

***“Ten Steps to Improving Bill C-33, First Nations
Control of First Nations Education Act”***

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Background

In tabling Bill C-33, *First Nations Control of First Nations Education Act*, Ottawa intended to take an important first step towards improving education for Aboriginal students attending on-reserve schools.

However, because of its narrow focus on organizing on-reserve schools and enabling them to enter into reserve-based equivalents of provincial school boards, Bill C-33 charts a course fraught with risk for First Nations, and for Canada. The organizations and procedures outlined in the legislation draw attention away from what should be the Bill’s main focus– improving achievement for Aboriginal students.

The purpose of this paper is to outline amendments to the legislation - or elements of a new bill - that would improve the chances that Federal legislation would offer a meaningful starting point for improving educational and economic circumstances for on-reserve students.

What is Bill C-33 Really About?

The intentions of Bill C-33 - *First Nations Control of First Nations Education Act* are described as follows in the legislation’s introduction:

1. An Act to establish a framework to enable First Nations control of elementary and secondary education and to provide for related funding and to make related amendments to the Indian Act and consequential amendments to other Acts

2. This enactment provides for the control by First Nations of their elementary and secondary education systems. It establishes a framework to enable First Nations to exercise that control by administering schools situated on their reserves, by delegating the power to administer schools to a First Nation Education Authority or by entering into a tuition or administration agreement. It also

creates a right of access to elementary and secondary education to persons of school age who are ordinarily resident on a reserve, establishes the Joint Council of Education Professionals, sets out the roles and responsibilities of the main participants in First Nations education systems and provides for the necessary funding. Finally, the enactment makes related and consequential amendments to the Indian Act, the Mi'kmaq Education Act and the First Nations Jurisdiction over Education in British Columbia Act.

3. The purpose of this Act is to provide for the control by First Nations of their education systems by enabling councils of First Nations to administer schools situated on their reserves, to delegate that power to First Nation Education Authorities or to enter into tuition or administration agreements in accordance with this Act.

Bill C-33 is not educational legislation in the strictest sense of the word "educational." It simply denotes in broad terms a transfer in bureaucratic control from Federal Government to First Nations authorities. In other words, it represents a new agreement over who governs and administers the operations of on-reserve schools and who is paid to do so. Strictly speaking, these are primarily governmental and bureaucratic functions, not educational ones. But this is just one of a number of concerns that can be raised about this Bill. There are others.

In fact, the legislation does not actually provide overarching measures of Aboriginal control or responsibility or, for that matter, relief from Ministerial meddling. As such, the proposed legislation fails to bring about a real change in ownership of on-reserve schools, or a real change in who can be held responsible for their performance. Without such clarity and resolution, Bill 33 does no more than tinker with the optics of ownership and does not allow First Nations to succeed or fail on their own terms.

The consequences of a lack of clarity are easy to predict. Finger pointing will invariably occur: AANDC will claim educational outcomes have not been improved, or improved quickly enough, and First Nations will claim that government has not given them the tools to do so. In short, the political posturing of the past half-century by both sides will continue and, as a result, children's educational opportunities will remain bleak.

In addition, the overwhelming emphasis on financial and control issues placed throughout the text of the Bill have seemingly displaced the Bill's original *raison*

d'etre, namely raising standards and performance levels for on-reserve schools and students. A cynic might well observe that the \$1.9 billion budgets (plus statutory increases) that AANDC will disperse annually in accordance with the proposed legislation seem targeted more toward achieving political quiet than raising standards designed to equalize opportunity for Aboriginal youngsters.

By remaining silent on student achievement and quality, arguably the two signal objectives the legislation was originally designed to improve, the Bill lacks purpose and direction. Without such compass points, this legislation will likely remain obsessed with bureaucratic process and will do little to narrow the crippling gap in educational outcomes that condemns Canada's Aboriginal children on reserves to lives of underachievement, whether measured in educational, social, or economic terms.

Much of Bill 33 appears predicated on the notion of minimum compliance. Check off the procedural boxes, the Bill seems to suggest, and everything is "good to go." It is a bureaucrat's dream. Everything is bound up in process. Nothing is about product.

Consequently, neither transparency nor public accountability appear to be of any great importance in the Bill as it is now written. Simply requiring a council to report annually to the Minister appears to be a grossly insufficient requirement for accountability by any standards. And although the Bill sketches out what the Federal Government and the First Nations might expect from this legislation, it reveals absolutely nothing about why this legislation is pertinent to the people of Canada, or how it will positively impact children's learning in on-reserve schools.

