Non-imperative staffing: Legislative and policy framework

Official Languages Act (TB)
Sections 22 (communications and services to the public must be bilingual); **35** (language of work); **36** (services to employees, work instruments, supervision, workplace conducive to the use of both OL); and **91** (the language requirements of a position are objectively identified based on the duties to be performed).

Public Service Employment Act (PSC)
Section 30(2)
Official languages proficiency is an essential qualification that needs to be met for the appointment to be based on merit.

Implementation

Policy on Official Languages (TB)
Section 5.2 - Expected results:
Communications with and services to the public; workplace conducive to the use of both OL; equal employment and advancement opportunities for English and French-speaking Canadians; appropriate governance structure and leadership

Exceptions

Public Service Official Languages Exclusion Approval Order (PSC)

Three situations in which, in the case of a non-imperative appointment, a person is excluded from meeting the official language proficiency:

- Agreement to become bilingual
- Medical grounds
- Immediate annuity (retirement confirmed within 2 years)

Implementation

Directive on Official Languages for People Management (TB)
Appendices 2 and 4

- Non-imperative staffing possible at EX-02 to EX-05 levels for persons with disabilities (under certain conditions)
- Examples of exceptional staffing situations

Conditions

Temporary | Permanent

Examples of exceptional staffing situations:

- Limited applicant pool
- Insufficient number of applications from Official Language Minority Communities

Non-imperative staffing under exceptional circumstances
(EX-01 and below)

Mandatory imperative staffing for EX-02 to EX-05 positions in bilingual regions
(exception: medical exclusion)