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OFFICIAL LANGUAGES IN THE FEDERAL PUBLIC SERVICE

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Official Languages in the Federal Public Service
(HillStudies)

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EXECUTIVE SUMMARY

The purpose of the *Official Languages Act* (OLA) is to ensure respect for English and French as the official languages of Canada. Pursuant to the OLA and to regulations and current policies, federal institutions are guided by certain fundamental principles that help them ensure the equality of status and use of these two languages in their internal operations, among their employees and in their interactions with the public.

The OLA sets out the right of Canadians to communicate with and receive services from federal institutions in the official language of their choice. Year after year, services to the public generate the most complaints to the Commissioner of Official Languages. The number of these complaints has increased steadily since 2012–2013. This increase is partly the result of federal institutions not being fully aware of their official languages responsibilities or not adequately considering them in every context, including the digital realm. Actively offering services in both official languages, providing the travelling public with bilingual services and ensuring third-party services delivered on behalf of federal institutions are bilingual are among the ongoing challenges.

In 2019, the federal government changed the criteria for offering services to the public in both official languages. It also revised its regulatory framework to ensure services to the public are consistent with the OLA. By 2024, more Canadians will be able to receive services from federal institutions in the official language of their choice. Moreover, in 2023 the OLA underwent substantial reforms to adapt it to today's technological, sociodemographic and legal realities. These changes relate to some aspects of communications with and services to the public in English and French.

In addition, the OLA stipulates the right of employees of federal institutions to work in the official language of their choice. This right, which applies only in regions designated as bilingual for language-of-work purposes, has also been the subject of a growing number of complaints to the Commissioner of Official Languages since 2012–2013. Initiatives launched in 2017 show that a culture of linguistic duality in the workplace is not yet fully established. French remains underused in documents, meetings and interactions with supervisors. Steps were taken to increase managers' responsibilities and improve oversight. Moreover, the legislative amendments of 2023 clarified some aspects of the right to work in English and French in federal institutions.

The OLA also sets out the government's commitment to provide English- and French-speaking Canadians with equal opportunities for employment and advancement in federal institutions. Furthermore, it provides for language requirements in staffing processes. The number of complaints relating to this issue has increased continuously

since 2012–2013, forcing the federal government to take steps to reverse the trend. However, the Commissioner of Official Languages has found that progress in this area is slow. In general, expectations for official languages management are high, and the legislative changes of 2023 have raised hopes for the years ahead.

Despite the progress made so far, the two official languages do not yet have equal standing in the federal public service. Crises and emergencies such as the COVID-19 pandemic, and the growing use of technology in the workplace underscore the challenges federal institutions face in meeting their linguistic obligations. The modernization of the OLA was an opportunity to strengthen existing duties and clarify the responsibilities of key players. This HillStudy provides an overview of contemporary official languages issues and highlights those to watch in the years to come.

Official Languages in the Federal Public Service

1 INTRODUCTION

This HillStudy outlines the fundamental principles for ensuring respect for official languages in the federal public service, explains the responsibilities of key players in official languages matters and reviews some recently debated issues relating to the status of English and French in departments, agencies, bodies and Crown corporations subject to the *Official Languages Act* (OLA).¹ It discusses the amendments made to the OLA by Bill C-13, An Act to amend the Official Languages Act, to enact the Use of French in Federally Regulated Private Businesses Act and to make related amendments to other Acts, which received Royal Assent on 20 June 2023.²

This HillStudy, however, does not discuss the new language regime that applies to the federally regulated private sector, which falls under a separate law, the *Use of French in Federally Regulated Private Businesses Act*.³ In addition, while the OLA now recognizes the importance of working to reclaim, revitalize and strengthen Indigenous languages, this HillStudy does not deal with recent efforts to foster recognition of the language rights of Indigenous federal employees.⁴

2 FUNDAMENTAL PRINCIPLES

The OLA sets out three broad principles concerning respect for official languages in the federal public service:

- the right of Canadians to communicate with and receive services from federal institutions in the official language of their choice, subject to certain conditions;
- the right of employees of federal institutions to work in the official language of their choice, in certain places; and
- the government's commitment to ensure English- and French-speaking Canadians have equal opportunities for employment and advancement in federal institutions.

Over the years, the federal government has implemented various policies to implement these principles in federal institutions.

2.1 COMMUNICATIONS WITH AND SERVICES TO THE PUBLIC

The first principle is the right of the public to communicate with and be served by federal institutions in the official language of their choice. This right is enshrined in section 20 of the *Canadian Charter of Rights and Freedoms*⁵ and in Part IV of the OLA. It is based on the notion that the government must adapt to meet the linguistic

needs of the people, rather than the reverse. This is referred to as institutional bilingualism.

Not all offices of federal institutions are required to provide services in both official languages. Services are provided in both English and French where the use of these languages:

- is in significant demand;⁶ or
- is required by the nature of the office.⁷

The *Official Languages (Communications with and Services to the Public) Regulations (Official Languages Regulations)*⁸ set out the criteria for determining which offices and service points must provide bilingual services. They include the following:

- the head or central office of a federal institution;
- offices located in the National Capital Region;
- the offices of any institution that reports directly to Parliament;⁹
- offices located in areas where there is significant demand, according to demographic and other specific predetermined criteria;
- offices whose nature justifies bilingual services, for example those that ensure the public's health, safety or security;
- offices providing services to travellers; and
- third parties providing services to the public on behalf of federal institutions.

Offices and points of service that are subject to the *Official Languages Regulations* must actively provide their services in both official languages and inform the public of this by means of appropriate signage, a notice or other information. Communications with the public must occur through media that will reach members of the targeted linguistic clientele in an effective and efficient manner. The legislative amendments of 2023 specified that these duties apply to all forms of communication, publication and services provided, whether they are oral, written, electronic, virtual or other.

Every 10 years, the federal government reviews the application of the *Official Languages Regulations* to determine which offices must provide services in both official languages to meet the criterion of significant demand. The review is based on official languages data from the census and on the volume of services provided to the public. An *Official Languages Regulations* review is currently underway and is expected to conclude in 2024. This review also is taking into account the regulatory changes that were made in 2019 to provide a greater range of bilingual services to the Canadian public.¹⁰

Between 2019 and 2024, federal institutions are to take the following four steps and comply with the *Directive on the Implementation of the Official Languages (Communication with and Services to the Public) Regulations*:¹¹

