

Tradition and Education: Towards a Vision of Our Future

A Declaration of First Nations Jurisdiction Over Education

National Indian Brotherhood

Assembly of First Nations

HEAD OFFICE:
Territory of Akwesasne
Hamilton's Island
Summerstown, Ontario
KOC 2E0

OTTAWA OFFICE:
47 Clarence Street
Suite 300
Ottawa, Ontario
K1N 9K1

Credits

This Declaration was written by:

G. Mike Charleston, Ph.D., Choctaw

Director of Education, Education Secretariat, Assembly of First Nations:

Rose-Alma (Dolly) McDonald-Jacobs, D.Ed., Mohawk

Cover art work: *The Circle of Knowledge*

Mohawk Artist, John B. Thomas, Akwesasne

In the knowledge of my people, the Elders and the children are as one in the Circle of Life. The Circle represents the unity of the earth, moon, sun, and stars, the four cycles of the seasons, and life as we are born, as we age and die, to be reborn. The Elders are the holders of knowledge, the teachers of our culture, songs, heritage and survival and are held in high esteem and respect. The children, our future, represent the carriers of this knowledge that never grows old. The Eagle represents the strength, truth, wisdom and freedom of the First Nations of this Turtle Island, called North America. The Eagle represents many virtues to the First Nations people. Although, in modern society, it is most familiar as an American emblem of liberty, equality, and fraternity, this metaphor originates with the teachings of the First Nations. The soaring flight of the Eagle allows it to communicate with the Creator and pass on the Creator's messages to the First Nations. Its flight also confers the gift of foresight on the Eagle since, from its great height, the Eagle can detect imminent danger and warn the First Nations of coming perils. The Eagle represents the collective strength, truth, wisdom, and freedom of the First Nations of North America. It exemplifies the solidarity of Nations, when unity is required. All of these qualities will be necessary if the First Nations are to pass on to their children the wisdom of yesterday, together with the technology of today.

Photography:

The photographs were provided through the courtesy of Tom Maracle in cooperation with the Department of Indian Affairs and Northern Development Photo Library.

A draft of this Declaration was presented to the Chiefs of Canada at the September, 1988, Meeting of the Confederacy of Nations for their review. The Chiefs of Canada, the Chiefs Committee on Education, and the National Indian Education Council reviewed various drafts and provided the author with comment and direction. At the December, 1988, Meeting of the Confederacy of Nations, the Chiefs of Canada unanimously approved and adopted this *Declaration of First Nations Jurisdiction Over Education* by resolution.

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National Indian Brotherhood

ASSEMBLY OF FIRST NATIONS

HEAD OFFICE:

TERRITORY OF AKWESASNE
HAMILTON'S ISLAND
SUMMERSTOWN, ONTARIO
K0C 2E0
TEL.: (613) 931-1012
FAX (613) 931-2438

OTTAWA OFFICE:

47 CLARENCE STREET, SUITE 300
OTTAWA, ONTARIO
K1N 9K1
TEL.: (613) 236-0673
TELEX 053-3202
FAX (613) 238-5780

December, 1988

To the Chiefs of Canada:

I am pleased to submit to you the *Declaration of First Nations Jurisdiction Over Education* which was unanimously approved and adopted by the Chiefs of Canada at the Meeting of the Confederacy of Nations in Ottawa on 13 December 1988. This Declaration is a result of the National Review of First Nations Education, a major study of First Nations education in Canada. The wealth of information and important conclusions and recommendations for future action contained in Volumes One, Two, and Three of the National Review Series, *Tradition and Education: Towards a Vision of Our Future*, will enable us to construct education systems at the local level that truly reflect the needs and desires of First Nations.

I would like to commend all those people who made this Declaration possible, especially: Dr. Mike Charleston; Dr. Rose-Alma (Dolly) McDonald-Jacobs; Harry Allen; the Chiefs Committee on Education; the National Indian Education Council; and the former National Review staff and consultants.

At present, the federal, provincial, and territorial governments continue paternalistic practices and policies which interfere with meaningful First Nations jurisdiction over education. This Declaration is a national mandate that provides a clear position on the issue of First Nations jurisdiction over education. It outlines the process required for an effective government-to-government relationship between the First Nations and the Government of Canada. The Assembly of First Nations urges national and regional First Nations political organizations, and especially individual First Nations governments, to implement this Declaration. I encourage all First Nations to proclaim their sovereignty and exercise jurisdiction over education.

The Assembly of First Nations demands that the Government of Canada take action consistent with the provisions contained in this document. The Government of Canada shares the responsibility with the First Nations to implement the principles presented in this document to guide the government-to-government interaction between the individual First Nations and the Government of Canada.

Sincerely Yours,

by original signed
Georges Erasmus
National Chief

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A Declaration of First Nations Jurisdiction Over Education

Sovereignty of First Nations

First Nations have an inherent aboriginal right to self-government. They have existed as sovereign, self-governing nations since long before the establishment of the Government of Canada. First Nations have never relinquished the right of self-government. The sovereignty of First Nations was recognized by the Crown in the Royal Proclamation of 1763. Treaties negotiated between First Nations and the Crown or the Government of Canada constitute binding international agreements between governments that continue to remain in force. First Nations' inherent aboriginal rights of self-government and treaties are the basis for government-to-government relationships between First Nations and the Government of Canada. Within Canada, First Nations are an order of government apart from the federal government and the governments of the provinces and territories.

Although the Government of Canada has enacted legislation, such as the *Indian Act*, that hinders the exercise of First Nations self-government, it cannot extinguish the aboriginal rights of First Nations through legislation. Through enactment of legislation, the Government of Canada can recog-

nize the status of First Nations as self-governing aboriginal entities with whom pre-existing treaty relationships were established by the Crown and acknowledged by the Government of Canada at its formation. The Government of Canada can establish federal policies and administrative practices to fulfill its treaty obligations and establish procedures to deal with First Nations on a government-to-government basis. The federal government cannot continue to use the *Indian Act* or any other legislation to interfere with or exercise control over the internal affairs of First Nations.

Recognition of First Nations' rights to self-government must be entrenched in the Constitution. Constitutional recognition will help to curtail the assaults on First Nations sovereignty by industries, politicians, and bureaucrats. These special interest groups view First Nations sovereignty and aboriginal rights as an obstruction to their efforts to obtain title to the remaining First Nations lands and natural resources. Constitutional recognition will decrease the political efforts of various special interest groups to abrogate the treaty and trust obligations of Canada to First Nations.

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Federal Obligations

Education for First Nations people is a matter of inherent aboriginal right. The federal government has a legal obligation through various treaties to provide adequate resources and services for education. The federal government is obligated to provide resources for quality education programs, facilities, transportation, equipment, and materials to meet the needs as determined by First Nations.

In exchange for certain rights to occupy and settle on First Nations land, the Government of Canada accepted the legal obligation to resource education along with other obligations to support the welfare of First Nations through the many treaties negotiated with the First Nations.

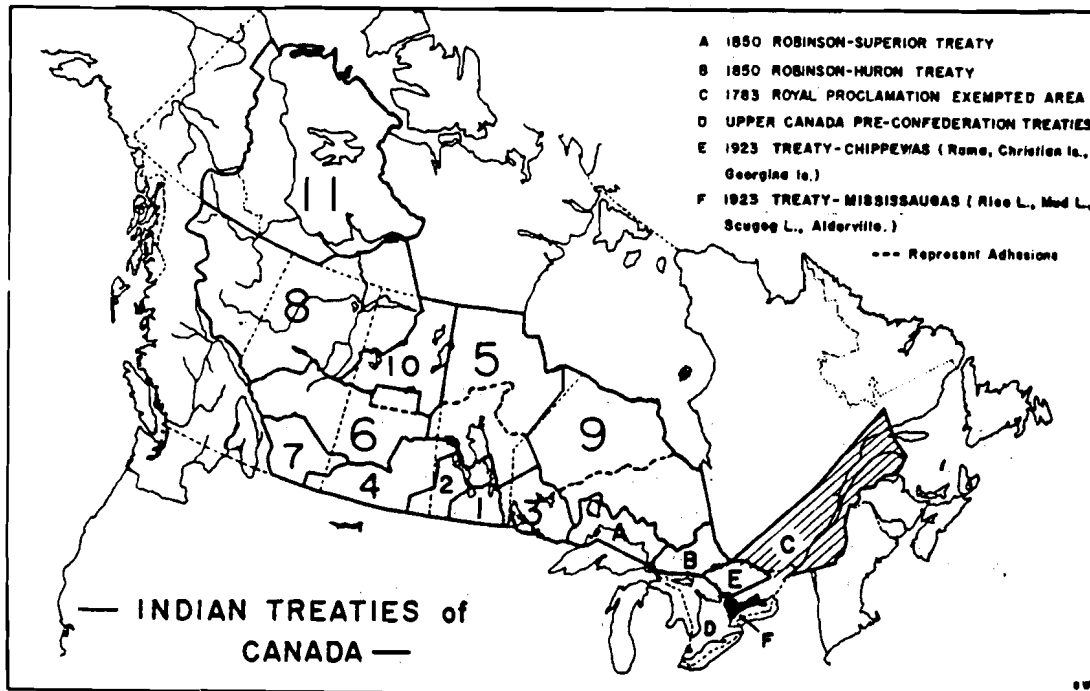
The treaties have international status. Treaties were negotiated and signed by

sovereign nations — First Nations and the British Crown and the Government of Canada. The provision for education in each of the eleven treaties (made between 1871 and 1921) is clearly stated even though the wording may vary slightly. For example:

Treaty # 2: And further, Her Majesty agrees to maintain a school in each reserve hereby made, whenever the *Indians* of the reserve shall desire it.

Treaty # 3, # 5, #6: And Further, Her Majesty agrees to maintain schools for instruction in such reserves hereby made as to Her Government of Her Dominion of Canada may seem advisable, whenever the *Indians* of the reserves shall desire it.

Treaty # 4: Further, Her Majesty agrees to maintain a school in the reserve allotted to each *band* as soon as they settle on said reserve and are prepared for a teacher.



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Treaty # 8: Further, Her Majesty agrees to pay the salaries of such teachers to instruct the children of said *Indians* as to her majesty's Government of Canada may seem advisable.

Treaty # 9: Further, His Majesty agrees to pay such salaries of teachers to instruct the children of said *Indians*, and also to provide such school buildings and education equipment as may seem advisable to His Majesty's Government of Canada.

Treaty obligations of the federal government and treaty rights of First Nations cannot be terminated. The federal obligation and responsibility may not be shifted to the

provinces and territories. The federal government has a moral and legal obligation to honour First Nations treaty rights. The Government of Canada has the moral obligation of upholding the treaties upon which the very existence of Canada once depended.

Treaty obligations and trust responsibilities of the Government of Canada to First Nations must be recognized by the Justice Department. They must be supported and upheld in all policies and practices throughout the federal government.