In short, the text of the Bill enshrines no deeply-held political or social ideas, or principles such as the importance of equalizing educational opportunity, access, and outcomes for all children. Put another way, there is no heart, soul, or vision to the proposed legislation and no real call to arms to change the status quo. Legislation framed in such a pedestrian manner will forever find it difficult to enlist defenders or supporters, much less to move individuals to action. It will inevitably be forgotten because there is nothing in it that anyone cares about. On this basis alone, it is likely doomed to failure.

The organizational structures the Bill outlines are equally flawed because they are bereft of ambition and innovation. The proposed legislation seems completely content in prescribing archaic organizational arrangements that are everything but forward looking or relevant to the 21st century. In recommending old and outmoded public school structures as the platform for going forward, the Bill is a journey in time travel back to the bygone world of nineteenth-century school and administration. The father of Canada's public schools, Egerton Ryerson, would be quite at home with this proposed legislation as he was with early Ontario school legislation in 1846.

Similarly, in failing to consider how to employ today's emerging technologies and the immense pedagogical and organizational opportunities they offer, the Bill again signals a ringing endorsement of the status quo and the school practices of an earlier age. In summary, although the Bill was originally described as a platform "to do business differently," it appears to be anything but. The legislative prescriptions it contains point decidedly backward, not forward.

Whether Bill C-33 can be saved remains an open question. We are convinced, however, that a legislative framework with far fewer and far simpler steps could provide First Nations with much more substantial control over on-reserve schools and much better educational results. Let us now outline what we think should be done to produce greater effect.

Suggested Amendments

We believe that the ten modifications proposed below would improve the legislation and its chances of acceptance.

Our proposals are intendedly not detailed, but they are clear enough to guide framers of legislation should government and First Nations accept the general direction.

1. Set High Aspirations

The legislation should set out simple and important educational objectives *for students*. The Bill could easily specify the importance of student achievements with respect to *both* traditional cultural subjects *and* math, reading, and science. The statement of purpose should place improving the educational performance of First Nations children at the forefront. Everything else, including First Nations control, is in support of this objective.

2. Enable Voluntary Participation in the Legislation

The legislation strives for a uniform approach across the country, although it makes participation in large First Nations Education Authorities optional.

First Nations are enormously varied in their cultures, the manner in which they wish to deal with Canada and in their aspirations for education. Band-operated schools are in locations that range from large cities to extremely isolated villages that lack even year-round road access. Their proximity to conventional jobs is extremely varied.

These realities mean that legislation affecting all First Nations has the potential to become divisive among First Nations and between First Nations and other Canadians. The turmoil that led to Chief Atleo's resignation after introduction of the legislation is a signal of the difficulties posed by this risk.

Legislation that encourages bands come under its umbrella is more likely to find acceptance. There is no need to impose legislation on everyone, even if the situation on many reserves is dire. The legislation need only provide incentives to move towards an improved situation.¹

Voluntary participation would also allow elimination of many clauses that create First Nations' objections to the legislation. Therefore, we suggest that legislation be amended to enable Bands to opt into the new legislation as an alternative to remaining under those sections of the *Indian Act* that apply to education.

¹If no band volunteers to participate, the legislation doesn't provide clear and appropriate incentives.

3. Give the Joint Council of Education Professionals a Real Job

The legislation creates the Joint Council of Education Professionals, which serves at the pleasure of Government. This means all authority (and hence responsibility) tracks directly back to the Minister.

The Council is charged with providing advice to the Minister and consulting with at least 600 Aboriginal entities operating schools. It is also to receive reports from each school or First Nations Education Authority. Such a Council is likely to evolve into an expensive and time consuming committee laboring on the frontiers between Chiefs, educators, provincial and federal governments.²

We recommend strengthening the role of the Joint Council as follows:

1. The council should be charged with three tasks:
 - a. Improving the cultural, linguistic and academic performance of students attending on-reserve schools.
 - b. Demonstrating to First Nations, the public and the Minister that progress is being made.
 - c. Ensuring that, within each jurisdiction, funding distributed by AANDC to each band-operated school, is at a level comparable to schools serving similar students in similar situations

Additional amendments would be needed in support of this direction. For example:

- 1.1 The Joint Council would oversee AANDC's distribution of:
 - a) At least 90% of all funding for educational operations of Band-operated schools
 - b) Additional funding to pay for the tuition and expenses of students attending off-reserve provincial schools
 - c) Additional funding to pay for the operation and maintenance of school buildings
 - d) Additional funding to pay for transportation
 - e) Additional funding to pay for school capital
 - f) AANDC will allocate funds to each Band Council, School or First Nations Education Authority using a transparent and publicly available formula. The formula may vary from jurisdiction to jurisdiction, as long as comparability with provincial funding is maintained for each band-operated school.

² Many committees already advise and make recommendations to Ministers. There is a high probability that those of the Joint Council will be no more to be acted upon than those of the other groups.

- g) The Joint Council, Band Councils, schools and First Nations Education Authorities must spend all funds granted for education on education.
 - h) AANDC will audit education spending by bands.
 - i) The Minister will provide the Council with language and culture funding at a level at least comparable to that provided in provincial schools to support minority language and culture.
 - j) Within 12 months the Council and AANDC will introduce additional funding to support First Nations Education authorities delivering specified second level services, including such items as low incidence, high cost special education services, special education technology supports, telecommunications infrastructure, educational management, information and reporting systems and quality control mechanisms.
- 1.2 The Council will have representation from each province and territory in which bands have opted to participate under the legislation.³
 - 1.3 Council members are to be:
 - a) Accomplished managers and educators.
 - b) Nominated by bands operating on-reserve schools.
 - 1.4 Within each jurisdiction, participating bands would determine a confirmation mechanism to select the jurisdictions' representative.
 - 1.5 The Minister would name two additional members, who would be entitled to attend all meetings of the Council.
 - 1.6 To provide long-term stability, initial terms of office would be of varying lengths determined by random assignment. Thereafter, members would serve overlapping four-year terms.
 - 1.7 The Council will be formed and staffed immediately upon passage of the legislation in order to prepare for the full implementation of the legislation in 2017.
 - 1.8 The Joint Council will receive an annual report from each region. The Joint Council will determine the form of the reports (these, in turn, would have implications for the regions)
 - 1.9 An annual summary of progress will be prepared for the Minister.

The Council will need time and support to develop capacity for itself and for each region. Capacity building activities are likely to require a minimum of five years, and a transition plan needs to be developed by First Nations and AANDC.

These recommendations place control of education, and the responsibility for its successes and failures, firmly in the hands of First Nations' own expert educators.

³ Regional representatives should represent the interests of band-operated schools, rather than the broader interests of Chiefs.

This begs the question of what to do if things don't work out. However, given voluntary participation, failure to improve results or comply with provisions could be treated as *de facto* opting out, in which case the Minister could return the offending bands to the provisions of the Indian Act. (See # 10 below)

3. Segregate Funding for Education

Education is only one of many pressures faced by Band Councils in the exercise of their duties. Because of its importance in determining the future of children's social and economic health, education funding should be spent on education and nothing else.

Band Councils should be required to segregate education funds, prepare a budget, and a year-end financial report. These documents should be available to the community and to the public that provides the money.

An accounting manual suitable for education is required. This should be developed by professional accountants on behalf of the Joint Council.

4. Report Progress by Schools and First Nations Education Authorities

Each Band and Education Authority must monitor and report the academic achievement and language and cultural development of its students to parents at a minimum of bi-monthly intervals.

Summary performance reports must be made available to Joint Council of Educational Experts and the community at least annually. These reports should be readily available.

Each Band Council or First Nations Education Authority must monitor and report annually on the condition of capital assets devoted to education. The report must be readily available to the community and to the public that provides the money.

Monitoring and reporting are critical requirements, given both Bands' and the Government's pledge to make progress and to justify spending to their constituents.

The form of reports should be specified by the Joint Council, with the advice of education experts from the provinces and other countries.⁴

5. First Nations Education Authorities Should Provide Specified Services

The current legislation creates administrative entities that will be unnecessarily complex.

⁴ Reporting implies standards against which reports can be prepared.

