

Standing Committee on
Social Development



Report on Bill 81: *An Act to Amend the Education Act, No. 2*

19th Northwest Territories Legislative Assembly

Chair: Ms. Caitlin Cleveland

**MEMBERS OF THE STANDING COMMITTEE ON
SOCIAL DEVELOPMENT**

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MLA Thebacha

September 27, 2023

SPEAKER OF THE LEGISLATIVE ASSEMBLY

Mr. Speaker:

Your Standing Committee on Social Development is pleased to provide its *Report on Bill 81: An Act to Amend the Education Act, No. 2* and commends it to the House.



Ms. Caitlin Cleveland
Chair, Standing Committee on Social Development

STANDING COMMITTEE ON SOCIAL DEVELOPMENT

**REPORT ON BILL 81:
*An Act to Amend the Education Act, No. 2***

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STANDING COMMITTEE ON SOCIAL DEVELOPMENT**REPORT ON BILL 81: *An Act to Amend the Education Act, No. 2*****INTRODUCTION**

Bill 81: *An Act to Amend the Education Act, No. 2* (Bill 81) received second reading on March 30, 2023 and was referred to the Standing Committee on Social Development (Committee) for review. Bill 81 makes changes to the *Education Act* (Act). The Department of Education, Culture and Employment (ECE) took what they referred to as a phased approach to legislative changes. Phase 1 focuses on operational and administrative amendments designed to improve the existing system within the life of the 19th Assembly. According to ECE, Phase 2 will focus on education system structure and governance amendments in the 20th or a later Assembly.

Phase 1 amendments recognize the role of Indigenous governments in education; seek to clarify roles and responsibilities between the Minister of Education, Culture and Employment (Minister) and education bodies; protect parental consent in student grade placement and education program modification decisions; mandate for student transportation; and supporting information sharing among education bodies. These amendments respond to the findings and recommendations from the 2020 February Report of the Auditor General of Canada to the Northwest Territories Legislative Assembly¹.

Members of the Committee, Indigenous Governments, Dene Nation, and many residents of the Northwest Territories (NWT) were disappointed with a phased approach, sharing that it did not allow for a more thorough engagement process with holistic and meaningful changes to address the uneven and poor state of education in the territory. In response, Committee sought and gained a verbal commitment from the Minister that Phase 2 will include a robust engagement process resulting in substantive amendments to the *Act* aimed at improving educational outcomes of NWT students.

COMMITTEE CONSIDERED PUBLIC INPUT

Committee sought public feedback on Bill 81 with a public notice, targeted engagement letters, and in-person engagement. Committee had face-to-face meetings with:

- Beaufort Delta Divisional Education Council

¹ Office of the Auditor General of Canada, Early Childhood to Grade 12 Education in the Northwest Territories- Department of Education, Culture and Employment, Accessed July, 25, 2023 https://www.oag-bvg.gc.ca/internet/English/nwt_202002_e_43522.html

- Behdzi Ahda' First Nation
- Community members of Déljñę
- Community members of Inuvik
- Community members of Norman Wells
- Déljñę Got'jñę Government
- Norman Wells Land Corporation
- Sahtu Divisional Education Council
- Yellowknife Education District No. 1

Committee received written submissions from:

- Behdzi Ahda' First Nation
- Commission Scolaire Francophone des Territoires du Nord-Quest
- Déljñę Got'jñę Government
- Dene Nation
- Mary Ann Villeneuve
- Ndilo District Education Authority
- Yellowknife Education District No. 1

All written submissions are included in an Appendix to this report.

Public Review

Committee held a public review of Bill 81 on May 31, 2023². At that meeting, Committee heard remarks from the Minister, and asked questions to the Minister and ECE officials regarding concerns with the phased legislative approach; engagement with Indigenous governments; mandate for student transportation; parental consent in student grade placement and education program modification; “social passing”; roles and responsibilities of education bodies; and students’ readiness to attend university, especially students in the small communities.

Committee also heard from David Wasylciw, Chairperson for Yellowknife Education District No.1, at the public review. Mr. Wasylciw highlighted concerns with the mandate for student transportation, including the budgetary impact on education bodies.

