour Standards Commission? [Student Manual, page 69]

Your employer must obey the labour standards law. Contact the *Commission des normes du travail* (Labour Standards Commission) and file a complaint if your employer is not respecting one of your rights under the law.



7.2 How does the Labour Standards Commission handle complaints? [Student Manual, page 69]

The Commission will look into your complaint. What will happen depends on the type of complaint.

- 1. If you complain about money your employer owes you (such as wages, overtime, holiday or vacation pay, paid breaks, etc.) and does not pay you, the Commission can pay you what you are owed.
- 2. If you complain about being dismissed or punished by your employer because, for example:
 - you could not work overtime, even though you tried to find a babysitter;
 - you are old enough to retire, but do not want to;
 - you filed a complaint with the Commission about something else;
 - you spoke to the Commission about someone else's complaint;
 - you are pregnant,

the Commission will try to settle the complaint between you and your employer. If this does not work, it will forward the complaint to the *Commission des relations du travail* (Labour Relations Commission). A hearing will take place and a decision will be made. If the Commission decides you should not have been dismissed, it can order your employer to give you your job back and pay you any salary you should have earned.



7.3 Is there a time limit to file a complaint with the Commission? [Student Manual, page 70]

The time limit depends on the complaint.

If you are complaining you were dismissed without good reason, you have **forty-five (45) days** from the date you were dismissed to file your complaint.

You also have **forty-five (45) days** to file a complaint if you were dismissed because you could not work overtime, are pregnant, did not want to retire, talked to someone at the Commission, or filed a complaint about something else.

You have **ninety (90) days** from the date you were dismissed to file your complaint if you were dismissed because of your age, or if you are psychologically harassed at work.

Section 8: <u>Activities and Resources</u>

- 8.1 Discussion Questions
- 8.2 Word Search
- 8.3 Resources and Contact Info



Section 8: Activities and Resources

8.1 Discussion questions. [Student Manual, page 73]

- 1. Did you ever feel someone at work was making you feel terrible about yourself? Did you not want to go to work because of that person? What did you do about it? Did you tell a coworker, a boss? If so, what happened?
- 2. Did you ever feel someone at work was making comments about your body, or staring at you in a way that made you feel uncomfortable? What did you do about it? Did you tell a co-worker, a boss? If so, what happened?
- 3. Have you ever complained to the *Commission des normes du travail* (Labour Standards Commission)? Do you know anyone who complained? Why? What happened?
- 4. Has your boss asked you to work overtime and you could not? What happened?
- 5. Do you take a coffee break? If so, does your employer pay you for this time?
- 6. How long a meal break do you get? Do you have to work during lunch or dinner?
- 7. Do you have to wear a uniform? If so, did you pay for it, or did your employer give it to you? Who cleans it?
- 8. Has your employer ever called you into to work for one (1) hour, then sent you home?
- 9. Are you a tip employee? If so, do you have to share your tips with the other employees?
- 10. Do you work part-time? Has your employer refused to pay you for a holiday because you are part-time?
- 11. Were ever dismissed from your job? Did you think your employer was wrong to dismiss you? What did you do? Did you get notice before you were dismissed? Have you ever complained to the Commission that you were dismissed without good cause? Do you know anyone who has? What happened?



CONTRACT

8.2 Word Search [Student Manual, page 74]

Work at finding the words.

CAHMKDZMAERE Ε C O B P S O C K G M O V V O O X L NUDOTURPT Ι INHNYD SGHVELATSSOHT Ι ΝE S DΕ 0 C DGR V O M Y D \mathbf{E} \mathbf{E} C NARN Ν F Ε L F U Ι W S Μ Ι NNEMLF TLRAT Ε Τ Ε K L O O EL Ε ΧF MAG IKCXVTNEMNORIVN AFWEWRONGFULLL LHARASSMEN Τ I J ΑV E N E I SH S \mathbf{F} K U Μ IATNIAMONURUAU LASSIMS IDKPAHF RYKKTCUDEDVZCXFE



WRONGFUL

ABUSIVE	DEDUCT	HUMILIATING
AGREEMENT	DISMISSAL	INTEGRITY
BENEFITS	EMPLOYEE	MAINTAIN
CAUSE	ENVIRONMENT	MEDIATOR
COLLECTIVE	FATAL	OFFENSIVE
CONFIDENTIAL	GOOD	RATE
CONSECUTIVE	HARASSMENT	REPETITIVE

HOSTILE

8.3 Resources and Contact Info* [Student Manual, page 75]

(* Website addresses are not included in the Student Manual.)

