

Memorandum of Understanding

Regarding the handling of complaints for the 42nd Ontario General Election

Between
The Office of the French Language Services Commissioner (OFLSC)
and
Elections Ontario (EO)

(jointly referred to "the Parties" or
separately referred to as a "Party")

1. Purpose

This Memorandum of Understanding ("MOU") establishes the procedure to handle French-language complaints against EO during the 42nd Ontario General Election.

EO is an institution of the Legislature, and as such is subject to the *French Language Services Act*. Consequently, the French Language Services Commissioner has jurisdiction to investigate complaints lodged pursuant to that statute against EO.

2. Primary Objective

Both Parties agree that the primary objective is to guarantee a fair, efficient and equitable electoral process while adhering to the goals and obligations of the *Elections Act*, *Elections Finances Act* and the *French Language Services Act*. This objective is specifically vital during voting days.

3. Transferring a Complaint to the EO

When the OFLSC receives a complaint concerning EO, the OFLSC will transfer the complaint using the form entitled *Information concerning a French language services complaint* ("the Form"), attached to the MOU as Appendix A. The Form, which contains the details pertaining to the complaints, will help EO to:

- better understand the complaint;
- resolve the complaint;
- accelerate the process; and
- facilitate corrective measures.

The details contained in the Form will also help keep the OFLSC better informed of the measures taken regarding complaints.

The section of the Form pertaining to the identity of the complainant will be completed only if they agree to have their identity revealed and when the identity

is reasonably required to resolve the complaint. A person who files a complaint with the OFLSC has the right to request that their anonymity be preserved and may refuse to have their identity revealed to EO. The OFLSC must respect this choice and cannot reveal the complainant's identity to EO. It is understood that EO will more efficiently review the allegations raised by the complaint if it has access to all of the relevant details, including the identity of the complainant.

EO will undertake to review the allegations raised by the complaint. EO will inform the OFLSC, as soon as possible, of the measures to be taken to resolve the allegations. EO also undertakes to complete the relevant section of the *Form* and email it to the Lead Investigator at the OFLSC.

In the event that a lack of information or the absence of specific details prevents EO from following up on the complaint, EO will inform the OFLSC, who will try to obtain clarification from the complainant. When this is not possible, the OFLSC will close the complaint file and inform EO.

4. Transferring a Complaint alleging a Violation during Election Day, at an Advanced Poll or concerning a Special Ballot.

Both Parties aim to put the electors first, which includes respecting their right to vote and their right to receive services in French. A complaint alleging a violation of the *French Language Services Act* on Election Day, at an Advanced Poll or concerning a Special Ballot shall be treated as urgent by both Parties to guarantee those rights.

If the OFLSC receives a complaint alleging a violation of the *French Language Services Act* on Election Day, at an Advanced Poll or concerning a Special Ballot, it will immediately contact EO using the communication information provided in Appendix B. The OFLSC will also complete the *Form* and send it to EO to ensure that EO has all the relevant information to resolve the alleged violation. EO will endeavour to resolve the issue as efficiently as possible to ensure all electors have the ability to understand their rights and how to vote.

A general status report on the complaints filed on Election Day, at an Advanced Poll or concerning a Special Ballot, including a list of open complaint files and a description of unresolved systemic problems, if any, will be sent to EO as soon as the OFLSC has completed its report. This will be done as quickly as possible after the end of the election period. EO will follow up on the report and inform the OFLSC, in writing, of any corrective measures taken concerning each complaint, provide a list of unresolved complaints and identify any possible systemic problems.

5. OFLSC's Power to Investigate

The OFLSC may investigate any complaint it has transferred to EO. It is understood that the OFLSC will be responsible for informing EO of its intention to investigate complaints prior to the investigation. It will send an email to the contact identified at EO for this purpose, which will include the *Form*, duly completed by the OFLSC, if it was not sent during the initial transfer of the complaint. The OFLSC undertakes to inform EO of the conclusions of its investigations as they are completed.

In all investigations, the primary objective of handling complaints is ensuring a fair, efficient and equitable electoral process.

6. Complaints concerning the *Election Act* and the *Election Finances Act*

It is understood that in the case where a person alleges to the OFLSC that their rights under the *Election Act* or the *Election Finances Act* are or will be compromised, the OFLSC will immediately contact the designated EO contact person by telephone to provide with as many details as possible, while always respecting the complainant's confidentiality when required, to help EO's attempts to settle the complaint in a timely fashion. An email and the *Form* will be sent to EO as soon as possible.

