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# Minority language educational rights: Technical report on changes for the 2021 Census



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## Table of contents

<b>1. Introduction</b> .....	<b>4</b>
<b>2. Definitions, data needs and existing data sources</b> .....	<b>6</b>
2.1 What is a rights-holder? .....	6
2.1.1 Uniqueness of Quebec .....	6
2.1.2 Exceptions .....	7
2.2 Data needs.....	7
2.2.1 Jurisprudence and details about the data needs.....	8
2.3 Current data and their limitations .....	8
<b>3. Using the Census of Population to measure the number of children of rights-holders</b> .....	<b>9</b>
3.1 Implementation of the collection strategy and new questions .....	9
3.2 Modules and wording of questions in the 2019 Census Test.....	11
3.3 Quantitative testing of questions and additional analyses .....	13
3.3.1 Objectives of the quantitative test.....	13
3.3.2 Key results of the 2019 Census Test.....	14
3.4 Changes to the questionnaire following the census tests and other considerations on using the census to measure the number of children of rights-holders .....	18
3.4.1 Changes to the questionnaire in light of the tests .....	18
3.4.2 Limitations of the census in meeting data needs .....	19
<b>4. Towards a data “ecosystem” on rights-holders</b> .....	<b>22</b>
<b>5. Conclusion</b> .....	<b>22</b>
<b>Appendix 1 – Complementary Table</b> .....	<b>24</b>

## Minority language educational rights: Technical report on changes for the 2021 Census

### 1. Introduction

The census is the country's storyteller. Through good and difficult times, the census has been providing a detailed picture of Canada's changing mosaic—giving Canadians facts on where we came from, to where we are, and guiding decisions on where we want to be. To respond to the country's needs and write the next chapter of Canadians' data foundation, Statistics Canada conducted country-wide engagements. We also conducted a census test with over 135,000 households to determine whether new or revised questions under consideration can be easily understood and correctly answered. We listened to Canadians, because we know that this is about your census, your community, your future.

This series of technical reports provides an in-depth view of the changes in content for the 2021 Census of Population, as the census process is ever changing to reflect changes in the Canadian population and its demographic characteristics.

The availability of quality statistical evidence plays a key role in planning public services in Canada, such as school infrastructures and teaching services in the minority official language. In late 2016, various representatives of associations, school boards and official language minority communities (OLMCs) asked the Government of Canada and Statistics Canada to add questions to the 2021 Census to assess the minority language education needs for OLMCs, and particularly to enumerate the children of rights-holders as per section 23 of the *Canadian Charter of Rights and Freedoms*.

In addition, in accordance with a motion adopted on January 31, 2017, the House of Commons Standing Committee on Official Languages (the Committee) undertook a study in February of the same year on the issues related to enumerating rights-holders. In May 2017, the Committee tabled its report, which included six recommendations to the government.<sup>1</sup>

In its report, the Committee recommends:

“That the Minister of Innovation, Science and Economic Development ask Statistics Canada, as part of its preparation for the 2021 Census, to establish an advisory committee specifically mandated to examine the enumeration of rights-holders under section 23 of the *Canadian Charter of Rights and Freedoms*” (Recommendation 3).

“That the Government of Canada require Statistics Canada to include questions in the 2021 Census that would allow for the enumeration of all rights-holders under the broadest interpretation of paragraphs 23 (1) (a) and (b) and subsection 23 (2) of the *Canadian Charter of Rights and Freedoms*” (Recommendation 4).

In September 2017, the government, in its response to the Committee's recommendations, asked Statistics Canada to identify the best ways to collect quality data on rights-holders and their children.

At the same time, as per a practice that occurs before every census, Statistics Canada launched an official public consultation process on the content of the 2021 Census questionnaire. During this process, a number of organizations and representatives of minority language communities expressed the need for a better way to enumerate rights-holders in Canada.<sup>2</sup>

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1. [The Enumeration Of Rights-Holders Under Section 23 of The Canadian Charter of Rights and Freedoms: Toward a Census That Supports the Charter, Report of the Standing Committee on Official Languages](#), 42nd Parliament, 1st Session, May 2017.

2. See Statistics Canada. 2019. [The 2021 Census of Population Consultation Results: What we heard from Canadians](#). Statistics Canada Catalogue no. 92-137-X.

# Minority language educational rights: Technical report on changes for the 2021 Census

Statistics Canada fully committed to use all its scientific expertise to find the most appropriate method to collect these data based on scientific and professional considerations, including an in-depth evaluation of the potential and limitations of the different collection methods. The agency also committed to adequately and quickly respond to the need for accurate, high-quality data on children of rights-holders under section 23 of the *Canadian Charter of Rights and Freedoms*.

In light of this commitment and the need for data on rights-holders expressed during the official consultation process on the Census of Population, Statistics Canada initiated a number of activities and projects that are described and analyzed in this technical report.

Of these projects, Statistics Canada created the Advisory Committee on Language Statistics, comprised of language experts. Its role is to advise Statistics Canada on the concepts, methods, issues and challenges related to the agency's Language Statistics Program, including enumerating rights-holders and their children in Canada. The committee members met a number of times in 2018 and 2019 to support Statistics Canada and provide advice on this complex issue.

Statistics Canada also set up a working group made up of experts in language statistics and census methodology at the agency to pinpoint the challenges, options and solutions related to collecting data on the population of children of rights-holders.<sup>3</sup> This working group explored a number of collection options, including the 2021 Census of Population.

After defining specific needs with the Advisory Committee on Language Statistics, Statistics Canada began work to ensure that quality data would be produced on the children of rights-holders under section 23 of the Charter. The result was a three-point strategy. First, a collection strategy for the 2021 Census was developed, and questions were formulated in collaboration with the advisory committee members. These questions underwent qualitative testing to assess their quality (e.g., to ensure that they accurately capture the reality in question). Second, quantitative analyses were conducted to determine the influence of the placement and order of the questions in the census questionnaire, and to evaluate the quality of the results on the number of children of rights-holders. The results of the quantitative test were also compared with data from administrative sources on enrolments in minority language school programs. Third, the possibility of combining census data with additional data sources (e.g., postcensal survey, administrative data) was examined to determine whether the information and portrait on rights-holders and their children, based on the needs identified, would be more detailed and complete.

The first part of this technical report defines the rights-holder population in Canada and their children, the data needs identified, and the data sources currently available on this population.

The second part discusses measuring the population of children of rights-holders in the 2021 Census of Population. To start, it presents the results of the qualitative tests conducted in 2018, as well as the changes that were made after these tests to the wording of the questions on rights-holders to make them more accurate and understandable. It also presents the results of the quantitative tests conducted during the 2019 Census Test. Lastly, it provides the results of statistical analyses and the additional considerations in determining the potential and limitations of the census to collect statistical information on the population of interest.

The third and last part examines the data “ecosystem” that Statistics Canada intends to begin developing. The purpose of this ecosystem is to go beyond the census to complementary data sources to meet the need for data for on the children of right holders.

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3. The authors wish to thank Guylaine Dubreuil, Vincent Martin and Patrice Mathieu for their significant collaboration throughout this project, and for their help developing the content of this document.

## 2. Definitions, data needs and existing data sources

### 2.1 What is a rights-holder?

Section 23 of the [Canadian Charter of Rights and Freedoms](#) defines rights-holders and sets out the application of their rights to education in the minority official language as follows:

#### CONSTITUTION ACT, 1982

##### PART I

##### CANADIAN CHARTER OF RIGHTS AND FREEDOMS

##### “Minority language educational rights

##### Language of instruction

##### 23. (1) Citizens of Canada

- (a) whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside, or
- (b) who have received their primary school instruction in Canada in English or French and reside in a province where the language in which they received that instruction is the language of the English or French linguistic minority population of the province,

have the right to have their children receive primary and secondary school instruction in that language in that province.

