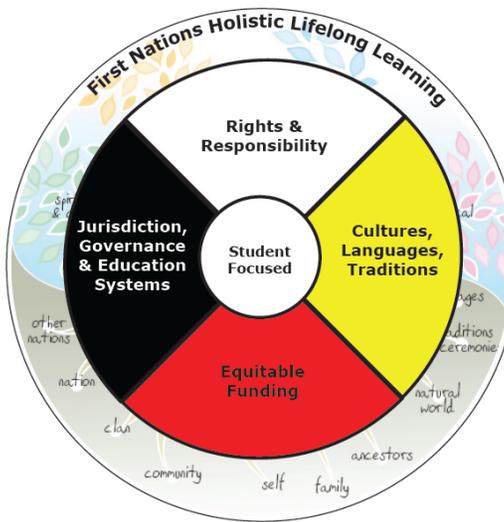


Assembly of First Nations

Summary of the Report of the National Panel on First Nation Elementary and Secondary Education for Students On-reserve “Nurturing the Learning Spirit of First Nation Students”



By the AFN Special Rapporteur
Dr. Rose-Alma J, McDonald
February 14, 2012

Executive Summary

“First Nations lifelong learning is a process of nurturing First Nations learners in a linguistically and culturally-appropriate holistic learning environments that meet the individual and collective needs of First Nations and ensures that all First Nations learners have the opportunity to achieve their personal aspirations within comprehensive lifelong learning systems.” (AFN, 2010)

The purpose of this summary is to align the findings of the February 8, 2012 National Panel report to the framework document *First Nations Control over First Nations Education* (FNCFNE). First Nations control over education is the tool to enable all First Nations to achieve self-determination and proudly embrace their true identities and cultures, thereby enabling them to fully contribute to all aspects of community and greater society.

The National Panel, was an independent body and jointly announced by Aboriginal Affairs and Northern Development Canada and the Assembly of First Nations. The Panel led an engagement process that was designed to explore options, including legislation, to improve the elementary and secondary outcomes of First Nations children who live on-reserve.

Through engagement with First Nation representatives across the country the National Panel identified five key recommendations. The National Panel report emphasizes the need for First Nation and non-First Nation governments to work together in order to establish a child-centered education system that will ultimately improve the educational outcomes of children living on reserve. It further acknowledges the continued need for funding and strong support services.

The National Panel report acknowledges the need for consultation and the co-creation of a mechanism that protects the culture, language, funding and educational identity for First Nations children. The report stipulates the requirement for statutory funding that is needs based, predictable and sustainable. Stemming out of a reliable funding model, the Panel asserts that education for First Nations must be supported through corresponding institutional supports delivering second and third level services. The National Panel further proposes that a child centered approach to education is required that incorporates language, culture and traditions to build student self-esteem and sense of identity and where community engagement is facilitated.

VISION:

First Nations lifelong learning is a process of nurturing First Nations learners in linguistically and culturally-appropriate holistic learning environments that meet the individual and collective needs of First Nations and ensures that all First Nations learners have the opportunity to achieve their personal aspirations within comprehensive lifelong learning systems. (AFN FNCFNE 2010)

Because education shapes the minds and values of First Nations young people, it is vitally important that First Nations governments have jurisdiction over educational programs which have such a lasting impact. The education of our children is a fundamental tool in developing and strengthening self-government in our communities. The goal of First Nations education must not be limited to just preparing our citizens to be job ready; our primary goal is to nurture respect, identity and our right to survive and prosper as the distinct peoples of Canada.

Our vision for education is an embracement of the goal of well being. Education must be an investment in our children, cultures, languages, traditions, families, and ultimately our future generations as Nations and a people. “First Nations are stepping forward and this is key to achieving lasting, sustainable change and progress for all our children.”

In the past, the Canadian governments’ education policy has been a tool of oppression, but it can be a tool of liberation founded on First Nation control over education. First Nations view education as a means to achieving self-determination and redressing the negative impacts of colonial practices.

All peoples have the right to maintain their cultural and linguistic identities, and education is essential to actualizing this right. First Nations control over education will provide the means to acquire the necessary skills to be self-empowered and self-sufficient and to maintain First Nations cultural values and languages. This is essential to actualizing an individual’s success in society. It will also provide a strong foundation for empowering proud First Nations peoples who are fully able to contribute to the development of their families, clans, communities and nations. (FNCFNE 2010)

Repeated attempts have been made to inform Canada, through countless studies, audits and evaluations, that the status quo of First Nations learning systems is inadequate. Despite this evidence, success in achieving the identified objectives of First Nations education have consistently been stymied by Canada’s unilateral failure to adequately fund and support First Nations education in a

sustainable and meaningful manner. This failure on the part of the Canadian government was explicitly recognized in the 2004 Report of the Auditor General of Canada, which stated that the Auditor General remains “concerned that a significant education gap exists between First Nations people living on reserves and the Canadian population as a whole and that the time estimated to close that gap has increased...[to] about 27 to 28 years.”

The Honour of the Crown is always at stake with respect to First Nations issues. Crown obligations to recognize First Nations jurisdiction over education and to provide stable, sustainable and adequate resources must be fulfilled.

Overview of the Process

The National Panel was jointly announced in December 2010 by Aboriginal Affairs and Northern Development Canada (AANDC) and the Assembly of First Nations (AFN).

The National Panel was created as an independent body to lead an engagement process in order to explore and advise on the development of options, including legislation and potential features of legislation, to improve elementary and secondary education outcomes for First Nations children who live on-reserve.

They heard from First Nation leaders, parents, students, elders, teachers, provinces and all those with an interest in providing quality input and who had the knowledge or expertise to share ideas on how to enhance the education system and outcomes of First Nation students. The National Panel was required to table a report with actionable recommendations to both the Minister of Aboriginal Affairs and Northern Development Canada and the National Chief of the Assembly of First Nations at the end of their mandate. Their final report “Nurturing the Learning Spirit of First Nation Students” was released February 8, 2012.

The goal of the National panel was to engage with people, conduct dialogues, hold roundtables in each region and bring together educators, experts, leaders, administrators and parents to discuss the goal of giving First Nation children a better opportunity for education. The members of the National Panel were Mr. Scott Haldane (Chair), Ms. Caroline Krause and Mr. George Lafond.

The engagement process activities included:

- Conducting 1 national and 8 regional roundtables
- Attending 60 key meetings, 25 First Nation school site visits and other engagement activities including the Yukon and Northwest Territories.

- Hosting a dedicated website and a 1-800 call-in line to allow for people to make submissions and provide ideas.

The First Nations Education Council (FNEC), the Federation of Saskatchewan Indian Nations (FSIN), the Chiefs of Ontario (COO) and Nishnawbe Aski Nation chose not to participate in the engagement process.

What FNEC Says About First Nations Learning Systems

First Nations' vision of education and lifelong learning encompasses systems that are holistic, high quality, linguistic and culturally-based.

First Nations learning systems must be founded on First Nations languages, cultures, histories, philosophies, worldviews and values, as these are the heart of First Nation identity.

First Nations comprehensive learning systems require First, Second and Third level services under First Nation jurisdiction. These comprehensive learning systems must include programs and services designed to respond to the current and future needs of First Nations and improve learner outcomes. First Nations developed and controlled comprehensive data, management and evaluation systems are critical to measuring outcomes and ensuring opportunities for continuous improvement.

What the National Panel Report indicated were structural elements of a strong First Nation education system:

The overriding recommendation of the National Panel is that a First Nation education system must be created to support the delivery of education to First Nation students. This system must provide the necessary infrastructure and programs and services to support positive education experiences and outcomes for First Nation students. These elements include:

- a child-centered *First Nation Education Act* that outlines the roles and responsibilities of each partner in the system and establishes and protects the First Nation child's right to a quality education;
- education services and supports for schools, educators and students provided by national and regional organizations that are designed and delivered by First Nations;

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- strong partnerships and mutual accountability between First Nation and provincial schools and education organizations;
- statutory funding that is needs-based, predictable and sustainable; accountability for the use of funds for education purposes and the achievement of successful outcomes for First Nation students must be tied to this new approach to funding. (p. 30)

Engagement participants made clear statements to the National Panel advising them on six themes. Those themes have been correlated with what the First Nations Control of First Nations Education and National Panel concluded. The correlations are illustrated in the following table:

First Nations Control of First Nations Education	What the Panel Concluded/Recommended
<p>Canada must respect and uphold First Nations Inherent and Treaty Rights to education. These rights are recognized and affirmed in Section 35 of the <i>Constitution Act, 1982</i>. Full articulation of these Rights requires that Canada work in partnership with First Nations to establish the necessary implementation mechanisms required for First Nations to exercise their full jurisdiction over all education. (p. 17)</p> <p>The Government of Canada will work with First Nations as full partners in all aspects of government decision-making that impact upon First Nations education. First Nations will exercise their rights, recognized in Treaties, the Constitution of Canada and in international law, to make any and all final decisions in regards to First Nations education and lifelong learning. (p. 17)</p> <p>Federal, provincial and territorial governments will support the development and implementation of agreements and partnerships that recognize, acknowledge, respect, and support First Nations Rights and jurisdiction regarding First Nations education and lifelong learning. (p. 17)</p>	<p>Recommendation # 1 Based on the spirit of reconciliation and shared objectives, the Panel recommends the co-creation of a child-centered <i>First Nation Education Act</i> in order to ensure a sound and permanent basis for the establishment of a system that will support First Nation education. (p. 31)</p> <p>The Act will acknowledge and recognize First Nation entitlement to enact laws for the management and administration of First Nation schools and will recognize those laws based on First Nation legislative jurisdiction. The Act must fully recognize and incorporate the treaty and self-governing rights of First Nations. To this end, the Act will contain a non-derogation clause to the effect that nothing in the Act shall abrogate or derogate from any existing Aboriginal or treaty right of the Aboriginal peoples of Canada under section 35 of the Constitution Act, 1982. (p. 31-32)</p>
<p>The government of Canada must support First Nations comprehensive learning systems through sustainable funding that allows for effective decision-making, capacity development, and community-based program design and delivery. (p. 16)</p> <p>There must be funding for second and third level support structures as determined by First Nations at the community, regional and national levels. The level of financial resources that is required shall be informed by First</p>	<p>Recommendation #4 Ensure adequate funding to support a First Nation education system that meets the needs of First Nation learners, First Nation communities and Canada as a whole. (p. 38)</p> <p>A new funding formula that is needs-based and ensures stable, predictable and sustainable funding that is sufficient to produce desired outcomes will be required. (p. 39)</p>

