



**Our Children
Our Future
Our Vision**

First Nation Jurisdiction
Over First Nation Education
In Ontario



Our Children, Our Future, Our Vision

This report has been produced by the New Agenda Working Group established by the Chiefs of Ontario and synthesizes information previously published in other studies or papers and recent input gathered from First Nations individuals and organizations as noted in the report. The report does not claim to represent the views or positions of any particular First Nation, First Nations' organization or treaty council in Ontario and is published without prejudice to any legal proceedings. Furthermore, this report is independent from the AFN-AANDC National Panel on Education.



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The most significant piece of work completed to date on First Nation education in Ontario is *The New Agenda: A Manifesto for First Nations Education in Ontario* completed in 2004. The *Manifesto* remains at the core of how First Nations in Ontario envision and move forward on First Nation education. Part of what makes this document so impactful is that the primary contributors were all First Nations writers, researchers and experts in their own fields. This is at the heart of realizing First Nation jurisdiction over First Nation education.

This report, *Our Children, Our Future, Our Vision*, builds on this previous knowledge and reviews the concrete action taken on First Nation education in Ontario since the *Manifesto*. It also provides an overview of some of the initial feedback received from First Nation communities on what barriers remain in First Nation education and how to best address them.

It must be kept in mind that this is an ever-evolving process and community feedback will be ongoing in a variety of forums.

The participation of community members in this process has been especially critical to advancing collective goals in relation to First Nation education. Without their continued support and willingness to participate in community information sessions, strategy sessions, planning groups, research projects and surveys, it would be much more difficult to advance our collective interests regarding education. Their invaluable contributions will help shape our future.

The tenacity, persistence, strength of spirit and dedication to the well-being of First Nation children and the future of First Nation communities has allowed First Nations to overcome every barrier placed in their way. The contributors to this report are examples of dedicated First Nations experts in education who deserve special thanks for their critical contributions to this report.

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Dr. Pamela D. Palmater, Mi'kmaq



EXECUTIVE SUMMARY

The Chiefs of Ontario is the coordinating body for the 133 First Nation communities located within the boundaries of what is now known as the province of Ontario. The mandate of the Chiefs of Ontario is to facilitate the discussion, planning, implementation and evaluation of all local, regional and national matters affecting First Nations people.

The activities of the office are governed by the Political Confederacy (PC), composed of the Grand Chiefs of the four political territorial organizations and a representative of the independent First Nations, overseen by the Regional Elder and chaired by the Ontario Regional Chief. Since 1983, the Chiefs of Ontario have made First Nation Education a priority. Our political activities have been centered on First Nation control over First Nation education and have passed many resolutions to this affect, including:

Resolution 83/18 Education as a Priority which established Indian Control of Indian Education as the number one priority;

Resolution 87/9 Education which directed the Government of Canada to “cease and desist from its unilateral revision and development of First Nations Education Policies” and properly consult with First Nations to ensure compliance with Aboriginal and Treaty rights to education; and

Resolution 01/33 Maintaining Education as a High Priority on First Nations Political Agenda which reaffirmed First Nation Education as a high priority in Ontario.

As a result, the Chiefs of Ontario has taken various steps to act on this priority, including the setting up of an education department, the creation of a First Nation Education Coordination Unit, and engaging in their own education conferences, strategic planning sessions, research, surveys, and community engagement sessions. These activities have resulted in several key reports, most notably: *A Manifesto for First Nations Education in Ontario* (2004) which resulted from the collective research and writing efforts of First Nation scholars, practitioners and leaders in First Nation Education. It remains the foundation of First Nation education activities in Ontario.

The core elements of a successful education system for First Nations in Ontario have been identified in many reports, studies, articles, and community engagement sessions, and include: (1) First Nation jurisdiction over First Nation education, (2) equitable funding and (3) cultural relevance. Despite the well-known causes of the current sub-standard education system, and the many reports which have identified the solutions, little action has been taken to implement these key recommendations. The lack of federal action in this regard violates all of our Aboriginal, Treaty, and international human rights to control our own education systems.

This report, *Our Children, Our Future, Our Vision: First Nation Jurisdiction over First Nation Education in Ontario* is not meant to repeat the significant findings of the *Manifesto*, nor any other previous report. It is meant as an overview of what we have accomplished to date and to emphasize that the steps required to bring about substantive improvements in First Nation education in Ontario have already been identified – they simply need to be acted on.



1. Introduction

Indigenous Nations on Turtle Island have been in control of their own educational content, objectives, delivery mechanisms, systems, and outcomes since time immemorial.¹ For thousands of years, education was centered on traditional Indigenous knowledge which included not only spirituality, culture, and language, but also focused on local environmental conditions, physics, geology, geography, math, astronomy and other sciences, as well as medicines and medical knowledge.² Knowledge about family, community, national and political relations were intertwined with knowledge about our relations with the earth, water, sun, moon, sky, birds, animals, fish and plants.³ In fact, the loss of traditional Indigenous knowledge is an urgent issue that threatens the biological diversity of earth which in turn threatens all peoples.⁴ Thus, its protection should be a key policy objective of both Indigenous and settler governments around the world.

However, the traditional Indigenous knowledge systems of Indigenous peoples in what is now Canada, along with other Indigenous peoples in countries like the United States, Australia, New Zealand, and Hawaii, have all suffered from the imposition of colonial laws and policies imposed by settler governments.⁵ These laws and policies were designed to assimilate Indigenous peoples, in part, by teaching them that their knowledge systems were inferior to those of Europeans.⁶ Other colonial policies sought to directly suppress and destroy such knowledge by various means, like residential schools.⁷ This has resulted in many Indigenous languages being endangered, as well as the loss of traditional knowledge, laws, rules, customs, world views, philosophies, values and traditions inherent in Indigenous language systems.⁸

1 N. Morgan, First Nations Education Steering Committee, " 'If Not Now, Then When?' First Nations Jurisdiction Over Education: A Literature Review" (Ottawa: INAC, 2002) [*If Not Now, Then When*].

2 M. Battiste, "Indigenous Knowledge and Pedagogy in First Nations Education: A Literature Review with Recommendations" (Ottawa: Indian and Northern Affairs Canada, 2002) [*Indigenous Knowledge*]. M. Battiste, J. Youngblood Henderson, *Protecting Indigenous Knowledge and Heritage: A Global Challenge* (Saskatoon: Purich Publishing Ltd., 2000) [*Protecting Indigenous Knowledge*].

3 *Indigenous Knowledge*, supra note 2 at 7-8. "This knowledge includes 'all kinds of scientific, agricultural, technical and ecological knowledge, including cultigens, medicines and the rational use of flora and fauna." *Protecting Indigenous Knowledge*, supra note 2 at 9-17.

4 *Indigenous Knowledge*, supra note 2 at 8.

5 I have separated Hawaii from the United States as the Indigenous Hawaiians consider themselves to be sovereign and are working towards independent statehood. See: J. Kehaulani Kauanui, *Hawaiian Blood: Colonialism and the Politics of Sovereignty and Indigeneity* (London: Duke University Press, 2008).

6 Royal Commission on Aboriginal Peoples, Report of the Royal Commission on Aboriginal Peoples (Ottawa: Minister of Supply and Services, 1996) vols.1-5 [*RCAP*].

7 *RCAP*, vol.1 at 333-410. J.R. Miller, *Shingwauk's Vision: A History of Native Residential Schools* (Toronto: University of Toronto Press, 1996) [*Shingwauk's Vision*]. P. Reagan, *Unsettling the Settler Within: Indian Residential Schools, Truth Telling and Reconciliation in Canada* (Vancouver: UBC Press, 2010) [*Unsettling the Settler Within*].

8 United Nations, United Nation Permanent Forum on Indigenous Issues "Indigenous Languages: Fact Sheet", online: UN <http://www.un.org/esa/socdev/unpfii/documents/Factsheet_languages_FINAL.pdf>. Over 90% of the World's languages are in jeopardy of being lost. Statistics Canada, "Aboriginal Languages in Canada: Emerging Trends and Perspectives on Second Language Acquisition", online: StatsCan <<http://www.statcan.gc.ca/pub/11-008-x/2007001/9628-eng.htm>>. Only one in four Aboriginal people speak an Aboriginal language. M. Norris, "Canada's Aboriginal Languages" (1998) Canadian Social Trends No 11-008 at 8. Only 3 out of 50 Aboriginal languages are spoken by enough people to be considered safe from extinction.



Even the modern day control of education by Canadian provinces has contributed to the continued loss of Indigenous knowledge and the alienation of Indigenous students through Euro-centric teaching methods, assessment practices, and content. While the last residential school closed in 1996, the ongoing colonization of our students is reflected in our students being forced to learn English and French, but not being afforded an opportunity to learn their own languages. It also manifests in the failure of provincial systems to teach students about Indigenous peoples, Nations, histories and cultures in an accurate and authentic way, if at all.

It has been said that images shape aspirations, so when Indigenous peoples do not see themselves reflected as teachers, principals, coaches, experts, and role models in provincial educational systems, the message is clear – they do not exist. When students do not see their traditional Indigenous knowledge reflected in studies related to science, law, history, geography and philosophy – the message is that their knowledge systems are not as important as settler knowledge systems. While this is a more indirect way of achieving the assimilation of Indigenous peoples than residential schools for example, it is no less destructive.

There are three basic models of First Nation education currently in Canada.⁹ There are federal schools operated by Indian Affairs; provincial and territorial public schools; and local schools operated by First Nations, with the latter often being under the administration of a local school board or education authority. None of the current arrangements are satisfactory from a legal, social or cultural perspective as they do not address the fundamental issue of jurisdiction.¹⁰ In other words, there is no protection, recognition or implementation of First Nation authority in education.

The Chiefs of Ontario have therefore made regaining control over our own education systems, teaching methods, and curriculum a top priority and have taken various steps towards those ends. These actions have included the setting up of an education department, the creation of a First Nation Education Coordination Unit, and engaging in our own education conferences, strategic planning sessions, research projects, surveys, and community engagement sessions. This report is a part of these ongoing activities and is meant to provide a brief overview of what we have done to date and where we need to go.

In 2004, the Chiefs of Ontario produced *The New Agenda: A Manifesto for First Nations Education in Ontario*.¹¹ The *Manifesto* is a comprehensive compendium of education issues faced by First Nations in Ontario that was organized, compiled and written by First Nations people and it remains central to any actions, decisions or strategies we develop in relation to First Nation education. This report, *Our Children, Our Future, Our Vision*, does not replace the *Manifesto*, but instead updates what we have done in the interim and confirms that our position has not changed. We believe that the only way to build strong, healthy individuals, families, communities and Nations is through control over our own education systems and content. This report demonstrates that we continue to

9 *If Not Now, Then When*, supra note 1 at 15.

10 *Ibid.* at 15.

11 Chiefs in Ontario, *The New Agenda: A Manifesto for First Nations Education in Ontario* (Ontario: Chiefs in Ontario, 2004) [*Manifesto*].



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work to make this a reality for First Nations in Ontario.

Our report starts by briefly examining the rich history of traditional Indigenous forms of education and knowledge and how those core principles are especially relevant today. It then reviews how First Nation education has unfolded in Ontario and how federal laws and policies have had a disastrous effect on our communities. The negative impacts of residential schools have had inter-generational impacts on how we learn, what we learn and why. The current inequitable funding levels that put our children at a severe disadvantage compared to Canadian children stands in stark contrast to the solemn promises made in our treaties.

From this important historical context, the report provides an overview of some of the funding and program issues with a view to identifying some of the most common barriers to progress. Due to time and space limitations, we cannot cover all issues in detail, but instead rely on our previous work in the *Manifesto* and the many analyses, studies and research reports which have also identified the very same barriers to educational success for our communities. This previous work not only identified barriers, but solutions and success stories as well.

Our report will therefore highlight what we already know and how best to move forward. Since we believe that our communities know what is best for their citizens, we have ensured that the content of this report, while summative in nature, also reflects the voices of those who work in education and those who are most affected by the education system – our students. We are taking this report a step further and making sure that our communities have a chance to review and comment on it so that our final draft will be reflective of their voices. Very little information, funding, or time is ever allotted by federal or provincial governments for us to properly hear from our communities, so we have undertaken this on our own. Community engagement is ongoing and will be a part of any future discussions and plans.

Finally, our report will present our major recommendations on how to bring about First Nation educational success. It will also attach the reports of our community sessions, written submissions and the survey that was conducted so that everyone can understand the various community perspectives. We also attached a copy of some of the major Chiefs in Assembly resolutions in relation to education to provide a proper context for understanding why control over our own education system is so important to our communities in Ontario.

This report does not end our work on First Nation education – instead it represents a snapshot of where we have been, where we are today, and how we plan to move forward. Our children represent our greatest hope for stronger, healthier communities and Nations and we owe it to them to take action now to ensure their children do not receive a sub-standard education. Our children represent our future and we plan to ensure a prosperous future by doing education our way.

It is in this spirit of true self-determination and sovereignty that we offer you this report:

Our Children, Our Future, Our Vision: First Nation Jurisdiction over First Nation Education in Ontario.



2. First Nation Education In Ontario

Although First Nation education in Ontario is often framed in terms of a jurisdictional dispute between the federal and provincial governments, the fact is, Indigenous Nations in what is now Canada have had their own educational and knowledge systems for millennia. Since time immemorial, Indigenous peoples have engaged in life-long learning exchanges between the generations that constantly evolved over time to reflect local realities.¹²

This right to educate our own people comes from our inherent right to be self-determining, which is based in part, on our status as sovereign Nations.¹³ This right was also recognized in our treaty relationship with the Crown, but was ignored during the many generations which suffered under colonial Indian policies which focused on assimilation. This section provides an overview of the various stages First Nation education has been through. It will look at the importance of traditional Indigenous knowledge, how the treaties protected our right to education and the imposition of federal Indian policy on our communities.¹⁴ The idea is to provide those unfamiliar with this history with a context from which to understand the current issues.

(a) Traditional Indigenous Knowledge

“I am 34 years old and I do not know how to speak Ojibwe, I think there is something very wrong with that” (Community member)

There are thirteen Indigenous Nations in Ontario, namely the Algonquin, Mississauga, Ojibway, Onondaga, Mohawk, Seneca, Oneida, Cayuga, Tuscarora, Cree, Odawa, Pottowatomi and Delaware. Each of these sovereign Nations developed their own languages and knowledge systems.¹⁵ These knowledge systems supported their complex political and governance systems, laws, rules, defense and trading systems. Each in turn has used their languages, cultures and traditions to provide a sound context for which to raise their children so that they grow up happy, healthy, and knowledgeable, with strong Indigenous identities. These identities are based on our connections to our ancestors, our relations with our families, communities and Nations, and a sense of obligation for future generations.¹⁶

There has been a tendency by outside researchers and observers to categorize Indigenous knowledge as frozen in time – something that is more along the lines of a belief system versus a knowl-

12 RCAP, vol.3, *supra* note 6 at Chapter 5.

13 RCAP, vol.2, part 1, *supra* note 6 at 163-184. See generally: T. Alfred, *Wasase: Indigenous Pathways of Action and Freedom* (Toronto: University of Toronto Press, 2005). T. Alfred, *Peace, Power, Righteousness: An Indigenous Manifesto* (Don Mills: Oxford University Press, 2008).

14 In this report, I will use the terms “Indigenous” and “First Nation” to refer to both individuals and Nations. The term “First Nation” will also be used to refer to Indian bands unless the context requires otherwise. The terms “Aboriginal,” “band” and “Indian” will only be used where contextually relevant. This report focuses exclusively on the Indigenous Nations and First Nations in Ontario and should not be taken to reflect the histories, goals or aspirations of the Inuit or Métis.

15 *Manifesto*, *supra* note 11 at 2.

16 P. Palmater, *Beyond Blood: Rethinking Indigenous Identity* (Saskatoon: Purich Publishing, 2011) [*Beyond Blood*].



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edge system. This is the typical Eurocentric approach to analysis and categorization of “other” knowledge systems since they believe that most cultures are not capable of invention, change or “progress.”¹⁷ This is the fundamental core of Eurocentric categorization of Indigenous peoples and cultures as “inferior.”

Additionally, there are often attempts to lump all Indigenous knowledges into one set of rules that will apply to all “Indians” making the management and conversion of individuals with those belief systems much easier. It is as if the varied histories, stories, values, experiences, territories and local conditions make no difference to the knowledge contained in each system. However, Indigenous knowledge is something very different from European conceptions of it:

*Indigenous knowledge thus embodies a web of relationships within a specific ecological context; contains linguistic categories, rules, and relationships unique to each knowledge system; has localized content and meaning; has established customs with respect to sharing of knowledge...and implies responsibilities for possessing various kinds of knowledge.*¹⁸

Outside observers lack the conceptual understanding or worldview to understand traditional Indigenous knowledge systems which are based not only on the cultures they observe, but from the deeply complex concepts and meanings inherent in Indigenous languages.

*First Nations speak about language and culture as being intertwined. Fluent speakers, particularly elders, note that unique concepts are expressed through the language and that it is impossible to translate the deeper meanings of words and concepts in the languages of other cultures. Linguists agree that language shapes the way people perceive the world and how they relate to the world around them, as well as how they describe it. The intimate relationships between language, culture and thought underlie the insistence of First Nations peoples that language education must be a priority.*¹⁹

That being said, there are several characteristics of traditional Indigenous knowledges that separate them from Eurocentric and other knowledge systems. Indigenous knowledge and ways of knowing are holistic and based on local conditions which reflect the inter-relationships between people, animals, plants, and everything that exists in the ecosystem – including those things seen and unseen. Instead of being a predictable “science” based on theories about how the world should be, it is instead a more accurate science based on how the world (seen locally) actually is.

17 *Protecting Indigenous Knowledge, supra* note 2 at 21-23.

18 *Indigenous Knowledge, supra* note 2 at 14.

19 R. Powless, “The New Agenda: Building Upon the History of First Nations Education in Ontario” in *Manifesto, supra* note 11 [*Building Upon the History*] at 3.



Thus the importance of local knowledge is far greater than often characterized. Indigenous ways of knowing share the following structure:

- (1) *knowledge of and belief in unseen powers in the ecosystem;*
- (2) *knowledge that all things in the ecosystem are dependent on each other;*
- (3) *knowledge that reality is structured according to most of the linguistic concepts by which Indigenous describe it;*
- (4) *knowledge that personal relationships reinforce the bond between persons, communities, and ecosystems;*
- (5) *knowledge that sacred traditions and persons who know these traditions are responsible for teaching “morals” and “ethics” to practitioners who are then given responsibility for this specialized knowledge and its dissemination; and*
- (6) *knowledge that an extended kinship passes on teachings and social practices from generation to generation.²⁰*

One can see how important that knowledge about local conditions and one’s traditions and languages are to the well-being of both individuals and communities. While the concepts within each unique Indigenous language may be different and traditional knowledge about each territory will depend on the elements of those specific ecosystems, the passing down of this knowledge was historically key to each Nation’s survival and prosperity - just as it is today.

Since Traditional Indigenous knowledge (TIK) is based on local conditions, then the right to protect such knowledge involves far more than just the knowledge itself, but “issues of human rights, rights to the land and rights to self-determination”²¹ In this way, Indigenous knowledge is so inherently tied to the land that one cannot separate an Indigenous Nation from their land without significantly impacting their entire knowledge system and sense of identity.

Why TIK is for us indeed a political question, a question of survival and rights for our future? There are a broad range of types of ideas as characteristic of TIK: ideas pertaining to environment, livelihoods; pertaining to oneself (health, medicine); pertaining to others (members of a community, ancestors and children); to conflicts, to pedagogy, and esthetics. Ideas as characteristic of TIK are not a collection of articulated biological, ecological, geographic observations and information about nature, society and humans, ideas are the mover of the actions of an indigenous person, they motivate his current activities and provide the means of cultural continuation for his descendants.²²

20 Protecting *Indigenous Knowledge*, supra note 2 at 42.

21 E. Khamaganova, Buryat Baikal Center for Indigenous Cultures, “Traditional indigenous knowledge: local view” (Panama: United Nations, 2005), online: UN <http://www.un.org/esa/socdev/unpfii/documents/workshop_TK_khamaganova.pdf> [Local View] at 1.

22 *Ibid.* at 3.



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In other words, our future as Indigenous peoples depends on our ability to maintain those connections to all those things in our local ecosystems which comprise the basis of our knowledge systems and our ability to pass that knowledge on to future generations.²³ While some scientists and government officials have tried to limit the protection and promotion of traditional Indigenous knowledge to one of religion or the protection of intellectual property, the majority of the literature agrees that it also involves questions of land rights and self-determination.²⁴

The right to maintain traditional Indigenous knowledge has now been protected in the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP), which is considered by the United Nations to represent international customary law.²⁵ Article 11 recognizes the right of Indigenous peoples to “practice and revitalize their cultural traditions and customs.”²⁶ Article 12 provides that Indigenous peoples have the right to practice, develop and teach their traditions, customs and ceremonies.²⁷ Similarly, Article 13 protects the right to revitalize Indigenous languages, philosophies, writing systems and place names and to transmit these to future generations.²⁸ UNDRIP also includes the right to protect traditional medicine and health practices.²⁹

More specifically, Article 31 of UNDRIP provides, in part:

Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts.³⁰

It is imperative that any consideration of laws, policies and funding formulas related to First Nation education should focus on:

...the dissemination of Indigenous knowledge should be targeted towards current First Nations students and to the next generation, ensuring that the study and development of Indigenous knowledge and the skills of their ancestors are valued and available in both

23 See generally: *Wasase*, supra note 13. *Peace, Power, Righteousness*, supra note 13.

24 S. Twarog, P. Kapoor, eds., “Protecting and Promoting Traditional Knowledge: Systems, National Experiences and International Dimensions” (Geneva: United Nations, 2004), online: UN <http://www.unctad.org/en/docs/ditcted10_en.pdf> [*Protecting and Promoting Traditional Knowledge*].

25 *United Nations Declaration on the Rights of Indigenous Peoples* (A/RES/61/295) (13 September 2007) [UNDRIP].

26 *Ibid.* at Article 11.

27 *Ibid.* at Article 12.

28 *Ibid.* at Article 13.

29 *Ibid.* at Article 24.

30 *Ibid.* at Article 31.



sciences and the humanities. Young students must feel that it is rewarding to pursue careers based on the traditional knowledge of their forebears.³¹

Thus, the right to protect and promote traditional Indigenous knowledge systems is absolutely vital to the decolonization, healing, and future well-being of Indigenous individuals, families, communities and Nations, and should be central to any future legal or policy changes relating to First Nation education. The emphasis on local control over educational content, systems and outcomes is also critically important to the very knowledge system itself.

Traditional Indigenous knowledges and languages must be a central feature of any First Nation education policy and funding formula on a go forward basis.

Local control, exercised in a variety of ways (via First Nation community, Nation, treaty area, or region) is not only essential to the realization of educational outcomes but to the very content of the knowledges incorporated within those educational systems.

(b) Treaty Right to Education

“not for to-day only but for to-morrow, not only for you but for your children born and unborn, and the promises we make will be carried out as long as the sun shines above and the water flows in the ocean” (Crown promises during treaty negotiations in 1880)

This right of First Nations to educate current and future generations of First Nations peoples is part of the inherent right of self-determination which has been recognized not only in international declarations and conventions like UNDRIP, but also in domestic treaties between the Crown and Indigenous Nations. While not every treaty includes specific reference to education, the treaty relationship between the Crown and First Nations extends far beyond individual treaties. The Crown relied on the cooperation and support of Indigenous Nations to survive in our territories, to prosper from our trading networks, and to survive numerous military incursions from other European competitors and have thus already received their treaty benefit.³² Whether promises were written, oral or understood through long-term policy decisions or actions, First Nations have a treaty right to education. It is time we were able to fully enjoy our treaty benefits.

From early alliances to the *Royal Proclamation of 1763*, Kaswénta or the Two-Row wampum, the *1764 Treaty at Niagara*, and the specific individual treaties, the fundamental principles upon which the treaty relationship was based, like recognition of sovereignty, nationhood and title to lands,

³¹ *Indigenous Knowledge*, *supra* note 2 at 14.

³² *RCAP*, *supra* note 6. J. Borrows, “Wampum at Niagara: The Royal Proclamation, Canadian Legal History, and Self-Government” in M. Asch, ed., *Aboriginal and Treaty Rights in Canada: Essays on Law, Equity, and respect for Difference* (Vancouver: UBC Press, 1997) 155 [*Wampum at Niagara*].



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were extended to all Indigenous Nations in some form.³³ Not only does the treaty relationship recognize the inherent right of Indigenous Nations to be self-determining, but it also set out an on-going obligation on the part of the Crown to always provide assistance.³⁴ This includes the several treaties which provided specific guarantees related to the provision of education, which includes funding for formal education.³⁵

Unlike the descriptions from European history books which portray Indigenous Nations as passive participants in the treaty making process, John Borrows argues that a just interpretation of the historical record would find the opposite and go a long way towards overcoming:

*...much of the Eurocentrism that has informed colonial legal history in Canada. First Nations would then be regarded as active participants in the formulation and ratification of their rights in Canada. This would go a long way to dispelling notions found in the Canadian legal and political discourse that regard First Nations as subservient to or dependent on the Crown in pressing or preserving their rights.*³⁶

Some of the clauses from the treaties include specific wording related to education, paying for teachers, and the building and maintaining schools on the reserve.

“If you should ever require my assistance, send this belt, and my hand will be immediately stretched forth to assist you.”
(*Belt of 1764*)³⁷

“Her Majesty agrees to maintain a school on each reserve hereby made, whenever the Indians of the reserve should desire it.”
(*Treaty 1, 1871*)³⁸

“Her Majesty agrees to maintain schools for instruction in such reserves hereby made to her Government of her Dominion of Canada may seem advisable, whenever the Indians of the reserve shall desire it.”
(*Treaty 3, 1873, Treaty 5, 1875, Treaty 6, 1876*)³⁹

33 *Building Upon the History, supra* note 19 at 2-5. *Royal Proclamation, 1763.*

34 *Wampum at Niagara, supra* note 32 at 166.

35 S. Carr-Stewart, “A Treaty Right to Education” (2001) 26:2 Can. J. Ed. 125-143 [*Treaty Right*]. See page 126: “I argue in this article that the First Nation representatives who negotiated the numbered treaties had an understanding of formal education and expected their members and future generations to benefit from such services.” See also: O. Dickason, D. McNab, *Canada’s First Nations: A History of the Founding Peoples from Earliest Times*, 4th ed., (Don Mills: Oxford University Press, 2009) [*Founding Peoples*] at 305.

36 *Wampum at Niagara, supra* note 32 at 171.

37 *Ibid.* at 166.

38 *Treaty Right, supra* note 35 at 128. See also: Assembly of First Nations, “Numbered Treaty Education Provisions”, online: <http://www.afn.ca/uploads/files/education/26_numbered_treaty_education_provisions.pdf>.

39 *Treaty Right, supra* note 35 at 128. See also: Assembly of First Nations, “Numbered Treaty Education Provisions”, online: <http://www.afn.ca/uploads/files/education/26_numbered_treaty_education_provisions.pdf>..



“Her Majesty agrees to maintain a school in the reserve, allotted to each band, as soon as they settle on said reserve, and are prepared for a teacher.”

(*Treaty 4, 1874*)⁴⁰

“to pay the salary of such teachers to instruct the children of said Indians”

(*Treaty 7, 1877*)⁴¹

However, the Supreme Court of Canada (SCC) in the *Badger* and *Sundown* cases set out several key treaty interpretive principles that confirm that treaties are not only sacred agreements, but that they are also an exchange of solemn promises which create mutually binding obligations.⁴² They also held that the honour of the Crown is always at stake when considering the scope and content of treaties which means that we must assume the Crown always intended to fulfill its promises. Since the treaties were written by representatives of the Crown, any ambiguities in the words of the treaty are to be resolved in favour of the Indians.⁴³

Equally important are the findings of the SCC in *Marshall* which relied on the decision in *Taylor and Williams* to support the proposition that the content of treaties are not determined only by the specific clauses contained in the treaties, but also by the understanding of the parties at the time and by the content of treaty negotiation minutes.⁴⁴

*In my view, the Nova Scotia judgments erred in concluding that the only enforceable treaty obligations were those set out in the written document of March 10, 1760, whether construed flexibly (as did the trial judge) or narrowly (as did the Nova Scotia Court of Appeal). The findings of fact made by the trial judge taken as a whole demonstrate that the concept of a disappearing treaty right does justice neither to the honour of the Crown nor to the reasonable expectations of the Mi'kmaq people. It is their common intention in 1760 -- not just the terms of the March 10, 1760 document -- to which effect must be given.*⁴⁵

Thus, when considering the treaty right to education for First Nations in Ontario, one must look at more than just a single clause in an individual treaty, but also to the larger context, the understanding of the parties at the time, and any agreements made outside of treaty document during

40 *Ibid.* at 129.

41 *Ibid.*

42 *R. v. Badger*, [1996] 1 S.C.R. 771 [*Badger*]. *R. v. Sundown*, [1999] 393 [*Sundown*].

43 *Ibid.* See also: M. Hurley, Parliamentary Research Branch, “Aboriginal and Treaty Rights” (Ottawa: Government of Canada, 2000), online: < <http://dsp-psd.pwgsc.gc.ca/Collection-R/LoPBdP/EB/prb9916-e.htm>>.

44 *R. v. Marshall*, [1999] 3 S.C.R. 456 [*Marshall*]. *R. v. Taylor and Williams* (1981), 62 C.C.C. (2d) 227, leave to appeal refused.

45 *Marshall*, *supra* note 44 at para. 40. (emphasis added) See also page 52 where they explained that to do otherwise would have left the Mi'kmaq with an “empty shell of a treaty promise”



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negotiations. There are many more documents that may not have been identified as treaties, but may well turn out to hold additional treaty obligations in relation to education.⁴⁶

With regards to education, various promises were made during the treaty negotiations. For example, Treaty Commissioner for Treaty 1 and 2 explained that a commitment to education for First Nations would provide “a future of promise” so that they could “live in comfort” and “live and prosper and provide.”⁴⁷ Similarly, with regard to Treaty 3, the Treaty Commissioner told the First Nations that he would “establish schools whenever any band asks for them” and that whenever they settle on a reserve, “the Queen will be ready to give you a school and schoolmaster.”⁴⁸

There are many documents, agreements and promises made in what is now Ontario that will no doubt support the more obvious treaty right provisions dealing with education. The totality of all these agreements, form a covenant chain relationship between First Nations and the Crown. Some have argued that this chain is not unlike a marriage which represents not only a significant event, but also a change in the relationship that will continue, change and grow for the benefit of both parties in the future.⁴⁹

When looking at the totality of the Crown-First Nation relationship, including the recognition of sovereignty and self-determination inherent in the two-row wampum, *Treaty at Niagara*, the *Royal Proclamation of 1763*, the specific treaty provisions and how the treaty relationship with regard to education has expanded in the subsequent years, there can be no doubt that there is a treaty right to education in all its modern forms - from early childhood education to post-secondary and beyond. These treaty promises were not time limited, but instead were meant to be carried out “as long as the sun shines above and the water flows in the ocean.”⁵⁰ These treaty rights have evolved into federal policy to fund these systems and thus form part of the treaty commitment.

It is imperative that the treaty right to education be recognized, implemented and fully funded without further delay.

46 *R. v. Sioui* [1990] 1 S.C.R. 102.

47 *Treaty Right*, *supra* note 35 at 129.

48 *Ibid.*

49 *Building Upon the History*, *supra* note 19 at 7.

50 *Treaty Right*, *supra* note 35 at 130.



(c) “Indian” Education Policy

“As the federal government apologizes for residential schools and assimilation they should now step up and give it back to us. They took our languages and culture – they should help us get it back. That’s the logical thing to do.” (Councillor)

Despite the solemn commitments made by both parties in the treaties which were meant to benefit our heirs and heirs forever, we know that subsequent Crown-First Nation relations were based more on unilateral control and assimilation than on respect for the treaty promises made in good faith by the Indigenous Nations. What came to be known as “Indian policy” had a destructive effect not only on the lives of Indigenous peoples, but also on any relationship with the Crown that may have existed post-treaty negotiations.⁵¹ The ongoing legacy of poverty, ill health, pre-mature deaths, and distrust can all be linked to federal Indian policy – both historic and contemporary.⁵²

First Nation-Crown Relations have changed significantly since treaty days. What started out as Nation to Nation relations quickly changed to one where First Nations were treated as wards of the state. It is during this stage when First Nations were relocated from traditional territories, restricted to reserves, and federal laws were developed to control every aspect of their lives.⁵³ In fact, policy shifts which have had detrimental impacts on First Nations, have often been largely out of the control of First Nations.⁵⁴

Early Indian policy is often said to have been based on the need to “protect” Indians, however, the idea was more about managing and separating Indians until they were ready for civilization and could be assimilated. Early colonial policy objectives were to secure lands and resources for settlement and to control trade networks. They based their policies on two problematic assumptions: (1) that Indians and their cultures were inferior and (2) that Indians were slowly dying off.⁵⁵ This meant that the policy responses were short term; provided minimal funding; and concentrated on controlling and dividing Nations, as well as separating them from the settler population until they were ready for assimilation. This was to take place through both voluntary and mandatory enfranchisement provisions for adults and by residential schools for children.⁵⁶

Residential school policy was part of this assimilatory Indian policy. The residential school policy

51 L. Upton, “The Origins of Canadian Indian Policy” (1973) 8:4 J. of Can. Stud. 51-60. See also: B. Titley, *A Narrow Vision: Duncan Campbell Scott and the Administration of Indian Affairs in Canada* (Vancouver: UBC Press, 1986) [*Narrow Vision*]. *RCAP*, *supra* note 6.

52 P. Palmater, “Stretched Beyond Human Limits: Death by Poverty in First Nations” (2012) Can. Rev. Soc. Policy (in print) [*Death by Poverty*].

53 *RCAP*, *supra* note 6. *Founding Peoples*, *supra* note 35.

54 R. Gibbins, “Canadian Indian Policy: The Constitutional Trap” 1 (1984) C.J.N.S. 1-9 [*Canadian Indian Policy*] at 5. W. Moss, E. Gardner-O-Toole, Parliamentary Library, “Aboriginal People: History of Discriminatory Laws” (Ottawa: Government of Canada, 1991) [*Discriminatory Laws*]. D. McNab, “Herman Merrivale and Colonial Office Indian Policy in the Mid-Nineteenth Century”, online: <<http://www2.brandonu.ca/library/CJNS/1.2/mcnab.pdf>>.

55 *Death by Poverty*, *supra* note 52.

56 *RCAP*, *supra* note 6.



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has been described by Canada's own experts as "a national crime"⁵⁷ Dr. Bryce, a medical inspector for the Department of the Interior and Indian Affairs from 1904 to 1921 noted that 24% to 75% of all Indigenous students who entered those schools never made it out alive.⁵⁸ He had earlier recommended that the federal government take over those schools completely, since they had promised to do so by treaty.⁵⁹ But while Dr. Bryce attempted to have the Department address these preventable deaths from tuberculosis, Duncan Campbell Scott failed to take action and in fact prevented the release of Dr. Bryce's report.⁶⁰

Most will recall that it was Duncan Campbell Scott, deputy superintendent of Indian Affairs from 1913 to 1932, who based all Indian policy on the objective of getting rid of the "Indian problem" once and for all.⁶¹

*I want to get rid of the Indian problem...Our objective is to continue until there is not a single Indian in Canada that has not been absorbed into the body politic and there is no Indian question, and no Indian Department, that is the object of this Bill.*⁶²

It was Scott's plan to accomplish this by making it mandatory for all Indigenous children to attend residential schools. More than this, Indigenous children were malnourished, beaten, put in solitary confinement, raped, sodomized, and punished for speaking their languages.⁶³ Many children tried running away, only to be brought back by the Royal Canadian Mounted Police or other officials to the horrors inside those schools. Many generations of Indigenous families were torn apart, some forever when their children died in those schools. Of the survivors, many of them have been left with physical, mental and spiritual wounds that left generations of dysfunction in its wake.⁶⁴

In 2009, on behalf of all Canadians, Prime Minister Harper apologized to those survivors of select residential schools acknowledged in the litigation settlement, for the physical and sexual abuse suffered in those schools.⁶⁵ He also apologized for the loss of language and culture and for the inter-generational

57 P. Bryce, "The Story of a national crime: being an appeal for justice to the Indians of Canada: wards of the nations, our allies in the Revolutionary War, our brothers-in-arms in the Great War" (Ottawa: James Hope & Sons, Ltd., 1922) [*National Crime*].

58 *Ibid.* at 4.

59 *Ibid.*

60 *Ibid.* at 5-7.

61 *Narrow Vision*, *supra* note 51.

62 National Archives of Canada, Record Group 10, vol. 6810, file 470-2-2, col.7, pp.55 (L-3) and 63 (N-3) and as cited in *RCAP*, *supra* note 6 at 183 (vol.1) [*Indian Problem*] quoting Duncan Campbell Scott. (emphasis added)

63 T. Fontaine, *Broken Circle: The dark legacy of Indian Residential Schools: A Memoir* (Victoria: Heritage House Publishing, 2010). C. Haig-Brown, *Resistance and Renewal: Surviving the Indian Residential School* (Vancouver: Arsenal Pulp Press, 1988). *Unsettling the Settler Within*, *supra* note 7. W. Churchill, *Kill the Indian, Save the Man: The Genocidal Impact of American Indian Residential Schools* (San Francisco: City Lights Publishers, 2010). *Shingwauk's Vision*, *supra* note 7.

64 *Ibid.*

65 Right Honourable Prime Minister Stephen Harper, "Statements by Ministers: Statement of Apology to Former



impacts that this assimilatory policy had on First Nations. Subsequently however, Minister of Indian Affairs John Duncan attempted to minimize Canada's culpability by describing residential schools as "a policy gone wrong" and denied that it was a form of "cultural genocide" or that it was "lethal".⁶⁶

Neither in the apology or subsequent statements has there been recognition of the Treaty right to education, an increase in funding for language preservation, a formal repeal of the 2% funding cap, or the implementation of First Nations' jurisdictions to manage our own education systems. Residential school policy may now be a thing of the past, but the assimilatory educational agenda continues in provincial schools. Many provincial schools do not teach Indigenous languages, philosophies, or traditional knowledge or practices, but instead reinforce the histories, stories, heroes, values, ideologies, and knowledge systems of the dominant society.

The closing of residential schools and the subsequent transfer of Indigenous children to provincial schools has been no less destructive to traditional Indigenous knowledge systems and languages. This combined with the substantial increase in the numbers of children being taken from their families and communities and placed in foster care results in similar effects.

Even with provincial teachers who are sympathetic to and knowledgeable about First Nations, they are not the traditional knowledge holders or language speakers and thus cannot stand in place of First Nation education systems. The fact of separation of language speakers from their children and grandchildren denies them the opportunity to pass on the language.⁶⁷ The message in provincial schools is that the dominant language is more important which results in Indigenous children speaking their language less and less. Bear-Nicholas argues that not only does provincial control of education result in the loss of Indigenous languages and cultures, but it also results in serious mental harm to Indigenous children "which in turn plays a central role in the low academic performance rates of Indigenous children" – a process known as "cognitive assimilation".⁶⁸

But it is unequivocally assimilation since Indigenous children who manage to complete subtractive education programs must also assimilate to a considerable degree to the culture of the dominant society in order to succeed. As a result, the only real choices offered to Indigenous children in subtractive education are the choices of

Students of Indian Residential Schools" (11 June 2008), online: INAC <<http://www.ainc-inac.gc.ca/ai/rqpi/apo/pmsh-eng.asp>> [Apology].

66 APTN National News, "Saganash calls on Duncan to apologize over residential schools comment" (27 October 2011), online: APTN <<http://aptn.ca/pages/news/2011/10/27/residential-schools-saganashduncan-apologize/>>. See also: J. Barrera, APTN National News, "Federal official wanted emails deleted outlining plan to stonewall on residential school genocide questions" (13 January 2012), online: APTN <<http://aptn.ca/pages/news/2012/01/13/federal-official-wanted-emails-deleted-outlining-plan-to-stonewall-on-residential-school-genocide-questions/>>.

67 A. Bear-Nicholas, "Educational Policy for First Nations in New Brunswick: Continuing Linguistic Genocide and Educational Failure or Positive Linguistic Rights and Educational Success?" (Fredericton: Andrea Bear-Nicholas, 2008), online: <http://www.educatorsforimmersion.org/LI_pdf/Genocide_in_Educational_Policy.pdf> [*Linguistic Genocide*] at 3.

68 *Ibid.* at 4. These mental harms include: "social dislocation, psychological, cognitive, linguistic, and educational harm"



“failure,” or assimilation. And since a high proportion of those who “fail” tend to remain in their communities, and since a high proportion of those who “succeed” tend either to move away or to remain as an assimilated element within their communities, there is no way that either consequence can be considered beneficial to Indigenous Peoples and communities. Indeed, the overall effect must be recognized as predominantly negative and destructive.⁶⁹

Thus, the policy response to the dismal failure of residential schools should not be to look to the provinces to take up where the federal government left off. In fact, provincial education curricula, methodologies, and locations have caused similar types of destructive damage to Indigenous children.

Provincial schools systems can and should improve their education systems, but can never replace First Nation ones. The only real solution is to finally recognize First Nation jurisdiction over their own education systems and support them in rebuilding their languages and knowledge systems and undo some of the harm that has already been done. Not doing so maintains the status quo, which for First Nations is poverty, disease, and pre-mature death.⁷⁰

The Inherent Right of First Nations to assert their jurisdiction over First Nation education must be recognized, protected and implemented without delay.

3. What We Already Know

None of the information presented in this report is new. We have had so many reports, studies and research done on the issue of First Nation education, that it has become nearly impossible to write a new report without sounding identical to all those before it. The disastrous effects of colonial policies imposed on our communities have long been known to federal and provincial officials, clergy of all faiths, academics, researchers, and social scientists. We know the effects more intimately than anyone else because we have lived it. We have seen the slow erosion of our languages, our Indigenous values and beliefs, and our traditional knowledges about our specific territories. We know that if we don't take immediate steps to reverse this trend and undo some of the harm that has been done to our peoples and our traditional knowledge systems, we may lose it forever.

Sadly, we also know that if we do not act now, that we will continue to lose some of our youngest community members to debilitating addictions, poor health, violence, crime and suicide. The statistics are frightening about where we are headed if we don't take action now, yet there are many barriers still placed in our way. We continue to engage, study, and talk about how to improve First Nation education outcomes, yet we have already identified all the solutions necessary to move forward – all that is missing is the political will to act.

69 *Ibid.* at 5-6.

70 *Death by Poverty*, *supra* note 52.



(a) Socio-Economic Conditions

“Our kids are suffering – which [puts a] strain on family relationships and affects well-being in community” (Student)

The deplorable socio-economic conditions of many First Nations in Canada have been described as a “national disgrace”⁷¹ and a “national shame.”⁷² These preventable social conditions are not only an international embarrassment to Canada, but the maintenance of these conditions through federal Indian policy and the purposeful, chronic underfunding is a violation of our most basic human rights. While not all First Nations share the same socio-economic conditions, the national statistics are startling and represent an absolutely intolerable way of life for our people.⁷³

According to the 2006 Census, there are 698,025 First Nations individuals in Canada which includes 564,870 registered (status) Indians and 133,155 non-registered (non-status) individuals.⁷⁴ While this number will be affected slightly by the new registrations due to the *Bill C-3* amendments to the *Indian Act* in 2011, these new additions are expected to be relatively low.⁷⁵ The province of Ontario is home to the largest Aboriginal population in Canada with 296,495 Aboriginal residents.⁷⁶ There are 133 First Nations in Ontario with an approximate population of 191,721.⁷⁷

The statistics are quite alarming on almost all First Nation socio-economic indicators. The statistics

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- 71 Office of the Correctional Investigator, “Annual Report of the Office of the Correctional Investigator” (years 2000-2010 inclusive), online: OCI <<http://www.oci-bec.gc.ca/rpt/index-eng.aspx>> [OCI Report 2000] to [OCI Report 2010] inclusive.
- 72 L. Eggerton, “Physicians challenge Canada to make children, youth a priority” (2007) 176 vol.12 Canadian Medical Association Journal 1693 [Physician’s Challenge] at page 1 where former Lieutenant Governor James Bartleman calls the situation a “national shame”.
- 73 Death by Poverty, supra note 52 at 3-4.
- 74 Statistics Canada, “2006 Census: Aboriginal Peoples in Canada in 2006: Inuit, Métis and First Nations, 2006 Census: Highlights” (Ottawa: Statistics Canada, 2006), online: Statistics Canada <<http://www12.statcan.ca/census-recensement/2006/as-sa/97-558/p1-eng.cfm>> [2006 Census]. The Census includes North American Indians or First Nations (both registered and unregistered), Metis and Inuit in that definition. It is also important to note that this report focuses on the Aboriginal identity statistics. Statistics Canada makes a distinction between those with Aboriginal identity and those who report Aboriginal ancestry: “Aboriginal identity refers to those persons who reported identifying with at least one Aboriginal group, that is, North American Indian, Métis or Inuit, and/or those who reported being a Treaty Indian or a Registered Indian, as defined by the Indian Act of Canada, and/or those who reported they were members of an Indian band or First Nation.” Aboriginal ancestry, on the other hand, is defined as referring to: “the ethnic or cultural origin of a person’s ancestors, an ancestor being usually more distant than a grandparent. In the census, if a person reports at least one Aboriginal ancestry response, the person is counted in the Aboriginal ancestry population.” See also: Aboriginal Affairs and Northern Development Canada, “First Nations People of Canada”, online: <<http://www.aadnc-aandc.gc.ca/eng/1303134042666>> [First Nations]. AAAANDC reports that there are: “704,851 First Nations people in Canada. Most First Nations people – 403,369 (57%) – live in First Nations communities which are also called “reserves.” The other 301,514 (43%) live mainly in the larger cities.”
- 75 *Bill C-3 An Act to promote gender equity in Indian registration by responding to the Court of Appeal for British Columbia decision in Mclvor v. Canada (Registrar of Indian and Northern Affairs)* R.S.C. 2010 c.18 [Bill C-3]. See also: M. Hurley, Library of Parliament “Legislative Summary of Bill C-3: Gender Equity in Indian Registration Act” (Ottawa: Library of Parliament, 2010), online: <http://www.parl.gc.ca/About/Parliament/LegislativeSummaries/bills_ls.asp?Language=e&ls=C3&Mode=1&Parl=40&Ses=3&source=library_prb> [C-3 Summary]. Beyond Blood, supra note 16. Discussions with Indian Affairs employees have revealed that far less qualify than expected, despite the unexpectedly high number of applications which have created a backlog in processing.
- 76 Ontario Ministry of Aboriginal Affairs, “Aboriginal People in Ontario”, online: <<http://www.aboriginalaffairs.gov.on.ca/english/services/datasheets/aboriginal.asp>> [Aboriginal People].
- 77 *Ibid.*



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in relation to education show a very disturbing trend where the unacceptable gaps between First Nations and the Canadian population are widening instead of closing. For example, the gap in educational achievement between First Nations and Canadians has increased from twice as high (30% vs. 66%) to three times as high (15% vs. 51%) in the 20 year period from 1981 to 2001.⁷⁸ The same can be said of gap for post-secondary education which increased from 5 times as high (3% vs. 15%) to over 5 times as high (5% vs. 26%) over the same time period.⁷⁹

This likely explains why there is a widening gap between First Nation employment rates and that of Canadians for the same time period and which now stands at 58% vs. 80%.⁸⁰ In other words, the employment gap between First Nations and Canadians rose from 19% to 22% over 20 years. In a time when many Canadians are enjoying an increase in the standard of living, we have communities which are living in conditions so poor that they have declared a state of emergency. Attawapiskat, Kashechewan, and Fort Albany First Nations have all declared a state of emergency and have been the subject of numerous media reports about the shocking living conditions of those communities.⁸¹

We have community members living in tents, in sheds without power or heat, and children with ongoing health problems like skin infections from the lack of water with which to stay clean.⁸² Canada's response has typically been to ignore the situation until the Red Cross got involved in the Attawapiskat emergency to provide warm clothes and heaters to those living in sheds. The immediate response by Indian Affairs was to blame the community for allegedly mismanaging its money and to put them into immediate third party management.⁸³ Yet, the real numbers show that the federal government provides a housing allocation that would build less than 2 houses a year (for a housing need of 300+ homes), assuming none of that money went to renovating the many houses in need of repair.⁸⁴

This is not the first time that these or other First Nation communities have been in the news due to their poor living conditions or lack of educational opportunities due to chronic underfunding. Attawapiskat children had been attending a run-down school located next to a contaminated site that Indian and Northern Affairs Canada (INAC) refused to remedy.⁸⁵ Thus, parents pulled their children

78 Statistics Canada, "A profile of Canada's North American Indian population with legal Indian status" (Ottawa: Statistics Canada, 2004) [*Status Profile*] at 10. Statistics Canada, "A profile of Canada's North American Indian population without legal Indian status" (Ottawa: Statistics Canada, 2004) [*Non-status Profile*].

79 *Ibid.*

80 *Status profile, supra* note 78 at 13.

81 CBC News, "Harper Vows 'action' on Attawapiskat" (29 November 2011), online: <<http://www.cbc.ca/news/politics/story/2011/11/29/attawapiskat-tuesday.html>> [*Attawapiskat*].

82 CBC News, "Kashechewan: Water crisis in Northern Ontario" (9 November 2006), online: <<http://www.cbc.ca/news/background/aboriginals/kashechewan.html>>. L. Larose, *The Star*, "Kashechewan a 'community in crisis'" (7 February 2007), online: <<http://www.thestar.com/News/article/178976>>.

83 J. Barrera, APTN National News, "Red Cross stepping into Attawapiskat crisis" (24 November 2011), online: <<http://aptn.ca/pages/news/2011/11/24/red-cross-stepping-into-attawapiskat-crisis/>>. CBC News, "Attawapiskat chief demands funding, denies accusation" (6 January 2012), online: <<http://www.cbc.ca/news/politics/story/2012/01/06/pol-attawapiskat-friday.html>>.

84 C. Vowel, *Huffington Post*, "Attawapiskat: You Want to Be Shown the Money? Here it Is" (6 December 2011), online: <http://www.huffingtonpost.ca/chelsea-vowel/attawapiskat-emergency_b_1127066.html>.

85 First Nation Child and Family Caring Society, "Our Dreams Matter Too: First Nations children's rights, lives and education" (Ottawa: FNCFCs, 2011), online: FNCFCs <<http://www.fncfcs.com/sites/default/files/docs/OurDreams-June2011.pdf>> [*Our Dreams Matter Too*] at 14.



out of that school. Since then the community has gone without a school despite federal promises to the contrary. Shannen Koostachin, a young band member, made it her mission to advocate for equality for First Nation children and to have a school for her community.⁸⁶ Sadly, she passed away and little has been done to address the conditions in, or lack of schools in First Nations.

Piled on top of poor educational outcomes and the resultant low employment rates are the numerous other statistics:

- 73% of all First Nation water and 63% of sanitation systems are medium to high risk;⁸⁷
- 127 First Nations are under drinking water advisory;⁸⁸
- There is a housing shortage of at least 8,500 homes that will increase by 2,000 a year;
- 44% of all First Nation homes require renovations;
- Suicides account for 22% of all deaths of Aboriginal youth ages 10-19;
- Diabetes is an epidemic in our communities;
- We have more First Nation children in care than were in residential schools; and
- The over-representation of our men, women and youth in jails is increasing.

How can we expect our children to succeed in school if they live with constant food, water and shelter insecurity? The success of First Nation children and adults in school is far more complex than simply proposing legislative amendments – it requires a comprehensive plan that address all of the above funding and jurisdictional inequalities. Canada must start to live up to its fiduciary, treaty and other obligations to First Nations if there is ever to be any positive change in First Nation education.

Often Canadians don't realize the extent to which our communities are under-funded in relation to their residents. How many cities in Canada can be described in the same way that Pikangikum First Nation has been?

86 *Ibid.* at 8.

87 Neegan Burnside Ltd., "National Assessment of First Nations Water and Wastewater Systems: National Roll-up Report – Final" (Ottawa: INAC, 2011), online: INAC <<http://ainc-inac.gc.ca/enr/wtr/nawws/rurnat/rurnat-eng.pdf>> [*First Nation Water Report*] at i. At page 34, "Nationally, based on the 10 year projected populations, the combined water and wastewater servicing needs are estimated to be \$4.7 billion plus a projected operating and maintenance budget of \$419 million per year. The projected future servicing cost per dwelling unit is estimated to average \$29,600 per unit with an annual operating and maintenance cost of \$2,700 per unit."

88 First Nation, Inuit and Aboriginal Health, Health Canada, "Drinking Water and Wastewater"; online: <http://www.hc-sc.gc.ca/fniah-spnia/promotion/public-publique/water-eau-eng.php#how_many>.



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Pikangikum is an impoverished, isolated First Nations community where basic necessities of life are absent. Running water and indoor plumbing do not exist for most residents. Poverty, crowded standard housing, gainful employment, food and water security are daily challenges. A lack of an integrated health care system, poor education by provincial standards and a largely absent community infrastructure are uniquely positioned against a backdrop of colonialism, racism, lack of implementation of self-determination and social exclusion. They all contribute to the troubled youth.⁸⁹

We already know that the bulk of international literature posits that education is directly associated with health. In other words, we know that there is strong evidence to suggest a direct relationship between socio-economic status (of which education is an indicator) and health.⁹⁰ The same research shows that the best way to reduce the risk of unemployment comes from improvements in the completion rates of elementary and high school.⁹¹ So, in what modern developed country would it be okay to allow one segment of society to go without the basic necessities of life and a basic education?

In Canada, failure of a parent to provide the necessities of life is a crime.⁹² Is it any less criminal that the federal government, which has the legislative responsibility and fiduciary obligation to provide adequate funding to First Nations has allowed First Nations to die pre-mature deaths from poverty and lack of education?⁹³ Under the Criminal Code of Canada, creating the conditions of life which lead to the pre-mature deaths of a specific group is defined as “genocide.”⁹⁴ Article 2(c) of the United Nations *Convention on the Prevention and Punishment of the Crime of Genocide* defines genocide to include: “deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part.”⁹⁵

89 Dr. Lauwers, Paediatric Death Review Committee, “Report of the Paediatric Death Review Committee and Deaths Under Five Committee” (Ontario: Officer of the Chief Coroner for Ontario, 2011), online: <<http://www.mcscs.jus.gov.on.ca/stellent/groups/public/@mcscs/@www/@com/documents/webasset/ec090287.pdf>> [*Coroner’s Report*] at 99. This report included a special chapter related to the deaths by suicide in Pikangikum First Nation between the years of 2006 and 2008 where 16 children between the ages of 10 and 19 years of age took their own lives.

90 V. Johnston, et al., “Joining the dots: The links between education and health and implications for indigenous children” (2009) 45:12 J. of Paediatrics & Child Health 692-697.

91 N. Spence, P. Maxim, “Modeling educational success of First Nations in Canada: Community level perspectives” (2007) 39:1 Can. Ethnic Studies 145-167.

92 *Criminal Code of Canada*, R.S.C., 1985, c.46 [*Criminal Code of Canada*] at s.215.

93 *Death by Poverty*, *supra* note 52.

94 *Criminal Code of Canada*, *supra* note 92 at s.318 “In this section, “genocide” means any of the following acts committed with intent to destroy in whole or in part any identifiable group, namely, (a) killing members of the group; or (b) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction.”

95 United Nations General Assembly, *Convention on the Prevention and Punishment of the Crime of Genocide* (9 December 1948) adopted by resolution 260 (III).



Canada must act immediately to meet with First Nations and develop an emergency plan to address the crisis of poverty and lack of adequate education services in First Nations which would include devising a funding formula based on need – not on “value for money” and certainly not at levels lower than other Canadians.

(b) Endless Studies and Reports

“Make sure something is done this time to improve education with this study. There’s been too many of them – it seems we’ve been going in circles.” (Grandparent)

Just like the shameful socio-economic statistics, the issues in First Nation education are not new, nor is there any lack of study, research, insight, or analysis about these issues. There are numerous reports that, to varying degrees of specificity, highlight the core challenges and the solutions to bring about improvements. Some of these reports have even highlighted success stories and the background work that was done to ensure success. There is very little, if anything, that this report, or any other “new” panel, study or report could say to add to the well-known challenges and steps required to make substantive changes towards success for our children, families, communities and Nations.

What follows is a brief overview of some of the more major reports, studies and publications on First Nation education challenges and solutions.

Indian Control of Indian Education – 1972

In 1969 the Liberal government introduced the White Paper which would have abolished the *Indian Act*, Indians, treaties and land claims.⁹⁶ The response from First Nations was swift, united and unequivocal – the White Paper and its goal of stripping First Nations of their rights and identities were wholly rejected.⁹⁷ The written response penned by Harold Cardinal and now referred to as the *Red Paper*, highlighted the fact that Canada could not unilaterally decide to default on all of its obligations to First Nations including treaties.⁹⁸

Shortly thereafter, the National Indian Brotherhood (now AFN) issued a policy document called *Indian Control of Indian Education*.⁹⁹ It emphasized several key policy directions to improve First Nation education. First was that Canada had a responsibility under at least 11 major treaties to provide funds for education. It also focused on the need for First Nation education to incorporate

96 Government of Canada, “Statement of the Government of Canada on Indian Policy presented to the First Session of the Twenty-eighth Parliament by the Honourable Jean Chretien, Minister of Indian Affairs and Northern Development” (Ottawa: Department of Indian Affairs and Northern Development, 1969) [*White Paper*].

97 *RCAP*, *supra* note 6.

98 H. Cardinal, *The Unjust Society: The Tragedy of Canada’s Indians* (California: M.G. Hurtig, 1969) (reprint) [*Red Paper*].

99 National Indian Brotherhood, “Indian Control of Indian Education” (Ottawa: NIB, 1972) [*Indian Control*].



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language and culture and to involve both parents and the community in revamping both the curriculum and the system. In the following year, Minister of Indian Affairs Jean Chretien gave official recognition to the policy.¹⁰⁰

Tradition and Education: Towards a Vision of Our Future – 1988

This was another policy document from the National Indian Brotherhood which resulted from a National Review of First Nations Education that was unanimously adopted by the Chiefs in Canada.¹⁰¹ This National Review highlighted the fact that First Nations are sovereign Nations which have the inherent right to self-determination that has been recognized in treaties and the *Royal Proclamation of 1763*.¹⁰² Despite the fact that various governments over time have interfered with this inherent jurisdiction, it has never displaced it.

Further, they also noted the federal government cannot transfer its treaty and other obligations to provinces. The report made very detailed observations and recommendations for moving forward which pointed to a failed federal system that simply could not continue. The panel therefore recommended local jurisdiction over education; making language and culture central in education; the incorporation of First Nation values and ethics; supporting parental and community involvement; and lifelong learning.¹⁰³

MacPherson Report on Tradition and Education – 1991

The author of this report conducted a national review of the progress made in implementing the aforementioned report on Tradition and Education.¹⁰⁴ He recommended that major reform was needed to properly recognize First Nations jurisdiction over their own education systems, curriculum that included Indigenous languages, and adequate resourcing. He also explained that relations between the Crown and First Nations ought to be confirmed in constitutional amendments.

Report of the Royal Commission on Aboriginal Peoples – 1996

The Royal Commission on Aboriginal Peoples was a significant undertaking that not only included extensive research on First Nation issues, but came up with literally hundreds of recommendations, including some relating to education.¹⁰⁵ Some of the recommendations contained in the

100 Assembly of First Nations, "First Nations Control of First Nations Education: It's Our Vision, It's Our Time" (Ottawa: AFN, 2009) [First Nations Control] at 3. This is not unlike Canada's "recognition" of, but continued disrespect of our inherent rights.

101 National Indian Brotherhood, "Tradition and Education: Towards a Vision of Our Future: A Declaration of First Nations Jurisdiction Over Education" (Ottawa: NIB, 1988) [*Tradition and Education*].

102 *Ibid.* at 1.

103 *Ibid.* at 6-9.

104 "MacPherson Report on Tradition and Education: Towards a Vision of our Future" (Ottawa: INAC, 1991) [*MacPherson Report*].

105 *RCAP*, *supra* note 6.



extensive report included Canada acting on treaty promises with regard to education; proper funding for First Nation controlled education systems; and increased funding for post-secondary education. The RCAP recommendations echoed what had been recommended in numerous reports before it and those that would follow.

Our Children: Keepers of our Sacred Knowledge – 2002

This report resulted from the Minister of Indian Affairs' National Working Group on Education which was created to come up with recommendations on how to improve First Nation education.¹⁰⁶ There were 27 specific recommendations, many of which repeated those of the many reports which preceded it. The main recommendations included the need to recognize and implement First Nation jurisdiction over their own education systems; the provision of adequate infrastructure to support First Nation education systems; funding to cover the real costs of education delivery; and funding and supports for the inclusion of culture and language in First Nation education.

The New Agenda: A Manifesto for First Nations Education in Ontario – 2004

This is the *Manifesto* referenced earlier which was the result of extensive research and consultations with First Nations in Ontario.¹⁰⁷ The overall vision echoed that of First Nations across Canada: First Nation control over First Nation education. The report is a compendium of papers which focus on specific areas within education, but all had several common themes: First Nation control over their own education; adequate resources for infrastructure, training, and programs at all levels; and incorporating language and culture into all aspects of the curriculum and delivery of education.

First Nations Control of First Nations Education – 2009

This more recent policy document from the Assembly of First Nations highlighted what activity has happened since their original Indian Control of Indian Education policy statement, as well as some of the problems that remain.¹⁰⁸ About 518 schools are now located on reserve which deliver a variety of programs ranging from kindergarten to grade 12 (k-12). There are also 45 Indigenous Institutes of Higher Learning that provide a variety of adult training and degree programs.¹⁰⁹ Issues that remain are the need to recognize and implement First Nation jurisdiction; incorporate culture and language into education; and comprehensive, sustainable, predictable, flexible funding is required to support First Nation control over education.¹¹⁰

106 D. Jeffrey, C. Mount Pleasant-Jette, "Our Children: Keepers of the Sacred Knowledge: Final Report of the Minister's National Working Group on Education" (Ottawa: INAC, 2002) [*Our Children*].

107 *Manifesto*, *supra* note 11.

108 *First Nations Control*, *supra* note 100.

109 *Ibid.* at 3.

110 *Ibid.* at 11.



One need only read a handful of these reports to realize that little has changed, but the solutions are all the same: First Nation jurisdiction, adequate funding and the inclusion of culture and language. There are also countless academic publications and research studies relating to First Nation education which also identify the same challenges and solutions for moving forward.¹¹¹ These are in addition to the numerous government reports which highlight the crisis facing First Nations and the government's own culpability in that situation.

Reports from Canada's own Auditor General for example have consistently highlighted inequities in funding for education and other essential programs like housing or child and family services.¹¹² Other reports have made the critical link between education and socio-economic well-being (employment, income levels, addictions and suicide levels) which mandates immediate action on First Nation education.¹¹³ The common theme being that there has been very little action on the part of government to effect change in First Nation education outcomes.

Canada must stop deferring action to endless studies, panels and meetings to identify the issues in First Nation education and move forward with implementing the solutions First Nations have already identified: First Nation jurisdiction, adequate funding and inclusion of culture and language.

(c) Political Challenges

"Decisions affecting our students need to be made by our First Nations people who care about our students, not government officials sitting in Ottawa who see First Nations people [as] a burden"

(University student)

Early Indian policy was based on several problematic assumptions: (1) that Indians were slowly dying off and (2) that Indians and their cultures were inferior.¹¹⁴ This meant that any policies Canada

111 While there are always those who critique any move towards self-determination in a First Nation context, these tend to be far fewer in number and often based on erroneous or racist assumptions about First Nations cultures, peoples and rights. For such critiques see: C. Helin, D. Snow, "Free to Learn: Giving Aboriginal Youth Control over their Post-Secondary Education" (March 2010) True North in Canadian Public Policy, online: <<http://www.macdonaldlaurier.ca/files/pdf/FreeToLearn.pdf>>. T. Flanagan, *First Nations? Second Thoughts* (Montreal: McGill-Queen's University Press, 2000). A. Cairns, *Citizens Plus: aboriginal peoples and the Canadian state* (Vancouver: UBC Press, 2000). F. Widdowson, A. Howard, *Disrobing the Aboriginal Industry: The Deception Behind Indigenous Cultural Preservation* (Montreal: McGill-Queen's University Press, 2008). J. Paquette et al., *First Nations education policy in Canada: Progress or Gridlock?* (Toronto: University of Toronto Press, 2010).

112 Office of the Auditor General of Canada, "Auditor General Reports" (Reports from Auditor General Sheila Fraser from years 2001 to 2011), online: <http://www.oag-bvg.gc.ca/internet/English/parl_lp_e_933.html> [OAG Report, 2001] to [OAG Report, 2011].

113 L. Graham, "The Right to Education and the UN Declaration on the Rights of Indigenous Peoples (Suffolk: L.M. Graham, 2010) at 8-11.

114 *RCAP*, supra note 6. *Narrow Vision*, supra note 51. See also: P. Palmater, "Politics of Change: First Nation Education" (Thunder Bay: Chiefs in Ontario: First Nation Education Conference, 2011).



created would be short term in nature and minimal resources would be allocated. When Indians did not die off fast enough from scalping laws, small pox and poverty, then laws and policies were created to speed up the civilization and assimilation process. The overall objective of early Indian policy was to free up lands for settlement and eliminate those who could make claims to the valuable resources desired by settlers.

Arguably, that policy objective is now part of the past, if one takes seriously the federal *Inherent Right Policy* which recognized that First Nations have an inherent right to self-government and that this right is now constitutionally protected in section 35.¹¹⁵ The recent apology by PM Harper for the assimilatory foundations upon which policies like residential schools were based would also signal a change in federal policy as it relates to First Nations.¹¹⁶ However, the *Indian Act* still contains a disappearing Indian formula which guarantees legislative extinction¹¹⁷; Canada's discriminatory funding formulas¹¹⁸ leave First Nations in abject poverty resulting in their pre-mature deaths, and recent legislative initiatives are intended to be unilaterally imposed on First Nations as if they are not competent to manage their own affairs.

The primary barrier to moving forward with improving educational outcomes for First Nations has been lack of political will on the part of the Government of Canada through INAC to take the steps necessary to bring about fundamental change. INAC's own National Working Group on Education referred to the numerous previous reports and recommendations and explained:

*We respect the work and share the objectives of... recent and earlier reports and documents. They represent a body of evidence for reforming First Nations education that is substantive and continuous. However, to date, there has been very limited or no political will to implement these changes.*¹¹⁹

There are only so many ways to make the same findings and recommendations on the same issue. Abele's article which identifies the recognition of First Nation jurisdiction over education and an adequate budget are the same recommendations made by any of the 100 or so sources cited in

115 *Constitution Act, 1982, being Schedule B to the Canada Act, 1982 (U.K.), 1982, c.11 at s.35.* Indian and Northern Affairs Canada, "Federal Policy Guide: Aboriginal Self-Government: The Government of Canada's Approach to the Implementation of the Inherent Right and the Negotiation of Aboriginal Self-Government" (Ottawa: Minister of Public Works and Government Services, 1995), online: INAC <<http://www.ainc-inac.gc.ca/al/lde/ccl/pubs/sg/sg-eng.asp#PartI>>.

116 *Apology, supra* note 65.

117 *Beyond Blood, supra* note 16.

118 J. Ostroff, Huffington Post, 'Paul Martin: Government Underfunding of Aboriginal Education is 'Absolute Discrimination'' (23 November 2011), online: <http://www.huffingtonpost.ca/2011/11/23/paul-martin-aboriginal-education_n_1109765.html#s487209>. *OAG Report, 2001 to OAG Report 2011, supra* note 112. *OCI Report, 2000 to OCI Report, 2010, supra* note 71.

119 Minister of Indian and Northern Affairs' National Working Group on Education, *Report of the Minister of Indian and Northern Affairs' National Working Group on Education* (Ottawa: INAC, 2002) as cited in F. Abele, "Urgent Need, Serious Opportunity: Towards a New Social Model for Canada's Aboriginal Peoples" (Ottawa: Canadian Policy Research Networks, 2004) [*Urgent Need*]. (emphasis added)



this or previous reports.¹²⁰ The reports to which I refer are not all First Nation reports or written by those sympathetic to First Nation issues. Many of the reports referred to come from Canada's own federal officials whose job it was to report on Canada's progress or lack thereof.

Reports from the Office of the Correctional Investigator (OCI)

This issue must also be seen from within the larger political context. There are numerous social issues facing First Nations for which the federal government has neglected. Take for example the related issue of over-representation of First Nations in federal institutions. The federal Office of the Correctional Investigator (OCI) has noted that the issue has reached crisis proportions, yet Canada fails to take any action to address it. We all know from countless studies that poverty and a lack of education is a pipeline to the criminal justice system and imprisonment.¹²¹ Yet, Canada fails to take action.

2004 OCI Report¹²²

The OCI called for an independent review of the discrimination faced by Aboriginal peoples within the federal prison system.

2005 OCI Report¹²³

This "grave" situation of systemic discrimination prevents Aboriginal people from enjoying their full statutory and constitutional rights.

2009 OCI Report¹²⁴

The recommendations made by the OCI have not been implemented; the situation is deteriorating; and "the gap between Aboriginal and non-Aboriginal offenders continues to widen."

2010 OCI Report¹²⁵

The "inequitable and differential outcomes for Aboriginal offenders" are the direct result of "federal correctional policies and practices"

120 *Urgent Need*, *supra* note 119.

121 *RCAP*, *supra* note 6.

122 *OCI Report, 2004*, *supra* note 71.

123 *OCI Report, 2005*, *supra* note 71.

124 *OCI Report, 2009*, *supra* note 71.

125 *OCI Report, 2010*, *supra* note 71.



Reports from the Office of the Auditor General (OAG) of Canada

The following represents some of the major findings of the former Auditor General Sheila Fraser who acted in an objective and non-partisan function having served with both Liberal and Conservative governments.

1986 OAG Report¹²⁶

The main observations here were that the *Indian Act* sections on education do not define education or provide directions for its delivery which results in a lack of coherent or consistent policy. There is also little “Indian” involvement in the design, delivery, administration, control, review and evaluation of provincial systems which is also highly problematic.

2000 OAG Report¹²⁷

This report noted that INAC cannot demonstrate that it meets the stated objectives to help First Nations achieve their educational needs and aspirations. It was therefore recommended that INAC, together with First Nations and based on the needs and aspirations of First Nations, should develop and implement an action plan to close the education gap without delay.

2001 OAG Report¹²⁸

The over-representation of Aboriginal peoples in jails and unequal treatment in custody is a reality that “remains unchanged, unacceptable and discriminatory”.

2002 OAG Report¹²⁹

Here, it was noted that the First Nations reporting requirements established by the federal government are a significant burden, especially to communities with less than 500 residents and further that the average of 168 reports per band per year are not always read by the federal department requiring them.

2003 OAG Report¹³⁰

The ongoing discriminatory treatment is “a continuing crisis and embarrassment”.

126 Office of the Auditor General, “Annual Reports – 1986”; online: <http://www.oag-bvg.gc.ca/internet/English/parl_oag_198611_e_1164.html> [OAG Report, 1986].

127 Office of the Auditor General, “Annual Reports – April, October, December 2000”; online: <http://www.oag-bvg.gc.ca/internet/English/parl_oag_200004_e_1136.html> [OAG Report, 2000].

128 OAG Report, 2001, *supra* note 71.

129 OAG Report, 2002, *supra* note 71.

130 OAG Report, 2003, *supra* note 71.



INAC has failed to give Parliament the real picture on First Nation housing, having said that it increased housing stock overall, but we found that there was an actual decline of 30%.

2004 OAG Report¹³¹

In this report it was noted that although INAC carried out many studies, it made limited progress in addressing any of the issues and recommendations made in previous Audit reports in 2000. Further, INAC can't even say whether the current funding is sufficient to meet education standards which have resulted in a widening gap in education achievement levels that will take at least 28 years to close.

The funding formula created by INAC does not ensure equitable access to education for First Nations which results the achievement gap widening.

2008 OAG Report¹³²

The "persistent pattern of disadvantaged outcomes" and "inequitable results" stem from existing federal policies which remain unchanged.

The "current funding practices do not lead to equitable funding among Aboriginal and First Nation communities." These funding inequities result in the inability of First Nations to provide adequate child welfare services.

2011 OAG Report¹³³

INAC has failed to implement the recommendations which are "most important to lives and well-being of First Nations.

The Auditor General Sheila Fraser summed up the situation by saying that socio-economic conditions in First Nations have worsened over the period of her reports. The education gap has widened and the shortage of housing on reserves has become more acute.¹³⁴ Yet, Canada's response has been to focus on "accountability" and have made the administrative reporting requirements even more onerous than they already were.¹³⁵ As much as Canada would like to shirk its responsibilities to First Nations by blaming financial mismanagement for all these problems, the fact of the matter is that Canada's own discriminatory policies and funding formulas are to blame.

131 *OAG Report, 2004*, supra note 71.

132 *OAG Report, 2008*, supra note 71.

133 *OAG Report, 2011*, supra note 71.

134 Office of the Auditor General of Canada, "2011 June Status Report of the Auditor General of Canada" (Ottawa: Auditor General of Canada, 2011), online: <http://www.oag-bvg.gc.ca/internet/English/parl_oag_201106_e_35354.html> [*OAG Status Report, 2011*].

135 *Ibid.*



Just in case there was any doubt about the magnitude of the problem facing First Nations, even INAC and outside experts have all found that Canada chronically underfunds First Nations in all critical social areas, not just education and that this underfunding is directly related to the negative outcomes we see highlighted in the media.¹³⁶

INAC 2004¹³⁷

The “inequitable access to services for First Nations [are] ... contributing factors to the over-representation of Aboriginal children in child welfare system”

Neegan 2011¹³⁸

INAC is so behind in infrastructure funding for water and sewer on First Nations, that it will take \$4.7 billion just to fix current systems.

What is really difficult to comprehend is the failure of Canada to act in the face of overwhelming evidence. It is the status quo – the maintenance of First Nations in poverty – that costs Canada so much. Studies have shown that investments in education now would bring long-term benefits in increased GDP (an extra \$179 billion) and result in cost savings to all involved.¹³⁹ There is no shortage of research to show that INAC has failed and continues to fail First Nations in education. However, the story does not end there as there has also been no shortage of solutions offered in numerous studies and panels to improve First Nations education. The only thing that seems to be lacking is the political will to take concrete action.

Canada must take real action to resolve its own internal policy conflicts; relinquish its paternalistic control over First Nations once and for all; and ensure that all of its laws are compliant with Indigenous laws, Constitutional protections, Treaty promises, and human/Indigenous rights.

136 OAG Report, 2001 to OAG Report, 2011, *supra* note 71.

137 Indian and Northern Affairs Canada, Internal Document dated 2004 obtained by First Nation Child and Family Caring Society via Access to Information Request [INAC 2004] as cited in First Nation Child and Family Caring Society, “Jordan & Shannen: First Nations children demand that the Canadian Government stop racially discriminating against them” (Ottawa: Shadow Report: Canada 3rd and 4th Periodic Report to the UNCRC, 2011), online: <http://www.fnfcfs.com/sites/default/files/docs/UNCRC_report_Canada_2011_final.pdf> [FNCFCS Report] at 5.

138 *First Nation Water Report*, *supra* note 87.

139 Assembly of First Nations, “It’s Our Time: A Call to Action on Education: A Year in Review: 2010-2011” (Ottawa: AFN, 2011), online: <http://www.afn.ca/uploads/files/11-06-11_a_call_to_action_year_in_review.pdf> [AFN Report] at 4. A. Sharpe, J.F. Arsenault, “Investing in Aboriginal Education in Canada: An Economic Perspective” (Ottawa: Canada Policy Research Network, 2009), online: <http://www.cprn.org/documents/51980_EN.pdf>. Even the speedy resolution of treaties brings gains for Canadians: Price Waterhouse Coopers, “Financial and Economic Impacts of Treaty Settlements in BC” (November 2009), online: <<http://www.bctreaty.net/unfinishedbusiness/pdf-documents/BC-Treaty-Commission-PriceWaterhouseCoopers-Report.pdf>>.



4. Programs and Funding

“Discrimination and racism must be stopped! The under-funding is a policy that directly indicates the governments are fully aware of these continuing practices.” (Councillor)

To say that the current education system in First Nations is not working at an optimal level is an understatement. Even for First Nations that have their own schools, band school teachers often have lower salaries, have less job security, benefits or training and there is a chronic shortage of specialists and resources to support multiple level learning.¹⁴⁰ Many schools are run-down and there is a chronic shortage of direct funding for students to attend post-secondary institutions.¹⁴¹

The discriminatory, chronic underfunding of First Nation children in education results in approximately \$2000 to \$3000 less per student per year.¹⁴² Since 1996, there has been a 2% cap on the funding formula despite an annual need increase of 6.3% to cover inflation and population growth.¹⁴³ The section which follows looks specifically at these funding issues; the various educational programs; and the ongoing barriers for First Nations in Ontario.

140 *Modelling educational success, supra* note 91 at 146.

141 Assembly of First Nations, “Fact Sheet” First Nations Education Funding”, online: AFN <http://www.afn.ca/uploads/files/education/fact_sheet_-_fn_education_funding_final.pdf> [AFN Fact Sheet].

142 *Our Dreams Matter, supra* note 85 at 8.

143 *AFN Fact Sheet, supra* note 141.



(a) Funding

Under the delegated authority of the *Constitution Act, 1867* INAC funds First Nations education in Canada. Funding can be transferred to First Nations and First Nations organizations from the federal government using one or more of the following approaches:¹⁴⁴

AANDC Funding Approaches Key Elements:			
Funding Approach	Treatment of Unspent Funds	Redirection of Funding To Other Programs or Projects During Agreement	Criteria for AANDC Recovery of Funding
Grant	Can be retained by the recipient	Grant is to be used for any expenditure related to the purpose, activity or initiative being funded.	Recipient becomes ineligible
Set Contribution	Returned at end of each year	Funds are to be expended as identified in the funding agreement. Cannot be redirected to other programs or projects.	Funding is unspent or spent on ineligible items
Fixed Contribution (Aboriginal recipients only)	Returned annually unless used in the next year in the same program. Can also be kept and used in other areas if a plan outlining the activities to be undertaken with the unspent funds is approved by the department prior to use.	Funds are to be expended as identified in the funding agreement. Cannot be redirected to other programs or projects.	A plan is not provided/not approved where required, or Funding is not spent within timeline, or is spent on ineligible items
Flexible Contribution (Aboriginal recipients only)	Carried forward each fiscal year during the agreement or the project; and returned at end of agreement or project whichever comes first	Funds are to be expended as identified in the funding agreement and cannot be redirected to other programs or projects. Funds may be redirected between cost categories in the project as defined in the funding agreement.	Funding is unspent at the end of project or agreement or is spent on ineligible items
Block Contribution (Aboriginal recipients only)	Can be kept if used for activities in the block. Can also be kept for other activities outside the block if a plan outlining the activities to be undertaken with the unspent funds is approved by the department prior to use	Redirection of funding is allowed among any and all programs included in the block during the life of the agreement, subject to delivery standards being met.	A plan is not provided/not approved where required, or Funding is not spent within timeline, or is spent on ineligible items

Specific delivery requirements as outlined in the Elementary/Secondary Education Program Guidelines or the specific program guidelines are included in the funding agreements. Multi-year agreements can enable First Nations to reduce their administrative burden; however, they are also less responsive to student enrollment increases and increases in the provincial tuition rates for students attending provincial schools.

The funding designated for First Nations education pays for students normally resident on reserve to attend elementary and secondary schools, whether the schools are on or off reserve. For council-operated schools (those located within the First Nation) the education funding is provided through the local education authority. For students attending provincially funded schools (outside of the First Nation community), the funding is provided by the First Nation to the associated

144 Indian and Northern Affairs Canada, "Frequently Asked Questions: Funding Approaches" (Ottawa: INAC, 2011), online: INAC <<http://www.aadnc-aandc.gc.ca/eng/1322748384053>>.

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provincial school board through an Education Services (Tuition) Agreement.

INAC also provides other education related funding directly to First Nations for postsecondary education; however this funding is currently allocated by First Nations based on their membership regardless of residency. Additional federal education funding is also provided to the Chiefs of Ontario, each of the four Political Territorial Organizations, several Tribal Councils, and other education related organizations. Some of these funds are accessed through core budget allocations, while others are accessed through the proposal-based programming offered.

In 1996 a 2% funding cap was placed on all programs and services to First Nations, including education.¹⁴⁵ This funding cap means that inflation rates, rising cost of tuition, cost of living, transportation, teacher salaries, and a fast growing demographic are not considered in the allocation of funds. The only new money that has recently been infused into First Nations education, aside from the yearly 2% increase, was in Budget 2008 when \$70 million was dedicated over two years to support tripartite agreements (agreements that include the provinces).¹⁴⁶

First Nations have been cautious in pursuing this avenue because there are other means to achieve the designated purpose (to improve financial and performance management systems and implement community-based school success plans) without involving a third jurisdiction in First Nations governance over education.

Additionally the 2008 Budget designated \$27.3 million for the development and implementation of Education Information System (EIS).¹⁴⁷ First Nations in Ontario have expressed serious concerns that the development of the EIS has been without meaningful input directly from First Nations and that any input provided to date has not been duly considered. One of the main concerns expressed is that INAC has not respectfully incorporated the OCAP (ownership, control, access and possession) principles of the First Nations into the design of the system.

The INAC Ontario Regional Office utilizes a regional funding formula to distribute funds to over 90 First Nations schools in Ontario for elementary and secondary education. Information from the INAC Nominal Roll information (includes only those students ordinarily resident on a First Nation), indicates there were 21,822 First Nation elementary/secondary students enrolled. Of these students, the majority (12,949) attended Council-operated schools, 6,639 attended provincial schools, 1,573 attended federal schools (these are operated by INAC as opposed to the First Nations Council), and 661 attended private schools.

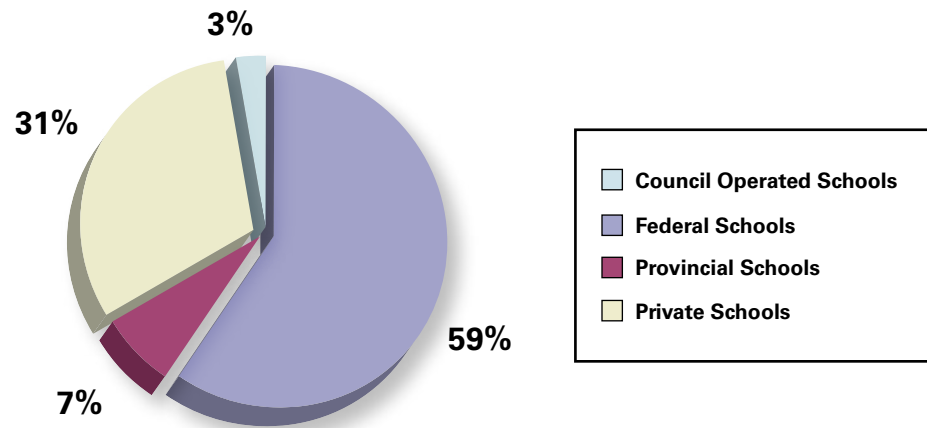
145 Indian and Northern Affairs Canada, "Formative Evaluation of the Elementary/Secondary Education Program On Reserve" (Ottawa, INAC, 2010) at 10.

