

Standing Committee on Oversight of Government Operations and Public Accounts

Report on the Review of the 2020-2021 and 2021-2022, 2022-2023, and the 2023-2024 Consolidated Annual Reports of the Languages Commissioner of Nunavut

> 2nd Session of the 6th Legislative Assembly of Nunavut Spring 2025 Sitting

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Introduction

The Standing Committee on Oversight of Government Operations and Public Accounts held a televised hearing from September 20-21, 2024, on the 2020-2021 and the 2021-2022, 2022-2023, and 2023-2024 Consolidated Annual Report of the Languages Commissioner of Nunavut.

The standing committee's hearing was held in the Chamber of the Legislative Assembly and was televised live across the territory. The hearing was open to the public and news media to observe from the Visitors' Gallery, and was livestreamed on the Legislative Assembly's website. The transcripts from the standing committee's hearing are available from the Legislative Assembly's website.

Witnesses appearing before the standing committee included the Languages Commissioner and a number of Government of Nunavut official's representing the Department of Culture and Heritage, the Department of Justice, the Department of Human Resources, the Department of Health and Nunavut Arctic College. The standing committee notes its appreciation to the witnesses.

Overview and Chronology of Recent Events

The *Official Languages Act* was inherited upon division on April 1, 1999. In 2008, the Legislative Assembly of Nunavut passed two language statutes, the *Official Languages Act* and the *Inuit Language Protection Act*, which came into force in stages in 2017 and 2020.

The Official Languages Act and the Inuit Language Protection Act constitute Nunavut's official languages legislation. The statues outline the official languages of Nunavut, establish obligations for territorial institutions and other entities to provide services in the territory's official languages. The statutes also outlines the need to preserve and promote the Inuit Language.

The position of the Languages Commissioner of Nunavut is established by section 16 of the *Official Languages Act.*

Section 16 of the Official Languages Act provides, in part, that the:

Appointment of Languages Commissioner 16. (1) The Commissioner, on the recommendation of the Legislative Assembly, shall appoint the Languages Commissioner to exercise the powers and perform the duties set out in this Act. Section 24(1) and (2) of the Official Languages Act provides that the:

Languages Commissioner's annual report

24. (1) The Languages Commissioner shall, within six months after the end of each fiscal year, prepare and submit to the Speaker of the Legislative Assembly an annual report of the conduct of the office and the discharge of the duties of the Languages Commissioner during the preceding year, including

(a) the appointment and activities of an acting or special Languages Commissioner during the preceding fiscal year;

(b) a description of the number and type of applications and requests made under this Act and under the Inuit Language Protection Act, the status or resolution of the applications or requests that were active during the preceding fiscal year and information about any instances where recommendations made by the Languages Commissioner after an investigation have not been followed; and

(c) an assessment of the effectiveness of the enforcement powers exercised and duties performed by the Languages Commissioner, with any recommended changes that the Languages Commissioner considers necessary or desirable to improve compliance with this Act or the Inuit Language Protection Act.

Tabling annual report

(2) The Speaker shall cause the annual report to be laid before the Legislative Assembly as soon as is reasonably practicable.

The 2020-2021 Annual Report of the Languages Commissioner was tabled in the House on November 19, 2021. The 2021-2022, 2022-2023, and 2023-2024 Consolidated Annual Report of the Languages Commissioner of Nunavut was tabled in the House on October 24, 2024. These reports are also publicly accessible on the Office of the Languages Commissioner of Nunavut's website.

Observations and Recommendations Directed to the Government of Nunavut

Issue: Commitments to Provide Information

During the televised hearing, witnesses from the Government of Nunavut made a number of commitments to provide additional information to the standing committee.

Standing Committee Recommendation #1:

The standing committee recommends that the Government of Nunavut's response to this report include the information that was committed to during the televised hearing of September 20-21, 2024.

Issue: Languages Commissioner's Investigative Authority and the Access to Information and Protection of Privacy Act

The Government of Nunavut's Department of Executive and Intergovernmental Affairs has overarching responsibility for the government's administration of the *Access to Information and Protection of Privacy Act*.

Significant attention was paid during the standing committee's televised hearing of September 20-21, 2024, to the issues of Government of Nunavut departments delaying a number of investigations undertaken by the Languages Commissioner by not releasing information requested by the Office of the Languages Commissioner.

