



[Canada.ca](#) › [How government works](#) › [Policies, directives, standards and guidelines](#)

› [Policy on Official Languages](#)

# Policy on Official Languages

## 1. Effective Date

1.1 This policy takes effect on November 19, 2012 and replaces the *Official Languages Policy Framework*, the *Policy on the Use of Official Languages for Communications with and Services to the Public*, the *Policy on Language of Work*, and the *Policy on Official Languages for Human Resources Management*.

## 2. Application

2.1 This policy applies to all institutions that are subject to Parts IV (Communications with and Services to the Public), V (Language of Work), VI (Participation of English-speaking and French-speaking Canadians) and section 91 (Staffing) of the *Official Languages Act* (OLA), with the exception of the Senate, the House of Commons, the Library of Parliament, the office of the Senate Ethics Officer, and the office of the Conflict of Interest and Ethics Commissioner. In places, this Policy also refers to Part VII (Advancement of English and French) of the *OLA (Official Languages Act)*, given the close links between official languages obligations for institutions that are found in Parts IV, V, VI and VII. Requirements under this policy apply, however, only to institutions subject to Parts IV, V and VI and section 91 of the *OLA (Official Languages Act)*.

## 3. Context

3.1 The Official Languages Act (OLA) is based on the Constitution Act of 1867 and the Canadian Charter of Rights and Freedoms (the Charter). Its quasi-constitutional status has been recognized by the Canadian courts.

3.2 The OLA (Official Languages Act) reaffirms the equality of status of English and French as the official languages of Canada and establishes equal rights and privileges as to their use in institutions. The OLA (Official Languages Act) sets out the obligations of institutions with regard to official languages. The Official Languages (Communications with and Services to the Public) Regulations (the Regulations) define the scope of certain provisions of the OLA (Official Languages Act) with respect to communications with and services to the public.

3.3 The OLA (Official Languages Act) defines the responsibilities and duties of the Treasury Board in the area of official languages. They include providing the general direction and coordination for the policies and programs of the Government of Canada of the parts of the OLA (Official Languages Act) relating to the implementation of communications with and services to the public, language of work and the equitable participation of English-speaking and French-speaking Canadians in institutions.

3.4 The OLA (Official Languages Act) also defines the responsibilities and duties of the Minister of Canadian Heritage in the area of official languages. This role relates to the obligation of institutions to adopt positive measures in order to support the development of English and French linguistic minority communities and advance the equality of status and use of the English and French languages within Canadian society.

3.5 Deputy heads exercise key leadership in their institutions in the area of official languages. Leadership in official languages means meeting the requirements under this policy and its related directives in an effective and timely fashion. It also means combining a clear understanding of the letter and spirit of the entire OLA (Official Languages Act) with an understanding of the challenges and opportunities that the mandate and context of an institution affords in official languages matters. As a result, respecting the public's and employees' language rights, considering the needs of official language minority communities and seizing opportunities for promoting both languages in Canadian society become integral parts of institutional practice.

3.6 An important element in achieving results for Canadians and employees in the area of official languages is institutional bilingualism. Institutional bilingualism is the result of appropriate staffing processes as well as an investment by the institution in employees' language training and development, and the availability of adequate technological and other material resources.

3.7 Treasury Board Secretariat and Canadian Heritage exercise coherent, government-wide leadership in official languages and collaborate to allow for better reporting and communication of results to Canadians. The Accountability and Coordination Framework for Official Languages (2003) defines the responsibilities for horizontal coordination and inter-departmental cooperation. The framework also sets out approaches for implementation across institutions.

3.8 The Treasury Board is issuing this policy pursuant to its authority under section 46 of the OLA (Official Languages Act).

3.9 This policy must be read in conjunction with the Charter, the OLA (Official Languages Act), in particular, Parts IV, V, VI, VII and Section 91 as well as its Regulations. It must also be read in conjunction with the following policy instruments, where such instruments are applicable to a given institution:

- Foundation Framework for Treasury Board Policies
- Policy Framework for People Management
- Directive on Official Languages for Communications and Services
- Directive on Official Languages for People Management
- Directive on the Implementation of the Official Languages (Communications with and Services to the Public) Regulations

3.10 Additional requirements are set out in the following instruments, where applicable to each institution:

- Qualification Standards in Relation to Official Languages
- Bilingualism Bonus Directive
- Public Service Official Languages Exclusion Approval Order and the Public Service Official Languages Appointment Regulations

## 4. Definitions

Please refer to Appendix 1.