146 *Ibid.* at 14.

147 *Ibid.*



2009-10 Nominal Roll Breakdown



The problem with this methodology is that even though the majority of students attend council-operated schools a larger portion of First Nation expenditures go to supporting provincial schools because the tuition rates are so high. Unfortunately, INAC was unable to provide recent figures for the province of Ontario, but a 2009 analysis by the First Nations Education Council in Quebec indicates that Canada-wide over 41% of INAC’s federal budget for elementary and secondary education is transferred to provincial and private schools. This only accounts for 34% of the students in Ontario.¹⁴⁸

(b) Programs

Early Childhood Education and Development

“First Nations must have capacity with full funding including jurisdiction to provide programming that is created by our people”
(Elder)

Programs established by the federal and provincial/territorial governments to address the needs of children age 0 to 6 include Aboriginal Head Start (AHS), Brighter Futures, the Canada Prenatal Nutrition Program, and Fetal Alcohol Spectrum Disorder (FASD) funded by Health Canada – First Nations and Inuit Health Branch. INAC cost shares daycare with the Ontario Ministry of Education, and offer the National Child Benefit (NCB) Reinvestment Fund.

Human Resources and Skills Development Canada (HRSDC) offers the First Nations/Inuit Child Care Initiative (FNICCI). Jointly the Ministry of Health and Long Term Care (MOH-LTC) and the Ministry of Children and Youth Services (MCYS) offers the Early Years program. The MCYS also offers

148 First Nations Education Council, “First Nations Education Funding” (2009), online: <http://www.cepn-fnec.com/PDF/etudes_documents/education_funding.pdf>.



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programs for Aboriginal Fetal Alcohol Spectrum Disorder and Aboriginal Child Nutrition.¹⁴⁹

This reality creates a funding and programming maze that First Nations have to navigate in order to meet the early learning needs of young First Nations children and their families. The maze of federal and provincial funding and programming not only creates a substantial reporting burden it is also notably underfunded.¹⁵⁰ The number one challenge indicated by a 2004 study conducted in Ontario was that more funding was needed for sustained program staffing, equipment, resources and capital to implement, support and house Early Childhood Development (ECD) programming.¹⁵¹

Canada asserts jurisdiction to legislate with regards to “Indians and lands reserved for the Indians” as per section 91(24) of *Constitution Act, 1867*. This jurisdiction also comes with a fiduciary obligation to act in the best interests of First Nations. However, services such as childcare and education come under provincial jurisdiction. Often the issue of inadequate funding results in a jurisdictional debate between federal and provincial governments which completely ignores the primary and over-riding jurisdiction of First Nations to govern themselves.

Programs pertaining to early childhood development are funded by both federal and provincial governments. However, elementary and secondary education is funded exclusively by the federal government through INAC. Therefore, the education portion of early education for children ages 4-6 who attend elementary school is funded by the federal government. Since the Ontario Ministry of Education instituted full day kindergarten in provincially funded schools, First Nations communities in Ontario have been working to resolve this discrepancy. Many First Nations communities and organizations are attempting to coordinate all of the funding and programming envelopes available for children 0-6 to ensure they provide First Nation children an appropriate early learning environment that ensures future educational success.

Key issues at this level of education include First Nations having to coordinate the various programming and funding streams to meet the needs of their families and children. Having to access various funding “pots” offered through several different ministries creates an undue burden for proposal writing and reporting requirements. Therefore, funding allocations generally go to communities with the capacity for effective proposal and report writing. This translates to an inequitable distribution of the available funds to support families and children in First Nation communities.

Canada must ensure that any changes in provincial education policy that directly affects First Nations are adequately reflected in programming and funding allocations to First Nations.

149 Chiefs of Ontario, “The Ontario First Nations Early Childhood Development Roll-Up Report 2005” (Toronto: Chiefs of Ontario, 2005) Appendix B at 2-4.

150 *Ibid.* Appendix L at 7.

151 *Ibid.* at Appendix F at 1-16.



Elementary and Secondary

“We should be funded same as provincial schools... Back home we tried to expand our secondary and elementary schools – no answer – maybe they just put our request away or shoot it in the garbage...”
(Parent)

The *Indian Control of Indian Education (ICIE)* policy of 1972 led to an expansion of the number of First Nation (band) operated schools. This devolution did not translate into the control envisioned in the *ICIE* policy as the funding for the programs and services remained with the federal government.¹⁵²

While on the surface the transfer of control from the federal government to the First Nations seemed like an integral step towards self-government, this was an illusion. The reality was that First Nation communities inherited an underfunded and dysfunctional education system and set of rules and policies. All of the agreements lack the necessary resources to provide First Nation schools with funding levels comparable to their provincial counterparts, which results in a diminished financial capacity to develop curriculum, provide on-going professional development to their teachers, and accurately assess the outcomes for their students.¹⁵³

The lack of support services, such as those provided by a provincial ministry or department of education, is perhaps the greatest detriment in the assumption of local control. Unlike schools within the provinces, First Nation schools have no central support organisation to assist them with delivering their education programs.¹⁵⁴ The federal government’s use of the term “band control” is misleading, as “real control” has been retained by the federal department of Indian and Northern Affairs, which controls all the finances.¹⁵⁵

In 1988 the Band Operated Funding Formula (BOFF) came into effect as a Treasury Board requirement for INAC.¹⁵⁶ The formula is based on a unit (number of students) multiplied by unit cost (tuition rate) approach for determining the resource requirements for instructional services. It is sensitive to a number of factors including geography, school and class size, and curriculum offered, all of which affect the level and quality of the education program at the school.

The following short list highlights some of the shortfalls of the BOFF that have been documented over time. The formula ignores or is inadequate to cover a number of costs such as:

- 152 H. McCue, “An Overview of Federal and Provincial Policy Trends in First Nations Education” in *Manifesto*, *supra* note 11 at Tab 5, page 4.
- 153 Interview with Dr. Barry Montour.
- 154 *Ibid.*
- 155 D. Hall, “FED-BOS: The Federally Controlled Band Operated School and the No-Policy Policy” 19:1 (1992) *Can. J. of Native Education*.
- 156 C. VanEvery-Albert, “A Review of the Band Operated Funding Formula” in *Manifesto*, *supra* note 11 at Tab 7, page 3.



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- The integration of technology in schools
- The provision of a school library
- Extracurricular sports and recreation activities
- The implementation of provincial education reforms (as federal policy requires First Nations to adhere to provincial curriculum)
- Culturally relevant curriculum that includes language and culture
- First Nations language teachers

The BOFF is the national formula that determines the funding allocated to each band through the INAC regional offices. This allocation is used to provide base funding to First Nation schools on-reserve. The national BOFF has not been updated since 1996-97 at which time it was capped at an annual 2% increase. This means the formula has not been indexed for rises in the cost of living and teachers' salaries. The 2% cap also limits the ability to support changes in program needs. In comparison the Minister of Education in Ontario recently announced "Funding has increased by more than \$6.6 billion under this [Liberal] government, or 46% since 2003."¹⁵⁷ This means the funding gap between First Nations education and the provincial education system is widening over time.

The unprecedented increase in funding support to the provincially funded system has also created an unexpected financial burden for First Nation communities that are currently locked into a multi-year agreement. The rise in provincial investment translates to a rise in tuition costs for students attending provincial schools off-reserve. The multi-year agreements are based on nominal role numbers associated with the year prior to signing the agreement and thus do not adequately adjust for increases in enrolment or increases in tuition rates.

The First Nations Education Council in Quebec has done extensive work in the analysis of the deficiencies of the federal funding formula for First Nations elementary and secondary education and has developed their own formula based on the reality of needs as expressed by First Nations communities in Quebec. Their studies indicate that the 2% funding cap has generated a cumulative shortfall, between 1996 and 2008, of \$1.54 billion across Canada.¹⁵⁸

This funding gap directly equates to the 28 year education attainment gap. With the understanding that funding levels and education attainment are directly related, INAC was requested by the

157 Letter from Ministry of Education Minister Leona Dombrowsky to the partners of the Ministry of Education Partnerships Table (April 6, 2011).

158 First Nation Education Council, "Funding Formula for First Nations Schools: The Instrument of a detrimental policy" (2009), online: <http://www.cepn-fnec.com/PDF/etudes_documents/fiche_complete_eng.pdf> [*Funding Formula*] at 1.



Auditor General to perform a review comparing the funds it allocates to schools operated by First Nations with the funds those schools would receive under the applicable provincial funding formulas. INAC concluded that per-student funding was similar, with the exception of some regional differences.¹⁵⁹

However, a detailed gap analysis conducted by the Union of Ontario Indians in 2009 indicated that the funding provided to 22 First Nations Band-operated schools yields a shortfall for First Nations of almost \$16 million.¹⁶⁰ The BOFF is a stagnant formula that has not been updated since 1996, whereas the provincial formula is much more dynamic and flexible to meet the ever-changing needs of students.¹⁶¹

INAC attempted to supplement the BOFF by introducing supplementary proposal-based programs. These programs are not based on cost and do not provide stability, permanence, or parity in funding resource levels. Today approximately one third of elementary and secondary funding for First Nation schools is provided in this manner. The introduction of additional proposal-based programs adds a substantial reporting burden to already under-funded First Nations who often lack the capacity to apply for the additional funding. Proposal based funding also adds a significant element of competition among First Nations communities and organizations. Proposal-based programs include:

- New Paths for Education Program
 - Improving School Effectiveness
 - Teacher Recruitment and Retention
 - Parental and Community Engagement Strategy
- First Nation Student Success Program
- Cultural Education Centres Program
- Education Partnerships Program

These programs were introduced upon the recognition that First Nations were lacking the second and third level supports of an education system and represent a “problem-centred” approach.¹⁶²

¹⁵⁹ OAG Status Report, 2011, *supra* note 134 at 4.19.

¹⁶⁰ S. Cantin, “FN. Band Operating on-Reserve Schools: Comparison Between the 2009-10 Financial Agreement with INAC and the Provincial Funding Regulation for School Authorities using 2009 Nominal Roll Enrolment” (2009). This was an internal study completed for the Union of Ontario Indians and not available publicly.

¹⁶¹ P. Garrow, “An Assessment of the Ontario Band Operating Funding Formula Comparative Study” (2005) at 14. This is an internal document not available publicly.

¹⁶² D. Anderson, “Report on Second Level Services for First Nations Education Current and Future Needs” in *Manifesto*, *supra* note 11 at Tab 12, page 4.



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The second and third level supports that are required include:

- delivery of professional development activities for teachers (in both First Nations schools and provincial schools);
- special education services;
- teacher training;
- teacher recruitment;
- alternative high school programmes;
- Indigenous language curriculum and resource materials development; and
- training for First Nations Education Authority members.¹⁶³

In 2009, former ADM Christine Cram expressed doubts as to whether a funding formula is the best way to fund education.¹⁶⁴ In addition to problematic formulas that lead to inequitable funding, the services excluded from those formulas mean increasing reliance on ineffective, short-term proposals. The Education Coordination Unit at the Chiefs of Ontario is currently working on adapting the funding formula created by the FNEC in Quebec for use in Ontario.

Canada must work directly with First Nations to resolve the inadequacy of the current funding formula to ensure that resources allocated address the expressed educational needs of First Nations at all stages of the educational spectrum.

Special Education

“Our EA’s make a lot less compared to EA’s hired by the provincial school board. That’s just wrong.” (Northern Ontario First Nation member)

The funding for Special Education is provided through INAC’s Special Education Program (SEP) according to an internal funding formula developed by the Ontario First Nations Special Education Working Group (OFNSEWG). This was a joint technical and advisory body mandated by the Ontario First Nations Education Coordination Unit to provide recommendations on issues, and specific strategies for political review and/or approval for action. The OFNSEWG represents a partnership

163 *Ibid.*

164 *Funding Formula, supra note 158 at 2.*



between INAC and First Nations in Ontario and includes representation from both.

Funding for the Special Education Program (SEP) is a targeted allocation, meaning that funding is a full and final allocation that can only be spent on First Nation students who ordinarily reside on reserve and are assessed by an appropriate professional as having moderate to profound special needs not met within existing education programming and services. The yearly allocation for each First Nation is distributed at the outset of the fiscal year after Profound Ministry school costs are deducted.¹⁶⁵ The total funding allocation for Ontario in 2011-12 was \$25,621,718. Of this total \$1,779,766 was deducted for Profound Ministry schools, leaving \$23,841,952 to be distributed among the First Nations as per the Special Education Funding Formula.

The funding formula includes a base amount (based on the nominal roll from the previous year), a Special Education incidence rate, a northern factor, a remoteness factor, and a small school factor. First Nations manage this allocation based on local education policies and the Special Education needs of their students who attend both provincially funded schools and First Nation schools. However, a recent focus group session conducted by the OFNSEWG with front line special education administrators uncovered some glaring communication gaps at all levels which impact funding.

These gaps contribute to inaccurate coding and misunderstanding of what the SEP is intended to cover; especially in the case where First Nations are paying tuition costs for students attending provincial schools. Focus group participants also drew attention to the fact that the audits do not reflect the inability of some First Nation communities to access the required expertise to assess student needs and therefore many potential special education students remain unidentified. The OFNSEWG continues to gather data to determine if the SEP allocation is sufficient to meet the needs of First Nations in Ontario.

Canada must acknowledge and resolve the shortcomings of the audit process for the Special Education Program in order to ensure adequate funding is provided through a flexible funding authority based on valid information.

¹⁶⁵ These are schools for the deaf and blind.



Comparison of the BOFF and the Provincial Formula¹⁶⁶

“First Nations require “catch-up” funds in order to close the education gap on top of regular funds.” (Finance)

As stated previously, it is difficult to offer a full comparison between the federal Band Operated Funding Formula (BOFF) and the Ontario Calculation of Fees. This is due primarily to the various long standing financial arrangements made between individual First Nations and INAC, as well as to the differences found in the numerous education services / tuition agreements between a First Nation and a provincial school board.

The chart below shows the base calculation under the Band Operated Funding Formula (BOFF) for an on-reserve elementary school in the southern region of Ontario.

INAC Formula	Amount
Band Operated Funding Formula (BOFF)	\$4,391.26
Low Cost Special Education	217.30
Curriculum Development & School Supplies	61.03
Financial Assistance	118.82
Guidance	Allotment
High Cost Special Education	Allotment
Transportation	Allotment
Total	\$4,788.41

¹⁶⁶ Interview with Dr. Barry Montour.



The chart below shows the tuition charged by the province, as calculated under the Technical Paper (2009/10) in the Calculation of Student Fees.¹⁶⁷

2009 / 10 Grant	Description of Grant	Amount
Pupil Foundation Allocation	Salaries, libraries, staff development, textbooks, para-professionals, consultants, and classroom computers	4,702.70
Special Education Allocation	Special Education programs, services, and equipment	1,610.83
Language Allocation	To support French as a second language	263.55
Supported Schools Allocation	To assist underperforming and low enrolment schools	9.81
Remote and Rural Allocation	To support the higher cost of purchasing goods and services for school boards that are remote and rural	47.53
Learning Opportunities Allocation	Provides funding based on economic indicators for programs and services for students at risk	90.48
Teacher Qualifications & Experience	To cover the costs of teachers with years of experience and degrees who earn higher salaries as a consequence of the salary grid	598.40
New Teacher Induction Program	To cover the costs to mentor new teachers	7.21
Administration and Governance	Provides funding for board-based staff, trustees and related expenditures	268.70
School Operations Allocation	Facility costs (heat, light, custodial, snow removal, minor repairs, etc.)	922.66
Non-Teaching Staff – Cost Adjustment Allocation	To recognize the differences in salaries paid to non-teaching staff	8.20
Declining Enrolment Adjustment	To recognize that fixed costs do not decrease as quickly as variable costs as most grants are tied to enrolment	85.30
School Foundation	To pay for the cost of Principals, Vice Principals, school clerical staff and office supplies	791.09
Program Enhancement Allocation	To assist with school supplies and school materials costs	38.56
First Nation, Métis, and Inuit Education Supplemental Allocation	To cover Native language instruction and Native Studies courses, the fee is based on demographics	27.29
Rural and Small Community Allocation	To support small boards in rural or small communities	20.42
Safe Schools	To assist in the implementation of the Ministry's Safe Schools strategy	22.98
Pupil Accommodation Charge (PAC)	A charge which pays for capital costs, and has remained constant since 1998	141.00
Adjustment for School Foundation	Where school boards have combined elementary and secondary facilities and receive a School Foundation Allocation, the amount is deducted from the total tuition charges	111.58
Total Tuition Charges – per pupil		\$9,545.13

If the First Nation requires transportation for its students, then an additional \$870.90 per pupil is charged.

167 Ministry of Education, Province of Ontario, "Education Funding: Technical Paper" (Spring 2010), online: <http://www.edu.gov.on.ca/eng/funding/1011/technical10.pdf>.



Post-Secondary Education

“Not enough funding for PSE students...last year we had a post-secondary graduate from medical school and that student took most of the budget in PSE funding.” (Education counselor)

INAC views the provision of post-secondary education (PSE) funding to First Nations people as a matter of social policy as opposed to legislative or legal requirement. INAC’s PSE programming is primarily funded through two authorities: (1) *Grants to Indians and Inuit to support their post-secondary educational advancement*, and (2) *Payments to support Indians, Inuit and Innu for the purpose of supplying public services in education – Contributions to support the post-secondary educational advancement of registered Indian and Inuit students*.¹⁶⁸ The INAC PSE program has three components:

- The Post-Secondary Student Support Program (PSSSP) – is the primary component of the Program. PSSSP provides financial support to First Nation and Inuit students who are enrolled in post-secondary programs including: community college and CEGEP diploma or certificate programs; undergraduate programs; and advanced or professional degree programs (i.e. dentistry).
- The University and College Entrance Preparation (UCEP) – provides financial support to First Nation and Inuit students who are enrolled in UCEP programs to enable them to attain the academic level required for entrance to degree and diploma credit programs.
- The Indian Studies Support Program (ISSP) – provides Indian organizations, Indian post-secondary institutions and other eligible Canadian post-secondary institutions with financial support for the research, development and delivery of college and university level courses for First Nation and Inuit students.¹⁶⁹

The Postsecondary Student Support Program was created in 1977 as a universal funding mechanism for postsecondary support for First Nations learners. Funds are flowed from INAC headquarters to each region as a component of the annual core budget. The combined impact of a federal policy change in 1989 that modified the funding to a closed envelope, and the 2% funding cap in 1996, has led to a decrease in the number of students funded, as well as the creation of long waiting lists of thousands of First Nation students unable to secure funding.¹⁷⁰

The 2007 release of *No Higher Priority: Aboriginal Post-secondary Education in Canada* by the Standing Committee on Aboriginal Affairs and Northern Development recommended that the 2% cap be abolished and “that that the Department’s spending increases for PSE programming be based on

168 Indian and Northern Affairs Canada, “Formative Evaluation of the Post-Secondary Education Program” (Ottawa: INAC, 2010) at iv.

169 Indian and Northern Affairs Canada, “Audit of the Post-Secondary Education Program” (Ottawa, INAC, 2009) [*Audit of PSEP, 2009*] at 2.

170 *Funding Formula*, supra note 158 at 3.



actual costs associated with program components and not be subject to discretionary caps.”¹⁷¹

INAC’ response was that: “the responsibility for financing post-secondary education should be shared by learners and their families, according to their financial circumstances. It agrees that levels of support provided through [INAC] PSE programs should take into account the real needs of learners, but this does not mean trying to meet all of the costs they incur in pursuing post-secondary education. Instead, the Government will take a closer look at the overall efficiency of programming and ways to improve upon it.”¹⁷²

An internal audit of PSE revealed significant management and administrative problems in INAC’s handling of the program.¹⁷³ INAC followed up with an internal review and turned their focus on alternative delivery mechanisms for the program, rather than focussing on solidifying reporting mechanisms to improve analysis of data and trends to bolster student achievement and continuing to prioritize program development for post-secondary education with Indigenous knowledge foundations.

Currently there are six First Nation Institutes of Higher Learning functioning in Ontario. These include the Anishinabek Education Institute, the First Nations Technical Institute, the Iohahio Akwesasne Adult Education, the Kenjgewin Teg Educational Institute, the Oshki-Pimache-O-Win Education and Training Institute and the Six Nations Polytechnic Institute. These institutes receive funding support for the development and delivery of First Nation Post-Secondary programs from two primary sources:

- (1) *Federally - Indian Studies Support Program, Indian and Northern Affairs Canada at approximately \$3.9 million.*
- (2) *Provincially - Aboriginal Post-Secondary funding from the Ministry of Training, Colleges and Universities at \$3.2 million.*¹⁷⁴

However, these funds are insufficient to meet the current learning needs and capacity requirements of First Nations or that of Canada which is facing a critical labour force shortage. Consequently, these Ontario First Nation Institutes are forced to find funds from other federal and provincial departments and ministries as well as industry for the development and delivery of required programs.

171 Standing Committee on Aboriginal Affairs and Northern Development, “No Higher Priority: Aboriginal Post-Secondary Education in Canada: Report of the Standing Committee on Aboriginal Affairs and Northern Development” (Ottawa: Speaker of the House of Commons Canada, 2007) [*No Higher Priority*] at xi.

172 Government of Canada, “Government Response to the Sixth Report of the Standing Committee on Aboriginal Affairs and Northern Development: No Higher Priority: Aboriginal Post-Secondary Education in Canada”, online: <<http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=3030369&Language=E&Mode=1&Parl=39&Ses=1>>.

173 *Audit of PSEP, 2009, supra* note 169 at 6.

174 R, Mosquito, Aboriginal Institutes Consortium, “Briefing Note to Chiefs in Ontario re Accreditation of Aboriginal Institutes” (Thunder Bay: AIC, 2010).



Funding authorities for the PSEP are now being approved on a year to year basis through the federal transfer payment policy. The instability of the funding hampers long-term planning at the community level and the inadequacy of the funding does not meet the current needs of First Nations to build capacity and ensure future prosperity. While First Nations also want to see improvement in program management and administration, this is directly dependant on adequate, stable, long-term funding. First Nations hold extensive expertise in the area of education and often retain data that supersedes current INAC requirements and are more than capable of addressing management issues once adequate funding is provided to do the necessary program reviews, evaluations and needs assessments from a First Nation perspective.

The inherent right of First Nations to be self-determining must be respected in the design, delivery and evaluation of First Nation education programs.

Canada must adhere to the legal requirement of free, prior and informed consent when considering policy changes that directly affect First Nations education programs.

(c) Barriers

“Our First Nation schools are death traps – there is no capital dollars for our schools. They persistently say there is no money but provincial schools are constantly being upgraded.” (University student)

One of the major issues with the funding mechanism used by INAC is that when funding for programs are approved they are often adjusted down with hold backs. It can take up to 6 months to finally receive funding; often being only partial payment. This is difficult when hiring staff for projects and work plan development required by INAC. This practice results in communities operating in a negative cash flow situation (deficits in reporting) and can result in layoffs and job losses.

INAC’s funding mechanisms for First Nation education presents significant barriers to improving education outcomes for First Nations learners. These barriers include:

- The 1996 2% funding cap;
- The devolution of education administration without the required elements of an education system responsive to the needs of First Nations;
- The introduction of piecemeal proposal-based programs that make it difficult for First Nations to navigate and access the appropriate funding streams;
- Low levels of formula-based funding (BOFF);
- The inadequacy of the BOFF to support second and third level supports needed to develop and maintain a First Nations education system;
- Proposal-based funding that encourages competition and does not translate to equitable distribution;
- Introduction of programs and systems without meaningful input from First Nations communities;



- Provincial jurisdiction impeding on First Nation jurisdiction;
- Lack of adequate resources;
- Federal control over First Nation education;
- Policy assumption remains that we can't take care of ourselves;
- No recognition of the diversity of Indigenous Nations;
- Local community members not empowered to understand and participate;
- Capital funding, space requirements are inadequate and forces service from provinces;
- No funding for modernization or for multi-level learners;
- Provinces profit off per capita tuition even when students leave.¹⁷⁵

This list is just a sample of the many barriers that make significant progress in First Nation education more than just a challenge – it makes student success under these conditions nearly impossible. This seems to be the anti-thesis to some of the recommendations made by the Auditor General, RCAP and countless other federal studies, panels and commissions. All of these issues are well-known by First Nations, governments and policy makers. The key now will be to move from study to action.

Canada must take real action on the recommendations of previous studies and honour Treaty, legal, and constitutional obligations to work with First Nations to address the funding barriers identified and ensure the education funding provided supports the holistic, lifelong learning needs of all levels First Nations education in Ontario.

5. Moving Forward

There can be no doubt that the current federal control over First Nations education must finally come to an end. Improvements can only truly be made with First Nation control over First Nation education. First Nation control affects everything from curriculum, pedagogy, data collection, and measurements of success. Even when we do control our own processes and show some success, it rarely gets reported.¹⁷⁶ Many mainstream reports overlook our unique social, political and economic realities.¹⁷⁷ Thus, our efforts don't get counted in the range of possible solutions for moving forward. Instead, federal bureaucrats in Ottawa come up with their own policy options which suit their needs and then present us with a limited menu from which to choose an option.

The educational achievement gap is widening instead of closing and we know from the Auditor General's reports that it may still take decades to catch up even if we act now. This is yet another reason why control over our own educational future is so very important.

175 Assembly of First Nations, "Investing in the Future: First Nations Education in Canada" (Ottawa: AFN, 2003) [*Investing in the Future*] at 13-18.

176 Canadian Council on Learning, "Redefining How Success is Measured in First Nations, Inuit and Métis Learning Report" (Ottawa: CCL, 2007).

177 *Ibid.*



(a) First Nation Jurisdiction

“Legislation, policy and programming created externally must not undermine our jurisdiction as Nations! Any law must further enshrine jurisdiction as well as legislate a requirement that a solid education experience is provided.” (Councillor)

The bulk of the research and historical record shows that preventing First Nations from controlling their own educational systems significantly impacts their ability to maintain their languages and cultures.¹⁷⁸ The Innu for example have suffered some of the worst forms of educational policies and were prevented from controlling their own educational systems which resulted in “widespread alienation amongst the students and one of the highest suicide rates in the world.”¹⁷⁹ It is simply not enough to have a provincial school system available to First Nation students. Numerous reports have found that First Nation students will not even enroll in secondary school if doing so means leaving their families, communities and the familiar sources of their language, culture and traditions.¹⁸⁰

While the federal government may have officially adopted the *Indian Control of Indian Education Policy* back in 1973, in practice the federal government has taken local control to mean First Nation administration of federal education programs and policies at chronically under-funded levels.¹⁸¹ What has happened is the devolution of a limited number of programs – but not full recognition of First Nation jurisdiction.¹⁸² Yet, it is well recognized that control over the education system is essential to the realization of self-determination:

*Education, as a force in human development, lies at the base of achieving effective self-government. Self-knowledge, self-confidence, self-respect, and self-sufficiency must be developed in order for any people to attain a healthy society, a stable culture and self-government.*¹⁸³

None of the current models of education for First Nations respects their inherent jurisdiction to control their own education.¹⁸⁴ The federal schools are controlled by INAC; the provincial/territorial schools are controlled by provinces and territories; and many local First Nation schools are forced to adhere to federal or provincial rules, policies, laws and curriculum.¹⁸⁵ These rules often lead to

178 *RCAP, vol. 1, supra note 7 at 333-410. Shingwauk's Vision, supra note 7. Unsettling the Settler Within, supra note 7.*

179 N. Schimmel, “Indigenous education and human rights” (2007) 14:4 Int'l. J. on Minority & Group Rights 425-435 at 435.

