

RISK MANAGEMENT PLAN

(Adopted by the Comité de gestion de la taxe scolaire de l'île de Montréal by resolution 10 on March 11, 2010) and modified by resolution 14 on October 23, 2014)

1.0 Description of the Plan

- 1.1** Contingent upon above exclusions and precisions hereafter added, the present Management Plan primarily consists of a self-insurance program for extra contractual legal liability (Public liability and property damage established for the benefit of the school boards on the Island of Montreal and the Comité de gestion de la taxe scolaire de l'île de Montréal ("the Comité de gestion").
- 1.2** The Plan, a voluntary membership offered to school boards, is managed by the Comité de gestion.

2.0 Legal Basis

- 2.1** The Risk Management Plan is instituted pursuant to Section 431 of the Loi sur l'instruction publique (Education Act) - (c. I-13.3)

3.0 General Framework

3.1 Definitions

- 3.1.1** For the purpose of the Risk Management Plan, the following expressions and words shall bear the meaning hereinafter given, except where the context dictates otherwise.

- a) "Administrative act":

Any act, duty, privilege or decision incumbent upon administrators or officers of participating organizations acting in the exercise of their related functions to the general administration of one of the participating organizations, particularly finances, fund management, revenue, expenses application, contract grants and approval, bids, contracts and any other project for one of the participating organizations.

b) "Administrator" or "officer":

The members and substitutes of the Comité de gestion and the School Board Commissioners that have indicated their intention, in writing, to participate in the Plan for the duration of their mandates. These words also include the members of a governing board, of a school committee and of a school board or of the Comité de gestion, as well as any other person in an administrative capacity, an officer or other covered by Government of Quebec Decrees 1325-84, 1326-84, and 1327-84 and amendments thereto, and any other decree adopted as a replacement of the foregoing.

c) "Year":

The period from July 1 of any given year to June 30 of the following year.

d) "School Board":

Any school board located partly or completely on the Island of Montreal.

e) "Comité de gestion":

The Comité de gestion de la taxe scolaire de l'île de Montréal.

f) "Employee":

Any person employed or named by a participating organization as well as any clerk, including any professional, administrator or officer and any unpaid person working for a participating organization.

g) "Participating organization":

The Comité de gestion and any school board participating in the Plan.

h) "Professional":

A person who is a member in good standing of a professional corporation covered by the Code des professions (L.R.Q., c. C-26).

i) "Plan":

The present Risk Management Plan.

j) "Civil liability":

Extra contractual legal liability, as defined by the Quebec Civil Code, from a fault on the part of the participating organization, or of its employees in the performance of their duties, except for the professional liability and the professional liability of the administrators or officers.

k) "Responsibility of administrators or officers":

Civil liability resulting from a fault on the part of an administrator or officer with regard to an administrative act in the performance of his (her) duties with the participating organization.

l) "Professional liability"

Professional liability resulting from a fault on the part of a professional employee for services rendered by the latter, in the performance of his (her) duties with the participating organization.

3.2 Purpose of the Plan

Contingent upon exclusions, limitations and exemptions provided by the Plan, the objectives are:

- a) To provide a defense to participating organizations against any claim or lawsuit for damages resulting from any alleged fault on the part of one of their employees in the performance of his (her) duties and to indemnify any claimant, at the location of said participating organization where the liability of the latter has been established.
- b) To provide a defense to the employees of participating organizations against any claim or lawsuit for damages resulting from any alleged fault on the part of one of those employees in the performance of their duties and to indemnify any claimant, at the location of said participating organization, where the liability of the latter has been established, except in the case of gross fault or carelessness on the part of those employees.
- c) To indemnify, only as part of an education program accredited provided by a participating body, any person in respect of any damage suffered by it, where such damage is caused by students undergoing an unremunerated extramural or industrial training course while they are not directly under the control of servants or employees of a participating body, the whole only where the liability of such students is established and

only in proportion to the fault that can be apportioned to the latter;

- d) To provide a defense to participating organizations and their professionals, or administrators or officers, against any claim or lawsuit resulting from any alleged fault in the framework of their professional or educational services, or criminal acts and to indemnify any claimant, at the location of its employees when the liability of said employees has been established, except in the case of gross or intentional fault on the part of its professionals, administrators or officers.
- e) To take certain measures aimed at reducing the risks covered by the Plan.

