



OFFICE OF THE FRENCH LANGUAGE SERVICES COMMISSIONER



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LETTER TO THE MINISTER

May 31, 2011

The Honourable Madeleine Meilleur
Minister of Community and Social Services
Minister Responsible for Francophone Affairs

Hepburn Block
6th Floor
80 Grosvenor Street
Toronto, ON M7A 1E9

Dear Minister,

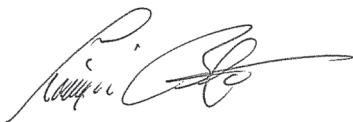
Pursuant to section 12.5 (1) of the *French Language Services Act*, I hereby submit to you the fourth annual report of the French Language Services Commissioner of Ontario.

This report covers the period from April 1, 2010 to March 31, 2011.

Please table this report in the Legislative Assembly, as set out in subsection 12.5 (3) of the *French Language Services Act*.

Respectfully,

French Language Services Commissioner of Ontario

A handwritten signature in black ink, appearing to read 'François Boileau', with a long horizontal flourish extending to the right.

François Boileau

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SUMMARY AND RECOMMENDATIONS

This annual report covers the activities of the Office of the French Language Services Commissioner from April 1, 2010 to March 31, 2011.

The Commissioner's first recommendation appears in the Introduction. Essentially, it represents an appeal to the Francophone community to take an active part in the government's plans to reform the way it delivers public services. Indeed, the Commissioner believes it is essential for Francophones to be directly involved with the Commission on Broader Public Sector Reform as it considers various scenarios of government services delivery including privatisation, consolidation and services delivery by third parties.

RECOMMENDATION 1

The Commissioner recommends that the **Franco-Ontarian community** take an active part in renewing the delivery of government services by proposing innovative, pragmatic, results-oriented means and methods to ensure its development.

Chapter 1 presents a sample of complaints successfully resolved by the Commissioner's Office over the past year in various sectors including health, education and justice. Among other points, this chapter highlights (i) a shift in tone at the **Ministry of Health and Long-Term Care** leading to an improved system of resolving complaints, (ii) the adoption by **Management Board of Cabinet** and **Treasury Board** of a new Communications in French Directive that applies to all ministries and classified agencies, following the misguided province-wide distribution of a unilingual English H1N1 householder, (iii) improvements to French-language services provided at **ServiceOntario** kiosks, and (iv) the gradual replacement of English-only variable message highway signs by the **Ministry of Transportation**. This chapter also includes, among other topics, the **Ministry of Education's** response to complaints regarding the new Full-Day Early Learning – Kindergarten Program as well as the quick resolution of complaints regarding deficiencies at the **Social Benefits Tribunal**.

Chapter 2 presents two formal ongoing investigations: (i) an investigation on the acquisition of new schools for French-language education, and (ii) an investigation into the perceived lack of postsecondary options in French in the central and southwestern regions of the province. This chapter also provides a first-hand account from a parent, whose child's special needs were not adequately addressed, leading to the Commissioner's second recommendation:

RECOMMENDATION 2

The French Language Services Commissioner recommends that the **Ministry of Children and Youth Services** take all available steps to ensure availability of day treatment education programs for Francophones aged 13 to 18 in Toronto by the beginning of the 2011-2012 school year.

The Commissioner also recommends that the Government of Ontario study the situation province-wide to ensure that adequate education programs are available in French to help Franco-phone teens with behavioural disorders reach their full potential.

Chapter 2 also takes a look at how the interest of Francophones have been seemingly ignored in the government's efforts to promote reduction, reuse and recycling of waste and the **Ministry of the Environment's** unwillingness to intervene. This situation is addressed in the Commissioner's third recommendation:

RECOMMENDATION 3

The French Language Services Commissioner recommends that the **Ministry of the Environment** ensure that Francophones have at their disposal, in French, all required information to fully participate in the province's waste reduction, reuse and recycling programs in order to meet the government's environmental objectives. To accomplish this, the Ministry must take appropriate action to require Industry Funding Organizations involved

in waste diversion programs to meet French-language obligations pursuant to the *French Language Services Act*.

Finally, Chapter 2 concludes with the Commissioner's fourth recommendation, which deals with the Ontario Power Authority's perceived lack of accountability for French-language services and the **Ministry of Energy's** inability to respond to the Commissioner's concerns:

RECOMMENDATION 4

The French Language Services Commissioner recommends that the **Ministry of Energy** seek to amend the *Electricity Act* to ensure that the Ontario Power Authority be subject to the *French Language Services Act* insofar as its programs, services and communications targeted to the general public are concerned.

The French Language Services Commissioner also recommends that the **Ministry of Energy** seek to amend the *Electricity Act* to ensure that any current or future entity created under the *Electricity Act*, including Hydro One and Ontario Power Generation, be subject to the *French Language Services Act* insofar as programs, services and communications targeted to the general public are concerned.

Chapter 3 provides a statistical view of the 381 complaints received by the Commissioner's Office in 2010-2011, which represent almost 10% increase over the previous year. In this chapter, the reader will learn that (i) over 50% of ministry-related complaints received by the Commissioner's Office, including a certain number carried over from past years, have been resolved, (ii) more than half of ministry-related complaints concern the **Ministry of Health and Long-Term Care**, the **Ministry of the Attorney General**, the **Ministry of Government Services** and the **Ministry of Education** — *i.e. the main ministries offering services directly to the public*, and (iii) Central and Eastern Ontario, together, account for over 80% of complaints received in 2010-2011.

Chapter 4 provides a scorecard regarding the government's response to the Commissioner's 13 recommendations, presented over the past three years. In this chapter, the reader discovers that 10 of the Commissioner's recommendations

have been implemented or partially implemented, while three have not. These three relate to (i) the revision of the roles of French Language Services Coordinators, (ii) a request to allow the **Office of Francophone Affairs** to take its rightful place within government with a corresponding increase in resources, and (iii) Public Health Unit compliance with the *French Language Services Act* (FLSA).

Chapter 4 also takes a look at the changes made to the 2011 Census and explains why replacing the mandatory long-form census with a voluntary National Household Survey will cause irreparable damage to the reliability of Census data and have a negative impact on socio-demographic studies conducted by various government ministries and agencies, including the **Office of Francophone Affairs**.

As well, Chapter 4 discusses the relationship that municipalities have with the *FLSA* and more specifically the fact that few municipalities fall under its jurisdiction. Indeed, the reader will learn in this chapter that only a small number of municipalities have a bylaw which protects French-language services, even among those with a large percentage of Francophones. This leads the Commissioner to urge the latter to adopt French-language services bylaws to protect the rights of Francophones for future generations.

Finally, Chapter 5 highlights government best practices and innovation in the delivery of French-language services. This year, the Commissioner applauds the efforts of the **Ministry of Children and Youth Services**, the **Ministry of Citizenship and Immigration**, the **Ministry of Education**, as well as the **Ontario Seniors' Secretariat** for several promising initiatives, including certain projects undertaken in partnership with Francophone associations and community organizations. This chapter also includes three honourable mentions. The first relates to the unanimous proclamation of Franco-Ontario Day, the second relates to the first-ever Youth Francophonie Awards while the third and last honourable mention praises the fully-bilingual ceremonies held at the Ontario Legislature to welcome Canada's new Governor General — a praiseworthy event organized by Ontario's **Office of International Relations and Protocol**.

Foreword

With the Commissioner's Office now in its fourth year, we wanted to do something innovative, so we decided to report on our activities not just to the government but also to the public, specifically the Franco-Ontarian community. This year you will see that our report is punctuated with quotations from people who have asked the Commissioner's Office for help. The idea is to put a human face on what we do. Our "complainants" are, first and foremost, men, women, parents, senior citizens and teenagers; they are people dealing with issues as varied as education for a child with special needs, looking for a job, or trying to obtain palliative care; they are refugees seeking a better life, or longstanding members of well-established communities; they are Anglophile Francophones or Francophile Anglophones. "Complainant" is a very one-dimensional term for people who are, like everyone else, multifaceted; it may also be an inappropriately pejorative way of referring to people who actually have the courage to voice their opinion and oppose injustice, people who in the final analysis enhance and improve our society.

For us, a complaint is a way for members of the public to provide direct feedback on an inadequacy they have found in the provincial government's French-language services. Yet it is also a means of seeking results. If the complainant does his or her part by pointing out a problem, there must be changes; otherwise, the public will lose confidence in the process. That is why this report focuses on *shared commitment*.

That shared commitment is a sort of social contract between the public and the Commissioner's Office. The same is true of the relationship between the government and its public service on one hand and the Franco-Ontarian community on the other. If the government were unreceptive to efforts to find lasting solutions in the complaint process, there would be no progress or any other kinds of advances. And there has been tangible progress in the last four years.

Having resolved nearly 200 complaints in the past year and, in particular, having demonstrated the value of the results to Francophone citizens and their community, we

have reason to be proud of the work we have done. For us, complaints are like pac-dots to the Pac-Man of the 1980s video game: we feed on them, and we love to get them!

The Franco-Ontarian community is active and complex. Within its ranks are pillars and builders in every sphere of society. Franco-Ontarians know that nothing has been handed to them on a silver platter, that they have had to fight for their rights and institutions.

Yet the Franco-Ontarian community should not have to stand alone. And in fact, it's not alone. As I pointed out in the past, nearly 700,000 people in Ontario refer to themselves as Francophiles, and enrolment in immersion schools is growing steadily. In the last year, I have seen many other organizations in which there are people who are committed to their community and want a future that respects the linguistic duality in Canada as a whole and Ontario in particular.

Some will say that creating bridges necessarily entails the risk of being forced to walk over them. As a result, building bridges with Francophiles may raise fears among community members. In my opinion, that way of looking at things is passé. Ms. Alicia Logie, outgoing president of the Canadian Association of Immersion Teachers, refers to herself as a "Francophone whose mother tongue is English". That is a brilliant and innovative definition, in my estimation. We need to encourage people like her and promote more regular exchanges between the two language groups, which, in reality, form often just one group.

This linguistic convergence is taking place, as shown by the large number of exogamous couples in Ontario. In fact, most of the province's Francophones are in couples where the other partner is an Anglophone (often unilingual). Their children are also the product of exogamous couples. In response to questions about their identity, increasing numbers of young Franco-Ontarians describe themselves as "bilingual."

The Franco-Ontarian community is changing, and it also has to adapt and become more open. Ontario's new Inclusive Definition of Francophone (IDF) is making headway. I will continue to take an interest in the integration of

Francophone newcomers and newcomers whose first official language is French, particularly during the coming year.

That said, when I hear from members of the community that newcomers (especially those whose mother tongue is not French) are being discouraged from sending their children to immersion schools, I get worried. It seems they are being told that there's really no need to learn French here. The president of *French for the Future*, Ms. Helen Coltrinari, reminded me of a witty comment by my federal colleague, Commissioner Graham Fraser, who often says that you have to stop referring to French as a second language and start referring to it as an official language. In a rapidly changing demographic context, that statement could not be more apropos, even for the Franco-Ontarian community.

Of course, official bilingualism will always have its detractors. One of its leading opponents¹ even took legal action against the municipality of Russell for its by-law requiring new commercial signs to be bilingual. In fact, he did the Francophone community a favour, since Justice Métivier,² who heard the case, confirmed not only the validity of such bylaws but also the need for municipalities to move in that direction if they wanted to protect and promote the status and use of French and English in Canadian society.

The French language is alive and well in Ontario and in Canada. It's a language used to greet newcomers from around the world. It's a language of many cultures, attitudes and accents. In passing, I should say that we have a pleasant problem in Ontario: the diversity of our French accents. We have to take this in stride and accept that we have different accents and distinct vocabularies, recognizing that no particular "brand" of French is superior to any other, whether it's Ontario French, Quebec French, African French, European French or Asian French. There truly is a French linguistic duality in Ontario, between local French and French from elsewhere in the world, and we have to be able to make the most of our differences. Those differences enrich our Franco-Ontarian community and make a great contribution to its vitality.

Finally, I'd like to say a word about the staff of the Commissioner's Office. It's often said that we spend more time at work than with our own family, and that may be true. And when you look at what the Commissioner's Office team accomplishes with so few resources, it has to be true. This year, we experienced some major changes with the departure of Marie-Eve Pépin and the arrival of Gyula Kovacs as Public Relations and Communications Officer. I'd like to express my sincere gratitude to Marie-Eve for her input, her energy, her skill, her excellence and her diligence. In addition to Gyula, we also welcomed François-Michel Pellecuer as our new Senior Analyst – Investigations. That makes six permanent positions filled in the Commissioner's Office. With all the work involved in processing complaints and conducting lengthy investigations, this new blood is certainly welcome! To the entire team in the Commissioner's Office I extend my warmest thanks for your exceptional dedication.

1. In the months leading up to a court hearing on the language of commercial signage in Russell, militant Howard Galganov distributed a leaflet entitled "How to Wipe Out the Franco-Ontarian Language and Culture" to every home in the Township.

2. *Galganov v. Russell (Township)*, 2010 ONSC 4566.

Introduction

Since September 2007, the Commissioner's Office plays a key role in offering solutions to improve French-language government services in Ontario in accordance with the *French Language Services Act*.³ To that end, it relies on the Commissioner's two main powers: (i) the power to conduct investigations pursuant to complaints or on his own initiative, and (ii) the power to make recommendations for improving the provision of French-language services.⁴ In the end, it's all about outcome, results and scrutinizing the way the Government is offering quality services to its Francophone citizens.

In its latest budget, entitled "*Turning the corner to a better tomorrow*," which was tabled in the Legislative Assembly on March 29, 2011, the Ontario government outlines its plans to reform the way it delivers public services. It clearly indicates that nearly everything is on the table. Indeed, the new **Commission on Broader Public Sector Reform's** mandate includes:

"[...] exploring which areas of service delivery are core to the Ontario government's mandate, which areas could be delivered more efficiently by another entity and how to get better value for taxpayers' money in the delivery of public services."⁵

Thus, privatization of services is a possibility, along with consolidation of services and service delivery by third parties (including other levels of government, not-for-profit organizations and the private sector). The government also stated that it would focus on results and not on how the programs and services are delivered.

This is a golden opportunity. For several years there has been a sense that it is time to reconsider how government services are provided to the public. The fiscal situation for the next few years makes it clear that such a review will be a major priority. But of course, Franco-Ontarians must continue to have access to quality services, no matter what changes are proposed.

That said, the Franco-Ontarian community is involved in every sphere of human activity — education, health, tourism, arts and culture, community media and so on. The time

has come for that community to take a serious look at the best ways of obtaining quality services, and to offer to provide them on the government's behalf. The saying "If you want something done right, do it yourself" has never been more applicable. For instance, the decision by the **Association canadienne-française de l'Ontario des Mille-Îles** to offer employment services on the government's behalf has proven to be a very important initiative, primarily for the Francophone community, which benefits from a wide range of quality French-language services, but also because the *Association* was designated under the *FLSA*, confirming its importance in the development of quality services by and for Francophones — though not necessarily limiting these bilingual services to this community.

Another example is the **Services to Children and Adults in Prescott-Russell** (formerly the Children's Aid Society of Prescott-Russell), which transformed itself into the Integra multiservice agency, serving the children, teenagers and adults of the entire region. It acts not only as a single point of access to a multitude of programs and services but also as an important rallying point for the community.

The Commissioner could cite examples such as these in every area of activity, including literacy, health and education. It is now time to participate fully in the way in which services are provided to the public. If results are what counts, how services are delivered is a key to their effectiveness for the enhancement of the Franco-Ontarian community.

“ It is now time to participate fully in the way in which services are provided to the public. ”

3. The Act was passed unanimously by the Legislative Assembly of Ontario and came into force on November 19, 1989.

4. *French Language Services Act*, R.S.O., 1990, Chapter F.32, section 12.2.

5. The 2011 Ontario Budget is available on-line: http://www.fin.gov.on.ca/en/budget/ontariobudgets/2011/papers_all.pdf (page consulted in April 2011).

For example, Manitoba's Bilingual Service Centres offer federal, provincial, municipal and community services in both English and French. But it is accepted and recognized that the working language is French. This situation is not dictated by any law, regulation or policy. It's just what makes the most sense for Franco-Manitoban communities. In smaller localities, the Centres not only serves as a consolidated access point for services but also provides the community with a place (apart from schools, colleges and other community centres) where French is the dominant language. This does not mean that Ontario should import such a model, but the province should be receptive to new ideas that are consistent with government priorities and sensitive to the realities of its Francophone communities. Hearst's reality, for instance, is very different from Hamilton's.

This year, the Commissioner is taking a new approach by addressing his first recommendation not to the Minister Responsible for Francophone Affairs, but rather, to the Franco-Ontarian community:

RECOMMENDATION 1

The Commissioner recommends that the **Franco-Ontarian community** take an active part in renewing the delivery of government services by proposing innovative, pragmatic, results-oriented means and methods to ensure its development.

CHAPTER 1

Our results

The cases presented in this chapter represent a sample of complaints that were resolved successfully by the Commissioner's Office. This non-exhaustive list includes matters that deal with, notably, health, justice and education. Their commonality lies in either the nature or the origin of problems faced by citizens due to (i) lack of integration of French-language services in the planning and development of policies, programs and services by government institutions (ii) staff ignorance or misappreciation of the obligations and responsibilities that flow from the *French Language Services Act* (FLSA), and (iii) an insufficient allocation of human and financial resources for the provision of French-language services.