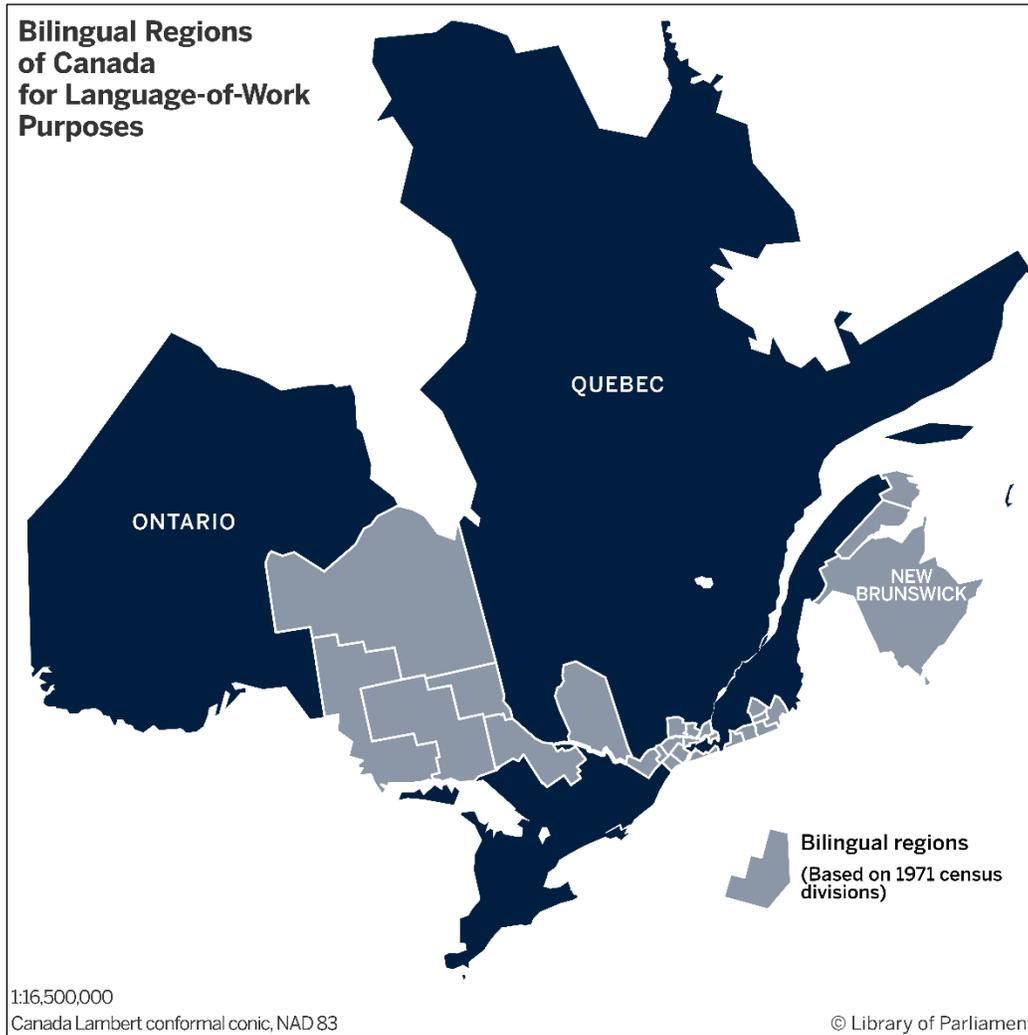
- first, starting in 2019, federal institutions had to consult official language minority communities about the location of bilingual offices;¹²
- second, in 2020, one year after the *Official Languages Regulations* were registered, train stations, airports, embassies and consulates needed to implement the amendments that pertain to them;¹³
- third, between 2022 and 2024, federal offices must implement the amendments respecting the new method of calculating significant demand, the new criterion regarding vitality of the surrounding community and the expanded list of key services based on 2021 Census data;¹⁴ and
- fourth, starting in 2023, federal institutions must protect the bilingual designation of offices in cases where the minority official language population has stayed the same or increased, even if its proportion of the general population has declined.¹⁵

Services provided to the public by videoconference are covered by the new *Official Languages Regulations*, a principle strengthened by the 2023 amendments to the OLA. As is the case for the newly amended OLA, the federal government will have to review these regulations and their administration and operation every 10 years and report to Parliament on the matter.¹⁶ According to Treasury Board of Canada Secretariat (TBS) estimates, more than 700 federal offices will likely be newly designated as bilingual because of these regulatory amendments.¹⁷

2.2 LANGUAGE OF WORK

The second principle is the right of employees in federal institutions to work in the official language of their choice. This right is set out in Part V of the OLA. It applies to regions designated as bilingual, including the National Capital Region; some parts of northern and eastern Ontario; the region of Montréal; parts of the Eastern Townships, the Gaspé region and western Quebec; and New Brunswick, as shown in Figure 1.

Figure 1 – Bilingual Regions of Canada for Language-of-Work Purposes, 1977 to Present



Sources: Map prepared by the Library of Parliament in 2023 using data from University of Toronto, [1971 Census: Geospatial data and maps](#); and Government of Canada, [List of Bilingual Regions of Canada for Language-of-Work Purposes](#). Software used: Esri, ArcGIS Pro, version 3.1.2. Includes information covered by the [Open Government Licence – Canada](#) and the [Statistics Canada Open Licence](#).

Federal institutions must foster an environment that is conducive to the use of both English and French as languages of work in regions that are designated as bilingual. This means that senior management must communicate effectively with employees in both official languages and must provide leadership in creating a bilingual work environment. The legislative amendments of 2023 clarified the responsibilities of managers and supervisors in this regard.

In addition, the use of both English and French must be encouraged in meetings. Public servants working in these regions have the right to use the official language of their choice to:

- communicate with their supervisors, regardless of the linguistic identification of their position;
- work with regularly and widely used work instruments and electronic systems;
- obtain central (e.g., finance and administration) and personal (e.g., health and compensation) services; and
- obtain training and professional development.

The federal public service designates a certain percentage of positions as bilingual by taking into account its obligations with respect to services to the public and to language of work. Where the provisions on language of work (Part V of the OLA) are incompatible with those on services to the public (Part IV of the OLA), the latter prevail.¹⁸ That said, bilingual employees working in

Bilingual Positions and Employees

According to 2022 data, 42% of positions in the public service are designated as bilingual, while the percentage of bilingual employees is 39%. The greatest concentrations of bilingual positions are in the National Capital Region (63%), Quebec (66%) and New Brunswick (52%). In total, 96% of incumbents of bilingual positions meet the language requirements of their positions.

bilingual-designated regions have the right to the workplace tools they need to provide high-quality services to the public in both official languages.¹⁹ Not all public service employees must be bilingual. The linguistic profile of bilingual positions is determined according to the duties and responsibilities of the position. Incumbents of a bilingual position who meet the requirements of their position based on the results of a second-language evaluation are eligible for the bilingualism bonus.²⁰

While the 2023 legislative amendments clarified the methods of communication, publication and services covered by the OLA, they did not specify whether the language-of-work duties apply to in-person, hybrid and virtual work. Since the COVID-19 pandemic began, the last two types of work have become commonplace in the federal public service.

No regulations set out the policies for giving effect to Part V of the OLA.

2.3 EQUITABLE PARTICIPATION OF ENGLISH- AND FRENCH-SPEAKING CANADIANS

The third principle is the government’s commitment to provide equal opportunities for employment and advancement in federal institutions to both English-speaking and French-speaking Canadians. This commitment is set out in Part VI of the OLA. The public service must reflect the presence of

Representation of Language Groups

Employment rates for both language groups in all institutions subject to the *Official Languages Act* have remained stable over time. In 2022, 75% of employees were anglophone, while 25% were francophone. According to 2021 Census data, English was the first official language spoken by 76% of Canadians, while French was the first official language spoken by 22% of Canadians. The remainder of the population could not conduct a conversation in either English or French.

both the anglophone and francophone communities in the population as a whole. The public service employment rates for the two language groups vary with the mandate of the institution, the public served, the location of the offices and the categories of employment. According to the principle set out in section 39 of the OLA, federal institutions may not favour the employment of members of one language group over the other and must apply the merit principle when making staffing decisions.

