

INTERNATIONAL

ADOPTION

Code of Ethics
of the Québec Certified
Organizations
in International
Adoption

Québec 

INTERNATIONAL

**A
D
O
P
T
I
O
N**

Code of Ethics
of the Québec Certified
Organizations
in International
Adoption

Québec 

Ministère de
la Santé et des
Services sociaux

Secrétariat à l'adoption
internationale

Produced by:

The Direction des communications of the ministère de la Santé et des Services sociaux

This document may be consulted in the Ministère de la Santé et des Services sociaux Web site at :
www.msss.gouv.qc.ca/adoption

In this document, the masculine form is used to designate both sexes.

For additional copies of this document, send your order

by fax to: (418) 644-4574

Or by e-mail to: communications@msss.gouv.qc.ca

Or by mail to: Ministère de la Santé et des Services sociaux
Direction des communications
1075, chemin Sainte-Foy, 16e étage
Québec (Québec)
G1S 2M1

Legal deposit

Bibliothèque nationale du Québec, 2000

National Library of Canada, 2000

ISBN 2-550-36915-5

© **Gouvernement du Québec**

Any reproduction of this document, in whole or in part,
is authorized with reference to the source.

TABLE OF CONTENTS

GENERAL PRINCIPLE	5
INTERPRETATION AND APPLICATION	7
TITLE I	
MATERIAL RULES	9
CHAPTER I	
<i>SERVICES TO THE PUBLIC</i>	9
<i>Contract</i>	11
CHAPTER II	
<i>CONFLICT OF INTEREST AND IMPARTIALITY</i>	13
CHAPTER III	
<i>COLLABORATION, COMPLEMENTARITY</i> <i>AND COMPETITION BETWEEN ORGANIZATIONS</i>	15
TITLE II	
MONITORING OF ENFORCEMENT OF THE CODE	17
<i>Code of Ethics Oversight Committee</i>	17
TITLE III	
TRANSITIONAL MEASURES	19

GENERAL PRINCIPLE

Whereas a certified Québec organization is a non-profit corporation whose mission is to defend the rights of children, promote their interests or improve their living conditions, which the Minister of the ministère de la Santé et des Services sociaux, under section 72.3.3 of the *Youth Protection Act* (R.S.Q., chapter P-34.1), has certified to take steps, on behalf of an adopter, with a view to the adoption of a child domiciled outside Québec;

Whereas the board of directors of a certified organization must see that the organization takes such adoption steps in accordance with its mission, and in keeping with the rights of the children and adopters;

Convinced that the adoption steps must be taken in accordance with the principles recognized by international authorities, particularly by the United Nations Convention on the Rights of the Child, of November 20, 1989, and the United Nations Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, of May 29, 1993;

Wishing to provide rules so that children domiciled outside Québec are adopted, first and foremost, in their best interests and in keeping with their basic rights;

Also wishing to provide rules so that the steps in adopting a child domiciled outside Québec are entrusted by adopters to organization in a climate of mutual trust and understanding and are taken in keeping with the rights of the adopters;

The certified organizations shall observe the rules of practice and conduct in this Code. They shall encourage any other person taking steps for an adopter in adopting a child domiciled outside Québec to follow the rules of practice and control in this Code.

INTERPRETATION AND APPLICATION

1. In this code, unless the context indicates otherwise:
 - (a) "**parents' association**" means an association legally constituted of parents who adopted a child domiciled outside Québec;
 - (b) "**Code**" means the Code of Ethics for organizations certified in Québec by the Minister;
 - (c) "**Committee**" means the Oversight Committee for the Code of Ethics for certified organizations;
 - (d) "**waiting list**" means the list of adopters of an organization indicating the order in which their files are submitted in the children's country of origin;
 - (e) "**Minister**" means the Minister of the ministère de la Santé et des Services sociaux;
 - (f) "**organization**" means the corporation and its officers, employees, mandataries and representatives, in Québec and abroad;
 - (g) "**Secrétariat**" means the Secrétariat à l'adoption internationale du Québec.

TITLE I

MATERIAL RULES

CHAPTER I

SERVICES TO THE PUBLIC

2. The organization shall act objectively, and with moderation and dignity, and shall avoid any method or take any attitude detrimental to international adoption and its ability to serve the public interest. Before accepting a mandate, it shall take its limitations, its representatives' knowledge and the means at its disposal into consideration.
3. The organization shall deal with the adopter humanely, fairly, with high regard and with diligence, and shall seek to establish with him a relationship of mutual trust.
4. The organization shall provide the adopter with the explanations required to understand and evaluate the services rendered to him.
5. The organization shall inform the adopter properly and honestly of the complete situation concerning his plans, and shall support him before, during and, if required, after his plans are realized.
6. The organization shall not engage in or allow, in any manner whatsoever, a false, misleading, incomplete or confusing representation.

