

1 discriminated against First Nations children and parents living on reserves/First
2 Nations in the provision of child and family services. Federal policies and
3 directives required First Nations Child and Family Services agencies to provide
4 provincial/territorial levels of child and family programs and services. However,
5 federal government funding did not match provincial/territorial funding levels.
6 First Nations Child and Family Services agencies were unable to provide the
7 required provincial/territorial levels of programs and services. The funding,
8 programs, and services mismatch increased over time. The absence of adequate
9 financial and program support resulted in many First Nation children being
10 apprehended and placed in off-reserve placements. Families were disrupted. First
11 Nation children were separated from their families, communities, languages,
12 cultures, and spirituality.

13 The inadequacy of funding for First Nations Child and Family Services
14 agencies was known to the federal government. Blackstock (2016) noted that the
15 CHRT found that “INAC was aware of the flawed and equitable child welfare
16 funding for at least sixteen years, had access to solutions to address the problem,
17 and yet repeatedly refused to take action” (p. 288).

18 The Minister acknowledged the high price of past failure. He noted “[W]e are
19 talking about historical compensation that goes back 30 years ... This is 30 years
20 of failure that is quite costly to repair. But this is just the way to go, and we’re
21 willing to walk that path” (Forrester, 2021, para. 3).

22 On Dec. 30, 2021, the Federal Court of Canada and Manitoba’s Court of
23 Queen’s Bench announced an \$8 billion drinking water settlement between the
24 federal government and First Nations across Canada. A number of First Nations
25 had filed a class-action lawsuit against the federal government regarding the lack
26 of safe drinking water for many First Nations. The settlement applies to “... First
27 Nations that have been subject to long-term water advisories of one year or longer
28 being in 1995” (Pritchard, 2021, p. 1).

29 The settlement involved a commitment to spend at least \$6 billion over the
30 next nine years for safe drinking water infrastructure on reserves. Four hundred
31 million dollars was allocated to a First Nation Economic and Restoration Fund.
32 Another \$1.5 billion was to be given to individual community members who have
33 been deprived of clean drinking water.

34 The long-term lack of federal government commitment and financial support
35 for First Nation programs and services is not limited to First Nations Child and
36 Family Service agencies or to on-reserve safe drinking water. The government has
37 treated First Nation education in much the same manner. This paper will examine
38 government actions in First Nation education.

39 The CHRT decision focused on three aspects of the federal government’s
40 actions with First Nation Child and Family Service agencies. These aspects
41 include: (1) First Nation children being denied essential services; (2) focus on
42 costs rather than program and service development; and (3) government actions
43 against First Nation children had been long term.

44 The federal position on underfunding and the need to compensate for past
45 funding shortages for the Indigenous child-welfare system is excellent. Now is the
46 time to discuss compensation for 30+ years of funding shortages for First Nation

1 students who attended First Nation-managed schools on First Nations/reserves.
2
3

4 **Indian/First Nations Education** 5

6 In 1982, the federal government was aware of funding problems in the
7 transfer of federal schools to First Nations. Adequate funding was an issue as a
8 federal report on Indian education acknowledged as “[F]unding of Indian and
9 federal schools is inferior to provincial schools funding levels, and this, despite the
10 relatively greater costs of meeting the special demographic, social and economic
11 circumstances of most Indian communities” (Department of Indian Affairs and
12 Northern Development, 1982, p. 3).

13 Limited funding levels resulted in the absence of second-level programs and
14 services for First Nation-managed and federal schools. The report noted that
15 federal education funding levels “do not allow for the provision of central office
16 services such as psychological testing and special education for exceptional
17 children...”. (p. 20).

18 On January 22, 1986, Hon. David Crombie, Minister of Indian Affairs and
19 Northern Development (1986), wrote a letter to the Co-chairmen, National Indian
20 Education Council (NIEC). In this letter, the Minister confirmed his endorsement
21 of ‘Indian Control of Indian Education’ (National Indian Brotherhood/Assembly
22 of First Nations, 1972).

23 In the area of education funding, he believed that a “needs assessment is
24 essential if Indian communities and Government are to put in place a financial
25 regime which will support the success of Indian initiatives. Where funds have not
26 been adequate a catch-up period to correct the shortfall may be required” (p. 3).
27 He thought that a funding formula should be developed that would “examine all
28 the cost factors taking in consideration geographical location, diversity, and size of
29 population and other geographical factors” (p. 4). He also supported the NIEC’s
30 efforts to study “funding to improve the quality of education to bring it up to
31 provincial standards” (p. 4).

32 In 1986, the Office of the Auditor General of Canada (1986) released its
33 report on government departments. Chapter 11 was on the Department of Indian
34 Affairs and Northern Development. Education was one area that was studied.