However, without the vigilance of citizens that took the time to express their disappointment and dissatisfaction by lodging a complaint, such results would not have been possible. Some of these results are supported by testimonials from complainants, who are the true winners of the changes achieved that will also benefit all Franco-Ontarians and Francophiles.

1.1 HEALTH

In a sector such as health care, which is so broad and so prevalent in the daily lives of Ontario residents, it is understandable that the situation of French-language services delivery has not yet achieved perfection. Nevertheless, as noted in last year's report, there has been a significant shift in tone at the **Ministry of Health and Long-Term Care**. This shift was reflected in particular in an updated and improved system of resolving complaints received by the Commissioner's Office. Ministry employees are now required to meet deadlines set by senior management and the Ministry's responses now tend to focus on solving problems rather than simply explaining them.

The Ministry of Health and Long-Term Care understands the importance of providing quality service in French to the Francophone community and the Commissioner is encouraged by the Ministry's efforts and various initiatives in this regard over the past year.

1.1.1 Health regulatory colleges

Health system managers who are required to provide Franco-Ontarians with French-language services can heave a small sigh of relief. The Commissioner's Office has solved the problems caused by a lack of detailed information in the Health Professions Database. Essentially, the database, which contains information about demographics, geographic distribution, training and employment in about 20 regulated professions in Ontario, could not clearly identify which professionals were able to provide services in French.

The Health Professions Database was developed by the **Ministry of Health and Long-Term Care** to collect data from the province's 21 regulatory colleges of health professionals to help guide research, policy-making, training and the Ministry's health programs. Such information is critical, for example, in determining the extent of a shortage in a particular field. Its value, however, depends on the quality of the data supplied by Health regulatory colleges.

Thanks to a complaint, the Commissioner's Office was able to investigate and identify the weakness: the forms completed by health professionals did not have a question on the languages in which they were able to provide care. As a result of an amendment to the *Regulated Health Professions Act, 1991*, that question has been added to the forms that members of regulated professions must complete when they join the association or renew their membership each year.

This accomplishment is the culmination of the mediation efforts undertaken by the Commissioner's Office with the Ministry and the complainant. In December, the Ministry confirmed that it was processing the most recent data (from 2009) and would make it public. The Ministry also informed the Commissioner's Office that it could compile personalized reports on request to assist health administrators in human resources planning.

Essentially, this is good news, particularly for colleges and universities, which can use the new data to identify gaps and remedy them by offering courses that will produce

professionals capable of providing health services in French. This is the outcome that the complainant, Dr. Paul-André Gauthier, was hoping for.

[TRANSLATION] “We will finally be able to verify the extent of the shortage of Francophone nurses in Ontario. Previously, the College of Nurses was unable to say how many of its members spoke French. The new data will help colleges and universities address the real needs of Ontarians by training more health professionals.”

*Dr. Paul-André Gauthier, RN, PhD (nursing)
Outgoing president of the Groupe des infirmiers et infirmières francophones de l'Ontario (GIFFO)
Nursing science instructor, Collège Boréal (Sudbury)*

The Commissioner also hopes that this important adjustment to the database will help the new **French Language Health Planning Entities** provide the **Local Health Integration Networks** (LHINs) with better guidance.

1.1.2 Healthy Communities Fund

The government's laudable efforts to improve the health of Ontarians sometimes miss their mark when the distinctive needs of Franco-Ontarians are ignored. The Commissioner's Office made this point in its *Special Report on French Language Health Services Planning in Ontario* in May 2009. Among the many examples of this problem is the Healthy Communities Fund established by the **Ministry of Health Promotion and Sport**.

The Fund provides funding to community partnerships to plan and deliver integrated programs that improve the health of Ontarians.⁶ Doing so without the Francophone communities would be unthinkable, in the Commissioner's opinion. Yet that is precisely what happened with the initial version of the Ministry's program.

Fortunately, the Ministry corrected its misstep following a series of consultations in Thunder Bay, Sudbury, London, Toronto and Ottawa and a complaint to the Commissioner's Office that was brought to its attention.

The outcome: Francophones are now included in the Healthy Communities Fund's target groups. The Ministry also pledged to contact Francophone community leaders and encourage them to take advantage of the Fund by submitting project proposals.

In concrete terms, it is expected the Fund will mean more health promotion programs for Francophones in areas such as fitness, sports and recreation, healthy diets, improved access to smokeless environments, and mental health.

1.1.3 The H1N1 flu pandemic and the new Communications in French Directive

In the wake of the memorable and unfortunate blunder by the **Ministry of Health and Long-Term Care** in 2009 when it distributed an English-only pamphlet to all Ontario households about the prevention of the H1N1 flu virus, which led to an investigation by the Commissioner's Office, the Government of Ontario recognized the need to supervise government communications in French more closely.

Following one of the Commissioner's recommendations, **Management Board of Cabinet** and **Treasury Board** adopted on May 13, 2010, a new mandatory Communications in French Directive applicable to all ministries and classified agencies. This rapid turn around was made possible mainly because (1) of the will to move ahead quickly by both the Premier's Office and Deputy Ministers concerned and (2) there were already Guidelines that were produced by the **Office of Francophone Affairs** and they served as basis to the new Directive.

The Directive, which describes the principles, roles and responsibilities related to French-language communications with the public, refers users to guidelines that are a model to be followed when communicating with French-speaking citizens.

One of the great steps forward in this new Directive is the fact that communications in French are not just simple translation. It's all about the ability to communicate while thinking of the specific needs of the Francophone community. The Directive also introduces the active offer concept

6. Available online: <http://www.mhp.gov.on.ca/en/healthy-communities/hcf/default.asp> (page consulted in April 2011).

CHAPTER 1: Our results

by making it mandatory for Ministries and classified agencies to apply it. On the negative side, this concept is not yet well specified and interpretations can still greatly vary.

All types of communication are dealt with in great detail in those guidelines, including communications in print, electronic, oral and audiovisual format.

For example, according to the new Guidelines, householders must be bilingual.

The Guidelines also stipulate that information with the same content and of the same quality must be provided simultaneously in French and English on the government's websites. And if there are links to unilingual sites, efforts must be made to suggest comparable sites in the other language.

Communications in person and by telephone must be available in both languages, on an equal basis.

In addition, the language used by citizens who send emails to the government must not influence the time in which such messages are processed, and the response must be written in the language used by the citizen.

The new Guidelines also specify the correct way of communicating on social networking sites, blogs and chat rooms. In general, such communications must be in both English and French.

During public consultations, the information documents must be provided in both languages, and bilingual employees — or at the very least interpreters — must be present.

When the government produces videos, the new Communications Guidelines in French stipulates that such videos must ideally be produced in two distinct versions (French and English) and that the French version should preferably include participants who speak in French.

The Commissioner is delighted with the new Communications in French Directive and the related Guidelines. In particular, he is thrilled to see that new social media is taken into account, since these technologies represent the future of communications.

The Commissioner is also happy to see that the directive and guidelines are focused on the active offer of French-language services and the provision of equivalent services in French — the very principles that the Commissioner has been promoting since the beginning of his mandate.

In fact, the Communications in French Directive does not limit itself to repeating the rather simplistic message requiring that everything be translated. Instead, it acknowledges the fact that it is imperative to provide French-language communications that are natural and adapted to the culture and specific needs of Franco-Ontarians.

With the help of complaints received, the Commissioner will continue to remind the ministries and the province's classified agencies of the mandatory nature of the Communications in French Directive. In fact, once again, he is keeping an eye on the **Ministry of Health and Long-Term Care**, which is failing to meet these standards in two ways: by a lack of equivalence between the English- and French-language pages on its website, and the many English-only websites of several **Local Health Integration Networks** (LHINs).

Fortunately, with this new Directive, the Commissioner now has a "quality inspection sheet" that will allow him to easily bring non-compliant ministries and classified agencies into line.

1.1.4 French Language Health Planning Entities and the province's LHINs

Following the first two **French Language Health Planning Entities** announced in June 2010, the government appointed four additional Planning Entities in December. This is good news for Francophones across Ontario, as they now have another vehicle to provide input into the decision making process of the **Local Health Integration Networks** in order to improve the availability and quality of their health care.

Over the last few months, representatives of the **Ministry of Health and Long-Term Care** organized a series of high-level discussions to ensure that the LHINs have a clear understanding of the Planning Entities' new roles and responsibilities.

While the Commissioner remains concerned with the undue length of time it has taken the Ministry of Health and Long-Term Care to operationalize the Planning Entities, he recognizes that this was a very complex undertaking by the ministry involving LHIN's and other critical stakeholders to arrive at a sustainable solution to ensure the interests of Franco-Ontarians are addressed on a day-to-day basis. The Commissioner also welcomes the decision by the Ministry to increase its funding to the Planning Entities by a factor of four over its original plans.

In March 2011, all French Language Health Planning Entities signed funding and accountability agreements with the LHINs for their regions.

The government acted on the recommendations made by the Commissioner in his May 2009 *Special Report on French Language Health Services Planning in Ontario* by introducing real French-language health planning entities while upholding the principles set out in the *Local Health System Integration Act*.

One must not lose sight of the fact that this is also a grass-roots victory, as the community took concerted action when the draft regulation was published in the fall of 2008. That action consisted in a flood of complaints to the Commissioner's Office during the 2008-2009 fiscal year.

The Commissioner intends to monitor this issue closely to ensure that the health care needs and concerns identified by the community will continue to be heard.

1.2 JUSTICE

1.2.1 Social Benefits Tribunal

In his last report, the Commissioner praised the **Social Benefits Tribunal's** efforts to correct deficiencies in its French-language services.

A number of complainants contacted the Commissioner's Office to report problems in their interactions with this independent body, including the issuing of decisions written in English for cases heard in French and discrepancies between the English and French versions of letters sent to the parties. In view of the growing importance of administrative tribunals for citizens and the particularly thorny nature of social benefits cases, the Commissioner

decided to conduct a thorough investigation. The investigation, which lasted more than a year, had a happy ending: (i) the Tribunal was made aware of the mandatory nature of the *French Language Services Act* and showed a clear willingness to comply (ii) there were productive consultations between the parties concerned, and (iii) the talks resulted in concrete plans for improvement, along with objectives, deadlines and reporting requirements.

In 2011, however, the Commissioner received a complaint from a lawyer representing a Francophone appellant before the Social Benefits Tribunal, who, despite requesting a hearing in French, was asked to have her case heard by an Anglophone member. Justifiably, the lawyer refused.

Is this a step backward? Not really.

A few days after learning of the problem, the Social Benefits Tribunal investigated, identified its origin, reminded its personnel of the Tribunal's commitments under the *French Language Services Act* and promised to explore the possibility of drafting formal instructions for the procedure and responsibilities when providing a French-language hearing. It then sent the complainant detailed written explanations and a description of the specific measures it planned to take to ensure that the situation would not recur. In short, the issue was raised and resolved in just a few weeks.

As the Commissioner often explains to government ministries and agencies, complaints are quality control mechanisms that are an integral part of client services. It is true that complaints sometimes reflect serious infringements of the *FLSA* that require assertive action, but in other cases, they simply reveal oversights that require nothing more than a pragmatic, rational intervention.

The Commissioner is delighted that the Social Benefits Tribunal appears to have understood the message. It is a good example to follow.

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[TRANSLATION] "French-language services at the Social Benefits Tribunal have definitely improved. While I am pleased with the improvement, the fact remains that the French Language Services Act is still fragile because it is poorly understood by the majority of administrative tribunals, which make French-language service a matter of goodwill rather than a legal obligation."

René Guitard, *Legal Clinic Director*
Vanier Community Service Centre

1.2.2 Ontario Fire College

Last year, a complainant reported that the **Ontario Fire College** provided none of its courses in French and that its services were not available in both languages.

Established in 1949, the Ontario Fire College develops and delivers educational and training programs for all members of municipal fire departments, both permanent employees and volunteers.

The Commissioner's Office forwarded the complaint to the ministry responsible for the College, the **Ministry of Community Safety and Correctional Services**, with a request to remedy the situation.

The Ministry acknowledged the complaint and pointed out the efforts that had been made in that area in recent years. The Office of the Commissioner of Community Safety, in consultation with the Fire Marshal of Ontario and the Public Safety Division, has engaged the appropriate areas of the Ministry and created a working group to examine this issue as soon as the need was identified. The working group will then hold discussions with the College and its various stakeholders to determine their needs with respect to French-language services and to determine how best the Ministry can meet those needs.

In 2007, a French version of the *Pre-Firefighter Education and Training Program* was developed through a partnership between the Office of the Fire Marshal, the **Ontario Association of Fire Chiefs** and *La Cité collégiale*.

The test has been available in French since March 1, 2011. Consequently, graduates of the firefighter training program can now receive firefighting certification. The test will be validated in the same way as the English test. The Ministry has also

promised to create a French version of the College's website in the next few months. The Commissioner's Office intends to monitor that commitment very closely.

1.3 EDUCATION

1.3.1 Full-Day Early Learning – Kindergarten Program

In the spring of 2010, the Government of Ontario passed the *Full Day Early Learning Statute Law Amendment Act, 2010*. The aim was to create a legislative framework for implementation of a full-day learning program for four- and five-year-olds, along with extended programs. Under the Act, the school boards were required to take over responsibility for the four- and five-year-old cohort from child care centres. A transition period was provided to help the child care centres and the school boards adjust to the new model.

The Act was passed quickly, since the government wanted to begin implementing the reform in the 2010 school year. However, the government's haste led to some worrisome oversights, including adopting some, but not all, of the recommendations from Francophone stakeholders who, for years, had had a symbiotic system based on carefully crafted partnerships.

The Act as proclaimed ran the risk of impacting productive relationships between the school boards and child care service providers. It also put a number of the centres in financial trouble, since it took away a vital segment of their clientele. In addition, it diminished the pool of Francophones available to the centres and made human resources management much more complicated.

The Commissioner's Office was soon deluged with appeals for help, and it added its voice to the community chorus. The entire French-language early-years education system appeared to be in jeopardy.

Fortunately, the government recognized the unexpected consequences of its decision and listened to the community's concerns. In December 2010, it announced a commitment to improve the Full-Day Early Learning – Kindergarten Program so that school boards could enter into agreements with third-party providers to deliver before and after school programs.

In short, the legislative amendment introduced by the government will modify the board duty to operate an extended day program and allow flexibility to partner with a third-party provider to deliver a before/after school program that is consistent with the extended day program.

While the most pressing issue has been dealt with, the Act raises other fundamental questions, including the average number of students used to calculate funding for the Full-Day Early Learning – Kindergarten Program. The Commissioner hopes that these questions will be resolved with due attention to the unique nature of the Francophone situation in Ontario, and he has promised not to lose sight of this important concern.

It is worth noting that the government announced the third wave of its kindergarten program on schedule in March 2011. This component adds 900 schools across the province. The good news is that some 50 French-language schools that are already offering a full day program for 4 and 5 year olds will receive funding for 2012 to deliver the Full-Day Early Learning – Kindergarten Program.

1.4 OTHER SERVICES

1.4.1 ServiceOntario

Part of the **Ministry of Government Services, ServiceOntario** is a one-stop shop where Ontarians can go in person, online, by telephone or through automated kiosks to obtain a wide range of government services, from renewing their health card and obtaining vehicle licence plates to registering the birth of a child.

Because ServiceOntario offers so many services, the Ministry of Government Services contracts some of them out to private service providers. Using private service providers is beneficial because it increases the number of service outlets, which makes life easier for Ontario residents. However, it also increases the risk of things going wrong, especially with the provision of French-language services.

The problem is clearly illustrated by the private vehicle-licensing and permit-issuing offices. The Commissioner's Office regularly receives complaints about these service locations that ignore their contract with the Ministry and fail to meet their obligations under the *French Language Services Act* to actively offer service in French in designated regions.

[TRANSLATION] "Front-line staff must be made aware that obtaining French-language services is a legal right, regardless of whether a client understands English. Ideally, these employees should be bilingual. At the very least they should be able to recite a few polite sentences in French or be able to quickly find a bilingual employee able to serve French-speaking clients."

Étienne FL, student, University of Toronto

Fortunately, the Ministry's goodwill is not an issue. For example, after receiving further complaints of the same kind this year, ServiceOntario took the bull by the horns and sent all of its private service providers a detailed directive on French-language services covering matters as varied as designated French-language service areas in Ontario, locations of in-person ServiceOntario centres offering bilingual services, customer service standards and key obligations, active offer, employee language skills, best hiring practices and signage requirements. Moreover, determined to seal every loophole, ServiceOntario pledged to incorporate an explicit requirement to provide services in English and French in all of its newly procured contracts with private service providers in the 25 designated regions.

While the Commissioner applauds these efforts, he feels compelled to point out that the difficulties that ServiceOntario is having in ensuring compliance by its private service providers are symptomatic of a chronic problem in the provision of government services in Ontario: private service providers' lack of accountability. There are no consequences if they fail to live up to their obligation to provide service in French. To remedy this weakness, the Commissioner has stressed in each of his annual reports to the **Minister responsible for Francophone Affairs** that the provision of French-language services by private service providers must be regulated.