COMPLAINTS:

COMMISSION DE LA FONCTION PUBLIQUE (PUBLIC SERVICE COMMISSION)

Information on filing a complaint for psychological harassment if you work for the Quebec government:

Toll free: 1-800-432-0432 (outside Montreal)

800 Place d'Youville, 7th floor Tel.: 418-643-1425 Quebec, QC G1R 3P4 Fax: 418-643-7264

Website: www.cfp.gouv.qc.ca

COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE DU QUÉBEC (QUEBEC HUMAN RIGHTS COMMISSION)

Information on filing a complaint for sexual harassment:

Toll free: 1-877-226-7221

99, Place Charles-Le Moyne Tel.: 450-448-3739 Suite 105 Fax: 450-448-3583

Longueuil, QC J4K 4Y9 Website:

www.cdpdj.qc.ca/en/home.asp?noeud1=0&noeud2=0&cle=0

COMMISSION DES NORMES DU TRAVAIL (LABOUR STANDARDS COMMISSION)

For general information on labour standards in Quebec and how to file a complaint:

Information service

Toll free: 1-800-265-1414 Tel.: 514-873-7061

Monday to Friday, 8:00am - 5:00pm

MONTÉRÉGIE

Place Montérégie

101, boul. Roland-Therrien, bureau 300

Longueuil, QC J4H 4B9

Tel.: 450-928-5000 Toll-free: 1-800-667-0005 Fax: 450-646-1037 Toll free fax: 1-866-523-8302

Hours: Monday to Friday, 8:30am – 4:30pm Website: www.cnt.gouv.gc.ca/en/index.asp

COMMISSION DES RELATIONS DU TRAVAIL (LABOUR RELATIONS COMMISSION)

35 Port-Royal East, 2nd Floor Montreal, QC H3L 3T1

Tel.: 514-864-3646 Fax: 514-873-3112

Toll free: 1-866-864-3646 Website: www.crt.gouv.qc.ca

COMMISSION DE SANTÉ ET DE SÉCURITÉ AU TRAVAIL (WORKER'S COMPENSATION BOARD)

For information on workplace safety and security:

General Information: Tel.: 450-359-2100

145 boul. Saint Joseph

C.P. 100

Saint-Jean-sur-Richelieu, QC J3B 6Z1

Toll-free: 1-800-668-2204

Fax: 450-359-307

Website: www.csst.qc.ca

ÉDUCALOI

Information on many legal topics in everyday language.

POB CSP Nôtre-Dame 11 Nôtre-Dame Ouest Montreal, QC H2Y 4A7

Website: www.educaloi.qc.ca/en/

EMPLOYMENT INSURANCE

Information on employment insurance, sickness and compassionate care benefits, etc.:

Cowansville office

224 South St.

Cowansville, QC J2K 2X4

Toll free: 1-877-564-5864 Website: <u>www.hrsdc.gc.ca</u>

MINISTÈRE DE L'EMPLOI ET DE LA SOLIDARITÉ SOCIALE (MINISTER OF EMPLOYMENT AND SOCIAL SOLIDARITY)

Information on the Quebec Parental Insurance Plan:

Toll free: 1-888-610-7727

Website: www.rqap.gouv.qc.ca/index_en.asp



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Tel: 450-263-7503/866-337-7503

Fax: 450-263-7209

email: 10Hyamaskalit@endirect.qc.ca

website: 11Hwww.nald.ca/ylc



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