35 The report found that the department “adopts the basic core provincial
36 curricula to ensure that the principle of mobility is ensured” (p. 13). However, “the
37 adaptation of provincial programs by federal and band-operated schools is largely
38 uncoordinated” (p. 13). Provincial standards may be the goal but the department
39 lacks a formal statement for this.

40 In 2000, the Office of the Auditor General of Canada (2000) released a report
41 on First Nation elementary and secondary education. The report noted that INAC
42 had conducted many studies on First Nation education. The topics of these studies
43 and reports included increasing funding and support for special education,
44 libraries, technology, guidance/counselling, and specialist support. There was no
45 indication that the recommendations of these reports and studies were
46 implemented.

1 The report also indicated that INAC “needs to articulate and formalize its role
2 in education” (p. 4-10). Apparently, a number of INAC regional/provincial offices
3 “have not fully defined their roles in ensuring high quality education” (p. 4-11).
4 The result is that “there is ambiguity and inconsistency within the department
5 about the role it needs to play...” (p. 4-10).

6 In the area of special education, the report found significant issues. Due to
7 absence of on-reserve diagnostic expertise, INAC was unaware “whether special
8 needs students are being appropriately identified and assisted” (p. 4-14). Despite
9 additional special education funding ranging from \$581.00 to \$65,650.00 per
10 student, INAC had “no process or mechanism to ensure that student needs were
11 being served” (p. 4-14).

12 The report found that “actual education costs are not known to the
13 department” (p. 4-17). The report recommended that INAC must “articulate and
14 formalize its role in education” and “should demonstrate how it will meet its
15 responsibilities and objectives” p. 4-13). It also noted the “significant gap in
16 educational achievement Indian student and non-Indian students based on
17 provincial education requirements and results” (p. 4-13).

18 In 2011, the federal government and the Assembly of First Nations (AFN)
19 launched the National Panel on First Nation Elementary and Secondary Education
20 for Students on Reserve (2011). The purpose of this investigation was “to identify
21 ways for improving educational outcome for First Nations students who live on
22 reserve” (p. iv).

23 The Panel acknowledged many problems with the federal government system
24 of education. The present education system was described as a “non-system of
25 First Nation education” (p. 9). The system had “no broad system of educational
26 supports and services ...” (p. 10).

27 The Panel found many gaps between education program and services
28 available in provincial and federal/First Nation-managed schools. Federal/First
29 Nation-managed schools had “insufficient early and ongoing assessment of
30 children and youth..., no regular reporting of the educational attainment of the
31 child, absence of any meaningful or functioning special needs system..., no
32 funding for language and culture curriculum programs..., poor school facilities...,
33 limited curricula and inadequate range of foundational programs to support math,
34 science ..., limited curricula in terms of electives ..., poor quality athletic and
35 recreational programming, facilities, and resources..., severe discrepancies in
36 remuneration, institutional supports, and benefits to school staff, including teachers
37 and principals, resulting in recruitment and retention challenges and inconsistencies
38 in many places, and, no consistent practices, regulations, or policies in terms of
39 teacher certification, regulation or discipline...” (p. 16-17)

40 The Panel saw the effects of insufficient funding in these schools. It believed
41 that “most First Nations schools do not have sufficient resources to properly
42 support the success of their students” (p. 39). The lack of adequate funding
43 resulted in poorly paid teachers and administrators, inadequately equipped
44 libraries, gymnasiums, and technology, and insufficient special needs student
45 supports.

1 The Panel recommended that First Nation school budgets for the 2012-13
2 school year match the percentage increase in nearby provincial schools. Longer
3 term, the Panel recommended “statutory funding that is needs-based, predictable
4 and sustainable” (p. 30).

5 The Office of the Auditor General of Canada (2011) released a ‘status report’
6 on previous reports for First Nations on reserves. In general, the report found
7 “progress to be unsatisfactory on several recommendations we have made over the
8 past decade” (p. 2). It identified four impediments: “lack of clarity about services
9 levels; lack of a legislative base; lack of an appropriate funding mechanism; and
10 lack of organizations to support local delivery of services” (p. 2).

11 The report noted ambiguity regarding the provision of provincial level of
12 services by the federal government. The provision of this level of services was
13 “not always evident” (p. 2). Some departments do refer to “services reasonably
14 comparable to those of the provinces. But comparability is poorly defined and may
15 not include, instance the level and range of services to be provided” (p. 2).

16 The 2011 report found funding issues. It noted that there was “uncertainty
17 about funding levels... Accordingly, it is not certain whether funding levels
18 provided to the First Nation one year will be available the following year” (p. 4).
19 The report also found “a lack of progress in improving the lives and well-being of
20 people living on reserves” (p.4).

21 Comparability of First Nation programs and services with provincial
22 programs and services was not occurring. The report noted “[S]ervices available
23 on reserve are not comparable to those offered by provinces and municipalities.
24 Conditions on reserve remain poor” (p. 5).