## 5. Policy Statement

### 5.1 Objective

5.1.1 To facilitate compliance with and ensure effective implementation of the OLA (Official Languages Act) and its Regulations by institutions.

## 5.2 Expected results

5.2.1 The public can communicate with and receive services from institutions in English or French in accordance with the Charter, the OLA (Official Languages Act), the Regulations and Treasury Board policy instruments. Communications and services respect the principle of substantive equality.

5.2.2 Employees can use the official language of their choice and work in an environment that is conducive to the use of both official languages pursuant to the conditions set out in the OLA (Official Languages Act) and Treasury Board policy instruments.

5.2.3 English- and French-speaking Canadians have equal opportunities for employment and advancement in institutions. Taking into account their mandate, location and the public they serve, the institutions' workforce tends to reflect the presence of both official language communities in Canada while respecting the selection of personnel according to merit.

5.2.4 Appropriate governance structures, mechanisms, and resources are in place to ensure coherent management of the institution's official languages obligations.

## 6. Policy Requirements

### 6.1 Official Languages Governance

Taking into consideration their institution's size and mandate, deputy heads are responsible for the following:

- 6.1.1 (*Official Languages Unit*) Designating an official languages unit for the coordination of the institution's

official languages responsibilities.

- 6.1.2 (*Person responsible for Official Languages*) Designating a person in the institution at an appropriately senior level as responsible for official languages.
- 6.1.3 (*Official Languages Champion*) Designating an Official Languages Champion, or any other person to fulfill this function, who supports the deputy head in developing an integrated vision for the official languages program within the institution, who promotes official languages, and who aims to have official languages considered in all its decision-making processes.
- 6.1.4 (*Performance Evaluations*) Ensuring that compliance with this policy and associated directives and standards is included in annual performance appraisals and influences appraisal ratings in institutions for which the Treasury Board is the employer.

## 6.2 Communications with and services to the public

Deputy heads ensure that the language obligations of offices of their institutions are determined according to the OLA (Official Languages Act) and the Regulations. Bilingual offices communicate with and provide services to members of the public in the official language chosen by the member of the public. In addition, deputy heads ensure that:

- 6.2.1 (*Active offer*) The institution actively offers communications with and services to the public at designated offices in both official languages.
- 6.2.2 (*Equality and simultaneity*) The institution respects the principle of substantive equality in its communications and

services to the public. It also respects the equal status of both official languages by making communications and services in both official languages available simultaneously.

- 6.2.3 (*Third party services*) The institution respects the right of the public to receive communications and services in the official language of its choice when the public communicates with or receives services from a third party acting on behalf of the institution.
- 6.2.4 (*Method of communication*) The institution meets its official languages obligations with regard to communications with and services to the public regardless of the method of communication used.
- 6.2.5 (*Precedence of the public's rights over employees' rights*) The institution informs employees, according to section 31 of the OLA (Official Languages Act), that the public's right to communicate with and receive services from the institution in the official language of the public's choice takes precedence over the language-of-work rights of employees.

## 6.3 Language of work

Given that in bilingual regions both official languages are the languages of work while in unilingual regions the language of work is generally the one that predominates in the province or territory, deputy heads ensure that, in bilingual regions:

- 6.3.1 (*Leadership in the work environment*) Senior management exercises the leadership required to foster a work environment that is conducive to the effective use of both official languages.

- 6.3.2 (*Communications with employees*) Senior management activities are carried out in both official languages and supervisors are able to communicate effectively in both official languages with employees in order to create and maintain a workplace conducive to the effective use of both official languages.
- 6.3.3 (*Services and training*) All measures are taken to enable the institution's employees to work, receive personal and central services, as well as training and professional development in the official language of their choice, pursuant to the Directive on Official Languages for People Management.

## 6.4 Participation of English-speaking and French-speaking Canadians

Deputy heads ensure that:

- 6.4.1 (*Employment and advancement*) The institution provides English-speaking and French-speaking Canadians with equal opportunities for employment and advancement.
- 6.4.2 (*Participation*) The institution has a workforce that tends to reflect the presence of both official language communities in Canada, taking into account the institution's mandate, the public it serves and the location of its offices.