A representation consists of a statement, behaviour or omission. To determine whether a representation constitutes a prohibited practice, the general impression it gives and, if necessary, the literal meaning of the terms used must be taken into consideration.

7. According to the whole of the information available, the organization shall objectively explain to the adopter the nature and scope of the different eventualities, conditions, situations and contingencies that may arise according to the mandate given. It shall inform him, as soon as possible, of any change that occurs during implementation of the mandate.

It shall see that the adopter receives, in a precise and accurate form, the information reasonably necessary to enable him to make an enlightened decision. It shall give particular attention to the following five aspects: health (the risks inherent in the country, the policies of the country in regard to disabled children and any illnesses or disabilities of the child proposed), eligibility criteria (those in force in the child's country of origin), expenses to be incurred by the adopter (overall and broken down, payable to the organization and to the other parties involved, in Québec and abroad), waiting periods and the adoption process.

8. The organization shall not disclose any confidential information obtained in the performance of its duties. The content of the file concerning an adopter may be disclosed, entrusted or remitted to a third party, in whole or in part, solely with the adopter's written authorization, or when required by law.
9. The organization shall inform potential adoptive parent of its operating procedures in regard to, among other things, registration and the order in which files are submitted in the country of origin of the children. Any communication with a potential adoptive parent shall be unambiguous in this regard.

When an adoptive parent is entered on the lists of an organization, the organization shall comply with the chronological order and act fairly in processing applications.

The organization shall draw up its waiting lists in keeping with reasonable approximate time periods for carrying out adoptions, taking into account normal or usual circumstances. In all cases, the organization shall inform the adopter of the approximate period of time that he should expect to wait, at the time he is entered on the recall list, the list of files being drawn

up, the list of completed files and any other list used. When the period of time is expected to be unusually long, the organization shall avoid placing adopters in an ambiguous situation in regard to their prospects for realizing their adoption plans.

When a country closes its doors to adoption, the organization shall receive no payment of money from new people interested in adopting a child from that country and shall accept no commitment on their part that may bind them.

- 10.** As long as an adopter is not entered on a waiting list of the organization, any communication with him shall be unambiguous in this regard.
- 11.** Inciting a person in a pressing manner or repeatedly to use the organization's services, or taking any step toward obtaining from a person a mandate that, to the organization's knowledge, has already been entrusted to another organization is detrimental to the dignity of the functions of an organization.
- 12.** An organization shall not use methods likely to denigrate or disparage another organization or the services that it offers, or make comparative representations.
- 13.** Unless it is for activities the proceeds of which are given to humanitarian causes, the organization shall not solicit a donation or voluntary contribution from a parent until the child he has adopted arrives in Québec.
- 14.** If, once the adoption is complete, the organization is able to encourage contact between the biological parents and the adopted child, it is its duty, according to the law, to provide the necessary support, when required.

Contract

- 15.** The organization shall submit to the Secrétariat any special clause that it intends to add to its contract, at least two weeks before they come into effect, so that the Secrétariat can make comments and suggestions within that time.

- 16.** The contract may be resiliated at the discretion of the adopter within five days of its signing by the parties.

When a contract is signed before the adopter has obtained a psychosocial assessment, he may terminate it by resiliation within five days of receipt of the assessment.

In the above two cases, the organization shall immediately refund all administration costs and other amounts it has collected from the adopter.

- 17.** The organization divulges transparently in its contracts all the costs involved and all the obligations of the parties.

Furthermore, the contract shall contain specific mention of:

- (a) administration costs;
- (b) amounts claimed in the foreign country (for the orphanage, etc.) as of the date of the signing of the contract;
- (c) each service involving significant costs for the adopter;
- (d) the terms of the refund of administration costs and the amounts or percentage of this refund, if any;
- (e) the time that the adopter is entered on the organization's waiting list.

The contract shall specify, wherever possible, the cost of the services mentioned in paragraph (c) and, if unable to do so, shall give an approximate cost.

- 18.** The organization may not stipulate in the contract that it is relieved of responsibility for its acts, errors or negligence and may not reserve the right to decide unilaterally whether an act or situation has occurred.

CHAPTER II

CONFLICT OF INTEREST AND IMPARTIALITY

- 19.** The organization shall act honestly, shall not be involved in breaches of trust and shall not receive or pay or promise to pay any benefit, discount or commission in the performance of its duties or in the process leading to the adoption of a child, either in Québec or abroad.
- 20.** In keeping with the laws governing confidentiality, the organization shall not use confidential information or documents to the detriment of the adopter or with a view to obtaining a benefit either directly or indirectly.
- 21.** The organization, its officers, employees, mandataries and representatives, in Québec and abroad, shall have no direct or indirect interest that may place their personal interest in conflict with the duties of their positions; they shall see that any benefit obtained in the performance of their duties is used solely for international adoption purposes.
- 22.** The organization shall avoid methods and conduct likely to give international adoption a commercial or remunerative character.
- 23.** The organization shall avoid placing or maintaining in a situation of conflict of interest, either directly or indirectly, one or more public or parapublic civil servants who intervene in the process leading to the adoption of a child, either in Québec or abroad.
- 24.** The organization shall ensure that none of its acts or the acts carried out in its name prevents the biological parents from giving free and enlightened consent, without constraint or promises. It shall never exert any pressure whatsoever on the biological parents to convince them to give their child up for adoption. It shall not be associated in any way with a person, organization or institution that engages in such methods or is suspected of engaging in them.

