

The Case for First Nation Education Authorities

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Aboriginals had occupied what is now Canadian territory many millennia prior to European contact. While their pre-contact life was far from idyllic, post-contact Aboriginal history has been marked by traumatic social crises. By late-19th century, Canada's Aboriginal population had been everywhere pushed to the margins, geographically and socially. Over the last half-century, Canadian governments have undertaken to redress past policies of discrimination. There has been progress: the life-expectancy gap with non-Aboriginals has narrowed; Aboriginal education levels have risen; more Aboriginals successfully participate in mainstream urban society; First Nation institutions exercise greater autonomy. But Aboriginal poverty continues to overlie any discussion of Aboriginal policy.

One of the most important means to alleviate poverty and marginalization is via improved education outcomes. Other factors – including discrimination in the case of Aboriginals – matter, but in an industrial society, no community can prosper until the overwhelming majority achieve reasonable rungs on the education ladder, starting with high school certification. A high school diploma is a low rung. For a majority in any community to achieve what Canadians consider “middle class incomes”, most must achieve higher rungs.

We are primarily concerned in this paper with education outcomes among students attending the approximately 500 on-reserve schools across Canada.¹ On-reserve, funding and formal responsibility for education lie with the Department of Aboriginal Affairs; in practice, the management of on-reserve schools lies with individual First Nations. Off-reserve, responsibility for education of all children – First Nation, Métis, Inuit, and non-Aboriginal – lies with the relevant province.

It is impossible to segregate the two systems however, because there is high mobility of First Nation children between the two. At any point of time, approximately 60 percent of children living on-reserve are attending an on-reserve school, 40 percent a provincial school off-reserve.

A child growing up on a reserve will have to decide: shall I live on-reserve or “go to town” and adapt to life in mainstream Canada? Both should be viable options. To be viable, reserve schools have two fundamental tasks – to teach indigenous languages and cultures, and the core competencies of reading, writing, science and mathematics

¹ For more detail on the characteristics of on-reserve schools see Richards and Scott (2009).

necessary for success in the mainstream economy. Virtually all academic analyses of “best practices” for education of indigenous children in North America have affirmed this double goal of transmitting indigenous cultural traditions as well as core academic subjects.²

With honourable exceptions, on-reserve schools are failing at both of these tasks. That is the first message to take from the recent report of the panel on K-12 on-reserve education (AFN-AANDC 2012). This panel was a joint venture of the Assembly of First Nations and the Ministry of Aboriginal Affairs and Northern Development. In the diplomatic language of the panel’s report, “The education attainment among First Nation students is not sufficiently strong ... to allow them to reach their potential.”

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“Not sufficiently strong” is an understatement. According to the latest available census data (in 2006), there has been progress on a national scale for those ages 35-44 relative to those ages 45 and older in terms of high school completion.³ (See figure 1.) This is true of those who identify as First Nation living either on- or off-reserve, of Métis, and of non-Aboriginals. For those ages 25-34 relative to those ages 35-44 there has been modest further progress among Métis and non-Aboriginals. However, among those identifying as First Nation ages 25-34, there is no census evidence of further progress; education progress in terms of high school completion has stalled.

The story is similar if we look at education levels in terms of post-secondary qualifications. (See figure 2.) There has been progress on a national scale among all four groups for those ages 35-44 relative to those ages 45 and older. However, among Aboriginals – in particular among those identifying as First Nation – there has been no further progress for those ages 25-34. In fact, there is evidence of regress.

The youngest cohort for which it is reasonable to expect high school completion is the cohort ages 20-24. The census results for young First Nation adults are not optimistic: 60 percent living on-reserve were without a high school certificate at the time of the 2006 census; even among those living off-reserve over 35 percent had incomplete secondary studies. The comparable statistic among young Métis was about 25 percent, among non-Aboriginal Canadians 13 percent. (See figure 3.)

² One of the foremost American education researchers to have written on the importance of indigenous cultural education is William Demmert. See, for example, his 2006 article (Demmert et al. 2006) in the *Journal of American Indian Education*. As an example of Canadian academics arguing this theme, see Steeves et al. (2010).

³ Data from the 2011 census will not be available until 2013.

Inevitably, “not sufficiently strong” education levels are condemning many among this generation of First Nation youth to a life of poverty. What can be done to bring about convergence of school outcomes between First Nation and other Canadian children?

Rightly, the AFN-AANDC panel insisted there are many reasons for weak on-reserve school outcomes, and there is no silver bullet. The sad legacy of residential schools justifies a certain scepticism toward formal schooling among First Nation leaders. Many reserve school budgets are not adequate. And even with generous budgets, organizing successful schools in isolated communities – Aboriginal or not – is hard to do well.

But there is another reason. Again to quote the panel report:

The education “system” for First Nation students on reserve is a far cry from any system that other Canadians would recognize in terms of ... degree of input, accountability, and democratic governance most Canadians take for granted.

Reserve schools operate, the panel concluded, in a “non-system.” Each band council runs its own school much as, a century ago, each rural municipality in the Prairies ran its own one- or two-room school.⁴

Less succinctly, the latest report of the Auditor General (see Appendix 1) has made the same observation:

Provincial legislation provides a basis of clarity for services delivered by provinces. 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.

The federal government has often developed programs to support First Nations communities without establishing a legislative or regulatory framework for them. Therefore, for First Nations members living on reserves, there is no legislation supporting programs in important areas such as education, health, and drinking water. (OAG 2011)

Dedicated teachers may achieve remarkable successes in a “non-system”, but overall, the outcomes will rarely be satisfactory. In diplomatic language, members of the panel advised First Nation leaders to support “education authorities” (henceforth referred to as “authorities”) – in other words, to professionalize school management by introducing a First Nation equivalent of provincial school boards to assume responsibility for running a group of reserve schools across, say, all of southern Saskatchewan or northern Manitoba. Such school authorities must be democratically accountable to those First Nations living within the region, but schools would no longer be primarily accountable to individual band councils.

⁴ Michael Mendelson (2009) has repeatedly drawn this parallel in his writings.

The panel members insisted there should be no standardized education authority imposed from one end of the country to the other. Nonetheless, they acknowledged a necessary condition for better school outcomes is that these authorities be able to exercise many of the activities performed by school boards for provincial schools.

In addition to education authorities the panel made other recommendations, such as a First Nation Education Act and a National Commission for First Nation Education “to support education reform and improvement.” As expected, panel members called for increased and stable funding. They acknowledge however the case is weak “until there is an understanding of how the funding will be used, how it will be managed, how results are to be measured and assessed and how accountability for spending will be assured.”

The 2012-13 federal budget, tabled in March, a month after the AFN-AANDC panel report, included an extended section dealing with First Nations education and participation in the labour market. The government committed itself “to introduce legislation, and explore new funding mechanisms, for First Nations elementary and secondary education, and proposes [an additional] \$275 million over three years to support First Nations education” (Finance Canada 2012,149).

The intent is to enact legislation that will create the framework for education authorities. The legislation will presumably be enabling: individual First Nations can decide whether or not to opt into such authorities or continue with the status quo in terms of school governance.

Recommendations

There are many pitfalls in setting out recommendations. One is to define recommendations in terms of a broad goal with which all agree while suggesting no means to achieve the goal. Increasing engagement of Aboriginal leaders and parents in local schools is important. It does not amount to a recommendation unless accompanied with means to realize it.

Another pitfall is to insist that the same policy apply everywhere. There may be different means to the same end and in different circumstances different means may well be preferable. A danger in analyzing Aboriginal education policy is to ignore the differences between schools near major cities where most students speak English or French and, on the other hand, schools in northern communities where the lingua franca may be neither English nor French.

A third pitfall is to search for a “silver bullet”, the one overarching reform that will, if rigorously applied, close Aboriginal / non-Aboriginal education gaps. The history of Aboriginal marginalization in Canadian society is too complex for that. Important as we think education reforms are, we have no illusions that one particular reform – or rigorous application of all our education recommendations – is a “silver bullet”.

With that caveat, we put the following recommendations on the table:

1. Powers/responsibilities of an education authority

In general, First Nations education authorities should have administrative authority – as opposed to being advisory to individual First Nation band councils. If the authorities are to be effective, they should be making decisions about the following broad areas:

- Hiring school principals who, in turn, will hire individual teachers.
- Negotiating terms and conditions for teachers working in schools for which the authority is responsible.
- Managing the budget allocation for schools under its charge and undertaking reporting to AANDC and others.
- Designing the school curriculum: While much of the curriculum will probably follow the curriculum of the relevant province, the authority will be responsible for ensuring relevant cultural and language courses.
- Designing graduation exams and tests of school performance on core subjects – including those of a cultural nature.

Box 1

In recent years, several provinces and First Nations have agreed to tripartite memoranda of understanding (MOUs) with the federal government, where a similar list of objectives have been identified as priorities by the signatories. For example, in 2010 Alberta representatives from Treaties # 6, 7, and 8, and the provincial and federal governments signed a MOU with chapters on accountability, performance management, curriculum development, and recruitment, retention and professional development of teachers (AANDC 2010). Section 2 calls for a review of legislative and policy arrangements “to identify barriers to First Nation Student success ... which impede the smooth transition of FN students moving between FN and provincial education systems” (s.2,iv,a).

Most of the tripartite MOUs have correctly identified the issues that need to be addressed to improve educational outcomes. Hopefully, these MOUs – and the relationship-building that necessarily goes with them – eventually lead to the formalization of professional First Nation educational authorities that can, not only advise individual First Nations in running their respective on-reserve schools, but manage the education system on their behalf.

2. Accountability of education authorities

In provincial school systems, elections to regional school boards are an important means for communities to assure significant accountability of schools to the concerns of children's parents. This logic suggests that education authorities need to be directly accountable to the parents of children attending First Nation schools. Ideally, a council responsible for an authority should be chosen by direct election among all First Nation adults living on the relevant reserves.

A major responsibility of such a council will be to choose the equivalent of a superintendent in provincial school systems.

Box 2

The Tripartite Education Agreement (AANDC 2012) between Canada, British Columbia, and the First Nations Education Steering Committee (FNESC) was signed in January 2012 (See Appendix 2.). It is the most comprehensive agreement on First Nation's education to date. While much of the media focus has been on the funding model for the Agreement, it also includes important provisions about improved accountability and engaging parents and communities. While stopping short of having parents directly electing their representative for a "school authority", the Agreement has provisions to report aggregate school performance information to parents, students, FNESC, and the Government of Canada.

3. Responsibility of the Ministry of Aboriginal Affairs

The two fundamental responsibilities of the Ministry that we perceive are certification of school authorities and provision of adequate per student funding.

Provided an education authority is certified by a procedure acceptable to the Ministry of Aboriginal Affairs, it should be eligible for a significant increase in per student funding. Many reports – including the AFN-AANDC panel report – have made the case for additional revenue available for First Nation schools. One reason for additional funds is to provide specialist teachers, which no individual school can afford to hire by itself, and who may rotate among schools. Such teachers may be experts in indigenous arts or languages. Another reason is to provide better support for special needs children, or enable more appropriate salaries for teachers who are being asked to undertake a demanding career. Yet another is to finance adequate student outcome measurement.⁵

Establishing certification procedures will require probably elements of peer review by other school administrators and, undoubtedly, some creative innovations. There are

⁵ Steeves et al. (2009) is a representative example of authors making the case for more generous funding of reserve schools, primarily in order to fund secondary services.

precedents, for example, in the certification procedures of university faculties.

Determining appropriate rules for certifying any future educational authority may take a significant time and effort on the part of AANDC, provincial representatives, and FN educators. The FNEESC Agreement, for example, started with a MOU on Education in 1999, and culminated with the signing of a Tripartite Education Framework in 2012. The increased funding available under the Agreement required all parties to be comfortable with issues of accountability and standards. Importantly it also required time for the three parties to establish a track record of performance and trust.

4. Measuring student outcomes

A necessary feature of any school system is the ability to measure student performance. One aspect is examinations for graduation; another is to measure student progress in core subjects.

White et al. (2009) make the case that participating in provincial testing is a way to both motivate and measure positive change in on-reserve schools. As well, good data about student performance can be used to leverage more resources, and effectively guide the allocation of those resources. Gathering and disseminating high quality, comparable student performance information will facilitate objective research about policies to improve educational outcomes for Aboriginal students in Canada – an area about which relatively little is known at present. This is not to say that provincial standardized testing is a panacea. Cultural bias, lost instructional time, narrowing of the curriculum, and the risk of unfair and sometimes damaging comparisons are real concerns that need to be addressed. However, the limitations of provincial standardized testing should be balanced with its clear benefits.

Box 3

Educators are virtually unanimous in calling for data systems to track student performance and measure education outcomes. The Auditor General (OAG 2011) has called for better operational and performance indicators, and alignment of financial and non-financial data collection for education programs. Much of the data management structure for reserve education remains a patchwork of systems, often measuring only the number of students, their grade level and age – insufficient information to make informed decisions on education programs.

Starting in 2008, several initiatives were made available to FN schools to help gather and analyze the data from students and programming. Those initiatives were given ongoing funding in the 2012 federal Budget, so that all education information and reporting will be gathered into one system, that regular and timely reports on results will be given to both AANDC and First Nations, and that these reports will be analyzed to help make better decisions about the education of First Nations children.

The First Nations Education Steering Committee (FNESC) in BC has been an innovator in this field. In recent years, it has annually evaluated children in about 70 on-reserve schools and pre-school centres in the province. (See figure 4.) One example of the use for such results is to appreciate the importance of early childhood education in providing a firm basis in reading. Many of the children in the schools surveyed attended early childhood programs. The majority of children up to grade three are reading “at grade level”. The benefit tends to fade in upper primary grades, indicating a need for more reading instruction in these grades. In secondary school, unfortunately, many students drop out, due partially to weak reading skills. Weak students dropping out explain the modest rise in share reading “at grade level” in upper secondary grades.

Conclusion

There is no panacea that addresses all the problems facing Aboriginal people in Canada, but a key to a better future is that they receive the best education possible. On this, stakeholders across the spectrum can surely agree. Business leaders support high quality education because it means the next generation of Aboriginals will have the skills and abilities to be productive employees. Teachers and doctors and social workers support high quality education because success at school is one of the best indicators that children succeed as adults – that they enjoy good health, that they avoid poverty and crime. Those First Nation leaders and parents who contributed to the joint AFN-AANDC panel obviously support high quality education.

To the extent there is disagreement it is whether individual First Nations can achieve education success simply by increasing education budgets while preserving the status quo, a status quo wherein each First Nation is responsible for its own school(s). We believe that education budgets must be increased, but that organizational reforms are also necessary.

Some are urging a go-slow approach to organizational reform for fear that major reform proposals will not be perfect. Fair enough, there are many ways to get reform wrong. But we have a different fear: that the present advocates of reform lose faith and disperse. National AFN Chief Shawn Atleo has declared education to be a primary concern. The AFN co-sponsored the panel whose report advocated change to the present “non-system” for First Nation schools. In a budget that curtailed most program spending, the federal government recognized the need for Aboriginal education reform and increased spending for reserve schools and promised new legislation. The provinces, particularly those with large Aboriginal student cohorts, are conscious that they must do better. If we fail to realize reform in the course of this parliament, we may condemn another generation of First Nation children to rely on the present “non-system” and First Nation graduation rates may continue to stagnate. Refining reform proposals will inevitably be necessary, but stakeholders should not let the perfect be the enemy of the good.

Our recommendations do not come “out of the blue”. They build on pilot projects that First Nations have undertaken over the last two decades. They are in many ways a

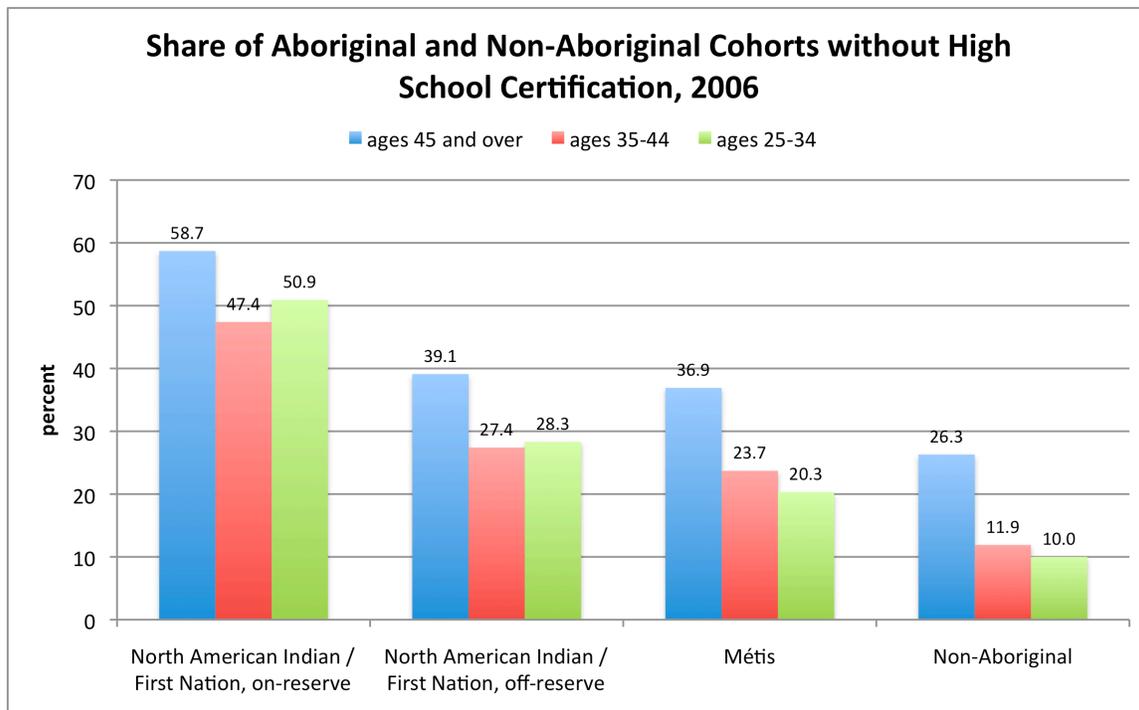
summary of what most educators across Canada agree is required to run a good education system, whether it be for Aboriginal or non-Aboriginal children.

Implementing these recommendations will not eradicate First Nation poverty; nor will they guarantee preservation of First Nation languages and culture. But they will help First Nations to build a first class education system of their own, a necessary condition for realizing the many benefits that education can bring.

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Figure 1



Source: Figures 1 – 3 are authors' calculations from 2006 census data.

