



MINUTES OF THE MEETING HELD ON September 14, 2023

**Lester B Pearson School Board Boardroom
1925 Brookdale Avenue, Dorval, QC H9P 2Y7**

Member Organization	Name	
School Board Representatives	Stewart Aitken – WQSB Mat Canavan– LBPSB Lynda da Silveira – SWLSB Deborah Foltin – ESSB (ZOOM) Stéphane Lagacé - CQSB Eva Lettner - ETSB Colleen Lauzier – RSB Anna Sanalidro – EMSB James Walker – NFSB	Regrets
Complementary services:	Lisa Falasconi - WQSB (ZOOM) Marylène Perron - CQSB	
Adult Education and Vocational Training	Mario Argiropoulos – EMSB Angela Spagnolo – EMSB	Regrets
ADGESBQ - School Board Directors General	Cindy Finn	
CEGEPS	Terry Kharyati	Partial
A.A.E.S.Q.	Christie Brown Anna Villalta – (ZOOM)	
I.S.A.T.	Sydney Benudiz a.m. (ZOOM p.m.) Antonia Zannis	
QPAT	Andrew Adams Jennifer Baltuonis Brian Benoit Mike Di Raddo (ZOOM p.m.)	Regrets
PROFESSIONALS' ASSOCIATIONS	Caroline Erdos Paul Kettner	Partial
Special-status Boards Educational Services Representatives	Cree S.B. – Edith Sam Kativik S.B. – t.b.a Littoral S.B. – Katia Tardif	
English-sector Universities	Bishops - Avril Aitken Concordia – Nathalie Rothschild Hannah Chestnutt – McGill (ZOOM)	Regrets p.m.

Non-voting members		
Assistant Deputy Ministers	Marie-Josée Blais	Regrets
DSREA	George Lemieux (ZOOM – partial) t.b.a.	
LEARN	Christine Truesdale	Partial
LCEEQ Coordinator	John Ryan	
GUESTS		
Juristes Power Law		

1. WORDS OF WELCOME

Cindy Finn welcomed everyone to the meeting with particular reference to new members– Colleen Lauzier, Antonia Zannis, and Paul Kettner., followed by a land acknowledgement.

2. APPROVAL OF THE MINUTES

Resolution #109-2023-09-14

It was moved by **Sidney Benudiz** and seconded by **Lynda da Silveira** and unanimously resolved that the Minutes of the Meeting of June 1, 2023, be approved as circulated.

3. Bill 40 – The Court Outcome and Implications for Related Legislation

Members of Juristes Power Law, Mark Power, Audrey Mayrand, and Perri Ravon having successfully won at the Supreme Court level, provided an update related to the decision on Bill 40 and the possible implications of other related legislation (Bill 21, 96 and 23).

The presentation emphasized the importance of Section 23 of the Canadian Charter of Rights and Freedoms, primarily the right to manage and control education in a minority language setting. Bill 40 was never applied in the English-speaking sector because of an earlier judgement to stay proceedings. Given that the Quebec Government has appealed the ruling of the Supreme Court everything is status quo until the appeal is heard and a judgement rendered. This could take years to resolve.

As a service to the broader Educational Community, the Directors General of the English School Boards and representatives of QPAT and AAESQ were invited to the presentation as observers. There were questions from LCEEQ members with the representatives of the law firm providing as much clarification as possible as to what is known at the current time related to the various legislations.

A “read only” version of the PowerPoint used by our guests is contained in Appendix I.

4. Bill 23 – Strategic Plan 2023-2026

Draft Six of the Strategic Plan 2023-2026 was circulated and discussed in small groups. Members were asked to suggest amendments and record these on the working document.. The intent was to take these into consideration in preparing a final draft for presentation at the November meeting.

5. LCEEQ BUSINESS ITEMS

Report of the ADM

George Lemieux, Interim Director of DSREA, provided the report in lieu of Marie-Josée Blais who was unable to attend as she was meeting with the Deputy Minister.

He reported that there was an administrative reorganization within the Ministry. Marie-Josée Blais is still responsible for English admissibility and Relations extérieures.

DSREA Report

George Lemieux reported that Cheryl Cantin will return to DSREA in a permanent capacity. There will be a new internal structure within the Department with the naming of a Director General. News to follow about the new organigram.

When asked about the timeline for Bill 23, he responded that he had no further information at this time.

There were issues expressed about the time required by the Ministry to process requests for eligibility to English schools. He reported that there were numerous requests and a shortage of personnel to process these. Efforts are being made to increase the number of people reviewing requests so the backlog should be cleared up shortly.

Steering Committee Appointment – Vice President

When the new Steering Committee was formed in Spring 2023, Cindy Finn was designated as President but none of the other Directors of the LCEEQ Corporation were designated as Vice-President.

Resolution #110-2023-09-14

It was moved by **Cindy Finn** and seconded by **Matt Canavan** and unanimously approved that **Christie Brown**, an LCEEQ Director of the Corporation, be appointed as Vice-President.

Audited Financial Report

Steve Joyal of Charrier Joyal joined the meeting to present the audited financial report for 2022-2023.

Resolution # 111 -2023-09-14

It was moved by **Mario Argiropoulos** and seconded by **Stéphane Lagacé** and carried unanimously that the Independent Auditor's Report as of June 30, 2023 be adopted as deposited.

Conference 2024

John Ryan reminded members that the Annual Conference in February 2024 will be held in person at the Palace Convention Centre in Laval.

The call for Local Proposals is now open. He reminded all members at the table that the success of the Conference depends on each member recruiting presenters within her/his organization.

Annual Report

John Ryan reported that the Annual Report for 2022-2023 was in production. A copy would be sent to members prior to the November meeting. The intent would be to adopt the report at that meeting.

Onboarding Process Subcommittee

An outcome of the new Strategic Plan was to improve the process of welcoming new members and to clarify for existing members the expectation held of them in the position. Members were asked to serve on an “Onboarding Subcommittee” to investigate the means to accomplish such. Cindy Finn, Deb Foltin, and Nathalie Rothschild accepted to join John Ryan. Geoff Hipps who was instrumental in helping develop the proposed Strategic Plan will be invited to participate.

Topic Considerations for 2023-2024

In order to help the Steering Committee plan for the coming year members were invited to suggest items of interest for future meetings. It must be remembered that on every meeting Agenda there is an opportunity to include items of interest for the subsequent meeting but the exercise in question provided suggestions for longer-term planning. Suggestions included:

- National Ombudsman – clarity on the process for the English sector
- Transition at the different levels: Pre-school – Elementary, Elementary to Secondary, Secondary to Post-secondary
- CCQ course – training and availability of materials
- Artificial Intelligence... Impact on Education
- Course in the Vocational Sector – University of Sherbrooke offerings

6. Adjournment

On a motion by Mario Argiropoulos the meeting was adjourned at 2:00.

Appendix I

**Section 23 of
the *Canadian Charter* and
recent litigation by Québec's
anglophone community**

Mark Power, Perri Ravon and Audrey Mayrand

Thursday, September 14, 2023



Ottawa — Vancouver — Montréal

Roadmap

1. Section 23 of the *Canadian Charter*
2. How the anglophone community is relying on s. 23 to protect its culture and some of its institutions
 - a) Bill 40 - School board governance (2020)
 - b) Bill 21 - Religious symbols (2019)
 - c) Bill 96 - *Charter of the French language* (2022)
3. What is the National Assembly up to?
 - a) Bill 23 - Government power to appoint Directors General and annul school board decisions (2023)
4. Stay tuned: 2021 Census numbers



Section 23

Section 23 of the *Canadian Charter* includes a right of management and control over language and culture in public English schools

1982

Section 23

Whereas Canada is founded upon principles that recognize the supremacy of God and the rule of law:

Guarantee of Rights and Freedoms

1. The Canadian Charter of Rights and Freedoms guarantees the rights and freedoms set out in it, subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

Fundamental Freedoms

2. Everyone has the following fundamental freedoms: (a) freedom of conscience and religion; (b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication; (c) freedom of peaceful assembly; and (d) freedom of association.