No regulations set out the policies for giving effect to Part VI of the OLA.

3 RESPONSIBILITIES, POLICY IMPLEMENTATION, COMPLAINTS AND LEGAL RECOURSE

The President of the Treasury Board applies and oversees the implementation of parts IV, V and VI of the OLA. The President reports annually to Parliament on the performance of federal institutions in official languages matters.²¹ In 2023, the President’s responsibilities were reinforced and expanded. In addition to the power to ensure compliance with official languages requirements in the federal public service, the President is now responsible for establishing policies relating to the implementation of positive measures and agreements with the provincial and territorial governments (Part VII of the OLA). The President is also tasked with exercising leadership in implementing and coordinating the OLA and must assist the Minister of Canadian Heritage in carrying out the latter’s duties.

Over the years, the federal government has adopted a variety of policies and guidelines to apply the three principles set out in the OLA. The current official languages policy suite came into effect on 19 November 2012.²² The review led to the adoption of the Policy on Official Languages and three directives to help the institutions concerned implement this policy:

- the Directive on Official Languages for People Management;
- the Directive on Official Languages for Communications and Services; and

- the Directive on the Implementation of the *Official Languages (Communications with and Services to the Public) Regulations*.

All federal institutions are subject to the policy and its three directives, with the exception of the Senate, the House of Commons, the Library of Parliament, the Office of the Senate Ethics Officer, the Office of the Conflict of Interest and Ethics Commissioner, the Parliamentary Protective Service and the Office of the Parliamentary Budget Officer.²³

In 2021, the federal government committed to reviewing and instituting new policy instruments once new legislative measures were adopted.²⁴ It also announced investments for a centre of expertise to strengthen Part VII of the OLA, which will help federal institutions meet their responsibilities under that part. Canadian Heritage will be responsible for the centre in partnership with the Treasury Board of Canada Secretariat (TBS).²⁵

Positions designated as bilingual must be staffed by candidates meeting the language requirements of those positions. Since March 2007, this requirement also applies to positions at the EX-02 to EX-05 levels. Since June 2023, the OLA requires that managers and supervisors be able to communicate with their employees in the language of the employees' choice, regardless of the linguistic identification of the employees' positions.²⁶ In addition, while the OLA does not require deputy ministers and associate deputy ministers to know both official languages, they must now take language training upon their appointment.²⁷

Exceptions may be made under the *Public Service Official Languages Exclusion Approval Order*,²⁸ which states that the person agrees in writing:

- to attain the level of official language proficiency required for a bilingual position, through language training at public expense, within a period of two years of the person's appointment; and
- that if, at the end of the two-year period, the person has not attained the level of language proficiency required for the bilingual position, the person will be appointed or deployed to a position that is of a similar level and salary as the bilingual position.

Moreover, language training is viewed as a professional-development and career-advancement opportunity available to all public service employees. In 2021, the federal government further committed to developing a new second-language training framework for the public service that is adapted to the characteristics and needs of learners.²⁹

The Office of the Chief Human Resources Officer of TBS coordinates the Official Languages Program in federal institutions that are subject to parts IV, V and VI of

the OLA. In recent years, many official languages responsibilities (e.g., linguistic training and staffing) have been delegated to the deputy heads of federal institutions, but the power to do so was repealed as part of the 2023 legislative amendments.³⁰

For federal institutions, compliance with official languages requirements in the public service is assessed in various ways, including through the following:

- TBS's annual report on official languages;³¹
- reports submitted by federal institutions that follow a three-year official languages review cycle (see section 4.5.4 of this study for more details);
- Treasury Board submissions;³²
- departmental results reports;³³
- audits and evaluations;³⁴ and
- the Management Accountability Framework.³⁵

Parts IV and V of the OLA may give rise to both complaints to the Commissioner of Official Languages and to legal recourse before the Federal Court. This is also true for section 91 of the OLA, which pertains to linguistic requirements in staffing. However, there is no legal recourse before the Federal Court under Part VI.

4 RECENT ISSUES

4.1 MODERNIZATION OF THE *OFFICIAL LANGUAGES ACT*

The latest update to the OLA was officially made when Bill C-13 received Royal Assent in 2023, marking the end of the many parliamentary debates on the subject since 2017.³⁶ In reports presented in 2019, stakeholders had recommended changes to parts of the OLA dealing with the public service, and some of their proposals were adopted.³⁷ Other proposals were made during the COVID-19 pandemic. A list of some of the major changes follows:

- New wording clarifying that official languages obligations apply at all times, including during emergencies;³⁸
- stronger powers for the Treasury Board to set policies giving effect to the Act and to monitor and audit federal institutions' implementation of parts IV, V and VI of the OLA;
- a new responsibility for the President of the Treasury Board to implement and generally coordinate the OLA;
- the repeal of the President of the Treasury Board's authority to delegate responsibilities to the deputy heads of federal institutions;

- definitions covering all forms of communication, publication and services, including electronic and virtual ones;
- clarification of federal institutions' duties respecting the provision of services by third parties on their behalf;
- updated duties regarding services for the travelling public;
- clarification of the responsibilities of managers and supervisors and of the expectations for deputy ministers and associate deputy ministers; and
- new powers for the Commissioner of Official Languages to ensure compliance with parts IV and V of the OLA.³⁹

In an official languages reform proposal released in February 2021, the federal government also proposed regulatory and administrative changes.⁴⁰ However, no new regulations governing compliance with official languages duties in the public service are expected to be made for now, except as regards Part VII and administrative monetary penalties.