##### Continuity of language of instruction

- (2) Citizens of Canada of whom any child has received or is receiving primary or secondary school instruction in English or French in Canada, have the right to have all their children receive primary and secondary school instruction in the same language.

##### Application where numbers warrant

- (3) The right of citizens of Canada under sections (1) and (2) to have their children receive primary and secondary school instruction in the language of the English or French linguistic minority population of a province;
  - (a) applies wherever in the province the number of children of citizens who have such a right is sufficient to warrant the provision to them out of public funds of minority language instruction; and
  - (b) includes, where the number of those children so warrants, the right to have them receive that instruction in minority language educational facilities provided out of public funds.”

#### 2.1.1 Uniqueness of Quebec

In accordance with section 59 of the *Constitution Act, 1982*, paragraph 23(1)(a) of the Charter (the criteria that define “the first language learned and still understood”) does not apply to Quebec. It can only come into force with authorization from the National Assembly or the Government of Quebec. To date, this authorization has not been granted.

As per section 73 of Quebec’s *Charter of the French Language*, “the following children, at the request of one of their parents, may receive instruction in English:

- (1) a child whose father or mother is a Canadian citizen and received elementary instruction in English in Canada, provided that that instruction constitutes the major part of the elementary instruction he or she received in Canada;

# Minority language educational rights: Technical report on changes for the 2021 Census

- (2) a child whose father or mother is a Canadian citizen and who has received or is receiving elementary or secondary instruction in English in Canada, and the brothers and sisters of that child, provided that that instruction constitutes the major part of the elementary or secondary instruction received by the child in Canada.”

Furthermore, section 73.1 stipulates that:

“73.1. The Government may determine by regulation the analytical framework that a person designated under section 75 must use in assessing the major part of the instruction received, invoked in support of an eligibility request under section 73. The analytical framework may, among other things, establish rules, assessment criteria, a weighting system, a cutoff or a passing score and interpretive principles.

The regulation may specify the cases and conditions in which a child is presumed or deemed to have satisfied the requirement of having received the major part of his instruction in English within the meaning of section 73.”

## 2.1.2 Exceptions

As the House of Commons Standing Committee on Official Languages states on page 2 of its May 2017 report, “provinces and territories can expand the criteria for admission to minority language schools and, as a result, create other categories to grant access to minority language schools to a larger number of children.” For example, in Ontario, anglophone families can enrol their children in a French school by submitting an application for admission, which could include an exam. Similarly, the children of parents with a mother tongue other than English or French can, by the authority of the school boards in a number of provinces and territories, be enrolled in the French-language public school network even if neither parent received instruction in French in Canada. “Grandfather” clauses are also taken into consideration. Stakeholders suggest that the number of exceptions is increasing.<sup>4</sup>

## 2.2 Data needs

As mentioned at the beginning of this report, the need for data is such that Statistics Canada is required “to include questions in the 2021 Census that would allow for the enumeration of all rights-holders under the broadest interpretation of paragraphs 23(1)(a) and (b) and subsection 23(2) of the *Canadian Charter of Rights and Freedoms*.”

In addition, the expressed needs include making data on rights-holders accessible at the local level, particularly for non-standard geographic regions, such as school catchment areas. Moreover, since the need for data is linked to planning educational services for children, such as building schools, the main purpose of the recommended method of enumeration is not to get data on rights-holders, but rather on the children of rights-holders, in accordance with section 23 of the Charter. This interpretation of the recommendations of the House of Commons Standing Committee on Official Languages was discussed with Statistics Canada’s Advisory Committee on Language Statistics.

Of the three criteria set out in section 23, the Census of Population only collects information on the criterion of first language learned in childhood and still understood (mother tongue).<sup>5</sup> As a result, the Committee and various stakeholders and OLMC representatives expressed a need for Statistics Canada to collect data on the two other criteria: parents’ language of instruction, and language of instruction of the child’s brothers and sisters.

That being said, the Committee adds in its report that the number of individuals with French as their mother tongue living in Canada outside Quebec may also be underestimated. This may be because “the formulation of question 9 on mother tongue, the response options for that question, and the context created by the other language questions

4. Radio-Canada. May 6, 2016. “[Trop d’anglophones dans les écoles françaises en Ontario?](#)”. Canadian Broadcasting Corporation. August 26, 2019. “[Francophone parents in fight to keep French schools French](#)”.

5. Refers to censuses of population prior to 2021.

# Minority language educational rights: Technical report on changes for the 2021 Census

all communicate to the respondent that the census is expecting the respondent to identify a single language in response to the mother tongue question.”<sup>6</sup>

[Appendix B](#) of the Standing Committee on Official Languages’ report proposes, among others, modifications to the question on mother tongue in the census. Although paragraph 23(1)(a) of the Charter refers specifically to “the first language learned and still understood [which] is that of the English or French linguistic minority population of the province in which they reside,” the Committee report states that the current wording of the question in the Census of Population does not consider the fact that a number of respondents learned more than one language at home in childhood, mostly because of the number of linguistic exogamous families (linguistically mixed couples). According to the report, “[t]he question in no way suggests that a twofold response will be accepted (although the questionnaire allows double or even multiple responses).”<sup>7</sup>

## 2.2.1 Jurisprudence and details about the data needs

In its decision in *Mahe v. Alberta* (1990),<sup>8</sup> and especially with reference to paragraphs 23(3)(a) and (b) cited above, the Supreme Court of Canada pointed out that the number of children of rights-holders in a given area does not correspond to the number of children currently enrolled in minority language schools, or to the maximum potential number (virtual demand) of children of rights-holders. It is instead somewhere between the two, meaning that it must reflect “the number of persons who will eventually take advantage of the contemplated programme or facility.”

Similarly, in *Conseil scolaire francophone de la Colombie-Britannique v. British Columbia (Education)* (2016),<sup>9</sup> the British Columbia Supreme Court stated that “[t]he relevant number for s. 23 is the number of children of rightsholders who could reasonably be expected to take advantage of a service, which will fall somewhere between the known demand and the total number of rightsholders in an area. [...] The total population of students eligible for the service can be difficult to estimate. Since the Court is concerned with arriving at a rough estimate of the number of children likely to attend a programme, the outer boundaries of the range need not be precise; they may be estimated based on the best available evidence.” It added that “[t]he court requires some evidence that allows it to estimate or forecast future enrolment based on the present situation, the total population of rightsholders (as best it can be estimated) and broad contextual factors. The court’s task is to anticipate what proportion of the total number of potential children are likely to enrol in the programme: a participation rate.”

## 2.3 Current data and their limitations

The census content determination framework<sup>10</sup> includes three key steps to establish the level of priority of requests to add questions to the Census of Population: (1) evaluating the needs of census data users (legislative basis, intended use, etc.); (2) considering the Canadian context (response burden, societal privacy concerns, etc.); (3) evaluating the operational factors associated with the request (costs, collection-related constraints, etc.). The content is evaluated based on the specific dimensions in each step.

