



DEVELOPING A FIRST NATION EDUCATION ACT



A Blueprint for
Legislation
July 2013

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[Élaborer une loi sur l'éducation des Premières Nations](#)

INTRODUCTION

In 2013, Canada commemorates the 250th anniversary of the Royal Proclamation of 1763, a foundational document in the relationship between First Nations people and the Crown. The spirit of the Royal Proclamation endures. In 2012, the Crown-First Nations Gathering marked the beginning of a historic renewal of the relationship between the Government of Canada and the First Nations of this country and set out, among others, a commitment to take action on education. 2013 also marks the five-year anniversary of the Statement of Apology to former students of Indian Residential Schools.

At this important juncture in our shared history as Canadians, we can all learn from the past and act for the future. It is a moment to look carefully, together, at how a new approach to First Nation education can help close the gaps between First Nation students and other students. It is only by improving the quality of their education that First Nation youth will be enabled to achieve their full potential.

As early as 1972, in a paper on *Indian Control of Indian Education*, First Nations sought greater control over First Nation education, more parental involvement in decision making about their children's education, and better support for the promotion of First Nation languages and culture. Chiefs, for example, pointed out that it was First Nations that initiated the work on education reform and that First Nations have been steadfast in their efforts to improve education outcomes, taking on leadership roles and working with other organizations and/or provinces to improve education on reserves. This call for action has been heard over and over again from a broad range of First Nation leadership, parents, students, teachers and education experts as a way to address poverty and increase participation in the workforce. The call for legislation has also been repeated in years of studies, audits and reports, including the [June 2011 Status Report of the Auditor General of Canada](#), the Senate Committee on Aboriginal Peoples 2011 report entitled [Reforming First Nations Education: From Crisis to Hope](#), and the 2012 [Report of the National Panel on First Nation Elementary and Secondary Education for Students on Reserve, Nurturing the Learning Spirit of First Nation Students](#).

Education is key to unlocking potential for both individuals and societies. As the youngest and fastest growing demographic group in the country, Aboriginal youth are well positioned to capitalize on their potential. Many stakeholders agree that it is imperative at this time to create strong education systems and structures that will both meet the needs of First Nation communities and empower students to participate in a strong and successful Canada.

Given the consensus on the need to take action on First Nation education, the drafting of legislation is now starting. Consideration is also being given as to how First Nations would transition from what is largely a non-system to a new approach. The Government of Canada is committed to listening to First Nations and stakeholders and wants to hear directly as to what should and should not be contained within legislation, since First Nations themselves are best placed to decide what a First Nation education system should look like. Canada takes its responsibility seriously and will ensure that standards, services, accountability and governance measures are in place for First Nations and First Nation students. The proposed legislation will also allow Canada to better discharge and implement its treaty obligations.

This paper sets out the Government of Canada's proposed approach to a First Nation Education Act, announced in Budget 2012 and reaffirmed in Budget 2013. It is directly informed by the work of the 2012 National Panel on First Nation Elementary and Secondary Education, as well as consultations undertaken over the last number of months. This blueprint is not intended to be taken as comprehensive in nature, exclusive of other potential drafting subjects, nor as representative of a final Act; rather, it is a reflection of how to incorporate many points of view into proposed legislation. The Government of Canada remains committed to sharing the proposed legislation with every First Nation community across the country and with provincial governments for further input prior to introducing in Parliament in the fall of 2013.

A preamble section in legislation is a list of principles or assumptions meant to guide the interpretation of legislation.

What We Heard

First Nations expressed concerns about how the proposed Act would affect their treaty rights.

What We Propose

The preamble will clarify that proposed legislation would recognize historic treaties and current modern land claims and self-government agreements.

What We Heard

First Nations shared views on community needs and that First Nations are best placed to determine how to achieve the best results for their communities.

• Preamble to the Bill

Intent

The Bill's preamble would state the intent of the legislation: to move forward in the spirit of reconciliation to create a legislative framework within which First Nations could exercise First Nations control over First Nations education. The preamble would include the role of education reform in reconciliation.

• Addressing Aboriginal Rights Within a First Nation Education Act

A First Nation Education Act will recognize treaty rights. The proposed legislation is meant to allow Canada to better discharge and implement its treaty obligations. It will also support the vision of First Nations control of First Nations education.

Section on Interpretation

For the purpose of interpreting and implementing the Act, greater clarity on key terms such as students, schools, First Nation education authorities, standards and other terms would be defined.

• Section on Education Standards

Legislation would set minimum standards and establish a framework for First Nations and First Nation education authorities. These minimum standards would help ensure that students receive a quality education that allows them to move between First Nation and provincial schools and school systems without academic penalty. Within legislation, a framework would be established for First Nations and First Nation education authorities to set standards that respond to their community needs and meet or exceed minimum criteria.

