
Assembly of First Nations

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Assemblée des Premières Nations

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Special Chiefs Assembly
December 7, 8, 9, 2021, Ottawa (Ontario)

Resolution no. 35/2021

TITLE:	Indigenous Peoples Exemption: Federal Bilingual Requirements
SUBJECT:	Rights – Official Languages
MOVED BY:	Chief David Monias, Pimicikamak, Cree Nation, MB
SECONDED BY:	Chief Harvey McLeod, Upper Nicola Band, BC
DECISION	Carried; 1 objection; 1 abstention

WHEREAS:

- A. Article 5 of the *United Nations Declaration on the Rights of Indigenous Peoples*, 2007, which the government of Canada has adopted without qualification, states that "Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State".
- B. The Teslin Tlingit Council seeks the support of the First Nations-in-Assembly to provide political support to achieve a legislated exemption for Indigenous Peoples from being required to be bilingual in both French and English in order to be hired in key positions within the federal public service or to be appointed to the Supreme Court of Canada.
- C. The BC First Nations Summit Chiefs in Assembly and the Council of Yukon First Nations have expressed their support to the Teslin Tlingit Council, by way of resolutions that mirror the details of this resolution, to seek a legislated exemption for Indigenous People not to be required to be bilingual in both French and English in order to be hired for positions within the federal government or for judicial appointments to the Canadian courts.
- D. Any employment or appointment criteria that require an individual to be bilingual in both French and English in order to be considered, hired or appointed to a position or role is a real and direct systemic barrier for Indigenous People and hinders the opportunity for Indigenous Peoples to fully participate and

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represent Indigenous perspectives throughout the federal government, and in important offices such as the Governor General's office and at the Supreme Court of Canada.

- E. The requirement of bilingualism fails to account for the legal and systemic barriers, such as the *Indian Act*, 1876, and the Residential School system, which were imposed on the original peoples of this Country and in effect have negatively impacted Indigenous Peoples' abilities to fully participate in the political, economic, cultural and social fabric of Canada.
- F. Having a federal government and important institutions that reflect and include Indigenous Peoples and perspectives provides for a culturally rich and diverse public service, which can serve to improve Crown-Indigenous Relations and provide for a more inclusive unified country.
- G. The *Public Services Employment Act*, SC 2003, c.22 provides opportunity for the Public Service Commission of Canada to identify barriers to employment and seek exemptions which include:

Exclusion of positions and persons

"20 (1) Where the Commission decides that it is neither practicable nor in the best interests of the public service to apply this Act or any of its provisions to any position or person or class of positions or persons, the Commission may, with the approval of the Governor in Council, exclude that position, person or class from the application of this Act or those provisions. [...]"

General regulatory power

22 (1) The Commission may make any regulations that it considers necessary to give effect to the provisions of this Act relating to matters under its jurisdiction. [...]"

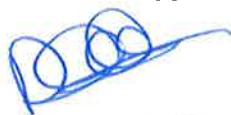
Qualification standards

31 (1) The employer may establish qualification standards, in relation to education, knowledge, experience, occupational certification, language or other qualifications, that the employer considers necessary or desirable having regard to the nature of the work to be performed and the present and future needs of the public service.

Identification of biases and barriers

(3) When establishing or reviewing qualification standards, the employer shall conduct an evaluation to identify whether they include or create biases or barriers that disadvantage

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persons belonging to any equity-seeking group. If a bias or barrier is identified in the course of the evaluation, the employer shall make reasonable efforts to remove it or to mitigate its impact on those persons."

- H. Bilingual exemptions are possible in accordance with the *Public Service Official Language Exclusion Approval Order SI/2005-118*, a regulation passed pursuant to section 20 of the *Public Services Employment Act*, SC 2003 c. 22.

THEREFORE, BE IT RESOLVED that the First Nations-in-Assembly:

1. Support the initiative to seek a legislated exemption for Indigenous Peoples, pursuant to the *Public Services Employment Act*, SC 2003, from any employment or appointment criteria that may require Indigenous Peoples to be bilingual in both French and English in order to:
 - a. be hired for positions within the federal public service or other government offices;
 - b. hold key positions such as Governor General of Canada; or
 - c. be considered for judicial appointments to Canadian courts, including the Supreme Court of Canada.
2. Direct the Assembly of First Nations to provide political advocacy, which includes writing letters to the Commissioner of Official Languages, the Federal Minister of Official Languages and the Prime Minister of Canada.

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