

Official Languages

Your rights in New Brunswick



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**Public Legal Education
and Information Service
of New Brunswick**

P.O. Box 6000 ▪ Fredericton, NB E3B 5H1

Tel: (506) 453-5369 ▪ Fax: (506) 462-5193

www.legal-info-legale.nb.ca

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**COMMISSIONER OF
OFFICIAL LANGUAGES
FOR NEW BRUNSWICK**



**COMMISSAIRE AUX
LANGUES OFFICIELLES DU
NOUVEAU-BRUNSWICK**

440 King Street, King Tower, Suite 646 ▪ Fredericton, NB E3B 5H8

Tel: (506) 444-4229 ▪ Toll free 1-888-651-6444 ▪ Fax: (506) 444-4456

www.officiallanguages.nb.ca

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The purpose of this booklet is to provide general information to the public about official language rights in New Brunswick. The booklet explains the purpose of the new *Official Languages Act (OLA)* in New Brunswick and how the *Act* impacts on the ways that government and municipalities provide services.

This booklet does not contain a complete statement of the law in the area and laws may change from time to time. This booklet should only be used as an information resource. Anyone needing specific advice on his/her own legal position should consult a lawyer.

Are official language rights something new in New Brunswick?

No. New Brunswick first adopted an *Official Languages Act (OLA)* in 1969, making New Brunswick the only officially bilingual province in Canada. Many significant events occurred over the next 30 years that have transformed the context of language equality.

Are all our language rights contained in the OLA?

The Province of New Brunswick now recognizes three laws, which focus on language rights:

- The *Official Languages Act of New Brunswick (2002)*
- The *Canadian Charter of Rights and Freedoms - Constitution Act (1982)*
- *An Act recognizing the Equality of the Two Official Linguistic Communities in New Brunswick (1981)*

Other laws in New Brunswick may also include language rights. For example, the *Insurance Act* has an official languages section. Although insurance companies in New Brunswick can operate in the official language of their choice, all insurers must provide or make available forms and documents in both official languages at the request of their client. This would include application forms, policy forms, claim forms, endorsements, renewal notices and cancellation or termination forms.

What rights does New Brunswick's new Official Languages Act (2002) guarantee?

The new *OLA* guarantees a much broader set of language rights in New Brunswick than provided in the Charter. The new *OLA* guarantees that the following institutions in New Brunswick must provide and **actively offer** services in French and English:

- **Provincial government departments and Crown Corporations:** Members of the public have the right to communicate with and receive services from any provincial government institution in the official language of their choice. The new law requires all government institutions and third parties providing services on behalf of the Province, to provide services in French and English. Services include job postings, publications and documents. Government institutions must actively offer their available services to the public.
- **The New Brunswick Legislature:** English and French are the official languages of the Legislature and everyone has the right to use either language in any debate or other proceeding of the Legislative Assembly or its committees.





Making an “ACTIVE OFFER”

Did you know government institutions must make an active offer of service in both official languages? This means they must take appropriate measures to inform members of the public that services are available in English and French — the official language of their choice. An active offer includes answering the telephone or greeting someone in both official languages. They must clearly place the official languages symbol and all correspondence and documents of greeting must be in the language chosen by the client.

- **New Brunswick Laws:** English and French are the official languages of legislation and the laws of New Brunswick are printed and published in both official languages.
- **Justice System (courts, tribunals and police):** English and French are the official languages of the courts. Every person has the right to use the official language of his or her choice in any matter before the courts. Witnesses have the right to use English or French when testifying in court and the right to interpretation services when required. The court must use, in its oral or written pleadings or any process, the official language selected by the parties. A member of the public also has the right to communicate with peace officers in English or French when receiving policing services. These agencies must serve the public in the official language of their choice.
- **Cities and Municipalities with an official language minority population of at least 20%:** All cities, as well as municipalities whose official language minority population represents at least 20% of their total population, must adopt and publish their by-laws in both official languages and offer the services and communications prescribed by regulation in both official languages. Even if a municipality does not meet the 20% language minority requirement, it can still choose to voluntarily follow the new *OLA* by adopting a by-law to that effect.
- **Planning Commissions and Solid Waste Commissions:** Those commissions covering a geographical area with an official language minority population of at least 20% of the total population must offer the services and communications prescribed by regulation in both official languages.



