

DRAFT

Regulation respecting the criteria and weighting used to consider instruction in English received in a private educational institution not accredited for the purposes of subsidies

Charter of the French language
(R.S.Q., c. C-11, s. 73.1)

1. The purpose of this Regulation is to determine the analysis framework to be used for eligibility requests referred to in section 2 in order to assess whether instruction received in English constitutes the major part of the instruction received by a child.

2. This Regulation applies to all requests for eligibility to receive instruction in English, submitted under paragraphs 1 and 2 of section 73 of the *Charter of the French language*, in which the child concerned received instruction in English in Québec after 1 October 2002 in one or more private educational institutions not accredited for the purposes of subsidies that hold a permit under the *Act respecting private education* (R.S.Q. c. E-9.1).

This regulation does not apply to eligibility requests for a child who received all or part of his or her instruction in English in another province, in a school under the jurisdiction of an English language school board in Québec or in a private educational institution accredited for the purposes of subsidies under the *Act respecting private education*.

Nor does this Regulation apply to instruction received in English in an educational institution described in the first paragraph that ceased operating during the period from 1 October 2002 to 22 October 2010.

3. The criteria and weighting to be used in assessing whether instruction received in English constitutes the major part of the instruction received by a child are described in the Schedule.

All divisions of the Schedule are applicable to eligibility requests referred to in section 2, whether submitted under paragraph 1 or paragraph 2 of section 73 of the *Charter of the French language*, except for Divisions 2.2 and 2.3 of the Schedule, which do not apply to requests submitted under paragraph 1 of section 73 of the Charter.

4. For an eligibility request submitted under section 2 to be granted, a passing score of 15 points, calculated according to the weighting set out in the Schedule, must be attributed to the request.

An eligibility request that is attributed this 15-point passing score is nonetheless subject to all other applicable conditions, including the requirement to provide proof of citizenship or proof of filiation.

5. The applicable criteria and weighting are grouped in the Schedule under the three following divisions:

(1) *“Schooling”*: The duration of instruction received in English is considered in order to determine whether there is a genuine commitment to pursue studies in English, given the environment in which the schooling invoked in support of the request took place;

Among other elements, the following are considered: the different types of educational institutions attended and the characteristics of their enrollments that exemplify their relationship with the Québec anglophone minority, as well as any special educational projects or programs of study the institution offers to meet the needs of certain groups of students;

(2) *“Consistent, true commitment”*: The family context is considered as are other elements of the child's environment that may shed light on the authenticity of the commitment to an English-language education, especially in terms of the continuity and consistency of this commitment;

(3) *“Specific situation and overall education”*: Other related or distinct contextual elements that may shed light on the authenticity of the commitment assessed.

This division makes it possible to complete, enrich or nuance the assessments made under the previous divisions, as needed, according to the circumstances and contexts specific to the case examined. Specifically, this division concerns elements other than those explored under the previous divisions, such as what prompted the choice of or change in educational institution, when this choice or change was made during the child's schooling, the instruction received in a language other than English by the parents of the child concerned, the importance of continuity in the context of special programs as well as the proportion of courses received in each language of instruction.

6. If the instruction invoked in support of an eligibility request was received in private educational institutions that have different classifications, Division 1.1 of the Schedule is applied to the most significant portion of the instruction received. However, if no instruction clearly stands out, points are attributed to each educational institution attended as though it had provided the child's entire schooling and the average number of points for these institutions is retained.

7. When interpreting and applying the Schedule, in particular Division 3, it is important, among other elements, to make a distinction between cases that demonstrate a genuine commitment to an English-language education, and cases where attendance at a private educational institution described in the first paragraph of section 2 that could denote a willingness to create an artificial schooling path in order to circumvent the *Charter of the French language*.