25 In education, the report had concerns regarding the funding formula for First
26 Nation schools. It found “INAC used a funding formula dating back to the 1980s
27 and lacked information that would enable it to compare costs with those of
28 providing comparable services in the provinces. Consequently, the department did
29 not know whether the funding it provided to First Nations was appropriate” (p. 12-
30 13).

31 In 2011, another report, ‘Reforming First Nations Education: From Crisis to
32 Hope’ (Standing Senate Committee on Aboriginal Peoples, 2011) was released by
33 the Senate of Canada. It was the result of two years of meetings across Canada
34 with First Nations, Metis, and non-Indigenous people. Its purpose was “to
35 undertake a study examining potential strategies for reform of First Nation on-
36 reserve primary and secondary education” (p. 2).

37 The report noted the lack of progress in high school graduation rates between
38 2001-2006 for on-reserve students. Approximately half of the on-reserve
39 population had not graduated from high school. This compared with 10% of the
40 non-First Nation population.

41 The Committee heard from Sheila Fraser, Auditor General of Canada. She
42 spoke of the problems inherent in the transfer of federally-operated schools to First
43 Nations. She acknowledged that “many of the institution and structural supports
44 were not there...” (p. 20).

45 The missing parts were extensive. They included “curriculum development,
46 teacher training, development of principals, testing and quality assurance, legal

1 accountability to students and their families, and the larger support structures that
2 makes a modern school work, commonly referred to as second and third level
3 services” (p. 21).

4 The Committee noted a common theme of underfunding throughout the
5 testimony of many witnesses. Shawn Atleo, Grand Chief, Assembly of First
6 Nations, spoke to the committee about the federal government’s 2% cap of First
7 Nation education expenditures. He believed that this cap “has meant that
8 classroom funding in First Nation education has not kept up with inflation or with
9 population growth. We estimate that a 6.3% increase was required over this time
10 to just keep up” (p. 31-32).

11 The Committee was concerned regarding the current federal funding formula.
12 The Committee believed that the formula did not take into account many
13 education important components that were part of a modern comprehensive
14 education system. The federal formula for First Nation schools did not include
15 “[B]asic services such as school libraries, student assessments, athletic programs
16 and facilities, technology, curriculum development and language programs... (p.
17 32).

18 The funding shortfall resulted in problems in hiring and retaining teachers.
19 First Nation schools could not match provincial teacher salaries and benefits. One
20 speaker spoke of “30% of the teachers left us as did 50% of the principals” (p. 33).

21 The Committee also heard that many First Nations do not have proper school
22 buildings. Students receive their education in “in retrofitted buildings or in
23 portables” (p. 34). There had been issues with potable water and mould in school
24 buildings. A number of students have never attended a real school. There is a 12 –
25 15 year backlog for new school construction in one large area of Ontario.

26 The Committee acknowledged that the federal government pay provincial
27 schools a higher tuition rate for on-reserve students who attend a provincial school.
28 They heard of this funding disparity from many witnesses. One witness estimated
29 the disparity was \$2,000 a student.

30 The Committee found issues with the federal government and the department
31 of Aboriginal Affairs and Northern Development Canada (AANDC) and its role in
32 First Nation education. It noted that “[T]he department requires First Nations to
33 educate their students at levels comparable to provincial and territorial
34 jurisdictions, yet provides them with no meaningful supports by which to do so”
35 (p. 56). The result is First Nation schools are “failing to deliver a high quality
36 education to First Nations students” (p. 56).

37 The Committee rejected AANDC’s assertion that it was a “funder” (p. 61) to
38 First Nations for education. The department and the government had a
39 responsibility to make First Nations education work.

40 In 2011, the Office of the Chief Coroner of Ontario (2011) released a report
41 after investigating the number of youth suicides on Pikangikum First Nation in
42 northwestern Ontario. In 2010-11, the First Nation’s school enrolment was 520.
43 However, it was estimated that there was another 300-500 school age children in
44 the community who did not attend school. The school follows the Ontario
45 curriculum.

1 Aside from the high number of student not attending school, the report
2 estimated that students in school were approximated three years behind their
3 provincial counterparts. The result is a grade 12 graduate is only at the grade 9
4 level. Such a disparity would hinder post-secondary success.

5 The report examined federal funding of the Pikangikum First Nation school.
6 Its recommendations included “[F]unding for First Nations education should be
7 provided by INAC at a level comparable to that provided to other children and
8 youth being educated in Ontario” (p. 85).

9 The report compared federal funding (\$4,127) to provincial funding (\$9,976)
10 in 2008-09. It also examined the cumulative effects of the underfunding. For
11 example, from 2002-03 to 2010-11, Ontario’s funding had increased by 49%.
12 Federal funding was restricted to the 2% cap, or approximately, 16%.

13 The report noted the “funding disparity that exists between what the federal
14 government spends and what the province spends per student leaves First Nations
15 children receiving education on reserve at a significant disadvantage” (p. 16).
16 This funding disparity impacted teachers, e.g., lower pay, an absence of pensions,
17 as well as a professional development.

18 In 2012, Nishnawabe Aski Nation (NAN) released a report (Nishnawabe
19 Aski Nation, 2012) on the challenges facing First Nation students and their
20 communities in the delivery of education on-reserve. NAN noted that INAC’s
21 education funding for First Nation education was “out-dated and has not changed
22 since 1988” (p. 22). The funding formula was “lower than provincial funding” (p.
23 23). This differentiated type of funding was discriminatory because NAN students
24 attending provincial schools were funded at a higher rate than those remaining on
25 the First Nation schools.

26 The result of the inadequate funding was evident in education programs and
27 services. NAN (2012) acknowledged the absence of “real second and third level
28 services” (p. 23) for their schools.

29 NAN (2012) noted other issues with INAC’s education funding formula for
30 First Nations on-reserve students and schools. These issues included – not being
31 based on actual expenses, elementary and secondary students funded at same level,
32 and funding of individual schools not a system of education. This resulted in First
33 Nation schools being without “school board type services and Ministry type
34 services” (p. 24).

35 NAN (2012) also compared INAC’s education funding formula to the Ontario
36 Ministry of Education funding allocation to the Kenora-Patricia District School
37 Board (KPDSB) based in Kenora. The federal government gave NAN schools an
38 average of \$6,400 - \$8,000 per student. The provincial government gave the
39 KPDSB \$13,349.28 (per elementary student) and \$14,065.83 (per secondary
40 student). Overall, the federal-provincial shortfall was estimated to be \$5,000 per
41 student.

42 The inadequate funding had real effects on the education received by on-
43 reserve NAN students. These include: not having a special education support
44 system for students with special needs; an absence of counselling programs;
45 technology/computers; and, retaining teachers.

1 Retention of teachers is difficult with the much lower salaries offered in NAN
2 schools. NAN (2012) compared salaries between their schools and those offered in
3 provincial schools. In 2011, a first year teacher would receive \$42,606 in NAN
4 schools compared to \$52,556 in KPDSB. The differences grew over time. A
5 teacher with 10 years experience would receive \$60,789 compared to \$93,118 in
6 KPDSB.

7 The Chiefs of Ontario (2012) estimated a funding shortfall of \$2,000 - \$3,000
8 per student. This underfunding was described as “discriminatory” and “chronic”
9 (p. 29). Their report referred to the 2% funding cap being insufficient for First
10 Nation schools as inflation and population growth was 6.3%.

11 The Chiefs of Ontario (2012) highlighted education programs and services
12 that were in provincial schools but not funded in First Nation schools. These
13 included technology, libraries, sports and recreation, culturally relevant curriculum,
14 and First Nation language teachers. Funding was also absent for “the
15 implementation of provincial education reforms (as federal policy requires First
16 Nations to adhere to provincial curriculum” (p. 35).

17 The report also noted the “lack of support services” (p. 39) for First Nation
18 schools. The second and third level supports required for First Nation schools
19 included: delivery of professional development activities for teachers (in both First
20 Nation and provincial schools); special education services; teacher training;
21 teacher recruitment; alternative high school programs; Indigenous language
22 curriculum and resources materials development; and, training for First Nation
23 Educational Authority members” (p. 37).

24 In 2012, Aboriginal Affairs and Northern Development Canada (AANDC)
25 released a Final Report: Summative Evaluation of the Elementary and Secondary
26 Program on Reserve (AANDC, 2012). The report was conducted by Evaluation,
27 Performance Measurement and Review Branch, Audit and Evaluation Sector of
28 AANDC.

29 AANDC (2012) examined elements of elementary and secondary funding for
30 on-reserve off-reserve education. In performance, the report noted that “[T]he
31 intended outcome of education opportunities and results that are comparable to the
32 Canadian population are not being achieved” (p. 2).

33 The report (AANDC, 2012) also examined funding issues for First Nation
34 schools. It found that “[E]xpenditures to First Nations and tribal councils for the
35 operation of schools do not appear to account for the actual cost variability
36 applicable to the needs and circumstances of each community or school, and
37 particularly the cost realities associated with isolation and small population. There
38 is a need for a more strategic understanding of resource needs and allocation
39 methods” (p. 3).

40 In the area of special education, the report saw problems. First Nation schools
41 were “not adequately resourced to provide proper assessments and services to
42 meet the needs of First Nation students with special needs” (AANDC, 2012, p. 3).

43 The report had many recommendations for the department. For example, it
44 recommended that the department research developing “funding allocations
45 methodologies that are equitable to provincial approaches, while at the same time
46 accounting for the cost realities on reserve” (p. 3). It also believed that the

1 department should work with First Nations “to strengthen the provision of special
2 needs assessments and services” (AANDC, 2012, p. 3).