3.3 Coverage, exclusions, limitations and exemptions provided by the Plan

3.3.1 Coverage of the Plan

a) Extension of indemnity

The indemnity payable by virtue of the Plan includes all the claimant's legal fees plus accumulated interest on damages payable.

b) Precise time of fault

The risk related to the civil liability and coverage with regard to a participating organization is limited to any fault having taken place during the membership, in the Plan of said participating organization.

However, in matters of professional liability and responsibility of the administrators and officers, the Plan also covers any fault on the part of these people before the membership in the program of a participating organization that had instituted a claim, and only after its membership in the Plan, only if said organization held a policy, before joining the Plan and whereby the coverage did not include any claim received after expiry of said policy, for any fault having resulted before the said date of expiry.

c) Defense Fees

Except in the case of any excluded risk or not part of the present Plan, the coverage is the investigation, assessment and arbitration expenses, as well as legal fees necessary to the defense of the participating organization and of its employees, even if the amount claimed is equal or inferior to the

exemption provided by Section 3.3.4 of the Plan, or if it is superior to the limits provided by Section 3.3.3 of said Plan. These expenses are only covered, however, where the choice of the investigators, experts, arbitrators, and lawyers has been made by or approved by the Comité de gestion.

3.3.2 Exclusions

The indemnity payable by virtue of the Plan does not cover the following risks:

- a) Risks of injury or damage caused by motor vehicles as defined in the **Code de la sécurité routière** or of damage caused to such vehicles; however, this exclusion does not apply to damages to such vehicles for any amount not exceeding \$50,000.00 per vehicle involved in one and the same incident; this exclusion nevertheless applies to vehicles owned, leased or operated by participating bodies;
- b) Any risk covered by the Loi sur les accidents du travail et les maladies professionnelles - (L.R.Q., c. A-3.001) or by any provision of an agreement or by a decree relative to that law;
- c) Any risk of damages caused to a property where the participating organization is the tenant, the occupant, the user or the custodian, except any property damage resulting from a fire or an explosion;
- d) Any risk related to the use, the possession or the custody of assets by a third party, where the participating organization is the owner except in the case of immoveables used, owned, or kept by a third party for any consecutive period of seventy-two (72) hours or less;
- e) Any risk related to a riot;
- f) Any complaint filed with or any recourse through the Commission des droits de la personne et de la jeunesse and any recourse through the Human Rights Tribunal;
- g) Any recourse for injury to a person's reputation, honour, or dignity, or for libel;
- h) Any risk related to an act or neglect of malicious or improper or voluntary nature precising that the present exclusion only opposable to persons referred to by program and where said act forms the basis of the claim;

- i) Any risk covered by the M.E.L.S. indemnity Plan for direct damages to the school boards' property instituted by application of Section 474 of the Loi sur l'instruction publique (c.l-13.3);
- j) Any risk related to the execution or a default of execution of a contractual commitment, including any risk deriving from the application, the execution of a collective agreement or an individual work contract, as well as those which the participating organization must exclusively handle by virtue of the responsibility it has assumed by contract;
- k) The risks directly or indirectly related to the issue, dismissal, elusion or dispersion, actual or dreaded, of pollutants, as well as the implantation of anti-pollution measures which public authorities may impose, from time to time.

It shall be understood that the word "pollutant" covers all liquids, gaseous or solid substances or all thermal factors at the origin of contamination or likely to cause irritations and includes, among others, smoke, steam and chemicals or garbages;

- l) The nuclear risk, including any risk related to property or use of radioactive substances, especially their radio-activity, toxicity and explosiveness;
- m) Any risk covered by a liability insurance policy purchased by the participating organization, up to the forecasted coverage of such policy - the present Plan only offering a coverage for any amount exceeding a claim;
- n) Consequences following from civil or foreign war, invasion, acts of foreign enemies, hostilities (whether war is declared or not), rebellion, revolution, insurrection or military power;
- o) Risks connected to trips for students and for those accompanying them outside the territories of Canada, the United States of America and of countries who are members of the European Economic Community (EEC), save only those countries in a situation described in paragraph l) and including Switzerland, Liechtenstein and Norway.

