



## Frequently asked Questions and Answers Supervision rights of employees in bilingual regions

### Table of Contents

<b>Context</b> .....	2
<b>Legislative amendment regarding language-of-work for employees in bilingual regions</b> .....	2
<b>Frequently asked Questions and Answers</b> .....	3
Application of the legislative amendment .....	3
Transition period .....	5
Monitoring requirements .....	5
Correlation with other policy instruments.....	5
Administrative measures .....	7
Staffing .....	8
Language training.....	9

## Context

Adopted in 1969, the [\*Official Languages Act\*](#) (OLA) is a law that stems from the [\*Constitution Act of 1867\*](#) and the [\*Canadian Charter of Rights and Freedoms\*](#). Its quasi-constitutional status is recognized by Canadian courts. Overall, the OLA aims to establish the conditions required for the federal government to respect the principle of equality of the official languages set out in section 16 of the Charter. Its purpose is to ensure respect for English and French as the official languages of Canada, to foster the development of English and French linguistic minority communities, to advance the equality of status and use of the English and French languages within Canadian society generally, and to define the powers and obligations of federal institutions with respect to the official languages.

On June 20, 2023, the modernized OLA received royal assent. It now contains an interpretation clause under section 3.1, which largely codifies the principles established by case law, notably that language rights are to be interpreted broadly and liberally according to their purpose, in light of their remedial nature, and that substantive equality is the standard of interpretation of these rights. Added to these is a new principle of interpretation, according to which language rights must be interpreted in light of the fact that French is in a minority situation in Canada and North America due to the predominant use of English, and that the English-speaking minority in Quebec and the French-speaking minorities in the other provinces and territories have different needs.

## Legislative amendment regarding language-of-work for employees in bilingual regions

Among the changes made to the modernized [\*Official Languages Act\*](#), we find under section 36, as of June 20, 2025: a new right for all employees occupying a position in a bilingual region to be supervised in the official language of their choice, regardless of the linguistic identification of their position; an obligation for managers and supervisors to be able to communicate in the official language of employees' choice when exercising their duties as managers or supervisors; and acquired rights for managers and supervisors who were already in position before June 20, 2025.

## Frequently asked Questions and Answers

### Application of the legislative amendment

#### 1. What is the legislative amendment?

- The legislative amendment to section 36 of the [Official Languages Act](#) (OLA) gives all employees occupying a position in a bilingual region the right to be supervised in the official language of their choice, regardless of the linguistic identification of their position, as of June 20, 2025 (subpara. (1)(c)(ii)).
- In addition, managers and supervisors must be able to communicate with employees in both official languages when carrying out their duties as managers or supervisors (subpara. (1)(c)(i)).
- Incumbents of unilingual positions supervising employees in bilingual regions have acquired rights and are not required to meet a bilingualism requirement as long as they remain in their current positions (para. 3)).

#### 2. How does the legislative amendment apply?

- Since June 20, 2025, it is the responsibility of institutions to ensure that employees can exercise their right to be supervised in the official language of their choice in bilingual regions, and that their managers and supervisors are able to do so.
- To achieve this, it is expected that most, if not all, positions responsible for supervising employees in bilingual regions are designated bilingual.
- In accordance with section 91 of the [Official Languages Act](#) (OLA) and section 6.2.2 of the [Directive on Official Languages for People Management](#), managers are responsible for objectively examining the linguistic identification of each position during all staffing actions, including workforce adjustment.
- Thus, managers must objectively review the language requirements of positions to be staffed at the time of each staffing action, and for positions responsible for supervising employees in bilingual regions, these must be identified as bilingual, unless an institution is able to demonstrate that it can organize its workforce in such a way as to respect the new right of employees to be supervised in the official language of their choice in bilingual regions, in light of the principle of substantive equality.
- Under the new provisions set out in Section 36 of the OLA, an employee who held a unilingual supervisory position may remain in that same position based on acquired rights, even if a human resources action takes place affecting the position without changing the incumbent.
- However, incumbents protected by acquired rights are strongly encouraged to take language training to support their career progression and mobility.
- Although the modernized OLA provides protection for current incumbents of unilingual supervisory positions affected by the requirements of section 36, institutions are responsible for putting measures in place to ensure that the right of employees in bilingual regions to be supervised in the official language of their choice is respected.