## 6.5 Monitoring and reporting

Within institutions:

- Deputy heads or their delegates are responsible for:



- 6.5.1 Monitoring compliance with this policy and supporting instruments.
- 6.5.2 Keeping files and information systems current in order to provide reports to the Office of the Chief Human Resources Officer within the Treasury Board of Secretariat (OCHRO-TBS) upon request.

#### Government-wide:

- 6.5.3 OCHRO-TBS (Office of the Chief Human Resources Officer within the Treasury Board of Secretariat) will monitor compliance by using performance measurement instruments that it has established, in particular Official Languages Annual Reviews, and may use any other sources of information such as: Treasury Board submissions, Departmental Performance Reports, results of audits, evaluations and studies to assess the government institution's administration of the OLA (Official Languages Act) and the Regulations. For those government institutions subject to the Management Accountability Framework (MAF), information obtained from monitoring of compliance with this policy will be used in MAF (Management Accountability Framework) assessments.
- 6.5.4 OCHRO-TBS (Office of the Chief Human Resources Officer within the Treasury Board of Secretariat) will review the policy and supporting instruments, and their effectiveness, five years following the implementation of the policy. When substantiated by risk-analysis, OCHRO-TBS (Office of the Chief Human Resources Officer within the

Treasury Board of Secretariat) will also ensure an evaluation is conducted.

## 7. Consequences

7.1 Deputy heads are responsible for assessing compliance with this policy and supporting instruments, and for taking corrective action in the case of non-compliance.

7.2 If OCHRO-TBS (Office of the Chief Human Resources Officer within the Treasury Board of Secretariat) determines that the institution may not have complied with a requirement in this policy or its supporting instruments, the Chief Human Resources Officer can request that the Deputy take measures such as the following:

- evaluate why the requirements of this policy and its supporting instruments have not been respected;
- take corrective action and report back on results.

7.3 Any failure to comply with this policy or its supporting instruments, or with corrective actions requested by OCHRO-TBS (Office of the Chief Human Resources Officer within the Treasury Board of Secretariat), may give rise to:

- an assessment, the results of which will be included in the President of the Treasury Board's annual report to Parliament;
- any other corrective measure consistent with the *Framework for the Management of Compliance*.

## 8. Roles and Responsibilities of Government

# Organizations

This section identifies other key institutions that are responsible for implementing this policy. In and of itself, it does not confer an authority.

8.1 OCHRO-TBS (Office of the Chief Human Resources Officer within the Treasury Board of Secretariat) through the Official Languages Centre of Excellence plays an enabling role among institutions in the implementation of their official languages programs and assists them with regard to broadly based questions in the interpretation of this policy.

8.2 Treasury Board Secretariat and Canadian Heritage play complementary roles in monitoring the implementation of Parts IV, V, VI and VII of the OLA (Official Languages Act). The annual report by the President of the Treasury Board reports on results under Parts IV, V and VI while the annual report by Canadian Heritage reports on results under Part VII of the OLA (Official Languages Act).

8.3 The Commissioner of Official Languages may investigate an institution's compliance with its obligations under the OLA (Official Languages Act). Failure to comply with Parts IV, V, VI, VII or section 91 of the OLA (Official Languages Act) may result in a complaint to the Office of the Commissioner of Official Languages. Under Parts IV, V, VII and section 91, it is also possible to apply to the Federal Court for a remedy.

8.4 For institutions subject to the Public Service Employment Act (PSEA), the Public Service Commission is responsible for protecting the integrity of staffing in the Public Service. This includes the interpretation of the PSEA (Public Service Employment Act), of the Public Service Official Languages Exclusion Approval Order and the Public Service Official Languages Appointment Regulations.