The standing committee notes that sections 26(1) and (2) of the *Official Languages Act* provides that:

Application for Investigation

26. (1) A person may apply to the Languages Commissioner orally, or in another form that the Languages Commissioner considers to be satisfactory, for the investigation of concerns that, in the administration of the affairs of a territorial institution or municipality,

(a) the status of an Official Language has not been recognized;

(b) a provision of this or any other Act or regulation relating to the status, use or protection of an Official Language has not been complied with; or (c) the spirit and intent of this Act or the *Inuit Language Protection Act* has not been fulfilled.

Languages Commissioner may initiate

26. (2) On the Languages Commissioner's own initiative, or at the request of a territorial institution, a municipality or a member or committee of the Legislative Assembly, the Languages Commissioner may commence an investigation on the grounds for concern referred to in subsection.

The standing committee also notes that section 25(5) of the *Official Languages Act* and section 38(6) of the *Inuit Language Protection Act* provides that:

Paramountcy

25. (5) If there is an inconsistency or conflict between this section and the *Access to Information and Protection of Privacy Act* or the regulations made under that Act, this section prevails to the extent of the inconsistency or conflict.

Section 38(6) of the Inuit Language Protection Act provides that:

Paramountcy

38(6) If there is an inconsistency or conflict between this Part and the *Access to Information and Protection of Privacy Act* or the regulations made under that Act, this Part prevails to the extent of the inconsistency or conflict.

The Languages Commissioner's opening message in the 2021-2024 consolidated annual report included an excerpt from correspondence from the Information and Privacy Commissioner, which indicated that:

"Your office is governed by two pieces of legislation: the *Official Languages Act* and the *Inuit Language Protection Act*. These two laws give you broad authority to investigate and to require the production of documents and other information.

The key provisions of the *Official Languages Act* on collection of information are the following:

- The Languages Commissioner may "request and obtain information from the persons and in the manner the Languages Commissioner considers appropriate": s 31(1).
- The Languages Commissioner may compel testimony "at a time and place" specified by the Commissioner: s 31(2)(c).
- The Languages Commissioner may compel a person to produce "documents and things" in a person's possession that the Commissioner considers relevant "at a time and place" specified by the Commissioner: s 31(2)(d).

Under the *Official Languages Act* and the *Inuit Language Protection Act*, you have a right to whatever information you consider relevant, with few and limited exceptions. You may compel a public agency to give it to you. You do have some statutory restrictions on what you can do with the information, but that is a decision for you to make, not the public agency."

In her 2021-2024 consolidated annual report, the Languages Commissioner also indicates that:

"The additional duties [of the Languages Commissioner] are essential to note because the law outlines my office's power to investigate language rights infringements. These laws confer to my office the right to obtain information to support our investigation of any and all concerns regarding language rights infringements in Nunavut. Section 25(5) of the Official Languages Act, in particular, ensures that the Access to Information and Protection of Privacy Act does not limit our investigative powers. Section 38(6) of the Inuit Language Protection Act further affirms that the protection of privacy in regard to our investigation does not apply. Our office has made numerous efforts to communicate these provisions of law to departments of the Government of Nunavut. Unfortunately, we have faced continued resistance from departments in providing the information needed for our investigations, which has delayed our efforts to address language rights infringements. I have reached out to the Information and Privacy Commissioner to further affirm my responsibility and powers to obtain information from Government of Nunavut departments and agencies to support my investigations."

The standing committee is strongly supportive of efforts on the part of the Government of Nunavut to support the Office of the Languages Commissioner with respect to proactively informing departments of the investigative authority of the Languages Commissioner.

Standing Committee Recommendation #2:

The standing committee recommends that the Government of Nunavut's response to this report provide a detailed update on how it will inform its departments and agencies of the Office of the Languages Commissioner's investigative authority.

Issue: Government of Nunavut's Response to the Office of the Languages Commissioner's Recommendations

Significant attention was paid during the standing committee's televised hearings of September 20-21, 2024, to the issue of the Department of Executive and Intergovernmental Affair's failure to respond to the Languages Commissioner's recommendations outlined in her prior year's annual reports.

In her testimony to the standing committee of September 20, 2024, the Languages Commissioner stated that:

"This consolidated annual report does not make any new recommendations, as many of our past recommendations still need to be implemented. In March 2022 we requested an update from the Department of Executive and Intergovernmental Affairs to monitor the progress of my office's past recommendations. The expectation was that our office would receive a response on some of the recommendations that were either addressed or not and the progress of those recommendations.

The first deadline for Executive and Intergovernmental Affairs' response was set for March 30, 2022, with an expectation that we would receive a full progress report by the next fiscal year from the territorial government. The intention was to gauge the progress and monitor the Nunavut government's commitment to addressing language rights infringements. Our office did not receive a response regarding the progress and status of the recommendations in the fiscal years 2021-2022, 2022-2023, and 2023-2024.

... In March 2023 my office requested that the Premier's Office provide an update on the status and progress of those recommendations, with a deadline to respond by April 10, 2023. In the fiscal year 2023-2024 our office did not receive a response on the status and progress of those recommendations.

Unless territorial government institutions and public agencies provide updates on their efforts to address our office's recommendations, we cannot determine whether they comply with their language obligations and commitments."

In her testimony to the standing committee of September 21, 2024, the Languages Commissioner stated that:

"The fact of the matter is when I requested that information, there was no response within the timeline that I outlined, nor an update afterward. The government says they've responded. I couldn't include those in my annual reports because they did not provide that within the time frame that I requested so it could be included in the annual report." The standing committee emphasizes the importance of timely responses from the Government of Nunavut to the recommendations made by the Office of the Languages Commissioner.

Standing Committee Recommendation #3:

The standing committee recommends that the Government of Nunavut's response to this report include its responses to previous recommendations made by the Office of the Languages Commissioner.

The standing committee further recommends that the Government of Nunavut's response to this report describe, in detail, the process by which it will ensure that it provides timely responses to the Office of the Languages Commissioners recommendations.

Issue: Training for Government of Nunavut Staff Regarding Language Law Obligations

In her testimony to the standing committee of September 20, 2024, the Department of Culture and Heritage's lead witness stated that:

"... we have had ongoing discussions with the Commissioner on how better we can respond from the government's side and the departments within the government, that one department, the Deputy Minister of Environment to take the lead. We have had to make more decisions on that, and we will work towards computer training, language-related issues and obligations under the *[Inuit] Language Protection Act* that we will be able to see the obligations on screen in written form and for employees to follow.

... we're talking about creating a manual if the Languages Commissioner approaches you, what are you to do? And what steps would you have in coming up with a response, with a manual on the official languages. I agree that we need to work closely with the Commissioner and we have committed to working with them and agreements."

The standing committee strongly supports the development of computer training initiatives for Government of Nunavut staff concerning language laws obligations.

Standing Committee Recommendation #4:

The standing committee recommends that the Government of Nunavut's response to this report provide a detailed update on the implementation of its language obligations training modules.

The standing committee further recommends that the Government of Nunavut's response to this report include a detailed update on the status of the creation of the "manual" that was referenced by the Department of Culture and Heritage's Deputy Minister.

Issue: Information-Sharing Agreements with the Government of Nunavut and other entities

On January 30, 2023, the Languages Commissioner appeared before the House of Commons Standing Committee on Indigenous and Northern Affairs to outline the issues that Nunavut is experiencing with the federal government's noncompliance with the two Nunavut language legislation.

The Languages Commissioner's 2021-2022, 2022-2023, and 2023-2024 Consolidated Annual Report indicated that:

"the Languages Commissioner stated that this is especially concerning because federal agencies, departments, and institutions in Nunavut are accountable for the lack of Inuktut in their oral communications, public signs, posters, reception, and client services as required under *Inuit Language Protection Act.*"

To address these concerns, the Languages Commissioner provided two recommendations in the 2021-2022, 2022-2023, and 2023-2024 Consolidated Annual Report, which indicated that:

"Recommendation 1: Memorandum of Understanding

Establish a Memorandum of Understanding with federal agencies, departments, and institutions in Nunavut. This will be the mechanism to improve communication on language issues and resolve them while concerns are raised about a federal institution in Nunavut.

Recommendation 2: Legislative tool

To hold the Privy Council accountable for the implementation of recommendations on Language issues in Nunavut and ultimately in Canada. To establish a clear time frame for federal agencies, departments, and institutions operating in Nunavut to respond to Office of the Languages Commissioner of Nunavut's recommendations."

In her testimony to the standing committee of September 20, 2024, the Languages Commissioner stated that:

"... having a Memorandum of Understanding with the Nunavut government will be a systemic way so the government can keep track itself on my offices past recommendations, and it is not person dependent. There's a clear paper trail of what the concern was, number 1; what the findings was, number 2 from my office; number 3, what the government needs to do; number 4, is there any updates or any progress on it; number 5, what more can they do to make sure that they are complying with the laws or following the recommendations. It is more of a systemic way of keeping track of the concerns from my office." In her testimony to the standing committee of September 21, 2024, the Department of Culture and Heritage's witness stated that:

"The Commissioner has invited us to make suggestions with the protocol, and we welcome that suggestion."

Standing Committee Recommendation #5:

The standing committee recommends that the Government of Nunavut's response to this report provide a detailed update on the status of entering into a Memorandum of Understanding with the Office of the Languages Commissioner, the Government of Canada and other entities.

Issue: Health-Specific Patient Relations Language Issues and Related Matters

Significant attention was paid during the standing committee's televised hearings of September 20-21, 2024, to the issue of interpretation services for Nunavut patients receiving medical care and long-term care outside of Nunavut.

A Member asked a series of questions concerning patients, specifically Elders, who face significant language barriers when on medical travel for treatment.

On September 20, 2024, a Member noted that:

"I'll switch over to the Government of Nunavut for this follow-up question regarding interpretation services in hospitals down south, especially when it's after hours. It's been a longstanding issue with this serious concern where an elder doesn't know what's going on at all around them, or what's wrong with them, or how serious their illness is, and there's no one there to interpret for them. What work has been done recently to help solve this issue? Is there an oncall person that can be called up to rush to the hospital in the middle of the night to provide interpretation services?"

In her testimony to the standing committee of September 20, 2024, the Department of Health's witness stated that:

"I can't speak to that specific circumstance, but I know that we do have contingency plans at place at boarding homes. If there are no staff available to speak Inuktitut, they then call another boarding home to access the interpreters there.

In terms of what happens in those after-hour situations, we can admit [commit] to getting back to the committee as part of the follow-up out of this appearance to get a bit more detail on that."

Another Member asked a series of questions concerning translation services for Elders who live in Elder homes and care facilities.

On September 21, 2024, the Member stated that:

"I would like to ask another question about the matter to the Department of Health. Having interpreters after regular office hours, do they have proper interpretations available after regular working hours? Especially the one in Ottawa and the one in Iqaluit, the elder facility? ... I would like to ask about the two to see if the services, to see how it has been settled with the contractors who take care of elder facilities. Are the patients kept informed that there are interpreters are available, even after regular working hours?" In her testimony to the standing committee of September 21, 2024, the Department of Health's witness stated that:

"It really depends on the ability to hire and the availability of people to come in for those shifts. So there are two full-time interpreters at Embassy West. There are also medical interpreters that we have on call in other boarding homes that we can call for after hours if they're available. Also at Embassy West there has been a development of an interpretation tool for medications and clinical care, as well as staff using the translator app to communicate with clients. We're always looking to hire more, so if there are individuals in Ottawa that are interested in working in interpretation, there always needs to hire more interpreters, and those contracts allow for hiring of more interpreters"

Standing Committee Recommendation #6:

The standing committee recommends that the Government of Nunavut's response to this report provide a detailed update on the status of providing interpretation services for Nunavut patients receiving medical and long-term care outside of the territory, including services provided after operational hours.

Issue: The Department of Culture and Heritage's Language Act Implementation Section Staffing

In her testimony to the standing committee of September 20, 2024, the Department of Culture and Heritage's witness stated that:

"We introduced a language act implementation section to monitor the implementation [of language law obligations]. Currently we have one employee there. We have three positions that need to be filled, and the workload is huge and the language issues in the various departments that we're working with, in terms of proper use of Inuktitut."

The standing committee recognizes the challenges the Department of Culture and Heritage may face when attempting to fill the vacant positions.

Standing Committee Recommendation #7:

The standing committee recommends that the Government of Nunavut's response to this report provide a detailed update on the status of filling the vacant positions in the Language Act Implementation section of the Department of Culture and Heritage.