3 Drummond & Rosenbluth (2013) provides an excellent historical review and
4 analysis of federal funding for the education of First Nation students living on
5 reserves. This included students living on reserves who attend a provincial school.

6 The federal funding mechanism for First Nation schools and students, Band-
7 Operated Funding Formula (BOFF) was established in 1988. BOFF was supposed
8 to be reviewed and updated after two years. However, “no such review occurred
9 and the formula remained in place” (p. 5).

10 A 2% cap was established in the late 1990s. Drummond & Rosenbluth (2013)
11 noted that while the cap matched inflation, it did not keep up with population
12 growth. The result was that the 29% population growth of First Nations between
13 1996 – 2006 resulted in “real per student funding declined 3-4% annually” (p. 5).

14 Drummond & Rosenbluth (2013) referred to AANDC’s education objective
15 in their analysis. The objective of AANDC’s education programming for First
16 Nation students living on-reserve was focused on provincial programs, services,
17 policies, and regulations.

18 AANDC’s education objective was “to provide eligible students living on
19 reserve with an education comparable to those that are required in provincial
20 schools by statutes, regulations or policies of the province in which the reserve is
21 located” (p. 8).

22 Drummond & Rosenbluth (2013) turned to AANDC’s own documents to
23 demonstrate issues with the funding formula. An AANDC’s (2012) review of
24 elementary and secondary education found that “[I]t was generally agreed ... that
25 there were serious gaps in the ability of First Nation schools to attract and retain
26 teachers and support staff with competitive salaries and benefits, and in the ability
27 to manage increasing costs for programming and infrastructure.” (p. 9)

28 Drummond & Rosenbluth (2013) developed a table comparing provincial and
29 federal funding on average instructional dollars in 2009. Federal education dollars
30 only exceeded provincial dollars in Manitoba (\$7,000 vs. \$6,000). In Alberta
31 (\$8,000 vs. \$9,000), the federal shortfall was \$1,000 per student. The difference in
32 British Columbia (\$11,000 vs. \$13,000) was \$2,000 per student. In Saskatchewan
33 (\$7,000 vs. \$11,000), it was \$4,000 per student. In Quebec, the difference was
34 \$6,000 and in Ontario, the difference was \$8,000 per student.

35 Another table compared ‘Average per student funding, First Nation schools
36 and provincial schools 1996-2011’. This table demonstrated the 2% cap’s
37 cumulative funding shortfall on First Nation students and schools. In 1996-1997,
38 provincial schools received \$6,376 compared to First Nation schools (\$5,544), a
39 difference of \$832. In 2004-05, provincial schools received \$8,487 compared to
40 First Nation schools (\$5,891), a difference of \$2,596. In 2010-11, provincial
41 schools received \$10,578 compared to First Nation schools (\$7,101), a difference
42 of \$3,677.

43 Drummond & Rosenbluth (2013) acknowledged issues in comparing federal
44 funding to different provinces and regions of provinces. However, it did conclude
45 that “... for many First Nations schools the funding level, even including all of
46 AANDC’s funding, is well below that being provided for comparable provincial

1 schools, at least below what most provinces would provide for a school facing
2 similar costs and needs.” (p. 20)

3 Drummond & Rosenbluth (2013) reviewed previous reports and newspapers
4 stories on federal underfunding of on-reserve education. The Assembly of First
5 Nations estimated a shortfall of \$3,500 per student. The Globe and Mail reported
6 \$3,000. The Regina Leader-Post’s story indicated a 40% - 50% shortfall.
7 McLean’s shortfall was 25%. The principal at Walpole Island’s school believed
8 his school received \$5,000 a student less.

9 On December 6, 2016, the Parliamentary Budget Officer (PBO) released a
10 report on ‘Federal Spending on Primary and Secondary Education on First Nations
11 Reserves (PBO, 2016). The report examined how the federal government funded
12 education on First Nations across Canada. It also compared federal funding levels
13 with provincial funding levels for education.

14 The report found many issues with the federal government’s funding of First
15 Nations education. It found that “INAC’s funding mechanisms: do not adequately
16 take into account important cost drivers for band-operated schools; favour students
17 living on reserves who attend provincial schools; [and] put band-operated schools
18 in remote northern regions at significant disadvantage” (p. 3).

19 The PBO noted the federal government was “not adequately costing for
20 operating small schools in remote northern regions. In addition, band schools face
21 higher costs because of high incidence of socio-economic disadvantage;
22 commitment to provide culturally relevant instruction in Indigenous languages;
23 and large numbers of students for who English or French is a second language.
24 The incidence of children requiring special education support is also higher” (p. 3).