Figure 2

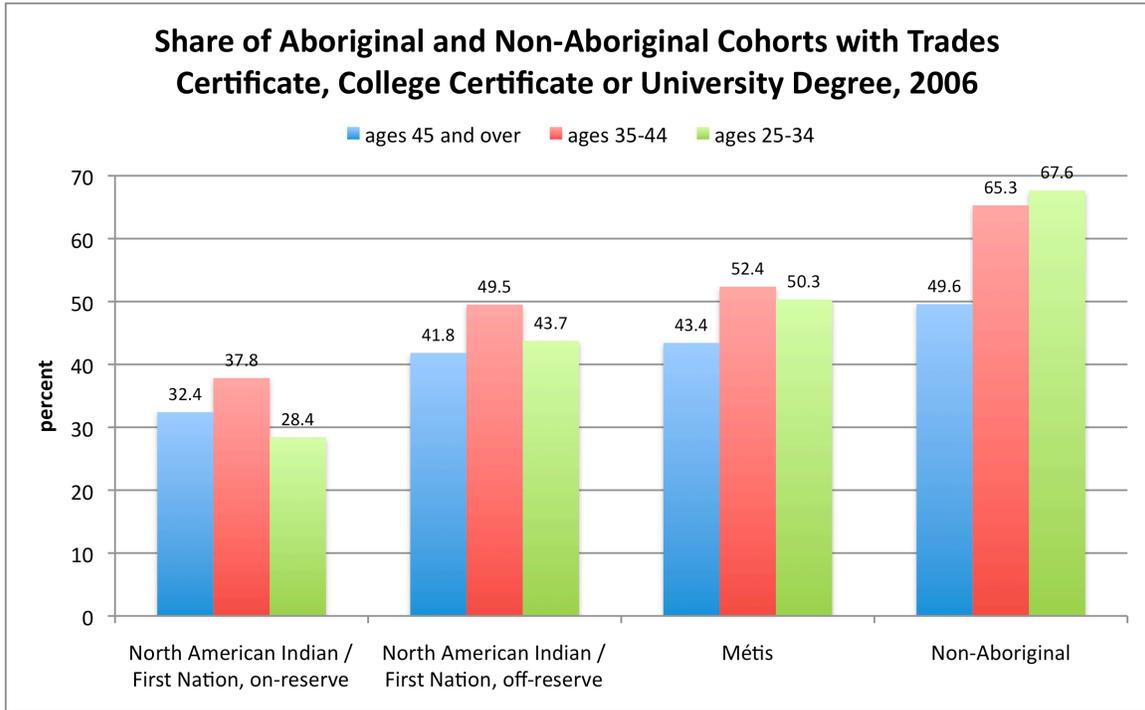


Figure 3

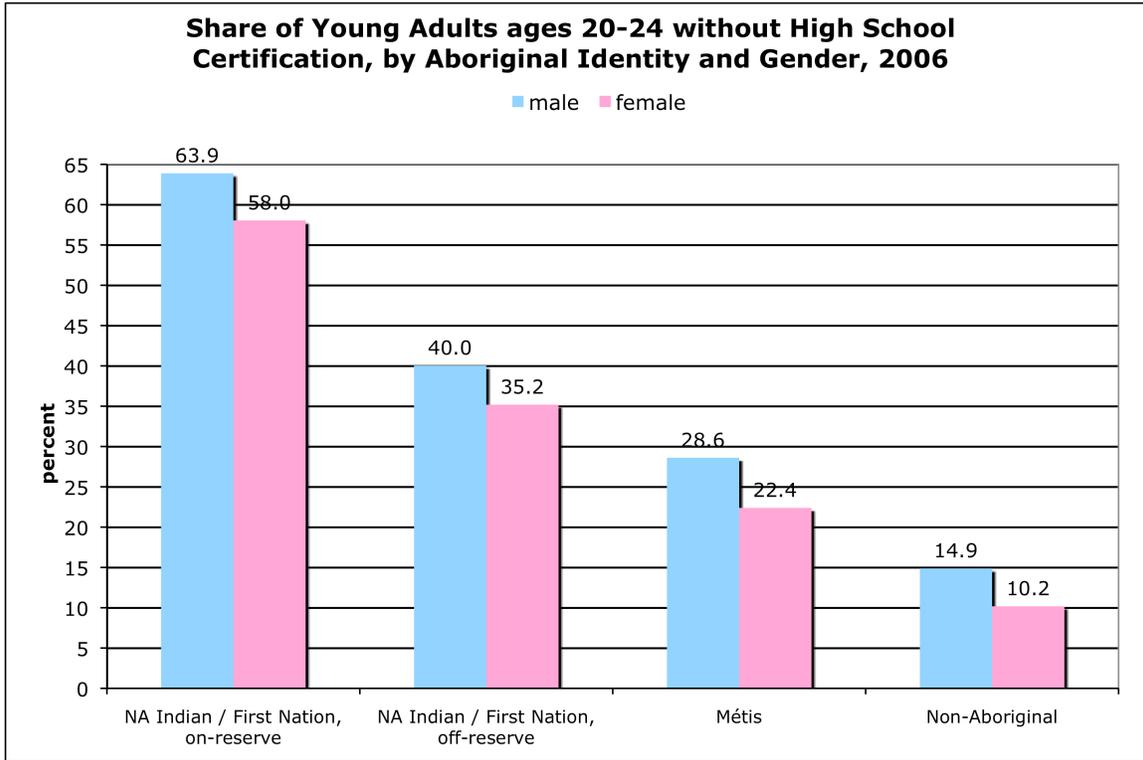
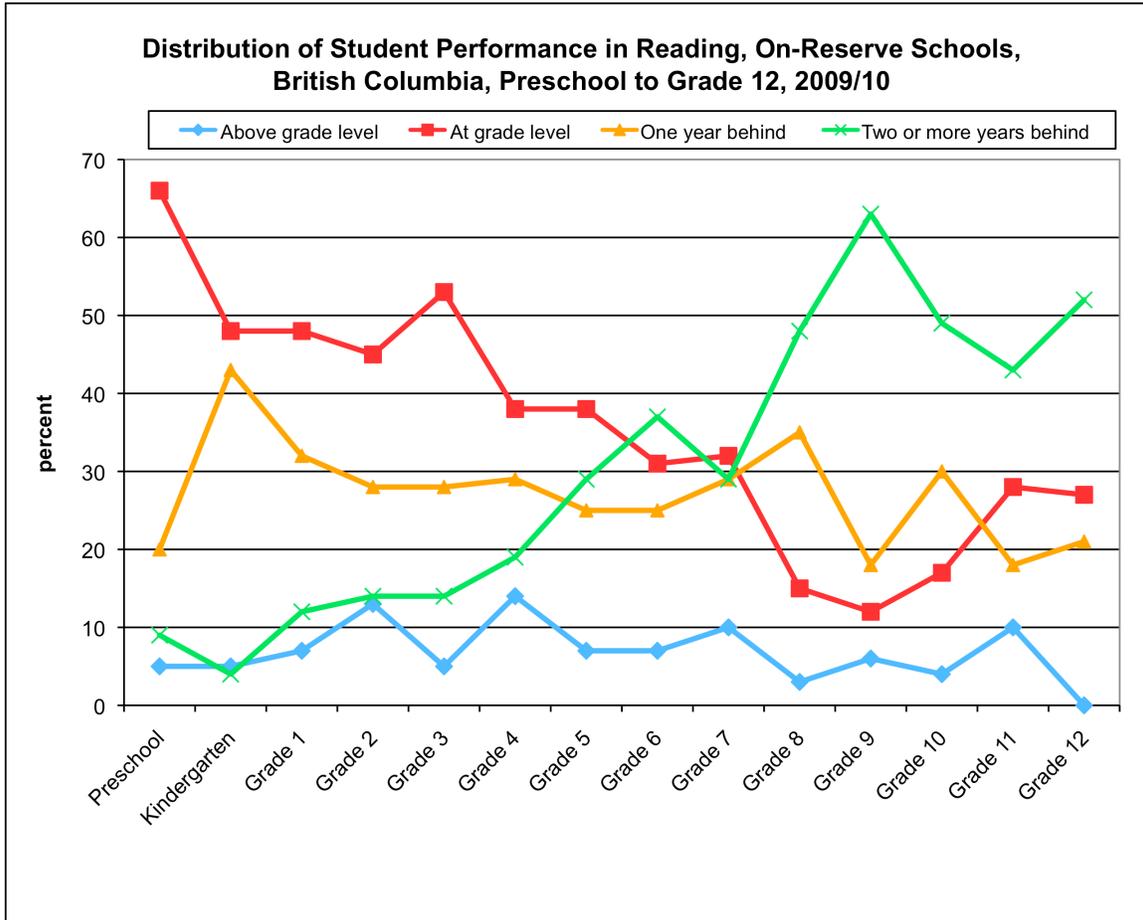


