



January 10, 2018

The Honourable Rob Fleming, M.L.A.
Minister of Education
PO Box 9045, Stn Prov Govt,
Victoria, BC V8W 9E2

Re: The Canada-British Columbia Agreement on Minority-Language Education and Second-Language Instruction contains inadequacies that undermine its effectiveness

The Conseil scolaire francophone de la Colombie-Britannique asks that the Ministry of Education (“Ministry”) corrects these inadequacies before the new Agreement is signed in 2018

Dear Minister:

I am writing on behalf of the Conseil scolaire francophone de la Colombie-Britannique (“CSFCB”).

Given the importance of federal funds for French-language instruction, the CSFCB has a keen interest in the renewal of the *Canada-British Columbia Agreement on Minority-Language Education and Second Official-Language Instruction* (“Agreement”), as does the Ministry.

The purpose of this letter is to articulate two requests regarding the Agreement by which federal funds, intended to enhance the vitality of the French-language community in the province and to support and assist its development, are transferred to British Columbia. The CSFCB makes these requests now because it understands that a new Agreement will be signed in 2018.

Moreover, these requests are supported by the report tabled on May 31, 2017, by the Standing Senate Committee on Official Languages, titled *Horizon 2018: Toward Stronger Support of French-language Learning in British Columbia*.

Considering the importance of these requests for the CSFCB and for the development of the French-language community in British Columbia, the CSFCB would like to meet with you and the Ministry’s team responsible for the negotiation of the next Agreement, at your earliest convenience.

The effectiveness of the Agreement, which is used to transfer funds supporting minority-language education at the elementary and secondary levels, is undermined by at least two major inadequacies that taint the Agreement between the government of British Columbia and the Ministry of Canadian Heritage. They are listed below:

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1. The Agreement for 2013-2018 (“2013-2018 Agreement”) provides, in British Columbia, a larger share of funds for education of French as a second language than for minority-language education, contrary to the Canadian average and to many provinces and territories; and

2. Section 4.3 of the 2013-2018 Agreement is not respected, and is, in any event, obsolete.

The CSFCB calls for these questions to be addressed in the 2018 version of the Agreement. Thus, the CSFCB requests that the government of British Columbia, particularly the Ministry, bring the following changes in 2018:

1. That the allocation of funds for second-language instruction and minority-language education be reversed in British Columbia; and
2. That section 4.3 of the 2013-2018 Agreement be replaced by a definition of the concept of “additional costs” in order to frame the type of project that could be funded by using federal funds.

1) Since at least 2005, and contrary to the national average, a smaller share of the federal funding is allocated to minority-language education in British Columbia (including the needs of the CSFCB) than to instruction of French as a second language.

Since at least 2005, a smaller share of the federal funding is allocated to minority-language education in British Columbia (including the needs of the CSFCB) than to instruction of French as a second language (see **Tables 2, 3 and 4**). The CSFCB thus requests that, starting in 2018, at least 60% of the allocated federal funding in British Columbia be destined to minority-language education.

Hubert Lussier, Assistant Deputy-Minister (Ministry of Canadian Heritage), explained the allocation of federal funds, in the context of the 2005-2009 Protocol, while testifying before the Standing Committee on Official Languages of the House of Commons on April 12, 2005:

Like the base funding, the action plan funding, which represents new money, is thus divided between the two linguistic objectives [“Base Funding”]: 60 percent is allocated to minority language and 40 percent to second language. The way that works out in each of the bilateral agreements with the provinces will also reflect the specific needs of the province concerned.¹

Column “A” of **Table 1**, below, presents the “Base Funding” of the 2005-2009 Protocol; the 2005-2009 Protocol does not specify how the “Base Funding” was allocated between the two linguistic objectives. Columns “B” and “C”, on the other hand, show how the “Additional Funds” of the 2005-2009 Protocol were allocated between the two objectives.

¹ Parliament of Canada, Standing Committee on Official Languages, *Evidence*, 38th Parliament, 1st Session, no. 10 (April 12, 2005) 9:40 a.m. (Hubert Lussier).