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First Nations Control of First Nations Education	What the Panel Concluded/Recommended
<p>Nations research. (p. 16)</p> <p>The government of Canada shall work in cooperation with First Nations to jointly develop and implement an effective funding approach for comprehensive education and lifelong learning systems. (p 16)</p>	<p>Immediate measures for implementation in fiscal 2012-2013 are recommended: (p. 39)</p> <ul style="list-style-type: none"> • Increase education funding for 2012-2013 school year by an amount equal to the percentage increase for provincial schools in the province in which the FN school is located. • Increase teacher and administrator compensation in First Nations schools in the 2012-2013 school year to be equivalent to provincial schools in the province in which the school is located.
<p>First Nations languages, knowledge, and diversity are an important national heritage that must be protected, supported and preserved. Recognition and respect is vital for the success of comprehensive First Nations learning strategies that will lead to meaningful and improved learner outcomes. (p. 11)</p> <p>For successful implementation of First Nations language education, the Government of Canada must recognize and support the Policy Objectives and Goals identified in the <i>National First Nations Language Strategy</i> as approved by the Assembly of First Nations in Resolution No. 12/2007. (p. 11)</p> <p>Federal, provincial, territorial and First Nations governments must work together to fully implement First Nations’ rights to access high quality and culturally relevant learning in all education systems. (p. 13)</p>	<p>Principle for Reform (p. viii) First Nation Education Reform must be based on the child’s right to their culture, language and identity, and to a quality education that is appropriate to their needs. The First Nation child must always be at the center of this effort through a “child first” commitment that is embraced by all.</p> <p>Elements of Child-Centered Education: First Nation education should reflect and incorporate First Nation culture in order to provide the basis on which learning inevitably depends and in order to help confirm a positive sense of identity in students as First Nation persons. This includes First Nation languages so that the richness of worldview and the honouring of relationships that language reflects can engage First Nation students emotionally and intellectually. (p. 20)</p>
<p>The government of Canada shall work in cooperation with First Nations to develop appropriate and relevant accountability and evaluation mechanisms and reporting protocols so that First Nations are informed on an on-going basis of improvements in the educational outcomes of First Nation learners. (p. 16)</p> <p>Provincial and territorial governments must work in cooperation with First Nations governments to develop and implement appropriate accountability and evaluation mechanisms and regularly report to First Nations on the improvement of educational outcomes for First Nations learners enrolled in provincial, territorial learning and other institutions. (p. 16)</p>	<p>Recommendation #5 Establish an accountability and reporting framework to assess improvement in First Nation education. (p. 41)</p> <p>There must be clear financial and management accountability throughout the system. (p. 41)</p> <p>Mechanisms should be developed to require the fair adjustment of funds to provincial districts to account for First Nation students who drop out and/or leave provincial schools. (p. 40)</p>

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First Nations Control of First Nations Education	What the Panel Concluded/Recommended
<p>Federal, provincial, territorial and First Nations governments must consult on the development of strategic plans that will ensure balanced and high quality academic programs designed to focus on lifelong learning, including early childhood programs, K-12 education, school support services and Traditional Knowledge, such as on the land learning, and access to special education programs and services. (p. 14)</p> <p>Federal, provincial and territorial governments must develop, institute and maintain agreements and partnerships with First Nations communities and organizations to provide a supportive environment for learners, including an environment that is rich with First Nations relevant curricula and appropriate program development. (p 13)</p> <p>Federal, provincial, territorial and First Nations governments must ensure that all First Nations learners, regardless of residency, have access to any school program or institute. This requires that First Nations learners be provided with the resources and supports necessary to remove barriers to successful completion of the education program(s) of the First Nations learner’s choice. (p. 13)</p>	<p>Elements of Child Centered Education: First Nation education must take place in a safe and healthy environment. (p. 20)</p> <p>First Nation schools should be strong communities with a tradition and culture. Education flourishes when it takes place in the context of a community tradition – a tradition of committed teachers, enthusiastic students, engaging programs, and strong academic achievement. Good schools are places of belonging and fulfillment. (p. 20)</p> <p>The rights of children to be supported when they have special needs, including developmental disabilities, mental health challenges, or if they falling behind in achievement for their age, is an important principle for Canadian children which has not been extended fully to First Nation students. Education funding needs to be adequate to meet the higher cost of providing quality First Nation education, and to address the complex needs of students living in distant and sparsely populated communities. (p. 21)</p>
<p>Federal, provincial, territorial and First Nations governments shall develop and implement strategies to support the engagement of First Nations parents and communities as partners in lifelong learning. (p. 14)</p> <p>Data analysis is a critical component for planning and improving learning outcomes. The government of Canada must support First Nations in developing and implementing system infrastructures and processes for data management analysis and research based on OCAP principles. (p. 14)</p> <p>Federal, provincial, territorial and First Nations governments must work together to strengthen the capacity and number of Regional Education Management Organizations (REO/RMO) and recognize their authority and expertise in delivering second and third level services to First Nations. (p. 14)</p>	<p>The Panel recommends that funding and other incentives be provided to encourage First Nations to develop shared service arrangements among themselves and with provincial education systems. This would include the purchase of service from provincial school boards or other qualified providers including the private school system. (p. 37)</p> <p>Services provided through either existing or new First Nation Education Organizations or through shared services models can include curriculum implementation support, specialized counseling services, psychological and learning diagnostic services, teacher and classroom supports, professional development, school access including transportation, special learning tools, supports for children with special needs, student assessments, discipline and attendance management, work experience programs, and back office personnel and financial services. In some cases, these shared services could be further strengthened through partnerships with provincial school boards including purchase of service arrangements. (p. 37)</p>