Democratic Rights

3. Every citizen of Canada has the right to vote in an election of members of the House of Commons or of a legislative assembly and to be qualified for membership therein. (1) No House of Commons and no legislative assembly shall continue for longer than five years from the date fixed for the return of the writs at a general election of its members. (2) In time of real or apprehended war, invasion or insurrection, a House of Commons may be continued by Parliament and a legislative assembly may be continued by the legislature beyond five years if such continuation is not opposed by the votes of more than one-third of the members of the House of Commons or the legislative assembly, as the case may be. 4. There shall be a sitting of Parliament and of each legislature at least once every twelve months.

Mobility Rights

6. (1) Every citizen of Canada has the right to enter, remain in and leave Canada. (2) Every citizen of Canada and every person who has the status of a permanent resident of Canada has the right (a) to move to and take up residence in any province; and (b) to pursue the gaining of a livelihood in any province. (3) The rights specified in subsection (2) are subject to (a) any laws or practices of general application in force in a province other than those that discriminate among persons primarily on the basis of province of present or permanent residence; and (b) any laws providing for reasonable mobility requirements as a qualification for the receipt of publicly provided social services. (4) Subsection (2) and (3) do not preclude any law, program or activity that has as its object the authorization in a province of conditions of residence in that province who are socially or economically disadvantaged if the rate of employment in that province is below the rate of employment in Canada.

Legal Rights

7. Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice. 8. Everyone has the right to be secure against unreasonable search or seizure. 9. Everyone has the right not to be arbitrarily detained or imprisoned. 10. Everyone has the right on arrest or detention (a) to be informed promptly of the reasons therefor; (b) to retain and instruct counsel without delay and to be informed of that right; and (c) to have the validity of the detention determined by way of habeas corpus and to be released if the detention is not lawful. 11. Any person charged with an offence has the right (a) to be informed without unreasonable delay of the specific offence; (b) to be tried within a reasonable time; (c) not to be compelled to be a witness in proceedings against that person in respect of the offence; (d) to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal; (e) not to be denied reasonable bail without just cause; (f) except where arrest of an offence under military law is required before a military tribunal, to the benefit of trial by jury where the maximum punishment for the offence is imprisonment for five years or a more severe punishment; (g) not to be found guilty on account of any act or omission unless, at the time of the act

CANADIAN CHARTER OF RIGHTS AND FREEDOMS



or omission, it constituted an offence under Canadian or international law or was criminal according to the general principles of law recognized by the community of nations; (h) if finally found guilty and punished for the offence, not to be tried or punished for it again; and (i) if found guilty of the offence and if the punishment for the offence has been varied between the time of conviction and the time of sentencing, to the benefit of the lesser punishment. 12. Everyone has the right not to be subjected to any cruel and unusual treatment or punishment. 13. A witness who testifies in any proceedings has the right not to have any incriminating evidence so given used to incriminate that witness in any other proceedings, except in a prosecution for perjury or for the giving of contradictory evidence. 14. A party or witness in any proceedings who does not understand or speak the language in which the proceedings are conducted or who is deaf has the right to the assistance of an interpreter.

Equality Rights

15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination, and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or on mental or physical disability. (2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

Official Languages of Canada

16. (1) English and French are the official languages of Canada and have equality of status and equal rights and privileges as to their use in all institutions of the Parliament and government of Canada. (2) English and French are the official languages of New Brunswick and have equality of status and equal rights and privileges as to their use in all institutions of the legislature and government of New Brunswick. (3) Nothing in this Charter limits the authority of Parliament or a legislature to advance the equality of status or use of English and French. (4) The English language community and the French linguistic community in New Brunswick have equality of status and equal rights and privileges, including the right to distinct educational institutions and such distinct cultural institutions as are necessary for the preservation and promotion of those communities. (5) The role of the legislature and government of New Brunswick is to preserve and promote the status, rights and privileges referred to in subsection (4) as affirmed. 17. (1) Everyone has the right to use English or French in any debate and other proceedings of Parliament. (2) Everyone has the right to use English or French in any debate and other proceedings of the legislature of New Brunswick. 18. (1) The statutes, records and journals

of Parliament shall be printed and published in English and French and both language versions are equally authoritative. (2) The statutes, records and journals of the legislature of New Brunswick shall be printed and published in English and French and both language versions are equally authoritative. 19. (1) Either English or French may be used by any person in, or in any pleading in or process issuing from, any court established by Parliament. (2) Either English or French may be used by any person in, or in any pleading in or process issuing from, any court of New Brunswick. 20. (1) Any member of the public in Canada has the right to communicate with, and to receive available services from, any head or central office of an institution of the Parliament or government of Canada in English or French, and has the same right with respect to any other office of any such institution where (a) there is a significant demand for communication with and services from that office in such language; or (b) due to the nature of the office, it is reasonable that communication with and services from that office be available in both English and French. (2) Any member of the public in New Brunswick has the right to communicate with, and to receive available services from, any office of an institution of the legislature or government of New Brunswick in English or French. 21. Nothing in sections 16 to 20 abrogates or derogates from any right, privilege or obligation with respect to the English and French languages, or either of them, that exists or is continued by virtue of any other provision of the Constitution of Canada. 22. Nothing in sections 16 to 20 abrogates or derogates from any legal or customary right or privilege acquired or enjoyed either before or after the coming into force of this Charter with respect to any language that is not English or French.

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 to 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 their children receive that instruction in minority language education facilities provided out of public funds.

Enforcement

24. (1) Anyone whose rights or freedoms, as guaranteed by this Charter, have been infringed or denied may apply to a court of competent jurisdiction to obtain such remedy as the court considers appropriate and just in the circumstances. (2) Where, in proceedings under subsection (1), a court concludes that evidence was obtained in a manner that infringed or denied any rights or freedoms guaranteed by this Charter, the evidence shall be excluded if it is established that, having regard to all the circumstances, the admission of it in the proceedings would bring the administration of justice into disrepute.

General

25. The guarantee in this Charter of certain rights and freedoms shall not be construed so as to abrogate or derogate from any aboriginal, treaty or other rights or freedoms that pertain to the aboriginal peoples of Canada including (a) any rights or freedoms that have been recognized by the Royal Proclamation of October 4, 1763; and (b) any rights or freedoms that now exist by way of land claims agreements or may be so acquired. 26. The guarantee in this Charter of certain rights and freedoms shall not be construed as denying the existence of any other rights or freedoms that exist in Canada. 27. This Charter shall be interpreted in a manner consistent with the preservation and enhancement of the multicultural heritage of Canadians. 28. Notwithstanding anything in this Charter, the rights and freedoms referred to in it are guaranteed equally to male and female persons. 29. Nothing in this Charter abrogates or derogates from any rights or privileges guaranteed by or under the Constitution of Canada in respect of denominational, separate or dissentient schools. 30. A reference in this Charter to a province or to the legislative assembly or legislature of a province shall be deemed to include a reference to the Yukon Territory and the Northwest Territories, or to the appropriate legislative authority thereof, as the case may be. 31. Nothing in this Charter extends the legislative powers of any body or authority.