**Table 1: Federal funding distribution for the 2005-2006 school year,
according to the 2005-2009 Protocol²**

		A	B	C	D
		“Base Funding”	“Additional Funds”		
			Minority Language (Column “B” ÷ Column “D” * 100)	Second Language (Column “C” ÷ Column “D” * 100)	Total (Column “B” + Column “C”)
1	NFL	\$2,435,000	\$949,662 (71%)	\$390,301 (29%)	\$1,339,963
2	PEI	\$1,222,500	\$1,081,719 (87%)	\$162,929 (13%)	\$1,244,648
3	NS	\$4,515,000	\$1,960,334 (70%)	\$858,392 (30%)	\$2,818,726
4	NB	\$17,515,000	\$2,799,182 (74%)	\$997,624 (26%)	\$3,796,806
5	QC	\$56,497,500	\$3,784,297 (49%)	\$3,931,804 (51%)	\$7,716,101
6	ON	\$51,709,000	\$12,028,487 (55%)	\$9,994,001 (45%)	\$22,022,488
7	MB	\$7,337,500	\$3,211,307 (73%)	\$1,171,265 (27%)	\$4,382,572
8	SK	\$3,667,500	\$1,909,803 (69%)	\$838,269 (31%)	\$2,748,072
9	AB	\$8,085,000	\$2,348,696 (49%)	\$2,444,781 (51%)	\$4,793,477
10	BC	\$9,465,000	\$2,444,437 (47%)	\$2,792,642 (53%)	\$5,237,079
11	YK	\$695,000	\$1,099,525 (98%)	\$23,664 (2%)	\$1,123,189
12	NWT	\$542,500	\$1,221,296 (96%)	\$53,944 (4%)	\$1,275,240
13	NU	\$317,500	\$681,256 (97%)	\$20,383 (3%)	\$701,639
14	Total	\$164,004,000	\$35,520,001 (60%)	\$23,679,999 (40%)	\$59,200,000

However, according to the Action Plan submitted by the government of British Columbia to Canadian Heritage under the 2005-2009 Protocol, the distribution of the “Base Funding” (Column “A” of **Table 1**) did not respect the statement made by M. Lussier.

² The amounts in columns “A”, “B” and “C” of **Table 1** were reproduced from the 2005-2009 Protocol at p 21 of the French version.

Table 2 illustrates the distribution of the amounts in Column “A” in **Table 1** between the two linguistic objectives, according to the British Columbia Action Plan

Table 2: The yearly distribution of “Base Funding” (column “A” of Table 1) in British Columbia between the two linguistic objectives, pursuant to the 2005-2009 Action Plan

		A		B		C		D	
		2005-2006		2006-2007		2007-2008		2008-2009	
1	Amount of “Base Funding” granted to British Columbia ³	\$9,465,000		\$9,465,000		\$9,465,000		\$9,465,000	
2	Allocation of “Base Funding” granted to British Columbia: i. For immersion and core French, including funding granted to school districts ii. For <u>minority-language education, including funding granted to the CSFCB</u> ⁴	i. \$6,408,845	ii. \$3,014,155	i. \$6,450,015	ii. \$3,014,985	i. \$6,452,000	ii. \$3,013,000	i. \$6,447,745	ii. \$3,017,255
3	Allocation of “Base Funding” granted to British Columbia, expressed in percentage [(Row 2 ÷ Row 1) * 100]	68%	32%	68%	32%	68%	32%	68%	32%

³ Amounts in row 1 can be found at p 31 of the French version of the British Columbia Action Plan attached to the 2005-2009 Agreement.

⁴ Amounts in row 2 can be found at p 29-30 of the French version of the British Columbia Action Plan attached to the 2005-2009 Agreement.

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In 2009, the “Base Funding” and the “Additional Funds” were merged into one single fund. Despite the change of approach adopted in the 2009-2013 Protocol – which remained the same in the 2013-2018 Protocol – many provinces and territories maintained a funding distribution that corresponded to the rule expressed by M. Lussier.

This new approach to the distribution of federal funds was adopted in 2009 by the Ministry of Canadian Heritage and the government of British Columbia without consulting the CSFCB or the French-language community, contrary to section 23 of the *Canadian Charter of Rights and Freedoms* (“*Charter*”).

Table 3 demonstrates that certain provinces and territories still respect Mr. Lussier’s rule relative to the allocation of funding between the two linguistic objectives, but that is not the case in British Columbia.

Table 3: The distribution of federal funding between the two linguistic objectives within the 2009-2013 Protocol⁵ and the 2013-2018 Protocol⁶

		A	B	C	D	E	F
		2009-2013			2013-2018		
		“Minority Language” (Column “A” ÷ Column “C” * 100)	“Second Language” (Column “B” ÷ Column “C” * 100)	Total Federal Funding	“Minority Language” (Column “D” ÷ Column “F” * 100)	“Second Language” (Column “E” ÷ Column “F” * 100)	Total Federal Funding
1	NFL	\$1,301,551 (33%)	\$2,639,295 (67%)	\$3,940,846	\$1,301,551 (33%)	\$3,639,295 (67%)	\$3,940,846
2	PEI	\$1,545,732 (59%)	\$1,076,602 (41%)	\$2,622,334	\$1,545,732 (59%)	\$1 076 602 (41%)	\$2,622,334
3	NS	\$3,896,725 (51%)	\$3,761,355 (49%)	\$7,658,080	\$3,896,725 (51%)	\$3 761 355 (49%)	\$7,658,080
4	NB	\$16,236,833 (75%)	\$5,465,859 (25%)	\$21,702,692	\$16,236,833 (75%)	\$6,465,859 (25%)	\$21,702,692
5	QC	\$46,525,473 (72%)	\$18,406,662 (28%)	\$64,932,135	\$46,525,473 (72%)	\$18,406,662 (28%)	\$64,932,135
6	ON	\$54,992,678 (70%)	\$24,090,634 (30%)	\$79,083,312	\$54,992,678 (70%)	\$24,090,634 (30%)	\$79,083,312
7	MB	\$6,774,749 (55%)	\$5,540,451 (45%)	\$12,315,200	\$6,774,749 (55%)	\$5,540,451 (45%)	\$12,315,200
8	SK	\$2,693,018 (40%)	\$4,039,526 (60%)	\$6,732,544	\$2,693,018 (40%)	\$4,039,526 (60%)	\$6,732,544
9	AB	\$5,310,966 (37%)	\$8,894,859 (63%)	\$14,205,825	\$5,310,966 (37%)	\$8,894,859 (63%)	\$14,205,825
10	BC	\$6,036,572 (37%)	\$10,067,846 (63%)	\$16,104,418	\$6,036,572 (37%)	\$10,067,846 (63%)	\$16,104,418
11	YK	\$1,235,800 (56%)	\$977,100 (44%)	\$2,212,900	\$1,235,800 (56%)	\$977,100 (44%)	\$2,212,900
12	NWT	\$1,382,850 (53%)	\$1,204,705 (47%)	\$2,587,55	\$1,382,850 (53%)	\$1,204,705 (47%)	\$2,587,555
13	NU	\$772,885 (54%)	\$649,746 (46%)	\$1,422,631	\$772,885 (54%)	\$649,746 (46%)	\$1,422,631
14	Total	\$148,705,832 (63%)	\$86,814,640 (37%)	\$235,520,472	\$148,705,832 (63%)	\$86,814,640 (37%)	\$235,520,472

In British Columbia, funding for minority-language education represents 37% of the total federal funds awarded to the province under the 2013-2018 Protocol. This percentage is inconsistent with the Canadian average of federal funding granted to minority-language education, which is 63%.

⁵ The amounts can be found at paragraph 7.1.1 of the 2009-2013 Protocol.

⁶ The amounts can be found at paragraph 7.1.1 of the 2013-2018 Protocol.

Also, the December 2016 report tabled by the Standing Committee on Official Languages of the House of Commons,⁷ as well as the May 2017 report tabled by the Standing Senate Committee on Official Languages highlight that the amount of federal funding managed by the Protocol has not increased since 2009. The Standing Senate Committee on Official Languages

urges the federal government to take action to support urgent education needs in British Columbia. Inaction and stagnant funding over a 10-year period, when needs are both clear and growing, is counterproductive. Moreover, it violates the federal government's obligations under Part VII of the *OLA* and section 23 of the *Charter*. The committee believes that the federal government is not showing the proper commitment to assuring that the two official languages have equal status in a province where interest in these two languages is clear.⁸

The freeze has had a negative impact on the CSFCB, whose student body only continues to increase year after year. Since 2005, the CSFCB student population has grown from 3,639 students to more than 6,100 students, while almost every English-language school board of the province has seen decreased enrolment over the same time period.

Furthermore, in contrast to English-language school boards teaching core French or offering French immersion, the CSFCB's twofold mandate in relation to French language education, to transmit the French language and French culture, is founded on rights guaranteed by the *Charter*. The CSFCB supports French immersion and programs aimed at students of the majority learning French as a second language, but seeks to reiterate that these programs are optional, rather than constitutionally guaranteed.

The CSFCB thus requests that the share of funding for minority-language education in British Columbia and the share of funding for instruction in French as a second language be reversed.

2) **Section 4.3 of the 2013-2018 Agreement, commonly referred to as the “matching clause”, should be replaced in the next Agreement**

The 2013-2018 Agreement requires from British Columbia a “financial contribution equivalent to or greater than that of Canada for the implementation of its action plan” (section 4.3). This section is more commonly referred to as the “matching clause”.

The 2013-2018 Protocol (preamble) and the 2013-2018 Agreement (section 3.1) also state that federal funds are meant to contribute to the “additional costs” that British Columbia “must assume to implement the initiatives” of its Action plan:

WHEREAS, further to the report of the Royal Commission on Bilingualism and Biculturalism, the Government of Canada believes that the provision of minority-language education and second-language instruction **results in additional costs** for the provincial/territorial governments and is prepared to contribute toward these **additional costs**; [Emphasis added]

Neither the 2013-2018 Protocol nor the 2013-2018 Agreement define “additional costs”. In the absence of a definition of the concept of additional costs, federal funds have regularly been used

⁷ House of Commons, Standing Committee on Official Languages, *Toward a New Action Plan for Official Languages and Building New Momentum for Immigration in Francophone Minority Communities* (December 2016), 42nd leg, 1st sess at p 6 (Chair Denis Paradis) and see recommendation 3.