Figure 4



Source: Tindall (2011)

Appendix 1

2011 June Status Report of the Auditor General of Canada

Chapter four (excerpt)

Broad concerns: Services to First Nations

This preface contains views based on the numerous audits we have completed over the past decade. While not directly related to the audit that follows, the preface presents important matters that we believe should be brought to the attention of the House of Commons.

Over the past 10 years, the Office of the Auditor General has audited a broad range of services and federal activities affecting First Nations. Throughout this period we have had the opportunity to visit many of Canada's First Nations reserves, and to meet with chiefs, councils, and community leaders. We have interviewed hundreds of federal officials and numerous experts on First Nations issues.

It is clear that living conditions are poorer on First Nations reserves than elsewhere in Canada. Analysis by Indian and Northern Affairs Canada (INAC) supports this view. The Department has developed a Community Well-Being Index based on a United Nations measure used to determine the relative living conditions of developing and developed countries. INAC uses its index to assess the relative progress in living conditions on reserves. In 2010, INAC reported that the index showed little or no progress in the well-being of First Nations communities between 2001 and 2006. Instead, the average well-being of those communities continued to rank significantly below that of other Canadian communities. Conditions on too many reserves are poor and have not improved significantly.

In our audits, we have made numerous recommendations concerning federal programs and services for First Nations reserves. In our 2006 May Report, Chapter 5, [Management of Programs for First Nations](#), we found that progress was generally unsatisfactory in implementing the recommendations that are most important to the lives and well-being of First Nations people. In that audit, we also identified seven critical factors that appeared to have helped or hindered implementation of our recommendations, depending on their presence or absence (see paragraphs 5.50 to 5.61 of our [2006 Report](#) and [4.7](#) of this report). In the audit that follows, we have again found progress to be unsatisfactory on several recommendations we have made over the past decade that are important for the lives and well-being of First Nations people. Even where federal actions have led to the implementation of our recommendations, it appears to us that the results have not led to significant improvements in the lives and well-being of people living in many First Nations communities.

Structural impediments explain the lack of progress on reserves

In our view, many of the problems facing First Nations go deeper than the existing programs' lack of efficiency and effectiveness. We believe that structural impediments severely limit the delivery of public services to First Nations communities and hinder improvements in living conditions on reserves. We have identified four such impediments:

- lack of clarity about service levels,
- lack of a legislative base,
- lack of an appropriate funding mechanism, and
- lack of organizations to support local service delivery.

Lack of clarity about service levels. Most of the services provided to communities throughout Canada are the responsibility of provincial and municipal governments, but this is not the case on reserves. Under the *Constitution Act, 1867*, the federal government has exclusive authority to legislate on matters pertaining to "Indians, and Lands reserved for Indians." INAC has been the main federal organization exercising this authority. While the federal government has funded the delivery of many programs and services, it has not clearly defined the type and level of services it supports.

Mainly through INAC, the federal government supports many services on reserves that are normally provided by provincial and municipal governments off reserves. It is not always evident whether the federal

government is committed to providing services on reserves of the same range and quality as those provided to other communities across Canada. In some cases, the Department's documents refer to services that are reasonably comparable to those of the provinces. But comparability is often poorly defined and may not include, for instance, the level and range of services to be provided.

To provide true comparability, it would be important to include a clear statement of comparability in program objectives and define comparability on a program-by-program basis. Roles and responsibilities would also need to be specified, as would the level of services required for comparability. In addition, the costs of achieving comparability would have to be determined and programs would have to be adequately funded. It would be necessary to establish measures for evaluating performance and determining whether the program was achieving the desired outcomes.

Lack of a legislative base. Provincial legislation provides a basis of clarity for services delivered by provinces. 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.

The federal government has often developed programs to support First Nations communities without establishing a legislative or regulatory framework for them. Therefore, for First Nations members living on reserves, there is no legislation supporting programs in important areas such as education, health, and drinking water. Instead, the federal government has developed programs and services for First Nations on the basis of policy. As a result, the services delivered under these programs are not always well defined and there is confusion about federal responsibility for funding them adequately.

Lack of an appropriate funding mechanism. The federal government uses contribution agreements to fund the delivery of services on First Nations reserves. Through these agreements, First Nations receive a certain level of funding to provide various programs and services in their communities. We see several problems with the use of this funding mechanism for the provision of core government services. One problem is that, while the agreements state the services or actions to be provided, they do not always focus on service standards or results to be achieved.

The timing for provision of funds under contribution agreements is also problematic. Most contribution agreements must be renewed yearly. In previous audits, we found that the funds may not be available until several months into the period to be funded; one reason is that new agreements cannot be finalized until departments have reviewed documentation and confirmed that funds from the previous period were used appropriately. Consequently, First Nations must often reallocate funds from elsewhere to continue meeting community service requirements. However, INAC recognizes the importance of providing certain services on an ongoing basis, such as health care and education. The Department therefore continues to fund these and other essential services even before it has confirmed appropriate spending of funds for the previous period.

The use of contribution agreements between the federal government and First Nations may also inhibit appropriate accountability to First Nations members. It is often unclear who is accountable to First Nations members for achieving improved outcomes or specific levels of services. First Nations often cite a lack of federal funding as the main reason for inadequate services. For its part, INAC maintains that the federal government funds services to First Nations but is not responsible for the delivery or provision of these services.

Contribution agreements involve a significant reporting burden, especially for small First Nations with limited administrative capacity. Communities often have to use scarce administrative resources to respond to numerous reporting requirements stipulated in their agreements. We followed up on INAC's efforts to reduce the reporting requirements of First Nations and found progress to date to be unsatisfactory even though the Department had taken various actions (see [paragraphs 4.71 to 4.85](#)).

The use of contribution agreements to fund services for First Nations communities has also led to uncertainty about funding levels. Statutory programs such as land claim agreements must be fully funded, but this is not the case for services provided through contribution agreements. Accordingly, it is not certain whether funding levels provided to First Nations in one year will be available the following year. This situation creates a level of uncertainty for First Nations and makes long-term planning difficult. In contrast, legislation may commit the federal government to provide statutory funding to meet defined levels of service. A legislative base including statutory funding could remove the uncertainty that results when funding for services depends on the availability of resources.