International Law

The General Conference of the International Labour Organization has published for the 7 June 1989 convention at Geneva a proposed partial revision of the *Indigenous and Tribal Populations Convention, 1957, (No. 107)*. This revision establishes a new international standard for dealing with indigenous peoples and populations in independent countries that recognizes, upholds, and protects the rights of the indigenous peoples. The *Indigenous and Tribal (Peoples/Populations) Convention (Revised), 1989, recognizes the aspirations of these (people/populations) to control over their own institutions, ways of life and economic development, within the framework of the States in which they live...* It references the terms of the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, and the many international instruments on the prevention of discrimination. This document was

developed with the co-operation of the United Nations, the Food and Agriculture Organization of the United Nations, the United Nations Educational, Scientific and Cultural Organization, the World Health Organization, and the Inter-American Indian Institute.

These major international organizations are supporting the rights and freedoms of indigenous peoples around the world. Participating independent countries are being urged to respond cooperatively in this international effort: *Governments shall have the responsibility for developing, with full participation of the (peoples/populations) concerned, co-ordinated and systematic action to guarantee respect for the integrity of these (peoples/populations) and their rights.* As an active participant in these international forums, Canada should take the lead in demonstrating to the world how Convention No. 107 can be implemented by fully supporting First Nations in this *Declaration of First Nations Jurisdiction Over Education*.

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The End of Paternalism

First Nations proclaim and affirm their inherent aboriginal rights of self-government and demand that their rights be respected and recognized by all levels of government in Canada. Paternalistic administrative practices will not be tolerated. Laws and policies that promote paternalism are unacceptable. Paternalism in Canada directed towards First Nations must cease and be replaced with recognition of First Nations sovereign jurisdiction.

Simple revisions to sections 114-123 of the *Indian Act* are unacceptable to First Nations as a means of addressing the issues of

ending paternalism and establishing federal recognition of the inherent aboriginal rights of self-government and jurisdiction over education. The most rational approach to formal recognition of First Nations is a Constitutional amendment explicitly recognizing the inherent aboriginal right of First Nations to exercise self-government.

The *Indian Act* is the source of paternalistic policy and practices by the Government of Canada. Paternalistic policies and practices are not acceptable in the administration of the federal treaty and trust responsibilities of the Government of Canada to First Na-

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tions. Repeal of all sections of the *Indian Act* which are not fully consistent with First Nations self-government is required for the federal government to end paternalism while maintaining full recognition of its obligations and responsibilities to First Nations. The old *Indian Act* must be discarded and replaced with new legislation developed with the full involvement and sanction of First Nations. The new act must only provide for the necessary structure for the Government of Canada to fulfill its treaty obligations with First Nations on a government-to-government basis.

The Department of Indian Affairs and Northern Development (DIAND) exists primarily for the purpose of administering paternalistic policies and practices that interfere with the exercise of First Nations self-government. An alternative was recommended in the *Report of the Special Committee on Indian Self-Government, House of Commons, Issue No. 40* (p. 61), commonly known as the "Penner Report."

The Committee recommends that a *Ministry of State for "Indian" First Nations Relations*, linked to the Privy Council Office, be established to manage and coordinate the federal government's relations with First Nation governments.

This could include the conduct of negotiations under the bilateral process and responsibility for the fiscal arrangements proposed for funding *Indian* First Nation government operations, economic development, and the correction of serious infrastructure deficiencies. It should deliver no services, but would co-ordinate its work with the existing Department of Indian Affairs so that the transition to *Indian* First Nation government would be smooth. Under the *Ministers and Ministers of State Act* of 1970, a *Ministry of State for "Indian" First Nations Relations* could be created by order in council.

First Nations prefer to deal with a *Ministry of State for First Nations Relations* as recommended in the "Penner Report" in a manner consistent with the government-to-government relationship between First Nations and the Government of Canada.

First Nations cannot exercise jurisdiction over education or any other program without full fiscal and operational control. First Nations will determine the extent of the need for resources and the allocation of resources to the various programs and services required in their communities. First Nations will negotiate directly with the Government of Canada through the *Ministry of State for First Nations Relations* under the bilateral process for resources required to meet their needs.

Jurisdiction over education is an inherent right of self-government. Federal resourcing of First Nation education is a treaty obligation. Education from pre-school to university and adult education is under full First Nations jurisdiction. First Nations have the right to exercise jurisdiction over the education of First Nations students in federal, First Nations, and public schools.

Jurisdiction over education is not derived from delegated authority from the federal government or from any legislation of any level of government. Delegated authority is not acceptable as a substitute for aboriginal First Nations jurisdiction recognized and affirmed in the Constitution of Canada.

Unilateral decisions affecting First Nations education made by any level of government or education authority serving First Nations students are not tolerated. The federal, provincial, and territorial governments must relinquish their administrative and policy functions in First Nations education with the federal government retaining only its role as a funding source.

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Deficiencies in existing federal, provincial, and territorial legislation, policies, administrative practices, and programs which affect the education of First Nations students require changes to be consistent with First Nations self-government. Any proposed changes to legislation, policies, procedures, and practices must have the approval of First

Nations.

First Nations expect the federal government to recognize and uncompromisingly support First Nations education authorities or other designated authorities as the final legal authority over the jurisdiction and management of First Nations schools.

General Philosophy of First Nations Education

First Nations education focuses on the wellbeing of the students. It is a holistic approach that prepares First Nation students for total living. Modern First Nations education is consistent with traditional First Nations education. Both incorporate a deep respect for the natural world with the physical, moral, spiritual, intellectual, and life skills development of the individual. First Nations language and cultural values are taught and enhanced through education. First Nations education develops qualities and values in students such as respect for Elders and cultural tradition, modesty, leadership, generosity, resourcefulness, integrity, wisdom, courage, compassion for others, and living harmoniously with the environment. Relevant education for First Nations students today is based on the following basic philosophical elements:

- **Preservation of Languages and Culture:** First Nations languages and cultural studies are an integral part of the school curriculum. It is important that students' cultural identity and language are nurtured.

- **Values:** Education of First Nations students includes instruction in the values held in esteem by First Nation communities and families so that education is clearly an extension of the culture and the instruction provided by the family. Education helps the student to develop a strong sense of pride and respect for the First Nation community, culture, and family.
- **Parental and Community Participation:** The education process actively involves the parents. This can range from determining the goals of the education program, to managing the education program, to being actively involved in classroom or school activities.
- **Preparation for Total Living:** First Nations students are given the opportunity to learn at all levels and stages of education including vocational, academic, professional, and life skills to function effectively in all societies. The education program includes special education, gifted and talented education, pre-school education, and undergraduate and

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graduate level university education. First Nation students are encouraged to achieve academically, economically, and socially to the best of their abilities. Education provides First Nations people the opportunity of freedom of choice, independence, and self-determination.

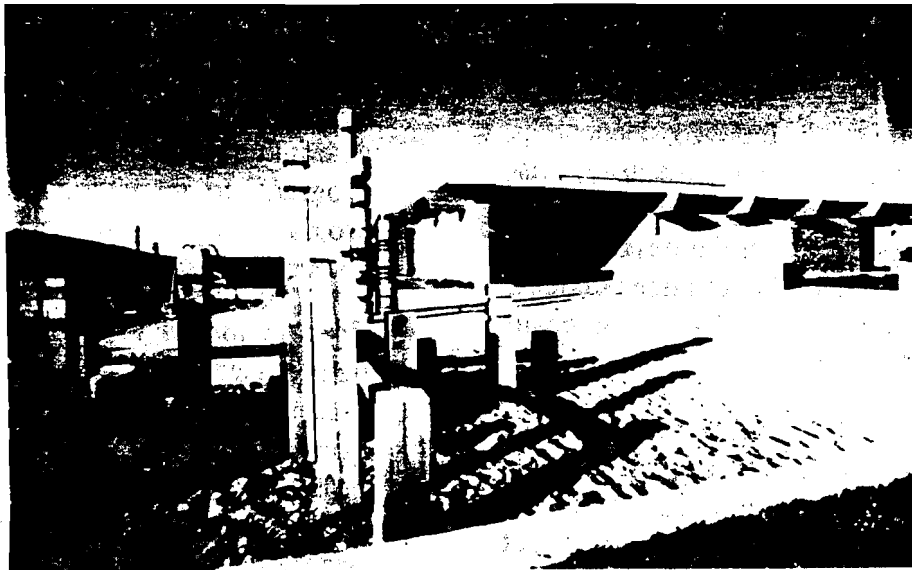
- **Local Jurisdiction:** First Nations councils or their delegated education authorities have jurisdiction over education policies, management methods and

approaches, curriculum standards and program quality, delivery of services and, above all, determining the actual total education resource requirements, including capital and operational requirements. Every First Nation will decide when and how it will exercise jurisdiction over the education of its people. First Nations require the federal government to be responsive to individual First Nations council and community wishes.

Local Education Authorities

The decision as to whether an education authority should be a committee of council or a more autonomous entity rests with the individual First Nation. First Nation education authorities have a legal base from which

they have the authority to manage their education programs — First Nations are sovereign nations recognized by the Crown and the Government of Canada in treaties. The jurisdiction over education is an inherent



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right of self-government. First Nations may appoint, elect, or delegate an education authority with the legal status to operate education programs and negotiate contracts with teaching and administrative staff. Furthermore, members of these authorities are

acting as duly authorized government officials of First Nations governments while carrying out their duties and responsibilities and, as such, are legally protected as other government officials in Canada functioning in similar roles.

Policies

Every First Nations community has the right to determine its education goals and develop policies suitable to its unique requirements. First Nations develop their own national and local education policies which reflect their philosophy, cultural beliefs, and practices. Such policies must be acknowledged and adhered to by federal agencies and other governments.

Relevant policies for First Nations people residing temporarily or permanently outside their community are being developed by First Nations to incorporate the following principles:

- Government policies at all levels may not limit access to services to off-reserve members of First Nations.
- All levels of government will acknowledge transferability of rights of First Nations members regardless of length and place of residency.
- Alternative schools in urban or rural areas are viable options for First Nation students that require resources at an adequate level to provide quality education programs.

Decision-Making Authority

First Nations maintain the right to participate and represent themselves in negotiations affecting the education of their children, particularly when tuition, capital, general and other agreements are negotiated.

- The federal government is not authorized to represent First Nations without their consent.