- 25.** The organization shall not be bound to a particular professional for the purpose of psychosocial assessments or follow-up of the integration of the children in their new families. It shall not attempt to unduly influence child and youth protection centres, social workers or psychologists in their psychosocial assessments. A change in the psychosocial assessment or summary thereof shall be made only by the professional who prepared the assessment.
- 26.** The organization shall not offer a child to an adopter until the adopter has obtained a psychosocial assessment. When there is a major difference between the child offered by the country of origin and the recommendation of the psychosocial assessment, the organization shall ask the adopter to obtain additional written information from the professional and/or the child and youth protection centre that prepared the assessment.

CHAPTER III

COLLABORATION, COMPLEMENTARITY AND COMPETITION BETWEEN ORGANIZATIONS

- 27.** Invitations of foreign government delegations shall be made in coordination with the Secrétariat and other organizations working in the country, if any.
- 28.** The organization shall comply with the administrative rules in force, as defined by the authorities of the foreign countries.

When an organization makes representations to government or official foreign authorities to obtain clarification of laws, rules or conduct, it shall inform the Secrétariat thereof as well as of the responses received.

The organization shall act respectfully toward foreign persons, authorities and institutions and shall ensure that its representations are not detrimental to another certified organization or to international adoption in Québec.

- 29.** The representative of an organization or a person acting for him shall avoid any ambiguity that could give foreign authorities the impression that he also represents Québec government authorities.
- 30.** An organization that has a long waiting list or does not have sufficient applicants for all the children it is offered, or for any other valid reason shall encourage the exchange of information between organizations with a view to facilitating adoption.

TITLE II

MONITORING OF ENFORCEMENT OF THE CODE

Code of Ethics Oversight Committee

31. As provided for in section 33, to ensure enforcement of this Code without prejudicing the powers of the Minister or the Secrétariat's monitoring mandate, a problem in enforcing or interpreting the Code or a material failure to comply with it may be submitted to the Committee.

32. The Committee is composed of:

- two representatives of the organizations, elected by them;
- one representative of adoptive parents' associations, elected by them;
- one representative of the Secrétariat designated by its director;
- a fifth person, chosen annually by the four members designated above, from among citizens recognized for their moral qualities and their involvement in society in fields other than international adoption.

The members of the Committee are appointed for one year. The Committee sits when necessary, with a quorum of three people and selects a chairperson at the beginning of each year. The members of the Committee who hear a dispute have the authority to act up to the decision-making stage in order to settle the dispute, notwithstanding the term of their mandate.

The organizations and adoptive parents' associations elect annually the same number of alternate representatives for the purposes of replacing a principal representative in the event of incapacity or conflict of interest. Except in the event of withdrawal or inability to adequately represent the principal representative, an alternate representative assumes the duty of the principal representative upon termination of his annual mandate.

- 33.** The organizations, parents' associations, Secrétariat and citizen chosen to sit on the Committee may, at any time, refer to the Committee a problem or a failure of compliance as defined in section 31 by applying to the chairperson of the Committee.

The Committee acts by selecting, in a non-exclusive way, one of the following approaches:

- mediation;
- a response to the questions submitted;
- the issuing of recommendations.

The Committee forwards the results of its deliberations to the authorities concerned and sees that its recommendations are followed.

Hearings are in camera unless the Committee decides otherwise. The Committee hears the parties involved, unless they refuse to be heard, and hears interested persons wishing to intervene whom it approves. The Committee can decide to distribute the results of its deliberations; otherwise, they are available only to the organizations, in addition to the parties involved, which automatically receive a copy.

- 34.** This Code is revised every five years as of its coming into force and is amended, if need be, after study by the organizations, adoptive parents' associations and the Secrétariat. It may also be revised at any time in the same manner at the written request of a majority of the organizations, submitted to the Oversight Committee.

TITLE III

TRANSITIONAL MEASURES

- 35.** Exceptionally, contrary to section 32, and so as to ensure continuity for the first year of application, the organizations elect one of their principal representatives for a two-year mandate and an alternate representative with no replacement mandate at the end of the year.
- 36.** This Code shall come into force on January 1, 1997. As soon as a resolution of its board of directors to abide by the Code is approved, each organization shall send the Secrétariat a copy of it and, as soon as possible thereafter, a copy of the contract that it intends to propose to adopters as of January 1, 1997.