8. In this Regulation:

"*private educational institution*" means a private educational institution described in the first paragraph of section 2 that offers elementary- or secondary-level instructional services, or both, and that offers one or more courses in English, in addition to the English course;

"*type A English-language institution*" means a private educational institution

(1) whose percentage of enrollments for the first three years of the elementary and secondary levels who hold a certificate of eligibility or a special authorization to receive instruction in English under the *Charter of the French language* is 60% or higher, the percentage for the elementary and secondary levels being determined separately; or

(2) that provides elementary- and secondary-level instruction and satisfies the following two criteria:

a) 70% or more of its elementary school enrollments continue to attend the institution throughout their secondary studies;

b) 70% or more of the hours of instruction are provided in English, at both the elementary and secondary levels, the proportion of English instruction having been assessed and certified by a member of a professional order of accountants authorized by law to audit books or accounts;

"*type B English-language institution*" means a private educational institution that is not a type A or type C institution;

"*type C institution*" means a private educational institution that is specially dedicated to providing bilingual or multilingual learning to students in the context of an immersion or other program and less than 60% of whose enrollments hold a certificate of eligibility or special authorization to receive instruction in English under the *Charter of the French language*;

"*French-language institution*" means a school under the jurisdiction of a French-language school board or an institution, subsidized or not, governed by the *Act respecting private education* whose elementary- and secondary-level courses are offered in French, with the exception of the English course.

9. Private educational institutions that have been providing instructional services for three years or less and that were not created following the division or merger of existing private educational institutions are temporarily considered, during their first three years of operation, as type C educational institutions whose percentage of enrollments who hold a certificate of eligibility or a special authorization to receive instruction in English is between 0% and 25%.

10. For the purposes of this Regulation, the percentages must be calculated annually for each educational institution by averaging the percentages for the previous three years.

In the case of educational institutions created following the division or merger of existing educational institutions, the calculation must take into account the percentage of previous years for the educational institution or institutions from which they originate.

The percentage of the enrollments who are eligible to receive instruction in English is calculated based on the enrollments of the first three grade levels offered by the institution. The percentage is determined separately for the elementary and secondary levels of the same institution. Data from the Ministère de l'Éducation, du Loisir et du Sport is used to calculate the percentage; the Ministère makes

available the data as well as the classification assigned to educational institutions on the basis of the data.

Notwithstanding the first paragraph, during the first three years of application of this Regulation, only the percentages for the previous two school years are taken into account.

11. For the period from 22 October 2010 to 1 July 2011, and for the 2011-2012 school year, the percentage of a private educational institution's elementary school enrollments who hold a certificate of eligibility or a special authorization to receive instruction in English under the *Charter of the French language* is the higher of

(1) the percentage determined in accordance with section 10; and

(2) the percentage that corresponds to the average of the percentages of elementary school enrollments who in the previous two years attended, at the secondary level, a school under the jurisdiction of an English-language school board or a private English educational institution accredited for the purposes of subsidies under the *Act respecting private education*, or the same institution.

12. The percentage determined for the period from 22 October 2010 to 1 July 2011 is presumed to have remained the same since 1 October 2002 for the elementary or secondary school enrollments of the same institution, or, if the institution began operating after that date, it is presumed that the percentage determined remained the same since it began operating.

13. This Regulation comes into force on 22 October 2010.

SCHEDULE
(Section 3)

1. Schooling

1.1 Duration of English school attendance invoked in support of the eligibility request, according to the type of educational institution and the characteristics of its enrollments

Type A English-language institution

Total school attendance	Type A English-language institution	Weighting
1 year	elementary or secondary	+2
2 years	elementary secondary	+6 +8
3 or 4 years	elementary	+15
3 years	secondary	+15
5 years	elementary	+17
4 to 5 years	elementary and secondary	+18
6 years	elementary	+20
4 or 5 years	secondary	+25
6 to 9 years	elementary and secondary	+30
10 or 11 years	elementary and secondary	+35

Type B English-language institution

Total school attendance	Type B English-language institution	Weighting
	Institution where 0% to 25% of the enrollments hold a certificate of eligibility or a special authorization to receive instruction in English:	
2 to 3 years	elementary or secondary, or both	+3
4 to 6 years	elementary or secondary, or both	+8
7 to 11 years	elementary and secondary	+13
	Institution where 26% to 40% of the enrollments hold a certificate of eligibility or a special authorization to receive instruction in English:	
2 to 3 years	elementary or secondary, or both	+4
4 to 6 years	elementary or secondary, or both	+10
7 to 11 years	elementary and secondary	+16
	Institution where 41% to 59% of the enrollments hold a certificate of eligibility or a special authorization to receive instruction in English:	
2 to 3 years	elementary or secondary, or both	+5
4 to 6 years	elementary or secondary, or both	+13
7 to 11 years	elementary and secondary	+21