**3. What is the definition of an employee for the purposes of the [Official Languages Act](#)?**

- Section 33.1 of the modernized [Official Languages Act](#) (OLA) now includes a new definition of an employee for the purposes of Part V of the OLA.
- Please note that this definition is broader than that of an employee under the [Public Service Employment Act](#) and applies, for example, to students.
- Indeed, “employee includes an employee who represents the employer, a person who performs for an employer activities whose primary purpose is to enable the person to acquire knowledge or experience and a person who has been placed by a temporary help agency.”

**4. Does the requirement apply to all supervisory positions that supervise employees in bilingual regions, regardless of where the supervisory positions are located?**

- Yes. Since language-of-work rights correspond to employees, supervisors must supervise employees occupying positions in bilingual regions in the official language of the employee’s choice, regardless of the location of the supervisory position.
- The right of an employee to be supervised in their preferred official language, whether working remotely or not, is based on the location of the employee’s position (the office they report to).
- Institutions can consult the tool on [Language of Work Rights](#) for further information and related scenarios.
- Employees occupying positions in unilingual regions are and will continue to be supervised in the language of the region; therefore, a supervisor of a team whose employees occupy positions only in unilingual regions is not required to occupy a bilingual position for supervisory purposes. The language requirements and linguistic profiles of such supervisory positions will continue to be determined by the other duties required by the position, in accordance with section 91 of the [Official Languages Act](#).
- A list of bilingual regions can be found here: [List of Bilingual Regions of Canada for Language-of-Work Purposes](#).

**5. Does a supervisory position have to be designated bilingual even if all its team members are located in bilingual regions, but occupy unilingual positions and wish to be supervised in the language of their position?**

- Yes, because the linguistic designation of a position must be determined objectively based on the duties and functions of the position, and cannot be based on the individual occupying it.
- Furthermore, it is not possible to determine in advance the language preferences for supervision of current or future employees.
- Please note that employees can also change their language of work at any time during their career, and their right to be supervised in the official language of their choice is a right they should be able to exercise at any time, without it being viewed as a request for accommodation.

## Transition period

### **6. How do the acquired rights of current incumbents of unilingual supervisory positions harmonize with the new right of employees to be supervised in the official language of their choice?**

- There will likely be a transition period during which unilingual supervisors responsible for supervising employees in bilingual regions may remain in their positions due to acquired rights, even though the new employee right to be supervised in the official language of their choice came into effect on June 20, 2025.
- During this period, institutions are responsible for taking the necessary measures to ensure that the new right of employees to be supervised in the official language of their choice is respected at all times in bilingual regions.
- To do so, institutions may, for example, during a defined period, confirm employees' official language choice for supervision through a neutral third party (to promote a free and informed choice), to determine whether certain teams can continue to be managed by a unilingual supervisor. Please note that this situation can only be temporary, as employees may change and may also change their language preference.

## Monitoring requirements

### **7. Do federal institutions have to report on their data regarding appointments to positions responsible for supervising employees in bilingual regions?**

- Institutions are responsible for internal monitoring of new appointments to positions responsible for the supervision of employees occupying positions in bilingual regions.
- TBS will monitor the application of this legislative change through existing official languages data collection monitoring tools.
- Federal institutions are, however, responsible for ensuring that their official languages data is up to date, and for correctly identifying positions with supervisory functions (in the "communication requirements of the position" section) as well as the language requirements of these positions, in the various tools at their disposal.
- Please note that under the modernized [Official Languages Act](#) (OLA), the Commissioner of Official Languages has enhanced powers. He now has the authority to issue an order if he has reasonable grounds to believe that a federal institution has contravened an obligation under Part V of the OLA.
- More information on the enhanced powers of the Commissioner of Official Languages can be found here: [Backgrounder: Modernizing the Official Languages Act - Office of the Commissioner of Official Languages of Canada](#).