7. Miscellaneous

It is understood that when a complaint concerns advertising, EO will examine the situation, take the necessary corrective measures and inform the OFLSC. In the event that it is not possible for EO to immediately distribute new advertising compliant with the *French Language Services Act*, EO will take note of the complaint and ensure the situation is corrected for the future. EO will inform the OFLSC of the corrective measures to be taken.

It is understood that when a complaint concerns an error on a form, it may not be possible in some cases to print another form to replace it. In such instances, EO will take note of the complaint and take the necessary corrective action(s) so that the form in question is corrected for the future. The OFLSC will be informed of the action(s) taken.

It is agreed that EO has no authority over the designation of public ways and may not therefore promote the use of street type names that are not officially recognized by municipalities. Complaints regarding these situations will not be forwarded to EO.

It is understood that, for complaints filed after the 42nd General Election period, it may not be possible for EO to bring immediate corrective measures because the

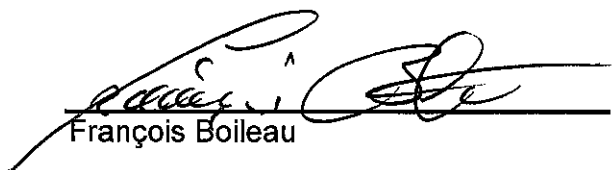
offices of the returning officers will no longer exist and consequently it may not be possible to find the necessary information to settle the matter. However, EO will take note of the issue and indicate to the OFLSC the corrective action(s) to be taken to avoid similar situations in the future.

It is understood that EO already has toll-free telephone numbers where citizens can report issues of concern in both English and French, and it is hereby agreed that the OFLSC will post these numbers on its website via notably the French Language Services Commissioner's blog.

This MOU will not impose any legal or financial obligations on the Parties.

The Protocol will be reviewed at least 6 months before the 43rd Ontario General Election. Should a Party decide to withdraw from the MOU, it will notify the other Party at least 90 days in advance.

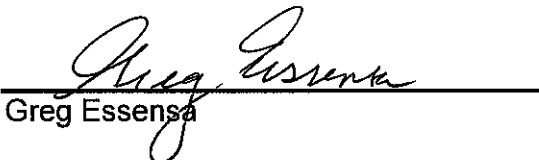
It is understood that the terms of this MOU will be made public by the OFLSC on, or shortly after, the issue of the writs for the 42nd Ontario General Election.



François Boileau

French Language Services
Commissioner

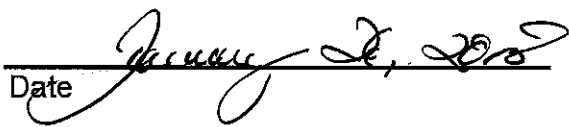
Office of the French Language
Services Commissioner



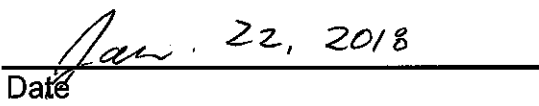
Greg Essensa

Chief Electoral Officer

Elections Ontario

Date 

Date

Date 

Date

APPENDIX A

**Information on a French language services complaint
2018 Provincial Election
Complaint No.:**

<p><u>TO BE COMPLETED BY THE OFLSC</u></p> <p><u>Date and time of reception</u> Name of the complainant Telephone No. Cell. No. (if available) E-mail address (if available)</p>	
<p><u>Complaint details</u></p> <p>Name of the person or people involved (if available) What happened? (If it is a problem with a form or system, specify which one)</p>	
<p>Date and time of the event giving rise to the complaint</p>	
<p>Electoral district</p>	
<p>Polling place (Number of polling places; name of the place; address; city; etc.)</p>	
<p>Other pertinent information</p>	
<p>OFLSC investigator Telephone No. E-mail</p>	
<p><u>TO BE COMPLETED BY ELECTIONS ONTARIO</u></p> <p>EO contact Telephone No. E-mail</p>	
<p>Measures to be taken to resolve the complaint (in detail)</p>	

APPENDIX B

1. Contact information for transferring complaints not sent on Election Day, not at an Advanced Poll or not concerning a Special Ballot:

OFLSC

Phone:

Email:

EO

Phone:

Email:

2. Contact information for transferring complaints sent on Election Day, at an Advanced Poll or concerning a Special Ballot:

OFLSC

Phone:

Email:

EO

Phone:

Email: