

Summary

Impact study by the Bill 104 Committee of the Quebec Association of Independent Schools

In Québec, section 23 of the *Canadian Charter of Rights and Freedoms* and section 73 of the *Charter of the French Language* of Quebec allow parents to send their children to English-language schools, financed by public funds, in three circumstances:

(1) if one of the parents received his or her primary school instruction in English; (2) if the child is receiving or has received the major part of his education in English (for example, in another province before moving to Quebec); (3) if one child is receiving or has received the major part of his or her education in English, then, all his or her brothers or sisters may study in English as well.

Under the former Bill 104, adopted in 2002, children's instruction in private schools was not considered when calculating whether or not the child has received the "major part" of his or her instruction in English. In 2009, the Supreme Court of Canada in the case of *Nguyen v. Québec* decided that this restriction was too severe and gave the Government of Quebec one year to amend the *Charter of the French Language*.

According to the author, Bill 104 had a negative effect on the school public system and school private system. This negative effect is shown by the declining number of students, who are indeed eligible to attend English-language schools, but who instead attend a French-language school due to the limited access to English-language instruction. The author concludes that the impact of the Supreme Court decision in the case of *Nguyen v. Québec* should be to reverse the trend of declining enrolment, or at least stabilize it by allowing for a small degree of increased freedom of choice for families living and working in Quebec.