

Commissariat aux  
services en français  
de l'Ontario



Office of the  
French Language Services  
Commissioner of Ontario

Annual Report  
2015  
16  
Executive Summary

# FLSA 2.0



## INTRODUCTION

This document is a summary of the Office of the French Language Services Commissioner's 2015-2106 Annual Report: FLSC 2.0. The long version of this report can be found on the website, [flscontario.ca](http://flscontario.ca) or can be ordered in print.

## EXECUTIVE SUMMARY

This year, 2016, marks the 30<sup>th</sup> anniversary of the *French Language Services Act*. Such an anniversary is cause for celebration, of course, but it is also a particularly opportune time to take a moment to reflect on the words chosen in 1986 and consider whether the *Act* should be updated. This year, the Commissioner is devoting his annual report to the pursuit of one key objective: present an extensive blueprint for a comprehensive revision of the *Act*.

In this context, the Commissioner is reviewing and analyzing certain parts and sections of the *Act* to demonstrate that they are out of date and in serious need of an overhaul. In particular, there is a need to redefine the concepts of services and communications as they are used in the *Act*. In an era when technology and social media are routinely incorporated into government activities, a more modern definition is a pressing necessity. The same applies to the definition of government agency.

This report also demonstrates the importance, in any revision of the *Act*, of eliminating the ambiguities in the wording of a number of clauses dealing with the roles and responsibilities of key players in implementing and enforcing the *Act*. In particular, the Commissioner proposes adjustments in the roles of the Minister Responsible for Francophone Affairs, the Office of Francophone Affairs, the French-language services coordinators and a new advisory council on Francophone affairs, as well as in his own role.

Since a revision of the *Act* is necessary, the Commissioner is taking advantage of the opportunity to recommend the addition of critical provisions relating to French-language services. Those provisions deal with such matters as the purpose of the *Act*, active offer, the translation of regulations, the Inclusive Definition of Francophone (IDF), consultations with the Francophone community, and regulatory colleges.

In this report, the Commissioner makes three recommendations to initiate the process of revising the *Act* no later than the fall of 2016, which will coincide with the 30<sup>th</sup> anniversary of the *French Language Services Act*.

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## THIRTY YEARS OF THE FRENCH LANGUAGE SERVICES ACT

“(...) the governments of Ontario had, over the years, changed their policy toward the French language. The Bill was the result of years of successive steps toward the goal of providing services to Francophones in their own language.” - Court of Appeal for Ontario<sup>1</sup>

It took years of struggle to get the *French Language Services Act* passed. In fact, its unanimous adoption in 1986 was the result of demands made more than a century ago by the French-speaking community to have its rights recognized.

The then Minister Responsible for Francophone Affairs, the Honourable Bernard Grandmaître<sup>2</sup>, deserves all the credit for the passage of Bill 8, which became the *French Language Services Act*. An important and historic gain, the *Act* was also a bet on the future of a community.

But now, 30 years have passed without a major revision of the *Act*. That is too long. The Ontario of the 1980s no longer exists. The face of the Francophonie has changed. Cultural diversity has emerged. Attitudes are different, as are modes of communication for that matter. In the era of social media, Ontario's Francophonie is evolving, but its rights have not kept pace.

Thirty years ago, the *French Language Services Act* served as a model and a trail-blazer for other legislation. Things are very different in 2016. Other legislatures have passed more modern

laws that better reflect today's realities. That is particularly true of Prince Edward Island and Nunavut, from which Ontario can now take inspiration.

It is in this context that the French Language Services Commissioner of Ontario is devoting this annual report to a revision of the *French Language Services Act*.



<sup>1</sup> *Lalonde v. Ontario (Commission de restructuration des services de santé)* (2001) 56 O.R. (3d) 577, para. 142.

<sup>2</sup> The contribution of the opposition MPP, the Honourable Albert Roy, must not be forgotten. He had also filed a bill to that effect a few years previous.

## PRINCIPAL RECOMMENDATIONS

### Recommendation 1

The Commissioner recommends that the Minister Responsible for Francophone Affairs propose to the Legislative Assembly a comprehensive revision of the *French Language Services Act*, which should include, but not be limited to, the following issues covered in this report:

- |  |  |
|--|--|
| A) Preamble  | I) Designation of agencies                             |
| B) Purpose of the act  | J) Exemptions  |
| C) Definitions   | K) Active offer  |
| I. “government agency”   | L) Regulatory colleges                                 |
| II. “services”   | M) Staffing of bilingual positions and human resources |
| III. “communications”  | N) Roles and responsibilities                          |
| D) Inclusive Definition of Francophone (IDF)                   | I. Minister Responsible for Francophone Affairs        |
| E) Consultations with the Francophone community                | II. Office of Francophone Affairs                      |
| F) Formalization of an advisory council on Francophone affairs | III. French-language services coordinators             |
| G) Translation of regulations                                  | IV. French Language Services Commissioner              |
| H) Designation of areas  |  |

### Recommendation 2

The Commissioner recommends that the Minister Responsible for Francophone Affairs initiate the process of revising the *French Language Services Act* during the current Session of Parliament, no later than the fall of 2016, as part of the *Act's* 30<sup>th</sup> anniversary.

### Recommendation 3

The Commissioner recommends that the Minister Responsible for Francophone Affairs launch, without delay, a mechanism for consulting the residents of Ontario, particularly the Francophone community, as a first step in the process of revising the *French Language Services Act*.

## RECOMMENDATIONS BY ISSUES

### Plea for a statement of purpose in the *French Language Services Act*

The Commissioner recommends to the Minister Responsible for Francophone Affairs that legislative amendments be introduced to ensure that the revised *French Language Services Act* has a practical, concrete impact in support of the development and growth of the Francophone community across the province, ideally in its statement of purpose but also in particular provisions.



### Consultations with the Francophone community of Ontario

The Commissioner recommends that the Minister Responsible for Francophone Affairs incorporate into a revised *Act* that when a policy, program, service or activity of the Ontario government or one of its agencies is still at the development stage, and if language is a key factor in the efficacy of the proposed policy, service or activity, appropriate consultations with the Francophone community be announced and conducted.

### Formalization of an advisory council

The Commissioner recommends that the Minister Responsible for Francophone Affairs introduce a legislative amendment to the *French Language Services Act* concerning the establishment of a Provincial Advisory Council on Francophone Affairs, whose mandate would be the planning and delivery of French-language government services; and the development of strategies, priorities, intervention areas and programs that affect Ontario's Francophone community. The Council could have as many as 12 members from various areas of the province.

### Use of the Inclusive Definition of Francophone (IDF)

The Commissioner recommends that the Minister Responsible for Francophone Affairs consider incorporating the IDF into a revised *Act*, and even to consider revising the IDF in light of advances made in other provinces so that it remains inclusive and helps improve the planning of French-language services by all Ontario government ministries and agencies.

### Need for a new definition of government agency

The Commissioner recommends that the government take advantage of the revision of the *French Language Services Act* to introduce a broader, more modern definition of government agency which would apply to any office, board, commission, council or other body mandated to perform a governmental function by or pursuant to an act of the Legislature or by or under the authority of the Lieutenant Governor in Council, a ministry of the Government of Ontario, a Crown corporation established by or pursuant to an act of the Legislature or any other body that is specified by an act of the Legislature to be an agent of Her Majesty in right of Ontario or to be subject to the direction of the Lieutenant Governor in Council or a minister of the Crown.

### Translation of regulations

The Commissioner recommends that the Minister Responsible for Francophone Affairs propose that the revised *Act* give the Lieutenant Governor in Council the power to make a regulation on the criteria to be met for the translation of regulations, rather than leave it entirely to the discretion of the Attorney General.

### Designation

The Commissioner recommends that the Minister Responsible for Francophone Affairs propose the designation of the entire province of Ontario under the amended *French Language Services Act*.

### Communication with the public

The Commissioner recommends that the Minister Responsible for Francophone Affairs propose to incorporate into the *Act* certain essential principles from the Communications in French Directive.

### Social media

The Commissioner recommends that the Minister Responsible for Francophone Affairs ensure that in the revision of the *French Language Services Act*, it is made clear that for any use of social media, including by a public official, when the nature of the initial communication is governmental, the communication must be disseminated simultaneously in both French and English.



### Active offer

In his special report, the Commissioner recommended that the Minister Responsible for Francophone Affairs take the necessary measures to have the *Act* amended to include a provision on active offer. These changes should be based on a provincial strategy on active offer of service in French developed by the Office of Francophone Affairs in conjunction with the French-language services coordinators. The Commissioner also recommended to the Minister that the recommendations on active offer be implemented no later than the spring of 2018.