In this framework, one of the dimensions considered in the needs evaluation step has to do with the availability of data sources that provide the desired statistics. In this particular case, there is no source that provides all the information to meet the need expressed for data on the population of children eligible for educational services in

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6. [The Enumeration of Rights-Holders Under Section 23 of the Canadian Charter of Rights and Freedoms: Toward a Census That Supports the Charter, Report of the Standing Committee on Official Languages](#), 42nd Parliament, 1st Session, May 2017, p. 4.

7. *Ibid.*, p. 21. Nevertheless, the report indicates the following: “The census guide states the following with respect to question 9: For a person who learned two or more languages at the same time in early childhood, report the language this person spoke most often at home before starting school. Report two or more languages only if those languages were used equally often and are still understood by this person.”

8. The decision is available at the following page: [Mahe v. Alberta \(1990\)](#) 1 SCR 342.

9. The decision is available on the following page: [Conseil-scolaire francophone de la Colombie-Britannique v. British Columbia \(Education\) \(2016\)](#), BCSC 1764.

10. The framework can be found at [Content determination framework for 2016](#).



# Minority language educational rights: Technical report on changes for the 2021 Census

the official language of the minority at lower geographic levels, in accordance with paragraphs 23(1)(a) and (b) and subsection 23(2) of the *Canadian Charter of Rights and Freedoms*.

Every five years, the census does provide detailed data on the population's linguistic characteristics, including mother tongue (paragraph 23(1)(a)), at lower geographic levels. However, the census has specific limitations when it comes to enumerating the children of rights-holders, as the House of Commons Standing Committee on Official Languages indicated. One such limitation stems from the fact that the census does not comprise questions that would help to enumerate rights-holders as per paragraph 23(1)(b) and subsection 23(2) of the Charter. However, even if questions on language of instruction were added to the census, it still has some limitations related to its capacity to meet the needs for data on children of rights-holders. These limitations will be discussed later.

There are other data sources, aside from the Census of Population, that provide information on the children of rights-holders.

For example, every year Statistics Canada conducts the [Elementary–Secondary Education Survey](#) to collect and publish administrative data from each province and territory on enrolments in public minority language schools across the country. These data provide information that corresponds to the lower limit of the number of children of rights-holders in Canada, as stipulated by the Supreme Court of Canada in *Mahe v. Alberta* (1990). However, they do not provide any information on rights-holders whose children do not attend a minority school and who would like to or intend to exercise their constitutional right.

The Survey on the Vitality of Official-Language Minorities (SVOLM), conducted by Statistics Canada in 2006 in partnership with 10 federal departments and agencies, is another key source of data on rights-holders and their children.<sup>11</sup> One of the key objectives of this survey was to measure the number of children of rights-holders in Canada for the first time and the proportion of parents who were exercising their right in accordance with section 23 of the Charter. In addition to collecting these data, the SVOLM collected a wealth of information on the reasons why parents decided to enrol their children in a minority language school or not. However, in 2021, this survey will have been conducted 15 years ago. Furthermore, it was limited in terms of geographic levels for which it could provide information.

## 3. Using the Census of Population to measure the number of children of rights-holders

The need for data on children of rights-holders was assessed by Statistics Canada in its work (testing and statistical analyses) to add new questions to the 2021 Census. This evaluation considered elements including the criteria from the census content determination framework (target population coverage, quality of the statistical information, operational considerations, among others). This section presents the results of these tests and the additional analyses completed.

### 3.1 Implementation of the collection strategy and new questions

As previously mentioned, Statistics Canada developed the collection strategy and the new module with questions on language of instruction in cooperation with the Advisory Committee on Language Statistics.

Among the questions first developed, there was a two-question block for Quebec residents and a three-question block for residents of Canada outside Quebec. Quebec residents had to answer a first question about whether they had taken an English-language education program in Quebec or attended an English-language school in Canada either at the elementary or secondary level. If so, they had to answer a second two-part question on the number of years of instruction at the elementary or secondary level. Residents in the rest of the country had to

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11. See the document [Minorities Speak Up: Results of the Survey on the Vitality of Official-Language Minorities](#), Statistics Canada Catalogue no. 91-548-X.

## Minority language educational rights: Technical report on changes for the 2021 Census

answer an initial question on whether they did French-language studies at the elementary or secondary level in Canada, and if so, whether it was an immersion or regular program. Those who studied in a regular program had to provide the number of years of instruction at the elementary and secondary level.

In addition to providing the information sought on the population defined in paragraph 23(1)(b) and subsection 23(2) of the Charter, this module considered the fact that, according to jurisprudence, individuals who studied in a French immersion program in Canada are not considered to have received instruction in the official language of the minority.<sup>12</sup> In addition, since the Charter does not specify the number of years of study required to determine a person's rights-holder status, a question on this number was also necessary. For Quebec residents, because of the above-mentioned particularities associated with admission criteria for English-language programs, it was also important to find out the respondent's language of instruction at the elementary and secondary levels and the number of years of study in English at those levels because of the point on "the major part of the elementary and secondary instruction he or she received in Canada," stipulated in section 73 of Quebec's *Charte de la langue française*.<sup>13</sup>

Based on the strategy for the 2019 Census Test and in order to reduce response burden, this new question module was only supposed to be administered to a subset of households—households with at least one child and that meet certain linguistic criteria.<sup>14</sup> The strategy involved asking the new questions to each person in the selected households, determining the relationships among household members, and determining whether the children in the household are children of rights-holder parents.

In response to the recommendations from the House of Commons Standing Committee on Official Languages' report, variants of the question on mother tongue were also developed with the Advisory Committee on Language Statistics. The purpose of these variants was to convey to respondents that they could provide more than one "first language learned and still understood," and an explanation of when more than one response should be provided (i.e., when the languages were learned at the same time). Since the Committee report implies that the current question on mother tongue may underestimate the size of the French-mother-tongue population in Canada outside Quebec, the data obtained were used to examine to what extent different variants of the question produce different estimates of this population.

The questions developed on language of instruction and mother tongue first underwent qualitative testing in the summer of 2018. The tests consisted of personal interviews with individuals who had to answer all the census questions, give their first impressions, provide clarification when needed, and answer related questions from the moderator.

The general purpose of this series of tests was to evaluate whether respondents understood the questions and their underlying concepts, and to ensure that respondents were able to follow the questionnaire flow (which included question "skips," including in a preliminary instruction at the beginning of the module with questions on language of instruction).

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12. The Court observed that immersion programs tend to "largely reflect [...] the majority culture" [translation] and that this environment makes it more difficult to transmit the French culture and language to the children and for them to maintain this language. ([Perron v. Perron, 2012 ONCA 811 \(CanLII\)](#), paragraph 43).

13. In light of the requests from the House of Commons Standing Committee on Official Languages and from official language minority representatives to collect data on all the criteria stipulated in section 23 of the Charter "under the broadest interpretation," the Advisory Committee on Language Statistics recommends that Statistics Canada not limit this module to only parents with Canadian citizenship.

14. For example, households in Canada outside Quebec in which no member reported French as a mother tongue or language spoken at home or knowledge of French were excluded.

