



DEVELOPING A FIRST NATION EDUCATION ACT: DISCUSSION GUIDE



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EXECUTIVE SUMMARY

Improving the quality of education in First Nations schools, thereby ensuring better educational outcomes of First Nation students living on reserve, is a shared priority of both the Government of Canada and First Nations. Governments, communities, educators, families and students all have a role to play in achieving real results.

Research shows that First Nation students lag behind non-Aboriginal students in literacy, high school completion and post-secondary graduation rates. There are First Nation examples of very successful student outcomes, but nationally fewer than half of First Nation youth graduate from high school. This compares with nearly 80 per cent for other Canadians.

A proposed First Nation Education Act would provide a framework for achieving better outcomes for students through reform by: creating standards and structures; strengthening governance and accountability; and providing mechanisms for stable, predictable and sustainable funding.

Legislation typically governs the quality of education. A proposed First Nation Education Act could aid the development of strong and accountable First Nation education systems by establishing mandatory standards for all First Nation schools. These would include:

- attendance and structure requirements similar to provincial requirements;
- a recognized high school diploma;
- education support services that lead to better student outcomes; and
- school success plans and reporting to the community.

The proposed approach would permit the same degree of local flexibility that currently exists throughout provincial systems. First Nations would be able to develop and tailor curriculum materials – in support of better student outcomes, including improved graduation rates.

The proposed First Nation Education Act would also support options for educational governance structures including:

- where a school exists, the school be operated as an independent school on reserve (community-operated school) while delivering all required services;
- the authority to operate a First Nation school could be delegated to a First Nation Education Authority; and
- the First Nation could enter into an agreement with a provincial school board either to operate the First Nation school on reserve, or students who live on reserve could attend off-reserve schools operated by the provincial school board.

It should be noted that the new legislation would not apply to self-governing First Nations that have adopted laws related to education.

To support legislative requirements, the Government of Canada is proposing two key principles for funding: stable and predictable funding, and encouraging the development of education systems.

Accountability requirements for First Nations education authorities and community-operated schools would be established in regulations to allow First Nations and the Government to monitor school performance and to ensure that investments in education support stronger educational outcomes for First Nation students. Compliance with these requirements and the educational standards in the Act would be monitored through regular reporting and annual inspections.

CONSULTATION PROCESS

The Government of Canada is interested in hearing from you.

Your views will contribute towards the development of draft legislation for First Nation education. Aboriginal Affairs and Northern Development Canada will conduct intensive consultation activities based on this discussion guide.

Please visit the Aboriginal Affairs and Northern Development Canada website (www.aandc.gc.ca) regularly for further details on consultation activities, and to find other key documents on First Nation education.

INTRODUCTION

Education is critical in the 21st century. Improving the quality of education in First Nation schools, and the educational outcomes of First Nation students living on reserve is a priority shared by both the Government of Canada and First Nations. We all recognize that having access to a quality education is fundamental to success, and is a key element to help students share in the same opportunities available to all Canadians.

Gaps between the educational achievement of First Nation students and that of the population as a whole are large and persistent. Only 35 per cent of students living on reserve completed high school in 2010-2011, less than half the completion rate of other Canadians, which all stakeholders agree is unsatisfactory considering the \$1.7 billion invested annually in education programs including \$200 million in school infrastructure.

The Office of the Auditor General in its 2011 report (Chapter 4: Programs for First Nations on Reserves) cited four structural impediments to progress in improving the efficiency and effectiveness of services, including education:

- 1) lack of clarity about service levels;
- 2) lack of a legislative base;
- 3) lack of an appropriate funding mechanism; and
- 4) lack of organizations to support local service delivery.

“What we have now is a patchwork of policies and agreements that do not provide an adequate foundation to support comprehensive improvement or meet the accountability requirements of ensuring that all partners in the education of First Nation students do better.”

- National Panel, 2011

The Senate Standing Committee on Aboriginal Peoples' 2011 report, *Reforming First Nations Education: From Crisis to Hope*, had also identified many of the same challenges noted by the Office of the Auditor General. The Senate Standing Committee suggested that poor First Nation student outcomes can, in large part, be attributed to a lack of a comprehensive system with a formal structure, such as it exists in each province. The Committee also noted that the current approach to funding First Nation education “inhibits effective accountability mechanisms and is inadequate for achieving improved outcomes or specific levels of service.”

