



Investigation Report

FILE NUMBERS: 2020-086 and 20-21-031

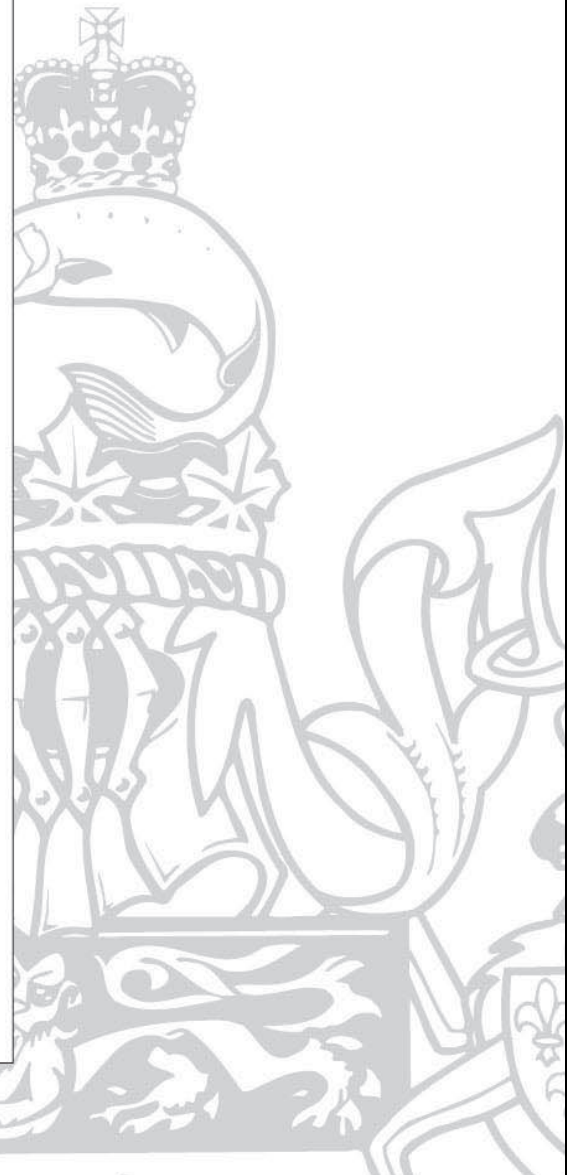
INSTITUTION CONCERNED Office of the Premier

SUBJECT Responsibilities toward professional associations

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**REPORT DISTRIBUTED TO THE
FOLLOWING PERSONS** Premier
Complainants
Clerk of the Executive Council
Executive Director of the Secretariat
of Official Languages

ISSUE DATE March 2026



Preamble

Please note that in February 2026 the New Brunswick Nurses' Association changed its name to the College of Nursing of New Brunswick. In this investigation report, the Office of the Commissioner of Official Languages of New Brunswick refers to the Association by its former name, as the investigation of the complaints was concluded prior to the change of name.

Summary

This report was prepared following an investigation of complaints against the Office of the Premier (the institution). More specifically, the complainants alleged that the Premier, as the minister responsible for the *Official Languages Act* (OLA) under section 2, has a duty to ensure that the institutions of the Province, which include professional associations since they exercise a constitutional jurisdiction of the Province, comply with the purpose and spirit of the OLA.

Upon conclusion of this investigation, the Office of the Commissioner of Official Languages established, for the reasons set out in this report, that the complaints are **unfounded** and that the institution met its linguistic obligations under the *Official Languages Act* of New Brunswick (OLA).

Complaints

On July 31, 2019, the OCOL received complaints regarding the Nurses Association of New Brunswick (NANB) and the Office of the Premier. The OCOL decided to carry out two separate investigations. Details of the complaints regarding NANB can be found in an investigation report published in March 2026 (see files 2020-085 and 20-21-030). In the present case, the details of the complainants' allegations against the Office of the Premier are as follows:

With regard to our complaint against the Premier, we refer you to subsection 1.1(b), which states that "The purpose of this Act is the following: (b) to ensure that English and French have equality of status and equal rights and privileges as to their use in all institutions of the Province." We submit that allowing a professional association to continue a practice that places one of the two official linguistic communities at a disadvantage owing to its choice of language is contrary to this provision. We also submit that the Premier, as the minister responsible for the Act under section 2 of the Act, has a duty to ensure that the institutions of the Province, which include professional associations since they exercise a constitutional jurisdiction of the Province, comply with the object and spirit of the Act.