What We Heard

Many participants in the consultation process clearly stated the importance of First Nations control over First Nations education.

What We Propose

The proposed legislation is meant to create an overarching framework to enable First Nations to design and implement their own education systems, while meeting or exceeding minimum standards.

What We Propose

Standards that reflect these points of view are the building blocks on which education systems rely. Minimum standards are essential to the goals of the proposed Act but First Nations or First Nation education authorities would be enabled to develop how these standards are met, and even surpassed.

What We Heard

Barriers to post-secondary education and to accessing the labour market faced by First Nation students were often raised.

What We Propose

Under the proposed Act, First Nations would be able to develop programs, curricula and courses of instruction that lead to recognized high school diplomas. Many First Nations currently work with provinces to issue provincial high school diplomas. There is no intention to supersede such arrangements with the proposed legislation.

What We Heard

We heard from First Nations that they are best placed to develop the curricula and learning tools.

What We Propose

The proposed Act would recognize that First Nations can develop or tailor programs and curricula, in order to meet the needs of students in their communities and enable them to transition from high school to post-secondary education and/or the workplace subject to minimum standards.

Section on Education Standards (cont'd)

Minimum Standards would include:

• Access to Education

Legislation would clarify that all children living in First Nation communities would have access to elementary and secondary education. This access could be provided by a community-operated school, First Nation education authority or through an agreement with a provincial school board.

• A Recognized High School Diploma

To ensure that First Nation students have access to post-secondary education opportunities and the job market, First Nation schools could offer high school diplomas issued or recognized by a Canadian province or territory, or an International Baccalaureate certified by the International Baccalaureate Organization.

• Standards for Education Support Services

Supports to students and to schools that are necessary to facilitate classroom learning would also be enabled by standards, laid out in regulations. These support services would include special education, school safety, and the hiring and firing of teachers and educational staff.

What We Heard

First Nations spoke about empowering First Nation parents and giving them the tools to participate in their children's education and education system.

What We Propose

The proposed Act would outline that elementary and secondary education would be free to eligible students but would not prevent schools from charging modest fees for extracurricular or other programs (as is common in other jurisdictions).

What We Propose

The proposed Act would note that parents or legal guardians are responsible for ensuring that students are registered in school and for regular student attendance. First Nation schools would develop their own policies to support student registration and promote regular attendance.

What We Heard

Transitioning between schools can present many challenges for First Nation students.

What We Propose

Mandatory school success plans would require that schools include activities to help students transition to the next grade at a new school or following graduation.

What We Heard

We heard about the importance of First Nations control over First Nations education, and the need to reflect that First Nations themselves are best placed to plan and deliver education that best meets the needs of their communities.

What We Propose

The proposed legislation would provide that educational results be compared to the objectives set out in school success plans in an annual report to community members, Chief and Council, and responsible education authorities.

Section on Education Standards (cont'd)

• School Success Planning

Legislation would set standards for the development of school success plans for each First Nation school, as well as annual reports based on these plans. Plans would set priorities and identify resources available to support educational outcomes, as well as establish plans to transition students between schools, school systems, or post-secondary education and the workforce.

Section on Education Services

Regulations would set 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.);*

What We Heard

We also heard about the importance of access to a range of student support services (such as special education) and the need to streamline services.

What We Propose

Certain services are essential to the goals of the proposed Act and must be mandatory, but First Nations or First Nation education authorities should be empowered with the ability to develop how services are delivered in a culturally relevant manner.

What We Propose

The proposed legislation would enable First Nations to establish a range of student support services and to deliver them in a way that best meets the needs of their First Nation students.

What We Propose

Services could include culturally relevant curricula and teaching, teaching and pedagogical supports, student assessment and reporting, as well as services to schools such as professional development, safe schools policies, human resources, information technology and compliance and enforcement.

What We Heard

Some First Nations spoke about successful education governance practices already taking place in their communities.

Give Us Your Ideas

The Government is interested in hearing First Nation solutions that could be considered for managing their own education.

Section on Education Services (cont'd)

- *school and classroom materials and equipment (desks, textbooks, computers, sports equipment);*
- *compliance and enforcement (school assessment/evaluation, direction and advice); and*
- *corporate support services (finance and accounting, human resources, information technology - information management).*

Section on Governance, Accountability and First Nation Control

A First Nation Education Act would provide governance options to First Nations for the operation of schools.

Legislation would outline the structural options for First Nations to operate schools directly; or establish and delegate their authority to operate schools to a First Nation education authority that would operate multiple schools on behalf of more than one First Nation; or enter into agreements with provincial school boards to operate on-reserve schools.

Legislation would define how First Nation education authorities become legally recognized for the provision of First Nation education and clarify how First Nations would develop plans for community involvement in governance choices.

