

Subject: Admission Based on Language
Effective: September 1, 2004
Revised:

1.0 PURPOSE

The policy provides assistance in interpreting the *Education Act* as it relates to admission to an English or French school based on linguistic proficiency and entitlement.

2.0 APPLICATION

This policy applies to the admission of students to New Brunswick public schools in both linguistic sectors.

3.0 DEFINITIONS

None

4.0 LEGAL AUTHORITY

Education Act

Section 5 – Entitlement based on linguistic proficiency

5(1) A person entitled to free school privileges under section 8 is entitled

- (a) if the person has sufficient linguistic proficiency in only one of the official languages of New Brunswick, to receive those privileges in a school district, school and class organized in that official language,
- (b) if the person has sufficient linguistic proficiency in both of the official languages of New Brunswick, to receive those privileges in a school district, school and class organized in either of the official languages,
- (c) if the person does not have sufficient linguistic proficiency in either of the official languages of New Brunswick, to receive those privileges in a school district, school and class organized in either of the official languages, or
- (d) notwithstanding paragraph (a), if the person's parent has rights under section 23 of the *Canadian Charter of Rights and Freedoms*, to receive those privileges in a school district, school and class organized in the French language.

5(2) Where a superintendent has a doubt as to the linguistic proficiency of a person, the superintendent shall administer such tests as the Minister considers necessary to determine the linguistic proficiency of the person.

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5(3) A District Education Council shall provide supplementary educational programs and services for a pupil admitted by virtue of paragraph (1) (d) to a school organized in the French language if, in the opinion of the superintendent concerned, such supplementary educational programs and services are required to improve the linguistic skills of that pupil to a level necessary to satisfactorily participate in the instructional program in which that pupil is placed under section 11.

Section 11 – Placement of pupils

11(1) The superintendent concerned shall determine the placement of pupils in classes, grades, programs, services and schools according to the needs of the pupils and the resources of the school district.

Section 4 - Organization of school districts, schools and classes

4(5) The educational programs and educational services provided within a school district, other than second language instruction, shall be developed, implemented and delivered by persons who speak the official language of the school district and so as to preserve and promote that language and culture.

4(6) Notwithstanding any other provision of this Act, the educational programs and educational services provided within a school district organized in one official language shall not be provided in the other official language for persons who speak that other official language.

Canadian Charter of Rights and Freedoms

Section 23 - Minority Language Educational Rights

23(1) Citizens of Canada

a) whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside; or,

b) who have received their primary school instruction in Canada in English or French and reside in a province where the language in which they received that instruction is the language of the English or French linguistic minority population of the province,

have the right to have their children receive primary and secondary school instruction in that language in that province.

(2) Citizens of Canada of whom any child has received or is receiving primary or secondary school instruction in English or French in Canada, have the right to have all their children receive primary and secondary school instruction in the same language.

(3) The right of citizens of Canada under subsections (1) and (2) to have their children receive primary and secondary school instruction in the language of the English or French linguistic minority population of a province

a) applies wherever in the province the number of children of citizens who have such a right is sufficient to warrant the provision to them out of public funds of minority language instruction; and,

b) includes, where the number of those children so warrants, the right to have them receive that instruction in minority language educational facilities provided out of public funds.

5.0 GOALS / PRINCIPLES

5.1 New Brunswick's public education system is organized and administered on the principle of linguistic duality which recognizes the existence of two distinct education sectors for the purpose of promoting and preserving each official linguistic community.

5.2 The French Immersion Program is provided exclusively for students who wish to develop a degree of proficiency in their second official language.

5.3 There is no parental right to register a student who is already able to function in the French language in a French Immersion program. Such a placement would be counter to the student's right to appropriate instruction and may cause undue disadvantage to the other students in the program.

6.0 REQUIREMENTS / STANDARDS

6.1 Admission to English Language Schools

6.1.1 On the basis of section 5 of the [Education Act](#) and section 23 of the [Canadian Charter of Rights and Freedoms](#), students shall be admitted into English language schools given any of the following conditions:

(a) the student is proficient in English;

(b) the student is proficient in both official languages; or

(c) the student is proficient in neither official language.

6.1.2 The superintendent shall not admit a French-speaking student or bilingual student to the French Immersion Program in English language schools.

6.2 Admission to French Language Schools

On the basis of section 5 of the *Education Act* and section 23 of the *Canadian Charter of Rights and Freedoms*, the superintendent shall admit students into a French school given any of the following conditions:

- (a) the student is proficient in French;
- (b) the student is proficient in both official languages;
- (c) the student is proficient in neither official language;
- (d) the student's parent is a Canadian citizen and the student or his/her sibling(s) have received or are receiving primary or secondary school instruction in French anywhere in Canada; or
- (e) the student's parent is a Canadian citizen living in New Brunswick
 - whose first language learned and still understood is French, or
 - who received his/her primary school instruction in Canada in French.

When criteria (d) or (e) are met, the student is eligible to be admitted into a school in the French school system in New Brunswick even if the student is not proficient in French.

6.3 Right to appeal

Parents shall be informed of their right to appeal a decision in respect of placement of the student, as stated in section 11(3) of the *Education Act*.

7.0 GUIDELINES / RECOMMENDATIONS

- 7.1 Although it is not necessary to administer linguistic proficiency tests to all entering students, in some cases such testing may provide evidence to assist the district in making the proper decision.

8.0 DISTRICT EDUCATION COUNCIL POLICY-MAKING

Not Applicable

9.0 REFERENCES

The *Canadian Charter of Rights and Freedoms* website:
http://canada.justice.gc.ca/Loireg/charte/const_en.html

10.0 CONTACTS FOR MORE INFORMATION

Department of Education – Policy and Planning Branch
(506) 453-3090

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