# Minority language educational rights: Technical report on changes for the 2021 Census

While respondents generally understood the module with questions on language of instruction well, some changes were made based on the results of the qualitative tests:

- To make the questions and measured concepts clearer,
  - a note was added in parentheses to clarify that the concept of primary school includes kindergarten (in Quebec and in Canada outside Quebec) and middle school (in Canada outside Quebec), which some respondents had trouble grasping
  - a note was added in parentheses to the question on the types of programs to explain that immersion includes intensive French programs
  - the category “other program” was added since some respondents did not recognize their program among the proposed ones
  - the concept of “English-language programs” was removed so only “English-language schools”<sup>15</sup> was included, since the first question for Quebec residents created confusion for some respondents.
- Since question “skips” were too complex for several respondents, the instructions aimed at guiding respondents to the right questions (Quebec or Canada outside Quebec) were replaced by a skip question on the paper questionnaire. For the same reason, a decision was made to no longer limit the questions on rights-holders on the paper questionnaire to a subset of households. Nevertheless, the strategy was kept in the electronic questionnaire, since it is possible to automatically apply the conditions that target certain households.
- The layout of the module in the paper questionnaire was modified to improve the visibility and comprehension of skip questions by respondents. As a result, the questions in the rights-holder module were put on the same page.

Moreover, in the qualitative testing, respondents generally understood the test versions of the question on mother tongue. Consequently, few adjustments to the questions were required.

## 3.2 Modules and wording of questions in the 2019 Census Test

The questions adjusted to improve comprehension were submitted for the 2019 Census Test. They included the following:

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15. Again, in cooperation with the Advisory Committee on Language Statistics.



# Minority language educational rights: Technical report on changes for the 2021 Census

**Figure 2**  
The question on mother tongue that was tested in version 1 of the 2019 Census Test (paper questionnaire)

<p><b>10</b> What is the language that this person <b>first learned</b> at home in <b>childhood</b> and <b>still understands</b>?</p> <p>Please report two languages or more <b>only</b> if those languages were <b>learned at the same time</b> at home <b>before the person started school</b>.</p> <p>If this person no longer understands the first language learned, indicate the second language learned.</p>	<p><input type="radio"/> English</p> <p><input type="radio"/> French</p> <p>Other language – specify:</p> <p><input type="text"/></p> <p><input type="text"/></p>	<p><input type="radio"/> English</p> <p><input type="radio"/> French</p> <p>Other language – specify:</p> <p><input type="text"/></p> <p><input type="text"/></p>
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b) Version 2 (two-part question): mother tongue is determined by combining the responses to both parts.

**Figure 2.1**  
Version 2 of the 2019 Census Test (paper questionnaire), where mother tongue is obtained by combining responses from two sections

<p><b>10</b> a) What language(s) did this person learn at home in childhood and still understands?</p>	<p><input type="radio"/> English</p> <p><input type="radio"/> French</p> <p>Other language(s) – specify:</p> <p><input type="text"/></p> <p><input type="text"/></p>	<p><input type="radio"/> English</p> <p><input type="radio"/> French</p> <p>Other language(s) – specify:</p> <p><input type="text"/></p> <p><input type="text"/></p>
<p>b) Of these languages, which one did this person <b>first learn</b> at home in childhood and still understands?</p> <p>Please report two languages or more <b>only</b> if those languages were <b>learned at the same time</b> at home <b>before the person started school</b>.</p> <p>If the person no longer understands the first language learned, indicate the second language learned.</p>	<p style="background-color: #f8d7da; padding: 2px;">If this person indicates only one language in question 10 a), go to question 11.</p> <p><input type="radio"/> English</p> <p><input type="radio"/> French</p> <p>Other language – specify:</p> <p><input type="text"/></p>	<p style="background-color: #f8d7da; padding: 2px;">If this person indicates only one language in question 10 a), go to question 11.</p> <p><input type="radio"/> English</p> <p><input type="radio"/> French</p> <p>Other language – specify:</p> <p><input type="text"/></p>

### 3.3 Quantitative testing of questions and additional analyses

The purpose of the 2019 Census Test, or quantitative test, was to evaluate two versions of the census questionnaire and to compare them with a control version of the potential 2021 Census if its content was the same as in 2016. These two variants of the status quo included various changes, not only to the language modules, but also to several other places in the questionnaire. Each version was administered to a sample of the Canadian population, excluding the territories, in paper and electronic format.

#### 3.3.1 Objectives of the quantitative test

For the questions on language of instruction, the objectives of the test were as follows:

- Determine whether the location and order of questions leads to different results, whether for the questions in the module on language of instruction or the subsequent questions. In the first variant of the test, the six questions were placed after the questions on language in the initial questionnaire modules (questions 7, 8 and 9). In the second variant, the questions were separated from the module of language questions and placed just before the module of education questions. The difference in question placement and order was

# Minority language educational rights: Technical report on changes for the 2021 Census

the only difference between test versions 1 and 2 for language of instruction; the wording of the questions was identical in both versions.

- Evaluate the general quality of the results of the questions by comparing them with existing data from external sources on the subject, examining the rate of non-response to the questions, or checking whether respondents to the paper questionnaire manage to follow the questionnaire flow.
- Estimate to what extent the language criteria (or filters) used to select the subset of households to respond to the questions in the electronic version were adequate. Since all respondents to the paper questionnaire had to answer at least two questions (province of residence and studies in a French program or at an English-language school), after analysis, it was possible to measure the number of rights-holders and their children who were not asked these questions because of the language filters in the electronic questionnaire.

For mother tongue, the main goal was to determine whether the usual version of the question underestimates the number of French-mother-tongue individuals in Canada outside Quebec. The two test versions of the question specify that respondents can provide more than one mother tongue.<sup>16</sup> Under the assumption of underestimation, the total number of people who reported the minority official language as mother tongue—either alone or with another language—should have been higher with the question variants tested than with the control version (usual version).

## 3.3.2 Key results of the 2019 Census Test<sup>17</sup>

### 3.3.2.1 Order of questions

The 2019 Census Test showed that the results of the questions on language of instruction and type of program attended are similar and are not statistically different, regardless of question placement in the questionnaire, for residents of Quebec and the other provinces. In Quebec, the people who reported that they went to an English-language school in Canada represented 11.5% and 12.2% of the population, respectively, in test versions 1 and 2. In Canada outside Quebec, 2.9% (version 1) and 2.8% (version 2) of the population reported having attended a regulation French-language program in a French school in Canada.

Moreover, the number of children living in a household where a rights-holder lives is also not statistically different between test versions 1 and 2, in both Quebec and the other provinces.<sup>18</sup> Table 1 shows that 2.6% of individuals younger than age 18 in Canada would be the children of rights-holders, in either version of the questionnaire.

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16. The different versions of the question on first language learned and still understood were all in the same place in the questionnaires tested.

17. Unless otherwise specified, the results presented in this section are from the electronic questionnaire.

18. The differences are not significant when the country's largest census metropolitan areas are examined. Differences between the paper versions of the questionnaire are also not statistically significant.

# Minority language educational rights: Technical report on changes for the 2021 Census

**Table 1**

**Number of children (0 to 17 years) residing with at least one rights-holder, by version of the 2019 Census Test questionnaire and place of residence**

Place of residence	Version 1			Version 2		
	Number	Percent of the total population	Percent of the population aged 0 to 17 years	Number	Percent of the total population	Percent of the population aged 0 to 17 years
Canada outside Quebec	441,720	2.2	10.1	446,320	2.2	10.1
Quebec	275,365	4.1	18.4	267,040	4.0	18.5
Canada	717,085	2.6	12.2	713,360	2.6	12.2

**Source:** Statistics Canada, 2019 Census Test, electronic questionnaires only.

Non-response to the questions on language of instruction varied significantly between test versions 1 and 2. It was higher in version 2, when the questions came later in the long-form questionnaire,<sup>19</sup> just before the education module. This was expected because it is generally known that non-response in a questionnaire increases with the number of questions asked up to that point. The non-response rate was also higher for the questions on the language of education programs than for the other questions in the census test.