Article 14: Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.

United Nations Declaration on the Rights of Indigenous Peoples
Endorsed by Canada on November 12, 2010

National Panel Recommendations

The National Panel proposes the following set of recommendations:

- 1) Co-create a Child-Centered First Nation Education Act
- 2) Create a National Commission for First Nation education to support education reform and improvement
- 3) Facilitate and support the creation of a First Nation education system through the development of regional First Nation Education Organizations (FNEO) to provide support and services for First Nation schools and First Nation Students
- 4) Ensure adequate funding to support a First Nation education system that meets the needs of First Nation learners, First Nation communities and Canada as a whole
- 5) Establish an accountability and reporting framework to assess improvement in First Nation education

A condensed summary of the National Panel recommendations are outlined below:

Co-create a Child-Centered First Nation Education Act.

Two components to the Act

This recommendation proposes that an Act should be introduced in Parliament **within 18 months of the delivery** of the National Panel report which would be approximately August 2013. It is proposed that this Act would be co-created in order to protect the rights of the child to a quality education (as defined by First Nations).

It is proposed that the act will “acknowledge and recognize First Nation entitlement to enact laws for the management and administration of First Nation schools and will recognize those laws based on First Nation legislative jurisdiction” and contain a non-derogation clause so that nothing in the Act shall abrogate or derogate from any existing Aboriginal or treaty right of the Aboriginal peoples of Canada under section 35 of the Constitution Act, 1982.

The powers and duties of the act are proposed to include two parts. Part 1 would apply to all First Nation children, including those attending provincial schools under government of Canada funded tuition agreements. It includes the following items:

- The rights of First Nation children, including the right to their cultural language and identity and the right to a quality education in a safe environment that is appropriate to their needs
- Objectives of the First Nation education system
- Roles, responsibilities and accountabilities of all partners within the First Nation education system including First Nations, First Nation Education Organizations, provinces and territories, and the Government of Canada
- Powers and duties of the National Commission for First Nation Education (see Recommendation # 2)
- Coordination of curriculum, standards, performance measurement and accountabilities
- Commitment to strengthening cultural identity through First Nation education
- Statutory funding for First Nation education that is needs-based, predictable and sustainable
- Other matters that may be identified by the parties

Part 2 of the Act would apply to students attending First Nation schools and would include the following issues:

- Student testing and assessment
- Policies and regulation of First Nation education
- Teacher employment, remuneration and standards
- School management
- Attendance and student retention
- Reporting based on outcomes and performance measures
- Dispute resolution
- Other matters that may be identified by the parties

The Report notes that many of these authorities may be delegated to First Nations Education Organizations based on mutual agreement. Many First Nations organizations would likely view most or all of these authorities as properly belonging to regional First Nations education authorities.

The report proposes that the Act will be designed to accommodate existing education legislative agreements currently in place among certain First Nations, provinces and the government of Canada (such as the FNEESC agreement in BC and Mi'kmaq Kina'matnewey agreement in Nova Scotia). In cases such as these, legislation enacted by regional First Nation structures, with the authority to pass laws, or self-governing First Nations, would take precedence over provisions of the First Nation Education Act, with the exception of the rights of First Nation children, including the right to their cultural language and identity and the right to a quality education in a safe environment that is appropriate to their needs.

Proposed changes to the Indian Act

It is proposed that the First Nation Education Act will replace sections 114-122 of the Indian Act which are the legal provisions which currently mandate the Government of Canada's governance of First Nations education. The Panel report calls for First Nations and the federal government to work in the spirit of reconciliation on the development of a needs based funding formula leading to stable, predictable and sustainable funding. This provision will be included in the First Nations Education Act. Education services, supports and accountability mechanisms will be First Nation designed and delivered.

The First Nation Education Act will be Optional

The National Panel indicates that: “Upon enactment of the First Nation Education Act, the education provisions of the *Indian Act* (sections 114 to 122) will no longer apply to those First Nations who opt into the new Act. If First Nations choose to opt out, it is assumed that the education provisions of the *Indian Act* (except those pertaining to residential schools) would continue to apply.”

Create a National Commission for First Nation education to support education reform and improvement.