Application of Charter

32. (1) This Charter applies (a) to the Parliament and government of Canada in respect of all matters within the authority of Parliament including all matters relating to the Yukon Territory and Northwest Territories; and (b) to the legislature and government of each province in respect of all matters within the authority of the legislature of each province. (2) Notwithstanding subsection (1), section 31 shall not have effect until three years after this section comes into force. 33. (1) Parliament or the legislature of a province may expressly declare in an Act of Parliament or of the legislature, as the case may be, that the Act or a provision thereof shall operate notwithstanding a provision included in section 2 or sections 7 to 15 of this Charter. (2) An Act or a provision of an Act in respect of which a declaration made under this section is in effect shall have such operation as it would have but for the provision of this Charter referred to in the declaration. (3) A declaration made under subsection (2) shall cease to have effect five years after it comes into force or on such earlier date as may be specified in the declaration. (4) Parliament or a legislature of a province may re-enact a declaration made under subsection (2). (5) Subsection (3) applies in respect of a re-enactment made under subsection (4).

Citation

34. This Part may be cited as the Canadian Charter of Rights and Freedoms.

"We must first establish the basic principle, the basic value and belief which will be together as Canadians of that regard our national qualities there is a way of life and a system of values which make us proud of the country that we first as well freedom and such immediately."

John Diefenbaker
14. October 1961

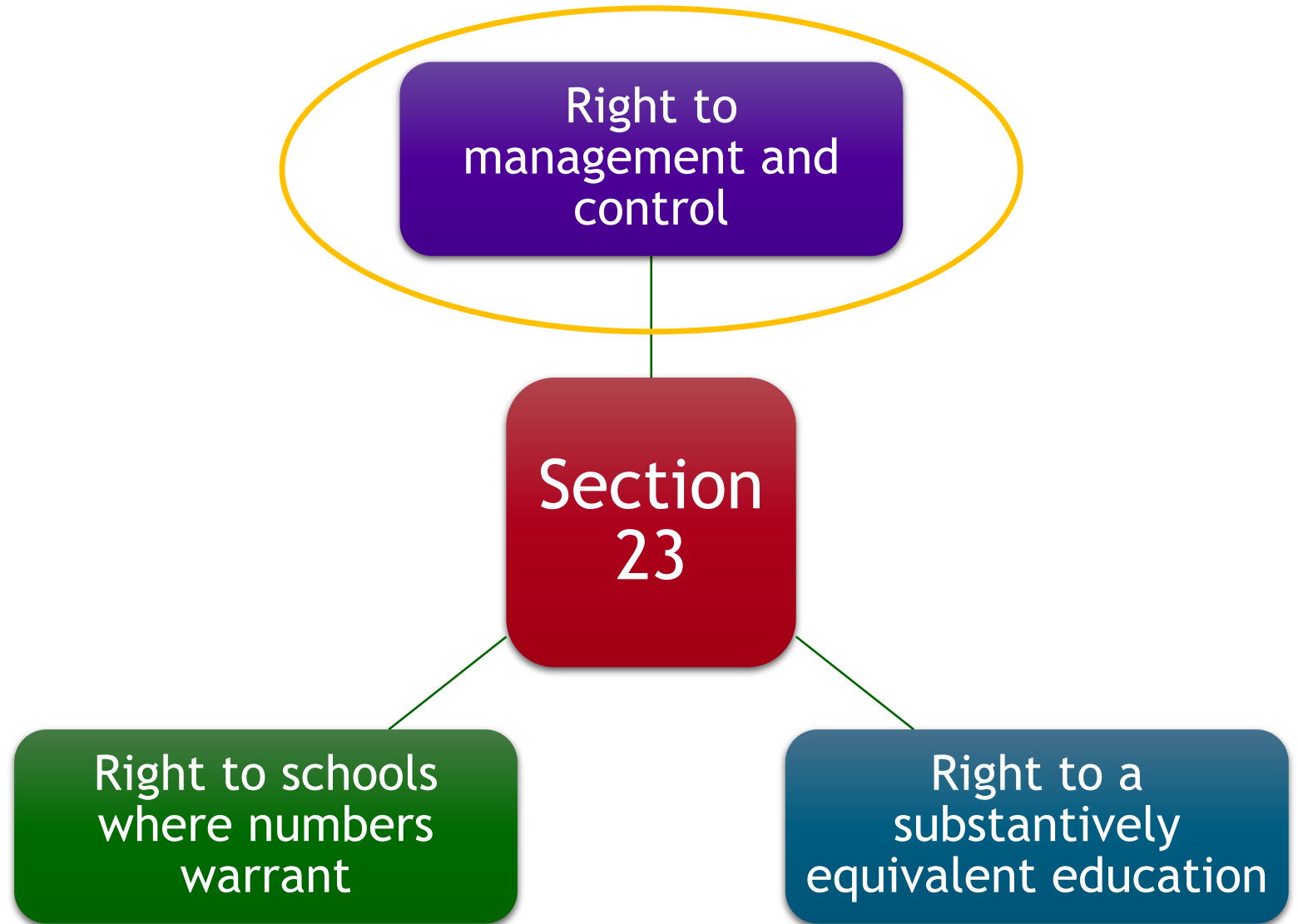


Section 23's purpose

1. **Preserve** and **promote** minority language culture in each province
2. **Remedy** past injustices and ensure that they are not repeated in the future
3. Facilitate **freedom of movement** and establishment by allowing citizens to move anywhere in the country without fear of having to abandon their language and culture

CSFCB, 2020 CSC 13 at para 15

To achieve this purpose, s. 23 confers several guarantees, including:



Mahé v Alberta

Supreme Court
of Canada, 1990

- The **right to management and control** is rooted in the text, purpose and history of section 23

“If section 23 is to remedy past injustices and ensure that they are not repeated in the future, it is important that minority language groups have a measure of control over the minority language facilities and instruction”

[1990] 1 SCR 342 at pp 372-73

The right to management and control includes, at minimum, exclusive control over:

- a) Expenditures of funds provided for such instruction and facilities;
- b) Appointment and direction of those responsible for the administration of such instruction and facilities;
- c) Establishment of programs of instruction;
- d) Recruitment and assignment of teachers and other personnel; and
- e) The making of agreements for education and services for minority language pupils.


Mahé v Alberta, [1990] 1 SCR 342 at pp 394-95



Why?

“It is necessary because a variety of management issues in education, e.g., curricula, hiring, expenditures, can affect linguistic and cultural concerns. I think it incontrovertible that the health and survival of the minority language and culture can be affected in subtle but important ways by decisions relating to these issues.”

Mahé v Alberta, [1990] 1 SCR 342 at p 372

The slide features a large green semi-circle on the right side. In the upper left, there is a solid red circle. Various green geometric elements are scattered across the slide, including a dashed vertical line, a solid square outline, a dashed line forming a curve, and a solid line forming a corner. The text is centered within the green semi-circle.

How the anglophone
community in Québec has been
relying on s. 23 to protect
its culture and institutions

Bill 40

*An Act to amend mainly the Education Act with
regard to school organization and governance*
adopted by the National Assembly
February 7, 2020

Bill 40's impact on English school boards

Overhauls the governance structure of school boards



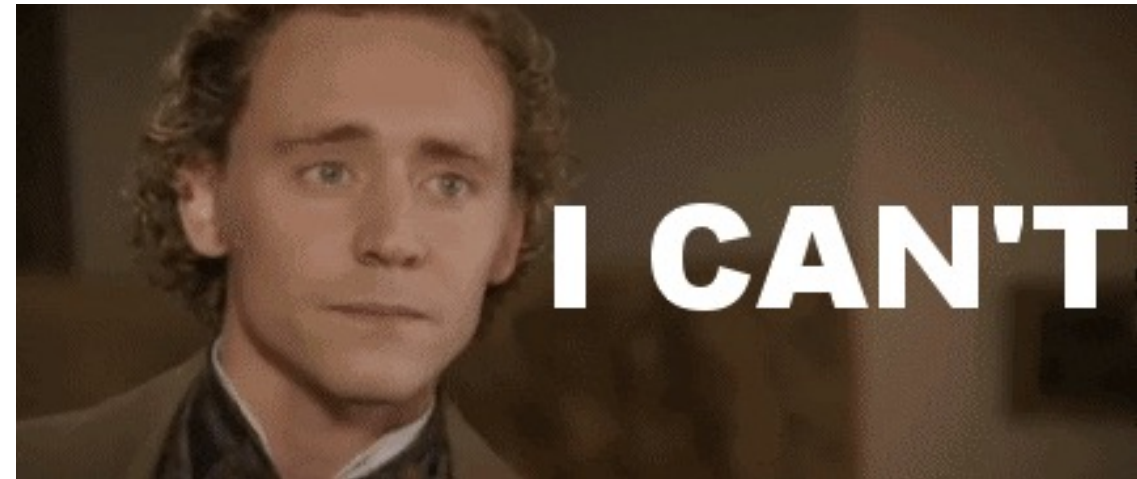
Would undermine English school boards' democratic accountability to rightsholders



Bill 40's impact on English school boards

Changes the criteria for eligibility to run for election as a member of the board in a way that:

- ➡ *Would dramatically reduce the number of candidates eligible to run for election*
- ➡ *Would dramatically reduce community members' willingness to run for election*
- ➡ *Would increase positions filled by acclamation or vacant positions*



Bill 40's impact on English school boards

Introduces a variety of governance changes affecting management and control, such as the removal of the elected chairperson's role as spokesperson for the school board

➔ *Would diminish the ability of elected representatives of the community to publicly oppose government action negatively affecting the community*



All nine English school boards and the QESBA challenged Bill 40



COMMISSION SCOLAIRE CENTRAL QUÉBEC
CENTRAL QUÉBEC SCHOOL BOARD



Lester B. Pearson
School Board

Commission scolaire
Lester-B.-Pearson



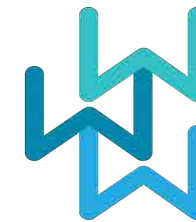
COMMISSION SCOLAIRE
Eastern Townships
SCHOOL BOARD



**Commission scolaire
English-Montréal**
**English Montreal
School Board**



QUEBEC ENGLISH SCHOOL
BOARDS ASSOCIATION



COMMISSION SCOLAIRE
**WESTERN
QUÉBEC**
SCHOOL BOARD



Commission scolaire **Riverside**
Riverside School Board



COMMISSION SCOLAIRE SIR-WILFRID-LAURIER
SIR WILFRID LAURIER SCHOOL BOARD



COMMISSION SCOLAIRE
Eastern Shores
SCHOOL BOARD



NEW FRONTIERS

+

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The Superior
Court granted
a stay of Bill 40
in its entirety
in 2020

•

- Stay was upheld unanimously by the Court of Appeal
- As a result, Bill 40 has not yet been applied to English school boards

Bill 40 trial decision

On August 2, 2023,
Justice Lussier
rendered his decision

A major win!

- The Court found in favour of the English-speaking community on nearly all of its claims
- The Court recognized that s. 23 rights need to be given a broad interpretation to protect the English-speaking community
- The Court specifically stated that Bill 40 has nothing to do with the protection of the French language
- The Court recognized that English-speaking communities in Québec are diverse, and that they face challenges to their vitality

« Par ailleurs, la minorité anglophone québécoise n'est pas homogène, comme l'a démontré le rapport Gérin-Lajoie. En dehors du Grand Montréal, elle subit un sort qui peut ressembler à celui de plusieurs minorités francophones au pays. »

A broad community of s. 23 rightsholders

- The Court rejected the government's argument that **only** parents with children **currently** in school have a right to management and control
- To the contrary, many others share this right, including:
 - Grandparents
 - Adults that do not have, or do not yet have children
 - Parents whose children are no longer in school

*« ça prend
un village
pour élever
un enfant. »*

- Justice Lussier



The Court found
in favour of the
English-speaking
community on
nearly all of its
claims

All the new requirements that would have reduced the number of candidates eligible and willing to run in school elections are unconstitutional, including:

- the requirement that “parent representatives” must also sit on a governing board,
- the requirement that “community representatives” must meet certain profile requirements and run in the entire territory of the board,
- the fact that only parent representatives can become chair or vice-chair, etc.

The result

- *Status quo:*
 - The **current structure and composition** of school boards is still in force
 - Representatives chosen by rightsholders maintain their role in representing the board and **setting its priorities**
- Commissioners must be **chosen by rightsholders:**
 - The absence of a rightsholder requirement to vote and the presence of unelected staff members on the council are unconstitutional

Obligation to consult

- The government has an obligation to take into account the needs and concerns of the English-speaking community when preparing legislation affecting the community
- Consultation is the preferred means of doing this, but other methods such as establishing a task force are likely possible
- Consultation must be meaningful, namely by:
 - Providing information to the community in advance
 - Listening with an open mind to the community's concerns
 - Being prepared to modify the original proposal and providing feedback

The Court found that
the Government
failed to adequately
consult the English-
speaking community
on Bill 40

« *Il ne suffit pas que les
représentants de la
communauté anglophone
aient été entendus par
politesse. Une consultation
véritable comporte des
exigences.* »



Bill 40 provisions that the Court did not strike down

- The Minister's power to order an English school board to share facilities with a French school board
 - The judge found that the numbers warrant all English schools in Québec
 - The Minister cannot currently use this power, but the numbers could change
- The Minister's power to set objectives for a school board
 - The power itself isn't unconstitutional, but a challenge could be brought if the Minister uses the power in a way that conflicts with management and control



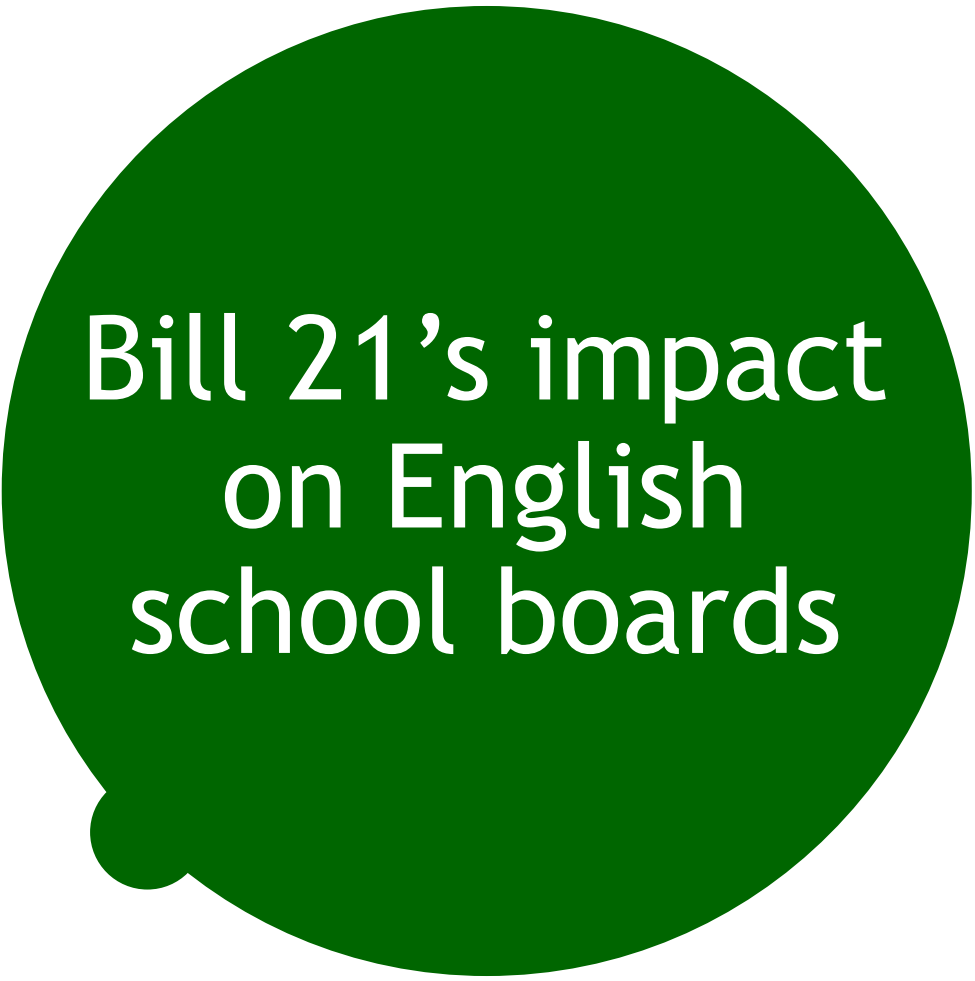
« Néanmoins, nous tendons la main à l'ACSAQ et souhaitons poursuivre les échanges avec le milieu scolaire anglophone. »

Bill 40: What next?


- September 8, 2023: The Government appealed the entire Bill 40 judgment
 - The hearing before the Court of Appeal will not be for another year at least
- Government regulation maintains the status quo for now
- Likely impacts the study of Bill 23, the Bill introduced in May 2023 that would grant the Minister the power to appoint directors general of school boards
 - If Bill 40 is unconstitutional, Bill 23 as currently drafted most certainly is! More on that later

Bill 21

An Act respecting the laicity of the State,
adopted by the National Assembly
June 16, 2019



Bill 21's impact on English school boards

- 
- Prevents English school boards from hiring or promoting teachers who wear religious symbols
 - Clashes with English school boards' culture of valuing and celebrating religious diversity
 - Infringes English school boards power to hire teachers according to English school boards' values and needs

Challenge to Bill 21

Superior Court

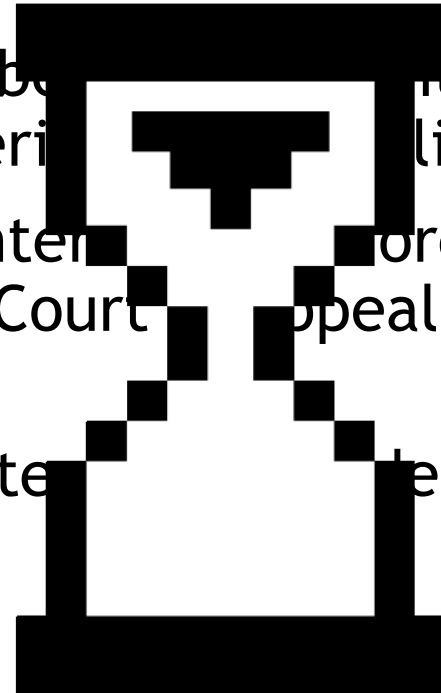
- EMSB successfully challenged Bill 21



September 14, 2023

Court of Appeal

- The Québec Court of Appeal appealed the Superior Court ruling
- QESBA intervened before the Quebec Court of Appeal in support of EMSB
- The matter was reserved



All nine English school boards contributed to the challenge by submitting evidence



COMMISSION SCOLAIRE CENTRAL QUÉBEC
CENTRAL QUÉBEC SCHOOL BOARD



**Commission scolaire
English-Montréal**

**English Montreal
School Board**



Commission scolaire **Riverside**
Riverside School Board



Lester B. Pearson
School Board

Commission scolaire
Lester-B.-Pearson



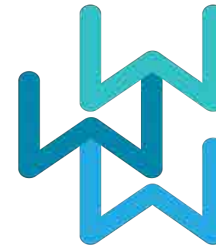
COMMISSION SCOLAIRE
Eastern Shores
SCHOOL BOARD



COMMISSION SCOLAIRE SIR-WILFRID-LAURIER
SIR WILFRID LAURIER SCHOOL BOARD



COMMISSION SCOLAIRE
Eastern Townships
SCHOOL BOARD



COMMISSION SCOLAIRE
**WESTERN
QUÉBEC**
SCHOOL BOARD



NEW FRONTIERS

Bill 96

*An Act respecting French, the official
and common language of Québec*
adopted by the National Assembly
June 1, 2022

Bill 96

- Longstanding issue with Bill 101 interfering with language in English schools
- Bill 96 gives the OQLF even more power to interfere in school boards' decisions regarding language



Two examples of infringements of s. 23

1. Requiring that written communications between more than two people be in French, or in both languages (with councillors, staff, parents, etc.)

- This prevents English school boards from communicating in English with members of its own community and hiring teachers based on its needs, especially in a teacher shortage
- This requires that elected representatives of the anglophone community write to each other *in French* in their work addressing the concerns of the anglophone community

Two examples of infringements of s. 23

2. Requiring that English school boards communicate with businesses and organisations in French, or in both languages

- This interferes with English school boards' capacity to act as a community hub
- English school boards partner with anglophone organizations that use their facilities for cultural activities or provide services at English schools
- This requires that the English school boards write in French to their partners in the English education network, such as other English school boards and QESBA

Bill 96 interferes
with English school
boards' capability
to act as a
community hub

*“minority schools themselves
provide community centres
where the promotion and
preservation of minority
language culture can occur; they
provide needed locations where
the minority community can
meet and facilities which they
can use to express their culture”*

Mahé v Alberta, [1990] 1 SCR 342 at p 363

Impact of Bill 96 on CÉGEPs and universities

- CÉGEP students must complete 3 courses from the regular curriculum in French (45 hours of instruction) and pass the Épreuve uniforme de français
 - Some exceptions: Rightsholder students (partially) and some Indigenous students
- The proportion of students attending English CÉGEPs cannot increase, nor exceed 17.5% of all CÉGEP enrollments
- CÉGEPs and universities must adopt policies on the use of the French language approved by the Minister, and report on these policies every 3 years

Other impacts of Bill 96 on the education sector, including private schools

- 3-year non-renewable limit on eligibility for English instruction at a public or subsidized private school for children of a foreign national staying in Québec temporarily
- New obligations of employers in Québec to take reasonable means to avoid requiring knowledge of English for their staff



Challenge to Bill 96

- There are multiple groups challenging Bill 96, including the EMSB
- EMSB's challenge has been consolidated with those of two other groups

The slide features an abstract background with various geometric elements. A large green semi-circle occupies the right side. A red circle is positioned in the upper left. Several green lines, including a dashed vertical line, a solid square outline, and several short dashed segments, are scattered on the left side. The text "What is the National Assembly up to?" is written in white on the green semi-circle.

What is the
National Assembly up to?

Bill 23

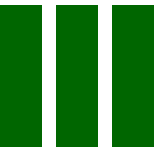
An Act to amend mainly the Education Act and to enact the Act respecting the Institut national d'excellence en éducation
introduced at the National Assembly
May 4, 2023

Bill 23's impact on English school boards

Unless amended:



objectives and priorities of the school board



Recall that the Supreme Court of Canada explained in 1990:

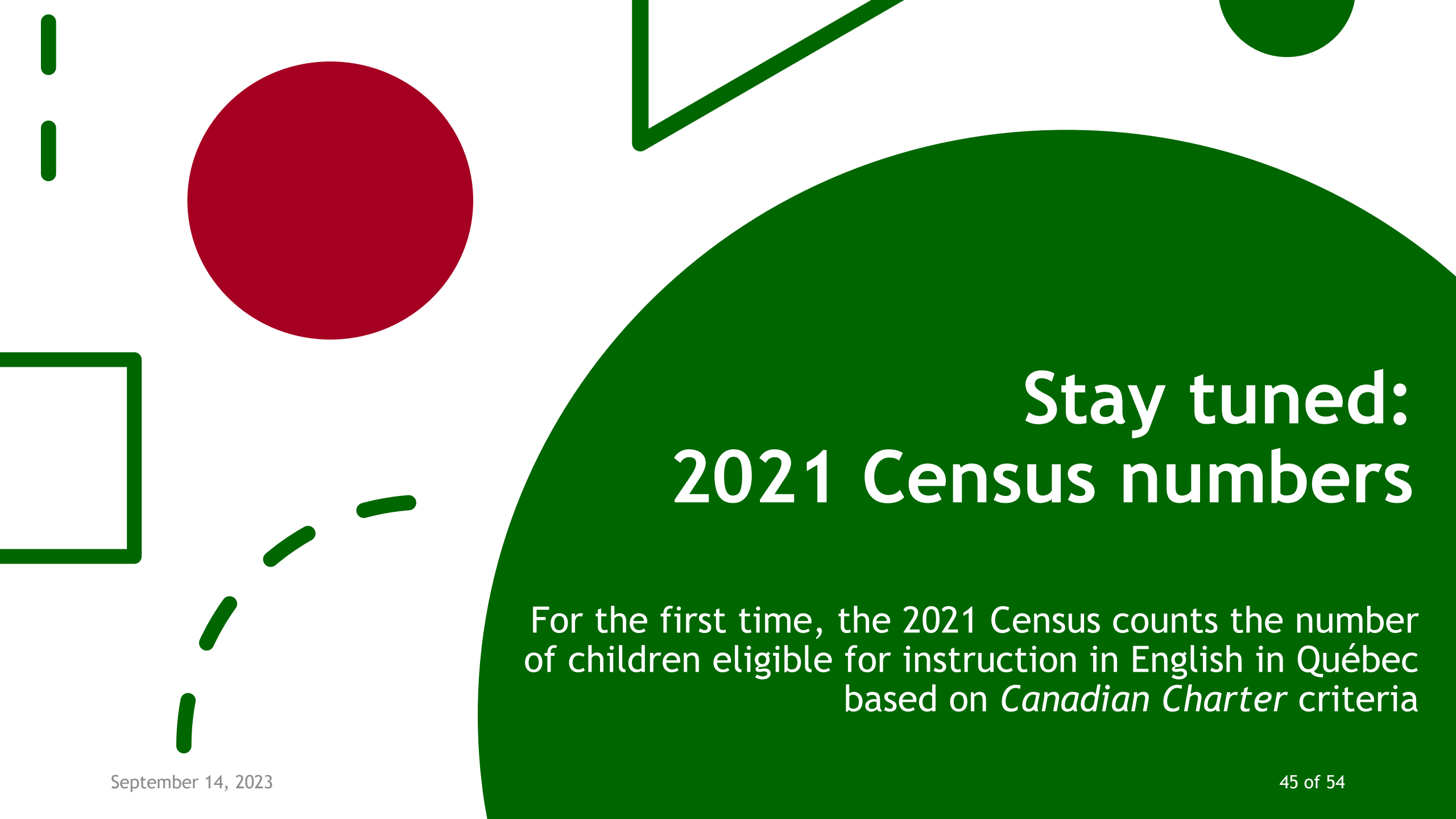
“Furthermore, as the historical context in which s. 23 was enacted suggests, minority language groups cannot always rely upon the majority to take account of all of their linguistic and cultural concerns. Such neglect is not necessarily intentional: the majority cannot be expected to understand and appreciate all of the diverse ways in which educational practices may influence the language and culture of the minority.”

Mahé v Alberta, [1990] 1 SCR 342 at p 372

Press release, May 10 2023

“Certain provisions of Bill 23 are *manifestly unconstitutional*. We will spend the next weeks trying to convince MNAs to modify Bill 23 in order to fully respect our constitutional rights. However, *if the bill remains in its present form* the QESBA will have *no other option than to quickly initiate a legal challenge* of the legislation,” declared QESBA President Dan Lamoureux.





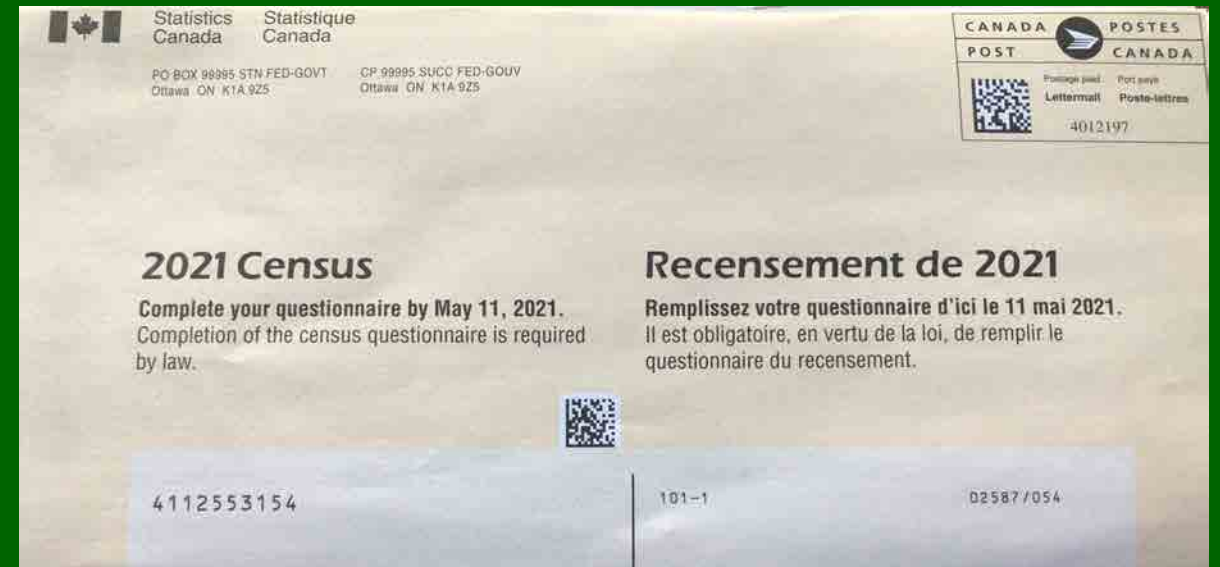
Stay tuned: 2021 Census numbers

For the first time, the 2021 Census counts the number of children eligible for instruction in English in Québec based on *Canadian Charter* criteria

2 categories of
Canadian parents
have the right to
have their
children receive
their education in
English in Québec

None of the children who have
a rightsholder parent have counted
prior to the 2021 Census!

What have we learned from the 2021 Census?