- **Health System:** The new *Act* requires that hospital corporations (i.e., the network of health establishments found throughout the province) provide health services in both official languages. Although a hospital can carry on its internal daily operations in the official language of its choice, the *OLA* requires that they offer health services to the public in both official languages.



Petibou River, Moncton

With the translation of its English by-laws into French, Moncton became the first officially bilingual city in Canada.

Who is responsible for the administration of the OLA in New Brunswick?

The Premier is responsible for the administration of the OLA.

If government institutions do not comply with the OLA, who holds them accountable?

In 2002, New Brunswick set up the first Office of the Commissioner of Official Languages for New Brunswick. The Commissioner is mandated to investigate complaints under the OLA, make recommendations, ensure compliance with the OLA and promote the advancement of both official languages province-wide.

Could a law ever be passed to limit my language rights?

Language rights, as with any Charter right, can only be restricted under Section 1 of the *Charter*. In other words, rights guaranteed in the *Charter* can only be limited to protect other rights or important national values. For example, laws against hate propaganda or pornography may be valid even though they limit freedom of expression. Governments must be able to show that the limitation of a right is reasonable in a free and democratic society. Although Section 1 provides for compromise between guaranteed rights and the higher interests of society, it is rarely used.

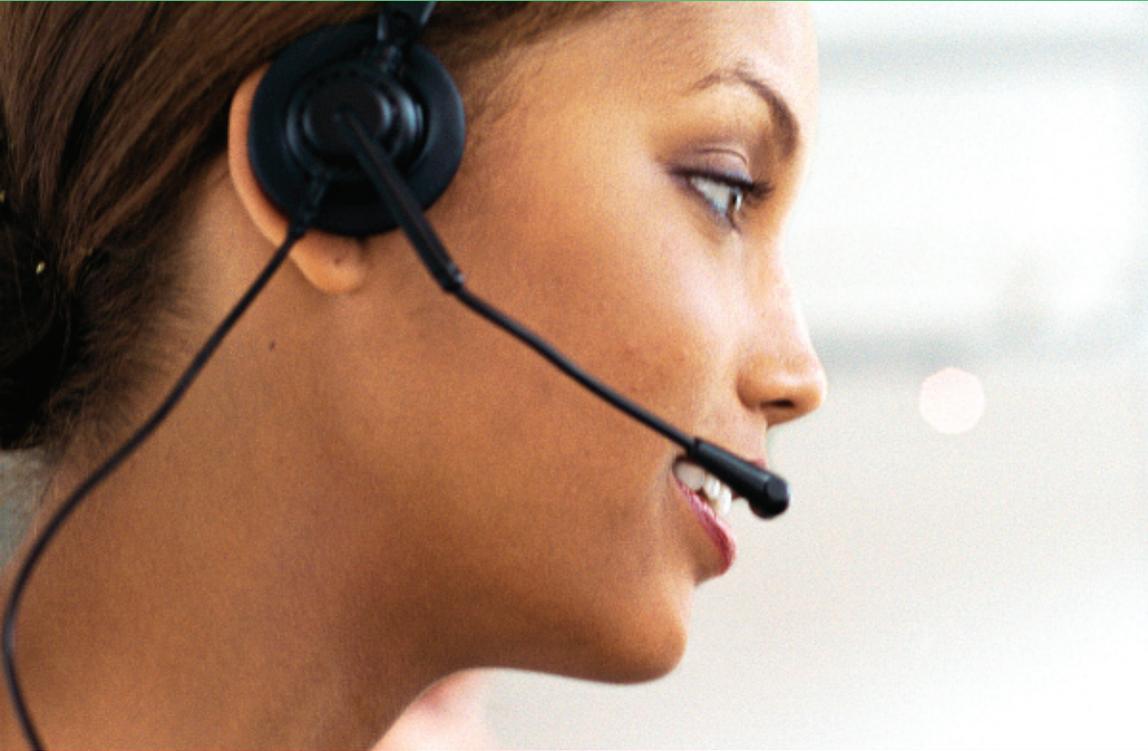
What if I have a complaint about my language rights in New Brunswick?