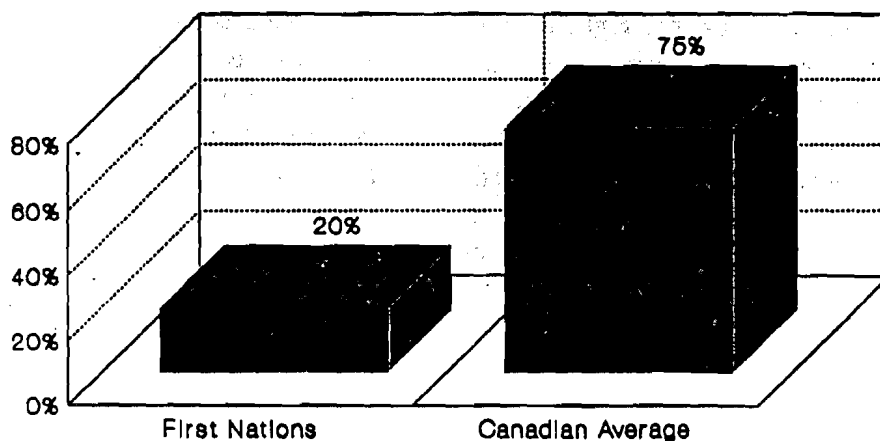
A formal process is required to be developed and enforced in all school systems to guarantee First Nation community and parental involvement in decision-making with other education authorities, from pre-school boards to post-secondary boards of governors.

A Failed Federal System

A boriginal peoples of Canada continue to suffer social disintegration and deprivation under the paternalistic administration of the federal government. In 1983, the *Report of the Special Committee on Indian Self-Government, House of Commons, Issue No. 40* (p. 15) cited the following grim conditions among First Nations people:

- **Child Welfare:** The proportion of First Nations children in care has risen to more than five times the national rate.
- **Education:** Only 20 percent of First Nations children complete the secondary level compared to the national rate of 75 percent.
- **Housing:** Housing is so scarce that 40 percent of First Nations families must share their home with other families. Many homes lack running water, sewage disposal or indoor plumbing facilities.
- **Income:** The average income of First Nations people is one-half to two-thirds of the national average.
- **Unemployment:** Among First Nations unemployment ranges from 35 percent to 90 percent of the working age population.
- **Prisoners:** First Nations people are over-represented in proportion to their population in federal and provincial penitentiaries.

Percent Completing Secondary Level Education



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- tiaries. In Manitoba, Saskatchewan, and the North, First Nations people represent more than 40 percent of the prison population. The proportion of First Nations juveniles who are considered delinquent is three times the national rate.
- **Death Rate:** The death rate among First Nations people is two to four times the rate of other Canadians.
 - **Causes of Death:** Accidents, poisoning, and violence account for over 33 percent of deaths among First Nations people compared with 9 percent for the Canadian population as a whole. First Nations people die from fire at a rate seven times that for the rest of the population.
 - **Suicide:** First Nations people die from suicide at almost three times the national rate; suicide is especially prevalent among First Nations people aged 15 to 24.
 - **Infant Mortality:** The infant mortality rate among First Nations people is 60 percent higher than the national rate.
 - **Life Expectancy:** If a First Nations child survives its first year of life, it can expect to live 10 years less than a non-Native Canadian. In 1981, the male and female life expectancies at birth for the First Nations population were 62 and 69 years respectively compared to corresponding averages of 72 and 79 years for Canadians in general (Mortality Projections of Registered Indians, 1982 to 1996, DIAND, 1985)
 - **Hospital Admissions:** First Nations people are admitted to hospitals at more than twice the rate of the national population.

A History of Federal Disruption

The government-to-government relationships between First Nations and the Government of Canada was disrupted by passage of the *Indian Act* by the Canadian Parliament in 1868 and in revised form in 1876.

The *Indian Advancement Act* of 1884 intended to grant *municipal* powers to "advanced" Indian bands.

The *Indian Act* was revised slightly in 1951 to reinforce *detrribalization* and assimilation of First Nations populations into the dominant Canadian culture.

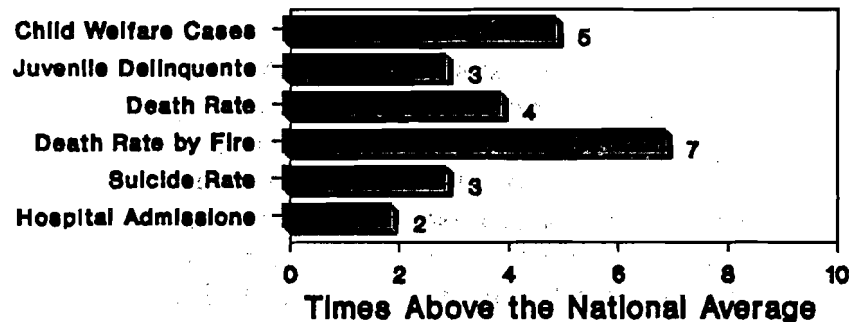
Proposed amendments to the *Indian Act* in 1967 again attempted to force *municipal* status on First Nations and would have ex-

panded provincial jurisdiction over First Nations lands. The amendments were not accepted.

The 1969 *White Paper on Indian Policy* called for a repeal of the *Indian Act*; but, it did so with the intention of ending federal treaty obligations, terminating the special status of First Nations, and forcing the assimilation of First Nations people into non-Native society. The policy was overwhelmingly rejected by First Nations indicating that they will not tolerate any effort to terminate treaty obligations and the government-to-government relationships between First Nations and the Government

Extent to which First Nations Statistics Exceed the National Average

Social Indicator:



of Canada. The policy of assimilation was also rejected. The question of repeal of the *Indian Act* could not be separated from these major objectionable issues and, thus, it was not considered separately.

The *Indian Act* was revised again in 1985 to eliminate blatant discrimination against First Nations women. The *Indian Act* continues to be used by the federal government to dominate and control every aspect of the life of First Nations people.

The *Neilson Task Force Report* of 1985 outlined a "management approach" for First Nations policy and programs which has the intent of:

- limiting and eventually terminating the federal trust obligations
- reducing federal expenditures for First Nations, underfunding programs, and prohibiting deficit financing

- shifting responsibility and costs for First Nations services to provinces and "advanced bands" through *co-management*, *tri-partite*, and *community self-government agreements*
- "downsizing" of the Department of Indian Affairs and Northern Development (DIAND) through devolution of program administration to "advanced bands" and transfer of programs to other federal departments
- negotiating *municipal* community self-government agreements with First Nations which would result in the First Nation government giving up their Constitutional status as a sovereign government and becoming a municipality subject to provincial or territorial laws

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- extinguishing aboriginal title and right in exchange for *fee simple title* under provincial or territorial law while giving the province or territory underlying title to First Nations lands

The history of the federal legislation has been one of continued efforts to disrupt and dominate the functions of First Nations governments. The federal government has

attempted to reduce the status of First Nations from sovereign governments with aboriginal title to their lands and treaty rights to municipalities. As municipalities, First Nations would be under provincial or territorial law with no treaty rights and no aboriginal title to the land. The federal government's efforts to terminate First Nations rights and title continue today.

1973 Indian Control of Indian Education Policy Paper

First Nations clearly understand the importance of education in addressing the major social, economic, and political problems affecting their communities. First Nations have struggled against various forms of external control over education exercised by federal, provincial, and territorial governments for many years. They have worked to provide First Nations governments and parents with more decision-making powers.

The Assembly of First Nations developed a policy paper, *Indian Control of Indian Education*, which firmly laid out the principles of local control and parental responsibility as the basis for First Nations jurisdiction over education. In 1973, the federal government accepted the policy paper in principle as the national policy statement.

The National Review of First Nations Education

The National Review of First Nations Education began in 1984 under the direction of the Education Secretariat of the Assembly of First Nations. The summary reports of the National Review were approved and published by the Assembly of First Nations in the Spring of 1988 as a three volume series titled *Tradition and Education: Towards a Vision of Our Future*. The National Review was the largest study of First Nations education ever conducted in Canada. The National Review of First Nations Education was designed to:

- examine the impact of the 1973 *Indian Control of Indian Education* policy
- synthesize the research already completed on the local, provincial, and territorial level since 1972
- examine First Nations jurisdiction over First Nations education in light of current Constitutional amendments
- recommend improved education policy and appropriate legislation that would support a government-to-government relationship between First Nations and

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the Government of Canada

The National Review of First Nations Education gathered data on four areas — jurisdiction, quality, management, and resourcing — in order to formulate policy in-

itiatives and legislation proposals. These four areas were examined by six different research programs, each incorporating different research approaches.

Current Status

The National Review found that, in practice, First Nations have very limited jurisdiction over education programs. The federal government has failed to implement the policy of *Indian Control of Indian Education*. First Nations education remains under the firm control of the Government of Canada which has consistently defined *Indian control* to mean merely First Nations participation and administration of previously developed federal education programs.

The federal government considers *delegated authority* sufficient to meet the principle of First Nations jurisdiction over education. In practice, the federal government delegates very limited decision-making powers to First Nations and retains total control over the determination and allocation of resources needed to establish, manage, and operate local First Nations schools.

Accepting delegated authority as a substitute for local jurisdiction can be dangerous for a First Nation. Under delegated authority, a First Nation education authority must comply with federal directives or be subject to reprisals and loss of resources. Loss of resources can cause the local First Nation school system to falter and fail. Inadequate and unstable federal resourcing jeopardises the stable operation of the school and weakens parental support and confidence in

the First Nation education authority. An under-resourced First Nation school system must struggle to survive while the quality of the education program suffers. Under-resourcing First Nation school systems by the federal government forces First Nation parents to consider transferring their children to provincial or territorial schools for better education opportunities.

Local First Nations schools are under-resourced. By keeping First Nations schools under-resourced, the federal government encourages the shift of responsibility for First Nations education away from the federal government to the provincial and territorial school systems.

The federal government continues to enter into master tuition agreements with provinces and to engage in unilateral decision-making in direct opposition to the desires of the affected First Nations. The federal government does not require the provincial and territorial education authorities to be accountable for resources received to educate First Nations children. The system encourages flagrant abuse. Provincial and territorial education authorities unilaterally establish the amount of tuition payments which they receive from the federal government to serve a certain number of First Nations students. They receive the funds whether they actually serve

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the First Nations students or not. It is obvious from the statistics on First Nations education that the services delivered by provincial, territorial, and federal schools are ineffective and inadequate. They do not meet the education needs of First Nations students.

It is abundantly clear that the present federal system has failed to meet the treaty responsibilities and obligations of the Government of Canada. First Nations people are continuing to suffer at the mercy of paternalistic federal administrators.

During the series of First Minister's Conferences, ending in 1987, the Government of

Canada and the provincial and territorial governments failed to respond to the recommendations of the 1983 *Report of the Special Committee on Indian Self-Government, House of Commons*, and the First Nations on the need for a constitutional amendment that explicitly recognizes First Nations treaty rights and the inherent aboriginal right of self-government. The federal government has failed to implement the 1973 *Indian Control of Indian Education* policy in the manner intended by the policy paper.

