



Richards and Mendelson

Time to negotiate a schools act for First Nations

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No legislation destined for the present Parliament is more important or more controversial than the First Nations Education Act. Proposed legislation is normally tabled first in the House of Commons. The Minister of Aboriginal Affairs recently took the highly unusual step of releasing a draft bill online.

What is this bill about? In effect, it defines for reserve schools the equivalent of a provincial schools act.

It defines the responsibilities of school principals. It requires that band councils designate a “school inspector” and a “director of education” – equivalent to a school board superintendent. It requires “community education committees” to enable parent consultation in school affairs. The minister may intervene if a school is not performing adequately – much as a provincial education ministry can with respect to provincial schools.

First Nations are given three governance options: They may continue to operate one or two “community schools” as most do today but under the standards in the new act; they may enter into partnerships with nearby provincial school districts; or they may form First Nation school boards comprising several reserve schools.

The act says a lot about what First Nations must do, but it says little about what the government must do to make this possible. The act makes no commitment to adequate funding; instead it states only that the formula for school funding will be determined by regulation. The act permits schools to offer a program in aboriginal language and culture, but does not commit the

government to providing the resources to do so. The act allows for First Nation school boards, but does little to encourage them.

It is an understatement to say that First Nation leaders have not received the act warmly. A typical response was that of Chief Morley Googoo, chair of the chief's committee on education at the Assembly of First Nations: "The proposal doesn't acknowledge that First Nations are ready to take care of their own education systems and programs. [The proposal is] not going to be acceptable."

But neither is the status quo acceptable. According to the 2011 census, 60 per cent of young First Nation adults age 20 to 24 are without a high school certificate. Among non-aboriginal young adults the rate is 10 per cent. The last three censuses show some improvement in high school completion of young Métis and First Nation adults living off-reserve; none on-reserve.

What matters now is that both the government and First Nation leaders read the cautionary note at the top of every page of the draft: "The wording of a final bill is subject to change based on further review and based on feedback received on this proposal." It is time for First Nations and the Minister of Aboriginal Affairs to negotiate.

First Nation critics are right to object that the government needs to include a statutory commitment on funding. An obvious basis could be per-student funding for reserve schools equivalent to similarly situated provincial schools. Other issues such as support for culture and language and formation of school boards could also be addressed in a revised act.

The section of the act permitting the minister to intervene in poorly functioning schools is extremely contentious; the federal ministry has little educational expertise and no demonstrated capacity to manage schools. This section makes the minister accountable when he cannot reasonably be effective. Therefore, it might make sense to break the act into two bills: one dealing with the formation of First Nation school boards and provincial alliances, and the other with standards for community schools. The former (with suitable revisions on finance and so on) could proceed now, allowing First Nations wishing to do so to opt in, and the latter delayed for at least a year for further consultation.

On the other hand, it is time that First Nations acknowledge the severity of low education levels on most reserves with only negligible progress over the last generation in improving high school completion rates or in assuring school quality. Calling for Ottawa to pay more money while ignoring the need for organizational reform of schools is not good enough. A sensible negotiated compromise exists. Whether those involved realize it will depend on whether Canadians – First Nation, Métis, and non-aboriginal – think hard about the future, and not only the past.

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