Compared with the other versions of the questionnaire, the number of people who reported completing secondary studies in the question immediately after the module on language of instruction in test version 2 was much lower. Since respondents are asked to provide information on their schooling in Canada in that module—a restriction not found in the education module—the proximity of the two modules may have created confusion among some respondents.

### 3.3.2.2 Additional information on the quality of the results

Aside from the non-response rate, other indicators of the general quality of the results were analyzed.

The estimated number of people who had been or were in a minority official language education program gathered from the 2019 Census Test was compared with the annual number of individuals enrolled in these programs, taken from data from the Elementary–Secondary Education Survey (ESES) and the *Ministère de l'Éducation et de l'Enseignement supérieur du Québec*. Although these sources are not fully comparable with the Census Test, by focusing in on a specific age group, they still provide a minimum threshold above which the estimates from the test can be expected.

For example, during the 2017/2018 school year (most recent data available), 83,640 children and youth were enrolled in an English-language minority public education program in Quebec, compared with 166,690 children and youth enrolled in a French-language minority program in the rest of Canada, excluding the territories.

The results of the Census Test for the population between ages 3 and 17 years<sup>20</sup> who studied in a minority language education program are consistent with the data on school enrolments in minority language education programs derived from the ESES and the data from the *Ministère de l'Éducation et de l'Enseignement supérieur du Québec*.

19. The non-response rate for the question on going to an English school (Quebec residents) was 0.4% for version 1 and 1.6% for version 2. The question on attending a French-language program (residents of the other provinces) had non-response rates of 0.7% for version 1 and 1.7% for version 2.

20. The 3-to-17 age group corresponds to the group of children and youth generally enrolled in primary or secondary school. The age at which children begin primary school varies from age 3 to 5 years, depending on the province.

## Minority language educational rights: Technical report on changes for the 2021 Census

According to the results of the Census Test, 4.6% of children living in Canada outside Quebec studied in a French-language educational institution in Canada at some point in their life. This rate is comparable to the administrative data on enrolments drawn from the ESES, in which 4.3% of children attended a French-language educational institution in Canada outside Quebec in 2017/2018. The gap between these two data points can be explained by differences in the concepts measured by each source. As mentioned earlier, the data on enrolments from the ESES cover children enrolled in an official minority language school at the time of the survey, while the census test asked respondents whether they had already done studies in French in a French-language educational institution at some point in their life. Similarly, the difference between the 10.2% of children enrolled in an English-language educational institution in Quebec in 2017/2018 and the 12.2% of children living in Quebec who studied or are studying in English in Canada, according to the 2019 Census Test, can be attributed to the difference in the concepts measured.

Despite the coherence of these results, the analysis of the 2019 Census Test data revealed some issues that have to be considered during the edit and imputation steps. For example, some respondents to the paper questionnaire had trouble following the flow in the module on language of instruction. In fact, around 9% of respondents to the paper questionnaire in Quebec missed the first skip and, as a result, answered the questions for residents of Canada outside Quebec. However, not only can this issue be identified, but also three-quarters of Canadians are expected to complete the electronic questionnaire in 2021, which will significantly reduce the magnitude of corrections required.

### 3.3.2.3 Language “filters”

The results of the 2019 Census Test suggest that using language criteria, or “filters,” to reduce the number of households that need to answer the questions on rights-holders and their children in the electronic questionnaire could result in an underestimation of the number of children of rights-holders.<sup>21</sup> The results from the paper versions of the census test questionnaire, in which all respondents had to answer a block of questions on language of instruction, reveal that a considerable proportion of children (12%) who were students at a French-language school outside Quebec lived in a household in which no member answered “French” to at least one of the three language questions considered in the filters. These children could not have been identified as children of rights-holders if, like in the electronic questionnaire, their household had been excluded on the basis of these language characteristics.

More broadly, the 2019 Census Test results indicate that about half (53%) of the children of rights-holders in Canada outside Quebec can be enumerated only by the parents’ education, the children’s education, or both, and not by mother tongue (Chart 1).<sup>22</sup> The results also confirm the findings in the first parts of this document, namely the significant proportion of children who only meet the criterion under subsection 23(2) of the Charter. As a result, 31% of children are children of rights-holders since one of the children studied or is studying in a regular French program in a French-language school in Canada, without either parent having French as their mother tongue or having done their schooling in French in Canada. While this was not very common when the Survey on the Vitality of Official-Language Minorities was conducted in 2006—even despite the fact that this survey did not include all parents likely to be rights-holders as per the three criteria under section 23—it has expanded since then. It is quite significant in certain provinces: 61%, 43% and 44% of children in Prince Edward Island, Manitoba and British Columbia, respectively, would be considered the children of rights-holders as per subsection 23(2).

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21. To find ways to reduce the response burden during the 2019 Census Test, the electronic questionnaire was used to test the hypothesis that households outside Quebec in which no member can conduct a conversation in French, or has French as a mother tongue or as the language used at home, are unlikely to include children of rights-holders. These households were therefore not asked about the language of instruction, which was not the case for those responding to the paper questionnaire.

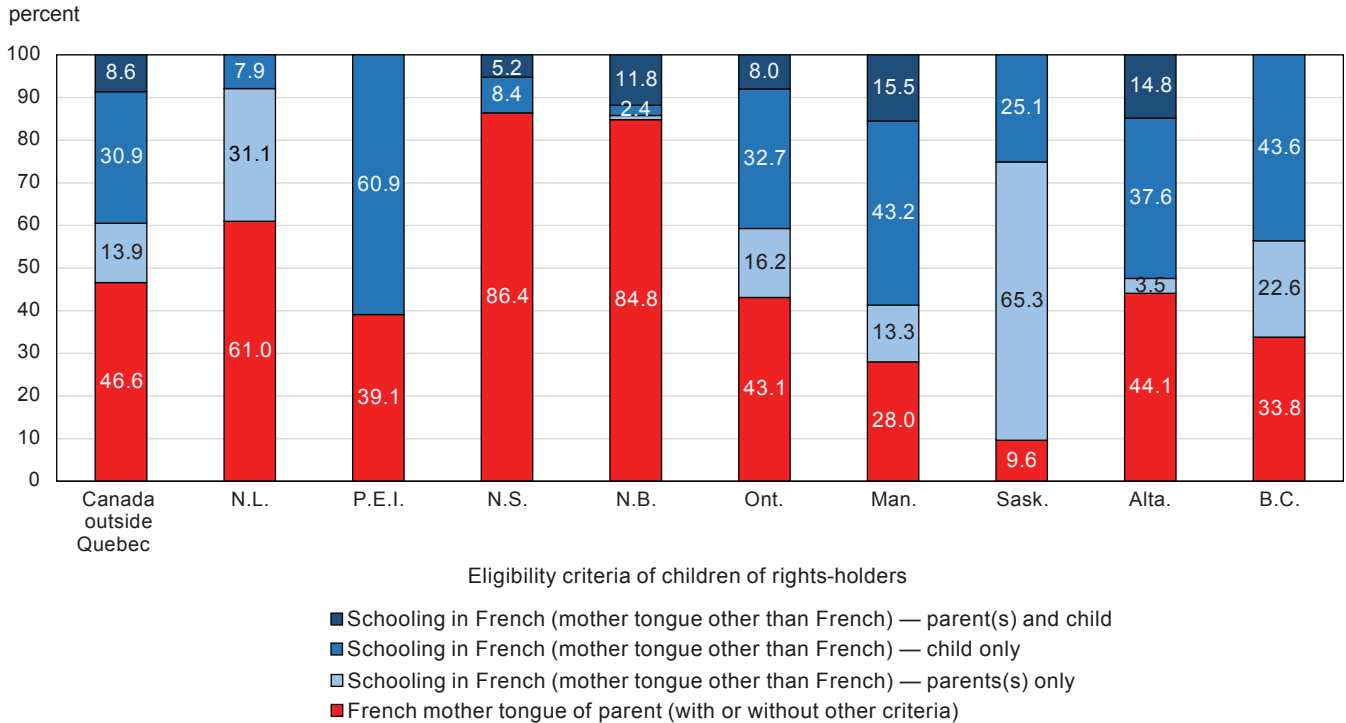
22. As per section 59 of the Charter, Quebec does not consider mother tongue to be a criterion that defines rights-holders.