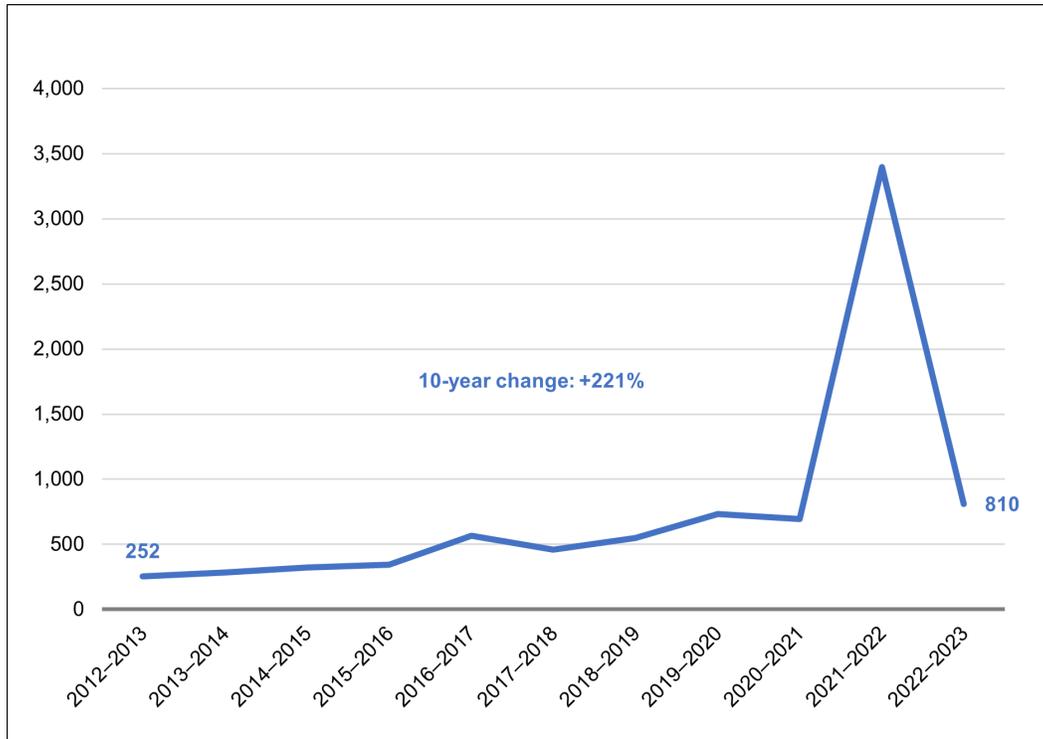
4.2 SERVICES TO THE PUBLIC

4.2.1 Admissible Complaints

Communications with and services to the public generate most of the complaints made to the Commissioner of Official Languages every year.⁴¹ Although progress has been made in this area, some problems persist, particularly with respect to active offer of services, services to the travelling public in both English and French and services provided by third parties on behalf of federal institutions. There are many reasons for this: the requirements of the OLA are sometimes misunderstood, some federal institutions are not committed to implementing the provisions of the OLA and others lack planning in this regard or fail to monitor the impact of their actions. The more frequent use of new communications methods in the digital age has made the situation more complex and sparked increasing numbers of complaints.

Since 2012–2013, the number of complaints related to language of service has more than tripled, as shown in Figure 2. In 2022–2023, 45% of complaints received by the Commissioner of Official Languages related to language of service.

Figure 2 – Services to the Public: Number of Admissible Complaints to the Commissioner of Official Languages (2012–2013 to 2022–2023)



Source: Figure prepared by the Library of Parliament using data from Office of the Commissioner of Official Languages (OCOL), [Annual Report 2021–2022](#); and OCOL, [Annual Report 2022–2023](#).

4.2.2 Substantive Equality

The 2009 Supreme Court of Canada decision in *DesRochers v. Canada (Industry)* highlighted the importance of offering services of equal quality in both official languages.⁴² Following this decision, TBS published an analytical grid to help federal institutions apply the principle of substantive equality to their programs and services.⁴³ In 2019, in *Thibodeau v. Air Canada*, the Federal Court affirmed that the equality of official languages has four components: equality of status, equality of use, equality of access and equality of quality.⁴⁴ The principle of substantive equality, whose application varied widely in the early 2010s, was included in the OLA with the 2023 amendments. It is one of the key principles for interpreting language rights.⁴⁵

4.2.3 Active Offer of Services

In-person active offer of services remains one of the weak links in the implementation of the OLA. This may be due to a lack of leadership, failure to communicate the importance of this obligation or the human element of front-line service. This is the area in which federal institutions show the poorest performance.⁴⁶ The Commissioner of Official Languages found that active offer is inconsistent

across federal institutions and that the situation is especially worrisome among federal institutions that provide services to the travelling public.⁴⁷ Moreover, TBS called active offer an ongoing challenge and a weak link in the implementation of the OLA, particularly in-person active offer.⁴⁸

In July 2016, the Commissioner of Official Languages released a study on bilingual greetings in federal institutions, in which he described individual, organizational and social factors that influence whether an active offer of service in both official languages is made.⁴⁹ He subsequently published a guide on active offer.⁵⁰ The modernization of the OLA did not clarify this principle as some stakeholders had called for in 2019, but advances at the provincial level provide a renewed framework for interpreting active offer.⁵¹

4.2.4 Services to the Travelling Public

Over the past decade, the provision of services to the travelling public has drawn the attention of the Commissioner of Official Languages, and it continues to pose challenges. Many complaints are made about this issue every year. The use of new technologies is no guarantee that services will be of equal quality in English and French, a fact that led the Commissioner to recommend new tools be developed to improve compliance with the OLA.⁵² The 2023 legislative amendments clarified language-related duties in this area, with the goal of:

- reflecting a 2021 Federal Court of Canada decision, by clarifying that section 22 of the OLA also applies to federal institutions providing services to travellers;⁵³ and
- ensuring greater compliance by federal institutions that provide services to the travelling public by making them subject to administrative monetary penalties in the case of failure to fulfill the duties in Part IV of the OLA.⁵⁴

4.2.5 Services Provided by Third Parties on Behalf of Federal Institutions

The inclusion of language clauses in agreements and contracts with third parties and the provision of services in both official languages on behalf of federal institutions have not always occurred and require constant effort by federal institutions.⁵⁵ The 2023 legislative amendments clarified the language-related duties in this area in order to reflect a 2022 Federal Court of Appeal decision and to define a service provided on behalf of a federal institution.⁵⁶

4.3 LANGUAGE OF WORK

4.3.1 Culture of Linguistic Duality in the Workplace

In September 2017, the Clerk of the Privy Council released a report on the state of bilingualism in the federal public service that included recommendations for improving

the use of the two official languages in the workplace.⁵⁷ The Committee of Assistant Deputy Ministers on Official Languages was mandated to follow up on the report. A dashboard indicates the implementation status of the short-term (2017–2019), medium-term (2020–2021) and long-term (post-2021) recommendations.⁵⁸ TBS was tasked with implementing the recommendations regarding language training and the linguistic profile of supervisory positions.⁵⁹

4.3.2 French Underused

Commitments with regard to language of work have been slow to materialize. Several reports published by the Commissioner of Official Languages over the past 20 years have indicated that French remains underused and that the organizational culture of the federal public service is predominantly English. These reports also indicate that federal institutions have a poor track record for allowing employees to use their preferred official language with supervisors, when drafting documents or during meetings. The 2022 and 2023 TBS annual reports on official languages confirmed this fact.⁶⁰

The latest Public Service Employee Surveys and the 2021 Census data also confirm this trend.⁶¹ That said, since 2017, data on the use of official languages at work are no longer collected in a consistent way. This change led the Commissioner of Official Languages to recommend, in 2022–2023, improvements, after finding problems with measuring whether federal public servants can truly work in the official language of their choice.⁶²

Moreover, federal public servants experience linguistic insecurity in the workplace, a persistent problem that forced TBS to create a working group to study the issue.⁶³

In crises and emergencies, federal institutions find it even more difficult to meet their language of work obligations, which prompted the Commissioner of Official Languages to make recommendations to clarify the procedures to be followed in such circumstances.⁶⁴