The National Panel on Elementary and Secondary Education on Reserve, created by the Government of Canada and the Assembly of First Nations, reinforced this assessment. It concluded the current “non-system” in education has failed First Nation students. “First Nation education currently suffers

from the lack of a ‘system’ that provides essential education supports and services to First Nation schools,” the Panel said in its final report in February 2012.

To remedy gaps in First Nation education a variety of ad hoc supports have emerged, including Memoranda of Understanding among First Nations, education organizations, provinces and school boards to provide services and resources. But real progress towards achieving better academic outcomes for First Nation students needs a legislative base on which to build strong, accountable systems that address the barriers to improvement.

In 2008 the Government of Canada started taking concrete steps to improve the education experience and graduation rates of First Nation students. This involved the launch of the First Nation Student Success Program (FNSSP) and the Education Partnerships Program (EPP) aimed at strengthening accountability and creating better linkages with provincial systems through tripartite education partnerships.

FNSSP was launched in 2008. Over 92 per cent of First Nation students in band-operated schools now benefit from the program.

The EPP is equally successful. There are now eight tripartite education partnerships in place across Canada. Six tripartite education Memorandums of Understanding (MOUs) have been signed since 2008 – New Brunswick (2008), Manitoba (2009), Alberta (2010), Prince Edward Island (2010), a sub-regional agreement with the Saskatoon Tribal Council (2010), and Quebec (2012) – in addition to pre-existing tripartite partnerships in British Columbia (1999) and Nova Scotia (1997).

A Tripartite Education Framework Agreement was also signed on January 27, 2012 between Canada, British Columbia and the First Nations Education Steering Committee, on behalf of B.C. First Nations. The Agreement defines and formalizes the roles and responsibilities, structures and supports that need to be in place to ensure that First Nation students in B.C. have the same educational opportunities regardless of whether the classroom is located on or off reserve.

The Government of Canada is committed to ensuring that First Nation students enjoy the same educational opportunities as all other Canadians. First Nation students deserve an education system that encourages them to stay in school and graduate so that they have the skills they need to realize their aspirations and participate in a strong Canadian economy. One of the greatest barriers to improving outcomes in First Nation schools is the lack of a full range of supports, including legislation, available to non-reserve schools. Sustainable, high quality and accountable First Nation education systems cannot be achieved without these supports.

Tripartite Education Partnership Agreements promote collaborative work between First Nations, provinces and Aboriginal Affairs and Northern Development Canada on initiatives to improve First Nation student outcomes.

Economic Action Plan 2012 committed to: “introduce a First Nation Education Act and work with willing partners to establish the structures and standards needed to support strong and accountable education systems on reserve.”

“A fundamental part of an education system [is] comprehensive legislation that establishes and protects the rights of the child to a quality education, ensures predictable and sufficient funding, provides the framework for the implementation of education support structures and services, and sets out the roles, responsibilities and accountabilities of all partners in the system.”

- National Panel, 2012

A proposed First Nation Education Act would provide a framework for achieving better results through reform by:

- clarifying roles and responsibilities;
- strengthening governance and accountability; and
- addressing the need for stable and predictable funding.

Legislation typically provides for systems, monitoring and measurement that ensure quality education. Further, proposed legislation could help to strengthen partnership arrangements, which are proving critical to the success of First Nation students. This guide lays out what could be covered in proposed legislation and regulations.

“A legislative base for programs specifies respective roles and responsibilities, eligibility, and other program elements. It constitutes an unambiguous commitment by government to deliver those services. The result is that accountability and funding are better defined.”

- Office of the Auditor General, 2011

GOALS OF FIRST NATION EDUCATION LEGISLATION

The goals for legislation are:

- **Better student outcomes** for students at all grade levels, which leads to all students having the skills and knowledge to reach their full potential, making positive contributions to their communities, and participating in a strong Canadian economy.
- **Continuous learning** to facilitate the transition of students between First Nation and provincial schools at similar levels of achievement and to ensure that First Nation high school graduates can compete in the job market, or continue their studies in colleges or universities.
- **Professional and accountable** First Nation education systems, staffed with certified teachers and education administrators who plan, monitor and report on educational goals, school finances and student outcomes.
- **Standards and services that support students and teachers:**
 - o standards, graduation, assessment, teacher certification, health and safety, and daily operations; and,
 - o school support services related to school management (human resources, finance, etc.), accountability, instructional supports, curriculum development / adaptation, access to educational specialists, and facility maintenance.
- **Flexibility for communities:** The legislation would create a framework for improved school governance while being flexible enough to allow communities to adapt delivery to meet their unique needs, including adapting provincial curriculum.