National Commission to Replace AANDC First Nation Education Responsibilities

The National Panel recommends the creation of a National Commission for First Nation Education. It is proposed that the National Commission will replace the responsibilities, ***with the exception of funding***, of the Department of Aboriginal Affairs and Northern Development Canada (AANDC) for First Nation education. The removal of AANDC from First Nations education would provide a cost-savings that would likely be required to fund the National Commission.

There is no information on whether the Commission will oversee or influence the transfer of monies to First Nation education organizations across the country. There are no indications of how money will flow from AANDC to First Nations once education is moved outside of the department. This is subject to future discussion between the government of Canada and First Nations.

Interim and Permanent National Commission

The responsibilities of the Interim Commission are proposed to commence within the next three months with equal representation by First Nations and the Government of Canada with an independent Chair that would be appointed based on mutual agreement. According to the National Panel “the time is long past when First Nations can be considered a *junior party* in developing legislation, regulations, policies and systems as described in [their] report. Treaty and inherent rights require full and complete respect if any change is to take place.”

The responsibilities of the Interim Commission to ensure the child’s right to a quality education will be to oversee the early implementation of the recommendations of the National Panel report. The Interim Commission will also facilitate the

development of work plans and implementation instructions. It will function as the “the keepers of the process” related to drafting the First Nation Education Act, as negotiated between the federal government and First Nations, and ensuring the creation of a permanent National Commission on First Nation Education.

The responsibilities of the permanent National Commission may include developing national First Nation education goals, monitoring implementation of national standards, education and allocation policies, professional standards, performance and outcomes measures, etc. The timeline for establishment of the national commission will be 18 months. The authorities currently assigned to the National Commission may be delegated to regional First Nations Education Organizations. For those First Nations who do not belong to a regional First Nations Education Organization, the National Commission provides an option, other than AANDC programming, to improve First Nations education. It is important to consider the fact that there is not a comparable authority in mainstream Canada to address national issues in mainstream education.

The National Commission would also potentially exercise some authorities envisioned in Part 1 of the Act. The application of many elements in Part 1 may be limited to First Nations schools. The Act would not be able to prescribe binding requirements for provincial governments.

Federal and Legal Obligation to Consult

There is a federal and legal duty to consult in all aspects of the development of legislation. The legal duty for the Crown to consult with First Nations arises from the protection of Aboriginal and treaty rights set out in Section 35(1) of the *Constitution Act, 1982*. The duty “arises when the Crown has knowledge, real or constructive, of the potential existence of the Aboriginal right or title and contemplates conduct that might adversely affect it”. This would be the case here in the co-creation of a First Nation Education Act and National Commission for First Nation Education. Furthermore, the right of free, prior and informed consent, entrenched in the United Nations Declaration on the Rights of Indigenous Peoples, requires a higher standard of behaviour by the Crown in any initiative which may impact on Indigenous peoples. The act of “co-creating” legislation implies First Nations processes will be respected and included in the development process. This is a necessity if legal obligations for consultation and free, prior and informed consent are to be met and the Honour of the Crown is to be upheld.

Facilitate and support the creation of a First Nation education system through the development of regional First Nation Education Organizations (FNEO) to provide support and services for First Nation schools and First Nation Students.

Transfer of Responsibility for First Nation services and supports

The National Panel proposes that many of the services and supports typically provided by a Ministry or Department of Education in provincial systems will be assumed by the National Commission for First Nation Education. It is proposed that these responsibilities may be delegated to regional First Nation Education Organizations (FNEO's) **based on mutual agreement**. The National Panel further proposes that funding and other incentives be provided to support and facilitate the creation of regional or district level FNEO's to provide services and supports for First Nation schools and learners. New governance models are proposed to facilitate aggregation of services and that there be amalgamation of schools under common management agreements. The nature of these models are not prescribed by the National Panel, acknowledging that First Nation need to address regional diversity and local First Nations jurisdiction over education.

Meaningful Decision-making Authority

In the spirit of First Nation control of First Nation education First Nation governments must be included and provided with meaningful decision-making capacity in terms of agreements with provincial/territorial governments and potential FNEO's. First Nation, federal, provincial and territorial governments must be properly consulted on the development of agreements and strategic plans that will ensure balanced and high quality academic programs that support First Nation learners regionally and nationally. Data analysis is a critical component for planning and improving learning outcomes. Currently there is limited baseline data with which to make sound decisions regarding amalgamation of education programs and services. Recognition of FNEO authority and expertise is required in the delivery of second and third level services to First Nations by federal, provincial and territorial governments in order to enhance the capacity and number of Regional Education/Management Organizations. (FNCFNE)

Shared service models

Local autonomy and jurisdiction must be respected in the development of shared service models which must be First Nation driven. The time period for completion of this activity is proposed by the National Panel as **three years from now or 2015**. The National Panel does not address the size and scope of this activity.

The Proposed Model in the Context of FNCFNE

First Nation control of First Nation education (2010) asserts that the full spirit of the original implementation of the 1972 Indian Control of Indian Education policy (ICIE) has never amounted to more than only a modest level of control by local communities in the form of delegated authority. The unilaterally designed devolution process instituted by Indian and Northern Affairs Canada over the past several decades has allowed for inadequate implementation of the ICIE policy with the transfer of limited administrative control of education by First Nations. This was also without the necessary transfer of resources that would have allowed for implementation of First Nation controlled education systems.