Lack of organizations to support local service delivery. Over the decades, provinces have established many organizations and structures to support local delivery of programs and services to communities. For example, provinces have developed school boards, health services boards, and social service organizations. These organizations can supply vital expertise, facilitate career advancement, and develop a means of efficient and effective delivery of services.

There are few similar organizations to support service delivery within First Nations communities. The federal government established each First Nation band as an autonomous entity and provides separate program funding to each. Many of these First Nations are small, consisting of communities that often have fewer than 500 residents. There are more than 600 First Nations across Canada. Many of them are hampered by the lack of expertise to meet the administrative requirements for delivering key programs within their reserves. They often do not have the benefit of school boards, health boards, or other regional bodies to support the First Nations as they provide services to community members. In an attempt to address the lack of organizations supporting the delivery of services, INAC has developed new approaches and worked with groups representing various First Nations. For example, the Department has worked with First Nations organizations and provincial governments to develop improved child and family service programs in several provinces. It has also recently launched the Reforming First Nation Education Initiative, which includes support for establishing partnerships with First Nations regional organizations and provinces; for example, it has provided funding to organizations such as the First Nations Education Steering Committee in British Columbia and the First Nations Education Council in Quebec. This is a start, but much remains to be done.

Change is needed if meaningful progress is to be realized

Despite the federal government's many efforts to implement our recommendations and improve its First Nations programs, we have seen a lack of progress in improving the lives and well-being of people living on reserves. Services available on reserves are often not comparable to those provided off reserves by provinces and municipalities. Conditions on reserves have remained poor. Change is needed if First Nations are to experience more meaningful outcomes from the services they receive. We recognize that the issues are complex and that solutions will require concerted efforts of the federal government and First Nations, in collaboration with provincial governments and other parties.

We believe that there have been structural impediments to improvements in living conditions on First Nations reserves. In our opinion, real improvement will depend on clarity about service levels, a legislative base for programs, commensurate statutory funding instead of reliance on policy and contribution agreements, and organizations that support service delivery by First Nations. All four are needed before conditions on reserves will approach those existing elsewhere across Canada. There needs to be stronger emphasis on achieving results.

We recognize that the federal government cannot put all of these structural changes in place by itself since they would fundamentally alter its relationship with First Nations. For this reason, First Nations themselves would have to play an important role in bringing about the changes. They would have to become actively engaged in developing service standards and determining how the standards will be monitored and enforced. They would have to fully participate in the development of legislative reforms. First Nations would also have to co-lead discussions on identifying credible funding mechanisms that are administratively workable and that ensure accountable governance within their communities. First Nations would have to play an active role in the development and administration of new organizations to support the local delivery of services to their communities.

Addressing these structural impediments will be a challenge. The federal government and First Nations will have to work together and decide how they will deal with numerous obstacles that surely lie ahead. Unless they rise to this challenge, however, living conditions may continue to be poorer on First Nations reserves than elsewhere in Canada for generations to come.

Main Points

What we examined

The federal government supports numerous services to First Nations members on reserves that are similar to those provided by provincial and municipal governments to people off reserves. These services range from education and social development programs to land management and economic development, housing, provision of potable water, and provision of benefits to First Nations members under treaties and other agreements.

In several audits over the past decade, we have identified issues of particular importance to the lives and well-being of First Nations and Inuit. In this follow-up audit, we examined the government's progress toward achieving the commitments it made to address significant observations and recommendations from seven of those reports, issued between 2002 and 2008. We focused on the areas of education, water quality, housing, child and family services, land claim agreements, and reporting requirements.

Our audit included the roles that Indian and Northern Affairs Canada (INAC), Health Canada, the Canada Mortgage and Housing Corporation (CMHC), and the Treasury Board of Canada Secretariat play in the management of programs to improve the lives of First Nations and Inuit.

Audit work for this chapter was substantially completed on 1 November 2010.

Why it's important

According to the Report of the Royal Commission on Aboriginal Peoples (1996), Canada's First Nations reserves experience long-standing challenges such as ill health, insufficient and unsafe housing, high unemployment, polluted water supplies, inadequate education, poverty, and family breakdown. The federal government supports programs that can improve the lives of people who live on reserves. However, despite the billions of federal dollars spent each year on programs to address the social and economic challenges on First Nations reserves, conditions there remain significantly below the national average.

What we found

- Despite considerable efforts and concrete actions in some areas, federal organizations have not made satisfactory progress on commitments made in response to several recommendations from our previous audits. INAC has just begun implementing a strategy to close the education gap. The Department has not defined what is meant by its policy of providing child and family services that are reasonably comparable to what exists in the provinces. Nor has it developed and implemented a plan to communicate to other federal organizations what specific obligations they have under land claim agreements or monitored their results. INAC and Health Canada do not ensure that drinking water is tested on a regular basis. INAC, Health Canada, and the Canada Mortgage and Housing Corporation have developed a strategy for dealing with mould in housing, but it is not comprehensive as it focuses on education rather than remediation and provides no new funding.
- INAC has implemented commitments it made in response to some of our recommendations. For example, it has taken steps to monitor progress toward the objectives of comprehensive land claim agreements, and has put in place a system to track and monitor progress on all federal commitments contained in the agreements. Along with Health Canada, INAC has developed draft legislation related to drinking water on reserves. In addition, the Department recently agreed with several provinces and First Nations on frameworks to improve child and family services on reserves, but it will likely be several years before meaningful results are realized.
- Notwithstanding the considerable efforts made, conditions have generally not improved for First Nations in each of the areas subject to our audit. The education gap between First Nations living on reserves and the general Canadian population has widened, the shortage of adequate

- housing on reserves has increased, comparability of child and family services is not ensured, and the reporting requirements on First Nations remain burdensome.
- Broader concerns that we believe have inhibited progress include the lack of clarity about service levels on First Nations reserves, lack of a legislative base to fund service delivery on reserves, a lack of an appropriate funding mechanism, and a lack of organizations that could support local service delivery. There is a risk that living conditions on many First Nations reserves will remain significantly below national averages, with little prospect of a brighter future, until these concerns are addressed.

Appendix 2

Tripartite Education Framework Agreement

This Agreement is dated for reference the 27 day of January, 2012 (the “Effective Date”).

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF CANADA,
as represented by the Minister of Indian Affairs and Northern Development
(hereinafter referred to as "Canada")

AND:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA,
as represented by the Minister of Education
(hereinafter referred to as "British Columbia")

AND:

FIRST NATIONS EDUCATION STEERING COMMITTEE,
a society incorporated under the *Society Act (British Columbia)*,
as represented by its President
(hereinafter referred to as “FNEESC”)

Collectively referred to hereinafter as the “Parties”.