These goals would be reflected throughout the legislation.

A proposed First Nation Education Act would create a strong and accountable First Nation education system by establishing a limited number of mandatory universal standards for all First Nation schools.

The proposed Act would require that services to students and to schools typical in provincial systems be available in First Nation education systems. Standards for teachers, curriculum, graduation, assessments, safety and daily operations would need to be consistent with those of the provinces.

This would permit the same degree of local flexibility that currently exists throughout provincial systems. First Nations would be able to develop and tailor curriculum materials; they would determine a course of instruction and programming that addresses local needs -- all in support of better student achievement.

LEGISLATIVE PROPOSAL

This section describes the basic elements of the legislative proposal.

STANDARDS

The proposed Act would contain standards with which all First Nation schools would be required to comply. These minimum standards would ensure that students on reserve have access to an education of equivalent quality to that of students in other parts of Canada. These standards would be broad enough to give communities the flexibility to choose how to deliver an education program that reflects their unique needs or situation.

ACCESS TO EDUCATION

A proposed First Nation Education Act would require that all First Nation students have access to elementary and secondary education. The proposed Act could support education from junior kindergarten (age four) until the completion of a high school diploma. In most provinces and territories, students complete their diploma by age 17 or 18.

The proposed Act would require that all children between the ages of six and 16 are registered for school and attend school on a regular basis. Regular school attendance helps students achieve education success. First Nation schools and education authorities would be able to set their own registration and attendance policies to meet local needs.

Although off-reserve residents will not be eligible for funding under the Act, a First Nation with a community school or First Nation education authority could enter into a tuition agreement with a province or territory to pay the student's tuition or to charge the student's family a tuition fee.

A RECOGNIZED HIGH SCHOOL DIPLOMA

High school diplomas open the door to employment, college and university. Individuals who have earned their high school diploma earn higher incomes, and have improved health and quality of life. For First Nations to have access to the same opportunities as other Canadian students, universities, colleges and employers need to have confidence in what the diploma represents. In Canadian provincial and territorial systems, high school diplomas are awarded to students that have passed a minimum number of courses in certain subject areas, and in some cases have passed a final test.

The proposed First Nation Education Act would provide First Nation schools and education authorities with diploma options that are available to all other Canadian students. These options would include:

- entering into agreements with provincial ministries of education to offer provincial high school diplomas; and
- offering an international baccalaureate diploma through the International Baccalaureate Organization.



EDUCATION SUPPORT SERVICES

The proposed First Nation Education Act would enact standards to ensure that the right education support services are in place in First Nation schools and that those services better support student outcomes. Educational support services could include:

- professional development, recruitment and retention of teachers, principals and other education staff;
- curriculum and graduation requirements;
- student assessment and reporting;
- safety and discipline (such as codes of conduct and policies on suspension and expulsion);
- daily operations (attendance, hours of instruction, school calendar, class size, transportation);
- teaching and pedagogical supports (planning, curriculum development, supports for special education such as speech pathologists, psychologists, occupational therapists, etc.);
- school and classroom materials and equipment (desks, textbooks, computers, sports equipment); and
- compliance and enforcement (school assessment / evaluation, direction and advice); and,
- corporate services (finance and accounting, human resources, information technology/ information management).

Having the right standards and support services in place has been shown to correlate with better student outcomes, and could improve transitions between First Nation and provincial schools.

PLANNING FOR SUCCESS

Many communities already take part in some form of school success planning under the First Nation Student Success Program — more than 92 per cent of band-operated schools participate in the program.

All on-reserve First Nation schools would be required to develop a plan that demonstrates how education support services are being provided and what steps are being taken to improve student outcomes. Plans would also indicate where schools or education authorities need to build capacity, including developing policies, establishing procedures, systems or entering into partnership arrangements to ensure that students benefit from education support services.

Plans would also need to take into account student transitions. First Nation schools that offer grade 12 would need to plan to support students to make the transition to post-secondary education or the workplace. In many communities, First Nation schools only offer a school program up to a certain grade, at which point students transfer to a nearby provincial school. As a result there would be a need for close cooperation between First Nations and provincial schools to ensure that students do not fall behind when moving to a provincial school.