⁸ Senate, Standing Senate Committee on Official Languages, *Horizon 2018: Toward Stronger Support of French-language Learning in British Columbia* (May 2017) 42nd leg, 1st sess at p 64.

to fund the “core costs” of elementary and secondary French-language education. However, the core costs of that education are a provincial responsibility.

The matching clause (section 4.3) of the 2013-2018 Agreement is obsolete and should therefore not appear in the next agreement (2018-2023). This section was relevant to the agreements framing the transfer of federal funds that were signed before the adoption of section 23 of the *Charter*, when the objective was to encourage provinces and territories to make financial contributions to French-language elementary and secondary education. At the time, these were essentially “start-up funds” for French-language elementary and secondary education.

Much has changed in education funding over the past three decades, yet the Protocol and the Agreement have not been modified accordingly. British Columbia now invests much more in teaching French (through both majority and minority programs), and we now know from the courts that section 23 of the *Charter* confers a right to the funding necessary to ensure “substantively equivalent” education.

The Ministry already uses most of the federal funds to pay for “additional costs” of French-language education, which respects the 2013-2018 Agreement. However, the Ministry does not respect section 4.3. The CSFCB would like the Ministry to formalize the established practice in British Columbia by removing section 4.3 and by including a modern definition of the notion of “additional costs” in the next Agreement. Such a definition would be beneficial to the Ministry, the CSFCB, and Canadian Heritage.

The CSFCB does not consider the government of British Columbia to have truly contributed to the initiatives of the British Columbia Action Plan as agreed upon in the 2013-2018 Agreement. For example, the CSFCB uses the federal funds from the 2013-2018 Agreement to fund education programs for four-year-old children⁹:

	2012–2013: 0		2017–2018: 75				
Planned investments	2013–2014	2014–2015	2015–2016	2016–2017	2017–2018	Total	
Canada	\$1,748,672	\$1,763,672	\$1,763,672	\$1,763,672	\$1,763,672	\$8,803,360	
British Columbia	\$1,748,672	\$1,763,672	\$1,763,672	\$1,763,672	\$1,763,672	\$8,803,360	
Subtotal	\$3,497,344	\$3,527,344	\$3,527,344	\$3,527,344	\$3,527,344	\$17,606,720	
Initiatives							
6. Early Childhood Programs							
The CSF will offer services and support to four-year old children and their families as they prepare to enter the educational school system. The CSF will develop and implement in their existing schools a new early childhood program to promote cultural awareness and develop linguistic abilities for all eligible four-year olds.	\$1,600,000	\$1,600,000	\$1,600,000	\$1,600,000	\$1,600,000	\$8,000,000	

According to the British Columbia Action Plan, \$1.6 million should be invested annually in early childhood programming. However, as the Federal government provides funding based on the matching clause, the CSFCB only receives half of this amount through the Agreement.

Due to the mandate of the Ministry that extends education funding only to students aged 5 to 18, the provincial operating grant cannot be used for early childhood programming. Further, section 23 of the *Charter* does not currently guarantee early language education. As a result, the CSFCB does not receive provincial funds to match the \$800,000 received through the Agreement.

Adding a definition of the concept of “additional costs” and removing clause 4.3 would better reflect current practices and would solve the confusion illustrated by the example of early childhood programming. Such amendments would be a positive step toward the modernization of the Agreement.

⁹ Excerpt reproduced from the British Columbia Action Plan attached to the 2013-2018 Agreement at p 32.

Conclusion

The CSFCB wishes to meet with you and the Ministry's team responsible for the negotiation of the next Agreement, at your earliest convenience, in order to discuss these requests. We thank you for your time and attention in attending to these requests.

The CSFCB is available for all queries you may have concerning this letter, or to provide any additional information. Please communicate with the CSFCB's Superintendent, Bertrand Dupain, with respect to any part of this letter. He can be reached at 604-214-2601, or by e-mail at bertrand_dupain@csf.bc.ca.

Sincerely,



Marie-France Lapierre
Chairperson

Cc Scott MacDonald, Deputy Minister
 Reg Bawa, Assistant Deputy Minister
 Linda Beddouche, Director, Education Program Delivery
 Bertrand Dupain, Superintendent of the CSFCB
 Sylvain Allison, Secretary Treasurer of the CSFCB