

*Commission spéciale
sur les droits des enfants
et la protection
de la jeunesse*

Québec 

***RULES OF OPERATION,
PROCEDURE AND CONDUCT***

ADOPTED SEPTEMBER 5, 2019

TABLE OF CONTENTS

I. MANDATE OF THE COMMISSION	1
II. ADOPTION, AMENDMENT AND APPLICATION OF THE RULES.....	1
III. INTERPRETATION AND DEFINITIONS	2
IV. RULES OF CONDUCT	2
V. PRELIMINARY INTERVIEWS WITH WITNESSES.....	3
VI. SECURITY MEASURES.....	4
VII. HEARINGS	4
VIII. CLOSED PROCEEDINGS AND NON-DISCLOSURE, NON-PUBLICATION AND NON-DISTRIBUTION ORDERS.....	4
IX. EVIDENCE.....	5
X. QUESTIONING	5
XI. ENGAGEMENTS.....	6
XII. DOCUMENT MANAGEMENT.....	6
XIII. RESEARCH	7
XIV. PUBLIC CONSULTATIONS	7
XV. MEDIA COVERAGE	7

I. MANDATE OF THE COMMISSION

1. By the decree number 534-2019 of May 30, 2019, the Québec government created the Special Commission on the Rights of the Child and Youth Protection (hereafter the “Commission”) with the mandate:

“to investigate youth protection safeguards, in the various response networks concerned, in order to identify issues and obstacles and formulate recommendations on improvements to be made.” [Translation]

The terms of the inquiry and its scope are described in the decree creating the Commission, a copy of which can be found here: *(link to copy on our website)*

2. The Commission is made up of the following people:

Régine Laurent	President and Commissioner
André Lebon	Vice-President and Commissioner
Michel Rivard	Vice-President and Commissioner
Hélène David	Commissioner
Andrés Fontecilla	Commissioner
Gilles Fortin	Commissioner
Jean Simon Gosselin	Commissioner
Lesley Hill	Commissioner
Lise Lavallée	Commissioner
Jean-Marc Potvin	Commissioner
Lorraine Richard	Commissioner
Danielle Tremblay	Commissioner

The Commission made the decision to add two special advisors:¹

Michelle Fournier	Special Education Advisor
To be appointed	Special Indigenous Advisor

II. ADOPTION, AMENDMENT AND APPLICATION OF THE RULES

3. The commissioners set the Rules of Operation, Procedure and Conduct that they deem appropriate. These Rules are adopted by simple majority. Amendments will take effect upon their posting on the Commission’s website.
4. The commissioners may, during the mandate of the Commission, amend these Rules as required for the operation of the investigation or for any other reason. Such amendments will take effect upon their posting on the Commission’s website.

¹ See Appendix.

5. The commissioners have the duty to ensure the sound management and smooth operation of the inquiry.
6. The commissioners delegate to the president and two vice-presidents the power to take all measures required to carry out the mandate.

III. INTERPRETATION AND DEFINITIONS

7. In the rules, the masculine and the singular may also designate the feminine and the plural, and vice versa.
8. Unless otherwise specified, the following terms refer to:
 - (a) Act: Act respecting public inquiry commissions, CQLR c C-37.
 - (b) Address of the Commission's website: www.csdepi.gouv.qc.ca
 - (c) Commission: The Special Commission on the Rights of the Child and Youth Protection (*Commission spéciale sur les droits des enfants et la protection de la jeunesse* or CSDEPJ).
 - (d) Decree: Decree creating the Special Commission on the Rights of the Child and Youth Protection (Decree 534-2019 of May 30, 2019).
 - (e) Document: Any medium holding information or data, including any paper or electronic medium, analogue or digital audio or video tape or disk, picture, card, chart or microfiche.
 - (f) Email address: greffe@csdepi.gouv.qc.ca
 - (g) Hearings: Public or closed hearings held by the commissioners to hear witnesses or gather evidence.
 - (h) Person: Refers to an individual, group, organization, association, Indigenous nation, band council, public service or any other entity, including the government, a city or a municipality.
 - (i) Registry of the Commission: The Commission's offices, located at 500, boulevard René-Lévesque Ouest, 9^e étage, C. P. 38, Montréal (Québec) H2Z 1W7.
 - (j) Rules: These Procedural and Operational Rules.