The National Panel report references that First Nations schools exist within a “non-system.” The report proposes to the joint establishment of a funding model to be contained in a law which recognizes the authorities of First Nations Regional organizations to govern First Nations education. It will be critical to ensure that the authorities outlined in the legislation are exhaustive; that is to say, that they specify all aspects of First Nations jurisdiction over education and do not leave room for intrusion by other jurisdictions.

Given the magnitude of barriers faced by First Nation learners, the level of resources and investment required per student will likely be substantially greater than the average level of expenditures provided in the public school system.

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Ensure adequate funding to support a First Nation education system that meets the needs of First Nation learners, First Nation communities and Canada as a whole.

The National Panel clearly states that they believe that First Nation learners deserve to be educated in a system that will generate the same, ***or even better***, education outcomes as achieved by provincial systems [by non-First Nation learners].

Sustainable Funding

First Nations Control of First Nations education is very clear that the government of Canada must support First Nations comprehensive learning systems through sustainable funding that allows for effective decision-making,

capacity development, and community-based program design and delivery. Also, that there must be funding for second and third level support structures as determined by First Nations at the community, regional and national levels. The level of financial resources that is required shall be informed by First Nations research.

A New Funding Model is Required

First Nations Control of First Nations education is also very clear that the government of Canada must work in cooperation with First Nations to jointly develop and implement an effective funding approach for comprehensive education systems. The National Panel in its' report clearly articulates the significant gaps in compensation for teachers, principals, libraries, equipment, supports for special needs, school facilities, etc. In acknowledgement of the gaps observed by the Panel they recommend three immediate measures for implementation in fiscal year 2012-2013. They are as follows:

- Increase education funding for the 2012-2013 school year by an amount **equal to the percentage increase for provincial schools in the province** in which the First Nation school is located
- Increase teacher and administrator compensation in First Nation schools in the 2012 – 2013 school year to be **equivalent to provincial schools in the province in which the school is located**
- Work with First Nations to develop and launch, or expand existing early literacy programs in the 2012 – 2013 school year that will focus on **preparing First Nation students in the early years for success** in reading. The National Panel believes that an emphasis on helping First Nation students to read at level by Grade 3 would be significant in improving education outcomes for this generation of First Nation learners.

A Needs Based Formula

A new funding formula is proposed that is needs-based and ensures stable, predictable and sustainable funding that is sufficient to produce desired outcomes. The new funding formula must also be coupled with standards of accountability for both expenditures and results. The Panel notes that “This will not be easy to accomplish. The process will test the commitment of First Nations and the Government of Canada to reconciliation.”

The Panel recommends several actions related to funding of First Nation education. They propose a new funding model based on a “cost for service” approach. The new model would consider elements such as school size, community

remoteness, number of special needs students and unique curriculum or learning needs. The funding model is also premised on annual increases which should match provincial education systems in which the First Nation school is located.

Statutory appropriations are proposed for First Nation education funding to replace the current grant and contributions model. Multi-year statutory funding that is predictable and sustainable is recommended.

Transparency in the use of First Nation education funding consistent with increased levels of investment is recommended and the success of education programs delivered by First Nations and provinces alike are proposed in order to demonstrate positive outcomes as a result of increased investment.

Adjustments to funding to provincial districts to account for First Nation students who drop out or leave provincial schools is proposed so that there are assurances that additional funding **comes with conditions**, especially in a provincial context, in order to ensure funding is used to directly support First Nation learners.

A specific capital fund is recommended to be used solely for First Nation education facilities and infrastructure. Comprehensive inspections are recommended, as well as the development of a 10 year capital plan and emergency school repair and replacement fund. The panel does not address, however, the limitations of the space allocation standards for First Nation schools which are inadequate.

There is no content in the recommendations to address the issue of comparability or equity with provincial systems and how this differs from “needs based” funding.

Language and Culture Funding

Finally, the National panel recommends the government of Canada consult First Nations on the benefits of pooling all language and culture funding for First Nations into a single new fund. Pooling existing funds may be one way of determining the total amount of funding in the system for First Nations languages and cultures, but it does not necessarily address the issue of needs based funding for First Nations language and cultural programming both within and outside of school. Pooling funds could benefit language and culture initiatives in school, while possibly limiting initiatives outside school. It is essential that language funding be needs-based, reflecting our inherent and treaty rights, and equitable to the support for official languages in Canada.

Establish accountability and reporting framework to assess improvement in First Nation education.

The National Panel proposes that education reform must be founded on reliable and accurate information and data with which to make sound improvements and corrective action. This implies evaluating the system as a whole and the individual progress of each First Nation child. This will require analysis of education indicators (e.g. test scores, achievement levels, etc.) and outcomes (e.g. graduation rates, dropout rates, etc.).