25 To illustrate the funding shortfall, the PBO used the province of Ontario’s
26 funding formula from 2012-13 to estimate what First Nations-managed or band-
27 operated schools should have received to provide provincial levels of programs
28 and services. The PBO estimated that these schools should have received between
29 \$21,000 - \$25,000 per student rather than the INAC per-student rate of \$14,500.
30 This shortfall was estimated to be “between \$336 million and \$665 million in
31 2016” (p. 4).

32 In 2016, the federal department of Aboriginal Affairs and Northern
33 Development Canada (AANDC) released a briefing note for the minister
34 (AANDC, 2016) on the 2% percent raise or escalator. The note was marked –
35 Secret. The Issue of the Briefing Note was the government’s escalator that had
36 been capped at annual 2% budget increase for First Nations

37 The Briefing Note indicated that originally the 2% was “intended to reflect
38 price and population growth, but over time the 2% escalator has not kept pace with
39 the growing needs and increasing costs” (p. 4). The result was that federal
40 programs that were aligned with provincial/territorial programs had not keep pace
41 with provincial/territorial funding and benefit increases.

42 The Briefing Note also indicated that the department knew that First Nation
43 education was being underfunded. It noted that First Nation education was
44 “subject to external cost drivers that increase costs each year (inflation, population
45 growth, and in some case the need for alignment with increasing provincial/
46 territorial spending and outcomes)... In most cases cost drivers are higher than 2%

1 and the result is a shortfall in base funding” (p. 5). First Nation education was
2 described as having “insufficient on-going base funding to keep pace with cost
3 drivers and to align with provincial/territorial expenditures and service levels” (p.
4 6).

5 However, one First Nation in Manitoba performed a ‘magic act’ to obtain
6 provincial education costs and services for its students. This ‘magic act’ went
7 against the tenets of ‘Indian Control of Indian Education’. However, it was the
8 done for the betterment of the students.

9 Sniderman (2012) describes the transformation of education in
10 Waywayseecappo First Nation. Waywayseecappo First Nation is a small reserve
11 in western Manitoba. It operated its own school with about 300 students on the
12 reserve. In 2012, the Waywayseecappo First Nation received approximately
13 \$7,300 per student from the federal government. For high school,
14 Waywayseecappo students were bussed to the provincial high school in Rossburn.
15 Students in Rossburn were funded at about \$10,500 per student by the provincial
16 government.

17 The Waywayseecappo First Nation school had problems. These problems
18 included: high class sizes; poor reading scores; underpaid teachers; no curriculum
19 or professional development; and, teachers leaving for better paid provincial
20 teacher positions. After Grade 8, Waywayseecappo students had academic
21 difficulties in the Rossburn Collegiate. They often had behavioural problems.

22 What did the Waywayseecappo First Nation do? It magically transformed the
23 Waywayseecappo First Nation federally-funded school (\$7,300 a student) into a
24 Park West School Division school which was funded by the federal government
25 (\$10,500 a student). The federal government agreed to match the provincial level
26 of funding for these students.

27 The new funding, approximately \$1 million, had immediate effects on the
28 Waywayseecappo school. A previously closed wing of the school was reopened.
29 The school hired 6 new teachers, reducing the teacher-student ratio. Teachers
30 could access consultants and specialists from the provincial school division.
31 Teachers were paid at a higher salary grid. They were now eligible for pensions.
32 They received raises of approximately \$15,000 each. They also had professional
33 development opportunities.

34 The independence of Waywayseecappo First Nation school is important to
35 the community. The Chief noted that the community remains involved and “will
36 continue to oversee curriculum and effectively drafts its own budget independently”
37 (para. 12). For example, rather than French, the students learn Ojibwe.

38 The strategy of the Waywaysesscappo First Nation Chief was unique. The
39 school remained on the First Nation and continued to be funded by the federal
40 government, but the federal government matched provincial funding levels. At this
41 time, this was the only way for a First Nation school to obtain the higher
42 provincial funding for First Nation students was to send the students to a
43 provincial school.

44 Did the extra funding have any effects on the students? Sniderman (2016)
45 compared the reading scores of Waywayseecappo First Nation students from 2010
46 with 2016. In 2010, not one student in grade 1-3 were at their grade reading level.

1 One grade 4 student was at grade level. In 2016, the change was dramatic - Grade
2 1 - 44% at grade level; Grade 2 - 33% at grade level; Grade 3 – 54% at grade
3 level; and, Grade 4 – 26% at grade level.

4 The school principal noted that “[T]hings have got better in a hurry” (para. 4).
5 Class sizes have been halved. Attendance has improved. Teachers remain longer.
6 Behaviour reports have been reduced.