# Minority language educational rights: Technical report on changes for the 2021 Census

**Chart 1**

**Distribution by eligibility criteria of children (0 to 17 years old) residing with at least one rights-holder, by province of residence (Canada outside Quebec), 2019 Census Test version 2**



Source: Statistics Canada, 2019 Census Test, electronic questionnaires only.

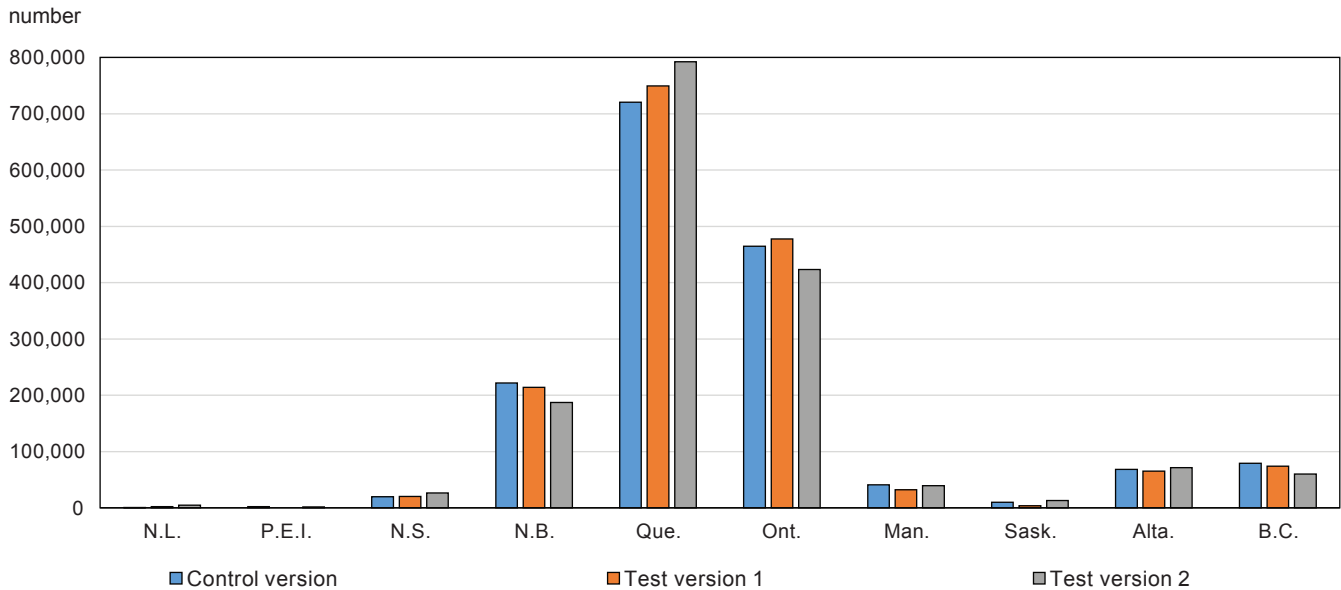
### 3.3.2.4 Mother tongue

Chart 2 shows the total number of people with a minority official language, reported alone or with one or more languages, as their mother tongue, based on the three versions of the question on mother tongue. While some differences between the control version and the alternative versions are observed, none of these differences are statistically significant. Similarly, the test versions do not yield more individuals with a French mother tongue in Canada outside Quebec or in all of Canada. In other words, the 2019 Census Test did not confirm that the total number of individuals with French as their first language learned in childhood and still understood in Canada outside Quebec was underestimated by the question in past censuses, regardless of the province of residence.

# Minority language educational rights: Technical report on changes for the 2021 Census

**Chart 2**

**Population with the minority official language as their mother tongue, by province of residence and version of the 2019 Census Test questionnaire**



**Source:** Statistics Canada, 2019 Census Test, electronic questionnaires only.

This does not mean that the results between the different versions of the question are completely identical. As expected, the number of multiple responses is higher in the two test versions than in the control version. The number of respondents with a minority official language as their mother tongue who reported more than one language was 50% and 25% higher in test versions 1 and 2, respectively, than in the control version. However, this increase occurred at the expense of single responses, which fell by as much.

### 3.4 Changes to the questionnaire following the census tests and other considerations on using the census to measure the number of children of rights-holders

#### 3.4.1 Changes to the questionnaire in light of the tests

In light of the results of the census tests, the following decisions have been made:

- Add the questions on language of instruction, as they were tested in the quantitative test, to the 2021 Census. The new questions on language of instruction will help to collect quality data. Respondents understand them clearly, there is nothing unusual about the non-response rates and the estimates produced are of the magnitude expected in light of the existing data.
- Place the questions on language of instruction after the first questions on language (knowledge of official languages, languages spoken at home, and mother tongue), not just before the education module. Whether the questions are asked at the beginning or later in the questionnaire, the differences in the results on language of instruction and the number of children of rights-holders are not statistically significant. However, these questions seem to interfere with the first question in the education module when asked immediately before it. Placing these questions at the very beginning of the questionnaire puts them far enough away from this module to keep them from interfering with it.

# Minority language educational rights: Technical report on changes for the 2021 Census

- Do not include “language filters” to restrict the questions on language of instruction to a subset of households. These filters would result in underestimating the number of children of rights-holders. This means that all respondents will be asked at least one question on language of instruction.<sup>23</sup>
- Add the same question on first language learned and still understood as in the 2016 Census to the 2021 Census. Since the other tested versions of the question on mother tongue did not produce results that were statistically different for the number of people in Canada whose mother tongue is French, and since there is no evidence that the wording of the traditional question underestimates the number of people with a minority mother tongue, Statistics Canada has decided to recommend maintaining status quo for this question for the 2021 Census. This decision comes after receiving advice from the Advisory Committee on Language Statistics, without, however, coming to a consensus. It also stems from the fact that changing this question could lead to problems with historical comparability with the results of previous censuses, without a significant improvement in data quality.

## 3.4.2 Limitations of the census in meeting data needs

Despite the expected quality of the 2021 Census results, they will have limitations. The main limitation stems from the fact that the status of a child of a rights-holder that can be determined from the census must be established not only according to the responses to the questions about the children themselves, but also according to the responses about their parents and their brothers and sisters living in the same household. This means that if a child is a child of a rights-holder only because of the education or mother tongue of a parent living outside the child’s household, or of a deceased rights-holder, that child cannot be enumerated as a child of a rights-holder.

This is more likely to happen among children living in lone-parent families.<sup>24</sup> If, for example, a child was not educated in the language of the minority and is living with a parent who was not educated in that language and whose mother tongue is not the minority official language, but has another parent living in another household who is a rights-holder, it will not be possible to tell from the census whether the child is a child of a rights-holder. In other words, “extended” families living in separate dwellings cannot be reconstructed from the census. Although most of these cases are limited to children of linguistically mixed (exogamous) couples who were not educated in the minority official language who are living with only one parent who is not the rights-holder, and while Statistics Canada will explore ways to make adjustments and evaluate imputation approaches, this limits the precision of the results.

