



**Law 96:
Changes to
College Instruction
in the
Minority Language**



Author

Fernanda Rengel

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1. INTRODUCTION

Bill 96, *An Act respecting French, the official and common language of Québec*, was proposed to the National Assembly on May 13, 2021. It was sponsored by Coalition Avenir Québec MNA, M. Simon Jolin-Barrette, who at the time served as Minister Responsible for the French Language¹ (Assemblée Nationale du Québec). The bill proposed several amendments overhauling the Charter of the French language, colloquially known as Bill 101, which had received royal assent in 1977. The stated purpose of Bill 96 was a renewed focus on strengthening the use of French—Québec’s sole official language—in all spheres of public life. Among other elements, the bill involves establishing francization frameworks in the workplace, as well as specifying Québec’s role in expanding and promoting francophone and Acadian communities, both within Canada and abroad (Bill 96 3). The bill received royal assent on June 1st, 2022, becoming Law 96.

Being considered in this brief are Law 96’s amendments to the 1977 Charter of French with regard to college instruction in English. These impose certain expectations and limitations on college-level instruction in the minority language as the Charter did to primary and secondary instruction in the minority language in 1977.

2. BILL 101: CHANGES TO PRIMARY AND SECONDARY EDUCATION IN THE MINORITY LANGUAGE

In 1977, Bill 101 ushered in sweeping educational reforms to the province. Sponsored by Camille Laurin, the Charter declared French the sole and official language of Québec’s government and society (Behiels & Hudon). At the time, roughly 80% of Québec’s population declared French as their mother tongue, as had steadily been the case for a century prior, from 1901 to 2001² (Statistics Canada). Despite their overwhelming majority, Québec francophones were often disenfranchised. Before the Charter’s passing, francophones earned wages 35% lower on average than their English-speaking counterparts, and “more than 80 per cent of employers [in Québec] were anglophones” (Behiels & Hudon). The Charter’s strengthening of French would thus “enable francophones to acquire economic and political control of the province” by representing Québec’s unique linguistic heritage within a predominantly English-speaking North American context (Behiels & Hudon).

As stipulated by the Charter of the French Language, children receiving a public or subsidised private education in Québec must do so in the official language (MEES). As a result, public education in the minority language is only permitted to a select subset of children belonging to one of the following categories:

1. Children with a right under law, colloquially referred to as *historic anglophones* (Éducaloi). This category includes children who have at least one Canadian parent or guardian having completed a

1 Minister Jolin-Barrette has since been reelected to the National Assembly, though he currently serves as Minister of Justice and Government House Leader. At the time of publication, CAQ MNA, Jean-François Roberge, serves as Minister of the French Language.

2 This number declined to 78% in 2016 (Statistics Canada).

“major part” of their elementary education in English, and in Canada (Éducaloi). This also refers to children who have completed a major part of their education, whether elementary or secondary, in English in Canada. Children with a parent or guardian who studied in French *after* the Charter was passed in 1977, but who was nevertheless eligible for English instruction based on the same criteria, are also eligible. Lastly, this category includes children having received English instruction in New Brunswick in the current or previous school year. In any of these cases, the siblings of the eligible child are equally eligible for English instruction (Éducaloi).

2. **Children with serious learning disabilities.** A written evaluation by a psychologist is required in support of such cases. Furthermore, the same eligibility is extended to the child’s siblings (Éducaloi).
3. **Indigenous Children.** This criteria applies to Indigenous children who live or lived in an Indigenous community, to Indigenous children who are currently, or in the previous school year, being taught primarily in an Indigenous language, or in English. Finally, this refers to Indigenous children who leave their community to receive instruction elsewhere (Éducaloi).
4. **Children in Québec temporarily.** This category includes children whose parent/s or legal guardian/s are temporary workers in Québec, to children whose parent/s or legal guardian/s are not Canadian citizens but are working in Québec as diplomats or employees for a foreign country or an international organisation, and lastly, to children whose parent/s or legal guardian/s are in the Canadian Armed Forces and have been assigned to Québec temporarily (Éducaloi).
5. **Children facing serious family or humanitarian situations.** This category is reserved as a last resort in the event that a written eligibility request has been submitted but denied. Within 30 days of the refusal, a child facing serious trauma or health problems may send a request to a special committee of the Ministry of Education to be considered for English instruction a second time (Éducaloi).

These criteria remain in place today. In order for a child to receive a certificate of eligibility for instruction in the minority language, the child’s parent/s must submit a written request, including the child’s birth certificate, to an English school board which will provide the child’s parent/s or guardian/s with the necessary forms to complete based on their situation. This request is then transmitted to the Minister of Education who may or may not issue a certificate of eligibility within 10 working days, based on the documentation provided to support the request for eligibility. Should the eligibility request be denied by the Ministry, the child’s parent or legal guardian may challenge the decision within 60 days in the Tribunal administratif du Québec (Éducaloi).

3. BILL 96: CHANGES TO COLLEGE INSTRUCTION IN THE MINORITY LANGUAGE

In its amendments to the Charter, Law 96 does not affect the aforementioned eligibility criteria beyond enforcing them more stringently. With regard to the fourth criteria concerning children in Québec temporarily, Law 96 now caps the number of years that children of temporary workers may receive an English education in Québec to 3 years (Wilton). Law 96 does, however, expand the scope of the eligibility criteria into higher education and introduces three new provisions with regard to language of instruction at the CÉGEP level.

The first of these provisions stipulates that students enrolled in an English CÉGEP must now complete three French-language courses in order to receive a CÉGEP diploma, amounting to 45 hours of French instruction per semester (*Bill 96* 88.0.3.). This provision may vary according to each student's situation. Students possessing a certificate of eligibility for English instruction may opt for three French-language courses taken *in addition to* the two regular French second-language courses already in place. Students without eligibility must take three *core curriculum* courses in French (*Bill 96* 88.0.2). In other words, students with eligibility for English instruction may opt for courses that teach French, while those without must take courses that assume competency and proficiency in French in their program's core competencies. This provision is slated to come into effect in the 2024–2025 academic year, giving students two years to prepare for the change (Authier).

The second provision in question states that in order to graduate from CÉGEP, students must successfully complete a French “uniform examination” similar to the Ministerial Examinations taken at the primary and secondary school level (*Bill 96* 88.0.17). In order for the Ministry of Education to maintain a single standard of proficiency in the official language across all CÉGEPs, this exam will be “the same [one] taken by students in francophone [CÉGEPs]” (Authier).

The third provision in question reserves the Ministry of Education's right to “determine, for each school year, a defined total number of students for each of the English-language institutions” by way of enrolment caps (*Bill 96* 88.0.5). This means that for every student enrolled in CÉGEP, only 17.5% may enrol in an English institution. The figure of 17.5% amounts to the proportion of students enrolled in English CÉGEPs at the time of the bill's proposal. While this measure will bolster competition for the restricted spots in English CÉGEPs, the provincial government has assured English-speaking communities that students possessing English instruction eligibility will be given priority in the admissions process (Shingler & McKenna). The measure is thus intended to “maintain the status quo” by curbing francophone and allophone students from accessing English instruction rather than barring English students from receiving instruction in their mother tongue (*Bill 96* 88.0.5, Shingler & McKenna). The enrolment cap is slated to come into effect in the 2023–2024 academic year (Authier).

4. WHO ARE QUÉBEC'S ENGLISH-SPEAKING STUDENTS?

As Law 96's new measures come into effect, the question of impact arises. Who and where are Québec's English-speaking students—those to be among the first impacted by Law 96? According to the most recent Census data, 304 000 children in Québec were eligible for instruction in the minority language in 2021. This figure represents 18% of Québec's children (Statistics Canada). Nevertheless, 23.8% of these eligible children have never received instruction in the minority language, whether because they “are too young and have not yet started school,” they live too far away from available English-language schools, or because of a personal or parental decision to opt for education in French (Statistics Canada). Among the children eligible for English instruction, “nearly 108 000 were aged 12 to 17” in 2021 and thus correspond to the first generation of children to be impacted by Law 96's changes to the higher education landscape (Statistics Canada). But in the 2020–21 academic year, only 40 988 students among the eligible were enrolled in an

English-language secondary schools, whether private, public or governmental¹ (Banque de données des statistiques officielles sur le Québec). The majority of these students were concentrated in urban centres, namely “Gatineau (24.5%) and Montréal (22.9%) and the urban centres of Cowansville (25.0%) in the Estrie region, and Lachute (20.6%) in the Laurentides” (Statistics Canada).

4.1 QUÉBEC’S ENGLISH SCHOOL BOARDS

With the coming changes in the CÉGEP landscape, higher expectations now exist with regard to French proficiency for English students who must complete additional French credits, and pass a French exit exam in order to graduate CÉGEP.

Globally speaking, English students in Québec are well-equipped to enter higher education. Of the 9 English school boards, 61 French service centres and 2 special-status school boards (Cree School Board & Kativik School Board) that make up Québec’s public education system, English school boards consistently demonstrate promising Graduation and Qualification rates², which we will henceforth refer to as ‘success rates.’ In 2020, the average success rate across all of Québec’s public schools was 78.6% (Diplomation et qualification au secondaire). Notably, five of the nine English school boards surpassed this number in 2020³, and the remaining three school boards ranked only 2% below the provincial average⁴. The Central Québec School Board boasts a success rate of 94.2%, which is the highest in the province (CQSB). Likewise, the English Montreal School Board’s success rate stands at 90.3%, which is the highest on the island of Montreal (EMSB).

Nevertheless, the annual rate of students leaving secondary school without a diploma or qualification is disproportionately high among certain English-speaking demographic groups. According to the Ministry of Education, the students at highest risk of dropping out are Indigenous students, students with disabilities, immigrant students, students in disadvantaged schools, and students who begin their schooling later than most (*Taux de sorties sans diplôme* 6). These categories correspond almost entirely to the eligibility criteria for instruction in English discussed

1 “There are three educational networks: public, private and governmental. The public network includes 61 service centres and 11 school boards. The private network includes private establishments, approved by the Ministry or unaccredited, which offer official ministry programs. Government schools include schools of Indigenous bands under federal jurisdiction.” (Banque de données des statistiques officielles sur le Québec).

2 Graduation and Qualification rates refer to the number of students who have graduated secondary school or received a qualification (DES, DEP, ASP, AEP, AFP, ISPJ, CFER, CFPT, CFMS, CEES, CFISA, ADC) within 7 years of beginning their secondary 1 studies (Diplomation et qualification au secondaire 3, 4). In this paper, we refer to the Graduation and Qualification rates for the cohort having begun their secondary 1 studies in 2013. Notably, Graduation and Qualification rates do not include students who entered the school system after secondary 1 (Diplomation et qualification au secondaire 4).

3 Central Québec School Board: 94.2%, English Montreal School Board: 90.3%; Lester B. Pearson School Board: 90%; Riverside School Board: 89.7%; Sir Wilfrid Laurier School Board: 88.1%; Western Québec School Board: 80.1%.

4 Eastern Townships School Board: 76.6%; New Frontiers School Board: 76.2%; Eastern Shores School Board: 76%.

in Section 2: Indigenous children, children with serious learning disabilities, children of temporary workers, and children facing serious family or humanitarian situations (Éducaloi). Statistically, these vulnerable groups are overrepresented in Québec's drop-out rates. In the 2020-21 academic year, 20% of drop-outs occurred in English school boards, and 64.9% in special-status Cree & Kativik school boards, while 13.5% were from French service centres (*Taux de sorties sans diplôme* 9,10).

4.2 MINISTERIAL EXAMINATIONS

Particularly with regard to French proficiency levels among English students, the primary metric for determining proficiency in the official language are ministerial examinations, or 'épreuves uniques'. These refer to a series of standardised tests in a variety of subjects that students must complete throughout their educational journey in order to graduate. In secondary 5, students are tested on their language skills. For Québec's majority, this means completing a 'French as a first language' exam, and an 'English as a second language' exam. For the minority attending English schools, this means completing an 'English Language Arts' exam and a 'French as a Second Language' exam (MEES). Both types of French exam demand the same skill set, though at differing levels. Students are tested in three main areas: oral communication, written communication, and reading comprehension (MEES). While the secondary 5 'French as a first language' exam requires students to draft a 500-word open letter in 3 hours and 15 minutes, the secondary 5 'French as a second language' exam asks students to draft a 225-word call-to-action text in 2 hours. Both exams involve an oral component where students are sorted into small discussion groups overseen by an examiner. When and if successfully completed, ministerial exams grant students their secondary school diploma.

Generally speaking, English schools fare below average in ministerial examinations. While the Ministry of Education does not release detailed examination results, it does publish the average result achieved in all ministry exams, for every grade in each school, combined. This does not provide a perfect snapshot of French proficiency, but allows for a global assessment of a school's performance. Because the spread of COVID-19 put a halt on Québec's ministerial examinations in the 2020-21 academic year, so as to account for the perceived difficulties of online learning, we will turn to results for courses with one or more uniform examinations taken in June 2018. This amounts to the last available pre-Covid data (Vailles). The average results for English school board ministerial examinations in 2018 was 73%. This number was below the provincial average of 75.6% and suggests there remains work to be done to prepare English students for these examinations, and further, for CÉGEP (Résultats Des Épreuves Uniques de Juin). The same was true in 2017 when English schools averaged 71% in ministry exams, while the provincial average was 88% (Résultats Des Épreuves Uniques de Juin).

5. CHALLENGES AHEAD

As Law 96 comes into effect, educational communities throughout the province are mobilising to implement its measures whilst maintaining, or increasing, student success. What follows are salient aspects of the current learning environment for the consideration of administrators, stakeholders and communities alike.

5.1 PANDEMIC LEARNING DISRUPTIONS

It must be acknowledged that the spread of COVID-19 irrevocably changed the educational experience of an entire generation. From transitions to online learning to frequent school closures due to viral transmissions, children enrolled in the school system in 2021 were met with unprecedented challenges to their educational success.

CBC News conducted a series of interviews with students across Canada to inquire about the impacts on their education due to COVID-19 (Jaeger 2022). Some students reported anxieties about “[falling] behind” from the traditional educational path, or feeling “stuck” behind the barriers of online learning and having to “[play] catch-up” (Jaeger 2022). Others reported that the experience of online learning felt “similar to being on a roller-coaster” given the instabilities they faced in their most formative years (Jaeger 2022). One student noted that it became increasingly difficult to receive specialised attention from teachers “if she was struggling” with difficult material because of online learning (Jaeger 2022). Others reported anxieties surrounding examinations, as “high school exams were optional or got cancelled” during the two years disrupted by COVID-19 (Jaeger 2022). As a result of exam cancellations and more lenient grading schemes, students reported feeling underprepared for the challenges of higher education. For many, it had been “nearly three years” since they last sat for an examination as they entered university (Jaeger 2022).

This particular group of students has faced exceptional challenges in their CÉGEP years, these are the students who will require adapted support structures as they transition into the present-day higher education landscape, in addition to their transition back to in-person learning.

5.2 SOCIO-ECONOMIC CONTEXTS

Each of Québec’s 78 English secondary schools has a distinct demographic makeup and educational community¹, which results in variations among the schools (NANS 5). For example, while some schools benefit from a higher socio-economic status, others contend with more perilous socio-economic contexts, which place youth at a higher risk of dropping out.

The Ministry of Education provides a list of factors which “make young people vulnerable” to dropping out of school (NANS 3). These include, but are not limited to (NANS 3):

- **School-related factors** such as frequent grade repetition or failure; weak academic or social skills demonstrated by a lack of participation in activities; difficult relationships with adults, and feeling left out. Additionally, a lack of motivation and frequent absenteeism are factors which may lead youth to abandon their studies.
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1 An educational community refers to the collective of “all interested persons (young people, teachers and other professionals, parents, school administrators and community members)” who have the power to join together to improve educational outcomes (NANS 5).

- **Personal factors** such as drug dependence, delinquency and early pregnancy.
- **Family-related factors** such as insufficient support or unstable family units; parents' low educational level; a low valuing of school, and a mistrust of public institutions.
- **Social factors** such as isolation levels (recently exacerbated by the COVID-19 pandemic); inadequate housing and nutrition; sickness; a lack of knowledge about the region's culture and services, and recent immigration under difficult circumstances.
- **Economic factors** such as being from a low or no income household. Kids in these situations often work part-time, some for more than 14 hours a week, causing them to prioritise work over school.

One of these factors alone may be sufficient cause for a student to drop out of school. Unfortunately, these factors are often "compounded" in disadvantaged areas "where it has been noted that difficult socioeconomic conditions are more likely to lead students to drop out of school" (NANS 3, 4).

In order to address the socio-economic differences in the public education system across the province, the Ministry of Education ranks its schools using a socio-economic index (SEI) between 1 and 10. To calculate this index, each student is assigned an SEI based on whether or not their mother received a high school diploma, and whether or not their parent/s or guardian/s are active in the workforce. Each school then calculates an average SEI for all its students which determines the SEI of the school at large. Schools with an SEI index of 8, 9 or 10 are considered disadvantaged, which is the case for one third of Québec's public schools (IMSE). Among English secondary schools, roughly 34% are considered disadvantaged, or 27 out of 78 schools (*Deprivation Indices*).