IV. RULES OF CONDUCT

9. To conduct this inquiry, the commissioners are appointed *intuitu personae*.

10. In compliance with section 2 of the Act, the commissioners take an oath of office before a judge of the Superior Court; Commission employees also take an oath before a Commissioner for Oaths.
11. The commissioners, special advisors and all Commission employees must exercise restraint with regard to the knowledge they acquire through the performance of their duties. They must therefore avoid disclosing or commenting on information of a confidential nature.
12. In compliance with section 7 of the Act, a majority of the commissioners must attend the hearing of witnesses in the Commission's public or closed hearings.

V. PRELIMINARY INTERVIEWS WITH WITNESSES

13. The commissioners or employees of the Commission may question, prior to the hearings, anyone with information or documents pertaining to the mandate of the inquiry.
14. In the event that the Commission decides to summon someone as a witness following questioning, a will-say summary will be drafted and given to the person before they appear before the Commission.
15. Before a witness testifies, the will-say summary will be distributed to all the commissioners to inform them of the content of the testimony that will be heard at the public hearing.
16. Will-say summaries are confidential and for the exclusive use of the commissioners and Commission staff.
17. The will-say summaries cannot be used by the commissioners to confront witnesses during their testimony nor may they be entered into evidence at the Commission's hearings.
18. At their discretion, the commissioners may require from consenting witnesses a sworn statement that may subsequently be entered into evidence in lieu of testimony.

VI. SECURITY MEASURES

19. People visiting the Commission's premises shall comply with the prohibitions and security controls in place. They shall also comply with the instructions of the security officers/special officers in place.
20. Any person whose behaviour is disruptive to the Commission's work may be expelled.

VII. HEARINGS

21. The arrangement of the hearing rooms and spaces occupied by the commissioners will be determined by the president.
22. At the hearing's scheduled start time, those present in the hearing room will take their seats and will remain silent. The clerk announces the start of the hearing.
23. Witnesses remain seated when testifying.
24. Those attending the hearings must behave respectfully, remain quiet and abstain from showing any approval or disapproval. Cell phones and electronic devices shall be turned off at all times.
25. Anything that may adversely affect the decorum and good order of the hearings is forbidden.

VIII. CLOSED PROCEEDINGS AND NON-DISCLOSURE, NON-PUBLICATION AND NON-DISTRIBUTION ORDERS

26. The Commission's hearings are public unless the president orders closed proceedings.
27. Depending on the circumstances, the president determines the identity of the people authorized to attend the closed proceedings and, as applicable, the special conditions applicable to each of these people.
28. Moreover, the president can, for sufficient cause, order the non-disclosure, non-publication or non-communication/distribution of a testimony, evidence, application or observation, or make any other order to protect confidentiality.
29. Unless otherwise decided by the president, all closed proceedings are subject to an order of non-disclosure, non-publication and non-communication/distribution.
30. Witnesses can request that the president adopt measures to protect their identity for serious reasons. Witnesses can, for instance, ask to testify in closed proceedings and request measures to protect the confidentiality of their testimony. If the motion

is approved, witnesses will receive “confidential” treatment, including the use of non-identifiable initials instead of a name. Any reproduction of a witness’s image, wherever they happen to be, or of their voice, in any form and at any time whatsoever, shall then be prohibited.

IX. EVIDENCE

31. The commissioners can, by all legal means, investigate the things brought before them for inquiry.
32. The Commission can receive any evidence it deems relevant to its mandate, whether or not this evidence is admissible in a court of law. The rules of evidence are applied to promote the admissibility of evidence, subject, however, to its evidentiary value, its unnecessarily prejudicial impact and respect for fundamental rights and for the Commission’s mandate.
33. Anyone can ask the Commission for permission to testify.
34. The Commission has the latitude to refuse to hear a witness or to allow evidence to be presented.
35. At the hearings, the Commission takes depositions from witnesses by mechanical or digital recording and has the recording transcribed.
36. In the transcripts, non-identifiable initials are used to replace the names of the witnesses for whom the president has granted confidential treatment. The same applies in the Commission’s reports using the evidence provided by these witnesses.

X. QUESTIONING

37. The evidence is presented by the commissioners designated by the president.
38. Witnesses are heard at the hearing, either in person or, on authorization from the president, by video conference.
39. Witnesses can express themselves in French, English or any Indigenous language present in the province of Québec.
40. The Commission will take the necessary measures to retain the services of an interpreter as needed.
41. All witnesses must make the following solemn affirmation: *“Do you solemnly affirm that the testimony given by you will be the truth? Say “I affirm.”*

42. The commissioners can ask the witness any questions they deem relevant.
43. The commissioners examine the witness in accordance with a pre-established order.
44. The president can narrow the topics of the examination and impose a time limit.
45. The president can, of her own accord, limit or end an examination if she feels that it is irrelevant, repetitive, abusive or vexatious.
46. Witnesses may be questioned more than once if necessary for the purposes of the Commission.