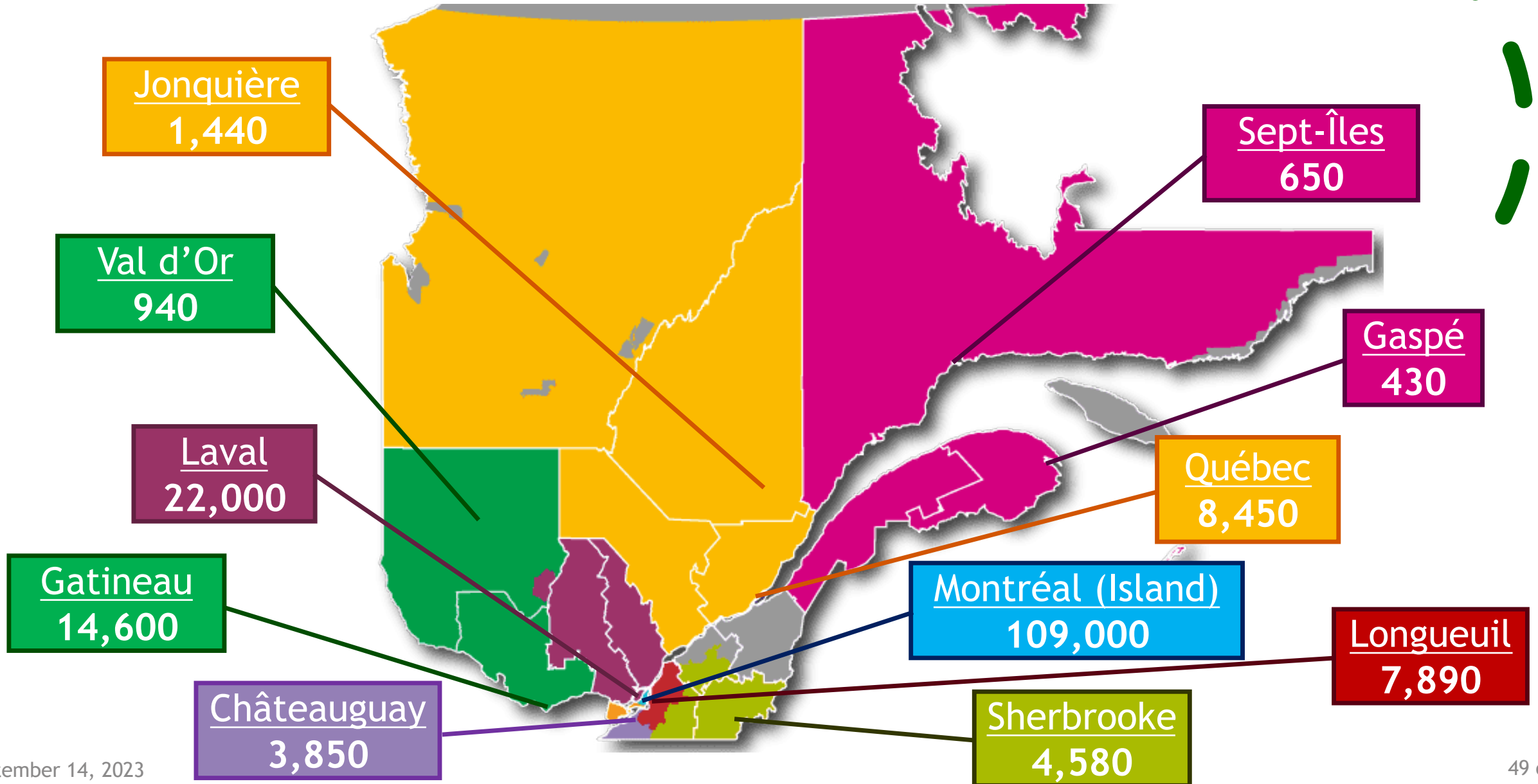


18 % of children are eligible for instruction in English in Québec

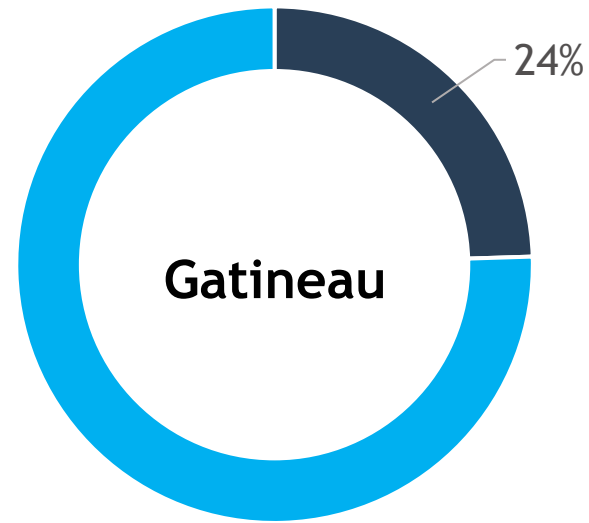
304,000 children
are eligible for
instruction in
English in Québec

Among those,
230,000 children
are school-aged
(5 to 17 years old)

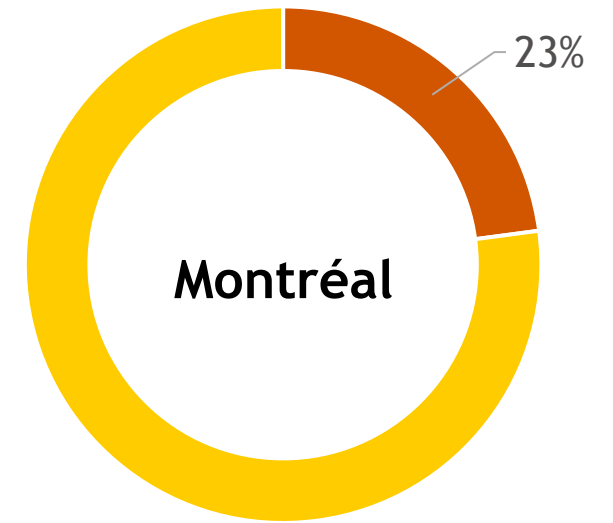
Number of children eligible for instruction in English in some Quebec communities



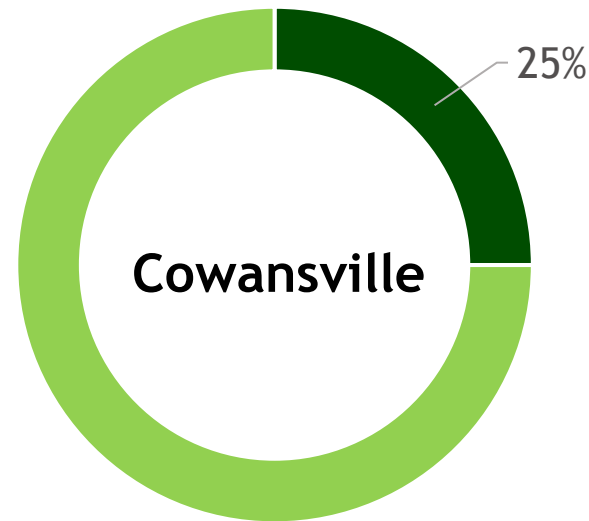
Urban centres with the highest proportion of children eligible for instruction in English in Québec



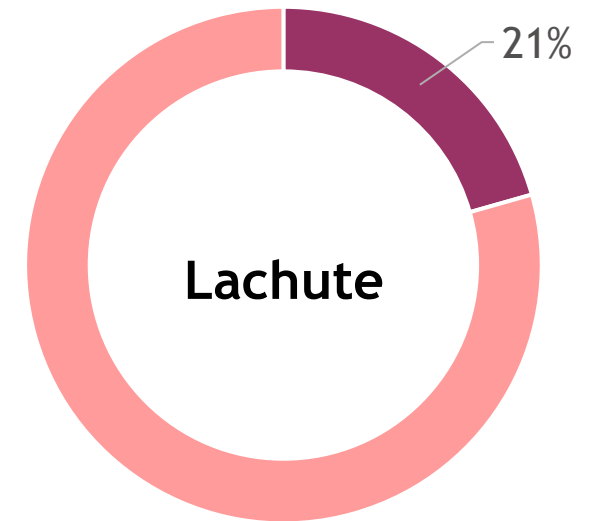
■ Eligible children ■ Children not eligible