That said, private service providers are not the only guilty parties: greeting clients in French in ServiceOntario outlets operated by the Ministry of Government Services itself has also been problematic. Indeed, the Commissioner still receives too many complaints from Francophone citizens who not only are greeted exclusively in English in centres

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that are supposed to be bilingual but who are also unable to obtain service in French, even after insisting, or after having made an appointment in advance with an officer who speaks French.

Providing a wide array of services to a diverse public is indeed a formidable challenge, but a multifaceted mission does not give a public administration the right to deny citizens the services to which they are entitled.

The Commissioner was therefore delighted to learn that ServiceOntario is developing a thorough computer-based training course on the active offer of French-language

services. The course consists of a number of modules and is accompanied by instructional materials and quick reference guides. It will be given to all of ServiceOntario's front-line staff, policy/program staff and managers to help them put the active-offer principle into practice.

As noted above, the Commissioner appreciates these efforts, but must make it clear that the lack of active offer of French-language services is an endemic problem in

Ontario's governmental services that could be solved with a clear directive from Management Board of Cabinet and by Treasury Board, as recommended in last year's annual report.

Without a doubt, ServiceOntario has certainly performed well this year by encouraging compliance by its private service providers and making substantial efforts to train its employees on the importance of actively offering French-language service in its offices.

The Commissioner will continue monitoring the issue, and considering the corrective measures taken, the Commissioner hopes that obtaining services in French at ServiceOntario's designated offices will cease to be a problem.

“ There are no consequences if they fail to live up to their obligation to provide service in French. To remedy this weakness, the Commissioner has stressed in each of his annual reports to the Minister responsible for Francophone Affairs that the provision of French-language services by independent suppliers must be regulated. ”

1.4.2 Variable message highway signs

The **Ministry of Transportation** continued its excellent work in the area of access to and delivery of French-language services. The operation undertaken last year to equip Northeastern Ontario with bilingual variable message highway signs was completed on schedule. Messages displayed along highways in the region have been bilingual since July 2010.

As well, the Ministry plans to gradually replace older variable message signs in all designated areas with new signs capable of correctly displaying French letters and bilingual messages. Today, over 90 per cent of all messages are in both languages. As a result, one of our complainants expressed satisfaction with these changes:

[TRANSLATION] “I am happy to report that these displays now use both English and French. Frankly, it goes without saying that I can't help but check each time I'm on the road. I should hope that the Ministry of Transportation, as well as other ministries, now understand that they must take into account their obligations under the French Language Services Act.”

Michelle Noiseux, Complainant

Finally, in an effort to provide equivalent service in French, the Ministry recently launched a project to develop a complete library of bilingual messages and pictograms.

1.4.3 New personalized licence plates in French

For many Ontarians, showing that they belong to the Francophone community is an important symbolic gesture. Thus, the Commissioner's Office was not surprised last year when it received complaints about the fact that it was impossible to personalize the letters and numbers on Ontario licence plates with the French slogan “*Tant à découvrir*.” Meanwhile, this service was available, without a problem, for plates with the English “Yours to Discover” slogan.

One of these complaints also highlighted another equally unfair aspect of the problem: licence plates with the

French slogan “*Tant à découvrir*” were simply not available for commercial vehicles.

These concerns prompted the Office of the Commissioner to conduct an investigation with the **Ministry of Transportation**. The Office learned that French-language licence plates with the slogan “*Tant à découvrir*” were available to the public since May 2008, but only for private passenger vehicles. Given that this practice was clearly not an equivalent offer of services under the *FLSA*, the Commissioner’s Office insisted that the situation be rectified.

And the Office’s efforts were successful. As of March 28, 2011, Francophones and Francophiles can order French vanity licence plates with the “*Tant à découvrir*” slogan (without graphics).

Moreover, the Ministry of Transportation in partnership with ServiceOntario is currently studying the possibility of offering commercial plates with the French slogan starting this summer, and has committed to continue to look at additional options for future expansion of the service offerings.

1.4.4 Wine tasting at the LCBO

The Commissioner sometimes receives complaints about a lack of French-language services for which the solution lies with the community.

For example, in 2010-2011, the Commissioner learned that Francophones in Toronto did not have access to French-language versions of the wine appreciation courses offered by the **Liquor Control Board of Ontario**.

The Commissioner contacted the LCBO and was told something quite surprising: the LCBO regularly organizes wine tasting and appreciation events in French, in Toronto, but often has to cancel these events because of poor attendance.

Determined to provide quality service in both languages, the LCBO will organize further wine tasting activities in

“ *The LCBO regularly organizes wine tasting and appreciation events in Toronto, in French, but often has to cancel them because of poor attendance.* ”

Toronto this year, and the Commissioner hopes that plenty of Francophone wine lovers and their Francophile friends (after all, alcohol loosens people’s tongues!) will sign up for them. As with any community activity, if there’s no demand, there won’t be any supply.

1.4.5 Ontario Lottery and Gaming Corporation

The Commissioner sometimes receives complaints about organizations that respond quickly when they are informed of the inadequacy of their French-language services. That was the case this year with the **Ontario Lottery and Gaming Corporation (OLG)**.

OLG is a provincial organization that runs Ontario’s lotteries and casinos. Its mission is to improve the lives of Ontarians with the revenues and social and economic benefits generated by its activities. As a provincial organization, OLG is subject to the *French Language Services Act*.

In the spring of 2010, the Commissioner’s Office received a report that OLG had English-only advertising banners in public transit vehicles in Ottawa, which is a designated region. OLG was notified of the problem and took swift action.

First, after promptly removing the unilingual English advertising, OLG carried out an environmental scan of its French-language services, including a review of its advertising, communications, media relations and sponsorship policies.

Second, it made a commitment to amend its product and service policies to reflect the new Communications in French Directive and the Communication in French Guidelines that explain its application (see section 1.1.3). It also pledged to evaluate its communications, advertising and media strategies to identify and correct any shortcomings.

Third, a few months after being contacted by the Commissioner’s Office, OLG kept its promise and provided the Office with a copy of its revised French-language services policy, which conforms to current Ontario government standards. Not content with simply issuing its new policy, OLG also launched a targeted campaign to ensure that all of its employees were aware of its obligations regarding

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communications in French and were capable of fulfilling those obligations.

This case clearly illustrates that incorporating French-language services is not a budget breaker — an argument that one hear far too often. It is the Commissioner's view that simple awareness of Francophones' needs and a little effort are often all it takes to play by the rules.

1.4.6 Invitations to tender using MERX

In the past, the Commissioner's Office received a number of complaints about invitations to tender posted on MERX, the online service used by the Ontario government to announce contracts and select bidders.

MERX is certainly well suited to the government's approach: it promotes healthy, fair competition between contractors, and it helps the government procure cost-effective services, which is in the interest of Ontario's residents. What's more, the MERX site is bilingual. What could be better?

With few exceptions, the Ontario government's tender documents are issued in English only. The **Ministry of Government Services** submits the documents to MERX for posting on behalf of provincial ministries.

As the Commissioner pointed out in his Annual Report 2009-2010, the fact that provincial tender documents on MERX are in English represents an obvious problem for Francophone businesses, since it limits their ability to take full advantage of that lucrative market. The problem is particularly exasperating when the tenders are for services that have a direct impact on Francophones and Franco-phones. That was the case this year for a unilingual invitation to tender issued by the **Ministry of Education** for the supply of French and English books for school libraries. Also worth noting was a unilingual English tender document from the **Ministry of Health and Long-Term Care** seeking consultants on the delivery of health care... in French!

To remedy this situation, the Commissioner recommended last year that the Ministry of Government Services require ministries to submit bilingual tender summaries for posting on MERX.

The Ministry acknowledged the validity of the Commissioner's concerns and issued a directive, which went

into effect at the beginning of 2011, requiring Ontario government ministries to include bilingual summaries in all tender documents published on MERX.

The Ministry also stated that it would encourage ministries to go one step further and issue tender documents for goods or services of interest to Franco-Ontarians in both French and English.

The Commissioner applauds this decision, as it will make government contracts more accessible to Francophone businesses and ultimately have a positive impact on their growth. This is a happy ending, which reflects the government's desire to create a climate in which Ontario's businesses can thrive and strengthen the province's economy.

“ The fact that provincial tender documents on MERX are in English represents an obvious problem for Francophone businesses, since it limits their ability to take full advantage of that lucrative market. ”

1.4.7 Ontario College of Trades

The **Ontario College of Trades** will be responsible for regulating more than 150 skilled trades. In July 2010, the **Ministry of Training, Colleges and Universities** established an Appointments Council which also acts as the temporary board of governors to run the College. The Appointments Council is primarily responsible for appointing the permanent board of governors and the rest of the College's governance structure. The College is expected to be fully operational in 2012. However, the Commissioner's Office received a complaint about the lack of Francophone representation on the Appointments Council.

A brief investigation by the Office revealed that the Ministry had made every effort to find a member of the Francophone community to sit on the Appointments Council. It had advertised the post in French and English newspapers, but no eligible Francophone candidates had applied!

Fortunately, the situation was resolved in November 2010, when a Francophone board member was recruited and appointed to the Appointments Council.

As a result of this complaint, the Commissioner made the following observations: (i) the Ministry of Training, Colleges and Universities recognizes the importance of taking Francophones' needs into account from the outset in any new initiatives, and (ii) it is vital for the Francophone community to respond to calls for its input because as the old saying goes, "If you want something done right, do it yourself." But for that to happen, one must be willing to get involved. Make yourself known to the **Public Appointments Secretariat** of the Ontario Government because it is not only the government that needs your precious input and expertise, it is also your Francophone community!

1.4.8 The importance of providing legal translations in French

Like individuals, legal entities, such as Francophone associations and groups, have rights that are clearly spelled out in the *French Language Services Act*. That is the fundamental principle that the Commissioner's Office espoused in its contacts with the **Ministry of Health Promotion and Sport** following a complaint by a not-for-profit organization whose board members were asked to sign agreements written in English because legal translations in French were unavailable.

In response to the Office's investigation, the Ministry issued three directives to ensure that Francophone groups and organizations would be served in French.

As a result of this complaint, the Ministry has committed to (i) communicating with its Francophone clients and partners in French (ii) using the services of a certified legal translator whenever a Francophone group applies for a grant, and (iii) entering into an agreement with a certified legal translator for the provision of such services in the future.

It is important to note that the Ministry of Health Promotion and Sport made a gesture of good faith by providing the complainants with translations by a non-certified translator. In its directives, however, the Ministry implicitly acknowledges that such a translation is not an equivalent service within the meaning of the *FLSA*. The Commissioner is therefore pleased with the three new directives.

The Commissioner encourages groups and associations to demand services in French, because when it comes to legal documents, it's important to know what you're signing!

[TRANSLATION] "It is improper to ask Francophone organizations to sign contracts that are written in English. Legal language — where every comma matters —, is complex enough without adding another obstacle! One has to be able understand what one is signing! Fortunately, our complaint to the Commissioner's Office was successful in changing this situation."

*Geneviève Couillard, Executive director,
Fédération de la jeunesse franco-ontarienne*

1.4.9 Ontario Federation of School Athletic Associations

The Commissioner sometimes receives complaints that do not necessarily fall within his purview. Such complaints are not rejected out of hand, however, since analyzing them may generate practical suggestions for citizens or even valuable lessons.

For example, this year the Commissioner's Office received complaints about the lack of French-language services at the **Ontario Federation of School Athletic Associations** — whose mission is to educate through sport by providing programs and services in support of student athletes —, but the Federation is not subject to the *French Language Services Act*.

Consequently, the Commissioner's Office could not intervene. Case closed? Not quite.

The Commissioner's Office explored the matter further and found out that the Federation was composed of 18 regional school athletic associations and that all member associations could participate in the Federation's governance — in particular as members of its board of directors or by voting at annual general meetings. So, if members wanted to inform the Federation of their views and expectations — with regard to French-language services, for instance — the means to do so were at their disposal.

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That is the very simple message that the Commissioner's Office delivered to the complainants.

In other words, to obtain service in French, Francophones must take an active part in organizations — in particular by exercising their rights to speak at public meetings and sit on committees and boards of directors.

“To obtain service in French, Franco-Ontarians must take an active part in organizations, in particular by exercising their rights to speak at public meetings and sit on committees and boards of directors.”

The Commissioner cannot emphasize strongly enough that Franco-Ontarians can — and must — play an active role in protecting and advancing their rights, their interests and their culture.

CHAPTER 2

Current investigations

2.1 FORMAL INVESTIGATIONS

Under the terms of the *French Language Services Act*, the Commissioner may conduct a formal investigation at his discretion. The formal investigation process is different from the regular complaint process because of its official nature. The Commissioner begins by sending a notice of investigation to the deputy minister and ends by publishing and distributing an investigation report, which may contain recommendations.

The formal investigation process is normally reserved for particularly complex cases, the resolution of which is long overdue or may have major consequences for the Francophone population.

The Commissioner has launched formal investigations into two education-related cases described in the next two sections:

2.1.1 Acquisition of new schools for French-language education

The Commissioner's Office has received many complaints about the lack of French-language secondary schools in the province, especially in Toronto.

In some cases, French schools are overcrowded or are in need of capital improvements, while some English school boards have underutilized schools or even vacant buildings and grounds. Education regulations allow school boards to dispose of surplus property, but some are reluctant to do so, especially to another board.

This real estate competition has seemingly disastrous effects on Francophone students and their parents, who are forced to deal with very long commutes on a daily basis. Many of them simply give up and go so far as to move to another city or another province, while others opt for English schools — a decision that has a dramatic impact on a child's identity. Such decisions also benefit English-language boards, with increased enrolment and

higher funding. It's no secret that school properties are worth a great deal of money. It would be naïve to think that the value of the buildings and especially the land, particularly in Toronto, does not matter.

School boards, however, should not be motivated by profit. Their primary concern should be the well-being of students, and they should work together to ensure that each and every student can get an education and take part in extracurricular activities without any unjustifiable roadblocks.

There is a regulation that outlines the procedure to be followed by school boards wishing to dispose of buildings and land. It was developed to cope with declining enrolment. However, while enrolment is indeed shrinking for the majority of Toronto's schools, the opposite is true in the city's Francophone community. There is a need to modify the rules to deal with growth. Consequently, the Commissioner has initiated a formal investigation into the matter, to remind everyone how important it is to ensure that Francophone parents have a real choice and can have their children educated in French across Ontario.

2.1.2 French-language postsecondary education in southern Ontario

The lack of postsecondary education options in the central and south-western regions of the province is of great concern to the Commissioner.

Ontario has only two French colleges, two bilingual universities and institutions affiliated or federated with them (there are no French-only universities), one bilingual campus of an English-speaking university, along with a few other institutions that offer programs in French. This uneven access to French-language and bilingual postsecondary institutions results in an exodus of French-language students to English-language institutions.

This transfer is due to a number of factors, including the huge difference between the variety of programs available to Francophones and the variety available to Anglophones (in Central Ontario, in 2008-2009, only 3% of postsecondary programs were offered in French)⁷ as well as the problem of the geographic proximity of postsecondary institutions (studies show that when the nearest post-

7. Ministry of Education, Ministry of Training Colleges and Universities, *Document d'orientation de l'éducation en langue française*, Ottawa, Centre franco-ontarien de ressources pédagogiques, 2009, p. 151.

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secondary institution is more than 150 km away,⁸ young Francophones tend to choose the English educational system).

The repercussions go beyond postsecondary education. They affect which secondary school students will attend, in that students will prefer to attend English high schools in order to be better prepared for English college or university, since they think that English is dominant at that level. They also affect the workforce, since Francophone graduates who were educated in English may prefer to work in English because they consider having better language skills in their field of specialization.

Like many parents and students, the Commissioner regards this as a serious problem in various respects, including the right to be educated in one's own language and the problem of assimilation of young Francophones.

An investigation is needed.

2.2 OTHER INVESTIGATIONS

2.2.1 Education programs for students with special needs

Does your 15-year-old daughter suffer from major depression? Is your 12-year-old son having serious problems relating to others? While such situations are not easy to deal with day in and day out, you can at least count on Ontario's education system to ensure that your child will receive a good education... unless you have the misfortune of being a Francophone parent living in Toronto.

Regulation 196/10 made under the Education Act, (Grants for Students needs - Legislative Grants for the 2010-11 School Board Fiscal Year), provides funding for students, JK - Grade 12 in Ontario through the 72 district school boards including the 12 French-language school boards.

In cases where school-age children/youth cannot attend regular classes, special arrangements are made for school boards to deliver education programs to address the students' educational needs. These education programs are provided in facilities operated or funded by the **Ministry of Children and Youth Services, Ministry of Community Safety and Correctional Services** or the **Ministry of Health and Long Term Care**, and are

established through a formalized agreement between a school board and a care, treatment, custody or correctional facility.

These programs are based on the premise that education is essential to a child's development and full participation in society. Through such vital programs, children receiving residential care or assistance also benefit from the support of skilled multidisciplinary teams that provide a stimulating education tailored to their needs.

However, the Commissioner received alarming reports from parents and French-language educators. While Francophone students between the ages of 6 and 12 in the Toronto area had access to day treatment education programs, 13- to 18-year-olds were out of luck.