180 *Ibid.* at 437.

181 P. Tremblay, Assembly of First Nations, “First Nations Educational Jurisdiction: National Background Paper” (Ottawa: AFN, 2001) [*First Nations Educational Jurisdiction*] at 6.

182 *Ibid.*

183 *Ibid.* at 9 quoting from *Tradition and Education, supra note 101.*

184 *If Not Now, Then When, supra note 1 at 14-15.*

185 *Ibid.* at 14-16.



the exclusion of First Nations citizens who live off-reserve or who lack Indian registration from accessing critical First Nation schools or programs.¹⁸⁶ Funding levels and lack of support for training and ongoing development remain significant barriers to realizing full jurisdiction.¹⁸⁷

Canada assumes jurisdiction over First Nation education through sections 114 to 122 of the *Indian Act*.¹⁸⁸ Some have argued that this legislative power brings with it a fiduciary obligation which requires Canada to act in the best interests of First Nations.¹⁸⁹ Simple revisions to the *Indian Act* are not acceptable means of ending paternalistic control over our education systems. Federal control over education has already been acknowledged to be an abysmal failure of epic proportions. Therefore, the solution does not lie in Canada tinkering with the *Indian Act* or some other federal legislation to control our communities. No government will ever care about our children, our communities and our futures more than we do.

First Nations jurisdiction is protected in several key ways. First of all, First Nations have an inherent right to be self-determining, which of course includes the right to control their own education systems. This right has not only been recognized in the federal *Inherent Right Policy*, which states that the inherent right to be self-governing is protected as an Aboriginal right in section 35 of the *Constitution Act, 1982*, but is also protected by *UNDRIP*. The right to education is further protected in our treaties which are also constitutionally and internationally protected.

Even more than being a right that is specific to Indigenous peoples, the right to an education is a basic human right of all peoples.¹⁹⁰ Not only does education add meaning and value to one's life but it also unlocks other key human rights like good health, security, economic well-being and participation in social and political life.¹⁹¹ Therefore, the denial of an education to First Nations through discriminatory laws and policies, inadequate funding formulas, or by federal neglect and inaction is a violation of our fundamental human rights.

While the federal and provincial governments rely on the *Constitution Act, 1867* to point to their jurisdictional powers over education and Indians, they forget that our inherent right to be self-determining also encompasses education, and this is now protected in s.35 of the *Constitution Act, 1982*. Canada simply cannot pick and choose which constitutional provisions will have legal effect and which will not.¹⁹² So long as the educational authority or power is a delegated one, the govern-

186 *Ibid.* at 16.

187 *First Nations Educational Jurisdiction*, *supra* note 181 at 22.

188 *Indian Act*, R.S.C. 1985 c. I-5 [*Indian Act*].

189 *If Not Now, Then When*, *supra* note 1 at 17-21.

190 *Universal Declaration on Human Rights*. online: <<http://www.un.org/en/documents/udhr/>> at Article 26: "...elementary education shall be free and compulsory, and that higher levels will be equally available to all on the basis of merit."

191 *Investing in the Future*, *supra* note 175 at 17-18.

192 M. Battiste, "Constitutional Reconciliation of Education for Aboriginal Peoples" (2009), online: AFN <http://www.afn.ca/uploads/files/education/12_2009_battiste_constitutional_reconciliation_of_education_for_ab_peoples.pdf> [*Constitutional Reconciliation*] at 3-5.



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ment will always retain total control over the level and allocation of resources needed to operate First Nation schools.¹⁹³ Worse, is the fact that the First Nation's education authority must comply with all federal directives, policies, rules and timelines or be subject to reprimand or additional controls.¹⁹⁴

Although Canada bears a fiduciary responsibility for education, that does not give it the right to control it.¹⁹⁵ The use of words like "expanded" or "increased" in education or related funding agreements are weasel words used to give the appearance of something more than what it is: government-controlled education.¹⁹⁶ It is time to fully recognize and implement First Nation jurisdiction over education – completely and unconditionally.

The basic framework to full recognition and implementation of First Nation jurisdiction over education includes two major components: (1) the full recognition of First Nation jurisdiction over education which stems from their inherent right to be self-determining; (2) the renegotiation of funding arrangements to provide adequate, stable, flexible comprehensive funding.¹⁹⁷ There are many different options of how to do this, but there can be no one-size-fits-all policy as Indigenous Nations have very different cultures, communities, and educational objectives.¹⁹⁸

While ideas like school boards may well be necessary in some areas, given the size of some communities, those are the kinds of details that First Nations, in full control of their own systems, can decide for themselves based on their own needs and goals.¹⁹⁹ Only with significant change, an equitable financial commitment and local control of education can we ever hope to eradicate a century of educational neglect by Canada.²⁰⁰

First Nation jurisdiction over education must be complete and unconditional – with no federally imposed one-size-fits-all solutions or new policy limitations.

193 *Investing in the Future*, *supra* note 175 at 6.

194 *Ibid.*

195 E. Johnson, D. Longboat, "Sovereignty, Jurisdiction and Guiding Principles in Aboriginal Education in Canada" (1986) 1 Can. J. N.S. 173-179 [*Sovereignty*].

196 Harvey McCue Consulting "Self-Government Agreements and Jurisdiction in Education" (5 April 1999) [*Self-Government*] at 25-27.

197 *First Nations Educational Jurisdiction*, *supra* note 181 at 25. *Indian Control of Indian Education*, *supra* note 99. RCAP, *supra* note 6. Many others have made the very same recommendations as can be seen in the review of previous reports.

198 *Self-Government*, *supra* note 196 at 22-27.

199 See for example: M. Mendelson, Caledon Institute of Social Policy, "Aboriginal Peoples and Post-Secondary Education in Canada" (2006), online: <<http://www.caledoninst.org/Publications/PDF/595ENG.pdf>> at 7. He has also suggested ministries or regional education authorities in addition to school boards.

200 *Treaty Right*, *supra* note 35 at 14.



(b) Adequate Funding

“Program/resource funding is a joke – why shouldn’t our kids have same access to up to date curriculum/material as not native?”
(University student)

There is no doubt that many First Nations schools struggle to deliver programs and services because of the lack of sufficient funding and support frameworks.²⁰¹ Schools on reserves are clearly funded at per-student levels far below what most provinces pay to support their schools, despite the fact that needs and costs on reserve are significantly higher.²⁰² Funding formulas also do not take into account regional differences in costs, salaries, construction or purchasing.²⁰³ The average cost per student has increased 24% since 1997 which is much higher than the inflation rate or the 2% funding cap on spending imposed by Canada since 1996.²⁰⁴

Gray and Beresford argue that both Canada and the United States have embarked on efforts to make room for Indigenous control over their own education systems, but this “has proved more illusionary than real” because of restricted funding formulas.²⁰⁵ Despite years of studies and discussions and national panels, funding for the implementation of First Nation jurisdiction over education seems to be the most difficult barrier to overcome.²⁰⁶ Funding is needed not just for the students, but also for infrastructure, development of language and culture curriculum, and for general governance like policy development, training and oversight.²⁰⁷

The level to which First Nations education and programs are underfunded is shocking. Some estimates have placed band-operated schools at as much as 75% lower than provincial standards.²⁰⁸ Yet, there is no excuse to under-fund First Nations education in a country which is recording record surplus budgets of over \$14 billion.²⁰⁹ The AFN has consistently identified funding for governance capacity and training is absolutely essential in any solution moving forward.²¹⁰

It is not enough for Canada to apologize for the assimilatory policies upon which residential

201 Simon Management Services, “A Study of Educational Cost Drivers to First Nation Education: Final Report” (Ottawa: Report for the Joint AFN.INAC BOFF Working Group, 2006) [*Educational Cost Drivers*] at 6.

202 B. Levin, “Aboriginal education still needs work” (2009) 90:9 Phi Delta Kappan 689 at 690.

203 First Nations Education Council, “Supporting a Comprehensive and Equitable Funding Framework” (2009), online: <http://www.cepn-fnec.com/PDF/etudes_documents/Supporting_Equitable_Funding_Framework.pdf> at 11.

204 *Ibid.*

205 J. Gray, Q. Beresford, “A ‘formidable challenge’: Australia’s quest for equity in indigenous education” (2008) 52:2 *Aus. J. Ed.* 197-223.

206 H. McCue, “First Nations 2nd and 3rd Level Education Services: A Discussion Paper for the Joint Working Group INAC-AFN” (Ottawa: Harvey McCue Consulting, 2006) at 5.

207 *Ibid.* at 7.

208 K. Reimer, “What other Canadian kids have: The fight for a new school in Attawapiskat” (2010) *Native Studies Review* 120 [*What other Canadians have*] at 133.

209 *Ibid.* at 132. See also: *Our Dreams Matter Too*, *supra* note 85.

210 *Investing in the Future*, *supra* note 175 at 3.



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schools were based if they continue to allow First Nations children to receive a substandard education.²¹¹ Yet, scholars, researchers and economists recognize that although immediate needs will have a high initial cost, those reforms will save money in the long term.²¹²

The issue relates more to adequacy than equity. Adequacy relates to the actual amount of funding needed to achieve pre-identified goals whereas equity is limited to the total resources Canada claims are available.²¹³

Those who consider equality of education to mean equality of funding make an assumption that all students are on the same playing field. Thus, due to the educational gap that exists in Canadian society, the emphasis should not be placed on the equality of educational opportunity, rather, in the interest of closing the gap the focus should be on equalizing educational outcomes.²¹⁴

Thus, true equality for First Nations education not only means funding education at levels which are no less than provincial levels, but also additional funding to help address the current educational gap created by federal laws and policies over many generations. Canada created this mess; it needs to support First Nations to fix it. The success of First Nations peoples in education should be of “vital interest” to all Canadians as the country’s social and economic prosperity depends on it.²¹⁵

Today, the discriminatory levels of service provided to First Nations are the result of INAC control, inappropriateness of the *Indian Act* as vehicle to deliver education; and the lack of financial and governance support provided to First Nations.²¹⁶ Moving forward, there must be a comprehensive education budget and fully supported infrastructure if we expect First Nations to not only close the gap, but to excel.²¹⁷

Adjustments to the funding formulas for First Nation education must be comprehensive, flexible and stable with a focus on adequacy (First Nation needs and goals) and not equity (a share of pre-determined funding envelopes).

211 *Ibid.*

212 J. Paquette, “Supporting First Nations secondary students studying away from home: A case history of policy gone awry” 41:2 (2007) *J. of Can. Studies* 88.

213 *Investing in the Future*, *supra* note 175 at 6.

214 *Educational Cost Drivers*, *supra* note 201 at 7.

215 *AFN Fact Sheet*, *supra* note 141.

216 C. Sheila, “First Nations education: Financial Accountability and Educational Attainment” (2006) 29:4 *Can. J. of Educ.* 998-1018 at 1005-1006.

217 *Our Children*, *supra* note 106 at 33.



(c) Cultural Relevance

“The cultural teachings that should accompany language instruction is very important... All communities have First Nation members who are the best to teach the language and culture component, but are not allowed to teach – due to lack of formal training. I strongly disagree with this – who better to teach than someone who lives and practices what they are teaching.” (Councillor)

There is also a growing recognition internationally that the inclusion of Indigenous Knowledge in First Nation education is key to improving educational outcomes for Indigenous children.²¹⁸ Indigenous Knowledge must be at the core of Indigenous early learning experiences because it is Indigenous culture, language, values, and traditional approaches to healthy living and learning that define equality in early childhood education.²¹⁹ Given the suppression of Indigenous languages and the requirement to learn English, only 3 of the 65 Indigenous languages in Canada are strong enough to avoid extinction. Thus, the incorporation of Indigenous languages becomes that much more important in First Nation education.²²⁰

Much of the literature also refers to the importance of incorporating Indigenous knowledge as a means of decolonizing.²²¹ The many years of colonially-imposed laws and policies have had long-term, inter-generational impacts on our communities.²²² Residential schools were designed to bring about the “peaceful elimination of Indians.”²²³ First Nation control over education and training of teachers is helping to replace years of colonialism with individual and collective action with an Indigenous focus.²²⁴ In this way, students and teachers benefit from strengthening of culture and shedding colonization. But more resources have to be put into making Indigenous knowledge available in books, journals, theses, dissertations, and other formats.²²⁵ Sadly, cultural racism has been and continues to be a major impediment to moving forward.

While residential schools may have closed, the education in most provincial schools replicates the same content. Schooling is an institution of mainstream society and by forcing First Nations to par-

218 R. Kitson, J. Bowes, “Incorporating indigenous ways of knowing in early education for Indigenous children” (2009) 34:4 *Aus. J. Early Childhood* 81-89 at 81.

219 J. Hare, J. Anderson, “Transitions to early childhood education and care for indigenous children and families in Canada: Historical and social realities” (2010) 35:2 *Aus. J. of Early Childhood* 19-27 at 2.

220 G. Labercane, W. McEachern, “Striving for success: First Nations education in Canada” (1995) 115:3 *J. of Ed.* 322 at 323.

221 J. Orr, D. Freisen, “‘I think what’s happening in aboriginal education is that we’re taking control’: Aboriginal teachers’ stories of self-determination” (1999) 5:2 *Teachers & Teaching* 219 [*Aboriginal teachers*].

222 *RCAP, vol. 1, supra* note 6 at 333-410. *Shingwauk’s Vision, supra* note 6. *Unsettling the Settler Within, supra* note 6.

223 *What other Canadian kids have, supra* note 208.

224 *Aboriginal teachers, supra* note 221.

225 M. Battiste, et al., “Decolonizing Education in Canadian Universities: An Interdisciplinary, International, Indigenous Research Project” (2002) 26:2 *Can. J. of Native Ed.* 82-95 [*Decolonizing Education*] at 91.



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ticipate in that system or to replicate it in their own schools is a form of cultural racism.²²⁶ Canadian educators are not able to implement an Indigenous vision of education due to systemic discrimination of federal and provincial governments who continue to use education as forced assimilation.²²⁷ The apology for residential schools and “killing the Indian in the child” by Prime Minister Harper in 2008 is an empty promise if Canada continues assimilation in provincial schools.²²⁸

For any plan going forward, First Nation education systems must be locally controlled so that each can decide how to best incorporate the languages, traditions, and cultures of their Nations.²²⁹

RCAP reminds us that First Nations have not made unreasonable demands, but in fact demand two things from education: “the skills they need to fully participate in the economy... [along] with the knowledge of their languages and traditions necessary for cultural continuity.”²³⁰ However, this is not to be confused with the concept of “living in two worlds.”²³¹ Indigenous values follow individuals in all contexts; the point is that education must include tools to transition to work as well. Indigenous knowledge is based on understanding relationships.²³² This understanding of relationships can include the treaty relationship with the Crown or understanding relationships with Canadian society as part of that learning. The difference is making sure Indigenous knowledge is the central feature from which all other learning flows.

It also means putting education in the right context. Knowledge is not a commodity that can be controlled, but is a living process that must be absorbed.²³³ Indigenous languages are absolutely critical to ensuring that the identities, cultures and knowledge of Indigenous peoples survive for the benefit and well-being of future generations.²³⁴ Most research in this area suggests that moving forward Canada must affirm Indigenous knowledge as integral part of natural heritage of Canada that must be preserved.²³⁵ Further, that INAC specifically should work to ensure First Nations have funded education systems that fully incorporate Indigenous knowledge and languages.

Any amendments to funding formulas must include significant funding for the development of language and culture curriculum for learners at all stages in a variety of learning contexts be it early childhood education, language immersion in k-12, PSE courses and/or adult training.

226 G. Rozon, “Education for self-determination” (2001) 31:1 Am. Rev. of Can. Studies 61 at 63.

227 *Constitutional Reconciliation*, *supra* note 192 at 2.

228 *Ibid.*

229 *Treaty Right*, *supra* note 35 at 14.

230 *RCAP*, *supra* note 6 at 82.

231 J. Reyner, “Indigenous Language Immersion Schools for Strong Indigenous Identities” (2010) 7:2 *Heritage Language Journal* 138-152 [*Indigenous Language Immersion*] at 142- 146.

232 L. Little Bear, “Naturalizing Indigenous Knowledge: Synthesis Paper” (Saskatoon: Aboriginal Learning Knowledge Centre, 2009) [*Naturalizing Indigenous Knowledge*] at 7.

233 *Indigenous Knowledge*, *supra* note 2 at 15.

234 *Ibid.* at 17-19.

235 *Ibid.* at 33.



6. Conclusion

“There is a need for First Nations jurisdiction, accommodation and funding that contribute toward success on First Nation terms!”
(Anishnawbe)

There can be no doubt that one of the most critical components of realizing our inherent right to self-determination is control over our own educational institutions and outcomes. The ability to determine the laws, policies, processes, and delivery mechanisms of education has a significant impact on our ability to achieve meaningful outcomes for our children, communities and Nations. Our traditional ways of educating our peoples were based both on local conditions and realities, while also being adaptable to larger contexts and circumstances. It was holistic, lifelong, integrative, and adaptive. Our education involved a sharing of knowledge from different members of the community at different stages of life and included both the theoretical, spiritual, physical, scientific, strategic, and practical elements.

Sadly, our education system must now also include a complex and intensive process of healing, decolonization, and re-learning our languages and cultures to undo the devastating impacts of Canadian assimilation policies and laws like residential schools and the *Indian Act*. This means that in addition to our traditional means of educating our people, we must also find ways to heal deep wounds, overcome imposed divisions and regain control over what we learn, how we learn it and why we learn it.

While the goal of residential school policy was to “kill the Indian in the child,” our goal will be to restore pride in our children as Anishinabek or Ojibway, for example. In other words,

*We want education to give our children the knowledge to understand and be proud of themselves and the knowledge to understand the world around them.*²³⁶

We, as sovereign Indigenous Nations have a fundamental human right to ensure that our future generations have an education which prepares them for both their own responsibilities as citizens in their respective Nations, as well as providing them with the tools to participate as they choose in the larger international context. This right is reinforced by our inherent right to be self-determining, our constitutionally protected Aboriginal right to be self-determining; our Treaty right to education; and our international human rights to be self-determining and direct the education of our people.

The days of federal control over when, what, why, and how we educate our children are over. We are re-asserting our sovereignty and jurisdiction and will move forward in education on this basis. In our traditional territories in what is now known as Ontario, our First Nations will move forward

236 *Indian Control*, supra note 99 at 1.



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based on the philosophy that since our education involves our children and our future, it must be also be done our way, according to our vision.

At the same time, Canada has constitutional, treaty, and moral obligations to work with us as partners in the support and funding of our educational systems, but it will no longer be the one in control of the system itself. Going forward, First Nations in Ontario will be the ones to determine how our education and curriculum will be designed and whether and how we enter into bi-lateral or tri-partite agreements. As always, we look to work with Canada in the treaty spirit of partnership to ensure appropriate recognition of our jurisdiction and equitable levels of funding to achieve these goals.

To this end, First Nations in Ontario have embarked on a process to consult with our leaders, communities, experts, scholars, researchers, teachers, administrators, students and others to get critical feedback on how we can improve all aspects of education for our people. This has involved various activities like research, strategic planning and coordination, education conferences, sharing information online, the Academic Think Tank on First Nation Education, and other informal measures to seek out input from those working in and affected by the system.

We have only just begun this process as funding continues to be a major barrier. We see these initial steps and this report as preliminary steps in exercising our jurisdiction over the education of our peoples. We have much work left to do, however we believe that First Nations in Ontario are the best place to set the vision and make the decisions affecting our educational goals and outcomes. The following words are as relevant now as they were in 1972:

*The time has come for a radical change in Indian education. Our aim is to make education relevant to the philosophy and needs of the Indian people. We want education to give our children a strong sense of identity, with confidence in their personal worth and ability... as a means of enabling us to participate fully in our own social, economic, political and educational advancement.*²³⁷

We have been trying to address issues like jurisdiction and inequitable funding in First Nation education for many decades. Ever since residential schools were imposed on our people, we have consistently called for a new relationship between Canada and our Nations that respects our inherent right to be self-determining and our treaty rights in relation to education. The report, *Indian Control of Indian Education* was followed by the *Report of the Royal Commission on Aboriginal Peoples* (RCAP), then *First Nation Control of First Nation Education*; with many reports, studies, and articles published in between.²³⁸ We do not need any more reports, research, or special Ministerial groups to study the problem; what we need now is action.

237 *Ibid.* at 3.

238 *Ibid.* RCAP, *supra* note 6. FNCFNE, *supra* note 108.



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It is in the spirit of our Nation-to-Nation Treaty relationship that we submit this report on First Nation education to you: the First Nations in Ontario, the Assembly of First Nations, and to the Minister of Aboriginal Affairs and Northern Development Canada. The report will not offer any new insights, research or direction; nor will it propose any revolutionary new solution. All the problems, causes and solutions have been presented many, many times before. We know what needs to be done. We must take transformative action on First Nation education in Ontario – led by First Nations in Ontario, for the benefit of all of our future generations. The time for studies and national panels is over – it's time for real action.



7. Summary of Recommendations

- (1) *Traditional Indigenous knowledges and languages must be a central feature of any First Nation education policy and funding formula on a go forward basis.*
- (2) *It is imperative that the treaty right to education be recognized and fully implemented without further delay.*
- (3) *The inherent right of First Nations to assert their jurisdiction over First Nation education must be recognized, protected and implemented without delay.*
- (4) *Canada must act immediately to meet with First Nations and develop an emergency plan to address the crisis of poverty and lack of education services in First Nations which would include devising a funding formula based on need – not on “value for money”.*
- (5) *Canada must stop deferring action to endless studies, panels and meetings to identify the issues in First Nation education and move forward with implementing the solutions already identified by First Nations.*
- (6) *Canada must take real action to resolve its own internal policy conflicts; relinquish its paternalistic control over First Nations once and for all; and ensure that all of its laws are compliant with Indigenous laws, Constitutional protections, Treaty provisions, and human/Indigenous rights.*
- (7) *Canada must ensure that any changes in provincial education policy that directly affects First Nations are adequately reflected in programming and funding allocations to First Nations.*
- (8) *Canada must work directly with First Nations to resolve the inadequacy of the current funding formula to ensure that resources allocated address the expressed educational needs of First Nations at all stages of the educational spectrum.*
- (9) *Canada must acknowledge and resolve the shortcomings of the audit process for the Special Education Program in order to ensure adequate funding is provided through a flexible funding authority based on valid information.*
- (10) *Canada must adhere to the requirements of free, prior and informed consent when devising policy changes that directly affect First Nations.*
- (11) *Canada must take real action on the recommendations of previous studies and honour Treaty and constitutional obligations to work with First Nations to address the funding barriers identified and ensure the education funding provided supports the holistic, lifelong learning needs of all levels First Nations education in Ontario.*



- (12) *First Nation jurisdiction over education must be complete and unconditional – with no federally imposed one-size-fits-all solutions or new policy limitations.*
- (13) *Adjustments to the funding formulas for First Nation education must be comprehensive, flexible and stable with a focus on adequacy (First Nation needs and goals) and not equity (a share of pre-determined funding envelopes).*
- (14) *Any amendments to funding formulas must include significant funding for the development of language and culture curriculum for learners at all stages in a variety of learning contexts be it early childhood education, language immersion in K-12 or adult training.*



8. New Agenda Survey Results Report

First Nation Education Governance and Control in Ontario: A New Agenda

Results of the Survey by Barry M. Montour, Ph.D.

Introduction to the Study

The New Agenda Working Group constructed a survey instrument to gain feedback on issues impacting First Nations students, teachers, parents, and schools. It was designed to give voice to those directly affected by any changes to the funding and delivery of educational services to First Nations students in Ontario.

The instrument received input from a wide audience of stakeholders in First Nations education: teachers, educational assistants, counselors, school and board administrators, parents, guardians/care-givers, First Nation politicians, and band council administrators, among others. The survey was voluntary, but was accessible through the Chiefs of Ontario website, at four sessions held in Ontario, and through mass e-mailing to various organizations, institutes, band councils, tribal councils, and schools. The purpose of the survey is to complement the final report submission from the Chiefs of Ontario to the Minister of Aboriginal Affairs and Northern Development Canada (AANDC) and the National Chief of the Assembly of First Nations (AFN) regarding improving First Nation education from an Ontario perspective.

Survey Format

In addition to four (4) demographic questions, the instrument contained thirty-two (32) questions under ten (10) categories, and allowed for respondents to provide commentary after each category, as well as an open section for final comments at the end of the survey. Due to an oversight during the design of the survey for the on-line version, a comment box was omitted under the category of *Legislation*. Therefore, there are no comments in the analysis section for that category.

Questions were drafted by members of the New Agenda Working Group, who have areas of expertise in early learning, post-secondary, teaching, policy analysis, special education, and legislation, due to their respective positions in Political Territorial Organizations (PTO), tribal councils, Aboriginal institutes, the Chiefs of Ontario, and First Nation schools. The survey was field tested at the London District Education Council meeting in August, and suggestions and recommendations were then incorporated into the on-line survey.

The survey included both quantitative (forced-choice items) and qualitative (open comments) responses. Data collection was primarily independent with the on-line version of the survey at 67% (n=168), and 33% (n=81) completed at group sessions with the responses then entered manually.



Instrument Validity and Reliability

While *validity* is a common concern with survey instruments, the *reliability*, i.e. *internal consistency*, of this survey instrument should be considered strong, although the ability to *generalize* the findings may be considered weak.

Source of Error

The primary source of error in the construction of this survey instrument was not including a choice option of “*I don’t have enough background information to respond*,” which may have forced respondents to answer “I have no opinion either way.”

Survey Questions and Categories

The final version of the survey was posted on-line using SurveyMonkey[®], with questions and comment boxes under the following categories:

Category	Number of Questions	Number of Comment Boxes
Demographic Respondent Information	4	3
Early Childhood Education and Daycare	4	1
Early Learning – Head Start, K4 & K5	3	1
K - 12	4	1
Band Operated Funding Formula (BOFF)	3	1
Special Education	3	1
Post Secondary Education	3	1
Capital, Construction & Facilities	3	1
Language and Culture	3	1
Legislation	3	0
Data Management	3	1
Additional Comments	0	1
Total	36	13

General demographic information collected about each respondent included identifying their role (i.e. teacher, student, parent, etc.), primary place of residence or employment (northern Ontario, Southwestern Ontario, etc.), age range, and ethnicity (i.e. First Nation, Métis, Caucasian, etc.) For each demographic question, the respondent had the choice not to self-identify, or to respond as “other.” For the surveys completed by hand that did not contain the demographic information, the



results were entered manually under “Not Indicated.”

Respondents were then asked to provide a rating for each statement in the category according to their agreement with the statement. There were five (5) choices:

- I am in total disagreement with the statement
- I am in some disagreement with the statement, but not with everything
- I have no opinion either way
- I am in full agreement with the statement
- I overwhelmingly agree with the statement to a high degree

After answering questions in each category, the respondent had the opportunity to provide narrative comments, which allowed them to state their reasoning or justification for their answers, to provide more depth and background based on their individual experiences, or to provide suggestions and recommendations.

Duration and Access to the Survey

The survey instrument was posted on the Chiefs of Ontario website (www.coo.org), and was open from October 4, 2011 to November 8, 2011. In addition to the on-line survey (independent), respondents had the opportunity to complete the survey by hand at four face-to-face sessions (group).

1. London – August 24, 2011, London District Education Council Meeting
2. Toronto – September 28, 2011, New Agenda Working Group Information Session
3. Sudbury – October 6, 2011, New Agenda Working Group Information Session
4. Thunder Bay – October 26 - 27, 2011, Chiefs of Ontario Education Conference

Response and Completion Rate

A total of 253 surveys were attempted, with 249 completed, for a completion rate of 98%. There were 518 comments submitted, with 478 submitted within the individual categories, and 40 submitted as additional concluding remarks at the end of the survey.