Accountability and Reporting in the Context of FNCFNE

First Nations control of First Nations education clearly states that the government of Canada shall work in cooperation with First Nations to develop appropriate and relevant accountability and evaluation mechanisms and reporting protocols so that First Nations are informed on an on-going basis of improvements in the educational outcomes of First Nation learners. In addition, provincial and territorial governments must work in cooperation with First Nations governments to develop and implement appropriate accountability and evaluation mechanisms and regularly report to First Nations on the improvement of educational outcomes for First Nations learners enrolled in provincial, territorial learning and other institutions.

It is implied that a common set of objectives are required if First Nation governance over First Nation education is to be effective. It is further implied that First Nation accountability and reporting frameworks must be culturally appropriate especially in terms of measuring learner outcomes. Data is required to establish a baseline from which to move forward. Currently that data does not exist due to the limitations of the current contribution agreements which are not set up to provide meaningful education data for analysis purposes. First Nations education organizations have been developing their own data collection and analysis infrastructures. These need to be supported and enhanced.

The principles of First Nation ownership, control, access and possession of information are critical elements to the integrity of any information system. The National Panel recommends that the Education Information System currently under development by Aboriginal Affairs and Northern Development Canada could form the basis of a new information system. Although work has commenced on the system First Nations require thorough discussion and analysis of the components and design to ensure meaningful consultation is addressed according to the AFN resolution passed in December 2011. In addition, First Nation languages and cultures must be factored so that funding levels and regional requirements are meaningfully addressed within the accountability and reporting framework.

**Summary of the Report of the National Panel on First Nation Elementary and Secondary Education for Students On-reserve
Nurturing the Learning Spirit of First Nation Students**

The following table illustrates some of the key strengths, weaknesses, opportunities and threats as they pertain to the content contained within the National Panel report and the corresponding context of First Nations.

<p align="center">STRENGTHS</p> <p>First Nations Control of First Nations Education. The need for statutory funding that is needs based, predictable and sustainable. Co-creation of legislation in the form of a First Nation Education Act that protects culture, language, funding of the system and FNCNE based on meaningful binding consultation methodologies. Education reform must be based on the child’s right to their culture, language and identity. Education must use language, culture and traditions to build the student sense of belonging, self-esteem and identity. Education reform is child centered and rights based. Local engagement and activity will be enhanced. First Nation education must be supported through professional and accountable institutional supports delivering second and third level services. All parties dealing with the education of First Nations students must be accountable.</p>	<p align="center">WEAKNESSES</p> <p>Government has failed to implement treaty promises. The Indian Act is inadequate to meet the education needs of First Nations. The highest gaps and systemic failure in serving First Nation student needs are by provincial schools. Legislation is targeted towards First Nations and is non-binding in provincial school systems. There is lack of transparency and accountability by federal and provincial partners. The 2% cap on funding has not been lifted. There is limited flexibility in funding and policy which does not adequately address regional diversity. The recommendations are non-binding.</p>
<p align="center">OPPORTUNITIES</p> <p>Implementation of First Nations control over First Nations education. Engagement in dialogue and collaboration. Investment in First Nation children and improved outcomes. New funding methodologies. Additional funding and resources for First Nation education equal to provincial levels. Updated and needs based funding formula. Development of a new First Nation education governance system that is First Nation driven and designed. The federal government and provincial/territorial legislatures must reconcile FN constitutional rights (section 35) within their education acts.</p>	<p align="center">THREATS</p> <p>Change is slow. There is a history of lack of improvements over the decades. There is no acknowledgement of decades of prior studies done by First Nation experts, researchers and specialists. Current funding formulas are inadequate and the BOFF is outdated. Treaty right and jurisdiction may be eroded. Federal budget cuts may limit government ability to invest more funds in education as recommended by the National Panel. Delegated authority for First Nation education is tied to funding. There is a danger of off-loading by federal government to the provinces. Poverty and poor indicators of health and social development. Years of under-funding and lack of infrastructure upon which to build systems.</p>

Strengths, Weaknesses, Opportunities and Threats: A Summary

Strengths and weaknesses

The National Panel report acknowledges the need for consultation and the co-creation of a mechanism that protects the culture, language, funding and educational identity for First Nations children. The report stipulates the requirement for statutory funding that is needs based, predictable and sustainable. Stemming out of a reliable funding model, the Panel asserts that education for First Nations must be supported through corresponding institutional supports delivering second and third level services. The National Panel further proposes that a child centered approach to education is required that incorporates language, culture and traditions to build student self-esteem and sense of identity and where community engagement is facilitated.

While the National Panel supports some of the concepts stemming from First Nations control over First Nations education, there remain some significant challenges. Most critical is the issue of large gaps in outcomes and the systemic failures on the part of provincial schools in addressing positive First Nation learner outcomes. This problem is compounded by inadequate accountability frameworks and outdated funding formulas and fiscal policies that are inadequate in addressing regional diversity. There is also a disconnect between federal and provincial legislation which is inadequate to meet the fiduciary obligations required to address the needs of First Nation learners. Another barrier is the Indian Act which is not designed to address the requirements of First Nation education systems or empower First Nations to exercise full and meaningful jurisdiction over education. Finally, the government of Canada continues to fail in meeting the obligation for implementation of treaty promises. This results in mistrust among First Nations significantly impacting the spirit of reconciliation and impeding the political will to collaborate and address meaningful reform. There is a plethora of First Nation specific literature to support and inform the process of change that is required to improve First Nation learner outcomes and enable First Nations control of First Nation education.

