
Assembly of First Nations

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Special Chiefs Assembly
December 7, 8, 9, 2021, Ottawa (Ontario)

Resolution no. 20/2021

TITLE: First Nations Control of Federal Funding in Education

SUBJECT: Education

MOVED BY: Tribal Chief Tyrone McNeil, Proxy, Yale First Nation, BC

SECONDED BY: Chief John Martin, Gesgapegiag, QC

DECISION Carried; 2 objections; 2 abstentions

WHEREAS:

A. The *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration) states:

- i. Article 13 (1): Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.
- ii. Article 13 (2): States shall take effective measures to ensure that this right is protected and also to ensure that Indigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.
- iii. Article 14(1): 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.
- iv. Article 14 (2): Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.
- v. Article 14 (3): States shall, in conjunction with indigenous peoples, take effective measures, in order for Indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.

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- vi. Article 19: States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.
 - vii. Article 23: Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.
- B.** First Nations have inherent and Treaty rights in regard to education and the Government of Canada must uphold and honour the inherent authority and jurisdiction of First Nations to exercise control over their education.
- C.** Education is a fundamental human right and for First Nations, this right is uniquely situated within a framework of inherent rights that are constitutionally protected under section 35 of the *Constitution Act, 1982*, and supported by international mechanisms and instruments, including the UN Declaration.
- D.** In accordance with Assembly of First Nations (AFN) Resolution 65/2017, *New Interim Funding Approach for First Nation Education*, and the Policy Proposal (v15), action is required to ensure First Nations education funding methodologies are less reliant on short-term proposal-based programming, are allocated in a manner that ensures substantive equality and are equitable between regions and their respective First Nations.
- E.** In accordance with Assembly of First Nations Quebec-Labrador Resolution 11/2017 and to protect the most vulnerable student population, Quebec First Nations demand that the funding for Special Education not be included in the Indigenous Services Canada Interim Funding Formula but kept in its own program for delivering this essential service until the Regional Education Agreement is signed.
- F.** Self-government agreements recognize the inherent right to self-government for First Nations and any new commitments or improvements made to First Nations education will recognize the entitlements to additional benefits as identified in each self-government agreement.
- G.** The supplementary and targeted education programs funded by Indigenous Services Canada for First Nations currently include the Education Partnership Program (EPP), the High Cost Special Education Program (HCSEP), the Innovation in Education Program and the Research and Learning Program.

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- H. The EPP and the HCSEP are proposal-based education programs that require reform to improve funding, equitability, and First Nations control.
- I. In accordance with Policy Proposal (v15), investments and commitments for First Nations special education would remain unchanged until a First Nations review of the federal program was complete.
- J. The *High Cost Special Education Program Review 2021* was completed by engaging First Nations education staff and leadership in all regions through discussion groups, surveys, data analysis, provincial scans and case studies.
- K. Results of this review call for additional major investments and First Nations led regional approaches to costing and funding for special education service delivery.
- L. The EPP is currently undergoing a review to better support First Nations in establishing their education service delivery systems that support their student needs and community education priorities; address and increase the program budget; and support the service transfer of the program as determined by First Nations.
- M. Budget 2021 announced \$350 million over five years, starting in 2021-22, to expand access to adult education by supporting First Nations people who wish to return to high school in their communities and complete their high school education.
- N. The targeted First Nations adult education funding must be a program that supports equitable and consistent access for lifelong learners in all First Nations schools.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

- 1. Reaffirm First Nations inherent and Treaty rights to education.
- 2. Reaffirm that jurisdiction over First Nations education remains with each First Nation.
- 3. Call on the Government of Canada to improve and strengthen partnerships with First Nations that respects First Nations control of First Nations education and First Nations decision-making in all processes concerning education.
- 4. Call on the Government of Canada to fund First Nations education based on real needs and First Nations priorities rather than provincial comparability.

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5. Support the Chiefs' Committee on Education, the National Indian Education Council and the Assembly of First Nations (AFN) to engage and lead the reform of supplementary and targeted education programs.
6. Support the recognition of First Nations' expertise and knowledge regarding First Nation education.
7. Support policy changes and program development through various processes such as a Memorandum to Cabinet or Treasury Board Submission, to the supplementary and targeted education programs that:
 - a. Exercise First Nations' Treaty and inherent and rights to education, honours and advances First Nations control of First Nations education, and conforms to and upholds Canada's Treaty and legal obligations to First Nations;
 - b. Align with AFN Resolution 65/2017, *New Interim Funding Approach for First Nation Education*, and the Policy Proposal (v15);
 - c. Ensures equitable, predictable and sustainable funding for longstanding successful programming that addresses the real needs and priorities of First Nations;
 - d. Ensures funding is based on substantive equality and an equitable methodology;
 - e. Provide and commit to clear, agreed-upon processes and timelines;
 - f. Does not define, limit, prejudice, abrogate or derogate from any of the rights, interests or jurisdiction of individual First Nations, or from advancing their own processes towards First Nations control of First Nations education; and
 - g. Ensures there are no new decisions or changes made to funding programs without full and thorough prior consultation with First Nations partners.
8. Support First Nations, regions or Treaty territories who may want to independently engage on any processes relating to improving supplementary and targeted education programs.

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