What We Heard

First Nations have sought assurances that an education system would not be controlled by federal or provincial governments. First Nations have also raised questions on how legislation would impact existing education Memoranda of Understanding or existing educational structures or processes.

What We Propose

The proposed legislation would make it clear that First Nation education authorities would not be run by the federal government and legislation would not result in the premature end of existing education Memoranda of Understanding or existing educational structures or processes already in place. We have drawn on these examples to inform our approach.

What We Heard

Many respondents were concerned that any legislative drafting would ensure First Nations control over First Nations education. The need for capacity support to transition to new legislation was also underscored. There was a wide range of views that indicated the continued need to share information and continue the commitment to consultation.

What We Heard

First Nations have stated repeatedly that they should have responsibility and accountability for education.

What We Propose

The proposed Act would place this accountability in the hands of First Nations. A key consideration noted would be how to transition from the current to the new system. An Act might need to set out timelines for establishing the new structures.

What We Heard

The Government consistently heard how important language and culture is to student success, including specific requests for curricula to reflect First Nation language and culture. It is clear that language and culture can be fully integrated into student learning environments and are a key part of moving forward.

What We Propose

The legislation would speak to the fact that First Nations would design approaches to education as long as minimum standards are met.

Section on Governance, Accountability and First Nation Control (cont'd)

Wording would also establish the roles and responsibilities of education directors, principals, teachers and parent-community committees and list necessary support services including special education.

• **Accountability**

Legislation would define roles and responsibilities for reporting on education outcomes and financial accountability for First Nation schools or First Nation education authorities and the Government of Canada.

First Nations and First Nation education authorities would be required to undergo inspections and First Nations or First Nation education authorities would choose a trained and qualified inspector to review and report to communities on school activities and outcomes, including measures to ensure that schools meet the requirements of the Act.

Section on Funding •

Legislation would contain a section which relates to the funding of First Nation education and refer to a mechanism implemented through regulation or policy.

What We Heard

We heard from First Nations that funding is a major factor for improving educational outcomes for First Nation students and that any new requirements and standards introduced in a First Nation Education Act should be sufficiently funded. The point was also made that current inadequacies in the system are, at least in part, due to a lack of funding. Questions were raised on the adequacy of funding for language and cultural education in the proposed Act. We heard that funding should be comparable to other school systems. There was also a call for measures to ensure that funding allocated for education would be spent on education. Further comments were received on the funding relationship between the federal government and First Nations and the need for support throughout the transition to the new approach to be outlined in the legislation.

CONCLUSION

Overall, we heard feedback that recognizes that a quality education system with appropriate standards, structures and governance is a key requirement for improving education outcomes for First Nation students on reserves. We believe education is more important than ever for helping ensure First Nations can take advantage of the economic opportunities this country has to offer.

While education systems alone are not sufficient to improve outcomes for First Nation students, they are necessary to build the foundation for these results. Much hard work is already being undertaken in First Nation communities to address education needs. The proposed legislation would build on these successes and ensure that these organizations have the protection and stability of the law behind them.

We also heard that First Nations want us to recognize the successful initiatives already underway in many First Nation communities across the country. We heard the message that legislation should build upon the many examples of new approaches undertaken by First Nations. Examples include the positive work undertaken by Waywayseecappo First Nation in Manitoba, Whitecap Dakota First Nation in Saskatchewan, the Chippewas of Georgina Island in Ontario, the Chief Harold Sappier Memorial Elementary School of St. Mary's First Nation in New Brunswick, Curve Lake First Nation School in Ontario, and the First Nation Education Steering Committee in British Columbia, among many others, all of whom are already achieving successes and assuming a leadership role.

We also heard both through consultations, and through other fora, that targeted programs, such as the [First Nation Student Success Program](#) and the [Education Partnerships Program](#), have resulted in positive outcomes in many First Nation communities across the country. There is a shared view that these programs have produced positive outcomes on which to build.

The Government of Canada will continue an open dialogue on First Nation education. Aboriginal Affairs and Northern Development Canada officials continue to be available to address any questions or comments on the process and the legislative approach, including through video or teleconferencing opportunities that can be arranged upon request (contact: consultation-education@aadnc-aandc.gc.ca). In addition, comments can still be made via the departmental website or through correspondence. Updates from the Government of Canada will also be provided online. A draft Bill will be shared with all First Nation communities and provincial governments prior to introducing in Parliament.

Comments received in the coming months will further help to improve proposed First Nation education legislation that will be introduced in Parliament. Once introduced, the Parliamentary process will offer First Nations, other stakeholders and citizens additional opportunities to provide further input.

The Government of Canada wants to hear from you. We invite you to share your comments on this Blueprint for Legislation by submitting comments online through Aboriginal Affairs and Northern Development Canada's [website](#), in writing at the address listed below or by contacting the Department to arrange for video or teleconferencing sessions.

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