### Regulatory colleges

The Commissioner recommends that the Minister Responsible for Francophone Affairs propose the explicit inclusion in the amended *French Language Services Act* of the regulatory colleges' obligations related to French services, both with respect to the public and the colleges' members.

### Human resources strategy

As part of a revision of the *French Language Services Act*, the Commissioner recommends that lawmakers include more specific obligations regarding staffing in order to ensure that, beside having designated individual positions, work teams, units or divisions be designated to serve the Francophone public and to actively offer services in French.



### Role of the Minister Responsible for Francophone Affairs

The Commissioner recommends that the amended *French Language Services Act* give the Minister Responsible for Francophone Affairs the mandate to develop policies and programs to promote:

- the use and development of the French language in every sector of Ontario society;
- increased learning of, proficiency in and linguistic vitality of the French language;
- public awareness and appreciation of the history, use, status, importance and diversity of the French language in Ontario;
- increased production and use, in every sector of Ontario society, of French-language materials in every type of media;
- public understanding of the *Act* and its associated regulations;
- recognition of and support for the French language on the national and international scene and by the private sector, including legal recognition.

### Role of the Office of Francophone Affairs

The Commissioner recommends that, without altering the OFA's mandate with regard to administering the functions of the Minister, the OFA's Deputy Minister also become a Deputy Associate Secretary of Cabinet Responsible for Francophone Affairs. With this enhanced authority and accountability, the OFA's DM could better exercise its role as lead government steward for the ongoing implementation of the *French Language Services Act*.

### Role of the French language services coordinators

The Commissioner recommends to the Minister Responsible for Francophone Affairs that the role of the French-language services coordinators be clearly redefined, with a view to empowering them, in a revised *French Language Services Act*, so that they may play an influential and strategic role in the design and development of all programs and services that government ministries and agencies intend to initiate.

### Role of the French Language Services Commissioner

The Commissioner monitors progress, advises the Minister and makes recommendations on matters relating to the administration of the *Act*. He also prepares special reports, investigation reports and annual reports. In this regards, the Commissioner recommends that the Government answer each of the reports within 90 days following their tabling.

## STATISTICS

In the 2015-2016 fiscal year, the Commissioner's Office received 229 complaints. Many of them were individual complaints about a wide variety of issues and genuine concerns ranging from a lack of counter service in French to unilingual-English communications and correspondence, and services that were available but not equivalent to English-language services.

Category	Total
Low Impact	8
Other types of complaints	14
Inadmissible	67
Admissible	140
<b>TOTAL</b>	<b>229</b>

### Inadmissible Complaints

Federal	10
Frivolous/vexatious/in bad faith	1
Municipal	11
Private	24
Province	21
<b>TOTAL</b>	<b>67</b>

### Other Types of Complaints\*

Devolution	2
General	9
Subsidized	3
<b>TOTAL</b>	<b>14</b>

\* Complaints within the provincial government's purview and related to agencies created or mandated by various ministries to offer programs and services that, in cases of devolution, were previously delivered by the province.

### Admissible Complaints by Institution

	Total
Designated agencies**	3
Legislative Assembly***	1
Ministry of Agriculture, Food and Rural Affairs	1
Ministry of the Attorney General	27
Ministry of Children and Youth Services	6
Ministry of Citizenship, Immigration and International Trade	3
Ministry of Community and Social Services	5
Ministry of Community Safety and Correctional Services	4
Ministry of Energy	7
Ministry of the Environment and Climate Change	3
Ministry of Finance	12
Ministry of Government and Consumer Services	22
Ministry of Health and Long-Term Care	17
Ministry of Labour	3
Ministry of Municipal Affairs and Housing	2
Ministry of Natural Resources and Forestry	4
Ministry of Northern Development and Mines	1
Ministry of Tourism, Culture and Sport	5
Ministry of Transportation	9
Municipalities****	5
<b>TOTAL</b>	<b>140</b>



### Geographic distribution of 2015-2016 complaints

Outside of designated areas	5.5%
Northwestern Ontario	4%
Northeastern Ontario	9%
Eastern Ontario	46%
Central Ontario	34.5%
Southwestern Ontario	1%

\*\* Complaints related to designated agencies and institutions under the *French Language Services Act*.

\*\*\* Complaints related to entities that report directly to the Legislative Assembly.

\*\*\*\* Complaints deemed admissible when they are brought against a municipality that has a by-law that guarantees the provision of French-language services.

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