Commentary and Coding

Comments under each of the ten (10) categories were combined by coding according to general themes. For example, in the Early Learning and Childcare category, the responses were combined under the themes of Funding, Access, Language & Culture, Curriculum, Special Education, and General Commentary. As some responses included comments that crossed over several themes, the length of the comment per theme was taken into consideration before being coded. The responses were then counted and summarized, with selected quotes used in the summary and discussion.



Analysis and Summary of Results

This report provides a summary of the data collected, with charts under the demographic information of respondents. Questions are listed under the category, with a brief summary of the responses presented in percentages. Where the majority of responses were at each end of the Lykert scale (i.e. in “total disagreement” or “overwhelmingly agree”), the results are combined with their corresponding “some disagreement” or “full agreement.”

Comments are then briefly summarized according to frequency, with selected quotes added to illustrate and represent the major themes.

A summary of the results is then presented in bulleted form at the end of the report.

For ease of presentation, this report is summative in nature, and does not include a detailed breakdown and response rate for each question. A full report will be made available on the Chiefs of Ontario website for review and independent analysis.

Summary of Results by Category

Basic Demographic Information of Respondents

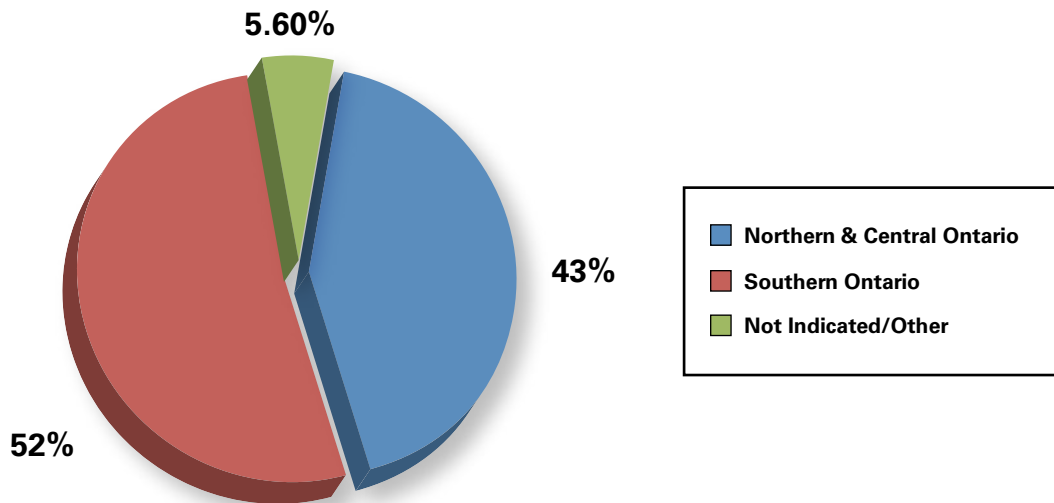
A total of 249 surveys were completed, with 47% of the respondents identifying themselves as educators or working in schools and who had either direct or in-direct responsibilities for delivering educational services in their schools and communities.

Comments from this category illustrate the extended family and overlapping responsibilities found in First Nations communities. For example, those who indicated that they worked as an educational assistant in a school noted that they were also a parent or grandparent, thus bringing multiple perspectives and investments to their answer. In these instances, they are classified as an “Educator,” rather than as a grandparent. A detailed chart for all respondents is given below.

Respondent	n	%
Educator	117	47
K – 12 Student	6	2.4
Post Secondary Student	29	12
Parent / Guardian / Caregiver	31	12.5
Grandparent	13	5
Chief / Councillor	13	5
Not Indicated	25	10
Other	15	6.1
Total	249	100%



Geographic Region of Students



Respondents to the survey represented communities from across Ontario (northern, central, and southern), with three (3) indicating their residence in the United States, but who worked in a First Nation school or community.

In terms of representation, southern Ontario comprised 52% of respondents, while communities in northern Ontario comprised 43% of the responses. A detailed chart is presented below.

Respondent's Geographic Area	n	%
Northern Ontario	117	47
Central Ontario	32	13
Southeastern Ontario	78	31
Southwestern Ontario	51	21
Not Indicated	11	4
Other	3	1
Total	249	100%

The sample population are a close approximation of the representation of the First Nations population in Ontario. Below is a comparison of the total First Nations population in Ontario versus the sample population.

Ontario First Nations Population by Geographic Region	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>
	Total FN Population	Percentage FN Population	Total Respondent Population	Percentage Respondent Population
Northern Ontario	72,071	39.7	106	45.1
Southern Ontario	109,453	60.3	129	54.9
Totals	181,524	100	235	100

(Source: Registered Indian Population by Sex and Residence, 2010, Indian and Northern Affairs Canada).

Respondents to the survey overwhelmingly identified themselves as First Nations, with 189 or 76% self-identifying. A detailed chart of all respondents is shown below.

Respondent - Ethnicity	<u>n</u>	<u>%</u>
First Nations	189	75.9
Métis	2	1
Inuit	0	0
Caucasian	27	10.9
Chose not to self-identify	6	2
Not Indicated	24	9.7
Other	1	0.5
Total	249	100%



The majority of respondents to the survey, 69.6%, were between 25 and 59 years of age, with a range from under 18 years to over 60 years. Less than 10% chose not to indicate their age. The chart below shows a detailed description of the age range of respondents.

Respondent's Age Range	n	%
0 – 18	7	3
19 – 24	23	9
25 – 40	52	21
41 – 49	62	24.9
50 – 59	59	23.7
Over 60	22	8.8
Not Indicated	24	9.6
Total	249	100%

1. Early Childhood Education and Daycare

While Daycare and Head Start programs are not funded under the federal mandate of the Department of Aboriginal Affairs and Northern Development Canada (formerly Indian and Northern Affairs Canada), respondents at the first session in London, ON brought forth their recommendation to have it included in the overall survey. As early-learning is an integral component of the holistic lifelong learning cycle so important in indigenous communities, four questions were developed and included in the survey.

Q1: First Nation families have access to licensed early childhood daycare centers in First Nation communities. This question was about current access to early childhood and daycare centers in First Nation communities. Of the respondents, 42.3% were in total / some disagreement with the statement, while 34.4% were in full / overwhelmingly in agreement with the statement, while 23.3% of respondents had no opinion either way.

Q2: First Nations require access to comparable, licensed, early childhood learning daycare opportunities in First Nation Communities. This question was also about access, and 74.8% of respondents were in full / overwhelmingly in agreement that First Nations communities should have access to licensed centers that were comparable to those found in the province, while 15.9% had no opinion either way.

Q3: Current funding mechanisms are sufficient and need only to be adjusted appropriately to meet the needs of day care spaces as identified by individual First Nation communities. When it came to the funding levels and the mechanisms to access the sources of funding for early childhood learning daycare centers, 63.3% of respondents felt that the current levels and mechanism were not



sufficient to meet the needs of First Nation communities, while 25.2% had no opinion either way.

Q4: The early childhood education curriculum for learners must be adapted by First Nation Early Childhood educators to reflect local First Nation culture and language. This question reflected the need to control and determine the curriculum and general program of services implemented in First Nation centers, with 79.3% responding that they were in full / overwhelmingly in agreement with the statement, while 13.2% had no opinion either way.

COMMENTS: There were a total of 64 comments in this category, which were coded under the major themes of Language & Culture (16), Access (16), Funding (7), Curriculum (7), Special Education (2), and General Commentary (16).

Access and Language & Culture were the major areas presented by respondents, with sixteen (16) comments each. Respondents felt that the local First Nations language and culture needed to be an integral component of the Childcare center in their community. An equal number noted that access to early learning programs and childcare was important, and that First Nations required better access, particularly in northern communities.

2. Early Learning – Head Start, K4 & K5

Q1: First Nation schools require access to comparable early learning opportunities to those available to provincially funded schools. In the area of early learning programs for 3, 4, and 5 year olds, 89.5% of the respondents felt that First Nations required access to such programs, and that the level of programming should be at least comparable to the Junior Kindergarten (JK) and Senior Kindergarten (SK) programs that are provided in the province.

Q2: Current funding mechanisms are sufficient and need only to be adjusted appropriately to meet the needs of First Nation early learners as identified by individual First Nation communities. In the area of funding for early learning programs, 74.5% were in total / some disagreement with the statement that the funding levels were sufficient and only needed to be adjusted, while 15.5% had no opinion either way.

Q3: The provincial curriculum for early learners (K4/K5) must be adapted by First Nation educators to reflect local First Nation culture and language before being implemented in the classroom. This question was in the area of First Nation control over the curriculum and the programs and services that are offered in these centres, with 76.7% in full / overwhelmingly in agreement with the statement that there should be adaptation to include local culture and language, while only 9.1% had no opinion either way.



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COMMENTS: There were a total of 47 comments in this category, which were coded under the major themes of Language & Culture (12), Funding (10), Curriculum (9), Lifelong Learning (3), and General Commentary (13).

Comments that were categorized under Language and Culture (12) noted that the early learning programs should be language immersion (6), with full cultural teachings and activities. Funding (10) was also noted as a concern, with all respondents citing insufficient funding for early learning programs. Curriculum (9) for early learning programming was also noted as being important, and was tied to the culture of the First Nation community (these comments link closely to the comments on Language and Culture).

3. K – 12

Q1: The curriculum, textbooks, and resources used in First Nation schools are comparable to those found in provincial schools. This question was concerned with the instructional resources available in First Nations schools, and 65.5% of the respondents were in total / some disagreement with the statement that the resources were comparable to those found in the provincial school system. Only 8.3% of the respondents felt that the textbooks and resources in First Nation schools were at least comparable to the provincial system, while 26% had no opinion either way.

Q2: Tuition agreements between local public school boards and First Nation communities provide an opportunity for First Nation communities to pursue a measure of First Nation control of First Nation education. For those First Nation communities that have tuition / education service agreements with their local provincial school board, 47.9% were in total / some disagreement that Tuition Agreements gave their First Nation a measure of control, with only 25.6% were in full / overwhelmingly in agreement with the statement, and 26.5% had no opinion either way.

Q3: Capacity building and restructuring are equally as important to support elementary and secondary education as the infusion of 'new money'. Respondents were in full / overwhelmingly in agreement that capacity building and restructuring within the First Nation school system was as important as funding (the infusion of new money), with 69.3% indicating so, with 17.7% having no opinion either way.

Q4: Band operated elementary schools prepare First Nation students adequately to transition into provincially funded secondary schools. This question is concerned with transferability from First Nation schools to provincial schools, and may be an indicator of quality as perceived by the respondents. Of the respondents, 66% indicated that they were in total / some disagreement with the statement, with only 14% were in full / overwhelmingly in agreement that the band operated schools prepare First Nations students to transition into provincial schools, and 20% responding that they had no opinion either way.



COMMENTS: There were 62 comments in this category, which were coded under the major themes of Funding (15), Curriculum (9), Tuition Agreements (5), Resources (3), Language and Culture (2), Special Education (2), and General Comments (26).

Respondents cited Funding (15) and Resources (3) as primary concerns in First Nation schools, which they noted were not comparable to schools in the provincial system, and “prevented equality” so that First Nation “students can have the same opportunity to succeed as students in provincial schools.” Respondents also commented that Curriculum (9) used in First Nation schools should “have a balance in their culture and the western culture.”

4. Band Operated Funding Formula (BOFF)

Q1: The current funding formula for band operated schools is appropriate and sufficiently meets the needs of our students. In the area of funding levels and the use of the Band Operated Funding Formula for determining base funding levels, 62.8% of the respondents were in total disagreement, and 17.7% were in some disagreement with the statement, for a total of 80.5%. Only 8.4% felt that the BOFF was appropriate and sufficient to meet the needs of students.

Q2: The 2% cap imposed on the funding levels in 1996 must be lifted and funding levels must accurately reflect cost of living increases and population growth. Respondents to this statement felt that the 2% cap on funding must be lifted, with 88.8% in full / overwhelmingly in agreement with the statement.

Q3: Salaries, benefits and pensions for teachers in band operated schools must be comparable to provincially funded systems. Respondents were in full / overwhelmingly in agreement that teachers in First Nations schools should be comparably compensated, with 86.1% in full / overwhelmingly in agreement with the statement.

COMMENTS: There were 47 comments in this category, which were coded under the major themes of Salaries (14), the Formula (14), Leadership (8), and General Comments (11).

Respondents noted that Salaries (14) for First Nations teachers and staff were of primary concern, and needed to be increased in parity with the province in order to “retain high quality teachers” and to eliminate the “high staff turn-over” found on many reserves. Salaries were also seen as “the main barrier to achieving and maintaining success for band operated schools,” as well as to “encourage First Nation people to pursue a career in education.”

In the area of the Formula (14), respondents commented that the formula “creates poverty within First Nation communities,” with one respondent commenting “why are our students worth half of those in the provincial system?” There were eight (8) comments centred on Leadership, with respondents appealing to their local leaders to “fight for children and the next 7 generations,” and



that the “discrimination and racism must be stopped.”

5. Special Education

Q1: The quality of special education programs and services in band operated schools is comparable to those found in provincially funded schools in Ontario. When it came to the quality of programs and services for special education in band operated schools, 76.2% were in total / some disagreement that they were comparable to those in provincial schools, with 16.8% having no opinion either way.

Q2: First Nation schools experience more challenges in the delivery of special education than do provincially funded schools. Respondents were in full / overwhelmingly in agreement that First Nation schools experience more challenges when delivering special education services in comparison to provincial schools, with 75.2% stating such, and 13.1% having no opinion either way.

Q3: The current funding level provided through the Special Education Program meets the needs of First Nation communities in Ontario. 73.9% of respondents were in total / some disagreement that the funding level for the Special Education Program met the needs of First Nation communities, with only 6.6% responding that they were in full / overwhelmingly in agreement, and 19.6% having no opinion either way.

COMMENTS: There were a total of 52 comments in this category, which were coded under the major themes of Funding (17), Society / Community Issues (4), Rates of Identification (4), Traditional / Cultural Perspectives (4), Assessment / Testing (2), and General Comments (21).

The majority of responses were centred on the funding formula, which included both the Band Operated Funding Formula (BOFF) and the formula for High Cost Special Education Services. Two (2) comments noted that the formula was insufficient to address the added costs of serving northern communities, due to “challenges because of costs and remoteness,” and the “challenge to provide services they require” after students are assessed.

Several respondents commented on the higher Rates of Identification (4) for First Nation students, which was closely linked to the Society / Community Issues (4) found on First Nation reserves, due to “poverty and inequality” and “the history of education in . . . communities and residential school(s).” Four (4) respondents commented that there was a lack of a Traditional / Cultural (4) aspect in special education programming, and that “the answers are in our teachings as well as holistic methods,” and that there is a need for research “to define a cultural perspective on First Nations special education needs.”



6. Post-Secondary Education (PSE)

Q1: Funding for Post-Secondary Education is a Treaty right. The majority of respondents, 84.9%, were in full / overwhelmingly in agreement that PSE funding is a treaty right, with only 5.7% stating that they were in total / some disagreement with the statement.

Q2: The funding levels are adequate and enable all students who want a post-secondary education to receive one. In the area of funding levels for PSE, 80.7% of respondents were in total / some disagreement that the levels were adequate, with only 11.3% in full / overwhelmingly in agreement that the levels were adequate.

Q3: The administration and allocation of PSE funding would be better handled by a third party organization with no close ties to First Nation communities. When it came to the administration of PSE funding, 63.7% were in total disagreement, and 14.6% were in some disagreement that the program would be better handled by a third party organization, for a total of 78.3%. Only 7.1% were in full / overwhelmingly in agreement that it would be better handled by a third party, while 14.6% had no opinion either way.

COMMENTS: There were a total of 66 comments in this category, which were coded under the major themes of Funding Levels (14), Local Administration of PSE (12), Treaty Right (10), Access (8), 3rd Party Administration of PSE (2), and General Comments (20).

The majority of comments centred on Funding Levels (14) for PSE, which many felt needed to be tied with “the higher cost of living,” and do not take into account annual increases in “tuition, book fees, and other mandatory costs.” Many comments were from current and former students and they noted their concerns to “pay rent or eat,” as well as to pay for childcare.

When it came to retaining local administrative control of PSE funds, 12 respondents felt that it was better managed by the First Nation, with three (3) remarking that graduation levels had increased since their First Nation began administering the program. Only two (2) responded that the program would be better managed by a third party, and that there “should be better and more transparent mechanisms” for awarding funding to students. Access (8) to PSE funding was also commented on, with one student who was “refused funding in my community to continue with a Master’s program,” and one who commented that “every year our Board has to make the tough decisions about who is going to get funded.”

7. Capital, Construction, & Facilities

Q1: The quality, design, and maintenance of schools in First Nation communities are equivalent to those found in the province. 80.4% of the respondents were in total / full disagreement with the statement, while only 6.6% of the respondents felt that the quality, design, and maintenance of



schools in First Nation communities were equivalent to schools found in the province.

Q2: Adequate funding for the construction and renovation of First Nation schools is available and readily accessible. Only 3.3% of the respondents felt that funding for construction and renovation of First Nation schools is accessible, while 82.4% were in total / some disagreement with the statement.

Q3: The method for obtaining upgrades and new facilities is largely driven by First Nation input. This question addressed a First Nations ability to determine and have a measure of control over the process for obtaining upgrades or building new school facilities, with 50.9% of respondents being in total / some disagreement that the process was First Nation driven. Only 20% felt that the First Nation had a measure of control, and 29% had no opinion either way.

COMMENTS: There were 44 comments in this category, which were coded under the major themes of AANDC Control (17), Poor Condition (6), Maintenance (3), and General Comments (18).

The majority of comments centred on the lack of First Nation control and input into the process for securing funds for new schools or renovations to current structures, AANDC (17). Respondents commented that “the government seems to have turned a deaf ear to First Nation communities and their calls for upgrades to on-reserve schools, that the Department “controls the funding” which is not based on needs, and that this “policy of physical infrastructure neglect reflects their wantonness to ensure our education systems” fail.

There were also comments on the Poor Condition (6) of First Nation schools, with respondents citing mold, fuel spills, a fire, and mice infestation. One respondent commented that “If provincial schools were in the condition FN schools are in, the public would be outraged and make the government fix them immediately.”

8. Language and Culture

Q1: Native languages and programming is an integral component in the education of our First Nation students. 85.3% of respondents were in full / overwhelmingly in agreement that Native languages and programming is an integral component of the education of First Nation students, with only 10% in total /some disagreement with the statement.

Q2: Cultural programs and activities should be given the same priority as all other subjects. Respondents were in full / overwhelmingly in agreement that cultural programs and activities should be given the same priority as other subjects, with 89% stating such.

Q3: The right to be educated in First Nations languages (i.e. immersion programs) is and should receive equitable support to that provided to English and French languages which are protected in



s. 27 of the Canadian Charter of Rights and Freedoms. 84.2% of respondents were in full / overwhelmingly in agreement with this statement, with only 5.7% in total /some disagreement.

COMMENTS: There were 59 comments in this category, which were coded under the major themes of Language & Identity (15), Curriculum Embedded (6), Language Nests & Immersion Programs (3), Home & Community Connections (4), and General Comments (32).

The majority of respondents commented on the importance of language and the connection to a student's identity (15), noting that "denying this as a part of education is equivalent to ethnocide," with one responding that after the federal government's apology for residential schools, that "they took our languages and culture, they should help us get it back."

Other comments included "our languages make up who we are as a people," and "our language is our education and perspective of the world around us." General Comments (33) ranged from thanking teachers "for all of your dedication and hard work protecting and revitalizing our Native languages," to one respondent's personal reflection, who stated "I am a 34 yr. old and I do not know how to speak Ojibwe. I think there is something very wrong with that."

9. Legislation

Q1: The Indian Act (Sections 114-121 refers to education) is out of step with the realities found in First Nations schools. 68.1% of respondents were in full / overwhelmingly in agreement that the Indian Act was out of step with the realities found in First Nation schools, with 22.4% responding that they had no opinion.

Q2: A federal "First Nations Education Act" is needed to address the inequities in school systems on reserve. In the area of enacting new legislation under a First Nations Education Act to address the inequities, 73.3% were in full / overwhelmingly in agreement with the statement, only 8.6% were in total / some disagreement, while 18.1% had no opinion either way.

Q3: First Nations must continue to urge the federal government to adopt the principle of free, prior and informed consent when designing and implementing legislative measures that affect them. This question addressed consent and consultation with First Nations regarding any changes to legislation, with 80.8% in full / overwhelmingly in agreement with the statement, while 13.3% had no opinion either way.

COMMENTS: Due to an omission during the design of the survey for the on-line version for SurveyMonkey®, a comment box was not included for this category. However, respondents had the opportunity to make any additional comments on all of the categories in the final section of the survey.



10. Data Management

Q1: The Education Information System (EIS) that is currently under development by Aboriginal Affairs and Northern Development Canada (AANDC) will serve the data management needs of First Nations education. The majority of respondents to this question had no opinion either way, with 50.2% stating as such, while 38.3% were in total / some disagreement with the statement.

Q2: First Nations control of First Nations education must include a data management system that functions on the principles of First Nation ownership, control, access and possession (OCAP). 78.9% of respondents were in full / overwhelmingly in agreement that the principles of OCAP must be adhered to in the management of data, while 16.7% had no opinion either way.

Q3: A First Nations education data management system would enable First Nations to utilize results to build capacity and make improvements on their own terms. In terms of using data to build capacity and make improvements in the school system at the First Nation level, 76% were in full / overwhelmingly in agreement with the statement, while 16.7% had no opinion either way.

COMMENTS: There were 37 comments in this category, which were coded under the major themes of First Nation Control of Data (8), Not Informed (6), Data for Improvement (6), Data Usage (5), Funding (2), and General Comments (10).

Respondents to this category felt that any data management system should retain control by the First Nation (8), while five (5) were skeptical, and commented that they felt that EIS would be used “to keep tabs on First Nations” rather than “to assist” them. This sentiment was reiterated when it came to Funding (2), with respondents noting that the system would “not be used to improve funding amounts.”

Additional Concluding Comments

There were a total of 40 Additional Comments submitted by respondents at the end of the survey. They were coded under the major themes of Report Recommendations (7), Funding (4), Legislation (2), and General Comments (27).

There were seven (7) comments that directly addressed making recommendations for the final report, including a funding comparison analysis between the federal formula and the province, drafting the report as a “practical work plan for community based action,” and writing the report in “our languages because in order for this to be authentic and to be alive, it has to be presented in the languages and cultural teachings for it to move forward in our traditional spheres.”

The bulk of the comments were general in nature, from offering thanks (“Great Survey – Niawen:kowa,” and “this was an amazing exercise”), to statements of motivation (“FN control of



FN education – Keep it Moving,” and “Nothing will get done unless we take control of this”). Other statements were indictments against the federal government, such as “the lack of support from our government makes First Nations communities look like third world countries,” and “the government usually does this (surveys / Royal Commissions) to temporarily appease its citizens, then ends up shelving any reports it came up with.”

Summary of Results

The survey was conducted to garner input from a variety of stakeholders in First Nations education, and is intended to form only one part of the larger report from Ontario that is being submitted to the Minister and to the National Chief. Although small in scale and limited in scope, the results of the survey provide invaluable information and input from those directly involved in education in First Nation communities. The voices of parents, grandparents, students, teachers, educational assistants, administrators, and politicians carry credence and give weight to the results presented here.

The following is a summary of the findings based upon the results of this survey:

Early Childhood Education and Daycare

- First Nations require access to comparable early childhood daycare centres that include Native language and cultural content, and are appropriately funded.

Early Learning – Head Start, K4 & K5

- First Nations require access to comparable early learning opportunities that include Native language and cultural content, and are appropriately funded.

K - 12

- First Nation school do not have the curriculum, textbooks, or resources found in provincial school, which inevitably lead to students struggling when they transfer to the provincial school system.
- Tuition / Education Services Agreements between First Nations and provincial school boards continue to be an area of concern, with many respondents feeling that there is no accountability on the part of the provincial school boards for services rendered.

Band Operated Funding Formula (BOFF)

- The Band Operated Funding Formula is critically insufficient and does not meet the needs of First Nation students.



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- The 2% cap must be removed, and a new formula must be developed that reflects the cost of living index and the costs associated with operating small schools.
- Personnel in First Nation schools must be comparably compensated to those found in the province in order to attract and retain high quality staff members, and to reduce the high turn-over rate found in many First Nation schools.

Special Education

- Funding for special education services in First Nation schools directly impacts the level of programs and services for students.
- First Nation schools experience more challenges in the delivery of special education services and programs as compared to provincial schools.

Post-Secondary Education

- Post-Secondary Education is considered a treaty right.
- Funding for PSE needs to be increased so that more students have access, and current students are adequately resourced.
- The administration of the PSE program should be left at the First Nation level.

Capital, Construction, and Facilities

- Funding for the construction and renovation of school facilities in First Nation communities needs to be increased, and the process for approvals needs to be First Nation driven.

Language and Culture

- First Nation languages and cultural programs are an integral component of First Nations education, and should be funded equitably.

Legislation

- Sections 114 – 122 of the Indian Act must be revised, but only after First Nation consultation.
- If the Indian Act is to be revised, a “First Nations Education Act” should be considered.

Data Management

- The collection of data in First Nation schools should be driven by the First Nations themselves to build capacity, to make improvements, and must operate under the OCAP principles.



Concluding Remarks

In Canada, there is a two-tier education system: one for First Nations students, and the other for everyone else. While segregation and apartheid has been eliminated in the rest of the developed world, Canada is the only nation that retains this separate, but unequal system that is based on two factors: race (First Nation), and residency (on reserve). Sheila Fraser, former Auditor General of Canada, cited the appalling conditions and substandard schooling system in First Nations communities in her scathing final report, due in large part to a federal funding formula that has not been updated since 1988, and has been capped at 2% growth since 1996. In Fraser's own words, "in a country as rich as Canada, this disparity is unacceptable."

In the northern Cree community of Attawapiskat, Ontario, students have been without a school building for over ten years, since an oil spill forced them out and into makeshift classrooms throughout the community. Teachers in First Nation schools make up to one-third less than their provincial counterparts, and in many communities, provincial school teachers have salaries higher than the principals and Directors in these First Nations schools. First Nations are the fastest growing population in Canada, and have the potential to be an important economic driver in this country, but that will not happen unless they are given the same educational opportunities afforded to every other Canadian citizen.

The results of this survey make several points abundantly clear. These key points are:

1. Equitable Funding Levels

The first is funding, and more specifically, the level of funding. While the Department of Aboriginal Affairs and Northern Development Canada have repeatedly stated that funding is not on the table, respondents consistently cited levels of funding and the Band Operated Funding Formula as the greatest issue facing First Nation students, from early learning to post-secondary. At a minimum, respondents cited comparability of funding levels afforded to every other learner in the province.

2. Language and Culture

The second point garnered from this survey involve the indicators to measure success for First Nation students, and as noted by respondents, these must be developed by First Nations themselves, with language and culture as integral components.

3. Post-Secondary Funding is a Treaty Right

The third point is in regards to funding for post-secondary education. Again, the Department has repeatedly stated that funding for post-secondary is considered a social targeted program that has no legislative or legal mandate of the federal government. Overwhelmingly, however, respondents viewed PSE funding as a treaty right.



4. First Nations Control of First Nations Education

The final key point summarizes this entire study. The paternalistic practice of making decisions on behalf of First Nations is still pervasive throughout the Department of Aboriginal Affairs and Northern Development Canada. This is evident in a number of areas, including the collection of data, the lack of First Nation control over the construction and renovation of school facilities, and most importantly, the perceived lack of consultation over proposed changes to the Indian Act.