A first-hand account

Marc Beaulieu is upset by the heart-wrenching decision he had to make to help his teenage son, who has behavioural problems. Unable to obtain services of equivalent quality at a French school in Toronto, he was forced to enrol him in an English school that provided exceptionally good services for students with special needs. For elementary school, the family, which lives in Toronto, had to enrol the boy in a French school in Oshawa, which meant three hours' commuting each day, because such services were unavailable locally.

"What bothers me the most is that my son, who started his education in French, was unable to continue in that system and had to switch to a completely different environment simply because of quality of service and the lack of equivalent-quality service in the French school system. He has been very well treated on the English side, but that's not what we wanted for him."

Marc Beaulieu, complainant

8. Normand Labrie, Sylvie Lamoureux and Denise Wilson, *L'accès des francophones aux études postsecondaires en Ontario : Le choix des jeunes*, Final Report, Toronto, Centre de recherches en éducation franco-ontarienne, 2009, p. 19.

After the age of 12, Francophone youth in Toronto who are already dealing with formidable challenges can add another one to the list: attempting to re-enter a French-language school system that is not equipped for them, or switch to an English-language day treatment education program, since English-speaking teens with special needs in Toronto have access to such programs.

Even worse, a number of parents who, at their wit's end, reluctantly opt for the English-language school system face another insidious choice: they can either complicate their lives by sending their children to two different school systems or promote family cohesion by transferring them all to English schools.

The Commissioner notes that this situation is completely contrary to the laws of Ontario. There are plenty of examples of this fact: according to the *French Language Services Act*, "in Ontario the French language is recognized as an official language [...] in education"; under the *Child and Family Services Act*, whose paramount purpose is to "promote the best interests, protection and well being of children," where service providers are required to "make services to children and their families available in the French language." Meanwhile, the *Education Act* clearly states that: "The purpose of education is to provide students with the opportunity to realize their potential and develop [the skills to] contribute to their society." This aim is also echoed by the ministries.

For instance, the **Ministry of Education** states in its Policy/Program Memorandum No. 85 that it "believes that the education of school-age pupils must not suffer if they are required to attend government-approved facilities for care and/or treatment purposes. As much as possible, these persons should attend regular or special education classes in local schools."

In its Strategic Framework 2008-2011, the **Ministry of Children and Youth Services** mentions its vision of an Ontario "where all children and youth have the best opportunity to succeed and reach their full potential," and its intention to "... ensure that building adaptive living skills is a core element of all our services."

The situation is especially troubling since a number of organizations have lobbied the government on this

issue, and one of them even volunteered to administer a day treatment education program for 13- to 18-year-old Francophones.

Even though all the key components exist — i.e. young people waiting, collective will, the required space and accommodations and a clear protocol from the Ministry of Education — negotiations are going nowhere. The stumbling block? Funding. The Ministry of Children and Youth Services disputes the proposed start-up and operating budget, referring to a comparative analysis based on what the proponents regard as a fundamentally dissimilar program.

In the Commissioner's view, financial arguments are secondary. What matters most are the fundamental principles of the well-being of children, equitable access to education and the linguistic rights enshrined in the Constitution — principles that all point to the only acceptable outcome: the establishment of a day treatment education program for Francophone adolescents, no matter where they live.

RECOMMENDATION 2

The French Language Services Commissioner recommends that the **Ministry of Children and Youth Services** take all available steps to ensure availability of day treatment education programs for Francophones aged 13 to 18 in Toronto by the beginning of the 2011-2012 school year.

The Commissioner also recommends that the Government of Ontario study the situation province-wide to ensure that adequate education programs are available in French to help Francophone teens with behavioural disorders reach their full potential.

2.2.2 Designation of bilingual positions in the Ministry of Education

A citizen contacted the Commissioner's Office to complain about a situation that he finds unacceptable concerning French-language services in the regional offices of the **Ministry of Education**. According to the complainant not all of these offices are providing the same level of French-language services.

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The Ministry has seven regional offices, located in Toronto, London, Barrie, Thunder Bay, Sudbury, North Bay and Ottawa. The role of these offices is to provide a liaison between the Ministry and the school boards, private schools and institutions that provide educational programs.

The main role of these offices is to provide school boards with support in the implementation of educational programs, the monitoring of programs and policies in the elementary and secondary educational system and clarifying the Ministry's policies and programs for the elementary and secondary education sector, as well as for parents.

However, only four of these offices provide services in French while the London, Barrie and Thunder Bay offices do not. Those offices ask for the assistance of the nearest office in providing bilingual services over the telephone. This situation is far from representing a permanent solution to this problem.

Since the Ministry has not been able to provide bilingual staff, as it does not have enough resources because of government-wide budget restrictions, it plans to set up an automated telephone service for those three offices. That service would tell callers which extension they can dial to receive services in French.

Naturally, this option does not constitute equivalent services, since they cannot meet the specific needs of French-language school boards across the province. Those school boards must rely upon experts who are able to suggest specific solutions to them that are adapted to their local concerns.

2.2.3 Municipally-administered courts

At the end of the 1990s, the Government of Ontario decided to transfer courts administration and some prosecutorial responsibilities for provincial offences to municipalities. The Memorandum of Understanding signed by municipalities across Ontario includes a clear commitment that municipalities will provide the same level of services in French that the province provided before the transfer.

In 2008, a Committee made up of representatives of the Francophone community, municipal partners and the **Ministry of the Attorney General** was set up in order to identify the existing challenges and difficulties municipal courts were facing in the delivery of French-language services, and to try to provide solutions. A survey was conducted by the Committee to assess their needs and highlight some best practices. Through the work of this committee, municipalities are now better equipped to provide bilingual hearings and trials.

The Commissioner recognizes the efforts made by the Ministry to ensure that municipalities fulfill their obligations, and he fully understands the complexity of this issue because of the diverse nature of partner municipalities. However, the Commissioner's Office still received complaints this year concerning the lack of French-language services, both in the reception area and during hearings in these municipally-administered courts. The Commissioner considers that the Ministry must now take concrete steps to put an end to these breaches.

2.2.4 Reduction, Reuse and Recycling – Waste Diversion Ontario (WDO)

French-speaking Ontarians regularly contact the Commissioner's Office to demand French-language services from organizations that have been mandated by the **Ministry of the Environment** to divert waste.

The purpose of the waste diversion programs is to promote the reduction, reuse and recycling of waste that come from selected used items, which otherwise would end up in landfill (such as household paper, tires, cell phones and batteries). Not-for-profit Industry Funding Organizations, in conjunction with Waste Diversion Ontario, develop and operate diversion programs. To fund these programs, Industry Funding Organizations set and levy program fees on the producers, manufacturers and importers of captured products. Individual producers, manufacturers and importers may choose to include all or some of their program fees in the prices they charge to retailers, who may in turn choose to pass on the costs to consumers at the cash register.

In July 2010, there was a lot of talk about “eco fees” – charges some retailers add during the sale of products covered by waste diversion programs. These charges, notably those related to materials added to the Municipal Hazardous or Special Waste (MHSW) diversion program in July 2010, confused some consumers. As a result the government announced changes to the MHSW program, including the cancellation of fees on those added materials.

By doing so, the Ministry demonstrated the importance it placed on satisfying Ontarians concerning waste diversion — but only English-speaking Ontarians.

Indeed, French-speaking Ontarians who want to find out more about waste diversion, including the type of fees that they might be charged at the cash register, must put up with the English-only operations of the organizations that the government has mandated for waste diversion.

According to the *Waste Diversion Act, 2002*, Waste Diversion Ontario is mandated with developing, implementing and operating waste diversion programs for wastes designated under that act. In order to fulfill this mandate, Waste Diversion Ontario establishes Industry Funding Organizations and oversees the development and operation of waste diversion programs. But these industry funding organizations do not provide any documentation or services in French — and make no apologies for this fact.

In fact, the Ministry of the Environment indicates it will not be introducing new requirements for Waste Diversion Ontario or Industry Funding Organizations to provide services in French.

Furthermore, the Ministry of the Environment claims it cannot dictate the day-to-day operations of either Waste Diversion Ontario or the Industry Funding Organizations, because it does not have oversight authority over these organizations.

The Commissioner disagrees with this position. The corporations being referred to here were created by a provincial statute, in accordance with well-established governmental goals and priorities. To simply ignore this fact is totally unacceptable for citizens.

The Commissioner suggested that the Ministry take advantage of the review of the MHSW program in order

to take the needs of Francophones into account. Instead of doing that, however, the Ministry is proposing to fund municipalities to fill some of the void created by the removal of certain materials from the MHSW program. Municipalities, generally speaking, are not required to provide French-language services under the *French Language Services Act*.

The Commissioner does not agree with this. In his opinion, it is totally inexcusable, in a province that places a lot of emphasis on the green economy, for the Ministry of the Environment to knowingly and tacitly contribute to Francophone consumers not having full access to information and services in French that could improve the success of these waste diversion programs ... especially since the money of Francophone consumers is also being used to finance these operations!

RECOMMENDATION 3

The French Language Services Commissioner recommends that the **Ministry of the Environment** ensure that Francophones have at their disposal, in French, all required information to fully participate in the province's waste reduction, reuse and recycling programs in order to meet the government's environmental objectives. To accomplish this, the Ministry must take appropriate action to require Industry Funding Organizations involved in waste diversion programs to meet French-language obligations pursuant to the *French Language Services Act*.

2.2.5 OntarioWorks

The OntarioWorks program was already discussed in the last annual report, and it has continued to cause dissatisfaction among some citizens, in Toronto in particular. They have questioned the availability and the quality of the French-language services of that program, which is provided by municipalities on behalf of the **Ministry of Community and Social Services**.

In order to deal with this recurring problem, the Ministry has worked with Toronto Employment and Social Services to develop an action plan dealing with French-language

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services at the **City of Toronto's Employment and Social Services** offices. The Commissioner has asked for an update of that plan in order to assess the progress being made on this issue.

In October 2010, a communications strategy was developed in order to inform the managers and all of the staff members in the 15 local offices that clients are not required to come with an interpreter in order to receive services in French, as was indicated on that Toronto organization's website. That piece of information, which had irritated quite a number of citizens, was unfortunately still on the website in question at the time of writing this report. However, the Ministry had said that this would be corrected.

[TRANSLATION] "Service users that were being told to provide their own interpreters came knocking on our door for help. Even though we have never refused to provide this service, thanks to our many devoted volunteers, we have neither the resources nor the mandate to do so."

Norbert Gottfried Piché

Settlement Coordinator,
Centre francophone de Toronto

The strategy on active offer of French-language services also included training for staff on how clients can access and receive those services. That training also informed employees about how they can communicate clear messages to French-speaking clients in order to advise them that French-language services are available.

The Ministry reports that this training was provided for staff members in the Toronto region between September 2010 and March 2011, to make them aware of their responsibilities and obligations under the *French Language Services Act*.

In addition, the managers were informed about the importance of identifying those clients who have filled out an online request in French. Therefore, since last October, when a client makes a request in French, a bilingual officer is supposed to contact him or her to offer assistance.

In fact, the **City of Toronto's Employment and Social Services** has promised to send a letter to the French-speaking case workers in that city in the next few months, to inform them how their clients can access French-language services in the *Ontario Works* program, and in particular from designated offices.

The Commissioner acknowledges the efforts that have been made by the Ministry to ensure that the City of Toronto fulfills its obligations to provide French language services at all times, however, those efforts are still insufficient in terms of real integration of French-language services into the development of this program. Furthermore, this solution is limited to the metropolitan area. Therefore, this is just a small first step which could, nonetheless, lead the way in terms of things that can be done elsewhere in Ontario.

2.2.6 Property Taxes and Francophones (MPAC)

The Commissioner's Office has received new complaints on the extremely complex issue of the **Municipal Property Assessment Corporation**. According to many citizens, this Corporation, which maintains a public record of directions of school support on taxable property across Ontario, has adopted practices that are discriminatory against French-language school boards. In addition, the complainants allege that the data gathered by the Corporation contains errors that are prejudicial to tracking demographic trends for educational planning purposes and determining the number of school board trustees to be elected.

The Commissioner's Office contacted the **Ministry of Education**, which provided it with a detailed response in an attempt to address the concerns raised.

According to the Ministry, only Catholics or persons having rights under section 23 of the *Canadian Charter of Rights and Freedoms*⁹ can direct their school-purpose property taxes to a Catholic or French-language board.

9. For more information: <http://laws-lois.justice.gc.ca/eng/charter/> (page consulted in April 2011).

A proposal for an alternative system to determine school support would require a thorough review of the *Education Act*, the *Assessment Act* and other provincial statutes and would require significant amendments to ensure it complies with constitutional and operational requirements. The Ministry of Education provided a response on April 30, 2010, indicating the Ministry is prepared to consider the concerns raised by the complainants.

With regard to information that the Municipal Property Assessment Corporation has that could be inaccurate, the Ministry wants to allay these fears. The Ministry reports that it does not use that information for any policy purposes, including funding and planning. In fact, it made a point of specifying that the French Language Education Policy and Programs Branch, in partnership with the French-language school boards, is developing and implementing sociodemographic profiles of the school communities that are specific to each French-language school and school board.

French-language school boards, however, consider that they are at a disadvantage “by default” as compared to their English-language public counterparts, and are continuing to put pressure on the Municipal Property Assessment Corporation to make changes.

Stakeholders are also looking for alternative solutions to this thorny issue. One such solution would allow property owners to choose the school board that they wish to support, but also require the Corporation to respect that choice, even when a property owner changes properties within the same area of the school board of his or her place of residence. The Commissioner encourages the parties concerned to continue their discussions in order to reach a realistic and pragmatic solution, and he will continue monitoring this issue closely.

2.2.7 Ontario Power Authority (OPA)

In March 2011, Ontario’s local electric utilities, in cooperation with the Ontario Power Authority (OPA), launched a province-wide “saveONenergy” conservation campaign. The conservation programs are offered through local electric utilities and funded through the OPA.

The Commissioner received a number of complaints from French-speaking Ontarians who had received by mail a booklet of money-saving coupons from their local electric utility for the purchase of energy-efficient products. These coupons, part of the “saveONenergy” campaign, were distributed to all Ontario households.

Unfortunately, the coupons in question were mailed in English only. Sure, they were available for download in French on the saveONenergy website, but, first, the booklet did not bear a mention to that effect, and, second, locating the French coupons on the English-only Web site required deftness and a lot of, well... energy.

Following a number of complaints, a series of other materials were developed in French for the saveONenergy campaign, including French-language radio ads that were run in cities across the province, including Toronto, Ottawa and Sudbury, from March 14 to March 18 and March 28 to April 11. French-language bill inserts, posters, print ads and direct mail were also made available to local electric utilities to customize and distribute to their customers to encourage French-speaking consumers to fully participate in energy conservation. Content for residential customers was also added, in English and in French, to the saveONenergy website.

The OPA has also been working in partnership with some electric utilities which are developing additional French language marketing materials for their regions to facilitate the sharing of these with other electric utilities.

The statute that established the Ontario Power Authority in 2004 was written in such a way as to exclude it from the requirements of the *French Language Services Act*. Therefore, when it comes to obtaining energy saving information in French, citizens must rely on the Ontario Power Authority’s goodwill.

It is worth mentioning that, in his 2008-2009 Annual Report, the Commissioner, after having received numerous complaints related to the lack of French services in the energy sector, pointed the finger at two other agencies — namely Hydro One and Ontario Power Generation. The Commissioner was very aware that these agencies, as independent for-profit business corporations, were out of the reach of the Act,¹⁰

10. The *French Language Services Act* applies to “government agencies” defined as a board, commission or corporation having the majority of its members or directors appointed by the Lieutenant Governor in Council. This is not the case for agencies under the *Electricity Act*; they are therefore excluded from the application of the *French Language Services Act*.

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but he suggested that this did not have to be so, as they were subject, for example, to the *Freedom of Information and Protection of Privacy Act*, the *Public Sector Salary Disclosure Act* and the *Auditor General Act*.

The **Ministry of Energy**, which oversees agencies governed by the *Electricity Act*, including the Ontario Power Authority, heard the Commissioner's concerns. However, it limited its action to a letter from the Deputy Minister to Ministry's agencies articulating the expectation that, regardless of the legislative framework, all bodies affiliated with the Ministry demonstrate a commitment to serving Francophones in Ontario. The Commissioner decided to wait out the results.

Cue March 2011. Despite the earlier plea from the Ministry of Energy to its agencies, despite the Commissioner's clearly expressed concerns and despite the laudable steps taken by government as a whole to engage and communicate with its French-speaking citizens, the Ontario Power Authority, with the help of its local partners, distributed throughout the province 5,000,000 householders in English only.

The Commissioner can no longer tolerate such a lack of concern for the rights of the Francophone community. Bottom line: communications supporting a flagship initiative of the Ontario government prepared by a publicly mandated organization and meant for all Ontario citizens must be bilingual. Logistical arguments will not do; nor will non-equivalent "alternatives" for Francophones.

The facts are clear: the Ontario Power Authority is governed by a provincial statute, the Government of Ontario is its only shareholder, and the Ontario Power Authority is accountable to the Ontario Legislature. The same could be said of other agencies, such as Hydro One and Ontario Power Generation.

The Commissioner seeks to put an end to non-compliance to the *French Language Services Act* by these agencies

“ **Bottom line: communications supporting a flagship initiative of the Ontario government prepared by a publicly mandated organization and meant for all Ontario citizens must be bilingual.** ”

when it comes to programs, services and communications aimed at the public at large, especially those pertaining to energy conservation initiatives.