## Correlation with other policy instruments

### **8. What is the impact of the legislative amendment on Treasury Board's official languages policy instruments?**

- The [Directive on Official Languages for People Management](#) was amended on June 20, 2025, to state in section 6.1.2 that managers and supervisors are responsible for supervising employees

occupying positions in bilingual regions in the official language of their choice, regardless of the linguistic designation of their position.

- Changes have also been made to Appendices 1 and 2 of the directive to clarify this new right.

**9. What is the difference between the policy change raising the minimum second-language requirements for bilingual positions responsible for supervising employees in bilingual regions (CBC initiative), and the legislative change of section 36(1)(c) of the modernized Official Languages Act giving all employees in bilingual regions the right to be supervised in the official language of their choice, regardless of the linguistic identification of their position?**

- Both changes came into effect on June 20, 2025, and have an impact on positions responsible for supervising employees occupying positions in bilingual regions. However, their application is different.

**Legislative amendment to section 36**

- The legislative change gives all employees in bilingual regions the right to be supervised in the official language of their choice, regardless of the linguistic identification of their position. Under this change, most positions responsible for supervising employees in bilingual regions have to be designated bilingual in order to comply with this new right and the principle of substantive equality.
- The legislative change therefore has an impact on the linguistic designation (unilingual or bilingual) of positions responsible for supervising employees occupying positions in bilingual regions.
- Although the modernized Official Languages Act provides for acquired rights for current incumbents of unilingual supervisory positions affected by the requirements of section 36, institutions are responsible for putting in place measures to ensure that the right of employees in bilingual regions to be supervised in the official language of their choice is respected.

**Policy amendment (minimum CBC or equivalent)**

- For its part, the policy change raises the minimum level of second-language proficiency required (linguistic profile) for designated bilingual positions responsible for supervising employees occupying positions in bilingual regions. This change has no impact on the linguistic designation (bilingual or unilingual) of supervisory positions, as it relates only to the minimum required level of second-language proficiency (linguistic profile).
- By establishing the minimum level of second-language proficiency required for bilingual positions responsible for supervising employees in bilingual regions, the policy change ensures that supervisors can perform complex supervisory tasks in both official languages, such as conducting performance reviews, having sensitive conversations and promoting and maintaining a workplace where employees feel comfortable using the official language of their choice.
- More information on the CBC initiative is available on the following Community of Official Languages GCWiki page: [Community of Official Languages/Linguistic requirements supervisors - wiki](#).

## Administrative measures

### 10. Should administrative measures be put in place for unilingual supervisors?

- Since June 20, 2025, institutions have to put in place measures to compensate for unilingual supervisors responsible for supervising employees in bilingual regions, in order to ensure respect for the right of all employees to be supervised in the official language of their choice, in light of the principle of substantive equality.
- Since employees can change within a team, and their preferred language of supervision can also change, institutions must put measures in place to ensure that employees occupying a position in a bilingual region can at all times avail themselves of their right to be supervised in the official language of their choice.
- It should be noted that measures must be determined on a case-by-case basis by each institution, considering its context and organizational needs.
- Even if institutions have the flexibility to organize their work teams in such a way as to meet all their obligations, including their linguistic obligations, they must keep in mind the principle of substantive equality that applies to these rights.

### 11. What is meant by substantive equality?

- Section 3.1c) of the [Official Languages Act](#) stipulates that substantive equality is the norm for the interpretation of language rights.
- The exercise of language rights should not be considered exceptional, nor as a response to an accommodation request.
- In order to respect employees' right to be supervised in the official language of their choice in bilingual regions, and to ensure a genuine choice of supervisory language, institutions must take the necessary measures to enable the exercise of this right, as required by the principle of substantive equality.
- Thus, employees whose supervisor is unilingual will be less likely to avail themselves of their right to be supervised in the official language of their choice if that language is not that of their supervisor. Requiring these employees to ask for administrative measures to respect their right is not consistent with the principle of substantive equality.
- The bilingual designation of positions responsible for supervising employees in bilingual regions therefore seems to be the measure that fully respects substantive equality in respect of employees' right to be supervised in the official language of their choice.
- During the transition period, since employees in unilingual supervisory positions will be protected by acquired rights for as long as they hold their positions, any administrative measures other than assigning supervisory duties to another bilingual person would present risks, particularly if substantive equality is not observed.
- Taking administrative measures is therefore a matter of risk management.