Type C institution

Total duration of school attendance	Type C institution	Weighting
2 to 3 years 4 to 6 years 7 to 11 years	Institution where 0% to 25% of the enrollments hold a certificate of eligibility or a special authorization to receive instruction in English: elementary or secondary, or both elementary or secondary, or both elementary and secondary	+2 +5 +8
2 to 3 years 4 to 6 years 7 to 11 years	Institution where 26% to 40% of the enrollments hold a certificate of eligibility or a special authorization to receive instruction in English: elementary or secondary, or both elementary or secondary, or both elementary and secondary	+3 +7 +11
2 to 3 years 4 to 6 years 7 to 11 years	Institution where 41% to 59% of the enrollments hold a certificate of eligibility or a special authorization to receive instruction in English: elementary or secondary, or both elementary or secondary, or both elementary and secondary	+4 +9 +14

1.2. Type and availability of special programs of study

Special mission or purpose	Weighting
Attendance at an institution most of whose enrollments are students requiring special services because of a physical or mental handicap, behavioural problems, social maladjustments, learning difficulties or other similar problems	0 to +5

2. Consistent, true commitment

2.1. Changes or inconsistencies in terms of the language of instruction during the schooling invoked in support of the eligibility request

Length of interruption or change in language of instruction or school	French-language institution*	Weighting
1 year	elementary	(-3)
2 years	elementary	(-6)
3 or more years	elementary	(-5/per year for each additional year after the first 2 years)
1 year	secondary	(-5)
2 or more years	secondary	(-8/per year for each additional year after the first 2 years)

*** Enrollment in a French-language institution is not considered if motivated by the availability of special services needed because of a physical or mental handicap, behavioural problems, social maladjustments, learning difficulties or other similar problems. Similarly, the period of enrollment in a French-language institution is to be disregarded if ascribable to the student's participation in a special program of studies with limited access or availability, such as sports-study or music-study programs.**

2.2 Continued commitment, changes or inconsistencies in siblings’ school attendance*

* “Siblings” refers to brothers and sisters who were studying in elementary or secondary school during the period when the child concerned was also enrolled in elementary or secondary school, or who received such instruction during the seven years before or after the child concerned received elementary or secondary school instruction.

Siblings	Language of instruction and type of educational institution	Weighting
No siblings		--
1 or siblings	Siblings attended a type A English-language institution at the elementary or secondary level for a total of 1 year or less of instruction.	+2
1 or more siblings	Siblings attended a type A English-language institution at the elementary or secondary level for a total of 2 years of instruction.	+5
1 or more siblings	Siblings attended a type A English-language institution at the elementary or secondary level for a total of 3 or 4 years of instruction.	+8
1 or more siblings	Siblings attended a type A English-language institution at the elementary or secondary level for a total of 5 to 8 years of instruction.	+15
1 or more siblings	Siblings attended a type A English-language institution at the elementary or secondary level for a total of 9 or more years of instruction.	+20
1 or more siblings	Siblings attended a French-language institution** at the elementary or secondary level for a total of 1 year or less of instruction.	(-2)
1 or more siblings	Siblings attended a French-language institution** at the elementary or secondary level for a total of 2 years of instruction.	(-5)
1 or more siblings	Siblings attended a French-language institution** at the elementary or secondary level for a total of 3 or 4 years of instruction.	(-15)
1 or more siblings	Siblings attended a French-language institution** at the elementary or secondary level for a total of 5 to 8 years of instruction.	(-20)
1 or more siblings	Siblings attended a French-language institution** at the elementary or secondary level for a total of 9 or more years of instruction.	(-30)

**** Enrollment in a French-language institution is not considered if motivated by the availability of special services needed because of a physical or mental handicap, behavioural problems, social maladjustments, learning difficulties or other similar problems. Similarly, the period of enrollment in a French-language institution is to be disregarded if ascribable to the student’s participation in a special program of studies with limited access or availability, such as sports-study or music-study programs.**

2.3. Continued and consistent commitment in relation to the parents’ mobility***

*** In this division, “parents” refers to the parents of the child concerned for the purposes of an eligibility request submitted under paragraph 2 of section 73 of the Charter of the French language.

Length of residency elsewhere in Canada (without receiving elementary or secondary-level instruction in French)	Parents	Weighting
More than 10 years out of the 20 years preceding the beginning of the schooling invoked in support of the eligibility request	1 parent	+5
	2 parents	+8

3. Specific situation and overall education

Related or distinct contextual elements that may shed light on the authenticity of the commitment assessed	-8 to +8
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