The year 2012 will mark the fortieth anniversary of the historic “Indian Control of Indian Education” policy statement brought forth by the National Indian Brotherhood. Despite the many challenges and obstacles, First Nations in Ontario have made steady and substantive progress in their school systems, due in large part to the deep commitment and dedication of their leaders, elders, teachers, parents, and community members. The goal is the same in each community: to provide each child with a bright future, one that is grounded in the past, but looks to the future. First Nations have grown tired of the rhetoric and the endless reports, studies, and recommendations. This is a time for action, and according to one respondent, “it is now incumbent upon the leaders to take action.”



9. New Agenda Report on Written Submissions

By Julia Candlish, COO Education Coordinator

The New Agenda Working Group provided an opportunity for First Nation individuals and organizations to offer a written submission to outline issues, concerns and suggestions regarding First Nation education in Ontario. The Chiefs of Ontario website advised that written submissions would be accepted from all interested parties who wish to voice their concerns and express their ideas for improving the reality of First Nations education in Ontario. This avenue of input received contributions from a representative cross-section of organizations in Ontario.

Education funding is distributed by the federal government directly to First Nations and to various organizations with an interest in the provision of education. These organizations include Tribal Councils, Political Territorial Organizations (PTO) and various regional organizations. In most cases First Nation students will, at some point in their education, have to attend a provincially funded public school. Therefore, the public school boards have a vested interest in advocating for comparable capability for First Nations education. Thus it is apt that the written submissions received as contributions to this report included a First Nation, a Tribal Council, a PTO, a First Nations regional organization, and a non-First Nations regional organization.

This section provides a brief description of the authors of the written submissions and a consolidated summary of ideas, concerns and suggestions from the thoughtful written expressions of these organizations.

1. Ontario Native Education Counsellors Association (ONECA)

ONECA represents the administrative service arm of First Nation Education by supporting First Nation education counsellors whose role is to support First Nation students' success and achievement through academic preparedness and personal motivation (self-esteem) and to advocate for student services through a culturally supportive school environment.

2. Association of Iroquois and Allied Indians (AIAI)

AIAI currently represents eight (8) First Nations in Ontario with a membership of approximately 20,000 people. The member Nations are geographically diverse, living in northern, eastern and southern Ontario. The tribal affiliations are equally diverse consisting of Mohawk, Potawatomi, Oneida, Mohawk, Ojibway and Delaware. Despite the diversity, AIAI is a non-profit organization which advocates for the political interests, such as education, for the eight member Nations.

3. Ontario Public School Boards Association (OPSBA)

The Ontario Public School Boards' Association (OPSBA) represents public district school boards and public school authorities across Ontario. Together the members of OPSBA serve the education-



al needs of almost 70% of Ontario's elementary and secondary students. The Association advocates on behalf of the best interests and needs of the public school system in Ontario.

4. Curve Lake First Nation - Louise Musgrave, Education Manager

Curve Lake is a First Nation in Ontario with a population of approximately 740 people and a membership of 1,760 members and is located in the heart of the Kawartha Lakes region. The Curve Lake First Nation boasts a long and fascinating history which hails from the Mississauga Nation and the Three Fires Confederacy.

5. Ogemawahj Tribal Council (OTC) – Education Advisory Committee

In the spirit of the Three Fires Confederacy the OTC was created to provide superior professional and technical services to its six member First Nations. The highly skilled advisors at the OTC apply their expertise to the development, financing and management of specific projects. They assist First Nation staff in the planning and delivery of community-based initiatives.

Summary of Comments

Many common threads were consistently highlighted in all written submissions. The following provides the thoughts and words of the organizations revolving around the most prominent common themes.

All submissions contained repeated references to funding issues related to First Nations education. ONECA made the recommendation that "a statutory funding arrangement for First Nation education be developed in collaboration with First Nation based on real costs, indexed current costs drivers." With the understanding that underfunding leads to limited learning environments which adversely impacts student success AIAI "call[s] upon the federal government ... to make a funding commitment to ensure a more equitable and comparable education program similar to what all Canadian children are guaranteed."

Curve Lake echoes these ideas and suggestions by stating that inadequate funding is an impediment to providing an education comparable to that of the province. To rectify this situation, Curve Lake suggests that funding from the federal government should provide a per pupil amount that is based on the province's formula. Curve Lake also adds that the current multi-year agreements for education funding do not allow for yearly increases in the student population.

The OPSBA submission pointed out many discrepancies between the well-funded provincial school system and the underfunded First Nation education system. "Some of these are: adequate, safe and comfortable school buildings; strong levels of curriculum resources, curriculum leadership and professional development for teachers; access to social and psychological services to support students at risk; a well-funded governance system that has overall responsibility for lead-



ing the system and ensuring the conditions are in place to support student success,” as well as inadequate compensation to retain qualified staff. The Curve Lake submission expanded on the issue of retaining qualified staff to raise the concern that the training expenses incurred for new teachers on reserve are often lost to the community when teachers leave for better paying positions elsewhere. Curve Lake also commented that “para-professional services, such as speech, psychological testing, are expensive and difficult to acquire at the local level.”

The OTC specifically expressed the need for increased salaries of Anishinaabemowin teachers and advocated for “an effective lobbying strategy to address the inadequate funding that presently exists for Anishinaabemowin initiatives.” The Tribal Council also focused on post-secondary funding issues and pointed to current student waiting lists as a consequence of the 2% cap and underfunding. The proposed third party administrative change for post-secondary funding was also highlighted as an area of concern.

First Nation jurisdiction over education was a principal concern of both ONECA and AIAI. ONECA “supports the implementation of mechanisms which will implement First Nations jurisdiction to govern education systems, establish standards which ensure high quality culturally and linguistically relevant education, and which affirm predictable and necessary funding to enable the operation of First Nation Education systems.” AIAI asserted that their “member Nations’ position is to affirm First Nations jurisdiction over their education systems. The federal government must legally recognize First Nations governance and service delivery systems.” AIAI furthermore relates First Nations inherent right to self-government directly in support of First Nations control of First Nations education.

Rights were considered closely related to the education issues outlined in the written submissions. ONECA stated that “First Nation students have a right to a quality and comparable standard of education as offered in Canada’s provincial schools systems” and that “First Nation Educational authorities have the right to establish their own educational systems and institutions.” OPSBA pointed to the United Nations Declaration on the Rights of Indigenous Peoples, to which Canada is a signatory, as a “framework for developing any directions undertaken to establish conditions for equitable education opportunities for First Nation children and youth.” Curve Lake spoke to jurisdiction and Treaty rights in the statement; “[t]he federal government needs to improve the self-government of education and acknowledge the treaty right of all First Nation members to better than adequate elementary and secondary education.”

The majority of submissions also made reference to the importance of language and culture for First Nation education. The OTC determined that language and culture was one of their highest priorities this year. Curve Lake highlighted the importance of ensuring local control to incorporate local content and language dialect in order to maintain and/or revitalize the culture and language of the community. This is a significant source of enabling students to gain knowledge of who they are and where they fit into the local and broader community.



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ONECA and AIAI both highlighted the importance of language acquisition, fluency and use. ONECA recommends that First Nation languages are funded similar to the French language programs in Ontario. AIAI stressed the need for funding and tools to provide First Nations children “with the opportunity to be immersed in their cultural identity.”

All submission made some suggestions related to the need for educational system reform. ONECA asserted that First Nations in Ontario want education to reinforce positive self-identity through a system grounded in traditional knowledge and Indigenous languages. The education system should assist First Nations learners in achieving success so they can compete in the workforce and contribute to the economic opportunities within their communities and within the Canadian economy.

AIAI and ONECA believe that a First Nation education system must be student based and community centered. The system is recommended to be First Nation driven in order to ensure the diversity of culture, language, governance, service delivery and needs among First Nations is respected. AIAI posits education reform at the grassroots level as an inherent right and necessary to ensure success.

OPSBA maintained that the emphasis on education reform “should be on the inherent responsibilities of the Federal government, in consultation with First Nations, to ensure that First Nation children and youth, in common with other students in Canada, have access to equitable education opportunities, services and supports in a manner that respects First Nation cultures, traditions and perspectives.” In relation to consultation with First Nations, the OPSBA maintained that First Nation organizations and institutes specializing in First Nation education are a source of considerable expertise that must be considered when investing funds in education.

The Curve Lake submission also included a reference to the importance of consultation with First Nations and asserts that “[u]nilateral decisions made do not have the best interest of First Nation students...[o]nly the local First Nations know what is needed and what is best for their students.” Curve Lake also looked inward to the way First Nations organize themselves and suggest that there must be a clarification of the roles of the organizations within the current First Nation political system in Ontario in order to affect positive change as a cohesive unit while supporting the autonomy of each First Nation to address their local needs. “First Nations must be the decision makers at the local level concerning curriculum and school programming.”

Many of the submissions referred to the importance of developing and nurturing relationships between First Nations and the Ontario public school boards. Curve Lake contends that tuition agreements with the province are difficult and do not provide the First Nation with the ability to negotiate realistic funding arrangements given the inadequate funding allocated to First Nations for education. Curve Lake maintains that the fiduciary obligation of the federal government means they should be involved in resolving these issues.



The OTC recognizes the importance of improving relations and proposes to work with school boards on several initiatives in the upcoming year to foster better relations that will encourage meaningful dialogue between both parties for mutual benefit. OPSBA underscores the importance of these relationships in the following conclusion; “collaboration and partnerships initiated by First Nations with their provincial education partners should be supported by the Federal government in the context of legislated and treaty obligations for First Nation education.”

The written submissions provide support for the recommendations of this report. Many thanks to those organizations that took the time and consideration to make a written submission for inclusion in this report.



10. New Agenda Report on Information/Discussion Sessions

By Julia Candlish, COO Education Coordinator

Background

First Nations education has been a priority for the Chiefs of Ontario for decades and First Nation leadership in Ontario value education as a means to achieving self-determination and redressing the negative impacts of colonial practices. In 2000 the Chiefs in Assembly instituted the establishment of the Ontario Education Coordination Unit. Since then the Unit has been engaged in identifying the educational needs of First Nations in Ontario and recommending ways to meet these lifelong learning requirements. As the Chiefs in Ontario respond to changing federal and provincial political environments they provide mandates to the Education Unit as necessary to ensure First Nations in Ontario can chart their own path towards a First Nations education system that has a solid foundation based on First Nations inherent and Treaty rights to education.

Activities related to the objective of charting a First Nations path forward in education has led to many activities that continuously build on previous accomplishments. In 2004 a comprehensive compendium of education matters was created as a means of providing a foundation for change in First Nations education. The resulting document, *The New Agenda: A Manifesto for First Nations Education in Ontario* continues to inform and support this ongoing process.

The Strategic Planning and Policy Forum held in May 2010 gathered First Nations educators, administrators, and leaders in education to build on the *Manifesto* and provide further direction forward. The Policy Forum clearly indicated the importance of addressing issues related to funding and control as a means to improving First Nations education in Ontario. These previous activities prompted a recent All Chiefs resolution requesting the creation of a “made-in-Ontario” report (Report) that focuses efforts on understanding resourcing constraints and issues of control as a means of addressing longstanding issues and improving education outcomes for First Nations learners. Just as the *Manifesto* provided a foundation for change, and the Policy Forum identified broad and overarching concerns, the Report will serve to consolidate information and provide a catalyst for action.

The New Agenda Working Group (NAWG) was formed and tasked to produce a “made-in-Ontario” report to the National Chief and the Minister of Aboriginal Affairs and Northern Development Canada. The real value in the report is understood to reside in its ability to launch First Nations in Ontario into the action phase of the path that was begun over a decade ago.

The New Agenda Working Group includes representatives from the Chiefs of Ontario Education Coordination Unit and those Tribal Councils involved in the delivery of second level services related to education. Upon review of the mandate received the NAWG designed a work plan to ensure the report would include an analysis of previous recommendations to encourage building on what has



previously been identified by various education experts.

It was also decided that there should be various avenues available for First Nations individuals, communities and organizations to provide their views and input first-hand into the Report. Several avenues were designed to receive this input, a survey tool, a process for written submissions, and the opportunity was provided for face-to-face information discussion sessions.

The New Agenda Information/Discussion Sessions

Four New Agenda information/discussion sessions were held and were attended by education directors, teachers, principals, education administrators, Chiefs and Councillors.

1. London, August 24, 2011
2. Toronto, September 28, 2011
3. Sudbury, October 6, 2011
4. Thunder Bay, October 27, 2011

New Agenda information information/discussion sessions were intended to provide information to attendees regarding the New Agenda Process (the process of creating the Report) as well as afford an opportunity for those present to provide input into the final report. These New Agenda information/discussion sessions included an overview presentation that included the background leading up to the process, how the process was being undertaken, and a description of the various opportunities to provide input.

Those in attendance were asked to participate in an interactive activity to address the following six questions:

1. How would you suggest the federal government improve the way they uphold First Nations Rights to education?
2. What would make the First Nation education system here in Ontario function more effectively?
3. What are the barriers to achieving a superior education system for First Nations in Ontario / in your community?
4. Given the realities in Ontario / your community, what works best, and doesn't work well in education?
5. What would best support a quality education system that would serve the needs of the First Nation learners in Ontario / in your community?
6. How do you think the federal government could improve the current approach to legislation directly affecting First Nations in Canada?



A Summary of the Discussions

1. How would you suggest the federal government improve the way they uphold First Nations Rights to education?

- Honour the spirit and intent of the Treaties and Crown obligations;
- Develop transparent working relationships and consultation processes that respect First Nation jurisdiction over education;
- Move away from unilateral/authoritative/oppressive policies;
- Respect First Nation holistic vision of lifelong learning and decision-making processes;
- Provide adequate and equitable funding for First Nations education.

2. What would make the First Nation education system here in Ontario function more effectively?

- Emphasize language, culture and experiential learning;
- Exercise the political will to follow our own path;
- Set our own standards;
- Understand and articulate what makes sense for us;
- Develop a vision statement on what our education system looks like;
- Provide our own professional development;
- Develop research institutions with our own scholars;
- Focus on capacity building;
- Celebrate and share best practices;
- Support a unified effort to create a system complete with second and third level supports;
- Create partnerships that support students both on and off-reserve.

3. What are the barriers to achieving a superior education system for First Nations in Ontario/in your community?

- The base funding provision is too low (BOFF) with too much competitive funding;
- Foreign definition of student success;
- Lack of a positive attitude towards education – intergenerational effects of residential school system;
- Lack of collective thinking and knowledge sharing;
- Lack of access to new technology;
- Inadequate libraries and infrastructure;
- Underfunding inhibits capacity building;



- Instability of funding inhibits planning;
- Lack of accountability to First Nations by the provincial school system;
- Teacher quality and retention.

4. Given the realities in Ontario / your community, what works best, and doesn't work well in education?

What works best?

- Culture and language programming in the curriculum;
- Good relations between First Nations and public school boards;
- First Nations exercising control over education;
- Indigenous knowledge is utilized;
- Strong tuition agreements with public school boards;
- Taking a rights-based approach and;
- Setting our own standards.

What doesn't work well?

- Inadequate funding;
- Lack of second and third level services;
- Political micromanagement;
- Underestimation of student ability;
- No economy of scale – small/isolated;
- Poor relations with school boards;
- High turnover of teachers;
- Difficult transitions for students.

5. What would best support a quality education system that would serve the needs of the First Nation learners in Ontario/in your community?

- Revitalize language, culture and traditional teachings and infuse them into the educational system;
- Design our own quality education system;
- Receive reliable, flexible and comparable funding;
- Establish our own "boards" of education;
- Educate the non-First Nation population on the reality of our conditions, our history and Treaties;
- Increase parental and community involvement;
- Focus on holistic vision of lifelong learning;
- Separate education and politics;



Our Children, Our Future, Our Vision

- Create strong partnerships on our terms – not forced;
- Exercise our jurisdiction over education;
- Take a rights-based approach;
- Prioritize early learning.

6. How do you think the federal government could improve the current approach to legislation directly affecting First Nations in Canada?

- Respecting the inherent and Treaty rights of First Nations peoples;
- Respecting the diversity of the First Nations;
- Respecting the political process of the First Nations;
- Reviving the Kelowna Accord;
- Relinquishing the powers of the AANDC Minister to First Nations;
- Accepting the authority of First Nations to drive the process, and;
- Acting in good faith on the apology delivered by the Prime Minister.

While discussing this question participants also advised that First Nations need to:

- Create our own education laws;
- Develop our own policy experts;
- Develop our own system and assign our own Minister;
- Educate non-First Nations population on Treaties – we are all Treaty people, and;
- Clearly articulate our needs with a plan for the future.

Analysis

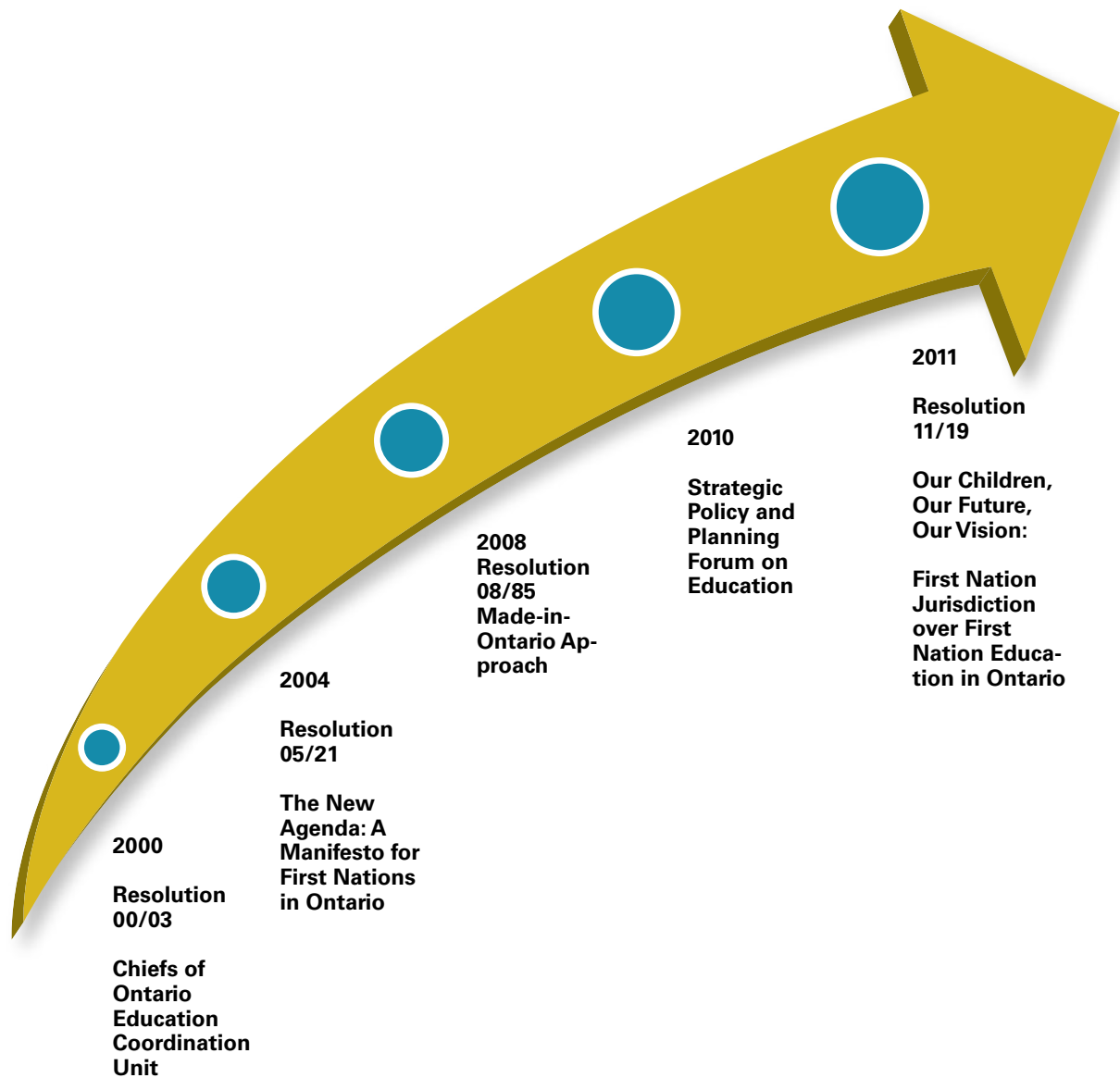
Analysis of the information gathered at these information/discussion sessions provides insight into the fundamental issues affecting the ability of First Nations to deliver appropriate and adequate education to their learners. The subject of inadequate and inequitable funding forms a strong underlying element and is discussed in all but question two.

Five out of the six questions also contain multiple references to First Nations control, or jurisdiction over education. There are also multiple references to the importance of maintaining a rights-based approach to First Nation education and inclusion/infusion of language and culture into the curriculum.

The answers to the questions often contain references that assert that it is up to First Nations in Ontario to establish our own system, on our own terms that facilitates the partnerships that we desire and adheres to our own ways of learning, teaching, knowing and assessing.



11. Chiefs in Ontario First Nation Education Timeline



12. Chiefs in Assembly Resolutions on Education

83-18

CHIEFS OF ONTARIO



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(416) 596-0618
TELEX 06-23877

“Executive Council”

RESOLUTION

83/18

EDUCATION AS A PRIORITY

WHEREAS the Department of Indian Affairs is responsible for the education of Indian people; and,

WHEREAS there are demonstrated educational needs in areas of social and special educational services; and,

WHEREAS the educational outcomes and achievements of Indian students fall below the national average; and,

WHEREAS the policy of Indian Control of Indian Education has not been implemented.

THEREFORE BE IT RESOLVED that we establish Indian Control of Indian Education as the "number one priority" in Ontario Region; and,

BE IT FURTHER RESOLVED that the Regional Director General adhere to this priority by:

1. On the request of the Band, provide funding for Indian Educational Authorities;

.../2



83-18

- 2 -

2. On the request of the Band, provide the necessary person-year allocations for Indian Education Programs within Ontario; and finally,
3. On the request of the Band, fully implement the transfer of control of Indian Educational Programs, including all administration costs and person-years, to the Indian Educational Authorities in Ontario on request.

Moved by: CHIEF ROBIN GREENE, Shoal Lake #39
Seconded by: CHIEF EARL HILL, Mohawks of the Bay of Quinte

CARRIED.

DATED: June 9, 1983. Toronto.



87-9

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CHIEFS OF ONTARIO

RESOLUTION

87/9

EDUCATION

WHEREAS the First Nations in Ontario and their Elders hold that Education of our children is an Aboriginal and Treaty Right of the First Nations of Ontario and must be treated as such; and,

WHEREAS the Government of Canada has a trust as well as a financial responsibility to ensure that the right to Education for our children is fulfilled; and,

WHEREAS the Government of Canada has begun to implement guidelines and policies affecting the right to Education without proper and adequate consultation with the grass roots people.

THEREFORE BE IT RESOLVED THAT the Government of Canada cease and desist from its unilateral revision and development of First Nations Education Policies and Guidelines; and,

BE IT FURTHER RESOLVED THAT those Policies and Guidelines not be further implemented without proper and meaningful consultation with the First Nations of Ontario to ensure compliance with the Aboriginal and Treaty Rights to Education; and,

Indian Associations Coordinating Committee of Ontario Inc.



87-9

Resolution 87/9
Education
Page 2

BE IT FURTHER RESOLVED THAT the Chiefs-in-Assembly mandate the Planning and Priorities Committee, in conjunction with the Department of Indian Affairs, to undertake an overall review of education funding and its administration in order to reform the delivery of education programs.

MOVED BY: Chief Arnold Gardner, Eagle Lake First Nation

SECONDED BY: Chief George Kakeway, Rat Portage First Nation

CARRIED

DATED: October 29, 1987, Toronto, Ontario



88-41

RESOLUTION

88/41

INDIAN CONTROL OF INDIAN EDUCATION

WHEREAS there have been a number of workshops, conferences and meetings regarding Indian education held in Ontario; and,

WHEREAS these conferences identified Indian Control of Indian Education as a priority; and,

WHEREAS the workshop held May 17 - 18, 1988 in Thunder Bay, with participants from all regions of Ontario, has again identified Indian Control of Indian Education as a priority; and,

WHEREAS the Federal and Provincial educational systems have failed and are continuing to fail our peoples by not meeting our identified education needs such as, adequate funding, improved facilities, quality teachings and learning, and a system based in our First Nations.

THEREFORE BE IT RESOLVED THAT the Chiefs-in-Assembly support the intent of the various working groups on education to pursue the concept of Indian Control of Indian Education through their respective organizations.



88-41

Resolution 88/41
Indian Control of Indian Education
Page 2

MOVED BY: Chief Ether Deleary
Chippewas of the Thames First Nation

SECONDED BY: Chief Patrick Madanbee
Sucker Creek First Nation

CARRIED

DATED: May 29, 1988, Edmonton, Alberta



94-40

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CHIEFS OF ONTARIO

20TH ANNUAL ALL ONTARIO CHIEFS' CONFERENCE
Mohawks of the Bay of Quinte
June 7 - 10, 1994

RESOLUTION #94/40
Pg. 1 of 2

SETTING THE RECORD STRAIGHT - A TRUE VERSION OF ABORIGINAL HISTORY

WHEREAS the Chiefs in Assembly recognize the importance of education to all students in Ontario; and,

WHEREAS the existing history curriculum used throughout the Ontario educational system does not adequately and accurately reflect the historical facts as they relate to First Nations; and,

WHEREAS the Chiefs in Assembly recognize that the current non-Aboriginal version of history does not reflect the abysmal treatment of the First Nations and the breaches of treaties and does not reflect the contributions of First Nations such as medicines, art and sharing of lands and resources, environmental protection and government structures, and the tremendous contribution of Aboriginal warriors to the defense of Canadian lands, both here and overseas; and,

WHEREAS the lack of an appropriate representation of the history of First Nations contributes significantly to a lack of self-esteem for our youth, and fails to promote pride in our culture and heritage; and,

WHEREAS the lack of accuracy perpetuates a distorted view of First Nations which in turn promotes the continuation of discrimination by all people in the system towards members of First Nations and the mistreatment of First Nation members.

THEREFORE BE IT RESOLVED the Premier of Ontario and the Minister of Education and Training (MET) meet with the Planning and Priorities Committee of the Chiefs of Ontario to discuss appropriate measures to remedy this situation as a priority; and,

MOVED BY:
Douglas Maracle (Proxy)
Caldwell First Nation

SECONDED BY:
Roseanne Archibald (Proxy)
New Post First Nation



94-40

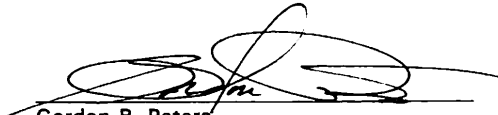
ALL ONTARIO CHIEFS' CONFERENCE
June 7-10, 1994

RES. #94/40
Pg. 2 of 2

BE IT FINALLY RESOLVED that the Chiefs of Ontario, with the full agreement and partnership of the Province of Ontario, establish a secretariat to reverse the inaccuracies in the current curriculum, including terms of reference, a workplan, timeframe, and a budget.

CONSENSUS

Certified copy of a Resolution adopted on
June 10, 1994.



Gordon B. Peters
Ontario Regional Chief



00-03

CHIEFS OF ONTARIO



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SPECIAL CHIEFS ASSEMBLY
February 29 - March 2, 2000
Thunder Bay, Ontario

CHIEFS OF ONTARIO EDUCATION COORDINATION UNIT TERMS OF REFERENCE

RESOLUTION 00/03
Pg. 1 of 1

WHEREAS quality education and jurisdiction over education are a leading priority for all First Nations;

WHEREAS there is a need for firm action and effective communication on First Nation education issues in Ontario: and.

WHEREAS the Planning and Priorities Committee approved terms of reference for the Chiefs of Ontario Education Coordination Unit on February 18, 2000;

THEREFORE BE IT RESOLVED that the Provincial Territorial Organizations, First Nations, First Nation Education Authorities, and Tribal Councils are urged to work with the Chiefs of Ontario Education Coordination Unit to ensure successful projects and activities; and.