## Staffing

### 12. Is the use of non-imperative staffing still permitted?

- Imperative staffing continues to be the norm, as indicated in the [Directive on Official Languages for People Management](#).
- Non-imperative staffing remains possible in exceptional staffing situations and must continue to be supported with written justification from managers. Administrative measures must always be implemented to ensure that the bilingual functions of a position staffed non-imperatively continue to be carried out while the incumbent does not meet the linguistic requirements of the position.
- The provisions of the [Public Service Official Languages Exclusion Approval Order](#) and of the [Public Service Official Languages Appointment Regulations](#) continue to apply in instances of non-imperative staffing.
- The OLCE has prepared a backgrounder and questions and answers document regarding [non-imperative staffing](#).

### 13. What about employees acting in unilingual positions involving the supervision of employees in bilingual regions, whose interim period ends after June 20, 2025?

- Employees who were appointed on an acting basis to unilingual supervisory positions of employees occupying positions in bilingual regions before June 20, 2025, may complete their acting periods on the scheduled date, even if it is after June 20, 2025.
- The language requirements of these positions will remain unchanged until the end of the interim period.
- However, institutions are responsible for implementing measures as of June 20, 2025, to ensure that employees supervised by unilingual supervisors can be supervised in the official language of their choice.

### 14. What about new acting appointments in unilingual positions involving the supervision of employees in bilingual regions as of June 20, 2025?

- In accordance with section 91 of the [Official Languages Act](#) (OLA) and section 6.2.2 of the [Directive on Official Languages for People Management](#), managers are responsible for objectively examining the linguistic identification of each position during all staffing actions.
- In the context of an acting appointment, institutions must therefore objectively review the linguistic requirements of the position to be filled. As of June 20, 2025, positions responsible for supervising employees in bilingual regions must be designated bilingual, unless the institution can demonstrate that it can organize its workforce in a manner that complies with section 36(1)(c)(ii) of the OLA.
- In such cases, the current incumbent who temporarily leaves their position after June 20, 2025, must be informed in writing of the change in the language requirements of their position, as soon as possible as per section 6.2.2 of the Directive. However, the incumbent may return to their position without meeting the requirements, as they will be protected by acquired rights, in accordance with subsection 36(3) of the modernized OLA.
- In addition, in accordance with the Directive, institutions subject to the [Public Service Employment Act](#) must inform current incumbents within 10 working days of the date of the



change, and are responsible for offering language training to the incumbent to help them to acquire the required language skills for the position. The incumbent is strongly encouraged to take the training.

- Institutions must, however, put in place administrative measures to ensure that employees under the supervision of the position in question can be supervised in the official language of their choice until the incumbent meets the new language requirements of the position.
- New acting appointments to positions involving the supervision of employees in bilingual regions must therefore be made on the basis of language requirements established following an objective review of the position's linguistic identification.

## Language training

### 15. What is your approach to support institutions with language training?

- TBS published in June 2024 a [language training framework](#) for the public service that offers a variety of self-directed tools at no cost and some at a lower cost than classroom training. These offer greater flexibility in terms of operations since the learner can choose his or her own learning schedule and is not restricted to a specific timetable.
- The key elements of the framework include:
  - guidelines for second official language training that support federal institutions in providing equitable access to inclusive and standardized language training approaches;
  - a handbook on second official language training that include best practices to support institutions and managers in fostering a workplace conducive to the use and learning of both official languages; and
  - a playbook for employees that provide various learning paths and resources to support second official language learning and retention in a variety of organizational contexts.

**Please do not hesitate to contact the person responsible for official languages within your institution if you have additional questions that have not been addressed in this document.**