■ Eligible children ■ Children not eligible

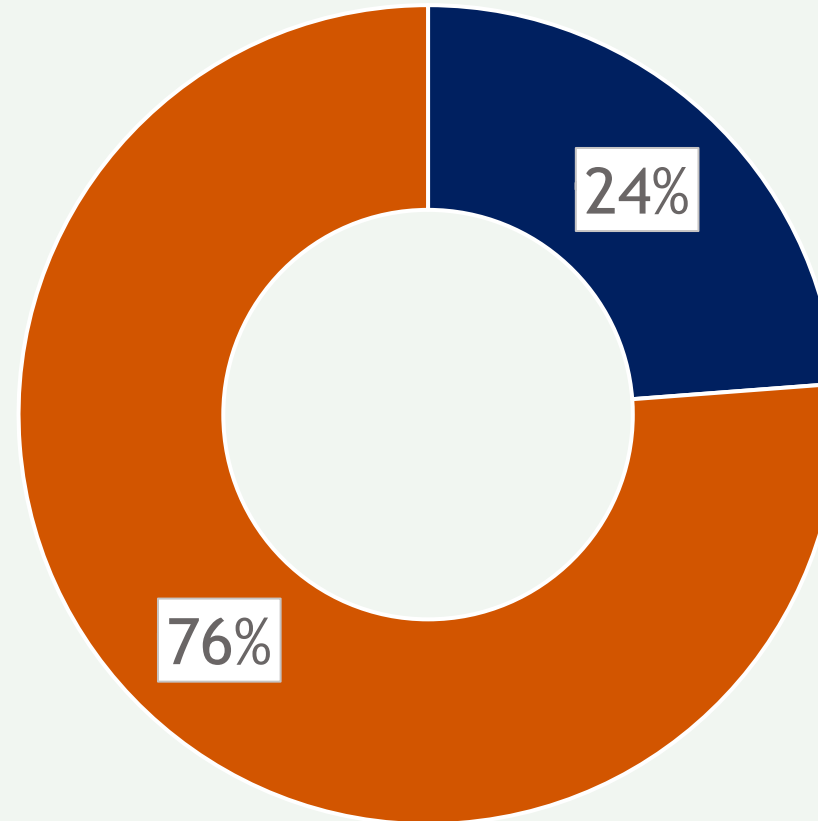


■ Eligible children ■ Children not eligible



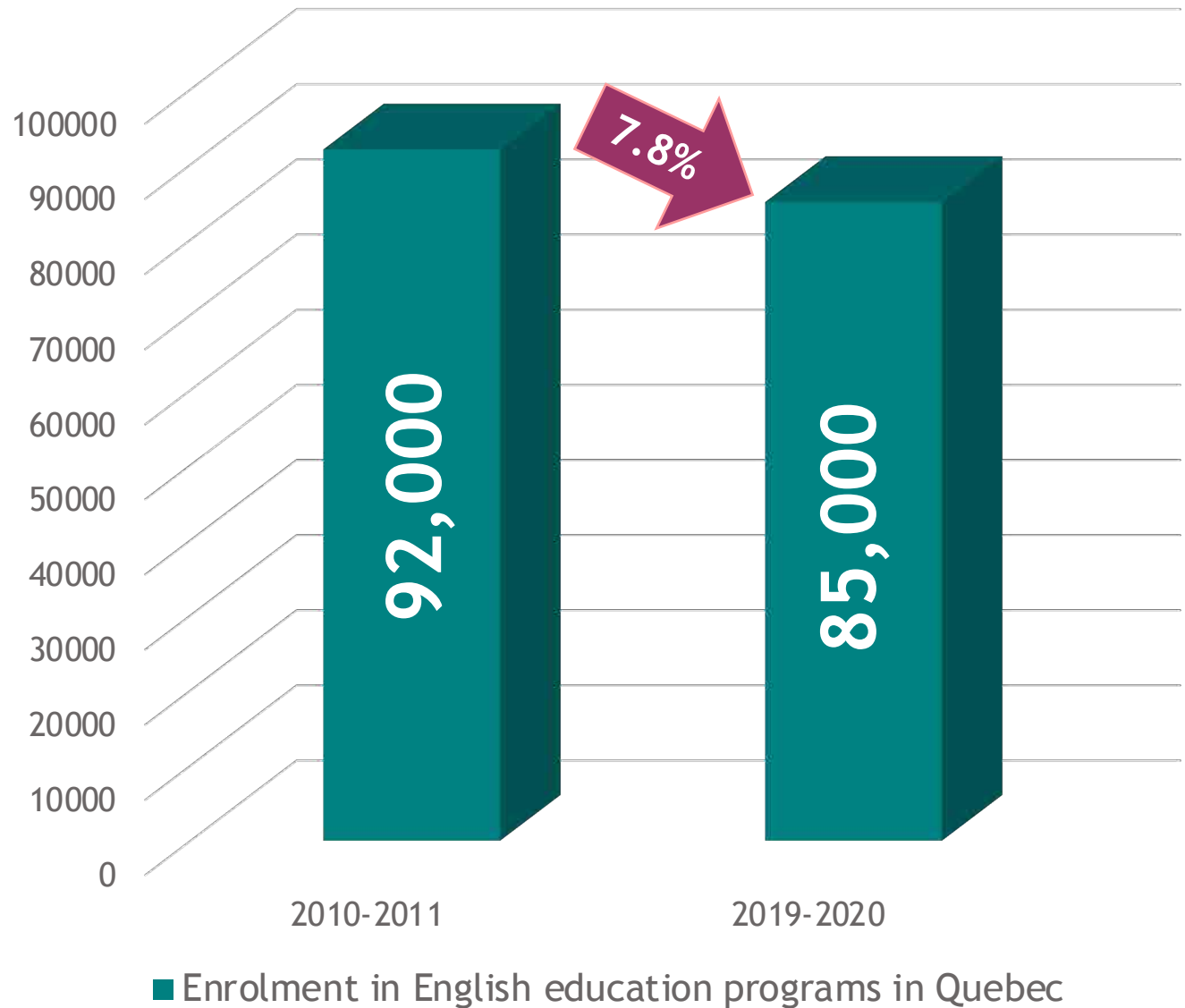
■ Eligible children ■ Children not eligible

175,000
eligible school-
aged children in
Québec attended
an English school
English school



- Eligible school-aged children (5 to 17) who never attended an English-language school
- Eligible school-aged children (5 to 17) who attended an English-language school

Enrolment in English public education fell 7.8% in less than 10 years

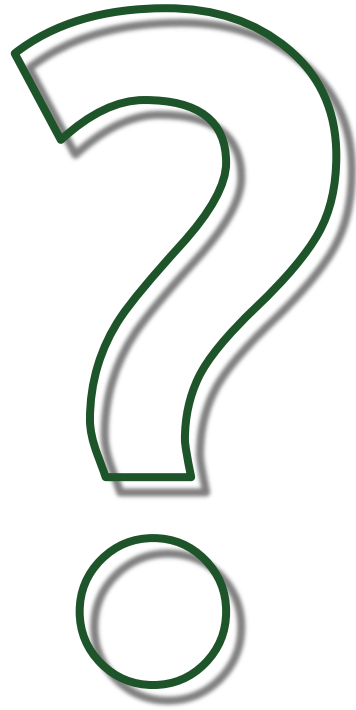




Why?

Statistics Canada's Survey on the Official Language Minority Population will evaluate the reasons for participation or non-participation in minority official language programs as well as parents' intentions for enrolling their children in the future.

Results are expected in 2024.



JURISTES
POWER
LAW

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