Consequently, we believe that the Premier has an obligation to take the necessary measures to ensure that the Nurses Association of New Brunswick meets its obligations under the Official Languages Act. By failing to do so, he is in violation the above-cited provisions.

Abbreviations and Terms Used

OCOL	Office of the Commissioner of Official Languages
NANB	Nurses Association of New Brunswick
Institution	Office of the Premier
OLA	<i>Official Languages Act of New Brunswick</i>

Investigation

Investigation under subsection 43(13) of the OLA

After the complaints were filed on July 31, 2019, the Office of the Commissioner of Official Languages (OCOL) decided to proceed with an investigation under subsection 43(13) of the *Official Languages Act of New Brunswick* (OLA).

A notice of investigation dated October 15, 2020, was sent to the Office of the Premier (the institution). In this notice to the then Premier, the institution was asked to provide the OCOL with any information that may be useful in this matter and to answer a series of questions.

Response from the institution

On November 16, 2020, the institution provided its response to the complaints, in which it answered the OCOL's questions.

Analysis

Relevant provisions of the *Official Languages Act* of New Brunswick (OLA) in this matter are as follows:

Purpose

1.1 The purpose of this Act is the following:

(b) to ensure that English and French have equality of status and equal rights and privileges as to their use in all institutions of the Province

Minister responsible

2 The Premier is responsible for the administration of this Act.

Professional associations

41.1(1) In this section, “professional association” means an organization of persons that, by an Act of the Legislature, has the power to admit persons to or suspend or expel persons from the practice of a profession or occupation or impose requirements on persons with respect to the practice of a profession or occupation.

41.1(2) When a professional association exercises a power referred to in subsection (1), the professional association

Objet

1.1 La présente loi a pour objet :

b) d’assurer l’égalité de statut et l’égalité de droits et de privilèges du français et de l’anglais quant à leur usage dans toutes les institutions de la province

Ministre responsable

2 Le Premier ministre est responsable de l’application de la présente loi.

Associations professionnelles

41.1(1) Dans le présent article, « association professionnelle » s’entend d’une organisation de personnes qui, par loi provinciale, est habilitée à admettre, à suspendre ou à expulser des personnes relativement à l’exercice d’une profession ou à leur imposer des exigences à l’égard de cet exercice.

41.1(2) Lorsqu’elle exerce l’un quelconque des pouvoirs mentionnés au paragraphe (1), l’association professionnelle :

(a) shall provide services and communications related to the exercise of that power in both official languages, and

a) dispense dans les deux langues officielles les services et les communications liés à cet exercice;

(b) with respect to its power to impose requirements, shall ensure that a person is able to fulfil those requirements in the official language of his or her choice.

b) s'agissant de son pouvoir d'imposer des exigences, s'assure que quiconque peut satisfaire à ces exigences dans la langue officielle de son choix.

41.1(3) No person shall be placed at a disadvantage by reason of exercising his or her right to choose an official language in which to fulfil requirements imposed by a professional association.

41.1(3) Nul ne peut être défavorisé du fait qu'il a exercé son droit de choisir la langue officielle dans laquelle il satisfait aux exigences qu'impose l'association professionnelle.

41.1(4) A professional association shall offer its services and communications to members of the public in both official languages.

41.1(4) L'association professionnelle offre au public ses services et ses communications dans les deux langues officielles.

Questions asked by the OCOL and responses provided by the institution

The questions asked by the Office of the Commissioner of Official Languages (OCOL) in the notice of investigation covered several points, including compliance with the OLA, communications and negotiations between the Office of the Premier and NANB, the nursing entry-to-practice registration exam and audits of NANB to ensure linguistic rights are upheld.

This section examines the responses provided by the Office of the Premier (the institution) to the questions relating to these points. Through its analysis, the OCOL concluded that the complaints are **unfounded**.

Communications and negotiations between the Office of the Premier and NANB

In its notice of investigation dated October 15, 2020, the OCOL asked the following question:

Please provide us with a detailed list of communications/negotiations between the Government of New Brunswick and the NANB that have taken place since the May 2018 release of our investigation report on this association and the results regarding the nursing entrance exam.