# 9. References

## Legislation

- *The Constitution Act, 1867*
- *Canadian Charter of Rights and Freedoms*
- *Official Languages Act*
- *Official Languages (Communications with and Services to the Public) Regulations*
- *Financial Administration Act*
- *Public Service Employment Act*
- *Public Service Official Languages Appointment Regulations*
- *Public Service Official Languages Exclusion Approval Order*

## Treasury Board Policy Instruments

- *Policy on Communications and Federal Identity*
- *Policy Framework for People Management*
- *Policy on Transfer Payments* and *Directive on Transfer Payments*
- *Values and Ethics Code for the Public Sector*
- *Policy on Evaluation*

## Other Publications

*Guide for Federal Institutions* (Canadian Heritage)

# 10. Enquiries

For questions regarding this policy, please contact the *Person responsible for official languages* or *TBS (Treasury Board Secretariat) Public Enquiries*.

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# Appendix 1: Definitions

## **actively offers (*active offer*)**

Clearly indicate visually and verbally that members of the public can communicate with and obtain services from a designated office in either English or French. Mechanisms are in place to ensure that services are available in the official language chosen. The availability of communications and services in both official languages can be promoted in a number of ways:

- Prominently displaying the official languages symbol



in Quebec and



elsewhere in Canada.

Institutions for which Treasury Board is not the employer may use this symbol or a comparable symbol.

- Greeting members of the public in both official languages, beginning with the official language of the majority of the population of the province or territory where the office is located.
- Ensuring that the office's recorded messages are entirely in both official languages.
- Displaying forms and brochures of institutions subject to the OLA (Official Languages Act) in a manner that respects the equal status of English and French.
- Using permanent or temporary signs in both official languages to direct the public within an office.
- Ensuring public-access computers permit the use of English and French software and keyboards.

## **bilingual regions**

The list of Bilingual Regions of Canada for Language-of-Work Purposes is available on the TBS Web site.

**conducive (workplace)**

An organizational culture in which employees are systematically encouraged to use the official language of their choice in the workplace.

**deputy heads**

This term is equivalent to "deputy minister", "chief executive officer" and other titles denoting this level of responsibility.

**designated offices**

An office is designated bilingual for communications with and services to the members of the public if it meets criteria set out in the OLA (Official Languages Act) or in the Regulations such as (not an exhaustive list):

- an institution's head or central office;
- an office within the National Capital Region;
- an office of an institution that reports directly to Parliament;
- an office where there is significant demand for services in either official languages;
- an office, where due to its nature, it is reasonable that communications with and services from that office be available in both English and French.

A list of offices designated bilingual is available in Burolis.

**English and French linguistic minority communities**

English-speaking population in Quebec and French-speaking population outside Quebec.

**institutions**

Institution means:

- Any institution subject to Parts IV, V and VI and section 91 of the OLA (Official Languages Act), except for the Senate, the House of Commons, the Library of Parliament, the office of the Senate Ethics

Officer and the office of the Conflict of Interest and Ethics Commissioner. For a formal definition of “federal institutions”, see section 3 of the OLA (Official Languages Act); and

- Any institution whose acts of incorporation provide for the application of the OLA (Official Languages Act) (e.g. Air Canada and NavCanada).

### **method of communication**

Any correspondence, memorandum, book, plan, map, drawing, diagram, pictorial or graphic work, photograph, film, microform, sound recording, videotape, machine readable record, and any other documentary material, regardless of whether it's in physical, electronic or any other format, and any copy thereof.

### **official languages unit**

The official languages unit is a structure whose size and role are appropriate with regard to the institution's mandate. The unit may be a distinct unit, or it may be combined with another unit within the institution.

### **personal and central services**

In bilingual regions, personal and central services are offered to all employees in the official language of their choice. These services are those that affect the employee on a personal level (their health and well-being, personal development, their career) or that are essential for the employee to perform their duties. Some examples:

Personal services:

- pay and benefits services
- career counselling services

Central services:

- information systems services
- legal services

### **public**

Any person, group of persons (professional associations or others) or organization or company (other than a Crown corporation) in Canada or abroad, any representative of another level of government communicating with or receiving a service from an institution, excluding officers and employees of institutions subject to the OLA (Official Languages Act) when carrying out their duties

### **substantive equality**

Substantive equality is achieved when one takes into account, where necessary, the differences in characteristics and circumstances of minority communities and provides services with distinct content or using a different method of delivery to ensure that the minority receives services of the same quality as the majority. This approach is the norm in Canadian law. Please also see the *Analytical Grid (Substantive Equality)*.

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