WHEREAS:

First Nations students should have the opportunity to fulfil their educational potential;
The Parties recognize that First Nations students often transition between First Nation Schools and Provincial Public Schools and therefore have a shared interest in ensuring smooth transitions;
Quality, comparable education includes standards, programs, services, school supports and investments that provide adequate tools and resources aimed at improving First Nations student outcomes and addressing their unique needs;

The Parties signed the Memorandum of Understanding on Education on August 2, 1999 committing the Parties to work together to improve school success for Aboriginal learners in British Columbia;

The Parties signed the Education Jurisdiction Framework Agreement on July 5, 2006 and remain committed to the implementation of that agreement in order to support the exercise of jurisdiction over education by Participating First Nations;

British Columbia and FNEESC signed the British Columbia First Nation Education Agreement on July 5, 2006;

Individual First Nations have primary decision-making responsibility for First Nation Schools, including the management and delivery of education programs and services;

First Nations and First Nation Schools in British Columbia work together through FNEESC and the FNSA to improve the educational outcomes of all First Nations students in British Columbia;

FNEESC and the FNSA have worked to establish an education system to support First Nations Students and First Nation Schools that is founded upon First Nations’ languages and cultures and reflects the values and traditions of the communities they serve;

Canada and British Columbia recognize FNEESC as having demonstrated the capacity to administer education programs and services on behalf of First Nations and First Nation Schools in British Columbia, to implement research-based and relevant programs to support First Nation Schools to deliver quality education and improve student outcomes, and to provide Second Level Services to First Nations and First Nation Schools;

The Parties are committed to continuing the working relationship, based on mutual respect, recognition, collaboration and clarity of roles and responsibilities for First Nation education, recognizing that First Nations’ aboriginal and treaty rights are protected under section 35 of the *Constitution Act, 1982*;

British Columbia and First Nations are working on a government to government basis towards building a new relationship and have set out their commitment to do so in the document entitled “The New Relationship” released in 2005;

British Columbia and FNEESC have developed a collaborative partnership on educational initiatives, which respects the integrity of the commitment to establish a new relationship, including joint initiatives on curriculum development, enhancement agreements, local education agreements, and recognition of

Aboriginal languages and teachers and supports the transferability of students between First Nation Schools and Provincial Public Schools; and

The Parties are committed to working together to close the gaps in educational outcomes between First Nation and non-First Nation students and recognize this requires the implementation of this Agreement.

THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1.0 PURPOSE

1.1 The purpose of this agreement is to identify the roles, responsibilities and commitments of the Parties relating to the improvement of educational outcomes for students in First Nation Schools in British Columbia in accordance with the standards set out in clause 3.1.

2.0 DEFINITIONS

2.1 For the purpose of this agreement:

1. **“First Nation”** means a Band within the meaning of the *Indian Act*, or self-governing First Nation;
2. **“First Nation School”** means a school operated and administered by one or more First Nations in British Columbia, and providing education at one or more of the kindergarten, elementary or secondary levels;
3. **“FNSA”** means the First Nations Schools Association, a society incorporated under the laws of British Columbia, to support First Nation Schools;
4. **“Funding Arrangement”** means an agreement between Canada and FNEESC or between Canada and an individual First Nation that includes terms and conditions relating to the provision of federal funding for programs and services;
5. **“New Funding Model”** means the method by which federal funding to First Nations in British Columbia for First Nation Schools and to FNEESC is calculated periodically and is based on the British Columbia Ministry of Education’s Operating Grants Manual, as amended or replaced from time to time, with specific adaptations;
6. **“Provincial Public Schools”** means all public schools in British Columbia providing kindergarten to grade 12 education, but does not include independent schools or First Nation Schools;
7. **“School Assessment Process”** means the process for the assessment of First Nation Schools developed and approved by the FNSA, as amended from time to time;
8. **“Second Level Services”** means aggregate services provided by FNEESC to First Nations and First Nation Schools, similar to services provided by the British Columbia Ministry of Education and by provincial school boards to Provincial Public Schools with specific adaptations to meet First Nations’ unique circumstances, in order to improve efficiency and achieve economies of scale. Second Level Services include but are not limited to the responsibilities outlined in paragraph 4.2 below; and
9. **“Work Plan”** means a detailed description of roles and responsibilities pertaining to the delivery of Second Level Services and other education-related programs and services by FNEESC for which funding is provided pursuant to a Funding Arrangement.

3.0 EDUCATION STANDARDS

3.1 The Parties agree that the provision of Second Level Services by FNEESC is intended to support First Nations and First Nation Schools to deliver quality education programs and services, which meet standards that allow students, where applicable, to transfer without academic penalty, at similar levels of achievement, between First Nation Schools and Provincial Public Schools.

4.0 COMMITMENTS

4.1 FNEESC agrees to assist First Nations in developing the capacity to provide education.

4.2 FNEESC will provide Second Level Services, including but not limited to the following:

1. administering and reporting on the results of the School Assessment Process and supporting First Nation Schools to improve outcomes for students;
2. supporting schools with coordination, administration and reporting for standardized assessments;

3. coordinating the receipt of school reporting by First Nations on performance and expenditures related to funding flowed from FNEESC to individual First Nations and First Nation Schools;
4. providing economies of scale for school support services through the provision of digital resources and coordination of shared human and material school support resources between clusters of schools;
5. assisting schools in the negotiation of fair cost access to provincial learning resources and supports;
6. providing professional development resources and opportunities to support teachers and principals in First Nation Schools;
7. supporting initiatives for parental and community engagement;
8. engaging in education policy discussions with British Columbia and Canada where directed by First Nations;
9. making First Nations aware of any changes to education policy and standards regarding the operation of First Nation Schools; and
10. collecting, aggregating and providing aggregate data reporting to Canada on performance indicators as mutually agreed and set out in the Funding Arrangement between Canada and FNEESC.

4.3 British Columbia and FNEESC agree to continue to work collaboratively to improve educational outcomes for First Nations students.

4.4 British Columbia and FNEESC, where applicable, agree to continue to support the transfer of students, at similar levels of achievement, between Provincial Public Schools and First Nation Schools.

4.5 British Columbia and FNEESC agree to develop and implement a process, consistent with clauses 3.2 and 3.3 of the British Columbia First Nation Education Agreement, that will permit a student who has completed an educational program at the grade 12 level, having achieved learning outcomes substantially comparable to those required for graduation by the Ministry of Education, to be considered for the provincial Dogwood Graduation Certificate.

4.6 British Columbia agrees to continue to provide to FNEESC a comprehensive annual report on the educational performance success of Aboriginal students attending Public Schools.

4.7 British Columbia agrees to continue to share expertise with FNEESC and to provide, where applicable, reasonable cost access to provincial learning resources and supports.