Through the Education Partnerships Program, many First Nation schools and education organizations are already building partnerships with provincial school boards to improve services and benefit students in both the First Nation and Provincial education systems.

School Success planning is a concrete way for parents to see and understand what their child's school is doing to ensure their child receives the highest quality education possible and to see where improvements are being made.

FIRST NATION GOVERNANCE SYSTEMS

The Government of Canada recognizes that First Nations value education as a means for individuals to achieve personal and career goals, as a means to strengthen language and culture, and a way to build a sense of community. Communities should decide how to deliver appropriate curriculum that addresses these aspirations and gives students the skills and knowledge they need to be successful.

SYSTEMS AND GOVERNANCE

First Nations operating schools could be required to choose how they deliver education to all students who are ordinarily resident on reserve. Possible modes of delivery include:

- Where a school already exists, the school or schools could be operated as independent schools on reserve (community-operated school) while delivering all required services;
- The authority to operate a First Nation school could be delegated to a First Nation Education Authority;
- The First Nation could enter into an agreement with a provincial school board to:
 - o delegate the authority to the provincial school board to operate the First Nation school on-reserve; or
 - o students who live on reserve could attend off-reserve schools operated by the provincial school board.

It should be noted that the new legislation would not apply to self-governing First Nations that have adopted laws related to education.

PROVINCIAL SCHOOL BOARD AGREEMENTS

Communities that choose to enter into an agreement with provincial school boards for the delivery of education would be provided with reports on student progress from the Board. The day-to-day operations of First Nation schools operating on reserve, when administered by a provincial school board, would be governed by provincial education law and policy.

FIRST NATION EDUCATION AUTHORITIES

First Nations could choose to enter into First Nation education authority agreements which could offer the most cost effective and practical way to deliver a full range of services that support stronger student outcomes. Services could include corporate services (e.g. finance and accounting, human resources, information technology), and teaching and pedagogical supports (e.g. planning, curriculum development, supports for special education). A First Nation education authority could develop out of an existing organization, such as eligible regional education organizations, or could be created as an entirely new organization. First Nation education authorities would have to demonstrate to the Minister of Aboriginal Affairs and Northern Development that the proposed education authority has the size and capacity to meet a number of criteria outlined in regulations, which could include:

- a formal written agreement, including roles and responsibilities of all parties and a dispute resolution mechanism;
- incorporation under provincial or federal law; and
- a plan demonstrating how education support services would be provided, including any relevant service agreements.

The Minister would have the discretion to recognize qualifying education authorities in a schedule to the proposed Act, allowing the Government of Canada to enter into a single funding agreement for the delivery of education and support services to all schools managed by the education authority.

The education authority would have representatives that are accountable to the communities they serve. A school/community committee would also be established for each member First Nation in the education authority to assist with community consultation, information-sharing and reporting. The education authority would become responsible for monitoring and reporting to Chiefs and Councils, community members, parents, and the federal government.

COMMUNITY-OPERATED SCHOOLS

Some existing band-operated schools may continue to operate as a community-operated school. They would need to have policies and procedures in place to meet the legislative requirements in the proposed Act. They would enter into a funding agreement for classroom instruction and education support services.

They could either deliver education support services directly, or through an agreement with a First Nation organization (such as a tribal council or a regional education organization) or other local service providers (such as provincial school boards).

Community-operated schools would be required to develop their own school success plan and be responsible for reporting on that plan to the community and the federal government.

Although a community-operated school is an option, many smaller or more remote schools, as well as schools that are struggling, will find that operating under an education authority provides better support and more comprehensive access to services that are necessary to meet the requirements of legislation.

CURRICULUM

A proposed First Nation Education Act could require First Nation schools to teach curriculum that is equivalent to what is taught in provincial schools. Detailed curriculum is not usually included in legislation or regulations, but in policy documents. Curriculum related documents outline:

- the subjects or courses that students must study in order to move on to the next grade level or to graduate; and
- the expectations of what a student should be able to do in each subject, at each grade level.

Generally, provincial curriculum allows principals and teachers flexibility over what is taught in the classroom. Teachers in First Nation schools would have the same flexibility to work within guidelines.