For example:

The council of a First Nation may, by written agreement, delegate its powers and functions under sections 20 to 23, 25 and 26 to a body corporate incorporated under federal or provincial legislation if the agreement meets the conditions set out in the regulations. Any such delegation must be in respect of all of those powers and functions. [emphasis added]⁵

We recommend amending this section as follows:

The council of a First Nation may, by written agreement, delegate some or all of the powers and functions under sections 20 to 23, 25 and 26 to a body corporate incorporated under federal or provincial legislation.

Each First Nation should decide what services it requires from a First Nations Education Authority and what powers it wishes to delegate. Each First Nations Education Authority should decide what services it can deliver given its funding, human resources and the powers granted to it by Bands.

Such decisions have already been made in some jurisdictions. There is no obvious benefit for legislating that all responsibilities should be centralized. In fact, such centralization can easily move too much local responsibility and capacity to a distant administrative organization that may not be responsive to local needs.

6. Fund First Nations Education Authorities

No mention is made of the cost of First Nations Education Authorities. Unless funding to support them is in addition to funds otherwise spent on band-operated schools, communities will have to pay for these agencies. This will prove contentious and an obstacle to creating the authorities. Some form of base-level support is needed for each Education Authority.

Supplementary funding for the First Nations Education Authorities will avoid disputes with Bands and enable creation of pools of funding that pay for special services and meet variations in costs. An existing prototype is the funding of special education services through the First Nations Education Steering Committee in British Columbia.

7. Reduce Focus on Administrative Roles and Responsibilities

The draft Act specifies that a “responsible authority” means the council of a First

⁵ No one knows what the conditions to be set out in regulations will be, but since the government controls the conditions by regulations the legislation retains federal control.

Nation or a First Nation Education Authority, as the case may be.

It then goes on to state (Section 32) that

“A responsible authority must provide the persons registered in each school that it administers with the instruction and the access to educational materials, school equipment and transportation, as well as to any other service *prescribed by regulation* [emphasis added], that enable those persons to participate in the school’s education programs.”

We would amend this section to read

A responsible authority must provide the persons registered in each school that it administers with instruction and access to educational materials, school equipment and transportation, as well as to any other service recommended by *the Joint Council of Education Professionals*, that enable those persons to participate in the school’s education programs.

This transfers control from Government regulations to Joint Council recommendations.

In order to provide control of service levels by Bands rather than by First Nations Education Authorities, we would amend section 33 as follows:

A responsible authority must provide each school that it administers with those services agreed between itself and the school.⁶

Sections 35, 36 and 37 require education authorities to employ a Director of Education, a Principal for each school and a School Inspector. As defined in the draft legislation, the roles are entirely process oriented and ignore the large elephant in the room, namely the staggeringly impoverished academic results of children attending on-reserve schools.⁷

⁶ These may include management and/or delivery of: Human resources, Special education, Information, Information technology, Finance, Property, Transportation, Communications, Distance Education, Assessment, Standards, Reporting, Teacher Development, and any other service that enables the school to be managed and operated effectively.

⁷ The roles are defined by *processes* such as:

- “Verify that the programs, policies procedures and plans required to be established under this Act have been established and implemented” (School Inspector)
- “Implementing the school policies established by the responsible authority, implementing school policies respecting students with special needs, managing human resources, including employing teachers and principals with a teaching certificate in good standing issued by the Minister of Education of a province or a recognized Canadian teacher certification authority and any other qualifications required by the regulations...” (Director of Education)
- “Preparing and implementing a school success plan; implementing the school’s education programs; planning extra-curricular activities; planning the school’s daily schedule; supervising the teachers;

We recommend removing job descriptions from the legislation and replacing them with a requirement that a “Director of Learning” be placed in charge of student achievement. In small schools, the designated person could play multiple roles, including school superintendent, principal, and teacher. The point is that someone has to be responsible for results, not processes.

The Director of Learning should not be a member of the Council of a First Nation if that council administers the school or is a party to an agreement with the First Nations Education Authority that has appointed him or her.

In order to improve teacher recruitment and retention, we recommend removing requirements for teachers and/or administrators to hold valid provincial teaching certificates. We think trading inexperienced, certified but mobile teachers, for inexperienced beginners enrolled in a certification program and likely to remain in the community would have long-run benefits in the form of retention and continuity.

A program of in-service training similar to those used years ago to deal with teacher supply problems in public schools, could bring unqualified teachers to suitable standards. Training and experience salary grids would encourage community members to obtain teaching certification. First Nations could develop their own requirements, which might, or might not, include possession of a provincial certificate.

8. Focus on Results

There is no attention to student achievement in the legislation, yet after money, standards and assessments are the two most important ways to direct the quality and direction of education systems.

First Nations have resisted “external” standards, especially if they are designed by outsiders. They argue that external standards do not represent their approach to education or the outcomes that they consider to be important.

Fair enough. But it is then incumbent on First Nations to define acceptable standards and assessment tools by which they will manage the success of their schools.

Standards similar to those used by provincial schools are important to band

ensuring that the students are evaluated, having regard to grade level, the school’s education programs and the culture of the First Nation in question; ensuring that regular reports on the students’ progress are sent to the students’ parents;” (School Principal)

members and to employers.⁸ Successfully weaving standards into First Nations schools is therefore necessary to stem migration of children into public schools and to improve students' chances of success once they venture off-reserve.

Proper use of standards (usually expressed in curriculum) and standards-based assessments is central to the management of education, both at organizational levels ("How is a school doing?") and for individual students ("What can this student do, and what needs to be taught?").

Without some form of standards based assessment and reporting it is impossible to identify and sustain ongoing quality improvement in any organization, including schools. This is true for language and culture programs and for "academic" subjects.

First Nations can no longer afford to be unaware of the state of education among their students and communities. They require the capacity to find and correct weaknesses and replicate successes. They also need the institutional stability offered by standards and assessments to protect themselves from teacher turnover and remoteness.

Because standards and assessments are so critical, we recommend separate supplementary funding for schools and First Nations Education Authorities that choose to employ standards and assessment in their efforts to achieve their educational goals.

9. Clarify Funding.

To date, we have no idea how the proposed funding system will work aside from a commitment to make funding comparable to provincial funding for similarly situated schools and for similar students. But, there are ten provinces and territories operating education systems. Each raises money in different ways, ranging from local property taxes administered by school boards to mixes of local property taxes and provincial general revenue, to provincial general revenue supplemented by locally available revenues.

Because of these complications and more (outlined in Appendix 1), the methods used to calculate funding requirements vary widely from one jurisdiction to another. In many instances, it is far from straightforward to calculate how much money is being spent in any given school, or on behalf of any given student.

⁸ The fundamental outcomes of education, especially reading, writing, scientific literacy and mathematics, are so widespread that 60 countries, including Canada, participated in the latest round of the Programme for International Student Assessment (PISA). PISA compares student performance in mathematics, science and reading among upper secondary students, ages 15, in all participating countries.

Since all parties need to see what happens under the proposal before a sensible discussion about the effects of funding can be held, the funding system needs to be tested *for each school* in each jurisdiction, so that financial impacts can be assessed. Adjustments for unforeseen anomalies (of which there are sure to be many) can then be proposed.

It will then be necessary to assess how funding will respond to change over time. This is because we already know that AANDC's current habit of entrenching arrangements in five-year agreements is inadequate in a world of rapidly changing demographics and costs.

During these simulations, the funding levels proposed as support for language and culture should be included.

Until the major complications are identified and resolved it will not be possible to determine if government provisions to fund the legislation are adequate and to assess where arrangements are politically acceptable. Nor will bands opt into the process until at least financial clarity is achieved.

Clarity will bring complications. Until these are identified and major issues resolved it will not be possible to determine if proposed levels of funding are adequate or politically acceptable. Even now, government cannot understand the long-term financial implications of its vaguely worded commitment to comparability.

Funding formulae must be available. Developing workable distribution systems will require several months of intensive analysis and discussion. It will also require close Federal cooperation with provinces, which may not be straightforward to obtain. It is urgent that a trial round of calculations be made, and discussions with bands and provinces initiated.

10. Simplify Consequences

Sections 39 through 42 set out all the things the Minister may do if a school or First Nations Education Authority is not in compliance with the Act. None of these recommendations would be necessary if First Nations had to volunteer to come under the provisions of the legislation.

If participation were voluntary, failure to comply with the provisions could be viewed as *de facto* opting out, in which case the provisions of the *Indian Act* would apply.

In Retrospect

Maybe we started down the wrong road. A less ambitious strategy might quickly provide Aboriginal control *and* improve results for children.

AANDC could commit to match provincial funding levels; fund language and culture programs, provide provincially comparable funding for special education, fund standards and assessments, properly fund infrastructure, fund needed administrative support and provide financial incentives for improved achievement results.