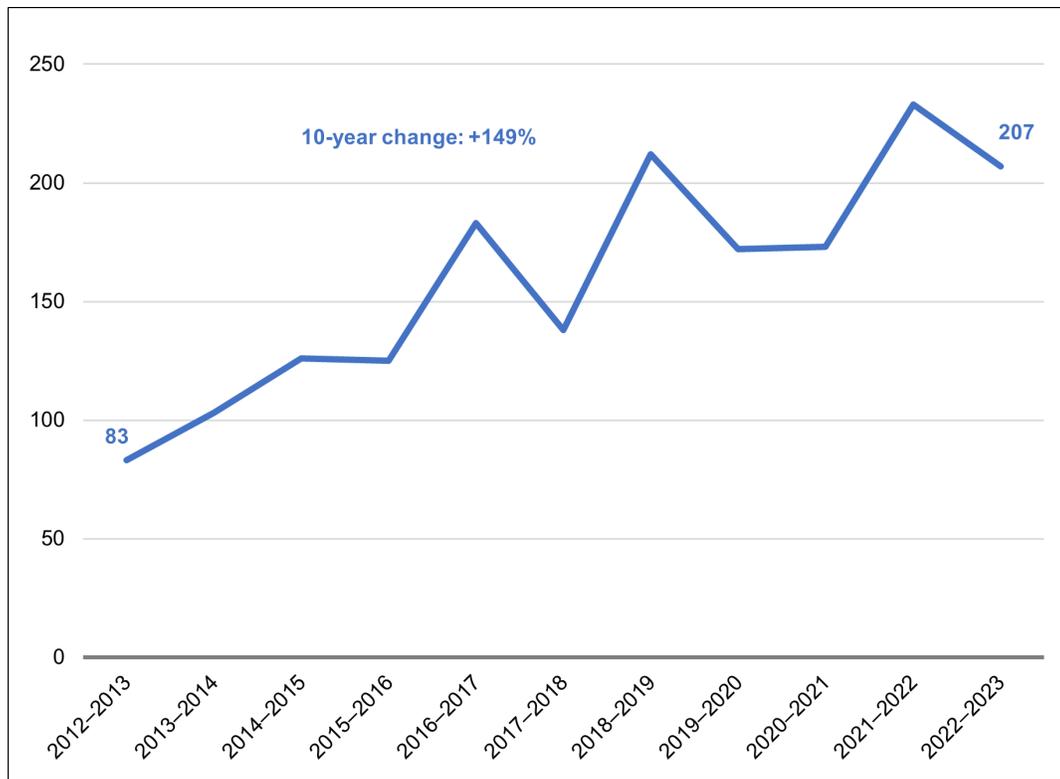
During the COVID-19 pandemic, hybrid and virtual work became widespread in the federal public service. The Commissioner of Official Languages expressed concerns about disregard for federal public servants' language rights.⁶⁵ The 2023 legislative amendments did not specify that employees whose office is located in a bilingual-designated region retain their language rights if they work virtually from a region deemed unilingual for language-of-work purposes. Nor did the amendments adjust the concept of designated bilingual regions. The Commissioner had suggested broadening this concept, as did other stakeholders during the 2019 debate on modernizing the OLA. The intention was to make the duties in parts IV and V of the OLA more consistent.⁶⁶

Improving employees’ language skills, strengthening official language capacity in federal institutions and showing clear and sustained leadership are some of the approaches put forward to ensure equitable treatment of both official languages in the workplace. A 2019 book that reviews the history of the implementation of official languages policy in the federal public service from the 1960s to the present confirmed that English remains dominant, in large part owing to managerial behaviour.⁶⁷ The 2023 legislative amendments have raised hopes for improving the standing of French in the workplace.

4.3.3 Admissible Complaints

Between 2012–2013 and 2022–2023, the number of complaints regarding language of work more than doubled, as shown in Figure 3. In 2022–2023, complaints on this issue made up 12% of the complaints received by the Commissioner of Official Languages.

Figure 3 – Language of Work: Number of Admissible Complaints to the Commissioner of Official Languages (2012–2013 to 2022–2023)



Source: Figure prepared by the Library of Parliament using data from Office of the Commissioner of Official Languages (OCOL), [Annual Report 2021–2022](#); and OCOL, [Annual Report 2022–2023](#).

4.4 GOVERNMENT-WIDE STRATEGIES

The federal government's Action Plan for Official Languages, 2003–2008, proposed measures intended to create a public service that was exemplary in the area of official languages.⁶⁸ The government's objectives were to strengthen the bilingual capacity of federal public servants and to improve the quality of services offered in both languages. Furthermore, in the four government-wide strategies that followed – the Roadmap for Canada's Linguistic Duality 2008–2013, the Roadmap for Canada's Official Languages 2013–2018, the Action Plan for Official Languages 2018–2023 and the Action Plan for Official Languages 2023–2028 – the issue of respect for official languages in the public service received almost no attention.⁶⁹

4.5 OFFICIAL LANGUAGES MANAGEMENT AND OVERSIGHT

4.5.1 Governance

Over the years, many official languages responsibilities were delegated to the deputy heads of federal institutions. Concerns were raised about the governance structure in the public service, failures in managing of official languages and a lack of oversight. In his 2018–2019 annual report, the Commissioner of Official Languages argued that the following principles should underpin a new official languages governance structure:

- Establish clear direction and leadership at the most senior levels of the federal government.
- Establish a consistent accountability framework.
- Make official languages a top priority and a key aspect of government planning and activities.
- Ensure effective stewardship of official languages.
- Address setbacks while ensuring ongoing progress toward the substantive equality of official languages.⁷⁰

The legislative amendments of 2023 were designed to address governance concerns and strengthen the Treasury Board's implementation and oversight capacity for parts IV, V and VI of the OLA. They also gave TBS new responsibilities for the implementation and general coordination of the OLA. In addition, the federal government committed to:

- creating an accountability and reporting framework for official languages;
- creating a centre for strengthening Part VII of the OLA; and
- improving coordination between the Minister of Canadian Heritage and the President of the Treasury Board.⁷¹

4.5.2 Staffing

Managing official languages in federal institutions is challenging. Managers have difficulty objectively establishing the language requirements of positions for staffing actions. The Commissioner of Official Languages described the issue as systemic, prompting him to publish a report on problems related to implementing section 91 of the OLA and a guide for managers on the linguistic identification of positions.⁷²

Managers must ensure that the linguistic profiles of positions reporting to them take into account obligations relating to service to the public and language of work. By underestimating the level of language proficiency required to fill these positions, they risk compromising:

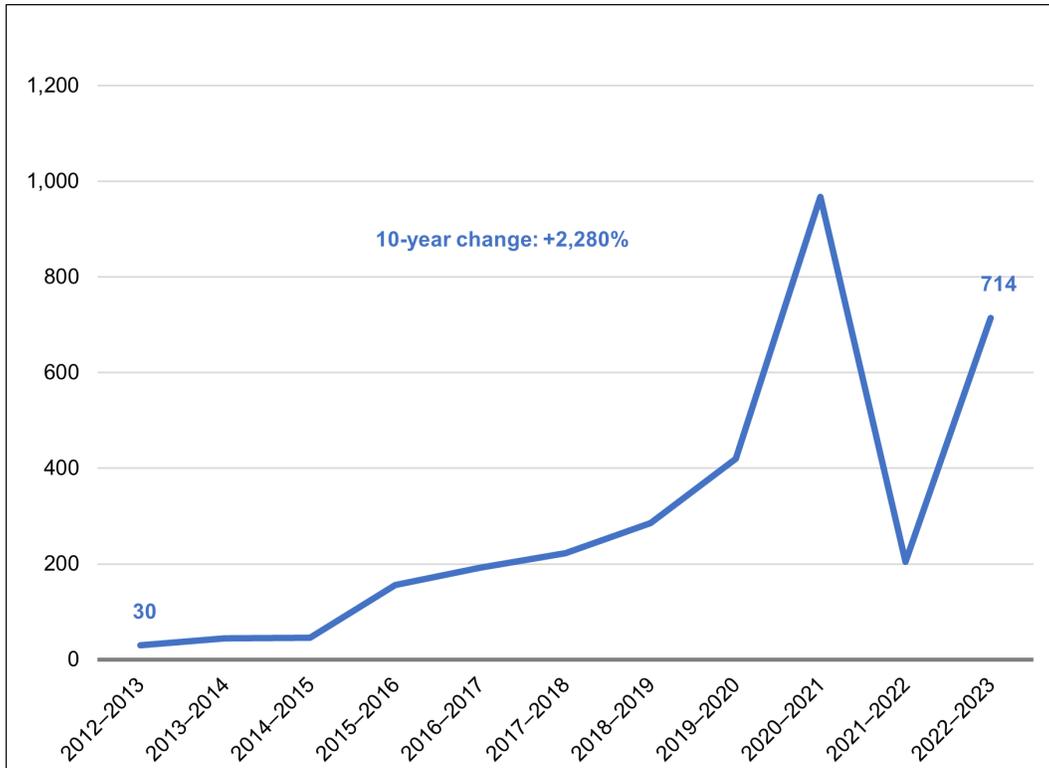
- the right of citizens to receive service of equal quality in the official language of their choice;
- the right of federal public servants in designated bilingual regions to work in the official language of their choice; and
- the ability of federal institutions to meet their obligations under the OLA, particularly in crises or emergencies.⁷³

Since the 2019–2020 fiscal year, TBS has been asking federal institutions to identify problems associated with implementing section 91 of the OLA in their official languages reviews.⁷⁴ For his part, the Commissioner of Official Languages sends TBS quarterly reports on section 91 complaints.⁷⁵ The Commissioner has recommended that TBS review its policies and tools, provide adequate training to managers and implement appropriate control and assessment mechanisms.⁷⁶ In 2022–2023, the Commissioner lamented the lack of progress and recommended that the President of the Treasury Board implement an action plan to ensure federal institutions comply with section 91 of the OLA by June 2025.⁷⁷

4.5.3 Admissible Complaints

The number of complaints related to language requirements in staffing processes reached a new high in 2015–2016, with a total of 156 complaints received, and has continued to grow ever since. The number of complaints about the language requirements of positions is nearly 24 times higher than it was in 2012–2013, as shown in Figure 4. These complaints accounted for 40% of all complaints received by the Commissioner of Official Languages in 2022–2023. In his November 2020 report on implementing section 91 of the OLA, the Commissioner of Official Languages noted that founded complaints under section 91 of the OLA involved a significant number of federal institutions as well as positions in various groups and at various levels.⁷⁸

Figure 4 – Language Requirements of Positions: Number of Admissible Complaints to the Commissioner of Official Languages (2012–2013 to 2022–2023)



Source: Figure prepared by the Library of Parliament using data obtained from Office of the Commissioner of Official Languages (OCOL), [Annual Report 2021–2022](#); and OCOL, [Annual Report 2022–2023](#).

4.5.4 Accountability

In 2013–2014, TBS and the Department of Canadian Heritage completed the first three-year data collection cycle for federal institutions concerning the implementation of parts IV, V, VI and VII of the OLA. This three-year exercise, which started in 2011–2012, was completed in 2013–2014 and has been performed every three years since then, with the goal of improving coordination among federal institutions. These institutions produce a review of whether they meet certain OLA objectives in the form of a self-evaluation of their performance. TBS uses these reviews to prepare its annual report on official languages.

The form and frequency of reviews varies with the size and mandate of the institution.⁷⁹ Small institutions (those with fewer than 500 employees) complete a short questionnaire, while large institutions (500 employees or larger) complete a long questionnaire. Of all federal institutions, about 20 have to submit a review to TBS every year; about 40 must submit a review to Canadian Heritage every year because they interact with the public or play a special role with regard to official language minority communities.

In his annual report tabled in 2018, the Commissioner of Official Languages criticized the tools that TBS and the Department of Canadian Heritage were using and recommended changing them in order to gain a clearer picture of the status of the official languages across the federal public service.⁸⁰ In June 2019, the Commissioner unveiled the Official Languages Maturity Model to help federal institutions better assess their performance in implementing the OLA.⁸¹ This model, structured to address three areas of activity, stopped being updated in 2022–2023 because of the amendments to the OLA, but will remain available to federal institutions that wish to use it.⁸²

5 CONCLUSION

In sum, the equality of status and use of English and French in federal institutions is not always fully ensured, despite being a requirement set out in the “Purpose” section of the OLA. Many are hopeful that the modernized legislative and regulatory frameworks and the coming updates to the policies and governance structure of the federal languages regime will increase conformity with the spirit and letter of the OLA. Many of the issues raised in this HillStudy will continue to garner attention over the years ahead, until the next review of the OLA and its regulations, expected in 10 years.

NOTES

1. [Official Languages Act](#) (OLA), R.S.C. 1985, c. 31 (4th Supp.).
2. [Bill C-13, An Act to amend the Official Languages Act, to enact the Use of French in Federally Regulated Private Businesses Act and to make related amendments to other Acts](#), 44th Parliament, 1st Session (S.C. 2023, c. 15).
3. [Use of French in Federally Regulated Private Businesses Act](#), S.C. 2023, c. 15, s. 54. This Act will enter into force by an order in council.
4. In 2017, work began to remove the barriers Indigenous people face in the federal public service, leading to proposals to further their hiring, training and advancement. See Government of Canada, [Many Voices One Mind: A Pathway to Reconciliation – Welcome, Respect, Support and Act to Fully Include Indigenous Peoples in the Federal Public Service](#), Final Report of the Interdepartmental Circles on Indigenous Representation, 4 December 2017.

In its official languages reform proposal published in February 2021, the federal government briefly mentioned its commitment to take Indigenous languages into account in the federal public service, including in its future second-language training framework. See Government of Canada, [English and French: Towards a Substantive Equality of Official Languages in Canada](#).

While Bill C-13 was being considered in Parliament, in 2022 and 2023, suggestions were made to improve the circumstances of Indigenous federal employees at the same time as the official languages regime of the federal public service was being enhanced. See Assembly of First Nations, [Submission to the Standing Committee on Official Languages RE: Bill C-13 An Act to amend the Official Languages Act, to enact the Use of French in Federally Regulated Private Businesses Act and to make related amendments to other Acts](#), Brief submitted to the House of Commons Standing Committee on Official Languages, 31 October 2022; First Nations Summit, [Brief Submitted to the Standing Committee on Official Languages](#) of the House of Commons; Senate, Standing Committee on Official Languages, [Third Report](#), 13 June 2023; Senate, [Debates](#), 14 June 2023; and Senate, [Debates](#), 15 June 2023.

