

Legislative Assembly of New Brunswick

Office of the Official Opposition



Assemblée législative du Nouveau-Brunswick

Bureau de l'Opposition officielle

August 27, 2021

Ms. Yvette Finn and Mr. John McLaughlin  
Commissioners for the Review of the Official Languages Act  
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Re: Recommendations on the review of the Official Languages Act

Dear Commissioners:

On July 29, 2009, in Bathurst, you met with the Liberal caucus in order to provide some clarifications regarding the mandate given to you by the Premier, to explain the consultation process you are conducting and to answer our questions. We thank you for taking the time to meet with us.

We wish to reiterate the position of the Official Opposition on the review of the *Official Languages Act* of New Brunswick, as outlined during this meeting.

As we pointed out, the process of reviewing the *Official Languages Act* must respect the obligation to advance towards the equality of the two official languages and the two official linguistic communities that flows from section 16 of the *Canadian Charter of Rights and Freedoms*. Like the New Brunswick Commissioner of Official Languages and many other legal experts, we believe that this review cannot result in a status quo, nor in amendments that would weaken this equality status. Following our discussions, we are confident that you will take this obligation into account in your report.

The review of the *Official Languages Act* must make significant progress towards the substantive equality of our two linguistic communities. The Liberal Caucus believes that the implementation of the recommendations contained in the brief entitled Greater respect for language rights through improvements to the Official Languages Act submitted by the New Brunswick Commissioner of Official Languages would allow such progress. We therefore unanimously support these recommendations in their entirety, particularly with regard to the following elements.

- 1) Clarification of the language obligations of local governments by:
  - a. The addition of a section specifying that the basic obligations as defined in sections 27 to 30 apply to all institutions, including those with specific sections in the *Official Languages Act*. This section should reflect the fact that the language obligations of cities, municipalities and regional services commissions are defined in a regulation of the *Official Languages Act*.
  - b. Amending section 22 to include municipalities and regional services commissions.
  - c. Subjecting rural communities to the same linguistic obligations as municipalities and regional services commissions.
  - d. Ensuring that Regulation 2002-63 is subject to the same periodic review as the *Official Languages Act*.

In addition, the statistical data used to determine which municipalities and regional service commissions have language obligations under the *Official Languages Act* should be updated periodically. To this end, a section should be added to the Act to allow, by way of regulation, for the establishment of a mechanism to ensure these updates.

2) Clarification of the language obligations of police services and peace officers by amending the wording of subsection 31(1) to refer to police services and to define "police force" as any police service operating in New Brunswick.

3) Clarifying language obligations in health care by amending section 33 to ensure that it cannot be interpreted as restricting the basic language obligations of health care services.

4) The addition of provisions confirming the obligation of the Province to ensure that there are nursing homes in all health regions of New Brunswick capable of serving the public in either official language at all times.

5) Legislating the right of provincial employees to work in the official language of their choice.

6) The creation of an Official Languages Secretariat with the authority and resources to ensure effective coordination of the application of the *Official Languages Act*. Like the Commissioner of Official Languages, we recommend that this secretariat report directly to the Clerk of the Executive Council and Head of the Civil Service, that its director have the status of a deputy minister, and that it be provided with an appropriate budget and staff. This secretariat should be responsible for, among other things, overseeing the application of the *Official Languages Act*; coordinating the process of reviewing the Act; producing and overseeing the Official Languages Plan; providing advice on the application of the Act to all parts of the public service; developing and monitoring the application of the Language of Work and Language of Service policies; keeping a statistical watch on official languages; and producing an annual report on the state of the two official languages in New Brunswick.

7) Requiring all future Legislative Officers to be bilingual.

8) Changing the term of office of the Commissioner from seven years to ten years, non-renewable.

9) Improving compliance with the law and the Commissioner's recommendations, specifically with respect to requiring institutions to report on their actions after the tabling of investigation reports; authorizing the use of enforcement agreements; facilitating legal recourse for complainants; the right of the Commission to seek legal remedies; delegation of the Commissioner's powers in the event of a conflict of interest; immunity for complainants and the Commissioner; and a requirement for the government to respond in writing to the recommendations of the Commissioner's annual report.

In addition to these recommendations, the Liberal Caucus calls for the creation of a Standing Committee on Official Languages in the Legislative Assembly. We have raised this issue in the Legislative Assembly and in the media and wish to reiterate our position here. We believe that this Committee should be composed of representatives of all political parties represented in the Legislative Assembly and that its mandate should include the following responsibilities, among others: 1) receiving annual reports from the Office of the Commissioner of Official Languages; 2) receiving reports from the Premier on the implementation plan for the *Official Languages Act*; 3) calling on various departments, agencies, stakeholders, witnesses and experts to provide updates on implementation initiatives; 4) making recommendations regarding the implementation of the *Official Languages Act* and the reports of the Office of the Commissioner of Official Languages; 5) dealing with all official languages issues; and 6) preparing reports with recommendations to the Legislative Assembly.

We hope that these elements will be included in the recommendations you will make following your consultations.

Yours sincerely,



Roger Melanson  
Leader of the Official Opposition

Benoît Bourque  
Official Opposition Critic for Official Languages