Therefore the Commissioner makes the following recommendation:

RECOMMENDATION 4

The French Language Services Commissioner recommends that the **Ministry of Energy** seek to amend the *Electricity Act* to ensure that the Ontario Power Authority be subject to the *French Language Services Act* insofar as its programs, services and communications targeted to the general public are concerned.

The French Language Services Commissioner also recommends that the **Ministry of Energy** seek to amend the *Electricity Act* to ensure that any current or future entity created under the *Electricity Act*, including Hydro One and Ontario Power Generation, be subject to the *French Language Services Act* insofar as programs, services and communications targeted to the general public are concerned.

2.3 OTHER CASES

The Commissioner's Office receives approximately one complaint per day. In light of this considerable number of issues and the impact of the services provided to Ontarians by and on behalf of the Government of Ontario, it is not surprising that the types of the problems that are referred to the Commissioner vary enormously. While some problems are of a global or systemic nature, others are of a much more personal nature and illustrate how a lack of French-language services can have a very real impact on the lives of French-speaking citizens.

The following paragraphs provide a brief overview of some of the issues that the Commissioner is currently investigating, and these issues have very concrete repercussions for the citizens involved.

- A Francophone citizen visited her elderly mother in a long-term care centre. She was quite disturbed by the conditions in that facility. She called the **Ministry of Government Service's** ServiceOntario ACTION Line

as soon as she got home, in order to file a complaint against the facility in question. She asked the person who answered to speak to someone in French. She was told — in English — that there were no services in French, and then the call was disconnected. Needless to say, this was very upsetting for a citizen who didn't know where to turn to help her mother.

- Parents of Francophone deaf or hard of hearing children object to the fact that in the specialized school attended by their children, which belong to the **Ministry of Education's** network, students receive services of doubtful quality. In particular parents complain that there are not enough courses in basic subjects such as French and Mathematics due to a lack of qualified French-speaking teachers and interpreters.
- A caseworker dealing with violence against women would like to provide essential information to a French-speaking woman who needs to get out of an unhealthy relationship. The caseworker finds resources on the **ServiceOntario** website that would be extremely useful, but they are either in English-only or refer to services outside of Ontario. They are therefore of no use to this French-speaking citizen, who is in a precarious situation.
- The planned expansions of a number of dump sites in rural areas has affected numerous families, many of whom are French speaking and who live near the lands that are slated for these expansions. Before authorizing the projects, the **Ministry of the Environment** announces short public consultations on its environmental assessment website. However, the notices regarding these consultations as well as the supporting documentation is only provided in English. Essentially, French-speaking families on whom the expansions could have direct impact are excluded from the consultation process, unless they are prepared to embark on the complicated process of getting the necessary translations done quickly or requesting that the consultation deadline be extended. In other words, they claim they are facing a losing battle.
- A mother is experiencing personal problems that are temporarily resulting in a requirement by the courts that her contacts with her child be supervised. She would like to maintain contact with her child, and to do so she must go through the **Ministry of the Attorney General's** *Supervised Access Centre* program. But her local Supervised Access Centre has informed her that she cannot see her daughter unless she communicates with her in English, due to a lack of employees capable of supervising visits in French. Although this citizen has the right to receive French-language services, she hesitates to lodge a formal complaint because she is afraid that she will lose her visitation rights. And given that the young girl does not understand English, visits between mother and daughter have been reduced to pantomimes, a few caresses and saying "*maman*" and "*je t'aime*," — the only words in French that are authorized by the Centre.

CHAPTER 3 Complaints

3.1 COMPLAINTS RECEIVED IN 2010-2011

In 2010-2011, the Commissioner's Office received 381 complaints (Table 1). The increase in the number of complaints observed over previous years continues. This result shows an unquestionable desire by Francophones to receive high-quality services in French. Indeed, the Commissioner's Office deals with an average of one complaint per day from French-speaking Ontarians that fall below their expectations because of non-compliance with the *FLSA*.

3.1.1 Complaints by category

Of the 381 complaints received in 2010-2011, 328 led to an investigation and 291 were deemed admissible. This represents nearly three-quarters of the total number of complaints received over this 12-month period, while 53 complaints were determined to be inadmissible. This latter figure is slightly down compared to the previous year — a situation that may be explained by the fact that French-speaking Ontarians are increasingly familiar about the role and mandate of the Office of the French Language Services Commissioner and understand what type of complaints fall under its jurisdiction.

Table 1

COMPLAINTS RECEIVED APRIL 1, 2010 - MARCH 31, 2011	
	Number
Investigated	328
Admissible	291
Other types of complaints	20
Low impact	17
Inadmissible	53
Total	381

Inadmissible complaints (Table 2) are divided into five categories according to jurisdiction: Provincial, Federal, Municipal, Private sector, and Trivial/frivolous/vexatious/in bad faith. Inadmissible complaints in the Provincial category include cases dealing with non-designated areas under the *FLSA*, government organizations not subject to the Act but under the government's control, or those that have been affected by government restructuring. In fact, this category accounts for

almost one-third of inadmissible complaints. The remaining categories are distributed equally between the Municipal, Federal and Private sector.

Table 2

INADMISSIBLE COMPLAINTS	
Province	16
Federal	11
Municipal	12
Private sector	12
Frivolous/vexatious/in bad faith	2
Total	53

The Commissioner's Office also recorded a decline of nearly half the number of complaints under the "Other types"¹¹ category as compared with the previous year. This category (Table 3) includes cases involving either independent bodies or entities created, mandated or funded by the government.

In 2010-2011, these complaints primarily concerned hospitals and identified agencies, non-designated areas under the *FLSA*, cases of devolution, partnerships, and independent bodies that receive government funding. Although these cases were investigated, they were not added to the total number of complaints regarding a given ministry.

Table 3

OTHER TYPES OF COMPLAINTS	
Devolution	4
Partnership	1
General	13
Subsidized	2
Total	20

As for ministry-related complaints, this year the Commissioner's Office received a total of 291 (Table 4) in addition to the 87 complaints that were carried over from the previous year. Of this number, 205 were found to be admissible while 181 were resolved — a total representing almost 80%.

It is also important to mention that the 22 complaints carried over from 2008-2009 have all been resolved except for two which present complex and systemic issues.

11. Other types of complaints are difficult to categorize. They primarily concern the delivery of services where a member of the public has no other option because the agency has a monopoly on the service. These complaints are within the provincial government's purview and relate to agencies created, subsidized or mandated by various ministries to offer programs and services that, in cases of devolution, were previously delivered by the province.

Table 4

TOTAL NUMBER OF ADMISSIBLE COMPLAINTS, BY INSTITUTION

Institution	Complaints carried forward from fiscal 2009-2010	Admissible complaints for fiscal 2010-2011	Total number of complaints processed	Ongoing	Resolved	Founded	Unfounded
Legislative Assembly ¹²	0	4	4	1	3	3	0
Ministry of Aboriginal Affairs	0	1	1	0	1	1	0
Ministry of Agriculture, Food and Rural Affairs	3	2	5	2	3	0	3
Ministry of the Attorney General	13	21	34	16	18	17	1
Ministry of Children and Youth Services	3	18	21	20	1	1	0
Ministry of Citizenship and Immigration	1	1	2	0	2	2	0
Ministry of Community and Social Services	9	10	19	1	18	18	0
Ministry of Community Safety and Correctional Services	2	9	11	3	8	7	1
Ministry of Consumer Services	0	2	2	0	2	2	0
Ministry of Education	2	78	80	60	20	9	11
Ministry of Energy	1	12	13	10	3	3	0
Ministry of the Environment	0	8	8	1	7	7	0
Ministry of Tourism and Culture	0	4	4	0	4	4	0
Ministry of Economic Development and Trade	0	2	2	2	0	0	0
Ministry of Finance	27	20	47	11	36	35	1
Ministry of Government Services	2	29	31	11	20	19	1
Ministry of Health and Long-Term Care	15	34	49	17	32	30	2
Ministry of Health Promotion and Sport	3	2	5	1	4	4	0
Ministry of Infrastructure	0	1	1	1	0	0	0
Ministry of Labour	1	4	5	2	3	3	0
Ministry of Municipal Affairs and Housing	2	4	6	3	3	0	3
Ministry of Natural Resources	0	3	3	0	3	3	0
Ministry of Northern Development, Mines and Forestry	2	0	2	0	2	2	0
Ministry of Revenue	0	1	1	1	0	0	0
Ministry of Training, Colleges and Universities	0	8	8	5	3	2	1
Ministry of Transportation	1	10	11	2	9	9	0
Municipalities ¹³	0	3	3	3	0	0	0
Total	87	291	378	173	205	181	24

12. These complaints refer to entities that report directly to the Legislative Assembly.

13. These complaints are deemed admissible when they are brought against a municipality that has a bylaw that guarantees the provision of French-language services.

CHAPTER 3: Complaints

The main ministries offering services directly to the public — i.e. the Ministry of Health and Long-Term Care, the Ministry of Government Services, the Ministry of the Attorney General and the Ministry of Education — account for more than half of complaints. Concerning the latter ministry, it is important to mention that 56 of 78 complaints received deal with the formal investigation concerning the acquisition of new schools for French-language education referred to in Chapter 2.

3.1.2 Geographical distribution of complaints

Analysis of the geographical origin of complaints received in 2010-2011 does not precisely mirror the geographic distribution of Francophones in Ontario¹⁴ but is, nonetheless, similar to last year's distribution. Indeed, citizens living in Central, Eastern and Northern Ontario — regions with large concentrations of Francophones — were more numerous to call upon the services of the Commissioner's Office, as shown in Table 5.

This table also shows that 50% of all complaints came from Central Ontario, followed by Eastern Ontario with 33% of total complaints and Northeastern Ontario with 12%. Together, Central and Eastern Ontario account for over 80% of complaints received in 2010-2011.

Table 5

GEOGRAPHIC DISTRIBUTION 2010-2011	
Region	%
Central Ontario	51
Eastern Ontario	33
Northeastern Ontario	12
Southwestern Ontario	2
Out of Province/Other	2
Total	100

In 2010-2011, the Commissioner's Office did not receive any complaints from Northwestern Ontario.

Finally, it is important to note that obtaining an accurate picture of the geographical origins of complaints is a complex undertaking given the advent of new commu-

nication technologies and the increased mobility of residents. A person from Chapleau, for instance may want to complain about the poor quality of French-language services in North Bay or might want to speak out concerning unsatisfactory services offered over the phone by an employee located in London. That said, the only criterion used to generate this table was the complainant's place of residence — a criterion that measures the level of notoriety achieved by the Commissioner's Office among Francophones throughout Ontario.

3.1.3 Information requests

In the period covered by this fourth annual report, the Commissioner's Office received a total of 45 wide-ranging information requests. Among these requests, the majority had to do with French-language services and more specifically obligations and interpretation of the *French Language Services Act*. Many citizens also requested information regarding the obligations of private businesses under the *FLSA*.

As well, many others contacted the Commissioner's Office for information about public services offered by the Government of Ontario. Finally, certain individuals showed interest in obtaining statistics about the Francophone community and enquired about the changes made by the federal government to the 2011 Census.

These requests were handled within a reasonable time-frame, while respecting the capacity of the Office's staff and, where appropriate, referrals were provided.

14. According to the profile of Ontario's Francophone community published by the Office of Francophone Affairs in 2009, the size of the Francophone population varies from one region to another — i.e. close to two-thirds of Francophones live in Eastern and Northeastern Ontario (41.5% and 22.5% respectively) notably in Champlain Township. Over 28% of Francophones live in Central Ontario including a third of this number in Toronto, while Southwestern and Northwestern Ontario have a Francophone population of 6% and 1.5% respectively.

CHAPTER 4

Key observations

4.1 RECOMMENDATIONS FROM PREVIOUS YEARS

With the publication of his fourth annual report, the French Languages Services Commissioner will have made more than a dozen recommendations, over the past three years. As shown in Table 6, some of his recommendations have been acted upon by the Government of Ontario, others have been partially implemented or are in the process of being implemented, while some seem to have been ignored:

Table 6

IMPLEMENTATION OF THE COMMISSIONER'S RECOMMENDATIONS (2008 - 2010)				
Action taken by the government:	Satisfactory	In progress	Unsatisfactory	Details
New Inclusive Definition of Francophone (IDF)	✓			4.1.1
Revision of the role of French Language Services Coordinators			✗	4.1.2
Regulatory framework for services provided by third-party service providers		✓		4.1.3
Translation of the province's regulations		✓		4.1.4
Mandatory human resources policy for the designation of bilingual positions		✓		4.1.5
Role and responsibilities of the Office of Francophone Affairs			✗	4.1.6
Establishing a Bar and Bench Committee reporting to the Attorney General	✓			4.1.7
Clear directive on the active offer of French-language services		✓		4.1.8
Permanent strategy to promote French-language services		✓		4.1.8
Protecting French-language services in the event of privatizations	✓			4.1.9
Public Health Unit compliance with the <i>FLSA</i>			✗	4.1.10
Children's Aid Societies' compliance with the <i>FLSA</i>		✓		4.1.11
Community Care Access Centres' compliance with the <i>FLSA</i>	✓			4.1.12

Of course, this table requires further explanation. From the start of his mandate, the Commissioner has used his broad power of recommendation in two ways.

He proposed systemic changes to improve the capacity of Ontario's civil service to integrate French-language services.

And from time to time, he also used his power of recommendation when his investigations made it obvious that there was an impasse in the government administration and that only clear policy direction could help to resolve a particular issue. That was the case with the province's Public Health Units and Children's Aid Societies.

As illustrated in Chapter 1, the Commissioner has chosen to take a pragmatic, results-oriented approach to resolving complaints, based on the ultimate goal of the *French Language Services Act*, which is to preserve the cultural heritage of the province's Francophone population for future generations. That approach has proven highly effective and is well-suited to the imperatives of a relatively new government organization such as the Office of the French Language Services Commissioner.

In his second annual report, the Commissioner had reported on the meagre resources allotted to the Office of Francophone Affairs and had lamented the fact that the

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Office's role was not well understood within Ontario's civil service. The government's response was rather disappointing. It indicated that changes could not be made in the middle of a recession. The Commissioner disagrees.

In any case, whether it is establishing a regulatory framework for services provided by third-party suppliers, implementing a policy on designating bilingual positions in the public service or working to ensure that the government has a clear directive on active offer, the Office of Francophone Affairs has its hands full.

Obviously, that in itself should not stop the Commissioner from making further recommendations. As far as structural recommendations are concerned, however, the Commissioner's view is that it would be best to let the ones he has made run their course. Just as it is common practice in agriculture to let the land recover, it makes sense to allow previous years' recommendations to work their way through the system. Good outcomes are certainly preferable to hasty responses.

The following is a chronological review:

4.1.1 New Inclusive Definition of Francophone



Year of recommendation: 2007-2008

Follow-up by government: satisfactory

Since June 2009, the Ontario government has had a new **Inclusive Definition of Francophone** (IDF). The Commissioner has praised the effective implementation of his very first recommendation. The IDF includes people whose mother tongue is not necessarily French or English but who know French and speak it at home.

Not a single meeting goes by in which the Commissioner does not take the opportunity to talk about the new definition and mention the province's leadership in the area. The Commissioner refers to it in most of his speeches. Moreover, the members of the Franco-Ontarian community are delighted that the community is being enhanced on a daily basis by the influx of Francophone newcomers. Similarly, the new definition is having a profound impact on their sense of belonging and their pride in being Franco-Ontarian.

Two years later, it is important to ask ourselves whether the definition is understood and, above all, borne in mind by all of the province's ministries and governmental organizations. The Commissioner even received a request for information about the fact that a large city in Ontario does not use the figures indicated by the IDF in determining the exact number of Francophones in each neighbourhood.

The Commissioner has not ruled out the idea of conducting a study in the next year to ensure that the IDF's calculation method is actually being used by the Government of Ontario and its service providers. This study would also measure the impact of this new definition on government programs and services.

4.1.2 Revision of the role of French Language Services coordinators



Year of recommendation: 2007-2008

Follow-up by government: unsatisfactory

Two years ago, three new French-language services Manager positions were created for the three new clusters of ministries. This pooling of ministries has some positive effects. Nevertheless, despite the good will and hard work of the members of those teams, there are generally too many ministries and the coordinators do not always have access to the deputy minister in each ministry, as required by the Act. The object here is not to rehash all the questions raised in the second annual report, but merely to make it clear that the jury is still out! Implementation of the *FLSA* is still incomplete, as the Commissioner had requested full compliance with the Act, which still has not been achieved. The Commissioner has not excluded the possibility of stating his position again on this important issue in the next few years.

4.1.3 Regulatory framework for services provided by third-party service providers



Years of recommendation: 2007-2008 and 2009-2010

Follow-up by government: in progress

It has become a recurring theme for the Commissioner to talk about the absolute necessity of closing the loopholes regarding services that private service providers provide to the public on the government's behalf. Yet, the *FLSA* is

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quite clear when it comes to the obligation of ministries to ensure that services provided are, of course, available in French. Why would it be any different when there is a third party providing a service on behalf of the government? The answer is obvious when one asks this question.

The government can no longer afford any more hesitation.