7 By 2016, it appeared that the federal government was listening to the many
8 calls for change in First Nation education. Their previous endeavours in First
9 Nation education could be summed up as abject failures. High numbers of First
10 Nation students were dropping out of school, and, graduation rates were dismal
11 compared to other Canadians. Schools lacked access to good technology, many
12 were in poor condition, and were without adequate education support and services,
13 including special education programs and services. Schools were also not part of
14 student assessment or early identification programs. Many schools lacked
15 gymnasiums and libraries. Teachers were transient, poorly paid, without pensions,
16 without professional development and support from specialists.

17 It was time for a change in mindset. In December 2106, Hon. Carolyn
18 Bennett, Minister of Indigenous Affairs Minister, announced the formation of the
19 Manitoba First Nations School Board for the 2017-18 school year (Rabson, 2016).
20 Twelve First Nations would join the school board.

21 The federal government would increase education funding to the new board.
22 Funding would be comparable to provincial funding levels, an increase from
23 \$4,000-\$5,000 per student to over \$13,000 per student.

24 In Manitoba, the Manitoba First Nation School Board would “manage and
25 administer both elementary and secondary education for participating First
26 Nations” (para. 9). It would also provide second-level support, i.e., specialists and
27 consultant, support to the schools.

28 Since 2017, several First Nations have developed their own school board
29 systems or structures for their schools. Such education systems should reduce the
30 disparity First Nation schools and their students have endured for many years.

31 However, the promised increased funding was inconsistent. At an Assembly
32 of First Nations meeting in Regina many chiefs and educators felt they were “still
33 being short-changed” (Warwick, J., 2017, para. 1). Star Blanket Cree Nation Chief
34 Michael Starr was concerned about the promises as he said “[I]t’s a little bit
35 frustrating. We’ve been promised these amounts of money. It still hasn’t arrived”
36 (para. 6).

37 The increase funding was also only for schools that joined the new First
38 Nation school systems or boards. First Nation schools that remained independent
39 did not receive the increased funding. In Manitoba, it was reported that 12 First
40 Nation schools joined the Manitoba First Nation School System (MFNSS). They
41 would receive approximately \$18,000 per student. The 36 other First Nation
42 schools would continue to receive \$4,500.00 per student (Martin, 2017).

43

Summary

1
2
3 The federal government actions in First Nation education are similar to their
4 actions described in the recent CHRT’s First Nations Child and Family Service
5 agencies decision. The federal government policies in First Nation education - 1)
6 denied First Nation children essential services; 2) focused on costs rather than
7 program and service development; and 3) government actions against First Nation
8 children were long-term.

9 It was about time for the government of Canada to make fundamental
10 changes to First Nation education. The first item is to provide First Nation schools
11 with a level of funding at least comparable to the provincial level of education
12 funding. However, what about the approximate 20 years of underfunding and the
13 consequences of this underfunding?

14 The federal government’s 2% funding on First Nation schools impacted the
15 lives of approximately two generations of students. The consequences were
16 significant. First Nation students were denied a comparable provincial education
17 due to the underfunding of the federal government. The underfunding resulted in
18 poorly paid, not supported, highly transient teachers being hired. Many schools
19 were without technology, science labs, a gym or a library. Special education
20 programs and services were minimal at best. Schools were without specialists,
21 consultants, early identification and annual assessment programs.

22 Equity in funding was always the issue. Despite the refusal to provide
23 adequate funds to First Nation schools, the federal government found provincial
24 level of education funding to send a First Nation child to a provincial school.

25 The federal government was well aware of the problems inherent in their First
26 Nation education programs. There were many reports from the government, some
27 from its own INAC/AANDC department, a ministerial letter, a Senate report, a
28 Parliamentary Budget Office report, and other departments acknowledging the
29 many problems for many years. Newspaper reporters wrote stories on the
30 underfunding and its consequences. First Nations had documented the same
31 problems and issues – many times.

32 Yet, for many years, the federal government decided to do little. Federal
33 education funding for First Nation schools did not match provincial funding levels.
34 The many reports, studies, articles were essentially ignored. The education of First
35 Nation children was ignored.

36 The ‘lost years’ of federal inaction resulted in many First Nation students
37 dropping out of school. Their First Nation high school graduation rates were low
38 when compared to other Canadians. Those First Nation students who did graduate
39 often found that they were unprepared for post-secondary institutions.

40 First Nation schools were expected to provide an education program
41 comparable to nearby provincial schools without being given provincial levels of
42 funding. No one has explained how this is possible.

43 The result of federal inaction to adequately fund First Nation education has
44 consequences. The first is belief in many First Nation youth and now adults that
45 they are academic failures. They don’t have ‘school smarts’. However, they did
46 not fail. The federal system of education failed them. Their teachers and schools

1 lacked academic supports, e.g., specialist, consultants, early identification and
2 academic assessment programs, libraries, gyms, labs, and technology that
3 provincial schools take for granted. Underpaid teachers left after a few years for
4 better paying teaching positions in provincial schools.