AANDC could leave operating control of, and responsibility for, education of on-reserve students in the hands of bands (as it is now) and help bands wishing to organize into larger units of management with funding for planning, operations and implementation.

For their part, Aboriginal educators could commit, band-by-band, to improve the results obtained by their students until their students met or exceeded results obtained by all other students in their respective provinces. This would require reporting progress at least annually, which would lead First Nations to clarify some set(s) of standards and assessments.⁹

These processes should be in support of equity and parity with off-reserve Canadian schools. Federal, provincial, and Aboriginal leaders can win any public and political debate so long as they represent these goals fairly. Deviate from these goals, or let others displace the narrative, and initiatives to involve government in the improvement of education are doomed.¹⁰

The working definition of success is simple: band-operated schools should be able to yield comparable results to off-reserve schools, at least. Federal and provincial governments, as well as band councils, will succeed if they stick to this goal and insist on making incremental progress each year.

The approach would be similar to the Tripartite Education Framework agreement reached, without legislation, in British Columbia.

⁹ Both First Nations and AANDC need to collaborate with provincial ministries of education in order to meet their commitments. It is provincial ministries that contain most of Canada's education policy and funding expertise. It will take time and effort to develop functioning collaborations with the provinces.

¹⁰ Canada's unilateral reintroduction of its "Own Source Revenue" policy into the British Columbia jurisdiction process killed the development of Aboriginal control in BC. First Nations emphasis on control has diverted AANDC's resources away from education quality.

Could this work? We think yes, and leave the reader with two pieces of supporting evidence from British Columbia's effort to improve the achievement of aboriginal students.

Figures 1 and 2 show BC school completion rates in 1999/2000 and 2012/2013. 1999/2013 was close to the start of British Columbia's effort to improve the results achieved by Aboriginal students in public schools. The 2012/2013 data show the situation 13 years later.

The effort consisted of a small amount of additional funding, a requirement that each district provide separate reports about the achievement of Aboriginal students, extended use of skills assessments, encouragement of school leaders and teachers to accept responsibility for improving results and a direct appeal to First Nations who supported the effort strongly by rebuffing union and administrator efforts to suppress the publication of results.

This was a new way of doing business in schools. It appears to have worked.

The change in achievement levels is meaningful for both Aboriginal and non-Aboriginal students. The gap between Aboriginal and non-Aboriginal students has been narrowed. On-reserve schools are participants in these changes because their students frequently move into public school secondary programs.¹¹

Today's on-reserve school "system," in spite of (or perhaps because of) extensive government-imposed fiscal and procedural requirements, yields wretched results. First Nations can hardly do worse, especially if they are working in an environment with fewer procedural rules and much stronger commitment to results.

In retrospect, First Nations and Canada should bring in the provinces and just do it.

¹¹ Unfortunately, it should also be noted that one of the districts with the worst record of improvement is a publicly funded school board fully under the control of a First Nation. We mention this as evidence that creation of school board like organizations is unlikely, by itself, to lead to improvement.