4.8 British Columbia agrees that it will, in a manner consistent with clauses 5.1, 5.2 and 5.3 of the British Columbia First Nation Education Agreement, consult with FNEESC regarding:

1. proposed changes to provincial education policy, legislation or standards that materially affect programs, assessments, teacher certification, graduation requirements, or curriculum offered by FNEESC or First Nation Schools;
2. reasonable cost access to provincial learning resources; and
3. access to provincial bulk purchase initiatives.

4.9 Canada agrees to implement the New Funding Model for First Nations and FNEESC commencing September 1, 2012.

4.10 Canada agrees to consult with FNEESC regarding:

1. proposed changes to federal education policy, guidelines, legislation or standards that materially affect FNEESC or First Nation Schools; and
2. the development of BC-specific education program policy and guidelines required to implement this Agreement.

4.11 FNEESC and Canada agree that Second Level Services and the New Funding Model, as set out in this agreement and in their Funding Arrangement and Work Plan, may be amended by FNEESC and Canada from time to time as may be required to ensure the purpose of this agreement is met on an on-going basis.

5.0 FIRST NATION FUNDING ARRANGEMENTS

5.1 Funding Arrangements between Canada and individual First Nations will require individual First Nations to:

1. recognize FNEESC's responsibility to provide Second Level Services to First Nations and First Nation Schools in British Columbia;
2. employ teachers with a teaching certificate in good standing issued by a provincial education ministry or a recognized Canadian teacher certification authority;

3. make an aggregate outcome report on school performance available to parents of students attending a First Nation School;
4. provide specified education program reports to FNEC; and
5. prepare an annual report on student enrollment, also known as the nominal roll, and provide it to Canada in accordance with the terms of the Funding Arrangement.

6.0 RELATIONSHIP TO EDUCATION JURISDICTION INITIATIVE

6.1 The Parties acknowledge any British Columbia First Nation may choose to enter into negotiations and conclude a self-government education agreement pursuant to the *First Nations Jurisdiction over Education in British Columbia Act* and become a Participating First Nation, as defined in that Act, in which case this agreement will no longer apply with respect to that First Nation.

7.0 IMPLEMENTATION

7.1 The terms and conditions of the Funding Arrangements between Canada and FNEC and between Canada and individual First Nations will reflect the commitments in this agreement and will include the roles and responsibilities of the Parties to be undertaken to fulfill these commitments.

7.2 The implementation of the New Funding Model and the provision of funding under the Funding Arrangements are subject to the appropriation of funds by the Parliament of Canada.

7.3 Canada and FNEC agree to work toward executing a Funding Arrangement, in a timely manner, to enable FNEC to implement its commitments under this agreement as of September 1, 2012.

8.0 REVIEW OF THE AGREEMENT

8.1 The Parties will each designate a representative to review and monitor the progress toward achieving the purpose and objectives of this agreement and to carry out the review referred to in paragraph 7.7 of the Education Jurisdiction Framework Agreement, with meetings to be held on an annual basis or at intervals as otherwise agreed to by the Parties.

9.0 DISPUTE RESOLUTION

9.1 In the event of a dispute between the Parties arising out of this agreement, the Parties agree to each designate a representative to meet, negotiate in good faith and attempt to resolve the dispute amicably.

9.2 FNEC agrees to establish a dispute resolution process available to individual First Nations and First Nation Schools to attempt to resolve disputes pertaining to the provision of Second Level Services and other educational programs and services by FNEC to individual First Nations and First Nation Schools.

10.0 TERM

10.1 The term of this agreement commences on the Effective Date and expires on March 31, 2017, unless extended or renewed in writing by the Parties.

10.2 Six months prior to the expiration of the term set out above, the Parties will meet to discuss the renewal of this agreement.

11.0 AMENDMENT

11.1 Subject to paragraphs 11.2 and 11.3, this agreement may be amended with the written consent of each Party.

11.2 Any provision of this agreement applicable only to FNEC and Canada may be amended with the written consent of FNEC and Canada. In the event that FNEC and Canada amend this agreement, FNEC and Canada shall promptly provide a copy of the amendment to British Columbia.

11.3 Any provision of this agreement applicable only to FNEC and British Columbia may be amended with the written consent of British Columbia and FNEC. In the event that FNEC and British Columbia amend this agreement, FNEC and British Columbia shall promptly provide a copy of the amendment to Canada.

12.0 GENERAL

12.1 In the event of an inconsistency between this agreement and federal education policy or guidelines of general application, the provisions of this agreement shall prevail to the extent of the inconsistency.

12.2 Each Party will, at the request of and at no cost to the other Parties, execute and deliver to the requesting Party any instrument or document or will do anything that may reasonably be required to carry out its obligations under this Agreement, or to complete any transaction contemplated by this Agreement.

12.3 Where in this Agreement any notice or other communication is required to be given or made by any Party, it will be in writing and will be effective if by hand, transmitted by facsimile transmission or sent by registered mail to the addresses set out below. The address of a Party may be changed by notice in the manner set out in this paragraph.

CANADA:

Minister

Indian Affairs and Northern Development

10 Wellington Street

OTTAWA ONTARIO K1A 0H4

Fax: (819) 953-4941

BRITISH COLUMBIA:

Minister of Education

Parliament Buildings

PO Box 9044 Stn Prov Govt

VICTORIA, BRITISH COLUMBIA V8W 9E2

Fax: (250) 387-6411

FNESC:

President, FNESC

Room 113, 100 Park Royal

WEST VANCOUVER, BRITISH COLUMBIA V7T 1A2

Fax: (604) 923-6087

12.4 A notice or communication will be considered to have been received:

1. if delivered by hand during business hours on a business day, upon receipt by a responsible representative of the receiver, and if not delivered during business hours, upon the commencement of business on the next business day;
2. if sent by facsimile transmission during business hours on a business day, upon the sender receiving confirmation of the transmission, and if not transmitted during business hours, upon the commencement of business on the next business day; or
3. if mailed by registered post in Canada, five (5) business days after posting, except that, in the case of a disruption or an impending or threatened disruption in postal services, every notice or communication will be delivered by hand or sent by facsimile transmission.

This Agreement has been executed by the duly authorized representatives of Canada British Columbia and FNESC.

HER MAJESTY IN RIGHT OF CANADA, as represented
by the Minister of Indian Affairs and Northern Development

The Honourable John Duncan, P.C., M.P.,
Minister of Indian Affairs and Northern Development

**HER MAJESTY IN RIGHT OF BRITISH
COLUMBIA**, as represented by the
Minister of Education

The Honourable George Abbott,
Minister of Education

FIRST NATIONS EDUCATION STEERING COMMITTEE,
as represented by its President

Tyrone McNeil,
President