It must take action and propose the adoption of a clear regulatory framework covering the obligations of service providers that provide public services on the government's behalf. This is especially important in light of the coming review of all government programs and services announced in the budget presented on March 29, 2011. The more the government depends on outside service providers, the better defined the rules must be.

The government simply does not have the luxury of waiting any longer before taking action. Ontario's Francophone population can accept nothing less than simple compliance with its linguistic rights.

4.1.4 Translation of the province's regulations

 **Year of recommendation:** 2008-2009
Follow-up by government: in progress

The **Ministry of the Attorney General** took a step in the right direction by agreeing to play a leadership role, as specified in the *FLSA*, in introducing criteria to help ministries decide whether their regulations should be translated into French. The Commissioner recommended the development of such criteria so that the Francophone population would be able to take an active role in areas such as health, safety and community development.

The Ministry established a steering committee. Its mandate is to provide the entire government with a strategy for both new and existing regulations. For the Ministry, the key point is to make sure that all ministries take a consistent approach to the translation of regulations.

The Ministry of the Attorney General informed the Commissioner's Office that a number of regulations were already being translated. According to the Ministry, when they are filed, the number of translated regulations will equal about 10% of the existing unilingual regulations and

clean the slate for a number of ministries. The Commissioner has never focused on specific percentages, but is pleased that the Ministry is also working on the development of criteria to guide the ministries in their decisions on translating existing regulations into French or adopting new regulations in both languages.

These initiatives are certainly to be commended, and the Commissioner is pleased that the ministry is taking action in establishing a policy governing the issue of translating the province's regulations.

The Commissioner is looking forward to seeing this policy come to fruition.

4.1.5 Mandatory human resources policy for the designation of bilingual positions

 **Year of recommendation:** 2008-2009
Follow-up by government: in progress

In his second annual report, the Commissioner provided a lengthy description of a problem experienced by many members of the public and by public servants: much seemed to be made of having someone in a bilingual position, but no effort was made to ensure that the position was consistent with the provision of service to the public. The Commissioner therefore recommended the development of a mandatory policy on human resources for French-language services, including management positions. The policy was to include strategies for designation, removal of designation, recruitment, retention and professional development.

The government has not been idle over the last two years. Improved human resources policy direction on designated bilingual positions was drafted and is proceeding through approvals to the **Public Service Commission**.

To round out this policy, the **Office of Francophone Affairs** is developing a guide for managers and other people in leadership positions.


The Commissioner hopes that this mandatory policy will place greater emphasis on the requirement for managers to develop real human resources plans for French-language services. They must prove that they have the capacity to serve the Francophone population in every work unit that provides service to the public. It should not

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be left up to the manager to determine where he or she needs to designate a position. It should be dictated by the human resources plan, which should be reviewed by the French-language services coordinator and approved by the senior management of the ministry or government agency concerned.

The Commissioner is not asking for all senior management positions in the public service, or even all the ones that involve dealing with the public, to be made bilingual. However, there are senior positions in which knowledge of the Francophone community, an ability to communicate with that community and a real sensitivity to its needs are crucial, because the attributes of senior managers shape the attributes of their employees. It is the Commissioner's wish that instead of sweeping this fundamental part of his recommendation under the rug, the government show some imagination and vision for the future.

4.1.6 The role and responsibilities of the Office of Francophone Affairs


 **Year of recommendation:** 2008-2009
Follow-up by government: unsatisfactory

The recommendations made by the Commissioner regarding structural and systemic issues seems to have placed very heavy demands on the **Office of Francophone Affairs** — the government body responsible for implementing most of the Commissioner's recommendations. In the last few years, the Commissioner has made many recommendations, each of which takes time and a great deal of work to implement. The Office's staff, already very small as a result of numerous budget cuts over the years, is inundated by a very heavy day-to-day workload in addition to the task of implementing the Commissioner's recommendations. The Office of Francophone Affairs has only 20 permanent employees. Yet it must not only serve as a "mini-ministry" of Francophone affairs, managing the concerted, coordinated implementation of French-language services, but also supply speeches and memoranda for a minister. The communications needs are enormous and there are only four employees to perform this function, in contrast to other ministries, which on average have a substantially larger communications staff. The same can be said of the Policy Branch. In any event,

there has not been any significant and permanent increase in the funding of the OFA since 1998.

The Office of Francophone Affairs must have the means to play a proactive and effective role within government. Given the multiple demands on this small office, the Commissioner would argue for increased investment in the Office to ensure that they can more effectively play the role they have been assigned. However, an increased investment would not suffice. It is essential to allow the Office of Francophone Affairs to take its rightful place within government in order for this body to fully achieve its horizontal vocation and mission.

4.1.7 Establishing a Bar and Bench Committee reporting to the Attorney General

 **Year of recommendation:** 2008-2009
Follow-up by government: satisfactory

The **Attorney General** has truly taken steps to ensure that the Commissioner's recommendation will be followed. The appointments of the **Honourable Paul Rouleau**, a judge at the **Court of Appeal for Ontario**, and attorney **Paul Levay**, representing the **Association des juristes d'expression française de l'Ontario**, at the head of a Bar and Bench Committee are very positive signs. It is not an easy task to do such a large-scale review in the area of the appointment of bilingual judges and in the field of continuing training for judges in terms of language rights, while they also have quite demanding full-time jobs.

The Commissioner does not want to unduly hasten a process that is already well underway. He hopes that this Committee will produce effective and pragmatic recommendations.

4.1.8 Directive on active offer and permanent strategy to protect French-language services

 **Year of recommendation:** 2009-2010
Follow-up by government: in progress

The Government of Ontario agrees with the principle of the active offer of French-language services, which consists of creating an environment that welcomes requests for services in French, by telephone, in person,

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online or in any other way. The **Office of Francophone Affairs** has produced a guide for public servants, which was described in last year's annual report, in order to provide them with guidance on the effective implementation of this concept. The **Ministry of Government Services**, through ServiceOntario, has also been productive. A directive produced by that ministry, which has been developed and distributed to all of ServiceOntario's private service provider offices, informed those offices about their obligations in terms of compliance with the *FLSA*. The same is true for all new service providers, who are contractually bound to comply with the *Act*. This is certainly a step in the right direction. But there is still some way to go, because there is a difference between being familiar with the *Act* and actually creating an environment in which French can be used easily.

This is certainly why the **Office of Francophone Affairs** is currently developing a proposal for a directive on active offer for eventual consideration by government. Once this has been done, the Minister has reserved the right to decide whether or not to propose that Management Board of Cabinet and the Treasury Board adopt a directive that will be mandatory for all ministries and government organizations. The government has given itself one year to develop this plan.

This is not satisfactory. Every Francophone who does not receive an active offer of French-language services becomes discouraged and understands that it is better to learn English as quickly as possible if he or she wants to receive government services.

Chapter 1 in fact deals with specific cases in which Francophones have called upon the services of the Commissioner's Office by filing complaints, rather than simply getting discouraged, in the hope that things will really change.

“ Every Francophone who does not receive an active offer of French-language services becomes discouraged and understands that it is better to learn English as quickly as possible if he or she wants to receive government services. ”

As for the recommendation concerning a permanent strategy for promoting French-language services in the French-speaking community, the government has essentially responded by saying that, apart from the obvious financial constraints in the current environment, it will spend the coming year developing some options, in particular by using social media.¹⁵ Although the Commissioner considers these efforts to be seriously deficient at the moment, he nonetheless agrees that social media is a conduit that should be used as much as possible.

4.1.9 Protecting French-language services in the event of privatizations



Year of recommendation: 2009-2010

Follow-up by government: satisfactory

The Commissioner issued a serious warning to the government through his recommendation last year. The government's response: *“The government does not currently have the intention of privatizing existing public services. The Commissioner's recommendation will be taken into careful consideration should that situation arise.”*¹⁶

In the proposed 2011-2012 budget, one can see that privatization has once again become a possibility. The budget clearly states that, “The government will pay attention to the results, and not to the way in which the programs and services are offered.” Although the Commissioner does not have an opinion on whether or not it is appropriate to privatize certain services, he would nonetheless like to repeat his warning that none of this should be done at the expense of the French-language services that are offered to Franco-Ontarians.

4.1.10 Public Health Unit compliance with the *FLSA*



Year of recommendation: 2009-2010

Follow-up by government: unsatisfactory

Health is still one of the sectors with the highest priority for the whole population, including the Francophone population. In his 2009-2010 annual report, the Commissioner recommended that the **Minister of Health and Long-Term Care** should require public health units to apply the *FLSA* and comply with its provisions when all or

15. The government's response to the Commissioner's recommendation is reproduced in full in the Appendix.

16. *Ibid.*

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part of its funding comes from the province. This year, the Commissioner has received complaints concerning public health units that distributed unilingual notices in English concerning a program for screening oral health problems in the French-language schools, which were sent to parents.

This is a flagrant example not only of failure to comply with the spirit of the *FLSA* (it is exactly the type of inconsistency that the Commissioner's recommendation was intended to avoid), but also of a lack of simple common sense. In this case, the screening program is funded by the province and all of the relevant information is accessible in both English and French on the Ministry's website.

However, the public health units, in general, are not worried about this. One would think that respecting the French-speaking population is not their responsibility.

Unfortunately, the government response has been unsatisfactory in this failure to respect French-speaking communities across Ontario. The **Ministry of Health and Long-Term Care** has indicated that, before requiring the province's 36 public health units to apply the *FLSA*, an additional analysis of the funding, capacity and strategic orientation is necessary.¹⁷

The Commissioner does not agree with this at all. Who can claim that distributing unilingual English information documents in French-language schools is a proper use of public funds? If one of the objectives of these public health units is to promote public health, then it should do so for the benefit of the whole population, and that includes the Francophone population.

The Ministry has nonetheless not been entirely inactive on this issue. An interministerial committee has been set up to develop strategies and supports for the field in order to improve the delivery of public health services in French. The Ministry, for example, is working to establish

a central hub and community of practice for the purpose of facilitating the sharing of resources, tools and expertise between the various public health units.

The Ministry has also developed various useful tools, such as a guidance document and an inventory of French-language resources for use by the Public Health Units. However, without these health providers being brought under the *FLSA*, the Commissioner remains very concerned that there is no legal requirement for Public Health Units to provide French-language services on an ongoing basis. Moreover, it is still up to the Ministry, through its funding agreements, to make sure these health providers respects the spirit of the Act, if not its intent.

4.1.11 Children's Aid Societies' compliance with the *FLSA*



Year of recommendation: 2009-2010

Follow-up by government: in progress

The Commissioner is aware of the challenges that the **Children's Aid Societies** have been experiencing, in particular in terms of the delivery of French-language services to an extremely vulnerable clientele, as one example among others, raised in the first chapter, has shown. During the past year, the government has set up the **Commission to Promote Sustainable Child Welfare**. The Commissioner and his team have had the opportunity of meeting with the members of that Commission a number of times. The Commission's first report echoes the statements made by the Commissioner in his 2009-2010 report, by providing a realistic and appropriate analysis of the specific needs of the province's Francophone population. The Commissioner is fully satisfied with the work of the Commission, and hopes to see more details in its final recommendations concerning the measures that should be taken to help Francophones across the province.

It is within the Commission's mandate to make recommendations to the Minister of Children and Youth Services on funding policy and to implement changes to Children's Aid Societies' business processes with respect to service

17. *Ibid.*

delivery. This may include directing Children's Aid Societies to develop consolidation plans where it supports better outcomes for children and youth and improves CAS efficiency. It will be necessary to pay close attention during any amalgamation of a Children's Aid Society that works almost exclusively in French and another that, according to the promises, is supposed to become bilingual. The impact on the quality of services to the public when the working language is almost exclusively English should not be minimized. If one of the Societies has already been designated under the *FLSA*, then it is clear to the Commissioner that, since only a regulation can abolish the designation of an agency, that obligation must be transferred to the whole new entity formed by the new Children's Aid Society. It will therefore be necessary to ensure that these factors are taken into account from the very beginning in any discussions concerning the amalgamation.

The Ministry created a working group to identify the barriers to the delivery of French-language services in the child welfare sector. In 2010, the working group's efforts informed the Ministry's action plan to improve French-language services provided by Children's Aid Societies.

In addition, the Ministry has also made some progress in terms of the Commissioner's recommendation in his 2009-2010 annual report. The Ministry produced a detailed inventory of the French-language abilities of each of the **Children's Aid Societies**, which it will validate with the regional offices and with the individual Societies, as needed. The important thing is to be able to fill in any gaps in French-language services.

Finally, the Ministry, in consultation with the Children's Aid Societies, promised to examine approaches for the creation of a network of French-language services, which would include a directory of organizations that already offer French-language services in order to support the other organizations that are not currently able to provide them.¹⁸ The Commissioner wishes to applaud this initiative, because it is a specific implementation of his recommendation.

4.1.12 Community Care Access Centres' compliance with the *FLSA*



Year of recommendation: 2009-2010

Follow-up by government: satisfactory

In his Annual Report 2009-2010, the Commissioner stated that Francophones had been short-changed by the loss of government organization status of the province's **Community Care Access Centres** under the *FLSA*. And the government, it seems, heard this message loud and clear.

Indeed, the proposed 2011-2012 Budget clearly expresses the government's desire to "*propose an amendment to the Community Care Access Corporations Act, 2001 in order to ensure that the public has the right to communicate in and receive care in French in Community Care Access Centres across the province.*"¹⁹ This is wonderful news! The Commissioner is very happy about this clearly expressed intent by the government.

In fact, the government is going farther in its commitment than the Commissioner himself had hoped for in his 2010-2011 recommendation. This shows that the government has a real desire to listen and to ensure that the often very vulnerable clientele of these centres has access not only to French-language services, but to services that are adapted to their needs as members of the Francophone community.

Therefore, as of January 1st, 2012, if this legislative amendment is adopted, all community care access centres will have to comply with the *French Language Services Act*. The Commissioner is planning to visit those centres, in order to make their staff and administrators more aware of the *FLSA* and also, especially, explaining to them why it is essential to take the necessary steps to serve the Francophone population.

18. *Ibid.*

19. *Supra* note 5.

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4.2 THE 2011 CENSUS: EFFECTS OF THE CHANGE

This year's Census of Population, currently under way, is fundamentally different. For the first time in 35 years, it will not include the detailed long form that Canadians were required — up until now — to fill out and return to the federal government.

4.2.1 From the long form to the NHS: The purpose of detailed questions

Up to 2006, two different forms were used in the Census, conducted by Statistics Canada. The short form, sent to all Canadians, was intended to measure the size of the population. It contained questions on the number of people in a residence, their family relationships and their gender. The long form was sent to 20% of the population. It asked people about the language they spoke at home, their job, their income, their level of education, their ethnic origin and so on.

Those additional questions allowed analysts to generate detailed socioeconomic profiles of Canada's immigrants and non-permanent residents. These profiles were then compared with those generated from previous censuses in order to better understand of the process of integration of immigrants. This extremely important data was also used to plan employment, education and health care services for all Canadians. Whether those detailed questions are included a census form or the new National Household Survey (NHS), the reasons for their existence remain the same.

4.2.2 The end of reliable data

Replacing the mandatory long form with the voluntary National Household Survey (NHS) will cause irreparable damage to the integrity of the Census. What makes the Census so valuable is the fact that it is compulsory as opposed to surveys that do not include this important characteristic.

The decision will not only affect the Government of Ontario but will also have an impact on private-sector and community decision-makers, in carrying out their policies,

since Statistics Canada, which remains their primary data provider, will be unable to supply information that is as accurate and as complete as it once was. In fact, is there any government program or service that will not be affected? The answer to this question is rather obvious.

In September 2010, the **Minister Responsible for Francophone Affairs**, the Honourable Madeleine Meilleur, criticized the federal government's decision in a letter to Industry Minister Tony Clement on behalf of the Government of Ontario. She noted that the decision was detrimental in particular to the province's capacity to plan services that address the needs of Francophones.

"The data gathered in the long form is essential for the proper administration of the Ontario *French Language Services Act*. Its cancellation will harm the reliability of data and, by extension, the ability to plan for the provincial services, guaranteed by this act, that meet the needs of francophone families in Ontario. For example, it will prove difficult to accurately analyse the education needs of large segments of the Francophone population in the absence of a reliable source of information about the level of education of this population."

Can the NHS take the long form's place and produce reliable data? The answer provided by Statistics Canada's former chief statistician is clear:

“ [TRANSLATION] The Census is deserving of the name because all Canadians complete the short form and a totally random sample of Canadians complete the long form. And there is only one way to ensure that the sample is random: by making the long form mandatory. The two concepts — the census and its compulsory nature — go hand in hand, in the same way that oxygen and hydrogen go together to make water.²⁰ ”

20. François Dumaine, former president of the Canadian Evaluation Society, "Recensement 2011 : écartons la pensée magique," Letter to *Le Droit*, July 21, 2010.

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“ I want to take this opportunity to comment on a technical statistical issue which has become the subject of media discussion ... the question of whether a voluntary survey can become a substitute for a mandatory census. [...] It can not.”²¹ “

The changes introduced by the federal government have been sharply criticized by scientists, provincial governments, Francophone and Anglophone community groups, and religious groups across the country. All of them are outraged by the decision to eliminate the mandatory long census form and replace it with the voluntary NHS, thereby compromising the data. This view is shared by the Commissioner, who was one of the first to respond by sending a letter to newspapers in July 2010 to express his concerns. In his letter, he referred to the unilateral nature of the decision, which was made without consulting the provinces, including Ontario.