If you have a complaint about a violation of your language rights by a provincial government department, court, police, health authority or municipality, you may contact the Office of the Commissioner of Official Languages of New Brunswick. The Commissioner will decide whether to investigate. Your complaint must fall within the mandate of the Commissioner and the OLA. After an investigation, the Commissioner will report the findings to the Premier, the organization investigated, and to the person who made the complaint. If the Commissioner decides not to investigate, he or she will explain the reasons. If you are not satisfied with how the Commissioner handled your concerns, you can apply to the Court of Queen's Bench to review your complaint. If your complaint does not fall within the mandate of the Commissioner, staff at the Office of the Commissioner will refer you to the appropriate federal or provincial government agency.



How do I file a complaint?

In New Brunswick, you have easy and confidential access to the Commissioner of Official Languages. You may contact the office through various means that are free of charge. You are entitled to file a complaint with the Office of the Commissioner of Official Languages even if you live outside of New Brunswick. At any point in time, the Commissioner may request that you put your complaint in writing before proceeding any further.



Filing a complaint

The Office of the Commissioner of Official Languages for New Brunswick accepts complaints in the following formats:

- In person (walk-ins or via scheduled meetings)
- In writing
- By telephone
- By fax
- By e-mail to complaints@officiallanguages.nb.ca
- By all these means in the case of a third party acting on behalf of a minor or an incapacitated individual.

How can I find out whether my complaint is valid?

If you are unsure about whether your complaint falls within the mandate of the Office of the Commissioner of Official Languages for New Brunswick and the *OLA*, simply contact the Office and staff will be happy to assist you.

Are there limits on what the Commissioner of Official Languages can investigate?

Yes, the Commissioner of Official Languages is not authorised to investigate complaints regarding the private sector. The Commissioner can, however, receive complaints about and investigate private-sector companies that deliver services on the Province's behalf.

What can the Commissioner of Official Languages do when an investigation reveals a violation of language rights under the *OLA*?

After investigating a complaint, the Commissioner has the authority to suggest corrective measures by way of recommendations. The Commissioner will submit the findings and the recommendations to the appropriate individuals, including the defaulting institution. Once the Commissioner is satisfied that the recommendations have been fully implemented and the situation has been corrected in accordance with the institution's obligations under the *OLA*, the Commissioner will issue a final report and close the file.

What if an institution that has violated language rights does not adopt the recommendations of the Commissioner?

If a defaulting agency does not make changes or does not comply with the recommendations, the Commissioner may reveal this lack of commitment, especially in the annual report to the Legislature. If a complainant is not satisfied with the Commissioner's recommendations or with the resolution of the complaint, he or she may apply to the Court of Queen's Bench of New Brunswick for a remedy.



Can the Commissioner investigate language rights without receiving a complaint?

Yes, the *OLA* gives the Commissioner the authority to investigate a situation on his own initiative. In addition, the Commissioner may merge several complaints into one investigation when they represent a common or more widespread problem.

Where can I get more information?

You can get more information from the Office of the Commissioner of Official Languages for New Brunswick at: www.officiallanguages.nb.ca. You will find a copy of the *Official Languages Act* on the Commissioner's web site.

Although this booklet focusses on language rights in New Brunswick, you can get information on language rights in other provinces, or in the case of more specific language rights questions, from a lawyer. The Government of Canada has more information at the following web site: www.ocol-clo.gc.ca/rights_droits.asp?Lang=English.

For information on the *Canadian Charter of Rights and Freedoms*, please visit:

www.pch.gc.ca/progs/pdp-hrp/canada/guide/index_e.cfm

For a copy of the *Charter*, please visit:

<http://laws.justice.gc.ca/en/charter/>

For more information on the history of language rights in New Brunswick, please visit:

Office of the Commissioner of Official Languages:

www.officiallanguages.nb.ca

or

Public Legal and Information Service of New Brunswick:

www.legal-info-legale.nb.ca