Purpose of the Current Document

The National Review presents a clear articulation of the current general philosophy of First Nations education. That philosophy is reflected in this document which serves as a revision and update of the 1973 *Indian Control of Indian Education* policy paper. It is anticipated that nationally ratified positions will be made as a result of this document.

The National Review and this document were designed to reflect the views of as many First Nations as possible. Throughout the National Review, the people involved have endeavoured to incorporate, reflect, and, most importantly, respect the diversity of opinions, needs, and conditions that proudly coexist among the many First Nations people wishing to live in a truly pluralistic, democratic society within Canada. First Nations recognize the diversity that exists among their own governments, cultures, languages, and political positions on many important issues. The diversity that continues to

exist among First Nations is clear evidence and expression of the high value placed on individual rights, self-government, and a pluralistic society in Canada by First Nations.

The Assembly of First Nations values the unity that exists among the various aboriginal peoples who have come to be grouped and known as Inuit, Métis, non-status, and status aboriginal people. The Education Secretariat of the Assembly of First Nations, representing status aboriginal people, fully respects and acknowledges the political and cultural positions of each of the other major groups of aboriginal people and the several aboriginal organizations representing them. Specific education policy is the exclusive domain of each First Nation government. Each First Nation develops policy and exercises jurisdiction according to local needs. This document is intended to assist the local First Nations in that process.

Quality

The quality of First Nations education is based on traditional values which retain and incorporate the principles of wholeness, order, balance, and respect for the spiritual and natural world. These values are contained in the definition of high quality First Nations education. However, in many cases, external values held by other groups in Canada conflict with First Nations values. First Nations never assume that their values and beliefs will be incorporated as a matter of course in the curriculum of federal, provincial, and territorial schools. The quality of education services can be im-

proved by the active involvement of parents, Elders, local political leaders, educators, and other concerned community members.

The long-range planning at all levels of First Nations education incorporates economic, social, political, and cultural aspects of the community. Education contributes to the development of First Nations self-sufficiency. The school is an extension and integral part of the community, combining the services of Elders and community members and traditional values into school programs.

Cultural Relevance

First Nations students have a right to develop or obtain education programs and services of the highest quality which incorporate culturally relevant content and academic skills. First Nations require curricula to teach cultural heritage and traditional First Nations skills with the same emphasis as academic learning. First Nations parents have expressed a need for education to focus on language skills, reading, math, science, and computer skills.

First Nations control over the development of curriculum materials from pre-school to post-secondary levels is necessary to ensure the elimination of stereotypes about First Nations. First Nations students need to be taught pride in First Nation heritage,

provided cultural content, and supported in the development of their feelings of self-worth. First Nations require that culturally relevant content in curricula be recognized by other governments and all types of schools as a necessary component for quality education for First Nation students. In the North, irrelevant southern curricula must be replaced by cultural content applicable to northern settings.

The Cultural Education Centres are important and effective organizations which assist First Nations in developing and delivering culturally relevant curricula. Federal resourcing of these centres must be continued and increased to a level adequate to meet the substantial need for their services.

Curriculum Standards

Curriculum standards required in federal and First Nation schools should be at least equal to if not higher than provincial or territorial standards in basic skills. High quality education and high academic expectations of First Nations students are expressed by First Nations communities, parents, Elders, and teachers. High quality education and academic achievement is supported by the various First Nations cultures. It is essential to the development of self-sufficiency of First Nations communities and the maintenance of effective First Nations govern-

ments. The present and future quality of life in First Nations communities is dependent upon available and effective quality education services for all members of the community.

Research is required to increase the knowledge about First Nations learning styles which influence teaching techniques used in the classroom. Appropriate teaching techniques ensure that students receive effective instruction in a quality curriculum. Research and development of culturally relevant tests are needed.

Aboriginal Languages

Aboriginal languages deserve official status within Canada, constitutional recognition, and accompanying legislative protection. The federal government is obligated to provide adequate resources to First Nations to ensure the development of language structures; curriculum materials; First Nations language teachers; resource centres; and immersion programs. Aboriginal language in-

struction is necessary from pre-school to post-secondary and adult education. First Nations support and protect the status of aboriginal languages as primary languages in many First Nations communities.

First Nations have developed aboriginal language policies. These policies must be acknowledged and implemented in all schools serving First Nations students.

Coordination

Increased communication and coordination between local, regional, and national governments are essential to the advancement of First Nations education. Formalized parent-school communication at the local level is necessary with guaranteed parent and community representation on all education

matters. At regional and national levels, education-related networking activities and organizations must be adequately resourced to increase consultation efforts, information exchanges, research and development, and long-range planning.

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Staff

Since there is a need for positive role models in the education system, it is necessary that federal, provincial, territorial, and First Nations governments provide incentives to encourage First Nations students to train in para-professional and professional teaching positions. Additional pre-service teacher training programs and regularly scheduled in-service professional development are integral parts of long-range education planning. Specifically, mandatory cross-cultural training for all non-Native and First Nations staff is needed in teacher training institutions. In addition, more First Nations teacher training programs are needed.

Federal and First Nations governments must act to reduce high turnover rates of education staff by such actions as lowering student-teacher and student-counsellor ratios, reducing the clerical workload of teachers and counsellors, and offering staff salaries, benefits, and job security comparable to those of neighbouring education systems.

First Nations recognize that the quality of teaching staff has a direct impact on First Nations students' education achievements. Teachers must be well-qualified and trained. There is a need for more First Nations people to train as teachers. More university and

satellite programs must be made available to prospective First Nations candidates. Teachers who teach First Nations students must take courses in cross-cultural education and First Nations cultural studies. Federal and First Nations schools must institute comprehensive annual staff evaluation procedures to ensure quality instruction.



As the guardians of First Nations cultures, the Elders have an important role in cultural and language development in all school systems at all academic levels. They are due professional status and appropriate compensation.

Research is needed to analyze the issue of teacher unions in First Nations schools where loyalty to federal, provincial, or territorial unions conflicts with the concept of First Nations jurisdiction over education. Such re-

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search must be resourced as a critical step in the exercise of First Nations jurisdiction over education.

Recruitment and selection policies and other personnel standards for education staff in First Nation and federal schools must be reviewed and improved.

Early Childhood Programs

Early childhood education provides First Nations children with a head start in acquiring pre-school cognitive and motor skills. Early childhood education is needed to support the development of quality education programs and the economic development activities of First Nations communities. These programs need to incorporate local culture and use aboriginal languages to ensure that

students will be able to fully participate in the culture of the community. The Elders of the community can contribute valuable expertise to these programs.

Funding is required for First Nations governments and organizations to establish, staff, and operate early childhood education programs.

Special Education Programs

The lack of special education programs in local First Nations and federal schools often means that First Nations students are required to leave their home to attend provincial schools to obtain the needed services. Special education must be resourced by the federal government as an integral part of the non-discretionary First Nations education program. Improved methods of diagnosing special education students and increasing special education service delivery must be

developed. It is essential that federal, provincial, territorial, and First Nations education systems be accountable to parents of First Nation students who are in special education programs.

More special education programs are needed to meet the needs of advanced learners. Comprehensive special education policies, developed with the participation of First Nation community members at the local and national levels, are necessary.

Life Skills Programs

Life skills programs are required at all levels in First Nation communities and for

First Nations students in all school systems covering such topics as survival skills,



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wilderness skills, career awareness, sex education, AIDS education, alcohol and substance abuse education, suicide prevention, health and nutrition, and related topics. The

validity of such programs must be acknowledged by education authorities, with appropriate federal funding being provided for the instruction of youths and adults.

Counselling

Every effort must be made to motivate First Nations students to succeed in school. First Nations consider counselling services for First Nations students an integral part of the education program. The federal government must resource counselling services on a non-discretionary basis. To date, the federal government has not addressed the resourcing of counselling services satisfactorily.

Problems with student absenteeism, suspension, and dropout must be addressed by all levels of government by such actions as increasing parental and community involvement, hiring more counsellors, providing a culturally relevant curriculum, requiring

cross-cultural training of teachers of First Nations students, and analyzing and refining policies.

Counselling services to First Nations students must include academic, career, financial, social, and peer counselling, with funding available to hire additional counsellors. It is essential that counselling services use incentives and motivational techniques to encourage First Nations students to achieve and excel. Staff must be available to relieve counsellors of clerical duties.

First Nations must develop policies guaranteeing all support services for First Nations students living in urban centres.

Transportation

Quality transportation services are necessary for all First Nation students. Transportation to extra-curricular activities is needed. Adequate funding for uniformly safe and comfortable transportation must be guaranteed for all modes of transport currently used which includes buses, boats, planes, and

snow mobiles. Adequate liability insurance is required. Standards are needed for hiring drivers for various modes of transportation. Where daily transportation is provided to First Nations students, safety, health, and insurance standards must be set.

Adult and Post-Secondary Education

Adult, post-secondary education, and professional training must be funded as non-

discretionary programs of the federal government to guarantee the training of First

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Nation professionals and leaders who will contribute to First Nations social, political, cultural, and economic development.

First Nations, not the federal government, must develop post-secondary and adult education policies and guidelines. Post-secondary and adult training institutions must work closely with First Nation communities to institute off-campus program delivery for First Nation communities. Additional First Nations post-secondary institutions are also required in order to bring education services more directly to First Nations people.

First Nation student access to post-secondary education must be improved by providing the academic preparation required for

admission to universities. Special programs to help dropouts are needed. There is a need to establish more secondary and post-secondary programs in First Nations communities. Employment incentives for First Nations graduates must be available to attract potential human resources to First Nations communities.

Adequate funding for post-secondary education is critical. Funds must be available to meet the post-secondary education needs of all First Nations students interested in obtaining education at vocational-technical institutions, in adult education programs, and at colleges and universities in undergraduate, graduate, and professional degree programs.

Distance Education

Federal resourcing of research and development is needed to develop and imple-

ment distance education programs in areas where use of television and satellite com-



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munications can enhance the quality of the First Nations education program. The curricula provided through distance education requires careful design, development, and production by trained and qualified personnel to ensure effectiveness and high quality. The material must be culturally appropriate and relevant to the local education needs.

Distance education links communities with major regional and national resources. The resources of local communities and regional centres can be shared with other participating communities. Each community

can contribute to the program and receive the benefits of shared resources.

The technology is available to provide high quality education services and specialized programming via satellite to remote locations to supplement the local curriculum and resources and to link other communities with the unique resources of the remote sites. Interactive programs will allow the students to actively participate in instruction and courses presented through distance education.

Facilities

School facilities in First Nations communities must be at least comparable to, if not better than, provincial schools. Obsolete facilities in First Nations communities must be replaced and the buildings must be adequately maintained. Federal school space accommodation standards are inadequate in meeting the needs of First Nations students. School space accommodation standards must be based on curriculum and student needs, not just on student population. For example, science laboratories are almost non-existent in many First Nations schools.