5 First Nation students had an opportunity to improve their lives through
6 education. This was taken away from them.

9 **Recommendations**

10
11 Over the years, the Organization for Economic Cooperation and Development
12 (OECD) has released many studies and reports on education. Several of these
13 studies and reports stress the important role education has in improving the lives of
14 both the individual and the greater society. Essentially, everyone, including future
15 generations, benefits from a well-educated workforce.

16 For example, in an examination of factors which encourage disadvantaged
17 students to succeed in school OECD (2011) noted that [E]ducation can improve
18 not only an individual's life, but also the conditions of future generations: better
19 educated parents generally have children who are healthier, who perform better
20 and school and who have better labour market outcomes.” (p. 14)

21 In a more recent Education at a Glance: OECD Indicators editorial (OECD,
22 2018), Angel Gurría, OECD Secretary-General wrote “..., education is the
23 cornerstone of individuals' progression through life. No one would refute that
24 every child, every human being, deserves the same opportunities to gain skills and
25 progress through society regardless of their gender, socio-economic, ethnic or
26 cultural background. Equity is indeed one of the fundamental values on which so
27 many countries around the world have chosen to build their societies.” (p. 11)

28 In other words, he believed in the belief that ‘Every Child Matters’ or ‘No
29 Child Left Behind’. He saw the important role that education can have in breaking
30 down barriers and enabling every student to succeed. He believed governments
31 must act to reduce the barriers faced by many students. He thought that “[E]very
32 individual has the potential for greatness, and deserves the opportunity to grow,
33 develop and contribute fully to society. Achieving equity in education will require
34 a range of interventions through different policy mechanisms: targeting funding
35 and resources for education to the most vulnerable; preventing grade repetition and
36 encouraging those from minority backgrounds to enter mainstream education, with
37 its greater opportunities; ensuring teachers are equipped with the right training and
38 pedagogical knowledge to identify and support struggling students; and increasing
39 access and provision to affordable, high quality early childhood education.” (p. 12)

40 In a Canadian context, the Council of Ministers of Education, Canada
41 (CMEC), an organization composed of provincial/territorial ministers of education
42 in Canada, also acknowledged the importance of education to both the individual
43 and society. CMEC (2019) saw that individuals require “a strong set of
44 foundational skills upon which further learning can be built... Education systems
45 play a central role in building this strong base” (p. 1).

1 Many First Nation students who attended a First Nation or federal school on a
2 reserve in Canada were denied an equal opportunity to develop these foundational
3 skills by the federal government of Canada through their policies and actions.
4 Reserve schools were unable to provide the required strong base. The federal
5 government denied reserve schools libraries, gyms, recreational equipment, special
6 education services, specialist and consultant services, science labs, and technology.

7 The many government and First Nation reports, studies and documents
8 demonstrate that the federal government was aware First Nation children were
9 being denied education essential services. Rather than providing appropriate
10 education programs and services the government focused on restraining education
11 costs rather than program and service development. Government actions against
12 First Nation children had been long term.

13 For these reasons, the federal government must compensate every First
14 Nation child who attended a school on a reserve from at least 1997 – 2017 at a
15 minimum. Twenty years of underfunding must be addressed.

16 The compensation should be at least \$2,000.00 - \$3,000.00 per student
17 multiplied by twelve, in other words, for every grade. Some may argue that
18 students should only be compensated for the numbers of grades or years they
19 attended the reserve school. This would be wrong.

20 Many of these students dropped out early because their school was not
21 providing them with a good education. Their schools lacked programs, services,
22 and personnel that provincial schools take for granted. Some students may have
23 moved over to a nearby provincial school to complete their education but
24 encountered difficulties and withdrew due to inadequate preparation/education on
25 the reserve school. Some students may not have attended schools due to the
26 inability of the reserve school to deal with their special needs.

27 Simply put – it is time to correct wrongs of the past. The federal government
28 of Canada must pay for past policies and actions. A great amount of money was
29 saved by not supporting reserve schools adequately. It's time to ensure that the
30 wrongs of the past do not continue.

31 If the federal government refuses to negotiate a fair settlement for the actions
32 in First Nation education, First Nations should consider court action, similar (e.g.,
33 Aboriginal Child and Family Services, safe drinking water) to those taken by other
34 First Nations. The 'Honour of the Crown' is at stake here. A fair settlement is
35 'long overdue' in First Nation education. Current and past First Nation students
36 should be properly compensated for years of neglect.

37
38
39 **Note**

40
41 The federal department mainly responsible for providing programs and
42 services to First Nations has changed its name several times over the years.

43
44 AANDC – Aboriginal Affairs and Northern Development Canada

45 INAC – Indian and Northern Affairs Canada

46 INAC – Indigenous and Northern Affairs Canada

1 CIRND – Crown-Indigenous Relations and Northern Development

2 CIS – Crown-Indigenous Services

3

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