Completion Rate 1999/2000

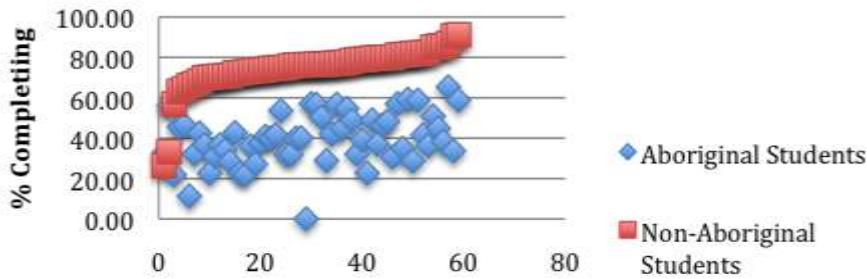


Figure 1
School Districts Organized by
Non-Aboriginal Completion Rate

Completion Rate 2012/2013

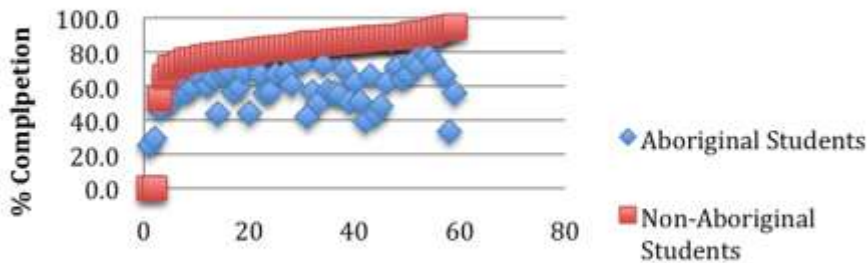
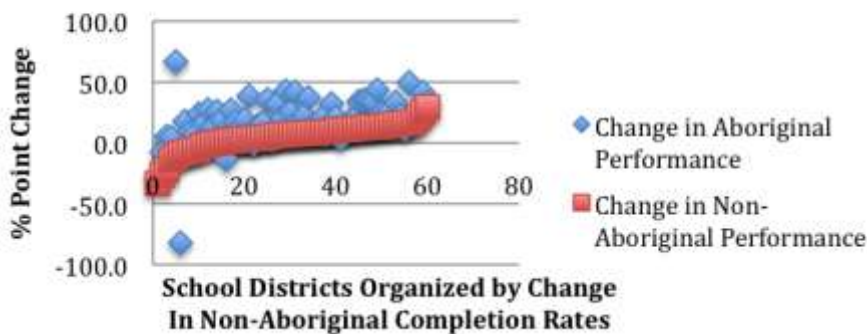


Figure 2
School Districts Organized by
Non-Aboriginal Completion Rate

Change in Completion Rates 1999/2000 - 2012/2013



School Districts Organized by Change
In Non-Aboriginal Completion Rates

Appendix 1 Possible Complications in Developing a Funding Formula

1. Governments resist discussing proposed funding because of lobbying from interest groups. The lobbying will occur at some point, and it is better early in the development process, rather than under crisis conditions after funding is announced.
2. Most provinces fund school boards. After removing their administrative costs, school boards distribute funds to schools in the form of services, personnel (teachers and support staff), capital and capital maintenance, supplies, and utilities. Very little cash is distributed to schools. Since very few boards maintain accounting records at the school level, it is a surprisingly complex and time-consuming task to ensure comparability. There are difficulties on the First Nations side too, because band spending often partially supports schools.
3. Special education is complex. In a small school, the cost of even one severe special education issue can consume a large portion of a budget. Funding to support students with severe special needs has to be tied to individual students rather than scattered across the system by formula.
4. Transportation costs are very difficult to manage on a school-by-school basis, especially given the high degree of variation experienced in rural communities. Few First Nations schools are in locations that permit “economies of scale” in transportation.
5. Operations and maintenance requirements are also difficult to estimate, given variance in fuel costs, building age and condition, climate factors and so forth.
6. Bands usually pay tuition when they send students to provincial schools. Tuition should be fully paid by AANDC, which has no way to obtain timely budget figures. Many public schools, especially in rural areas, are dealing with enrolment decline. Enrolment decline results in budget reductions, but is often accompanied by large increases in per pupil spending and hence in tuition charges to First Nations. Government and First Nations should know how the national funding arrangement would respond to changes in costs.
7. Provincial spending in a given school year is unknown until budgets are announced, usually in March. Since the federal budget is released at the same time, AANDC will have difficulty maintaining comparability with provincial funding without a contingency in AANDC’s budget.
8. Cash flow to Band schools and/or First Nations Education Authorities needs to be matched to the timing of their spending requirements. This is especially true if education funds are to be segregated from other funding.
9. Some provinces allow schools to charge First Nations very high tuition rates – approaching those charged to overseas students and exceeding the actual costs of education. In the end, these fees are borne by Bands, who usually have to bear these costs within their over-all education budget. How will this situation be resolved in the funding arrangements?
10. Success will be costly. Tuition costs will increase if more children stay in school longer. AANDC has had difficulty keeping up with costs in the post secondary sector, and there needs to be certainty that this situation will not recur in K-12¹²

¹² Consider the cost implications if a band is successful in getting its students to a nearby secondary school and that the students remain in that secondary school for four years. There is no control over the resulting

tuition costs, which will be driven upward by a successful elementary program. These costs are of interest to Bands and to AANDC, yet there is no provision in the proposed Act to engage with provincial authorities with respect to the amounts charged, nor to segregate those costs from education funds provided for the operation of band operated schools.