“ I urge the government of Ontario to strongly react to this dramatic change to the only service provider capable of obtaining this data. There is simply no other alternative but to restore the mandatory long-form census.”²² “

4.2.3 How this change will affect statistical profiles

In August 2010, the federal government announced that it would add two questions to the short census form to address the outcry: a question on the ability to carry on a conversation in one of the two official languages, and a question on languages spoken at home. The short form already has a question on mother tongue.

But two of the five language-related questions from the 2006 census will remain optional, specifically the question dealing with languages spoken at work, and the question regarding the ability to carry on a conversation in a language other than English or French. What about data based on the new Inclusive Definition of Francophone, known as the IDF?

The IDF is based on three variables: mother tongue(s), knowledge of official languages and language(s) spoken at home. Fortunately, the elimination of the long-form census will not affect the Ontario government's ability to count the number of Francophones under the new definition.

However, that will not be the case for precise and detailed socio-demographic studies. The **Office of Francophone Affairs** produces such studies generating statistical profiles on women, young people, seniors and visible minorities.

In fact, due to elimination of the mandatory nature of the long-form census, it will be difficult to carry out reliable, high-quality analyses of Ontario's French-speaking population. This would affect, for example, measuring such factors as the level of education or socio-economic status of Francophones compared with the larger population of Ontario or comparing this data with previous censuses. While the short form allows Statistics Canada to count the number of Francophones, without the long form, it will no longer be possible to obtain detailed profiles of this community such as immigrant status information, information on economic characteristics (employment, economic sector information, income level, mobility within Canada, use of French in the workplace) and education levels. Thus, measuring and understanding the impact of government programs on the Francophone community will become extremely difficult, if not impossible in many regards. And at a time when measuring outcomes has become ubiquitous, this represents a catastrophic step backward.

The Commissioner believes that elimination of the mandatory, random long form will seriously hinder the effective, efficient implementation of provincial programs, including implementation measures related to the Inclusive Definition of Francophone.

4.3 MUNICIPALITIES AND THE FLSA

Municipalities are the level of government closest to the people, and citizens, especially newcomers, approach them first because they provide so many programs and services.

21. Steven Chase and Tavia Grant, "Statistics Canada chief falls on sword over census," *The Globe and Mail*, July 21, 2010.

22. Excerpt from Commissioner François Boileau's letter to French and English newspapers on July 16, 2010.

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4.3.1 Background

In 1978, Ottawa MPP Albert Roy introduced a private member's bill (Bill 89) in the Legislative Assembly to ensure that Franco-Ontarians would receive services in French under a framework act. The bill was supported by Francophone community leaders at the time. The bill was largely based on the demands of the *Association canadienne-française de l'Ontario*, which included French-language services at the municipal level. However, the political climate of the day was not very favourable for such legislation, and the bill died despite receiving second reading.

“ [TRANSLATION] *Municipal services are important – especially for vulnerable people, low-income earners, newcomers and members of ethnocultural minorities, who are proportionally more numerous in the Francophone community.*”²³

A few years later, in 1986, the Honourable Bernard Grandmaître succeeded. The *French Language Services Act* (FLSA) was passed by the members of the Legislative Assembly. The product of acrimonious negotiations and intense backroom deal-making, the *FLSA* does not apply to municipalities. That was one of the compromises reached by the various players to ensure that the bill would receive unanimous support.

However, when the *FLSA* came into force in 1989, the leaders of some municipalities were concerned that they would have to comply with the new legislation or that it was the first step toward imposing bilingualism at the municipal level. Opponents contended that the *Act* would hurt the economy and employment. As a result, municipal councils began passing bylaws making their cities “unilingual.”

The Minister Responsible for Francophone Affairs, Charles Beer, attempted to rectify those negative perceptions:

“ [TRANSLATION] *There are myths that say that French-language services are an impediment to Anglophones' careers, or that they are part of a vast conspiracy to impose French everywhere. There are fallacious arguments that Ontario does not have to go this route because Francophones have never contributed to the province's growth. It's time to put such fairy tales where they belong — in 'mythballs'!*”²⁴

Twenty-five years after the *FLSA* was passed, it is perfectly reasonable to enquire about the status of French-language services in the municipalities, especially those with large Francophone populations.

4.3.2 De facto French-language services

Since there are no recent data on municipalities that have introduced formal measures of concerning the provision of French-language services, the Commissioner decided to conduct his own research. The study was confined to townships, cities, towns, villages and municipalities that were members of the *Association française des municipalités de l'Ontario* (AFMO).

The results of the study show that more than half of AFMO's municipal members (17 in total) have chosen not to pass by-laws or establish policies, but more than 80% of them provide bilingual municipal services *de facto*. Examples include Timmins and Cochrane. Other municipalities, whose populations are mostly Francophone, such as Fauquier-Strickland and Opatatika, say that their services are provided almost exclusively in French and that they do not need any formal rules. Only three (10%) of the *Association's* total membership of 31 municipalities in 2010-2011 provided services exclusively in English.

4.3.3 Longstanding measures of various types

The *Association française des municipalités de l'Ontario* was formed in 1989 to lobby for the maintenance and improvement of the governance and provision of bilingual municipal services in designated areas. Today, the Asso-

23. Alain Poirier, “Ottawa et le bilinguisme municipale : une histoire à suivre...” in Michel Giroux and Julie Boissonneault (dir.), *La Loi 8, la Charte et l'avenir*, 2010, Sudbury, Institut franco-ontarien, pp. 177-183.

24. Mario Fontaine, “Les orangistes ont une peur bleue du bilinguisme,” *La Presse*, November 18, 1989.

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ciation's membership includes 35 municipal corporations and about 40 provincial organizations and institutions as associate members.

Various types of measures are currently in place. Of its 31 municipal members (excluding the three social services administration boards and the United Counties of Prescott and Russell), 10 municipal councils have adopted measures such as bylaws or ordinances, and two have passed resolutions on the provision of French-language services.

More than half of the bylaws passed by the *Association's* membership date back to 1991, and the most recent measure of this type was adopted 10 years ago.

These measures also vary widely in content and scope. Some are very general, while others are more specific and make reference to the *FLSA*. For example, the town of Kapuskasing adopted a bylaw requiring the provision of services and communications, including public signage, in both languages. This very comprehensive bylaw also refers to the *FLSA*, which gives municipalities the power to pass such bylaws.

4.3.4 Bylaws: guarantees for the future

The Commissioner congratulates all the municipalities that have gone ahead and adopted measures of this kind. Yet the majority of *Association française des municipalités de l'Ontario* members do not have bylaws on French-language services, even though they provide such services.

They can and must show leadership in the active offer of municipal services in French. The municipality is by far the closest level of government to individual Canadians. Clearly, if municipalities actively offer their services in French, they will find it much easier to provide better government services, in French as well.

Citizens need to see consistency in the delivery of public services. It's difficult for people to understand why the signs on a public highway switch from bilingual to unilingual English when the highway enters the jurisdiction of a municipality.

In addition, municipalities are undergoing major changes. People are moving around, and cities and towns are rebuilding. Rivière des Français (French River), whose population used to be almost entirely

Francophone, is a perfect example of this process. The final candidates' debate in the municipal election campaign took place nearly exclusively in English.²⁵ The challenge is to ensure that Francophone citizens keep receiving services, including municipal services, in French. **The only way to do so is with a bylaw. Bylaws guarantee the delivery of services to future generations, and the Commissioner encourages the adoption of such bylaws.** Municipalities that provide *de facto* service in French should follow the lead of municipalities that have formally sanctioned French-language service delivery.

The adoption of a French-language services bylaw is a commitment for the community that lives in a particular location and constitutes a guarantee for its future. Such measures not only contribute to the survival and development of the Francophone community but also ensure that the delivery of French-language services does not hinge on the political good will of the current municipal council. That was the thrust of the message delivered by the Commissioner at the *Association's* annual meeting in Kapuskasing in September 2010.

4.3.5 The scope of a bylaw

The Commissioner's Office and the municipalities that provide French-language services share the goal of improving the services provided to Francophone citizens.

However, municipalities that have adopted a French-language services

“*The adoption of a French-language services bylaw is a commitment for the community that lives in a particular location and constitutes a guarantee for its future.*”

“*Filing a complaint is the most effective way for a member of the public to express dissatisfaction, concern or frustration with the absence or poor quality of French-language services. In short it gives service providers an opportunity to rectify the inadequacy and meet their clients' needs more effectively.*”

25. Available online: <http://www.radio-canada.ca/regions/Ontario/2010/10/12/005-riviere-francais.shtml> (page consulted in April 2011).

CHAPTER 4: Key observations

bylaw are not always aware of the rights that have been conferred upon their citizens by subsection 14 (1) of the *FLSA*.

Following the adoption of such a bylaw, citizens may file complaints to the Commissioner's Office about inadequate French-language services.

The Commissioner's aim is to encourage cities and towns to become accountable and develop the internal capacity to receive complaints. Citizens can, of course, approach the Commissioner's Office at any time. The Commissioner will then gather information, perform a preliminary analysis, determine whether the complaint is admissible, and proceed accordingly.

For the Commissioner's Office, a complaint is simply a mechanism for direct feedback from a citizen concerning an activity or service. Filing a complaint is the most effective way for a member of the public to express dissatisfaction, concern or frustration with the absence or poor quality of French-language services. In short, it gives service providers an opportunity to rectify the inadequacy and meet their clients' needs more effectively.

4.3.6 Bilingual sign bylaws: a victory in Russell

On August 20, 2010, the Superior Court of Justice of Ontario handed down an important decision²⁶ concerning the validity of a municipal bylaw requiring all new commercial signs in the Municipality of Russell to be bilingual. Howard Galganov and Jean-Serge Brisson contested that bylaw, in particular on the basis of a supposed violation of freedom of expression as provided by the *Canadian Charter of Rights and Freedoms*. Justice Métivier's decision was awaited with interest, because it was the first time that such a bylaw concerning bilingual commercial signage was being challenged in this province.

First, the Court quickly disposed of the plaintiff Galganov's case by ruling that he has no standing in the proceedings, since he is not a resident of the Township and does not really have any business there. In other words, since he is not directly affected by the bylaw, he cannot file a legal claim.

That was not Mr. Brisson's situation, as he is a citizen of Russell. He violated the municipal bylaw by putting up a new unilingual French commercial sign. The Court therefore ruled on the merits of the case.

The Court first of all accepted the advice of the experts, who in particular pointed out that signs in French are a factor that contributes to the vitality of the Francophone community. Those experts also stated that forces of assimilation are constantly at work and that the message given by bilingual signage is that French is a useful language that facilitates business and trade. This message also reaches students in French-language schools, since it reminds them that French exists outside of the classroom. That sends the message that bilingualism, as an added value, will be continued first and foremost through the preservation of French, and this includes in the public sphere, such as the language used on commercial signs.

The judge stated that the purpose of the bylaw is to provide a symbolic representation of the equality of English and French, thereby protecting and promoting the use of French. Essentially, this bylaw is intended to be a specific application of subsection 16(3) of the *Charter*, which makes it possible to take steps to advance the equality of status or use of English and French in Canadian society. According to the Court, the bylaw also has a remedial purpose.

Although this important legal decision has been appealed, it still lays the basis of a convincing argument for towns and municipalities that do not yet have such bylaws concerning commercial signage.

It should be noted that three neighbouring municipalities of Russell have already adopted similar bylaws concerning bilingual commercial signage. In fact, the municipalities of Clarence-Rockland, Casselman and La Nation have provided leadership to the Franco-Ontarian community. The Commissioner would like to encourage all the municipalities that belong to the Association française des municipalités de l'Ontario (AFMO) to think seriously about what is important for the future and the preservation of the French or bilingual character of their municipality, and to think in the medium and long terms. It is necessary to

26. *Supra* note 2.

act now, while the Francophone population of their towns is still significant, because that situation could change quickly in coming years. The mobility of our citizens is an ongoing reality, and the makeup of the population is changing. It is better to immediately try to foresee the linguistic context in which these demographic changes in towns and municipalities will take place. The Commissioner asks all municipalities that are members of the *AFMO* to have the courage to develop additional mechanisms for their own protection, such as a bylaw on commercial signage in both languages.

CHAPTER 5

Best practices

In this fourth annual report, the Office of the French Language Services Commissioner continues its tradition of highlighting best practices and innovation by government ministries and agencies in the delivery of French-language services.

While certain best practices come about after adjustments are made to inadequate services — as a result of a complaint, for instance —, the practices that are listed here are being highlighted by the Commissioner, mainly because they were developed with the direct involvement of Franco-Ontarian community stakeholders.

The Commissioner's Office would like to thank the ministries and agencies that responded to the Commissioner's call to submit their list of best practices. Although it is not possible to include each and every one in the Commissioner's report, it is encouraging that the list grows longer, from year to year.

5.1 PARTNERSHIPS

5.1.1 « Mes services en français » Web portal

The *Mes services en français* Web portal was developed by the **Kingston, Frontenac, Lennox & Addington Children and Youth Services Steering Committee** in partnership with the **ACFO Mille-Iles** community group after an exhaustive survey of the needs of Francophone parents living in the Kingston area.

The survey revealed that most Francophones in Kingston use the Web to source out information important to their daily lives. Thus, the Web Portal project was born in the form of a partnership.

Launched on January 27, 2011, the messervicesenfrancais.org website showcases Kingston-area French-language services that are funded by the Ministry of Community and Social Services and the **Ministry of Children and Youth Services**. The colourful portal also provides links to agencies offering French-language services and other useful community-related resources.

5.1.2 Ontario Women's Directorate

Another example of partnerships that the Commissioner applauds are those established by the **Ministry of Citizenship and Immigration**, the **Office of Francophone Affairs** and the **Ontario Women's Directorate** — a government organisation that operates within the **Ministry of Citizenship and Immigration**. Over the past few years, these bodies have jointly funded the ***Institut francophone de formation en matière de violence faite aux femmes*** of ***Action ontarienne contre la violence faite aux femmes*** to provide specialized training to Francophone workers (both management and staff) in women's shelters, counselling agencies and sexual assault centres.

In February 2011, the Ontario Government announced that it was continuing its funding for the training programs of the *Institut francophone de formation en matière de violence faite aux femmes*, which are provided to Francophone frontline workers through in-person workshops, webcasts, podcasts and online initiatives. This training is designed to help frontline workers provide better service to clients by understanding emerging issues including (i) mental health and addiction problems of women who are victims of abuse (ii) the plight of older women who are being abused, and (iii) the difficulties faced by women who have experienced violence in war-torn countries.

5.1.3 Sexual Violence Action Plan

In March 2011, the Government of Ontario publicly released its Sexual Violence Action Plan, called *Changing Attitudes, Changing Lives*.

As a citizen, the Commissioner is extremely happy about this interministerial initiative, which focuses on three fundamental aspects of the fight against sexual violence: (i) preventing sexual violence through increased public education, (ii) expanding and improving access to a wide range of services for survivors of sexual violence, and (iii) strengthening the criminal justice system's response toward sexual violence. He has high hopes that the Plan will truly contribute to putting an end to sexual violence and to helping Ontario women and girls live in safety.

As a champion of the rights of Francophones, the Commissioner is also very happy about this initiative, which fully

takes into account the specific needs of French-speaking citizens. For example, from the beginning of the consultations, which included regional meetings in communities in all parts of the province, Francophone survivors of sexual violence and frontline workers were invited to speak and share their views about the support that they need.

Their contribution led to specific commitments by the government, the most important of which consists of ensuring that access to French-language services will be addressed within the Action Plan, and setting up a joint working group on French-language services, to ensure that the policies, programs and services meet the particular needs of Francophone women.

The other commitments that will be beneficial for Francophones include (i) an increase in the funding for sexual assault centres that serve French-speaking women, (ii) an enhanced role for **Action ontarienne contre la violence faite aux femmes**, an organization that works to develop resources in French, and (iii) the provision of language interpretation services to help survivors understand the services and options that are available to them.

Sexual violence is a problem that affects all of society. The Commissioner is proud to see that in the government's efforts to develop a plan for this serious problem, female citizens are being treated with dignity and respect, not only as women but also as Francophones.

5.1.4 « Élargir l'espace francophone » project

Élargir l'espace francophone is a pilot project of the **Ministry of Education** that engages various partners from the Francophone community as well as from the private sector. Working with three community liaison agents from the **Centre canadien de leadership en évaluation**, the program led to a number of successful initiatives involving Francophone students, including two described below.

The first initiative saw over 300 under-privileged students from three Eastern French-language school boards take part in an all-French day camp in Quyon, Quebec, organized by the **Tim Horton's Foundation**. Over the course of three to seven days, these students enjoyed various sports and cultural activities in a totally French-speaking environment.

The second initiative allowed a delegation of 100 students from French-language high schools to attend the annual convention of the **Association française des municipalités de l'Ontario** in September 2010, as part of the school activities. The goal was to allow these students to gain a better understanding of the roles of municipal representatives and school trustees. This successful project will be renewed and expanded next year, thanks to the Association's willingness to add a youth component to its next annual convention.

The commissioner strongly encourages the government to continue funding the *Élargir l'espace francophone* projects that have shown many positive results with modest resources and investment. Indeed, the Commissioner believes these pilot partnership initiatives fully support the objectives of the government's *Aménagement Linguistique* policy.