- p) All risks related to an activity or the use of vehicles or equipment hereafter described:
1. Any motorized boat propelled by an engine of more than 5 HP or the equivalent unless it is not driven by a person holding her pleasure craft operator card and that this person is not a student, except for the boats authorized with the transport of people and who have the permits for this purpose;
 2. Any water rafting activity by any means whatsoever, on any body of water or rapids exceeding Class R-II or superior to S-2, pursuant to International rivers and waters classification; the present exclusion covering all crafts used in water rafting;
 3. Any off-the-road motorized vehicle drives by student or which they are the direct passengers unless they are not in a trailer tractor drawn by such vehicle or in a part of the vehicle reserved for the transport of people.

This exclusion will not be applicable within the framework of an activity connected directly to the training of a trade of the mechanics and only for one operational test except road which is held in the perimeter of the school establishment where this formation is given;

4. Any aircraft, except for the planes and helicopters authorized for the transport of people and who have the permits for this purpose;
5. Parachuting in all its forms including the activities of the parapente type, para-sailing and any similar activity using an accessory of flight;
6. Natural steep-rock climbing requiring roped party climbing or abseiling;
7. Bungee;
8. War-games;
9. Trampoline or any other similar apparatus (excluding the super-mini-trampoline, also called a "trampolinette" and used as springboard);

10. Deep-water diving, except in a swimming-pool;
11. Any contact combat sport except judo, Olympic wrestling, Greco Roman wrestling, karate, taekwondo, boxing, and self-defense;
12. Any jumping, acrobatics or style jumps on animals or mechanic copy of animals;
13. Any jumping, acrobatics or style jumps done with sliding or roller sport equipment unless that activity is done in a park specially designed for skate board or inline skates and if the structures used are maximum 1 meter high.
14. Any jumping acrobatics or style jumps on pogo stick or ripstick.
15. Any sport or activity described as extreme as :
 - Parkour activity performed outside of a gymnasium or done with some structure affixed on the ceiling or the wall of the gymnasium.
 - Buggy rollin.
 - Winter camping in any shelter,made of snow (ie. igloo, quinzee etc.)
 - Tightrope walking on a structure of more than 60 cm high.
 - Sheet luge.
 - Swimming in white water exceeding class R-II.
 - Wind surfing (speed sailing, kite surfing etc.)
 - High diving.
 - Sand kiting.
 - Speed skiing.
 - Any form of water skiing (with skis barefoot, wake board etc.).
 - Snowkite.
 - Speed riding
 - Any form of surf (body surfing, skimboarding, bodyboarding etc.).
 - Ultra marathon.
 - Using firearm
 - Using pyrotechnic.
 - Bmx biking.
 - Speed bike.
 - Snowscoot (snowbiking).

- q) Consequences of any gain, profit or advantages of unwarranted nature, precisng that the present exclusion is not opposable to persons covered by the Plan where the blamable act forms the basis of the claim;
- r) Fines, penalties, punitive or exemplary damages and other amounts that are not of compensatory nature;
- s) Claims registered by a participating organization against another organization participating in the Plan;
- t) Consequences of default to acquire and maintain insurance for professional or administrative coverage;

However, Section 3.2 a) and b) of the Plan shall apply to a school board facing legal prosecution for civil liability, following the holding of an activity mentioned at subparagraph "p" of Section 3.3.2, where said school board shall prove that it had taken the following measures:

1. To officially forbid the holding or the practice of any activity mentioned in the preceding paragraph in all the establishments and other places under its jurisdiction where such events take place for young pupils and adults;

2. To appropriately publicize the ban (by means of annual instructions, memos, user guides, meetings, educational sessions or others) for the benefit of all its employees, pupils and unpaid personnel.
3. So that the above instructions be carried out through occasional verifications.
4. That are practical and reasonable (such as, but not limited to, the withdrawal or locking up of any apparatus used in such activities) for the prohibition is applied everywhere in activities under his suspension.

Section 3.2.1 a) and b) of the Plan will also apply to any employee of the school board in the performance of his (her) duties and involved as party or implicated in civil liability legal proceedings as a result of one of the activities mentioned on subparagraph "p" of Section 3.3.2 where the employee shall prove that he (she) had respected the instructions of the said school board and had himself (herself) imposed the instructions as provided in the present section.

3.3.3 Coverage Limits

- a) The maximum indemnity provided for the present Plan for each participating organization is as follows:
 - \$5,000,000.00 for each event instituting the right to payment for damages for indemnity related to civil liability.
 - \$2,000,000.00 for each event instituting the right to payment for damages for indemnity related to professional liability or to the administrators and officers liability;
 - \$50,000.00 per occurrence entitling to payment of damages in respect of indemnification connected to any claim within the scope of paragraph c) of Section 3.2.
- b) These maximum amounts include the legal fees of the claimant and accumulated interest on damages payable.