5. [Canadian Charter of Rights and Freedoms](#), Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982*, 1982, c. 11 (U.K.).
6. The criterion of significant demand is based on demographic variables from the census of population. Dozens of general and specific circumstances are set out in the regulations. See the [Official Languages \(Communications with and Services to the Public\) Regulations](#), SOR/92-48.
7. The criterion of nature of the office is based on the type of services provided or the location of the office, regardless of whether demand is significant. For example, an office may be required to provide bilingual services for health, safety or security reasons or owing to its national or international mandate.
8. [Official Languages \(Communications with and Services to the Public\) Regulations](#), SOR/92-48.
9. These institutions include, among others, the Office of the Commissioner of Official Languages, the Office of the Chief Electoral Officer and the Office of the Auditor General of Canada.
10. [Regulations Amending the Official Languages \(Communications with and Services to the Public\) Regulations](#), SOR/2019-242, 25 June 2019, in *Canada Gazette*, Part II, Vol. 153, No. 14, 10 July 2019, pp. 4384–4396.
11. Government of Canada, [Directive on the Implementation of the Official Languages \(Communications with and Services to the Public\) Regulations](#).
12. This provision applies where one of several offices in the same region is designated to provide services in both official languages. The provision enables adjustments based on the sociodemographic circumstances of the communities that use the services of the institutions in question.
13. These changes applied to train stations and airports – or their offices – located in a provincial or territorial capital and to Immigration, Refugees and Citizenship Canada offices located in embassies and consulates abroad.
14. The new calculation method takes into account data on Canadians whose mother tongue is the minority language and Canadians who primarily or regularly speak that language at home. The federal government is therefore abandoning the first-official-language-spoken estimation method from the former regulations, which did not reflect the use of the minority official language by immigrants, immersion students and bilingual families. See Government of Canada, [Potential demand for federal communications and services in the minority official language \(2021 Census data\)](#).

The vitality criterion in the new regulations accounts for the presence of a minority-official-language primary or secondary school in the service area of federal offices when determining whether they must provide communications with and services to the public in both official languages.

The list of key services subject to the general rules expands to include the Business Development Bank of Canada, the regional economic development agencies and all services provided by Service Canada centres and passport offices.

The 2021 Census data were published in 2022. Federal institutions have until 2024 to implement the new rules in effect.
15. Under the former *Official Languages (Communications with and Services to the Public) Regulations*, federal offices always lost their bilingual designation when the proportion of the minority-language population shrank. The new version of these regulations requires federal offices to provide services in both official languages unless the minority-language population declines in absolute terms.
16. The 10-year review of the application of the *Official Languages (Communications with and Services to the Public) Regulations* designed to determine where bilingual services must be provided is different from the 10-year review of their content and administration and operation, provided by section 13 of these regulations, which must include a report to Parliament.
17. Treasury Board of Canada Secretariat (TBS), [Annual Report on Official Languages 2018–19](#), pp. 7–8; TBS, [Annual Report on Official Languages 2019–20](#), p. 5; and TBS, [Inclusive Official Languages Regulations: A New Approach to Serving Canadians in English and French](#).

At the end of the process, the [Buroilis](#) database will indicate whether each federal institution has a duty to communicate with, and provide services to, the public in both official languages.
18. [Official Languages Act](#), R.S.C. 1985, c. 31 (4th Supp.), s. 31.

The Federal Court of Canada confirmed this principle in its 30 October 2015 ruling in [Tailleur v. Canada \(Attorney General\)](#), 2015 FC 1230.

19. The Federal Court of Appeal upheld this principle in a decision on 4 August 2021: [Canada \(Commissioner of Official Languages\) v. Office of the Superintendent of Financial Institutions](#), 2021 FCA 159.
20. National Joint Council, [Bilingualism Bonus Directive](#). For more information about this measure, see Lucie Lecomte, [The Federal Public Service Bilingualism Bonus](#), Publication no. 2017-29-E, Library of Parliament, 1 May 2018.
21. Government of Canada, [Annual Reports on Official Languages](#).
22. Government of Canada, "[Policies and guidance](#)," *What we are doing: Official languages*.
23. Most parliamentary institutions have adopted internal policies that are consistent with the spirit of the OLA.
24. Government of Canada, [English and French: Towards a Substantive Equality of Official Languages in Canada](#).
25. Department of Finance Canada, [A Made-in-Canada Plan: Strong Middle Class, Affordable Economy, Healthy Future](#), Budget 2023, p. 139; and Government of Canada, [Action Plan for Official Languages 2023–2028: Protection-Promotion-Collaboration](#), 2023.
26. These provisions will come into force in 2025. However, a legacy clause was provided for incumbents in manager and supervisor positions.
27. However, a legacy clause was provided for incumbents in deputy minister and associate deputy minister positions.
28. [Public Service Official Languages Exclusion Approval Order](#), SI/2005-118.
29. Government of Canada, [English and French: Towards a Substantive Equality of Official Languages in Canada](#).

Over the years, responsibility for language training was transferred to the deputy heads of federal institutions. Gaps in the delivery of language training services and accountability for these services were found. Since 1999, data on federal institutions' provision of language training have not been collected consistently. A 2018 report and a 2023 article found that the quality and calibre of language training has fallen. See National Joint Council, [OL Committee Report on the State of Bilingualism in the Public Service](#), 4 September 2018; and Lila Mouch-Essers, "[Le français dans la fonction publique : un apprentissage au rabais](#)," *ONFR+*, 15 Mai 2023.
30. The goal of the amendments to the OLA was to give the Treasury Board binding powers to oversee compliance with official languages policy in the federal public service. However, they were not accompanied by clear commitments requiring federal institutions to make use of centralized or recognized resources such as the Canada School of Public Service.
31. Government of Canada, [Annual Reports on Official Languages](#).
32. Government of Canada, [Treasury Board Submissions](#). See especially Government of Canada, [Official Languages Requirements and Checklist](#).
33. Government of Canada, [Departmental Results Reports](#).
34. Government of Canada, [Internal Audit and Evaluation](#).
35. Government of Canada, [Management Accountability Framework](#).
36. For an overview, see Marie-Ève Hudon, [The Official Languages Act: Understanding Its Principles and Implementation](#), Publication no. 2011-55-E, Library of Parliament, 17 October 2023.
37. Senate, Standing Committee on Official Languages, [Modernizing the Official Languages Act: The Views of Federal Institutions and Recommendations](#), Final report, June 2019; House of Commons, Standing Committee on Official Languages, [Modernization of the Official Languages Act](#), Seventeenth report, June 2019; Office of the Commissioner of Official Languages (OCOL), [Modernizing the Official Languages Act: The Commissioner of Official Languages' Recommendations for an Act That Is Relevant, Dynamic and Strong](#), May 2019; and Fédération des communautés francophones et acadienne du Canada (FCFA), [Time for Action: The FCFA Proposes a New Wording of the Official Languages Act](#), 5 March 2019.
38. The COVID-19 pandemic highlighted the challenges federal institutions face in meeting their obligations regarding communications with, and services to, the public. As a result, the Commissioner of Official Languages released recommendations to ensure official languages are incorporated into these institutions' decision-making during emergencies. See OCOL, [A Matter of Respect and Safety: The Impact of Emergency Situations on Official Languages](#), October 2020.