Observations and Recommendations Directed to the Office of the Languages Commissioner

Issue: Tabling of the Office of the Languages Commissioner's Annual Reports

Section 24(1) of the Official Languages Act provides that:

Languages Commissioner's annual report

24. (1) The Languages Commissioner shall, within six months after the end of each fiscal year, prepare and submit to the Speaker of the Legislative Assembly an annual report of the conduct of the office and the discharge of the duties of the Languages Commissioner during the preceding year."

a) the appointment and activities of an acting or special Languages Commissioner during the preceding fiscal year;

(b) a description of the number and type of applications and requests made under this Act and under the *Inuit Language Protection Act*, the status or resolution of the applications or requests that were active during the preceding fiscal year and information about any instances where recommendations made by the Languages Commissioner after an investigation have not been followed; and

(c) an assessment of the effectiveness of the enforcement powers exercised and duties performed by the Languages Commissioner, with any recommended changes that the Languages Commissioner considers necessary or desirable to improve compliance with this Act or the *Inuit Language Protection Act*.

Section 24(2) of the Official Languages Act provides that:

Laying report before Legislative Assembly

(2) The Speaker shall, at the first opportunity, lay a copy of the annual report referred to in subsection (1) before the Legislative Assembly.

The 2020-2021 annual report of the Languages Commissioner was tabled in the Legislative Assembly on November 19, 2021. The 2021-2022, 2022-2023, and 2023-2024 Consolidated Annual Report of the Languages Commissioner of Nunavut was tabled in the House on October 24, 2024.

The standing committee emphasizes the importance of the timely production and tabling of annual reports in the Legislative Assembly.

Standing Committee Recommendation #1:

The standing committee recommends that the Office of the Languages Commissioner makes every reasonable effort to produce and table its annual reports in the Legislative Assembly within the timeframes that are statutorily mandated.

Issue: Information-Sharing Agreements with the Government of Nunavut and other Entities

The Languages Commissioner's 2021-2022, 2022-2023, and 2023-2024 Consolidated Annual Report indicated that:

"The Office of the Languages Commissioner of Nunavut (OLCN) continues to receive concerns about federal agencies, departments, and institutions in Nunavut.

Furthermore, the issues the Office faces in addressing concerns involving the federal agencies, departments, and institutions in Nunavut are the following:

(a)The lack of response from the obligated federal agencies, departments, and institutions; and

(b) Tools to enforce their compliance with the law are absent, even if the complaints are admissible.

The Languages Commissioner's 2021-2022, 2022-2023, and 2023-2024 Consolidated Annual Report indicated that:

"this is especially concerning because federal agencies, departments, and institutions in Nunavut are accountable for the lack of Inuktut in their oral communications, public signs, posters, reception, and client services as required under the *Inuit Language Protection Act*."

To address these concerns, the Languages Commissioner provided two recommendations:

"Recommendation 1: Memorandum of Understanding

Establish a Memorandum of Understanding with federal agencies, departments, and institutions in Nunavut. This will be the mechanism to improve communication on language issues and resolve them while concerns are raised about a federal institution in Nunavut.

Recommendation 2: Legislative tool

To hold the Privy Council accountable for the implementation of recommendations on Language issues in Nunavut and ultimately in Canada. To establish a clear time frame for federal agencies, departments, and institutions operating in Nunavut to respond to Office of the Languages Commissioner of Nunavut's recommendations."

The standing committee supports the Office of the Languages Commissioner of Nunavut in her efforts to improve communication with other entities, including the Government of Nunavut and the Government of Canada.

In her testimony to the standing committee of September 21, 2024, the Languages Commissioner stated that:

"Getting to your question now in regards to the protocol, I want to commit to having a formalized, signed protocol before the end of this fiscal year so that we can include it in our 2024-2025 annual report."

Standing Committee Recommendation #2:

The standing committee recommends that the Office of the Languages Commissioner's response to this report include a detailed update on the status of implementing the two recommendations referenced on page 17 of its 2021-2022, 2022-2023, and 2023-2024 consolidated annual report.

The standing committee further recommends that the Office of the Languages Commissioner's response to this report include copies of the Memorandum of Understanding referenced on page 17 of its 2021-2022, 2022-2023, and 2023-2024 consolidated annual report, if completed.