- c) In order to pay the indemnity of \$500,000.00 or more, the Comité de gestion may purchase damage insurance policies with the credits allocated to the indemnity fund provided for the Plan.

3.3.4 Deductible

- a) The coverage provided for the Plan is subject to a \$2,500.00 deductible for each event instituting the right to payment for damages.
- b) This amount includes the claimant's legal fees, as well as accumulated interest on payable damages.
- c) If, however, in the course of one year, this deductible results, for a school board in an amount exceeding twenty-five cents (\$0.25) per pupil, said deductible shall cease for that school board for the remainder of the year.

3.4 Obligations of participating school boards and the Comité de gestion

3.4.1 Reports to the Comité de gestion

Each participating organization shall submit to the Comité de gestion, within ten (10) days after receipt, all claims or legal proceedings relating to a fault of the organization or of its employees in the performance of their duties relative to a demand for damages. The organization shall also report to the Comité de gestion any event brought to its attention and where it may result in such claim within forty-five (45) days of the event.

Should the organization fail to conform to the present section, the Comité de gestion may refuse the defense and pay the indemnity relative to the case.

3.4.2 Role of the Comité de gestion

The Comité de gestion shall assure the defense of participating organizations and their employees; it shall conclude, as it deems appropriate, the settlements with claimants, with due reserve to the applicable deductible, and indemnify the participating organization and its employees at its location.

3.4.3 Cooperation of participating organizations

The participating organizations shall facilitate the task of the investigation to be performed by the Comité de gestion, following an event possibly leading to a legal action for damages, for instance, by providing all information or requested documents. The organization shall preserve and make available to the Comité de gestion everything deemed useful by the Legal Services of said Comité de gestion, for the establishment of evidence, following an event susceptible of resulting in a claim. The participating organization shall help the Comité de gestion in every way possible if required to do so.

3.4.4 Reports to participating organizations

The Comité de gestion shall periodically inform the participating organizations on the progress of pending lawsuits and shall also inform them on the outcome of the claims.

3.5 Membership in Plan and withdrawal

3.5.1 Membership to and withdrawal of school boards

Any school board wishing to join the Plan in any one year shall make known its intention by submitting a resolution to the Comité de gestion before February 1st preceding the beginning of that year. The membership then becomes effective July 1st, following the notice.

Any participating school board wishing to withdraw from the Plan shall notify the Comité de gestion by resolution submitted before February 1st, preceding the beginning of that year. The withdrawal then becomes effective July 1st, following the notice.

3.5.2 Membership of the Comité de gestion

The Comité de gestion shall continue its membership as long as it remains in force.

3.6 Preventive measures

3.6.1 The Comité de gestion makes inspections of schools and others buildings belonging to participating school boards in view to detect any cause of accidents, fires, thefts or others sources of injuries, loss or damages.

3.6.2 Each participating school board shall, at all times, facilitate said inspections and shall also supply all information and documents required by the inspectors.

3.6.3 The Comité de gestion shall reimburse to participating school boards the annual Labor Ministry inspection fees related to their pressure apparatuses, upon presentation of such invoice, unless the Comité de gestion performs such inspection directly or through a third party.

3.6.4 Moreover, the Comité de gestion may opt for other preventive measures, such as personnel awareness of participating school boards to such causes or sources of injuries, losses or damages.

3.7 Indemnity Fund

3.7.1 Establishment of the fund

a) Description of the fund

The Comité de gestion shall establish a fund in which it sets aside, annually, sufficient amounts for the payment of anticipated indemnity (including claimant legal fees and interest on amounts payable to them) and to cover the cost of the administration of the Plan for the following year. These amounts are based on estimates, which the Comité de gestion deems necessary to cover its responsibilities related to the Plan. Without limitation to the foregoing, the administration expenses cover the investigation and expertise fees as well as

incurred legal fees relative to claims, the actuary cost to evaluate the Plan and estimate the amounts to be invested in the indemnity fund, incurred expenses for the application and administration of preventive measures previously outlined, also the accumulated expenses for secretarial services exclusively reserved for the administration of the system.

b) Value of the fund

The value of the fund, at a given date, covers the provisions for the pending files and for eventual claims, as well as all amounts due to claimants, including necessary amounts to cover defense expenses, administration fees and amounts related to prevention.