39. The Commissioner of Official Languages can enter into compliance agreements and make orders relating to those two parts of the OLA. The Commissioner can impose administrative monetary penalties relating to Part IV only.
40. Government of Canada, [English and French: Towards a Substantive Equality of Official Languages in Canada](#).
41. Admissible complaints to the Commissioner of Official Languages must involve a federal institution, relate to a breach of the OLA and concern a specific incident. See OCOL, "[After filing a complaint](#)," *Complaints and investigations*.
42. [DesRochers v. Canada \(Industry\)](#), 2009 SCC 8.
43. Government of Canada, [Analytical Grid \(Substantive Equality\)](#).
44. [Thibodeau v. Air Canada](#), 2019 FC 1102, para. 40.
45. [Official Languages Act](#), R.S.C. 1985, c. 31 (4th Supp.), s. 3.1.
46. OCOL, [Annual Report 2015–2016](#), p. 13.
47. OCOL, [Annual Report 2018–2019](#), p. 10; and OCOL, [Annual Report 2022–2023](#), p. 2.
48. TBS, [Annual Report on Official Languages for Fiscal Year 2017 to 2018](#), p. 14; TBS, [Annual Report on Official Languages 2018–19](#), p. 14; TBS, [Annual Report on Official Languages 2020–21](#), pp. 4 and 11; and Government of Canada, [Annual Report on Official Languages 2021–22](#).
49. OCOL, [Bilingual greetings in Federal Institutions: Let's talk about it!](#).
50. OCOL, [Active offer: A culture of respect, a culture of excellence](#).
51. In Ontario, a regulation on actively offering services in French came into effect on 1 April 2023. This is the first such regulation in the country. See Ontario, [O. Reg. 544/22: Active Offer of Services in French – Prescribed Measures](#).
52. OCOL, [Annual Report 2022–2023](#), pp. 1–4.
53. [Thibodeau v. St. John's International Airport Authority](#), 2022 FC 563; and [Official Languages Act](#), R.S.C. 1985, c. 31 (4th Supp.), s. 23(1).
54. OCOL, [Backgrounder: Modernizing the Official Languages Act](#); and [Official Languages Act](#), R.S.C. 1985, c. 31 (4th Supp.), ss. 65.1–65.95.
55. TBS, [Annual Report on Official Languages 2020–21](#), pp. 4 and 11; and TBS, [Annual Report on Official Languages 2021–22](#).
56. [Canada \(Commissioner of Official Languages\) v. Canada \(Employment and Social Development\)](#), 2022 FCA 14; and [Official Languages Act](#), R.S.C. 1985, c. 31 (4th Supp.), s. 25(2).
57. Government of Canada, [The Next Level: Normalizing a Culture of Inclusive Linguistic Duality in the Federal Public Service Workplace](#).
58. Government of Canada, [Dashboard on the status of the language of work recommendations](#).
59. Government of Canada, [English and French: Towards a Substantive Equality of Official Languages in Canada](#); and TBS, [Annual Report on Official Languages 2020–21](#), p. 13.
60. TBS, [Annual Report on Official Languages 2020–21](#), pp. 13–19; and TBS, [Annual Report on Official Languages 2021–22](#).
61. Government of Canada, [Focus on Use of Official Languages](#); Government of Canada, "[Use of official languages](#)," *2017 Public Service Employee Survey Results by Theme for the Public Service*; and Pascal Vachon, "[Le français en chute libre dans la fonction publique fédérale](#)," *ONFR+*, 8 December 2022.
62. OCOL, [Annual Report 2022–2023](#), pp. 6–9.
63. OCOL, [Annual Report 2019–2020](#), p. 5; OCOL, [Linguistic \(In\)Security at Work – Exploratory Survey on Official Languages Among Federal Government Employees in Canada](#); OCOL, [Annual Report 2022–2023](#), p. 10; and TBS, [Annual Report on Official Languages 2020–21](#), pp. 38–39.
64. OCOL, [A Matter of Respect and Safety: The Impact of Emergency Situations on Official Languages](#), October 2020.
65. OCOL, [Annual Report 2022–2023](#), p. 10.

66. Ibid., p. 12; OCOL, [Modernizing the Official Languages Act: The Commissioner of Official Languages' Recommendations of an Act That Is Relevant, Dynamic and Strong](#), May 2019, p. 12; and FCFA, [Time for Action: The FCFA Proposes a New Wording of the Official Languages Act](#), 5 March 2019, p. 124.
67. Helaina Gaspard, [Canada's Official Languages: Policy versus Work Practice in the Federal Public Service](#), University of Ottawa Press, 2019 [SUBSCRIPTION REQUIRED].
68. Government of Canada, [The Next Act: New Momentum for Canada's Linguistic Duality – The Action Plan for Official Languages](#), 2003.
69. Government of Canada, [Roadmap for Canada's Linguistic Duality 2008–2013: Acting for the Future](#), 2008; Government of Canada, [Roadmap for Canada's Official Languages 2013–2018: Education, Immigration, Communities](#), 2013; Government of Canada, [Action Plan for Official Languages 2018–2023: Investing in Our Future](#); and Government of Canada, [Action Plan for Official Languages 2023–2028: Protection-Promotion-Collaboration](#).
70. OCOL, [Annual Report 2018–2019](#), p. 18.
71. Government of Canada, [English and French: Towards a Substantive Equality of Official Languages in Canada](#); and Government of Canada, [Action Plan for Official Languages 2023–2028: Protection-Promotion-Collaboration](#).
72. OCOL, [Implementing Section 91 of the Official Languages Act: A Systemic Problem](#), November 2020; and OCOL, [Guide on the Linguistic Identification of Positions](#).
73. OCOL, [A Matter of Respect and Safety: The Impact of Emergency Situations on Official Languages](#), October 2020, p. 17; and OCOL, [Implementing Section 91 of the Official Languages Act: A Systemic Problem](#), November 2020, p. 2.
74. TBS, [Annual Report on Official Languages 2018–19](#), p. 32.
75. OCOL, [Annual Report 2019–2020](#), p. 31.
76. OCOL, [Implementing Section 91 of the Official Languages Act: A Systemic Problem](#), November 2020, p. 49.
77. OCOL, [Annual Report 2022–2023](#), pp. 10–11.
78. OCOL, [Implementing Section 91 of the Official Languages Act: A Systemic Problem](#), November 2020, pp. 11–12.
79. In 2015, the Office of the Auditor General of Canada acknowledged the importance of taking into account the size and mandate of reporting organizations. See Office of the Auditor General of Canada, [Required Reporting by Federal Organizations](#), Report 2 in 2015 *Spring Reports of the Auditor General of Canada*.
80. OCOL, [Annual Report 2017–2018](#), 2018, p. 18.
81. OCOL, [Official Languages Maturity Model](#).
82. OCOL, [Annual Report 2022–2023](#), p. 11.