XI. ENGAGEMENTS

47. On request from the president, witnesses must agree to provide the Commission with a document or information requested by the president by the following day or by the established deadline.
48. Engagements are noted in a sequential order by the Commission's clerk and identified as E-1, E-2, E-3 and so on.

XII. DOCUMENT MANAGEMENT

49. Witnesses shall provide the Commission with all documents, both in hard copy and digital form, that they plan to submit as evidence or that they plan to refer to during the hearings, at least three (3) clear days before the day on which they will table a document or make reference to it.
50. Certain documents may, in whole or in part, be confidential, be subject to a non-disclosure, non-publication or non-communication/distribution order.

51. Documentary evidence tabled before the Commission, as well as the transcripts of testimonies, are identified as P-1, P-2, P-3 and so on for public hearings, and as C-1, C-2, C-3 and so on for closed proceedings or for hearings for which the documents received a non-disclosure, non-publication, non-communication/distribution order or any other confidentiality order.
52. A copy of the “P” transcripts and “P” exhibits will be posted on the Commission’s website as soon as possible.
53. Only the president can authorize access to “C” transcripts and “C” exhibits.

XIII. RESEARCH

54. In addition to the public hearings, the Commission can, at its sole discretion and at any time, make use of various research methods with respect to questions pertaining to its mandate.
55. The Commission can therefore, for example, compile data, identify laws, analyze statistics and gather information from various bodies, institutions and organizations.
56. The Commission can, if appropriate and at its sole discretion, enter this research into evidence.

XIV. PUBLIC CONSULTATIONS

57. The Commission can invite the public to share with it, in writing, opinions on the recommendations it may put forward in relation to its mandate.
58. It may also solicit the presentation of briefs in this respect. Briefs received will be posted on the Commission’s website.
59. The Commission reserves the right to ask the authors of certain briefs to appear before it, at a public hearing, to defend their proposals and submit their final observations on the topic.
60. The Commission can also hold forums for experts and citizens in various regions of Québec to gather opinions, perspectives, experiences and proposed recommendations on improvements to be made to better safeguard children’s rights and uphold youth protection in Québec.
61. Summaries of these forums may be entered into evidence.

XV. MEDIA COVERAGE

62. The Commission will take the measures necessary to ensure public hearings are streamed live on its website and to make them available in real time for all broadcasters. To this end, only fixed cameras with a lighting system set up by the Commission shall be allowed in the hearing room.
63. The hearings will also be available for later streaming on the Commission's website.
64. Cameras and microphones will be set up at predetermined locations in the hearing room.
65. Unless the president gives special authorization otherwise, press briefings and interviews are not authorized in the hearing room or anywhere other than in an area designated by the Commission.
66. The president can give authorization for a photographer to take pictures in the hearing room before the work begins, at times and under conditions determined by her.
67. The photographs shall, however, be made available to other media.
68. No other form or method of recording, rebroadcasting or photography than those set out in these Rules are allowed in the hearing room without the express authorization of the president.
69. Media representatives are required to comply with the Commission's instructions.
70. Each time the Commission holds closed proceedings or issues an order of non-disclosure, non-publication, non-communication/distribution or any confidentiality order, the media must take the necessary measures to ensure visual or audio recording devices are off and that the orders are respected for their entire duration.
71. If allowed, broadcasts covering the deposition of a witness benefiting from confidential treatment must not contain any information likely to reveal the identity of the witness.

APPENDIX

SPECIAL EDUCATION ADVISOR

- Special advisor with a major in education and in-depth knowledge of the field.
- Proven field knowledge.
- Levels of responsibility that have put them into contact with practice issues and cross-sector collaboration.
- Experience collaborating directly in study and planning mandates related to issues involving the provision of services to youth.

SPECIAL INDIGENOUS ADVISOR

- Special advisor with a major in social and protection services in the Indigenous context and in-depth knowledge of the field.
- Proven field knowledge.
- Practical experiences in studying and discussing with political and decision-making bodies issues involving the provision of youth services to Indigenous groups.
- The person shall also be supported and endorsed by Indigenous political authorities, given the impact that the Commission's work could have on youth practices and services in the Indigenous context.