The institution responded as follows:

As you are aware, representatives of the Department of Health and Intergovernmental Affairs sat on a working group led by the NANB in 2017. Since

the dissolution of that committee, and in parallel with the report of your predecessor in 2018, the NANB confirmed to us that it was exploring all possible avenues, including the development of additional study material, a partnership with a few other jurisdictions, and even the adoption of a new examination for admission to the profession. The latest news is that the National Council of State Boards of Nursing (NCSBN) virtual study guide was adapted/translated into French and has been available since July 2020.

Nursing entry-to-practice registration exam

The OCOL asked the following question:

Is the Government of New Brunswick currently working with the NANB to decide which nursing entrance exam will be used? If yes, please provide details.

The institution responded as follows:

Our discussions with the NANB over the past three years indicated that changing the exam, or adding a second exam for Francophone students, were options being considered. We were very recently informed by the NANB of the development of a normative framework, which may open the door to more exam providers. The NANB could then determine whether their exam meets the NANB standards for an entrance exam in New Brunswick.

Audits of NANB to ensure language rights are upheld

The OCOL asked the following question to determine whether the Office of the Premier is conducting audits to ensure that NANB is respecting the language rights of members of the public:

Please describe the type(s) of audits, if any, that the Government of New Brunswick conducts with the NANB. Are audits conducted to ensure, for example, that the rights of its members or the public are being respected?

The institution responded as follows:

No audit has been carried out in this regard. The Department of Health would only audit a regulatory body if extreme circumstances arose, such as an undue risk to public safety.

In the OCOL's view, the responses from the Office of the Premier demonstrate that, although the Premier is the minister responsible for the administration of the OLA, the Office of the Premier is not the primary body responsible for issues related to the exam recommended by NANB or for the alleged deficiencies in the respect of language rights resulting from the use of this exam.

According to the responses from the Office of the Premier, NANB is the primary body responsible for implementing measures to offer and provide service of equal quality in both official languages to all candidates to the nursing profession in New Brunswick.

Commissioner's Observations

The Nurses Association of New Brunswick is a professional association and is a regulatory college mandated by the *Nurses Act*.

Professional associations who are mandated to regulate their members are known as self-regulating professions. The government delegates legislative power to self-regulating professions so that they control their own standards, registration requirements and disciplinary measures. As such the Government of New Brunswick plays no role in the regulation of these professions. Governing legislation of all professional associations sets out that their primary mandate is to ensure that the profession is regulated in the public interest. Further, in terms of obligations under the OLA, professional associations are subject to all the obligations of "institutions" under the OLA as well as the specific obligations under section 41.1 of the Act. Professional associations are therefore directly responsible for meeting their obligations under the OLA.

Because the Government of New Brunswick does not exercise any control over the regulation of the New Brunswick Nurses Association, the OCOL did not involve the Office of the Premier in the investigation.

However, section 2 of the OLA provides that the Premier of New Brunswick is responsible for the administration of the OLA and the OCOL provides all investigation reports to the Premier. It is in this context that the report will be provided to the Premier, but the OCOL finds that the Premier has no jurisdiction over the subject matter of the complaints, which is the sole responsibility of the regulator; the NANB. As such, the OCOL has no jurisdiction to investigate those two complaints, which are **unfounded**.

Conclusion

Through its investigation, the Office of the Commissioner of Official Languages determined, for the reasons set out in this report, that the complaints are **unfounded** and that the Office of the Premier (the institution) met its obligations under the *Official Languages Act* of New Brunswick (OLA).

The Office of the Commissioner would like to thank the institution for its cooperation in this investigation.

Pursuant to subsection 43(16) of the OLA, we submit this report to the Premier and the complainants. We also submit it to the Clerk of the Executive Council and to the Executive Director of the Secretariat of Official Languages.

Pursuant to subsection 43(18) of the OLA, if the complainants are not satisfied with the conclusions of this investigation, they may apply to the Court of King's Bench of New Brunswick for a remedy.

Shirley C. MacLean, K.C.
Commissioner of Official Languages for New Brunswick
Dated at the City of Fredericton,
Province of New Brunswick,
This 9th day of March 2026