New capital funds are necessary to reduce the current backlog of new construction and repairs, to keep pace with facilities' maintenance needs, and, more importantly, to begin immediately to construct new schools where required to ensure First Nations students have the opportunity, like other stu-

dents in Canada, to be educated in their own community. The greatest facility needs include cultural centres, audio visual resource centres, and cafeterias. Other buildings needing improvement are libraries, gymnasiums, and school buildings. The federal government's current space accommodation standards allow only a standard amount of footage per student, not taking into account requirements for curriculum requirements and functional space. To achieve quality education facilities, these federal standards must be improved with First Nations input.

First Nations will determine the resources needed based on curriculum requirements, current and forecasted enrollments, and condition of present facilities. The federal government has a treaty obligation to provide the needed resources.

Management

First Nations education authorities are not mere advisory bodies. They have powers of program management. They must be provided with the means to operate fully in this capacity. First Nations management structures are not extensions of federal programs. Limited funding means that long-range planning and forecasting by First Nations education authorities is impossible. First Nation education authorities must exercise meaningful authority at all levels, from

pre-school to post-secondary and adult education. The education authorities should involve community members, including Elders, in the development of education programs and policies. Evaluations of First Nations education systems, including administrative systems, must be ongoing to ensure effective management and fulfillment of education goals of First Nations communities.

Managerial Resources

First Nations jurisdiction requires that all necessary and required financial resources previously managed by federal, provincial, or territorial education authorities be managed by First Nations education authorities. When First Nations education authorities manage their local schools, they incur the many associated administrative costs that once were incurred by the federal government. In addition, First Nations education authorities incur the cost of program consultants, salaries, liability and property insurance, and other risks of operation. The present administrative resource allocation provided to First Nations education authorities is far from adequate. It does not take into account the management functions of education authorities.

Operational responsibility without provisions for management of adequate resources is unworkable and unacceptable. First Nations education authorities are not able to hire the staff needed to effectively

manage the program.

The educational administration and managerial frameworks in First Nations schools must be improved. The management of First Nations education systems requires at least the equivalent of the financial, human, and material resources required in the public school systems.

When local education authorities begin to exercise jurisdiction over their education program, there are numerous start up costs, such as securing office space, equipment, and personnel training. These start up costs must be taken into consideration when estimating the budget of the education authorities.

Good management practices must be supported by the federal government. It is essential that surpluses resulting from efficient resource management be retained by First Nations education authorities for improving other areas of the education program.

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Data Banks

First Nations must establish, develop, and maintain their own data banks that will provide accurate and timely information to management, administrators, political leaders, and technicians. These data banks should include comprehensive information on the current operation and status of First Nations education. The data banks would include, for example, statistics on school enrollments, student achievement, staff, resources, facilities, and post-secondary participation rates. They would also provide important information on community demographics such as employment statistics,

health statistics, and economic productivity measures.

Because these data are not currently available, First Nations must rely on information provided by the government even though some of it is questionable. The operation and maintenance of the data banks will require adequate federal resource support. They will provide the accurate information needed by both First Nations and the federal government in planning and implementing sound policies and evaluating the effectiveness and efficiency of local, regional, and national programs.

Labour Relations

Labour relations with teachers in First Nations schools is an important issue for local First Nations school management. First Nations need to develop policies and First Nations laws regarding teacher unions in schools within First Nations jurisdiction. Jurisdictional powers, relevant laws, and personnel policies should be clarified and understood to avoid labour-related disputes.

Further research is necessary to clarify labour relations with teachers in First Nations schools to eliminate jurisdictional concerns.

Community employee wages and benefits must be comparable with provincial or territorial schools. Management of labour relations must be consistent with First Nations culture and values.

Policy Development

Clear policies that reflect local education philosophy need to be developed. Policies on roles and responsibilities of personnel and education authorities and financial management policies are needed.

New policies must be established by First Nations to ensure their control of the financial management of their education programs. It is essential that all federal per-

son years and other costs be identified and included in the determination of the resources necessary for management of local First Nations schools.

Federal and First Nations schools must develop personnel policies with clear definitions of roles and responsibilities of all education staff.

Planning

First Nations education authorities must establish long-range goals and plans which reflect preparatory stages for jurisdiction. First Nations research on current, workable models of jurisdiction over education is needed. First Nations advocate short-term and long-range planning and promote ongoing evaluation and development of local education systems.

Research and development of unique First Nations management structures must be financed. First Nations parents, Elders, and educators must have direct and guaranteed involvement in and control over the education of their children in all school systems. Such participation must be planned and implemented.

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Management Training

More First Nations administrators, principals, and education directors need to be trained. Jurisdiction over education and the successful operation of First Nations schools require that local educators receive training in educational administration and personnel management.

First Nations leaders, parents, and education authorities must have access to ongoing comprehensive management training programs and funds must be allocated accordingly by the federal government. New technologies, computerization, and more efficient means of telecommunication are needed to improve First Nations education

management. First Nation representatives on provincial, territorial, federal, or First Nation education authorities must be provided with sufficient training to become familiar with topics such as school policies, regulations, and legislation so they can effectively carry out their duties of representing local community needs.

First Nations education authorities must exercise jurisdiction in the recruiting, selection, and termination of staff in federal and First Nations operated schools. A nationally accepted accreditation process for education personnel and programs is needed.

Parental Involvement

The management of First Nations education must be community based. First Nations recognize the vital role of parental involvement in education. Parental support and encouragement are strong motivational forces which contribute to students' achievement and success. Their involvement also provides the direction and goals for the education program. Active involvement of parents in school programs create better understanding and cooperation between the education staff and the parents, in fact, the community as a whole.

Parental involvement in education ranges from formal to informal participation. Parents in First Nations communities can become involved by working in all areas of the education program, for example, as directors of education, principals, teachers, classroom assistants, counsellors, secretaries, main-

tenance engineers, and language teachers. Elders of the First Nations communities can become involved with the teaching of First Nations languages, traditional values and skills, and cultural studies.

Informally, parents should be encouraged to participate in school activities, such as professional development days, parent-teacher workshops, socials, sports activities, outings, dances, and other student activities. Parents and teachers should have regular meetings scheduled by mutual arrangement.

First Nations education programs must ultimately be in the hands of local First Nations authority. In managing the education program, First Nations education authorities will develop policies which reflect the philosophy and goals of the community and be accountable to the community for the management of the local schools.

Tuition Agreements

Provisions must be made in tuition agreements for First Nations education authorities to monitor the cost-effectiveness of provincial or territorial education services. First Nations must have equitable representation on these provincial boards and territorial ministries of education. In order for provincial and territorial education authorities to

receive funds from First Nations for educating First Nations students, they must provide services which meet the expectations of First Nations education authorities. First Nations alone will determine whether or not the education services are acceptable for continued funding through tuition agreements.

Resourcing

Adequate resourcing is the key to quality education. The present formulas used

by the federal government to resource First Nations education do not meet the require-

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ments of First Nations communities. The formulas are inadequate to meet the treaty obligations of the federal government to resource First Nations education. Both the Data Base Management and the Nominal Roll systems suffer from data inaccuracies and are cost intensive but not cost efficient.

Both of these systems must be eliminated. The federal government must be committed to working closely with First Nations to consider a resourcing system that is consistent with First Nations jurisdiction over education.

The Major Problem

The major problem in First Nations education is and has been inadequate resourcing. Funding arrangements must be simplified and take into consideration regional and local variations in operational and maintenance costs. Although the federal government is legally obligated to provide education for First Nations students, it tends to purchase education services for First Na-

tions students from the provinces and territories. This is accomplished through tuition agreements and joint school agreements. Under the tuition agreements, the federal government or First Nations education authorities pay the province a per-student tuition rate set unilaterally by the province or territory.

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In joint school agreements, the federal government contributes towards the building of a new provincial school or an addition to an existing provincial school. In return, the provincial school board agrees to provide a certain number of places for First Nations students. These agreements are long-term; some can continue for 20 to 30 years. During the time the agreement is in force, the First Nation affected by the agreement will not be resourced by the federal government to build

a school in the local community. First Nations demand that the federal government cease entering into such agreements.

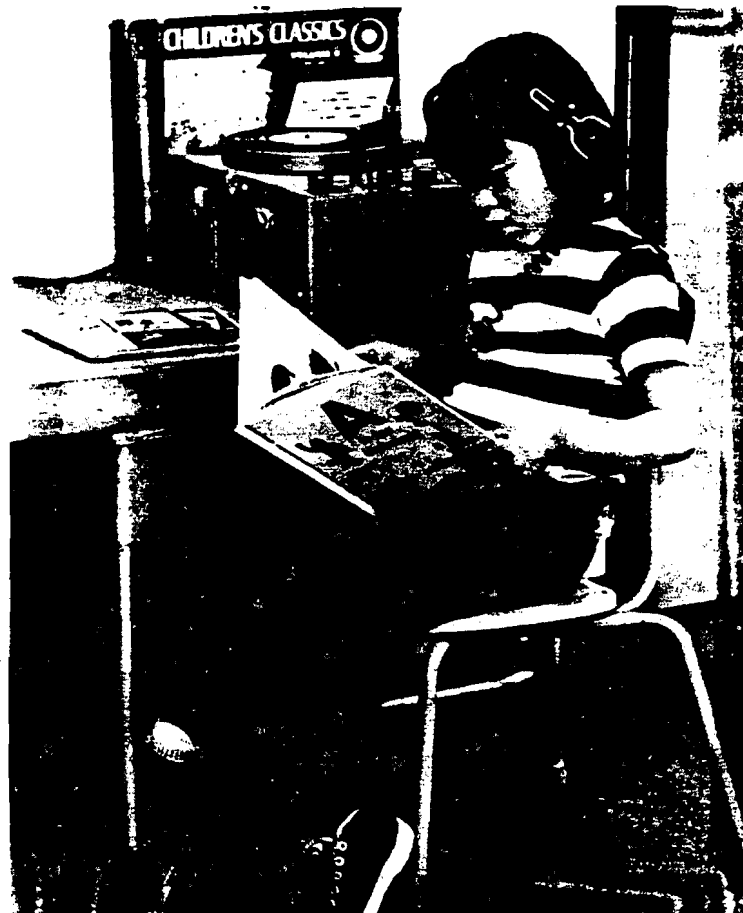
First Nations also demand that the federal government honour its treaty obligations to resource First Nations education regardless of existing arrangements with the provinces and territories. Resourcing means that the funds go directly to First Nations and not to the provinces and territories.

First Nations Representation

First Nations have little influence over provincial school boards. Moreover, provincial school boards require that the federal government co-sign tuition agreements to guarantee the financial commitment. First Nations must be acknowledged by all levels of government as the sole level of government in Canada with jurisdiction over education of First Nations students.

First Nations must have adequate and effective representation on provincial school boards as governments and not as individuals so that the interest of First Nations students are properly represented. The federal government must work with First Nations and other governments in order to bring about necessary change in legislation

to ensure fair representation of the First Nations.