6. POTENTIAL SOLUTIONS

Vulnerable students in Québec require additional support. A study conducted by the Ministry of Education in 2000-2001 concluded that 27% of Québec's students had dropped out of secondary school, with those students in disadvantaged areas representing one third, or 36.6% of this number (NANS 3). In an effort to reduce inequalities faced by schools in lower socio-economic contexts and improve graduation and success rates in disadvantaged areas, the Ministry of Education instituted the *New Approaches, New Solutions Intervention Program (NANS)*. It was first piloted in six disadvantaged secondary schools in September 2001 and further expanded in the following decade (NANS, intro). \$125 million were invested across 200 secondary schools towards the implementation of NANS intervention strategies in schools with SEI ranks of 7 or higher (NANS, intro). The stated aim of these investments was to reduce the dropout rate which had been steadily increasing in the 15 years prior to NANS' implementation (NANS, intro). In 2020-2021, the drop-out rate had reduced significantly to 13.5%, suggesting the success of NANS programs (*Taux de sorties sans diplôme 2*).

NANS intervention strategies are implemented in schools through a series of steps. The first is to produce an "informed diagnosis" on each school's specific situation, accounting for regional and demographic specificities (NANS 9). The resulting diagnosis is devised by the educational community and university researchers alike, and identifies specific problems "associated with learning

certain subjects, student perseverance and attendance, young people’s health, relations with families or the school atmosphere” (NANS 9). Based on this initial diagnosis, the school will devise a success plan tailored to its needs. Secondary schools in Québec already operate along a success plan, but NANS schools must devise more refined success plans to “include strategies adapted to their particular problems” (NANS 9). School boards must then allocate the required funds to implement success plans, which will be supported by the educational community at large via community partnerships (NANS 9).

Such intervention strategies are crucial to vulnerable students’ success given their holistic nature. Rather than focusing solely on academics, they strive towards greater social integration of students into the broader Québec society, towards increased motivation, attendance and perseverance levels at school, and towards “the development of life [and...] occupational skills” (NANS 13). NANS strategies thus include a “close and realistic monitoring” of actions taken with disadvantaged students, which may include “workshops, projects and visits to cultural sites, to enrich [their learning] and make them more active” in all developmental spheres (NANS 13). NANS strategies also closely involve personalised guidance to at-risk students “who are having difficulty in any subject”, thereby ensuring that each student may succeed on their own timeline (NANS 13). Additional interventions may include local police in “preventing delinquency and drug dependence” as well as providing youth with community-related “volunteer activities that would enrich the community and their own lives” by keeping at-risk students out of perilous after-school activities (NANS 14).

NANS intervention strategies do not solely promote vitality among students, but across the educational community at large. Teachers may benefit from improved relationships with students, and closer contact with the parents of at-risk students “through improved communication mechanisms” (NANS 13). Community organisations may also benefit from increased youth engagement via volunteer opportunities, and by regular contact with youth that can enable the design of youth programs that cater to their specific needs.

7. RECOMMENDATIONS

Increasing expectations for French-language proficiency at the CÉGEP level may produce a positive long-term effect for English-speaking youth wishing to participate more fully in Québec society, which may, in turn, have a positive impact on English-speaking youth retention in the province. In keeping with its mandate, Y4Y Québec is particularly concerned with the ways in which certain aspects of Law 96 might affect the post-graduation and employment opportunities of current cohorts of English-speaking youth, and their immediate successors. Intervention strategies like New Approaches, New Solutions are created to diagnose the particular challenges within each school, and to address them accordingly. As English-speaking youth are faced with new standards for higher education in Québec, Y4Y wishes to incentivize the renewal and strengthening of such intervention strategies, specifically those aimed at retaining youth in Québec—particularly among vulnerable educational communities—and in light of the new legislation. This would enable and facilitate a greater capacity for student success. We invite educational communities to consider the potential challenges Law 96 might pose on English-speaking students in its diagnosis stage, and

implement relevant NANS strategies to help students overcome those challenges. Potential metrics to consider in this diagnosis stage are French proficiency levels at graduation across the 9 English school boards, and both special-status Cree & Kativik school boards. In assessing this metric, educational communities may develop tailored Francisation strategies that will facilitate the transition from highschool to CÉGEP for English-speaking students.

As it stands, we do not know the retention rate of the English-speaking public school graduating cohort of, for example, 2015 or 2016, in Québec. This is an important deficiency. We therefore invite any relevant research organism or university in the English-speaking community of Québec to seek funding for a research project that would define, and analyse, the English-speaking youth retention rate in Québec in the recent past. Authorised access to relevant Government and English School Board data concerning graduating cohorts would need to be obtained, of course with respect for all the required protections for the privacy of personal data. It is Y4Y's position that any strategies designed to address English-speaking youth retention in the province of Québec must be based on a more in-depth understanding of the out-migration trends of this demographic group in recent years than our community currently has.

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5165 Sherbrooke Street West,
Suite 107
Montréal, QC H4A 1T6



info@y4yquebec.org



514-612-2895



www.y4yquebec.org