Issue: Inuit Language Plans

Section 3(1) of the *Inuit Language Protection Act* provides that:

Duties of every organization

3(1) Every organization shall, in accordance with this section and the regulations, if any,

(a) display its public signs, including emergency and exit signs, in the Inuit Language together with any other language used;

(b) display and issue its posters and commercial advertising, if any, in the Inuit Language together with any other language used;

Inuit Language Protection Act, Official Consolidation of Current to: July 1st, 2021 C.S.Nu.,c.I-140 6

(c) ensure that the Inuit Language text of its public signs, posters and commercial advertising is at least equally prominent with any other language used; and (d) provide, in the Inuit Language, its reception services and any

Section 29(1) of the Inuit Language Protection Act provides that:

Inuit Language Plan

29(1) An organization that is not a territorial institution may manage its compliance with this Act by means of an Inuit Language plan, which must include the following:

(a) the organizational measures, policies and practices proposed for the communications with or delivery of services to the public that are required under this Act;

(b) a schedule for giving effect to the measures, policies or practices;

(c) an indication of the numbers of the organization's staff, if any, that are or will be fluent in the Inuit Language and able to communicate with or deliver services to the public in the Inuit Language as required under this Act; and

(d) the ways in which the organization will ensure that the Inuit Language plan and the availability of communications with

In her testimony to the standing committee of September 20, 2024, the Languages Commissioner stated that:

"As part of our roles, we deal with businesses in Nunavut that also have language obligations to provide services and advertising in Inuktut. (interpretation) To assist this sector in complying with the language laws, our office offers an Inuit language plan which outlines what a business will do to comply better and fulfill its obligations and appropriate timelines to fulfill the language obligations. We have worked towards updating the Inuit language plan guidelines as well as the form. This form is meant to address any shortfalls and identify ways to comply better. We have revised and shortened this form from an 11-page document down to a three-page form, which is now available." The Standing Committee appreciates the Office of the Languages Commissioner for its work to revise the Inuit Language Plans in efforts to have more Nunavut businesses participate and ensure their compliance with language law obligations.

In her testimony to the standing committee of September 20, 2024, the Language Commissioner also stated that:

"I have to provide information to the private businesses, for example what kind of obligations they have for the store, Northern Store. I have to make sure I can with them that if you're going to advertise to the public in English, if you're going to make commercial advertising, please follow Inuit language and provide that service to the public.

Not only making them aware if there was a complaint made to our office. We would provide that information, and to make sure that they follow the requirement.

... As I stated before, there's an application form that we provide to the private entities, what their requirements are on language laws. If they want to abide by the language laws as a private business, we provide that application form and information to the private companies. We also would put in an application form along with the information to the private businesses so that they will know which area they had contravened in the legislation, and to make sure that they don't break the law or contravene the law in the future. But there's always a but: The Inuit language plan, the one that you have to fill out, it's a form.

If the private business wanted to, they could utilize it, but I cannot force them. I cannot force them to use it, but it's up to the entity or the private business if they want to. I'm not sure whether there's going to be a regulation or legislation, but that's one of the barriers we see if they want to abide. I can encourage them to follow the legislation, but it's totally up to them.

And to further explain, as private businesses, every time we speak to the private businesses, we provide the Inuit language plan to them and we always explain that Nunavut government has funding available for private businesses to use to make sure that they follow the legislation. And we direct them to the Department of Culture and Language Services, but the Nunavut government have funding available for language work. But we do make sure that we inform the private businesses that there's funding available made by the Government of Nunavut to make sure that they, I would like to see, -- make sure that they follow the legislation."

Standing Committee Recommendation #3:

The standing committee recommends the Office of the Languages Commissioner of Nunavut continue to distribute the revised Inuit Language Plan form to private sector businesses in Nunavut.

Looking Ahead

Ms. Karliin Aariak's term of office commenced on February 18, 2020, and ended on February 18, 2025. The Standing Committee on Oversight of Government Operations and Public Accounts expresses its appreciation for Ms. Aariak's service throughout her term as the Languages Commissioner of Nunavut.

The standing committee notes that the position for the Languages Commissioner of Nunavut is currently vacant. The Standing Committee notes the Management and Services Board's jurisdiction with respect to the recruitment and selection process for independent officers of the Legislative Assembly.