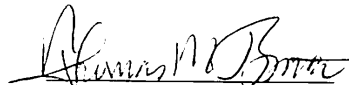
FURTHER BE IT RESOLVED that the Chiefs in Assembly support and approve in principle the attached terms of reference for the Chiefs of Ontario Education Coordination Unit, without prejudice to First Nation education initiatives.

MOVED BY:
Christopher Metatawabin
(Proxy)
Fort Albany First Nation

SECONDED BY:
Chief Joseph Gilbert
Bkwejwanong Territory
(Ojibways of Walpole Island)

CONSENSUS

Certified copy of a resolution
adopted on March 1, 2000


Thomas M. Bressette
Ontario Regional Chief



00-06

CHIEFS OF ONTARIO



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SPECIAL CHIEFS ASSEMBLY
February 29 - March 2, 2000
Thunder Bay, Ontario

FIRST NATION EDUCATION

RESOLUTION 00/06
Pg. 1 of 1

WHEREAS education technicians and representatives of fifteen Ontario First Nations gathered at the Chippewas of Aamjiwnaang (Sarnia) First Nation on April 9 & 10, 1999, to discuss a collective approach by First Nations in response to changes to the provincial school system implemented in December of 1997;

MOVED BY:
Chief Ray Rogers
Chippewas of Aamjiwnaang
(Sarnia)

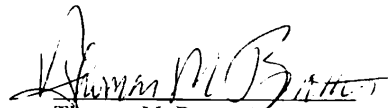
SECONDED BY:
Grand Chief Michael Mitchell
Mohawks of Akwesasne

WHEREAS there is a need for First Nation specific information on the impact of the provincial Education Quality Improvement Act and regulations, and the operation of federal funding models, including the Comprehensive Funding Arrangement (CFA), and the Canada First Nations Funding Agreement (CFNFA); and

CONSENSUS

Certified copy of a resolution
adopted on March 1, 2000

WHEREAS there is a need for access to financial information to enable financial planning, analysis and management/control at the Education Committee/Authority level, and a need for access to financial and human resources to support initiatives in education, especially in the smaller communities;


Thomas M. Bressette
Ontario Regional Chief

THEREFORE BE IT RESOLVED that the Chiefs of Ontario office is mandated to respond to the crisis in education by attempting to secure appropriate resources to collectively strategize a province-wide position, working in conjunction with the Provincial Territorial Organizations, Independent First Nations and Tribal Councils.



01-33

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CHIEFS OF ONTARIO

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27th Annual All Ontario Chiefs' Conference
Bkejwanong Territory
June 26-28, 2001

MAINTAINING EDUCATION AS A HIGH PRIORITY ON THE FIRST NATIONS POLITICAL AGENDA

WHEREAS the Association of Iroquois and Allied Indians (AIAI) Member Nations recognize the importance of Education in achieving their long-term goals of economic self-sufficiency and raising their communities standard of living:

WHEREAS the AIAI Chiefs Council has reaffirmed the importance of Education remaining a high priority within AIAI;

WHEREAS the Chiefs of Ontario is responsible for supporting and representing First Nations in Ontario at regional and national forums;

WHEREAS there are numerous political issues being addressed at the regional and national levels of government;

WHEREAS First Nations and their government leaders tend to focus on the priorities of Indian and Northern Affairs Canada (INAC) when initiatives arise which will affect all First Nations in Canada e.g. the proposed *Governance Act*;

WHEREAS important issues, including Education, are placed on a lower level of priority while First Nations leaders react to issues such as the *Governance Act*;

RESOLUTION 01/33
Page 1 of 3

MOVED BY:

Chief Harry Doxtator
Oneida Nation of the Thames

SECONDED BY:

Chief R. Donald Maracle
Mohawks of the Bay of Quinte

CARRIED

Certified Copy of a Resolution adopted on
June 28, 2001.

Charles D. Fox
Ontario Regional Chief



01-33

Resolution 01/33
Page 2 of 3

WHEREAS the Education needs of First Nations communities in Ontario are very serious and need continual political support at the regional and national levels;

WHEREAS existing Education needs requiring the immediate and ongoing lobby efforts of First Nation political leaders include, but are not limited to, the following:

- (a) First Nations need additional funding for Post-Secondary Education as indicated by more than 9,000 First Nation students across Canada who were unable to access funding last year due to shortages;
- (b) First Nations need additional funding for Special Education for on-reserve schools, which presently cannot afford to provide the same level of services given by Ontario to students in the public schools;
- (c) First Nations need capital and operating funding for on-reserve schools, which are either too small, need repairs, lack the facilities required by the Ontario curriculum, or are non-existent;
- (d) First Nations need additional representation on the Ontario district school boards, where they are currently limited to one trustee only, regardless of how many First Nations exist within a district;

THEREFORE BE IT RESOLVED that Education remains a high priority while simultaneously addressing current issues such as the *Governance Act*:



01-33

FURTHER BE IT RESOLVED that AIAI requests support from the Chiefs of Ontario for Education to ensure that it remains a high priority while other issues are simultaneously addressed by the leaders:

FINALLY BE IT RESOLVED that the Chiefs of Ontario utilize their political influence at the national level to ensure that the Assembly of First Nations keep Education as a high priority, while simultaneously addressing other issues such as the *Governance Act*.

Resolution 01/33
Page 3 of 3



02-15

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CHIEFS OF ONTARIO

28th Annual All Ontario Chiefs' Conference
Eabametoong First Nation
June 25-27, 2002

INAC EDUCATION RENEWAL INITIATIVE AS RELATED TO THE FIRST NATIONS EDUCATION ACT

WHEREAS First Nations have jurisdiction over education;

WHEREAS First Nations and affiliate organizations are involved in negotiation processes with the federal government pertaining to education jurisdiction including the relative identification and implementation of institutional and structural capacities;

WHEREAS Indian and Northern Affairs Canada (INAC) has consistently and historically under-funded education at all levels (elementary, secondary and post-secondary);

WHEREAS INAC has launched the Education Renewal Initiative and stated its aim to examine its relationship with First Nations to foster excellence in elementary and secondary education and narrow the gap in academic success between First Nations and other Canadians;

RESOLUTION 02/15

Page 1 of 3

MOVED BY:

Chief Norm Hardisty Jr.
Moose Cree First Nation

SECONDED BY:

Chief Glen Hare
M'Chigeeng First Nation



02-15

WHEREAS INAC has unilaterally identified the first element of the Renewal Initiative to be the Minister's National Working Group on Education and went on to select members from regions across Canada without input and involvement of First Nations, Provincial Territorial Organizations, regional offices or the Assembly of First Nations:

RESOLUTION 02/15
Page 2 of 3

WHEREAS the Minister has unilaterally identified the areas to be examined by the National Working Committee over the next six to eight months and included such items as:

- the development of First Nation education institution capacity
- teacher recruitment/retention and professional development
- aboriginal content in curriculum (culture and language)
- pedagogy and standards
- integrated services for children and youth, and increased parental involvement
- national education instruments

WHEREAS INAC has historically ignored First Nation reports, recommendations and directions concerning the areas identified above and other elements of elementary, secondary and post secondary education;

WHEREAS INAC has indicated through media reports their intention to develop a First Nation Education Act with consultations beginning as early as the fall of 2002:

THEREFORE BE IT RESOLVED that we, the All Ontario Chiefs in Assembly, request that AFN postpone any direct involvement in the Minister's process until appropriate analysis and research are conducted examining the pros and cons of



02-15

participation and the clear outcome in relation to a First Nation Education Act;

FURTHER BE IT RESOLVED that such analysis must be reviewed by regional education representatives and supporting organizations and satisfy any concerns prior to proceeding.

RESOLUTION 02/15
Page 3 of 3

CARRIED

Certified Copy of a Resolution
Adopted on June 26, 2002.



Charles D. Fox
Ontario Regional Chief



03-19

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CHIEFS OF ONTARIO

29th Annual All Ontario Chiefs Conference
Whitefish Lake First Nation
June 24-26, 2003

FIRST NATIONS EDUCATION - BAND OPERATED FORMULA

RESOLUTION 03/19
Page 1 of 2

WHEREAS First Nations have an Inherent and Treaty right to quality education;

WHEREAS Indian and Northern Affairs Canada (INAC) has a fiduciary obligation to fund First Nation education in Ontario;

WHEREAS INAC is currently implementing a Band Operated Formula that was developed in 1988 and was intended to address Band Operated schools only;

WHEREAS there are significant gaps within the Band Operated Formula that limit its success at the First Nation community level;

WHEREAS the Band Operated Formula is the only funding tool that addresses a majority of elements relating to First Nations education;

WHEREAS INAC Headquarters is proposing to submit a Memorandum to Cabinet on education priorities, which are limited in scope;

WHEREAS the Assembly of First Nations is striking working groups on the Band Operated Formula, Band Operated Schools, New Path for Education, National First Nation

MOVED BY:

Chief Valerie Monague,
Beausoleil First Nation

SECONDED BY:

Chief Angus Toulouse,
Sagamok Anishnawbek First Nation

CONSENSUS

Certified Copy of a Resolution adopted on
June 25, 2003.



Charles D. Fox, Ontario Regional Chief



03-19

Education Priorities for the new Memorandum to Cabinet/Treasury Board submission, Jurisdiction and Special Education to work jointly with INAC Headquarters:

Resolution 03/19
Page 2 of 2

THEREFORE BE IT RESOLVED that the Chiefs of Ontario Education Coordination Unit is mandated to develop and implement an interim strategy regarding modification to the Band Operated Formula, which includes an all-inclusive approach to education;

FURTHER BE IT RESOLVED that the interim strategy incorporate a pilot approach that will include sample areas from the North, South, small schools and large schools in order to produce and lobby successful examples from Ontario:

FINALLY BE IT RESOLVED that the Chiefs in Assembly support the position that should a Memorandum to Cabinet be submitted by INAC, the Band Operated Formula be identified as the priority from the Chiefs of Ontario for the submission.



05-21

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**31st Annual All Ontario Chiefs Conference
June 14-16, 2005
Eagle Lake First Nation**

**ADOPTION OF "THE NEW AGENDA: A
MANIFESTO FOR FIRST NATIONS
EDUCATION IN ONTARIO"**

**RESOLUTION 05/21
Page 1 of 2**

WHEREAS the Ontario Chiefs assembled at the 29th All Ontario Chiefs Conference adopted Resolution 03/18, that commissioned the writing of an education document for the future generations of First Nations education in Ontario called, "The New Agenda: A Manifesto for First Nations Education in Ontario" (the "Manifesto");

WHEREAS Resolution 03/18 required presentation of the Manifesto to the AOCC for ratification;

WHEREAS the Chiefs of Ontario Education Coordination Committee employed a multi-faceted methodology that sought the views of Elders, parents, youth, educators, experts, and that drew from the body of secondary research and knowledge previously developed;

WHEREAS it is noteworthy that the vast planning, research, interviewing, writing and coordination were conducted by highly skilled and experienced First Nations people from various First Nations across Canada;

WHEREAS the Chiefs in Ontario (COO) sent copies of the Manifesto to all First Nations in Ontario in May 2005;

MOVED BY:

Chief Dave General,
Six Nations of the Grand River Territory

SECONDED BY:

Chief Fraser Greene,
Iskatewizaagegan No. 39

CONSENSUS

Certified Copy of a Resolution adopted on
June 16, , 2005.

Angus Toulouse, Ontario Regional Chief



05-21

WHEREAS COO was also directed to prepare a communications plan to promote awareness and understanding of the Manifesto, leading to its implementation;

Resolution 05/21
Page 2 of 2

THEREFORE BE IT RESOLVED that we, the Chiefs in Assembly, hereby ratify "The New Agenda: A Manifesto for First Nations Education in Ontario" and the accompanying communications plan;

FURTHER BE IT RESOLVED that the Political Confederacy is mandated to take action to implement those recommendations of the Manifesto that require interaction with and commitments from the Federal and Ontario governments, as well as the communications plan;

FURTHER BE IT RESOLVED that First Nations leaders, Elders, educators, parents and others are encouraged to initiate or continue implementation of the Manifesto's recommendations in areas that are currently under First Nations control;

FINALLY BE IT RESOLVED that we acknowledge the collective efforts of the many First Nations professionals who have produced a high quality and historic document that marks an important milestone in the renewal of nationhood.



06-57

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CHIEFS OF ONTARIO

32nd Annual All Ontario Chiefs Conference
June 27-29, 2006
Kitchenuhmaykoosib Inninuwug

INAC ONTARIO REGION EDUCATION DEPARTMENT

RESOLUTION 06/57
Page 1 of 4

WHEREAS the First Nations Education Coordination Unit (FNECU) is mandated by the Chiefs in Assembly to provide policy guidance and advice on First Nations education issues;

WHEREAS Indian and Northern Affairs Canada (INAC) Ontario Region exerts policy and administrative control of significant First Nations education budgets, including all funding relating to the construction and operation of First Nations schools and school programs, First Nations daycares, school transportation, provincial school board tuition, extra programs and services in provincial school boards, science and technology, special education in First Nations schools and in provincial school boards, the Teacher Recruitment and Retention program, the Parental and Community Engagement program, New Paths, Post-Secondary Student Support, and the Indian Studies Support Program;

WHEREAS the Auditor General of Canada has repeatedly identified concerns with INAC's management of programs for First Nations peoples, particularly in education;

MOVED BY:

Chief Simon Fobister,
Grassy Narrows First Nation

SECONDED BY:

Kevin Mossip, Proxy
Zhiibaahaasing First Nation

CARRIED

Certified Copy of a Resolution
adopted on June 29, 2006.

Angus Toulouse,
Ontario Regional Chief



06-57

Resolution 06/57
Page 2 of 4

WHEREAS the FNECU has requested on numerous occasions that INAC share the data it collects, including funding data;

WHEREAS it has become evident that INAC has not followed approved funding formulas for First Nations;

WHEREAS funding levels in special education for First Nations have been jeopardized by INAC Ontario Region due to questionable program management, and a lack of transparency and sharing of information with First Nations;

WHEREAS First Nations funding is subject to arbitrary decisions by INAC Regional Office Education Department;

WHEREAS some arbitrary funding decisions are perceived as punitive and personal, while others are viewed as politically motivated, and the lack of transparency and accountability does nothing to dispel these perceptions;

WHEREAS the INAC Regional Office Education Department has continually engaged in relatively petty disputes, such as failing to accommodate one extra person on a proposal selection committee, despite the fact that no significant additional expense would be incurred;

WHEREAS First Nations proposals are often reported as lost or late, despite evidence to the contrary;

WHEREAS the INAC education office in Thunder Bay is marginalized by the INAC education office in Brantford, causing First Nations representatives in the Thunder Bay region to go through an additional layer of bureaucracy to get answers to inquiries or to simply access information;



06-57

WHEREAS INAC financial services officers require training to understand INAC education programs and First Nations communities;

Resolution 06/57
Page 3 of 4

WHEREAS the INAC Regional Office Education Department has repeatedly commissioned education research without working with the FNECU, and failed to share research upon completion;

WHEREAS the INAC Regional Office Education Department has repeatedly failed to supply relevant and timely information to assist First Nations organizations, including regional education authorities and tribal councils, in resolving local and regional education issues;

WHEREAS the INAC Regional Office Education Department is unaccountable to First Nations, uncooperative, and unresponsive to First Nations needs;

WHEREAS three education policy staff in the INAC Regional Office Education Department are scheduled to retire over the next three years;

THEREFORE BE IT RESOLVED that we, the Chiefs in Assembly, direct the Ontario Regional Chief and the Chiefs of Ontario (COO) Education Portfolio holder, supported by the FNECU, to meet with the INAC Regional Director General (RDG) to express the lack of confidence of the Assembly in the Ontario Regional Office Education Department;



06-57

FURTHER BE IT RESOLVED that we call upon the INAC RDG to commit to, among other matters:

- joint process to staff renewal within the INAC Regional Education Department, including joint hiring processes;
- education data sharing;
- the development of a new relationship between First Nations and INAC Region in education;

Resolution 06/57
Page 4 of 4

FURTHER BE IT RESOLVED that INAC fund and work with the FNECU to develop relevant training for INAC funding services officers;

FURTHER BE IT RESOLVED that all INAC communications generally distributed to First Nations be copied to the FNECU, through the Education Department of the COO;

FURTHER BE IT RESOLVED that the INAC Thunder Bay Regional Education Office be empowered to act in a manner which reduces bureaucracy, facilitates greater accountability to First Nations, and enhances First Nations jurisdiction and control of education;

FINALLY BE IT RESOLVED that we direct the FNECU to develop a strategy to enhance First Nations education systems development by identifying ways and means to enhance First Nations control of all regional education funds, and that the strategy be reported to the Chiefs in Assembly for approval.



06-95

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CHIEFS OF ONTARIO

Special Chiefs Assembly
November 14-16, 2006
Garden River First Nation

PROPOSED EDUCATION LEGISLATION

RESOLUTION 06/95
Page 1 of 3

WHEREAS education is an inherent and Treaty right for First Nations in Ontario;

WHEREAS the federal government has Treaty, constitutional and statutory obligations to support First Nations control of First Nations education;

WHEREAS First Nations have adopted the 1972 *Indian Control of Indian Education* and *The New Agenda: A Manifesto for First Nations Education in Ontario*, through Resolution 2005/21;

WHEREAS The Hon. Jim Prentice, Minister of Indian Affairs, has stated he intends to table First Nations Education legislation by the fall of 2007, using the BC First Nations Education Jurisdiction Framework Agreement as a model;

WHEREAS the BC First Nations Education Jurisdiction Framework Agreement consists of four Agreements:

- 1) The *Education Jurisdiction Framework Agreement* (that establishes the negotiation and implementation process);

MOVED BY:

Chief Patrick Madahbee,
Aundeck Omni Kaning First Nation

SECONDED BY:

Chief Thomas Bressette,
Chippewas of Kettle and Stony Point

CONSENSUS

Certified Copy of a Resolution
adopted on November 16, 2006.

Angus Toulouse,
Ontario Regional Chief



06-95

- 2) *British Columbia First Nation Agreement* (to recognize Participating First Nations jurisdiction to make education law);
- 3) *The Canada-First Nation Education Jurisdiction Agreement* (to recognize Participating First Nations jurisdiction over education, including the provision of education to all members and non-members, education law making powers, Community Education Authorities to manage education systems, and to establish standards in curriculum and teacher/school certification processes and other elements);
- 4) *Canada-First Nation Education Jurisdiction Funding Agreement* (which sets out the responsibilities of Canada and First Nations education program funding and reporting);

Resolution 06/95
Page 2 of 3

WHEREAS, today in Ontario, certain First Nations are involved in Self-Government negotiations respecting Education and other various education negotiations;

THEREFORE BE IT RESOLVED that we, the Chiefs in Assembly, assert and re-affirm that First Nations alone have jurisdiction over the education of our children and citizens, principles addressed in the *1972 Indian Control of Indian Education and The New Agenda: A Manifesto for First Nations Education in Ontario*;

FURTHER BE IT RESOLVED that we demand that the Government of Canada respect and recognize the existing Self-government negotiations respecting Education, and other various education negotiations among First Nations and the Federal Government;



06-95

FURTHER BE IT RESOLVED that we demand that the Government of Canada not take any steps to commence the proposed First Nations Education legislation until agreed by the Ontario Chiefs in Assembly;

Resolution 06/95
Page 3 of 3

FURTHER BE IT RESOLVED that we demand that the Government of Canada fulfill its fiduciary obligations with respect to the provision of adequate resources to ensure the full involvement of First Nations and their First Nations organizations in the planning, development and ratification of Indian Education legislation;

FINALLY BE IT RESOLVED that we direct that:

1. An analysis of the proposed First Nations education jurisdiction legislation be undertaken;
2. Education systems planning and development take place to support First Nations identification and development of a detailed regional perspective of First Nations education jurisdiction, including legislation and regional education systems;
3. The First Nations Education Coordination Unit and its member PTO education coordinators work with First Nations to take action on this Resolution and report recommendations to the Chiefs in Assembly for approval.



08-06

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CHIEFS OF ONTARIO

**Special Chiefs Assembly
February 7, 2008
Fort William First Nation Traditional Territory**

**RESOLUTION 08/06
Page 1 of 3**

INAC EDUCATION AUTHORITY RENEWALS

WHEREAS the federal Crown is obliged as a matter of constitutional and statutory law to fund quality education for all First Nations in Canada;

WHEREAS every Indian Northern Affairs Canada (INAC) education spending authority is due to sunset in March 2008;

WHEREAS there is no clear indication that INAC will work with First Nations to prepare for Authority Renewals;

WHEREAS according to Statistics Canada, in 2001, 51% of First Nations people ages 20-24 had not completed secondary school, compared to 15% for Canadians;

WHEREAS the 2% cap on First Nations funding growth, imposed in 1996-97, including the Band Operated Funding Formula, has resulted in a situation where First Nations would require an immediate 39% increase to their funding in the 2005-06 school year to have the

MOVED BY:

Chief Alexander Paul,
Temagami First Nation

SECONDED BY:

Chief Ralph Akiwenzie,
Chippewas of Nawash

CARRIED

Certified Copy of a Resolution
adopted on February 7, 2008.

Angus Toulouse,
Ontario Regional Chief



08-06

same spending power they had in 1996-97;

WHEREAS many of our First Nation schools are in desperate need of repair and operate beyond capacity;

WHEREAS there have been numerous instances of school closures due to unsafe conditions and overcrowding;

WHEREAS numerous capital projects to repair and build schools have been delayed and or cancelled for a minimum of five years as a result of the lack of capital funding at INAC Region for school construction and maintenance;

WHEREAS, according to the Supreme Court of Canada in the Haida decision: "The government's duty to consult with Aboriginal peoples and accommodate their interests is grounded in the honour of the Crown. The honour of the Crown is always at stake in its dealings with Aboriginal peoples...";

THEREFORE BE IT RESOLVED that we, the Chiefs-in-Assembly, hereby declare First Nation education within Ontario to be in a state of crisis

FURTHER BE IT RESOLVED that we demand that the renewed federal education funding authorities for First Nations must be adequate, sustainable and indexed to address inflation, population growth, and rising costs of education;

FURTHER BE IT RESOLVED that we demand that the 2% growth cap

RESOLUTION 08/06
Page 2 of 3



08-06

on federal First Nation expenditures be removed immediately;

RESOLUTION 08/06
Page 3 of 3

FURTHER BE IT RESOLVED that we demand that renewed federal education funding for First Nations must be provided for core resources to support Aboriginal Post Secondary Institutes;

FURTHER BE IT RESOLVED that we demand that INAC provide adequate funding to the AFN to complete the necessary work to prepare for Authority Renewals;

FURTHER BE IT RESOLVED that we the demand that preparation for renewed authorities include meaningful participation and involvement of First Nations;

FURTHER BE IT RESOLVED that we call on the Minister of INAC to share INAC's plans and information action on preparation for renewed, sustainable, and adequate Education Authorities;

FINALLY BE IT RESOLVED that we call on the Minister of INAC to meet with the Ontario Leadership to discuss the education crisis in Ontario and how INAC will address all related issues.



08-81

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CHIEFS OF ONTARIO

**Special Chiefs Assembly
November 18-19-20, 2008
Toronto, Ontario**

FIRST NATION EDUCATION FACILITIES CAPITAL & INFRASTRUCTURE

**RESOLUTION 08/81
Page 1 of 2**

WHEREAS the federal Crown is obliged as a matter of constitutional and statutory law to fund quality education for all First Nations in Canada;

WHEREAS many of our First Nation Schools and First Nation Post Secondary Institutes are in desperate need of repair, and operate beyond capacity, and there have been numerous instances of school closures due to unsafe conditions and overcrowding;

WHEREAS First Nation school facilities are not provided with adequate resources to offer science and technology programming;

WHEREAS numerous capital projects to build schools have been delayed and/or cancelled, including Attawapiskat First Nation, Cat Lake First Nation, Shoal Lake 40 First Nation, North Spirit Lake First Nation, Naotkamegwaning First Nation, and Wabaseemoong First Nation, and other First Nations, for a minimum of five years, as a result of the lack of capital funding at INAC Region for school construction and maintenance;

WHEREAS the Regional Investment Management Board meets annually to set priorities for capital investments within First Nations;

MOVED BY:

Chief Shining Turtle
Whitefish River First Nation

SECONDED BY:

Chief Marianna Couchie
Nipissing First Nation

CONSENSUS

**Certified Copy of a Resolution adopted
on November 19, 2008.**

Angus Toulouse,
Ontario Regional Chief



08-81

THEREFORE BE IT RESOLVED that we, the Chiefs in Assembly, hereby call on the INAC to provide immediate funding for all delayed or cancelled education capital projects;

FURTHER BE IT RESOLVED that we demand the Minister of INAC provide resources to support the delivery of quality education programs and services within First Nation communities;

FURTHER BE IT RESOLVED that we demand the Regional Investment Management Board commit to education capital needs as a priority;

FINALLY BE IT RESOLVED that we request the Minister of INAC to meet with the Ontario First Nation Leadership in Ontario to discuss the urgent issue of capital and infrastructure needs of First Nation education facilities in Ontario.

**Resolution 08/81
Page 2 of 2**



11-19

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CHIEFS OF ONTARIO

ONTARIO SPECIAL CHIEFS ASSEMBLY
April 12-13-14, 2011
Toronto, Ontario

RESOLUTION NO.11/19

SUBJECT: JOINT NATIONAL PANEL ON EDUCATION

MOVER: Chief Joseph Gilbert, Bkejwanong Territory

SECONDER: Chief Keith Knott, Curve Lake First Nation

DECISION: Consensus

WHEREAS:

1. First Nations people have inherent Aboriginal and Treaty rights to education at all levels.
2. First Nations continue to work towards First Nations control of First Nations education respecting First Nations jurisdiction over education at all stages of lifelong learning.
3. Education has been confirmed as a clear national priority by Chiefs and youth standing together at the Assembly of First Nations (AFN) Special Chiefs Assembly 2009 and through AFN Resolution 12/2010.
4. Canada has endorsed the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which articulates that "Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning." (Article 14)
5. The AFN and Canada have agreed to a Joint National Panel process to directly engage First Nations across Canada on education for the purposes of developing a report that will be submitted to the AFN and to INAC.
6. The National Panel process is proposing to engage First Nations in Ontario through varied avenues of participation, including one regional session.
7. The National Panel process provides an opportunity for First Nations in Canada to unite, and oblige Canada to negotiate with First Nations regarding full financial support and recognition of First Nation control of First Nation education.
8. The National Panel process fails to provide a clear understanding or agreement with Canada on how First Nations control of decision-making over First Nations

• Association of Iroquois and Allied Indians • First Nations of Treaty #3 • Independent First Nations • Nishawbe Aski Nation • Union of Ontario Indians •



11-19

with Canada on how First Nations control of decision-making over First Nations education will be reflected in the process beyond the submission of the final report to the Minister and the National Chief.

9. The Terms of Reference for the National Panel limits Aboriginal and Treaty rights to non-derogation language, which is a means of silencing Aboriginal and Treaty rights concerns.

THEREFORE BE IT RESOLVED that we, the Chiefs in Assembly:

1. Reject participation in the National Panel process owing to the absence of a clear understanding or agreement with Canada on how First Nations control of decision-making over First Nations education will be reflected in the process.
2. Agree that First Nations in Ontario, in the spirit of cooperation and unity among all First Nations in Canada, engage in a process parallel to that of the National Panel and develop a report to be submitted to the National Chief and the INAC Minister to coincide with the National Panel submission.
3. Mandate the First Nation Education Coordination Unit (FNECU), and including those Tribal Councils delivering second-level education services on behalf of their First Nations, to develop a strategy to develop this submission and report on progress at the next AOCC.
4. Expect that the Ontario Regional Chief, as Education Portfolio Holder and a member of the AFN National Executive, shall take the position that the parallel process in Ontario must remain his priority.

Certified Copy of a Resolution dated April 14, 2011.



Angus Toulouse, Ontario Regional Chief