5.1.5 Specialized publications for boys

The partnership established by the **Ministry of Education** with the **Centre franco-ontarien de ressources pédagogiques** is another example of a successful collaboration with a non-profit French-speaking stakeholder group to better serve the needs of Francophones. The *Centre* exists since 1974 and offers multiple educational services including the research and development of both print and multimedia teaching publications, training for education management staff and the development of software and database applications.

In 2008-09, this partnership led to the development and launch of three magazine publications for Francophone students in Ontario. The first is a quarterly magazine entitled QUAD9 [What's new?]. It is published in two separate editions: one for Grade 7 and 8 students and one for students in grades 9 and 10. QUAD9 deals with subjects that affect teenagers, especially boys, and features columns such as *Ça s'est passé chez nous!* [It happened here at home] and *Sans blague, c'est vrai!* [No kidding, it's true!]. QUAD 9 also informs its readers about events happening in Ontario's Francophone community and runs features focussing on Francophone students from across the province. Two issues of each edition are distributed to French-language schools in Ontario every year.

CHAPTER 5: Best practices

The second publication is a magazine called *Mon Mag à moi* [My very own magazine]. It is also published in two editions: one for students in grades 3 and 4 and another for students in grades 5 and 6. *Mon Mag à moi* magazine is tailored to the interests of students aged 8 to 11 years old and features columns such as *Juste pour lire* [Just for reading] and *Ma page @ moi* [My own page]. *Mon Mag à moi* also informs its readers about what is happening in the francophone community and includes features about francophone students from Ontario. Two issues of each publication are distributed to French-language schools annually.

The third publication is a magazine entitled *Minimag*. It is published for francophone students aged 4 to 7 years old. It features various subjects including animals, occupations and seasons and presents comic strips, games and comments on different issues from young francophone students. *Minimag* is distributed to French-language schools in Ontario three times a year. In January of 2011, this magazine went national and is now being distributed to French-language school boards across Canada, except in the province of Québec.

The Commissioner applauds these initiatives that provide young Francophone students with more than just high quality reading materials. They provide young minds with a sense of belonging to Ontario's Francophone community which, in itself, is of inestimable value.

5.1.6 Information fairs for Francophone seniors

The government's commitment to providing quality services in all parts of Ontario, including in remote communities, is the driving force behind the partnership established between the **Ontario Seniors' Secretariat** and the **Fédération des aînés et des retraités francophones de l'Ontario**—a group that serves the interests of Ontario's active and retired Francophone seniors.

While the Commissioner applauds the Ontario Government's partnership approach in the delivery of information to Francophone seniors, this type of initiative could,

perhaps, be better supported through the Web, given that seniors are increasingly becoming avid Web users.²⁷

5.2 HONOURABLE MENTIONS

5.2.1 Franco-Ontarian Day

On April 26, 2010, the **Legislative Assembly** unanimously adopted the *Franco-Ontarian Day Act* proclaiming September 25 of each year as Franco-Ontarian Day. This important gesture acknowledges the contribution of Ontario's Francophones in all aspects of everyday life, including in the areas of culture and history, as well as in the social, economic and political realms. The chosen date, September 25, falls on the anniversary of the first raising of the Franco-Ontarian flag in 1975. Last year's tribute celebrated the 35th anniversary of this historic event.

"Franco-Ontarians of all origins now have a day to gather and celebrate the French presence in Ontario. September 25 will be an annual occasion to pay tribute to the Francophone community's exceptional contribution to Ontario's history and future."²⁸

Madeleine Meilleur

Minister Responsible for Francophone Affairs

5.2.2 Youth Francophonie Awards

In October 2010, the government awarded its first Ontario Youth Francophonie Award. The award recognizes exceptional Francophones and Francophiles under the age of 25 who are actively involved in the development of their communities.

It is presented every two years alongside the traditional Francophonie Awards that were created in 2006 as part of the celebrations marking the 20th anniversary of the *French Language Services Act*.

The 2010 youth award was presented to University of Ottawa student **Christopher Sisto**, while Glendon College principal **Kenneth McRoberts** and life-long

27. According to a Statistics Canada study conducted in 2007, seniors use Internet the least, but they are the fastest growing group. Available online: <http://www.statcan.gc.ca/pub/11-008-x/2009002/article/10910-eng.htm> (page consulted in April 2011).

28. For more information: <http://www.ofa.gov.on.ca/en/news-100426.html> (page consulted in April 2011).

education advocate **Jean Comtois** were honoured in the Francophile and Francophone categories, respectively.

An independent selection committee appointed by the Minister Responsible of Francophone Affairs considers all nominations before selecting recipients.

5.2.3 Honouring our new Governor General

When it comes to public events and celebrations, the commissioner believes Ontario must lead the way in showing its savoir-faire to the world. The ceremony that was held at the **Ontario Legislature**, on December 2, 2010, to welcome Canada's new Governor General, his Excellency, the Right Honourable David Johnston, was such an event.

The well-attended gathering was a proud moment for the Commissioner, and for all Franco-Ontarians, as both official languages were honoured in equal measure. This was the case in each and every speech and presentation as well as in the choir's rendition of O Canada. The Commissioner would like to commend the staff of the **Office of International Relations and Protocol** for the success of this important gathering. Truly, this ceremony deserves an honourable mention.

Conclusion

2010-2011 has been marked by successful outcomes in many different files leading to important changes that support the growth and development of Ontario's Francophone population thanks to the intervention of citizens. The posting of bilingual tender summaries on MERX, the creation of French Language Health Planning Entities, the adoption of the new mandatory Communications in French Directive for the Government and the successes obtained for Francophones regarding the changes to the Full-Day Early Learning - Kindergarten Program are examples of the positive results obtained thanks to the vigilance of citizens who chose to turn to the Commissioner's Office for help. Indeed the number of complaints received by the Commissioner's Office has increased by 10% compared to last year.

And the Commissioner's Office is still working on many important files. Indeed, in last year's annual report the Commissioner had expressed his intention to focus on the education sector — a most vital sector for the development of French-speaking communities in the province. Thus, this year, the Commissioner has launched two formal education-related investigations: the first deals with the purchase of new schools by French-language school boards while the second will look at the insufficient offer of French-language post-secondary programs in Central and South-West Ontario.

Meanwhile, the health sector is not taking a backseat as the Commissioner plans to release a follow-up report to his *Special Report on French Language Health Services Planning in Ontario, 2009*.

2011 will also be a year of celebration. Indeed, in November it will be the 25th anniversary of the Legislative Assembly's unanimous adoption the *French Language Services Act*. To mark this milestone, the Commissioner's Office, in partnership with others, will hold a special symposium on the exact date of this important anniversary which falls on Friday, November 18, 2011.

The symposium will be an opportunity to assess the impact of the *FLSA*, to analyze its strengths and weaknesses and to evaluate the role of institutions for the

vitality and the strengthening of Ontario's Francophone community. It will also consider the roles and responsibilities of provincial and municipal governments, the development of the Franco-Ontarian identity in light of the new Inclusive Definition of Francophone (IDF) and will offer a forum for discussions about future perspectives. It will be open to both academics and the general public. Finally the Office of the Commissioner hopes this symposium will bring together a wide array of participants for honest discussions and constructive debates.

And looking ahead to the summer of 2015, Ontario — and more specifically communities in and around the Golden Horseshoe — will play host to the Pan-American and Para-panamerican Games. Although these games present an excellent opportunity to celebrate multiculturalism, it will be extremely important to ensure that Francophones participate and are closely associated with this international sporting event. Moreover, 2015 is also the year of celebrations of the 400th Anniversary of Francophone presence in Ontario.

While these games may seem a little far off on our calendars, the Commissioner strongly believes that "an ounce of prevention is worth a pound of cure." Thus, in the coming months, the Commissioner will be keeping a watchful eye on this issue to ensure that a rigorous process is in place that will guarantee that French-language services are respected during these games.

Finally, the implementation of the new Inclusive Definition of Francophone (IDF) will also be on the Commissioner's radar for next year.

APPENDIX

Government's response to recommendations of 2009-2010

Recommendation 1

The French Language Services Commissioner recommends that the Minister Responsible for Francophone Affairs ensure that:

- a. A clear directive on the active offer of French-language services is put in place by **Management Board of Cabinet**, within the year 2010-2011, applicable to all ministries and government agencies;
- b. The government implements an ongoing strategy to promote the offer of government services in French to Francophones throughout Ontario.

GOVERNMENT'S RESPONSE (PART A):

- The government agrees with the Commissioner that the active offer of French-language services is key to ensuring that ministries respect the spirit of the *French Language Services Act*. It has consistently supported and promoted its broad application since the 2006 "OPS Framework for Action: A Modern Ontario Public Service" was released.
- There are many examples of ministries demonstrating significant leadership in best practices in this area. The OPS Framework is a strategic roadmap developed by the **Secretary of Cabinet** every year for all ministries. In 2006, it referred specifically to the concept of active offer and stated that: "The OPS is effective in fulfilling its responsibilities under the *French Language Services Act* when Francophone members of the public are informed about available services in French, have access to these services and are satisfied with the quality of these services". Since that time, a number of resources have been developed, both at the ministry and at the corporate levels, to explain and promote the concept. For example, in 2008, the **Office of Francophone Affairs** developed the "Practical Guide for the Active Offer of French Language Services in the Ontario Government". In addition, the **Ministry of Government Services** is

ensuring the active offer of French Language Services in **ServiceOntario** through a French Language Services directive that was developed and distributed to all private ServiceOntario centres to inform them of their obligations under the *FLSA* and has ensured that all new procurements of services providers are contractually obligated to provide French Language Services.

- Notwithstanding, the government is committed to looking at ways to ensure the active offer of French Language Services across government. In this context, the **Minister Responsible for Francophone Affairs** has requested that the **Office of Francophone Affairs** begin the development of a plan to ensure that clear guidelines related to the active offer of French-language services are implemented consistently across government. Once the plan has been developed, the Minister will carefully consider how best to ensure that such guidelines are implemented by all government ministries and agencies, including recommending that **Management Board** issue a Directive to ministries and agencies to implement the guidelines. The government is committed to reporting back in a year on options for advancing this initiative.

APPENDIX: Government's response to recommendations of 2009-2010

GOVERNMENT'S RESPONSE (PART B):

- The government agrees that it is important to inform Franco-Ontarians of the availability of French-language services. In this respect, the Ontario government will explore ways of promoting French-language services in Ontario, within both the current fiscal environment and in accordance with the *Government Advertising Act (2004)*.
- Promoting the active offer of French-language services could be achieved by using a variety of creative approaches including social media. The government is committed to reviewing such approaches and to reporting back in a year on options for advancing this initiative.

Recommendation 2

The French Language Services Commissioner urges the Minister Responsible for Francophone Affairs to follow up on his recommendation, in 2010-2011, to create a regulatory framework for services offered by third parties, in order to eliminate the existing loopholes.

GOVERNMENT'S RESPONSE:

- The Ontario government recognizes the importance of ensuring compliance by ministries with the *French Language Services Act*, including for those services provided on behalf of the government and its agencies by third parties and is committed to examining the development of a regulation to address this important issue.

Recommendation 3

The French Language Services Commissioner recommends that the Minister Responsible for Francophone Affairs ensure that any statute authorizing privatization clearly contains sections specifically indicating that the rights prescribed in the *French Language Services Act* shall continue to apply.

GOVERNMENT'S RESPONSE:

- The government takes very seriously its obligations to ensure the delivery of quality French Language Services. At this time, the government has no plans to privatize existing public services. Should the eventua-

lity arise, the Commissioner's recommendation will be given careful consideration.

Recommendation 4

In light of the role played by the province in funding the public health units and various public health initiatives, as well as in developing standards and priorities in response to the specific needs of Francophones:

The French Language Services Commissioner recommends that, when all or part of their funding comes from the province, the **Ministry of Health and Long-Term Care** require public health units to implement the *French Language Services Act*.

GOVERNMENT'S RESPONSE:

- The Ministry acknowledges the Commissioner's concern regarding the availability of French-language public health services to Francophone Ontarians. The Ministry is committed to acting on this issue.
- The Ministry continues to work with Ontario's 36 Public Health Units to rebuild capacity in key areas per the government's public health renewal agenda. Prior to considering requiring Public Health Units to implement the *French Language Services Act (FLSA)*, additional analysis of funding, capacity and policy direction is needed. The Ministry is currently undertaking a review of provincial funding for public health services and programs. This review will be completed in 2012 and key inputs from this process are required before the Ministry can take a further decision about the implementation of the *FLSA* by Public Health Units.
- To gain a better understanding about key issues that impact a health unit's ability to plan for and deliver French-language services, the Ministry surveyed Public Health Units in May 2010. The results of this survey are being used by an inter-ministerial committee (established in September 2010) to develop strategies and supports for the field to improve the provision of French-language public health services. For example, the Ministry is committed to developing a central hub to facilitate the sharing of resources, tools and expertise among

APPENDIX: Government's response to recommendations of 2009-2010

Public Health Units. Various models are currently under consideration.

- Other measures already taken to ensure the provision of French-language services by the Public Health sector include:
 - Specifying in the Ontario Public Health Standards (OPHS) that public health programs and services must be based on the needs of communities, including those of the Francophone population. Further, the standards underline the requirement for Public Health Units to bear in mind that in keeping with the *FLSA*, services in French should be made available to French-speaking Ontarians located in designated areas;
 - Releasing a guide to Public Health Units regarding the provision of programs and Services to French-speaking Ontarians;
 - Developing an inventory of available French-language resources for distribution to Public Health Units, Francophone Community Health Centres and Francophone stakeholders;
 - Ensuring that all existing and future public health documents posted on the Ministry's website are accessible in both languages.

Recommendation 5

Whereas Children's Aid Societies must comply with the provisions of the French Language Services Act and in light of the fact that their clientele are often vulnerable:

The French Language Services Commissioner recommends that the **Ministry of Children and Youth Services**:

- a. Ensure that Children's Aid Societies actively offer French-language services throughout the province;
- b. In cooperation with the Children's Aid Societies, create a network or, at the very least a directory, of French-language service providers for the benefit of those Children's Aid Societies that are currently unable to offer these services themselves.

GOVERNMENT'S RESPONSE (PART A):

- MCYS takes its obligations very seriously regarding the need for services to be provided in French. The Ministry has created a working group to identify barriers to the provision of French-language services, develop information sharing strategies, and provide opportunities to build on the successes of communities that have increased their capacity to provide French-language services.
- The Ministry will continue to work in collaboration with the 53 independently operated Children's Aid Societies across the province to support improvements to the delivery of services to French-speaking clients, and more effective response to the needs of Francophone citizens.
- We will continue to work with our transfer payment partners, including Children's Aid Societies, to support the provision of high quality services that meet the needs of Francophone children and families.

GOVERNMENT'S RESPONSE (PART B):

- The Ministry takes very seriously, its obligations to ensure the provision of services in French, by transfer payment agencies delivering services to vulnerable children and youth, including Children's Aid Societies across Ontario.
- The Ministry created a working group to identify barriers in the provision of French-language services in the child welfare sector and to leverage approaches undertaken by communities/organizations that have a demonstrated track record of successfully increasing French Language Services capacity. The group's report will be finalized by the end of January 2011. This will form the basis for a concrete action plan to improve French language services provision across transfer payment agencies by mid-February 2011.
- In view of the significant transformation underway in the child welfare sector, the Ministry will take a staged approach to implement the changes necessary to address the recommendations of the Commissioner:

APPENDIX: Government's response to recommendations of 2009-2010

- The Ministry has compiled a high level inventory of French Language Services capacity in CAS, which it will validate with regional offices and individual CAS as required. Regional offices will work with each CAS to find ways to address French Language Services gaps.
- In collaboration with the Commission to Promote Sustainable Child Welfare, the Ministry will take advantage of the opportunities presented by the upcoming consolidation of CAS to ensure appropriate planning for and implementation of French-language services in all new CAS agencies, and particularly those involving CAS already designated under the *FLSA*.
- The Ministry, in consultation with CAS, will examine approaches to establishing a French Language Services network, including a directory of French-language service providers, to support CAS which are not yet in a position to provide the necessary services in French. This work will be completed by March 31, 2011.

Recommendation 6

The French Language Services Commissioner recommends that the **Minister of Health and Long-Term Care** issue a regulation to ensure that Community Care Access Centres comply with the obligations under the *French Language Services Act*.

GOVERNMENT'S RESPONSE

- The Ministry of Health and Long-Term Care appreciates the Commissioner's concern regarding the declassification of Community Care Access Centres (CCACs) as government agencies.
- The Ministry is committed to developing options on how to ensure the 14 new CCACs comply with the intent of the *FLSA*. The Ministry is currently exploring regulatory vehicles to achieve this. It is anticipated that the Ministry will have a final decision on the options by the end of fall 2010 and will be moving forward quickly.
- The Ministry is currently working with the Ontario Association of Community Care Access Centres (OACCAC) to improve its Information and Referral Service (I & R). The service offers a self-serve Web Search Tool and a live answer Contact Centre. The Ministry supports the acceleration of the improvement of the I&R Service's functionality in French. It is expected that measurable improvements to the telephone service should be in place by the end of the 2010-11 fiscal year.

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