Many First Nations and First Nation organizations have done work to develop curriculum that is culturally appropriate for First Nation communities, including curriculum for learning First Nation languages and culture. Provincial education systems have mechanisms to allow for local curriculum modification and development. In many cases, First Nations and provinces are working together to develop innovative curricula to suit First Nation needs.

FUNDING

The legislative proposal is designed to ensure that all on-reserve First Nation schools and students benefit from a standard level of services. These services may be best delivered largely by First Nation education authorities or by provincial school boards.

To support legislative requirements, the Government of Canada is proposing two key principles for funding:



Stable and Predictable Funding – A predictable level of funding is critical to the provision of education services and effective planning. Work will explore mechanisms to ensure stable, predictable and sustainable funding for First Nations elementary and secondary education. The proposed legislation would include language that describes the federal responsibility for funding First Nation education systems under a proposed Act.

A move to a legislative basis for First Nation education funding would mean that First Nation education systems will be able to count on stable and predictable funding that facilitates long-term planning.

Encouraging the Development of Education Systems – Schools and principals in provincial systems benefit from the management, support and direction provided by school boards; the Government of Canada would therefore encourage First Nations to operate under aggregated First Nation education authorities. These authorities would be in a stronger position to meet the requirements of the proposed Act and support stronger educational outcomes because of their size and capacity. While remaining directly accountable to First Nation communities, these First Nation education authorities would become responsible for managing education resources and for the delivery of education across a number of First Nation communities.

Under this model, First Nation education authorities would manage financial resources, resulting in greater economies of scale. They would also be able to establish the financial flexibility to manage operations (e.g. staffing) and to establish programs and services (e.g. First Nation language and

cultural programming, curriculum adaptation, professional training, classroom teaching materials, etc.) that are responsive to community priorities.

First Nations could continue delivering education in a band-operated school by running it as a community-operated school. These schools would be supported as necessary for their operation. First Nations under this model could still choose to pool resources with other bands and work together to jointly purchase or deliver education services. As community-operated schools, they would not be eligible for funding for administration and activities associated with the management of an aggregated First Nation education authority. It is expected that many First Nations would find that the scale and flexibility of education authorities are necessary to provide the efficient and effective delivery of education services.

ACCOUNTABILITY

All First Nations and First Nation education authorities receiving funding for education from the Government of Canada would be required to comply with mandatory provisions of the proposed Act and ensure that funding provided for education is used on education. The development of First Nation education authorities would improve accountability for funding and educational outcomes. Emphasizing accountability and clearly defining roles and responsibilities in First Nation education systems within proposed legislation would mean that school authorities would be directly accountable to students, parents, and First Nation communities for the services they provide and for outcomes achieved. In return, the Government of Canada would provide stable and predictable funding.

Regulations would establish reporting requirements for education authorities and community-operated schools that support strong accountable education systems. Regulations would allow First Nations and the Government of Canada to monitor school performance and ensure that investments in education support stronger educational outcomes for First Nation students. School success plans could serve as the basis of the inspection and annual reporting to the community and the federal government on education, governance and financial outcomes.

In provincial education systems, superintendents or supervisory officers play a key role in ensuring that schools provide an education that meets curriculum and program expectations. Superintendents are responsible for inspections and providing direction and advice to principals.

Annual school inspections ensure that students are being provided with a quality education that leads to graduation. Issues with the educational programs and services being delivered would be identified and addressed routinely.

First Nations or First Nation education authorities would be required to hire or engage (from a list of qualified people maintained by the department) with a superintendent to conduct an annual inspection of schools to ensure compliance with the requirements of the proposed Act and regulations.

These superintendents would have the qualifications, experience, and training required by their respective provinces. The inspection would focus on ensuring that appropriate policies and procedures are in place to support student outcomes and meet the requirements of the proposed Act.

PROVIDE US WITH YOUR FEEDBACK

The Government of Canada will continue to work with First Nation partners across Canada to deliver tangible and lasting results and ensure that First Nations are well positioned to be full participants in a strong Canadian economy.

Aboriginal Affairs and Northern Development Canada will conduct intensive consultation activities based on what you have just read. We will also provide further background information.

Please visit the Aboriginal Affairs and Northern Development Canada website (www.aandc.gc.ca) regularly for details on consultation activities and to provide feedback on the proposed legislative approach, or write to:

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