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First Nations must be recognized as legitimate parties in all negotiations of tuition, capital, and other agreements with federal, provincial, and territorial authorities for the education of First Nations students. First Nations must be able to negotiate directly with Treasury Board, if desired by individual First Nations, and with all service

delivery agencies. First Nations will determine costs based on actual needs and services required in the negotiation of payments to provincial and territorial education authorities. Tuition agreements will include the right to amend and incorporate an opting-out clause.

Accountability

Procedures must be established between First Nations and various levels of government to ensure accountability for funds received for the education of First Nations students. Such accountability must be enforced through tuition, general, or other bilateral agreements.

The current federal process of transferring resources to provincial and territorial education authorities for the education of First Nations students consumes excessive time and resources. This process must be changed. Education dollars must be directly transferred from the federal government to the First Nations so funds intended for local use

are not lost in federal, provincial, or territorial administrative costs and overhead.

All accountability relationships must be implemented in a structure which follows the bilateral pattern, Canada to First Nations, provincial or territorial authorities to First Nations, and First Nations education authorities to their communities. Long-range planning efforts by First Nations must be accommodated by the federal government through multi-year funding which enables First Nations to make long-range forecasts and provides First Nations with more discretionary power over distribution of funds.

Multi-year Budgets

A multi-year budget system is necessary to permit forward planning and efficiency measures. Federal budgets must contain a contingency fund to cover unexpected costs. Cyclical shortfalls in federal budgets must be eliminated.

It is critical that the federal government take measures to ensure that their officials do not make arbitrary decisions or exercise unwarranted financial controls which do not

serve the needs of First Nations. Policy formulations for financing First Nations education must be established as a priority.

Funding levels for First Nations education must be at least equal to provincial and territorial standards and augmented to meet the special costs of First Nations education. Also, adequate funding and policy control by First Nations must be guaranteed by the federal government through a revised system

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of financial contributions which recognizes First Nations jurisdiction over education.

A commitment must be made by the federal government to improve the quality of services and programs offered to First Nations. This commitment must be matched by adequate resources for previously itemized needs among which are culturally relevant curriculum, aboriginal language materials, special education, early childhood education, in-service training, and student support services. A federal commitment to improving the education of First Nations must be accompanied by increases in funding for adult,

vocational, and post-secondary education which are three critical areas in the development of strong self-sufficient First Nation communities.

New federal dollars must be found to remedy the backlog of education capital needs, such as new schools, gymnasiums, laboratories, teacherages, and group homes. New federal funds must be located to recruit teachers, counsellors, principals, administrators, para-professionals, and resource specialists. e.g., speech therapists, giving preference to hiring First Nations educators.

Post-Secondary Education

Post-secondary education must be made non-discretionary by the federal government. First Nations view post-secondary education as absolutely essential. Post-secondary education is necessary to provide First Nations with well qualified personnel for effective self-government and for the management and operation of effective school systems. Post-secondary programs must be funded at levels which reflect inflationary costs and enrollment increases. The federal government must place a moratorium on cutbacks in post-secondary financial assistance to students. New dollars must be allocated to meet the demand of students entering post-secondary training. The federal government must assume direct financial responsibility for post-secondary education. Current post-secondary policies on program development and financial assistance formulas are inadequate; they must be revised through consultation with First Nations.

Resourcing must accommodate First Nations program initiatives and improvements

in services. Funding is needed to establish new First Nations post-secondary programs. Culturally relevant curriculum and aboriginal language programs need to be developed. Funding is needed for training, student support services, and for extra-curricular activities and programs.

The federal government must secure funds for urban First Nations elementary and secondary needs. Funding is needed to offer competitive salary rates to facilitate the recruitment of quality personnel and to provide monies for legal and professional services. A national clearing house on First Nations education is needed. Additional resources are also needed to administer programs and hire extra teachers. The federal government must provide funding for First Nations to gather needed information, conduct assessments, provide preliminary training, create an administrative structure, and execute jurisdiction and management over their schools.

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Implementation of Jurisdiction

The implementation of First Nations jurisdiction over education involves many changes in the current practices of both First Nations and the federal, provincial, and territorial governments. The following areas are identified as the principal concerns for implementing First Nations jurisdiction over

education. Each of these areas will require considerable effort to adequately address the implementation process. Jurisdiction will be implemented through a developmental process in a planned, careful manner with full resource support to ensure success of schools operating under local jurisdiction.

Recognition of Status of First Nations

First Nations insist that treaty obligations and aboriginal rights to self-government be explicitly recognized by all levels of government in Canada. These actions are required immediately. These rights must be explicitly entrenched in the Constitution. Legislation may recognize inherent aboriginal rights of First Nations but cannot create, delegate, or terminate such rights.

First Nations must exercise their treaty rights and their inherent aboriginal rights of self-government and function as sovereign governments responsible for the welfare of their communities. Individually and collec-

tively, First Nations must demand that the federal government deal with them on a government-to-government basis consistent with the treaty obligations and trust responsibilities of the federal government as outlined in this document.

The public must be informed about the history of First Nations relationship with the federal government. The public needs to understand the First Nations demand for change from the paternalistic policies and practices of the current federal system to one of support of First Nations self-government and self-sufficiency.

Reform of Federal Policy and Legislation

First Nations demand that the Government of Canada vacate the field of administering First Nations education. First Nations call for radical reform of the *Indian Act*, repeal of all sections that promote paternalism, full recognition of federal obligations to resource First Nations education, and the establishment of a *Ministry of State for First Nations Relations* as recommended in the "Penner Report" to deal with First Nations on a government-to-government basis.

The *Ministry of State for First Nations Relations* will conduct negotiations with First Nations under the bilateral process and be responsible for the fiscal arrangements for funding self-government operations, economic development, and the correction of serious infrastructure deficiencies. This ministry will deliver no services. It will initially coordinate its work with the existing Department of Indian Affairs and Northern

Development so that the transition from the present paternalistic administration to a process of government-to-government relationship with First Nations governments will be smooth.

The development of any new legislation affecting the processes and procedures required to implement the government-to-government relationship between First Nations and the Government of Canada must involve the full participation and sanction of the First Nations in accordance with the *Indigenous and Tribal (Peoples/Populations) Convention (Revised)*, 1989. Legislation should create the mechanism for the Government of Canada to relate to the sovereign First Nations and administer their treaty obligations and trust responsibilities without interference in the internal operations and functions of the First Nations governments. The legislation must provide for the efficient

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delivery of adequate funding resulting from these obligations directly from Treasury Board to the individual First Nations governments. First Nations will determine the extent of need for resources required to meet the federal obligations to the First Nations in

a manner and at a level consistent with the local First Nations needs and in accord with international standards. First Nations alone will allocate and distribute such resources to the various programs designed to meet the needs identified by the First Nations.

First Nations Forms of Government

Each individual First Nation will determine the structure and form of government that is appropriate for their people. The various forms of First Nations governments will be consistent with the various cultures and social organizations of the various First Nations. They will derive their authority from the First Nations themselves. These governments have continued to function and serve First Nations in spite of the lack of federal recognition of their aboriginal authority.

For First Nations, the *Band Council* form of government established under the authority of the *Indian Act* is an artificial and unacceptable form of government that has been imposed on First Nations by the federal government. It functions as an extension of the federal government from which it derives its authority.

First Nations agree with the "Penner Report" that there is a need for special funding by the federal government to assist First Nations to resolve the

problems created by the federally imposed *Band Council* government structure. As recommended in the "Penner Report":

...it is desirable that funding not be provided through the usual channels, so as to avoid any risk of charges of interference in the process. It is important that money not be used to further the status quo, but that it be available to all sectors of the community to constitute their governments. (p. 62)



Negotiation Support

The "Penner Report" (p. 62) anticipated the need for support for First Nations in negotiating with the federal government due to the difficulties, mistrust, and suspicion that has characterized the relationship between First Nations and the federal government. First Nations support the recommendation of the Report for the joint appointment and joint funding of an independent secretariat to provide a neutral forum for conducting negotiations between the governments. The secretariat would be similar in structure and function to the Inter-governmental Conference Secretariat which supports negotiations between the provinces and territories and the federal government.

There is also a need for continued efforts of the various regional and national First Nations organizations, such as the Assembly of First Nations, which provide collective and mutual support in addressing major issues and concerns. These national and regional organizations are vital to the continued development of individual First Nations. The organizations serve their constituents as advocates and provide services that would be unavailable otherwise. Such services can only be provided by an organization which is controlled by First Nations themselves. These organizations may be called upon to assist individual First Nations in negotiations with the federal government.

Resources

The federal government must provide adequate resources for First Nations to conduct a local community needs assessment, formulate long-term education plans, establish an education authority, and obtain management training. In a planned and measured fashion, First Nations will begin to exercise jurisdiction over all education programs from pre-school to post-secondary and adult education.

The local First Nations will determine the resources needed to implement their education program including pre-school through

post-secondary education. First Nations governments will deal with the federal government on a government-to-government basis through the *Ministry of State for First Nations Relations* in obtaining the identified necessary resources as recommended in the "Penner Report" (p. 63). The treaty obligations of the federal government to resource First Nations education will be performed through the negotiated resourcing of local education programs operated under the jurisdiction of First Nations.