Although the 2021 Census publication schedule had not been determined at the time of publishing this report, another inherent limitation of the census is that the results on the number of children of rights-holders will be published more than a year after data collection. It is therefore very likely that, in a given municipality, this number will have changed during this period, in particular because children are getting older or may move from their place of residence at the time of the census. For example, an area where 30 of these children resided on May 10, 2021, will perhaps see families settle there or leave once the census data are made public. Given that the status of child of a rights-holder is a characteristic passed on within the same household, the mobility of a single household or family may cause estimates to vary by more than one. This means that the 2021 Census will not allow a complete enumeration of the children of rights-holders, nor will it alone make it possible to meet all the data needs relating to the children of rights-holders, as a continuously updated register could. However, it will provide a robust estimate of the size of this population at a specific point in time, that is, on Census Day.

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23. In addition to the screening question for respondents to the paper questionnaire and to the electronic questionnaire who did not specify their province of residence in the question on place of residence.

24. Although, in the 2016 Census, almost 2 in 10 children aged 0 to 14 (19.2%) were part of a lone-parent family across the country, and 1 in 10 children (9.8%) were part of a blended family, it is difficult to estimate the number or proportion of children of rights-holders who would not be enumerated because of this family situation. This is due in particular to the relative importance of linguistically mixed couples (a French-speaking parent and, mainly, an English-speaking parent) outside Quebec and the lack of information on the language of schooling of parents. However, it is reasonable to estimate that this proportion would be less than 10%.

## Minority language educational rights: Technical report on changes for the 2021 Census

Taking into account the evaluation of options regarding the placement of the questions on rights-holders (right before the long-form module on education or after the short-form language questions), Statistics Canada conducted a number of additional analyses at the same time as the census tests to assess the benefits and limitations of the long- and short-form census questionnaires in meeting the need for data on rights-holders.

The 2019 Census Test was based on a probability sample of 135,000 households, but it could not be used to compare the quality level of the data on children of rights-holders that could be produced by combining the short- and long-form questionnaires administered to 100% of households (approximately 16 million) with the quality level of data from a long-form questionnaire administered to 25% of households (approximately 3.7 million). This is why Statistics Canada used data on mother tongue and language spoken at home from the 2016 Census long- and short-form questionnaires to determine whether the estimates from the long-form questionnaire (25% of households) were statistically different from the estimates produced by combining the data from the short- and long-form questionnaires (100% of households) for very small communities and small towns (municipalities).

By using data from the 2016 Census of Population, an indirect proxy measure of the population of children of rights-holders can be produced for statistical comparison purposes. The 2016 short- and long-form questionnaires can be used to estimate the population aged 0 to 17 years living in a household with at least one person whose mother tongue is a minority official language, or at least one person whose mother tongue is neither English nor French, but who speaks the minority official language at least regularly at home. This is an indirect conservative proxy measure of the number of children of rights-holders.

Based on this approach, the approximate total number of children of rights-holders in Canada (by proxy measure) is estimated at 574,450 according to the short-form questionnaire. Of these, 121,355 lived in a municipality (census subdivision [CSD]) where fewer than 500 children meet the proxy measure criterion, and 43,800 lived in a CSD where fewer than 100 children meet the proxy measure criterion.<sup>25</sup>

Chart 3 shows the results of the statistical analysis conducted by classifying CSDs by the number of children in each CSD who meet the proxy measure criterion. This chart reveals that, among all CSDs in Canada (municipalities or localities) that were home to at least one child of a rights-holder in 2016 (based on the proxy measure) (i.e., 3,081 out of 4,670 CSDs), 95% had an estimated number that did not differ significantly between the short-form and long-form questionnaires, at a 95% confidence level.

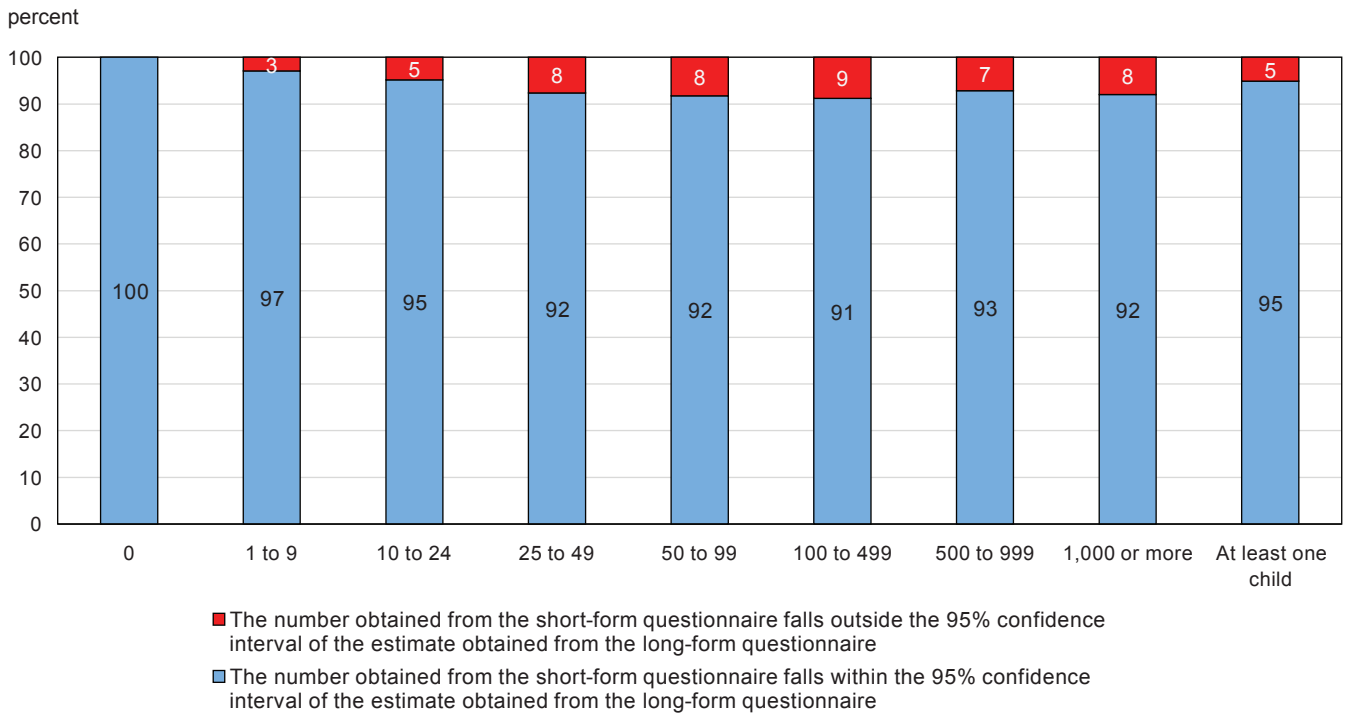
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25. These numbers were similar (not significantly different) for the long-form questionnaire.