3.7.2 Sources of financing invested in the fund

- a) The interest produced by the fund benefit the fund.
- b) The amounts invested by the Comité de gestion in the indemnity fund, above and beyond the interest, come from the amounts the Comité de gestion determines, on an annual basis, by resolution and relative to its requirements, by virtue of paragraph 2 of first subparagraph of Section 439 of the Loi sur l'instruction publique (c. I-13.3).
- c) The Comité de gestion may furthermore establish an annual contribution to be invested in the fund by the school boards toward the administration of the Plan and the application of preventive measures. This contribution is established for each school board according to its clientele as at September 30 of the year preceding the given year.

3.7.3 Withdrawal from the Plan

Should a participating school board withdraw from the Plan in the manner set forth in Section 3.5.1., paragraph 2, any claims related to events that occurred prior to the date of the withdrawal will be covered by the Plan even if they are received after the withdrawal date.

Any school board that withdraws from the Plan will have no right to share in the funds, whether in reserves associated with claims or in those that have not been allocated to claims.

3.7.4 Dissolution of the Plan

In the event of the dissolution of the Plan, each of the participating school boards will become responsible for any claims made against them.

The fund created will be dissolved and the amounts paid to the school boards participating in the Plan at the time of dissolution will be distributed as follows:

- a) The reserved amounts that have been allocated to claims will be remitted to the participating school boards in accordance with that allocation; in other words, the reserve will follow the claim;
- b) The balance of the fund, or the amounts that have been reserved but not allocated to claims, will be distributed to participating school boards at the time of dissolution. The distribution of this amount will be carried out on a pro rata basis in accordance with the clientele of the school boards as at September 30 of the previous year.

3.7.5 Contribution to the Comité de gestion

Taking into account that, in numerous cases, the legal services required to manage the Plan are provided by the lawyers of the Comité de gestion, without charge to the indemnity fund, the Comité de gestion participates, with full rights, to that Plan.

3.8 Risk Management Committee

3.8.1 A committee known as the Risk Management Committee shall be constituted.

3.8.2 This committee shall include a representative designated by the Comité de gestion and a representative designated by each of the participating school boards.

3.8.3 The functions of the Risk Management Committee are as follows:

- to assist the Comité de gestion in the setting-up, the application, the evaluation, and the revision of the Plan;
- to supply the Comité de gestion with counseling on all matters related to the present Plan;
- to prepare and submit to the Comité de gestion the annual report as provided in Section 3.9.

3.9 Claims filed by the Comité de gestion

3.9.1 Where a claim opposes a participating school board to the Comité de gestion, said school board alone, shall choose its investigators, experts, arbitrators, and lawyers, notwithstanding the provisions of Section 3.3 and without any intervention on the part of the Comité de gestion. All associated fees accrued by the said school board, remain at the expense of the indemnity fund.

3.10 Various provisions

3.10.1 Annual Report

- a) The Plan is subject to an annual report, which after perusal by the Comité de gestion, is presented to each of the school boards.
- b) This report constitutes the statement of the Plan for the year ended. It also contains an evaluation of the Plan, and as needed, proposes certain modifications.

- c) In the light of such a report, the Comité de gestion revises, if need be, the Plan after consultation with the school boards.

3.10.2 Explanatory clauses

- a) The present replacement of the Plan only being used for format reasons does not, in any way create a caesura between the new Plan and the Plan thus replaced.
- b) The present replacement does not:
 - invalidate the decisions or the actions taken within the framework of the Plan thus replaced nor its effects;
 - prevent any legal recourse, nor eliminate any cause for action related to decisions emanating from the Plan thus replaced;
 - prevent the settlement of claims resulting from losses or damages sustained prior to July 1, 1992;
 - free organizations or persons from obligations incumbent upon them, by virtue of the Plan thus replaced.

3.10.3 Effective Date

- a) This resolution shall come into force immediately following its passing and it shall thereupon replace resolution 10 dated June 16, 2005.
- b) The Comité de gestion reserves the right to end the Plan upon notice, at least three (3) months prior to end and addressed to the school boards before July 1st.

N.B. This document is an unofficial translation of the resolution adopted by the Comité de gestion de la taxe scolaire de l'île de Montréal. In case of discrepancy between the French version and the present text, the French version shall prevail.