Opportunities and threats

There are a number of opportunities that are proposed in the National Panel report. Specifically the National Panel addresses the need for modernized First Nation education system that would be facilitated by a new funding mechanism that would facilitate transfer of the resources required for First Nations education to become at par with provincial funding levels and standards. They go on further to propose that there be a renewed commitment to engaging in dialogue and collaboration between First Nation and non-First Nation educational entities. There is also the opportunity for the federal government and the provincial/territorial legislatures to reconcile First Nation constitutional rights (section 35) within their education acts. Within the context of this discussion it is clear that an investment in First Nation children will result in improved outcomes particularly as a result of the provision of additional funding and resources equal to provincial levels.

As part of the summary herein there are issues that have to be addressed to ensure success over time. For example, the timelines proposed by the National Panel for implementation may not be realistic given the broad scope of writing legislation and planning systemic change and reform. The National Panel clearly states that they know change takes time. Implementation of treaty rights and jurisdiction are technical and complicated. Treaty right and jurisdiction must be protected. Great care must be taken to ensure that there is no off-loading of fiscal responsibility by the federal government to the provinces. There is a long history of limited improvements in First Nations education by government therefore the process of change would be best informed by the significant body of research that has been conducted over the years by First Nation experts, researchers and specialists.

Principles of Engagement

The principles of engagement and continued dialogue pertaining to the recommendations resulting from the National Panel process must be guided by the First Nations control of First Nations education framework next steps which are as follows:

All governments in Canada must fulfill their Constitutional, Treaty and international obligations to First Nations peoples by supporting the design and implementation of First Nations comprehensive learning systems with adequate and sustainable resourcing.

It is imperative that the Government of Canada move ahead with the commitment made by Prime Minister Stephen Harper, on behalf of the federal government, in the *Statement of Apology to Former Students of Indian Residential Schools* to “*forg[e] a new relationship... based on the knowledge of our shared history, a respect for each other and a desire to move forward together with a renewed understanding that strong families, strong communities and vibrant cultures and traditions will contribute to a stronger Canada for all of us.*”

In the spirit of reconciliation, and to ensure the needs and requirements of First Nations learners are met by federal, provincial, territorial and First Nations governments, it is essential that:

- Federal and provincial governments amend current laws affecting education and training that are inconsistent with the exercise of the Inherent and Treaty rights recognized and affirmed by the *Constitution Act, 1982* and the *United Nations Declaration on the Rights of Indigenous Peoples*.
- The government of Canada upholds the Honour of the Crown and fulfills its fiduciary obligations with respect to First Nations education in a manner fully consistent with and in affirmation of First Nations’ Inherent and Treaty rights.
- Statutory funding arrangements be developed, in collaboration with First Nations, based on real costs, indexation, and appropriate treatment for Northern and remote communities.

- Federal, provincial and territorial governments, in the Spirit of Reconciliation, immediately act upon the commitments made to First Nations in the *Statement of Apology to Former Students of Indian Residential Schools*.
- Professional and accountable institutional supports be developed to ensure the delivery of second and third level supports including First Nation curriculum and immersion in First Nation languages.
- Linkages with the public and private sector be developed to foster collaborative investments in First Nations lifelong learning to enhance access to safe and healthy learning environments in First Nation communities.
- Provincial and territorial governments must support the implementation of First Nations Control of First Nations Education, and in partnership with First Nations, incorporate First Nations Control of First Nations Education into their legislation, strategies, policies and practices.

Next Steps

Next steps are critical as a follow up to the release of the National Panel report to ensure the integrity of the First Nations engagement on which the report is theoretically based. They are as follows:

- Host a webcast with the Chair of the National Panel to present the National Panel report and recommendations. Also conduct a live question and answer period and sharing of comments from First Nations and other interested parties.
- The Assembly of First Nations Chiefs Committee on Education and National Indian Education Council must be given adequate time to review and discuss the National Panel report, its conclusions and recommendations. This review will be based on the consistency of what was recommended with the AFN 2010 First Nations Control of First Nations Education policy framework.
- Engagement partners across the country must be given adequate time to discuss and assess the report in relation to what was shared with the National Panel between September 2011 and December 2011 through the forum of roundtables, site visits and key meetings and determine what is achievable within the context of the proposed plan.
- Strengthened advocacy and interaction at the highest levels of the federal government need to occur to ensure a commitment by the government of Canada to both the immediate and long-term increase in funding as recommended by the National Panel. This is based on the presumption that a new funding approach will be needs-based and, at minimum, equal to provincial school systems and comparative within the context of the fiduciary obligation of the government of Canada for First Nations education.
- The “duty to consult” must be a primary principle for follow up of the National Panel report as it pertains to the potential consequences of implementation of the proposed recommendations. Although there are only 5 recommendations posed by the National Panel there are several sub-parts that require in depth analysis and discussion by First Nations across the country.