Consultation and Assistance

The federal government is obligated to provide every required assistance to ensure

that First Nations management and jurisdiction over education is a success. To promote

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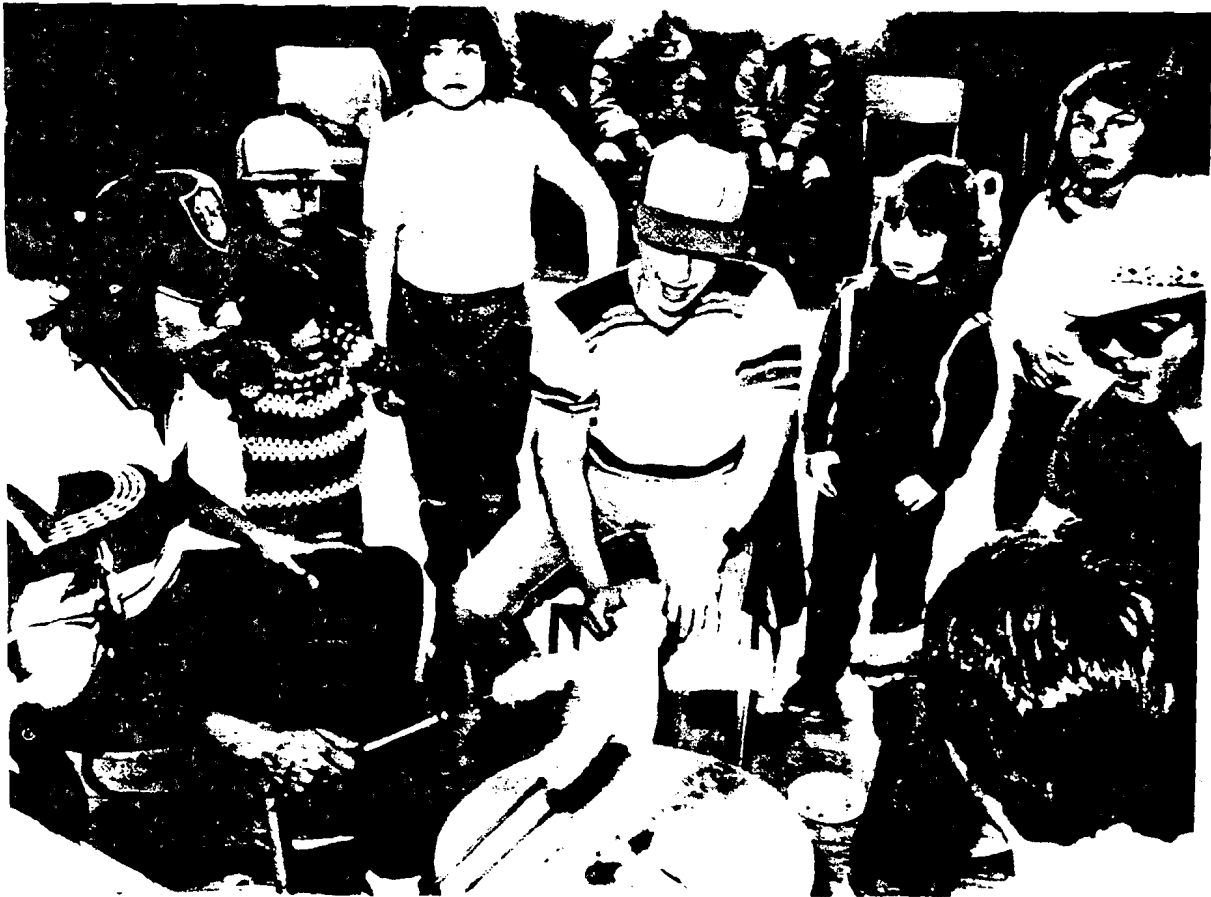
a positive working relationship with the federal government, federal representatives must serve in an advisory capacity if and

when called upon by First Nations in order to ensure successful operation of First Nations schools.

Unified Demands

First Nations must join together in demanding that the Government of Canada respond positively to local First Nations jurisdiction over education. First Nations need to meet together at regional and nation-

al conferences to discuss and formulate their positions on First Nations jurisdiction over education. This document and the National Review will serve as important resources for such conferences.



Local Planning

It will be essential to develop and follow a systematic framework and timetable to ensure effective First Nations jurisdiction over education. Formalized mechanisms are required to guarantee that all pre-planning, assessment, preparatory, implementation,

administration, and evaluation stages are adequately addressed. Consultative support and networking between local First Nations education authorities and First Nations communities are critical factors in planning for success.

Local Needs Assessment

All attempts at restructuring and reorganizing local education systems must adhere to the philosophy of education as defined and articulated by First Nations. This philosophy must be fully supported by the federal government and other levels of government. Explicitly articulated education philosophy and goals are important to enhance program planning and development—a vital element for the beginning stages of exercising jurisdiction over education.

Based on the local philosophy, each First Nations must assess their own local needs related to implementing local jurisdiction over education. The local assessment will address

the areas of jurisdiction, quality, management, and resourcing of the local education program serving First Nation students. The needs assessment will identify the current conditions and provide the information needed to formulate realistic goals and objectives.

The needs assessments must be resourced by the federal government. Many First Nations will need assistance and guidance from the Assembly of First Nations and other national and regional First Nations organizations in designing, planning, and conducting the needs assessments.

Local Education Program Development

At the level of local education program development, there are at least five critical elements. They include language, curriculum, personnel, facilities, and funding. Guaranteed funding from the federal government is essential for long-range program planning and to assist First Nations schools

to achieve parity with provincial and territorial programs and facilities. The key is making First Nations education relevant and accessible, be it through specialized curricula, physical plant, or transportation system. Committed federal funds are necessary to lay that foundation.

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Training

Local personnel in First Nation education authorities and programs will need adequate training and support to perform their functions. Resources will be required to obtain the necessary training and technical assistance. The transfer of funds from the federal

government to First Nations for training activities must occur without delay. Training in the local community and at institutions of higher education will be required to prepare First Nations education personnel for their responsibilities.

In-Service Training

All school systems — federal, First Nations, provincial and territorial — must establish or enforce directives to implement in-service teacher training sessions and school curricula which address contemporary First Nations issues, including self-

government and economic self-sufficiency. In provincial and territorial schools attended by First Nation children, such mandates must be incorporated into tuition, general, or other agreements.

Conclusion

The recognition and reflection of the inherent right to be and to remain distinct First Nations and to exercise local self-determination over local education programs through self-government is at the heart of this *Declaration of First Nations Jurisdiction Over Education*. This is the basic framework from which individual First Nations can adapt and expand this document to meet their individual needs. This is the central issue that is critical to all First Nations. First Nations have never given up their right to exist as individual First Nations and to be self-governing peoples within Canada. They have never agreed to be subjugated and do not want to be subjugated by the Government of Canada. The individual First Nations do not want to be assimilated into any other society and cul-

ture, aboriginal or non-aboriginal. They demand that their rights to exist freely as distinct self-governing peoples within Canada be fully recognized and respected by all other people. First Nations demand that all governments cease practices and policies that infringe upon the liberty and freedom of their people. First Nations insist that the Government of Canada, which has a moral and legal responsibility to uphold the treaties negotiated between the First Nations and the Crown, recognize fully the inherent aboriginal rights of First Nations.

First Nations fully understand the requirements of self-government, having operated as independent governments since long before the founding of the Government of Canada. The individual First Nations agree

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on the importance of the inherent right of aboriginal people to self-government. This concept is also supported by a majority of non-aboriginal people in Canada.

The individual First Nations recognize the importance of developing their own approaches and solutions to meet the specific local education needs in their communities. The *Indian Act* which binds First Nations with bureaucracy and paternalistic federal control is too inflexible to allow each First Nation the freedom necessary to address their individual local education needs in an appropriate manner.

Under the statements contained in this document, each First Nation government will continue to be responsible for decisions regarding jurisdiction over its own education programs, local policy development, funding levels, program development, and management framework. Each First Nation government will continue to define and implement its own relationship with the Government of Canada.

The Assembly of First Nations urges national and regional First Nations political organizations and especially individual First Nation governments to implement this *Declaration of First Nations Jurisdiction Over Education* and encourages the individual First Nations to proclaim their sovereignty and exercise their jurisdiction over education.

The Assembly of First Nations believes that First Nations themselves can most accurately express their own individual concerns about education. Each expression contributes to the goal of

respecting the diversity and integrity of the sovereign First Nations.

Some of the solutions to the current problems faced by First Nations in the areas of education, health, economic development, and quality of life are presented in this document. A national mandate is needed. This document addresses that need by providing a clear position on the issue of First Nations jurisdiction over education. It also provides a clear process for achieving an effective government-to-government relationship between the First Nations and the Government of Canada.

The Assembly of First Nations demands that the Government of Canada take action consistent with the provisions contained in this document to ensure effective First Nations jurisdiction over education. The Government of Canada shares the responsibility with the First Nations to implement the principles presented in this document to guide the government-to-government interaction between the individual First Nations and the Government of Canada.



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**A Summary of the
Declaration of First Nations Jurisdiction
Over Education**

Inherent Right to Self-Government

First Nations have an inherent aboriginal right to self-government and have existed as sovereign, self-governing nations since long before the establishment of the Government of Canada. First Nations have never relinquished the right of self-government. Within Canada, First Nations are an order of government apart from the federal government and the governments of the provinces and territories.

First Nations demand that all governments cease practices and policies that infringe upon the liberty and freedom of their people. First Nations demand that their rights to exist freely as distinct self-governing peoples within Canada be fully recognized and respected by all other people and orders of government. First Nations reject all policies and efforts to assimilate their people into any other society and culture. First Nations demand recognition of the various forms of First Nations governments which derive their authority from the First Nations themselves — not from authority delegated from the *Indian Act*.

First Nations demand that the federal government cease all efforts to reduce the status of First Nations from sovereign governments with aboriginal title to their lands and treaty rights to municipalities. As municipalities, First Nations would be under provincial or territorial law with no treaty rights and no aboriginal title to the land. The federal government's efforts to terminate the First Nations rights and title must cease.

First Nations demand explicit Constitutional recognition of First Nations inherent aboriginal right to exercise self-government. Delegated authority is not acceptable as a substitute for aboriginal First Nations jurisdiction recognized and affirmed in the Constitution of Canada.

Treaty Rights and Obligations

Education for First Nations people is an inherent aboriginal right and a treaty right. The federal government has a legal obligation through various treaties with the First Nations to provide adequate resources and services for First Nations education ranging from pre-school to elementary/secondary, post-secondary, adult, and vocational education levels. The federal government is obligated to provide resources for quality education programs, facilities, transportation, equipment, and materials to First Nations to meet the needs as determined by First Nations.

The First Nations demand that the Government of Canada uphold the treaties negotiated between the First Nations and the Crown and the Government of Canada.

First Nations demand that the federal government honour its treaty obligations to resource First Nations education regardless of existing arrangements with the provinces and territories. Resourcing means that the funds go directly to First Nations and not to the provinces and territories.

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End of Paternalism

Although the Government of Canada has enacted legislation, such as the *Indian Act*, that hinders the exercise of First Nations self-government, the federal government cannot extinguish the aboriginal rights of the First Nations through legislation.

First Nations demand that all paternalistic administrative practices be stopped. The *Indian Act* is the source of paternalistic policy and practices by the Government of Canada. The Department of Indian Affairs and Northern Development (DIAND) exists primarily for the purpose of administering paternalistic policies and practices that interfere with the exercise of First Nations self-government.

The First Nations call for the Government of Canada to vacate the field of administering First Nations education. First Nations demand radical reform of the *Indian Act*: repeal of all sections that promote paternalism, full recognition of federal obligations to resource First Nations education, and the establishment of a *Ministry of State for First Nations Relations* as recommended in the "Penner Report" to deal with the First Nations on a government-to-government basis.

Unilateral decisions affecting First Nations education made by any level of government or education authority serving First Nations students are not tolerated. The federal, provincial, and territorial governments must relinquish their administrative and policy functions in First Nations education with the federal government retaining only its role as a funding source.

First Nations Jurisdiction Over Education

First Nations declare their jurisdiction over the education of their people. Each First Nation will define a philosophy of education that is culturally appropriate for their own people. Each First Nation will determine the resources needed for quality education as defined by the First Nation.

