Emploi et
Développement social Canada

Employment and
Social Development Canada

Canada

Linguistic Requirements & Non-imperative Appointment

Official Languages Centre of Expertise – Workforce Strategies

Identification of the Language Requirements of Positions

ESDC's [Guideline on the Identification of Language Requirements](#) include a four-step process to support managers in ensuring that language requirements fulfill the organization's OL obligations to the public and to its employees:

STEP 1: Determine the linguistic obligations of the position

STEP 2: Determine the bilingual capacity of the unit/organization

STEP 3: Determine the language requirements to meet obligations

STEP 4: Determine the linguistic profile of a bilingual position

*Note: Managers must establish the language requirements of a position **by taking into consideration the duties of the position and not based on the incumbent's linguistic profile**. The obligations related to official languages are based on the requirements for service to the public and/or the language of work (services to the public, central services, personal services, supervisory functions and/or formal level in grievance process)*

*Please refer to Annex A for more details on the identification.

Current Requirements for Supervisory Positions
ESDC Official Languages Guideline

Category	Language Requirements
Positions in the Executive Group (EX) in bilingual regions for language of work purposes.	CBC/CBC
Executive feeder group positions* (EX minus 1 and EX minus 2), which are located in bilingual regions for language of work purposes and which supervise employees.	CBC/CBC
Executive feeder group positions* (EX minus 1 and EX minus 2), which are located in unilingual regions and which supervise employees in bilingual regions for language of work purposes.	CBC/CBC
Positions in groups below EX minus 2, which are located in bilingual regions for language of work purposes and which supervise employees.	No departmental standard – must be established based on duties and in accordance with TBS Directive on Official Languages for People Management and OL qualification standards

Non-imperative Staffing Actions

Imperative staffing is the **norm**. Non-imperative staffing may be used with proper approval, **in exceptional circumstance**, such as:

- The potential applicant pool is very limited due to the highly specialized nature of the duties and the knowledge needed for a position where imperative staffing might unduly limit applications for the position.
- An insufficient number of applications from members of either official language community may be received, and staffing on a non-imperative basis is likely to promote participation of the under-represented linguistic community.
- Other exceptional situations may also be acceptable. Consult your HR Advisor.

Non imperative staffing action must meet one of these 3 conditions:

1	2	3
Agreement to become Bilingual	**Exclusion for persons eligible for an immediate annuity**	**Exclusion on medical grounds**

1. Agreement to Become Bilingual

- Mandatory administrative measures to be put in place (document in writing).
- Must meet the linguistic proficiency required for the bilingual position **within 2 years**.
- If unable to meet the required level, must be deployed or appointed to another position (not a demotion or promotion) within 2 months of the end of the agreement.

2. Eligibility for Retirement (Immediate Annuity)

- Must be eligible for pension **within 2 years** of appointment.
- Must provide an **irrevocable** resignation letter before:
  - Appointment (for external appointments)
  - Notification of Consideration (for internal appointments)

3. Medical Grounds

- Unilingual person who has a long-term or recurring physical, mental or learning impairment that makes the person unable to become bilingual, through language training.

- Evaluation done by Health Canada with the approval of Public Service Commission.

- Valid only for the specific position.

Annex A

STEP 1: Determine the linguistic obligations of the position

- What are the OL obligations relating to services to the public and/or language of work (employees)?

- The main factors on which the official languages obligations are based are:

  - Location of the position
    - Is the position in a designated bilingual office or point of service for service to the public?
    - Is the position in a [region designated bilingual](#) for language-of-work?

  - Services to be provided
    - services to the public
    - central services (i.e. finance, IT, legal, security, human resources)
    - personal services (i.e. compensation, career counselling, occupational health and safety)
    - supervisory functions
    - formal level in grievance process

Annex A

STEP 2: Determine the bilingual capacity of the unit/organization

- Managers are responsible for organizing their resources and for developing and maintaining a linguistic capacity within their work unit to fulfill their linguistic obligations to the public and internal employees.

- Managers should consider the answer to these questions:

  - Are there any positions in the work unit providing similar services to the same public or group of employees?

  - Is there enough bilingual capacity (sufficient bilingual employees) within the work unit to deliver your business to the public or to employees?

- If the answer to either of the above-noted questions is "no", the language requirement of the position must be bilingual to ensure there is a sufficient bilingual capacity to respect OL obligations.

Annex A

STEP 3: Determine Language Requirements to Meet Obligations

- Positions may be Bilingual, French essential, English essential, or Either/or (English or French essential)

- Managers must follow sound management practices based on their operations and particular situations to develop and maintain a bilingual capacity within their work unit to fulfill their official language obligations.

- The proportion of duties to be performed in one language or in the other has no impact on the language requirement of the position.

- Language requirements must take into consideration virtual management organizational structures, if applicable.

- All bilingual positions with the same job description must have the same linguistic profile (ex: cannot have 1 position BBB/BBB and 2 positions CBC/CBC if they have the same job description).

Annex A

STEP 4: Determine the Linguistic Profile of a Bilingual Position

- **Language proficiency levels for reading, writing and oral interaction must :**

  – Be determined objectively based on the duties of the position and based on requirements for services to the public and/or employees.

  – Take into account the complexity of the functions to be accomplished

  – Adhere to statutory and departmental requirements.

- **Tools**

  – ESDC's Guideline on Identifying Language Requirements of Positions

  – TBS Qualification Standards in Relation to Official Languages

  – TBS Online tool: *Determining the linguistic profile of bilingual positions*

  – ESDC's Table of Human Resources Authorities