# Minority language educational rights: Technical report on changes for the 2021 Census

**Chart 3**

**Proportion of census subdivisions (CSDs) where the estimated number of children (0 to 17 years) of rights-holders obtained from the short-form questionnaire is within or outside the confidence interval ( $p < 0.05$ ) of the estimate obtained from the long-form questionnaire (indirect measures), by estimated number of children of rights-holders in the CSD, 2016**



**Source:** Statistics Canada, Census of Population, 2016.

Moreover, in the CSDs with fewer than 100 children who meet the established proxy measure criterion—that is, municipalities or localities where school services in the minority official language are more likely to be unavailable—about half of children of rights-holders live in a CSD where the difference between the number from the short-form questionnaire and the long-form questionnaire was less than 10.<sup>26</sup> It can be difficult for users to interpret such differences because of the rounding rules that aim to safeguard the confidentiality of information collected from respondents.

Whether data are collected from the short- or long-form questionnaire, the 2021 Census will provide quality data and at lower levels of geography on the population of children eligible for instruction in the minority official language.<sup>27</sup> As a result, the number of children of rights-holders obtained using census data will be the number that determined by jurisprudence as corresponding or coming close to the upper limit of the range that includes the number of children whose parents “will eventually avail themselves” of their constitutional right to have them educated in the minority official language. The latter number will therefore be lower than the number (maximum)

26. This analysis determined, using the proxy measure, that approximately 4,000 municipalities had a population of 10 or fewer children of rights-holders. To protect the confidentiality of respondents, these data will be rounded to the nearest multiple of 5 (0, 5 or 10) in the case of the short-form questionnaire and to the nearest multiple of 10 (0 or 10) when from the long-form questionnaire.

27. It is important to remember that five questions (six for the paper questionnaire) must be asked to enumerate rights-holders and their children in the country. While the vast majority of Canadians will have only one question to answer (two for the paper questionnaire), this could nevertheless represent an additional response burden for 100% of the population.

# Minority language educational rights: Technical report on changes for the 2021 Census

produced from the census and higher than the number (minimum) of current enrolments in minority official language programs.

## 4. Towards a data “ecosystem” on rights-holders

While the 2021 Census of Population is a core component for collecting data on the children of rights-holders in terms of instruction in the minority official language, the data derived from it are just one part of the information sought by the courts and representatives of official language minority communities. To paint a more complete picture of rights-holders in Canada and to produce the information required, additional information must be drawn from other sources.

Statistics Canada is able to use its methods to produce the three required datasets mentioned by the courts: (1) the estimated maximum number of eligible children of rights-holders at the municipality (census subdivision) level or for non-standard geographic areas, such as school catchment areas, using data from the Census of Population; (2) the minimum number of children of rights-holders (children currently enrolled in a minority language educational institution or program), using administrative school data; (3) the estimated number of rights-holders who intend to or would like to exercise their constitutional rights, using a new postcensal survey on official language minorities (2022).

While its objective is not to collect data at lower levels of geography, the new postcensal survey—currently under development—to be conducted following the 2021 Census of Population will help to estimate the number and proportion of parents who will or would like to exercise their right to enrol their children in a minority language educational institution, based on census information on concentration and demographic weight in each municipality or locality. These data would complement those from the census and would provide information on “the number of persons who [would] eventually avail themselves of the contemplated” program or institution.

The data on rights-holders and their children drawn from the 2021 Census and the postcensal survey will also be used in combination with geographical data to match the place of residence of children of rights-holders with the exact location of each minority language educational institution in Canada. As a result, Statistics Canada will be able to determine the exact distance between the place of residence of rights-holders and the geographic location of these educational institutions.

For example, the 2019 Census Test data show that 94% of children of rights-holders in Canada outside Quebec lived within 15 km of a minority language school, and almost 9 in 10 lived within 10 km of a minority school. In Quebec, the proportions were 97% and 92%, respectively.

## 5. Conclusion

In response to the recommendations in the House of Commons Standing Committee on Official Languages’ 2017 report on the enumeration of rights-holders, and following requests from representatives of official language minorities across Canada, the Government of Canada asked Statistics Canada to “identify the best ways to collect quality data on rights-holders and their children as stipulated in paragraphs 23(1)(a) and (b) and subsection 23(2) of the *Canadian Charter of Rights and Freedoms*.”

Taking into account key elements of jurisprudence—particularly the Supreme Court of Canada and Supreme Court of British Columbia judgments cited in this document—as well as the work of the House of Commons Standing Committee to identify the needs for statistical data on rights-holders and their children, Statistics Canada examined different options and assessed their potential and limitations. A rigorous scientific approach was used. This included compliance with legal requirements, data quality assessment, respondent burden, confidentiality, historical comparability and costs.

In 2021, the census will have a brand-new block of questions aimed at measuring the number of children of rights-holders under section 23 of the *Canadian Charter of Rights and Freedoms*. This addition is the result of the efforts and work of experts led by Statistics Canada to meet the data needs for planning public services, such as school infrastructure and educational services in the minority official language in Canada.

## Minority language educational rights: Technical report on changes for the 2021 Census

Formed in 2017, the Advisory Committee on Language Statistics provided opinions and advice on the collection strategy, the development of questions, and their qualitative and quantitative testing. The six new questions (five on the electronic questionnaire), combined with other census questions, will be used to establish the most comprehensive database to date on rights-holders and their children under paragraphs 23(1)(a) and (b) and subsection 23(2) of the *Canadian Charter of Rights and Freedoms*. These results will be made available at the municipality or locality levels and at custom geographic levels, and they can be crossed with the other characteristics collected by the long-form census questionnaire, such as citizenship.

The census will be a key component of the data “ecosystem” that Statistics Canada is implementing. In addition to the census, this ecosystem will include administrative data and a new postcensal survey that is under development. Each of these sources will improve and enrich the availability of data on rights-holders.

As with any data source, the census has its limitations. This is especially true in the unique context of children of rights-holders, as the complex task of enumerating them requires the use of several questions combined, including on the relationships between persons living under the same roof. In addition, the census cannot produce a register of children of rights-holders, nor is that its purpose. However, it will help meet a key need both for the various players and stakeholders in official language minority communities, and for provincial and territorial ministries of education.

# Minority language educational rights: Technical report on changes for the 2021 Census

## Appendix 1 – Complementary Table

**Table A.1**

**Population with the official minority language as their mother tongue (multiple responses included), by province of residence and version of the 2019 Census Test**

<b>Province</b>	<b>Control version</b>	<b>Test version 1</b>	<b>Test version 2</b>	<b>P-value<sup>1</sup>: Test version 1</b>	<b>P-value<sup>1</sup>: Test version 2</b>
Newfoundland and Labrador	115	2,470	4,755	0.2755	0.0530
Prince Edward Island	2,210	0	1,810	0.2648	0.9400
Nova Scotia	19,820	20,340	26,385	0.9589	0.8674
New Brunswick	222,130	213,915	187,245	0.6346	0.6764
Quebec	720,595	749,420	792,515	0.5931	0.1253
Ontario	464,895	477,895	423,410	0.6140	0.3011
Manitoba	41,050	32,440	39,240	0.4939	0.9151
Saskatchewan	10,105	3,635	12,885	0.0943	0.9055
Alberta	68,275	65,175	71,490	0.9742	0.7071
British Columbia	79,145	74,200	60,185	0.4845	0.1742
<b>Canada outside Quebec</b>	<b>907,745</b>	<b>890,075</b>	<b>827,405</b>	<b>0.6388</b>	<b>0.2056</b>
<b>Canada</b>	<b>1,628,335</b>	<b>1,639,495</b>	<b>1,619,920</b>	<b>0.1291</b>	<b>0.1946</b>

1. P-value relates to the statistical differences between both versions 1 and 2, and the control version of the question.

Source: 2019 Census Test.