First Nations will negotiate directly with the Government of Canada through the *Ministry of State for First Nations Relations* under the bilateral process for resources required to meet their needs. The First Nations call for the establishment of a Conference Secretariat to support negotiations between the individual First Nations and the Government of Canada. First Nations will allocate and distribute resources to fund high quality local education programs to meet the needs of their people.

Quality of First Nations Education

First Nations education is a holistic approach that incorporates a deep respect for the natural world with the physical, moral, spiritual, and intellectual development of the individual. First Nations language and cultural values are taught and enhanced through education. The education process actively involves the parents. First Nations education includes adult, vocational, and life skills education; special education; gifted and talented education; pre-school, primary and secondary education; and undergraduate and graduate level university education.

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Curriculum standards required in federal and First Nation schools are at least equal to, if not higher than, provincial or territorial standards in basic skills. First Nations expect high quality education and high academic achievement by their students.

Teachers must be well-qualified and trained. There is a need for more First Nations people to train as teachers and educational administrators in university and satellite programs. The Elders have an important role in cultural and language development in all school systems at all academic levels. They are due professional status and appropriate compensation.

School facilities in First Nations communities must be at least comparable to, if not better than, provincial schools. Obsolete facilities in First Nations communities must be replaced and the buildings must be adequately maintained. Federal school space accommodation standards are inadequate in meeting the needs of First Nations students.

Management of First Nations Education

First Nations education programs must ultimately be in the hands of the local First Nation authority. First Nations education authorities will develop policies which reflect the philosophy and goals of the community and will be accountable to the community for the management of the local schools and education programs.

First Nations councils or their delegated education authorities will determine the education resource requirements, including capital and operational requirements. First Nations jurisdiction requires that all necessary and required financial resources previously managed by federal, provincial, or territorial education authorities be managed by the First Nations education authorities. The management of First Nations education systems requires at least the equivalent of the financial, human, and material resources required in the public school systems.

The First Nations must establish, develop, and maintain their own data banks that will provide accurate and timely information to management, administrators, political leaders, and technicians. First Nations need to develop policies and First Nations laws regarding teacher unions in schools within First Nations jurisdiction. Jurisdictional powers, relevant laws, and personnel policies should be clarified and understood to avoid labour-related disputes.

In order for provincial and territorial education authorities to receive funds from First Nations for educating First Nations students, they must provide services which meet the expectations of First Nations education authorities. First Nations alone will determine whether or not the education services are acceptable for continued funding through tuition agreements.

Resourcing of First Nations Education

Adequate resourcing is the key to quality education. The present formulas used by the federal government to resource First Nations education do not meet the requirements of First Nations communities and are inadequate to meet the treaty obligations of the federal government to resource First Nations education. Inadequate resourcing is the major problem in First Nations education.

First Nations must be recognized as legitimate parties in all negotiations of tuition, capital,

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and other agreements with federal, provincial, and territorial authorities for the education of First Nations students. First Nations must be able to negotiate directly with Treasury Board, if desired by individual First Nations, and with all service delivery agencies. First Nations will determine costs based on actual needs and services required in the negotiation of payments to provincial and territorial education authorities. Tuition agreements will include the right to amend and incorporate an opting-out clause.

A multi-year budget system is necessary to permit forward planning and efficiency measures. Federal budgets must contain a contingency fund to cover unexpected costs. Cyclical shortfalls in federal budgets must be eliminated. Funding levels for First Nations education must be at least equal to provincial and territorial standards and augmented to meet the special costs of First Nations education.

A federal commitment to improving the education of First Nations must be accompanied by increases in funding for adult, vocational, and post-secondary education which are three critical areas in the development of strong self-sufficient First Nation communities. New federal dollars must be found to remedy the backlog of education capital needs. First Nations view post-secondary education as absolutely essential. New dollars must be allocated to meet the demand of students entering post-secondary training.

Implementation of First Nations Jurisdiction Over Education

Implementation of First Nations jurisdiction over education involves many changes in the current practices of both First Nations and the federal, provincial, and territorial governments. Implementation requires the recognition of the sovereign status of First Nations and reform of federal policy and legislation. It requires recognition of the authority of various forms of First Nations governments. The process of bilateral negotiation between the federal government and First Nations governments must be supported by a structure acceptable to all parties. Each First Nation must assess their needs related to exercising jurisdiction. The First Nations must meet together in regional and national conferences to discuss and formulate their positions and structures required for First Nations jurisdiction over education. Plans must be developed for local education programs and training of local personnel in First Nation education authorities and programs.

A Call for Action

On December 13, 1988, in Ottawa, Ontario, the Confederacy of Nations unanimously accepted and approved the document titled *A Declaration of First Nations Jurisdiction Over Education*. The Assembly of First Nations demands that the Government of Canada take immediate action consistent with the provisions contained in the document to ensure effective First Nations jurisdiction over education. The First Nations will implement the principles contained in this document and will exercise jurisdiction over education.

**Tradition and Education:
Towards a Vision of Our Future**

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Glossary

Aboriginal Right: An inherent and original right possessed individually by an aboriginal person or collectively by an aboriginal people in their status as aboriginal people in a land.

Control: A central issue area taken from the *Indian Control of Indian Education* policy paper of 1973. This term has been abandoned by the Assembly of First Nations in favour of the term *jurisdiction*.

Culture: The customs, history, values, and language that make up the heritage of a person or people and contribute to that person's or people's identity.

Curriculum: The organized course of study planned for students in the school system. The curricula of First Nations schools incorporate First Nations culture, languages, history, and values in all aspects of the education program delivered to First Nations students. The curricula address the needs of all First Nation students from pre-school through post-secondary and adult and vocational education. The curricula include significant roles for Elders, parents, and community members in the education process.

Data Base: A specific financial management system used by the Department of Indian Affairs and Northern Development which sets funding levels by a number of determining factors, including population.

Degrees of Control: The concept that First Nations jurisdiction will not be uniform throughout the country. Different First Nations will exercise different kinds of authority in different areas of jurisdiction.

Delegated Authority: The concept elaborated in the *Indian Act* that authority flows from the federal government which delegates and regulates all power of self-government in First Nation communities. Under the concept of delegated authority, First Nations governments have only such authority as they are allowed by other orders of government and are subject to regulation and control by those other governments. Powers delegated by other governments can also be taken away. Delegated authority is strongly supported by some provinces and is the current position of the federal government. The concept is soundly rejected by the First Nations.

Devolution: The process of passing duties from one body to another. In practice, this federal program has resulted in First Nations administering a federal program without exercising any authority.

First Nations: The term preferred by many aboriginal peoples and the Assembly of First Nations to refer to the various governments of the aboriginal peoples of Canada. First Nations is the term preferred over the terms *Indians*, *Tribes*, and *Bands* used extensively by the federal, provincial, and territorial govern-

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ments. An individual government or a group of individual governing bodies that mutually agree to join together and form a new entity representing all of the bodies is termed a First Nation. First Nations is used as a noun-adjective (as in First Nations education) instead of *Indian* in phrases such as *Indian education*.

Jurisdiction: Jurisdiction means the inherent right of each sovereign First Nation to exercise its authority, develop its policies and laws, and control financial and other resources for its citizens.

Master Tuition Agreement: A contract which provides for funds to be transferred from the federal government to the provincial or territorial government for the provision of education services for First Nations children.

Opting Out Clause: A part of an agreement which allows individual First Nations to choose to be excluded from an agreement. It is most often used in reference to Master Tuition Agreements and other tuition agreements.

Self-Government: First Nations exercising their inherent right to govern and make decisions affecting their own lives and the affairs on their own lands and resources with all of the duties and responsibilities of governing bodies. First Nations have never relinquished their inherent right to

exercise self-government although the practice of First Nations self-government has been greatly disrupted by the action of federal, provincial, and territorial policies and laws.

Sovereignty: The concept of sovereignty and sovereign title to land and resources is applied to describe the nature of the existence of First Nations in their own lands. It is the power and authority exercised by the First Nations over all persons, things, territory, and actions within the boundaries of their individual nations. First Nations were sovereign peoples long before the formation of Canada; they continue to be sovereign peoples having never relinquished their inherent rights; and, First Nations intend to exercise sovereignty for all time. First Nations exercise sovereignty internally to govern their own affairs and to deal externally with other governments within Canada on a government-to-government basis without imposing their authority or power over others and without being imposed upon or dominated by the other governments in Canada.

Treaty Rights: Rights accruing to the First Nations as a result of treaties negotiated between themselves as sovereign nations or tribes and the British Crown or the Government of Canada.

A Declaration of First Nations Jurisdiction Over Education

PARTICIPANTS IN THE NATIONAL REVIEW OF FIRST NATIONS EDUCATION (In Alphabetical Order)

Staff and Consultants

Thierry Bannon	Eric Johnson	Joyce Pitawanakwat
Salli Benedict	Roger Jones	Christopher Printup
Eldon Brant	Gary Joseph	Judy Ramos
Dan Brant	Gloria Katt	Arthur Riley
Jameson Brant	Nathan Matthew	Kelly Riley
Lise Chabot	Gina McDougall	Brian Shawana
Paul Chabot	Valerie McGregor	Linda Sioui
Mike Charleston	Donna Meness	John Thomas
Gordon Chrisjohn	George Miller	Marie Thompson
Penny Desjarlais	Mark Montour	Joanne Tobin
Don Dickie	Aleda Morris	Bill Tooshkenig
Carole Dumont	Joann Sebastian Morris	Kin Wan
Stella Etherington	Shizuhiko Nishisato	Kevin White
Emily Faries	Pauline Obonsawin	Francine Whiteduck
Kent Gooderham	Ray Obonsawin	Rodney Whiteduck
Gloria Thomas Hill	Paddy Paul	
Dolly McDonald-Jacobs	Randy Phillips	

Copy Editors and Production Team

Harry Allen	Georges Erasmus	Tom Maracle
Chuck Boyer	First Nations Technical Institute	Dolly McDonald-Jacobs
Karen Charleston	Jerry Gambill	Mona McGraw
Mike Charleston	Beverly Green	Joann Sebastian Morris
Roscoe Davidson	Tom Green	Samuel Saina
Kenneth Deer	Trina Hill	Bill Tooshkenig
Kath Edstrom	Verna Kirkness	Irvine Twin
Gary Elder	Mary Lancer	Lauren Villagomez

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Harry Allen	Wallace Labillois	Konrad Sioui
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Lawrence Courtoreille	Joe Mathias	

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Phil Fontaine	Gerry Paulette	

Ad Hoc Committee on Education

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Mary Lou Fox		

Committee of Inquiry

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Gordon Chrisjohn	Marilyn McGillis	Dianne Reid
Lewis Debassige	Barry Nicholas	Raymond Sark
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National Indian Education Council

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Linda Commandant	Barry Nicholas	Neil Sterrit