Summary of Public Concerns

Committee received an abundance of comments and concerns from Indigenous Governments, Dene Nation, residents of the NWT and education bodies across the NWT on the proposed legislative amendments to Bill 81, and more broadly on education in the NWT. In summary, these included, but are not limited to:

² Legislative Assembly, Standing Committee on Social Development, Public review of: Bill 81: An Act to Amend the Education Act, No.2, Accessed August 15, 2023, <https://www.youtube.com/watch?v=fiShRZv7goU>

- Disagreement with a phased legislative approach. Amendments are inadequate and do not effectively address changes to the uneven and poor state of education in the NWT;
- Flawed stakeholder engagement process;
- Need for trauma-informed approaches in legislative drafting and engagement;
- Roles and responsibilities of education bodies are unclear and lack accountability, including at the Ministerial level;
- Lack of support for mandatory student transportation;
- Indigenous governments' want a more meaningful role in education;
- Extent of parental engagement sought for consent of grade placement and education program modification currently does not go far enough;
- Need to prevent the misuse of social passing;
- Absenteeism;
- Lack of supports for students with disabilities;
- Barriers for contracting teachers in small communities;
- Desire for local teachers and administrators;
- Curriculum is not rigorous;
- Curriculum needs to reflect local Indigenous knowledge and be made available/translated in Indigenous languages; and
- Overall, parents are highly concerned that students are not being taught at their grade level and do not graduate ready to attend post-secondary institutions.

In response to the quantity and substantive nature of comments and concerns received, Committee advanced five motions with amendments to Bill 81. Committee also makes recommendations that are considered out of scope for the current legislation and is more appropriate for consideration in Phase 2.

COMMITTEE AMENDED FIVE CLAUSES

Education Program Modification

Committee is concerned the extent of parental engagement sought for grade placement and education program modification does not go far enough. In many cases, students have been placed or “socially passed”, rather than promoted, into higher grade levels without parental support. Parents have been surprised and angry to learn of these changes without their active consent. Clause 12.1 of Bill 81 are amended to expand the type of decisions a parent can make, including disagreement and complaint to the District Education Authority, as it relates to a student’s education program modification.

Student Transportation

Stakeholders expressed serious disagreement with a provision to make the delivery of student transportation mandatory given the capacities of education bodies; communities; schools; labour shortages; inflation and rising costs; lack of storage infrastructure; lack of access to mechanics, automotive, and other parts; and a general lack of funding to provide transportation. Clause 26, Clause 27, and Clause 33 of Bill 81 is amended by removing the provision to make the delivery of student transportation mandatory.

Oversight Committee

Stakeholders supported the Minister establishing an ad hoc oversight committee to identify opportunities to improve the delivery of the education system and support implementation of those improvements. Behdzi Ahda' First Nation added that Indigenous governments should be informed when an oversight committee is active. Clause 30 of Bill 81 is amended to provide notice to any Indigenous government having Aboriginal or treaty rights in the area over which the oversight committee's power and duties extended; and to provide a terms of reference for the participation of an Indigenous government in the work of the oversight committee.

COMMITTEE'S RECOMMENDATIONS FOR PHASE 2

Approximately 8,600 students across the territory have vastly different experiences in the NWT's 49 schools. Stakeholders shared that educational experiences across the NWT are uneven. Yellowknife and regional centres are considered resource-rich having, with greater access to experienced teachers and administration, sports and extracurricular activities, and sound schools with supporting infrastructure. In contrast, schools in the small communities are inadequately funded, with many schools in dire need of repairs, renovations or replacements. As a result, Indigenous governments and members in the small communities shared that their children and youth are routinely marginalized in the NWT's educational system, which results in lower educational outcomes and a lack of readiness for post-secondary institutions. For example, in the 2020-2021 school year, 74% of high school students in Yellowknife graduated grade twelve, compared to just 45% in the small communities³. Stakeholders discussed the negative impact this had on students, their families, and communities. In some cases, leading to poor mental health, substance abuse and addiction, and premature death. Committee is highly concerned that the NWT education system is not supported to set students up for educational achievement and lifelong success after high school.

³ Government of the Northwest Territories, *Covid 19 Impact Indicators Report Northwest Territories JK-12 Education System*, March 2023, Accessed August 16, 2023, https://www.ece.gov.nt.ca/sites/ece/files/resources/2022-10_-_report_-_potential_impacts_of_covid-19_on_jk-12_education_system_-_english.pdf

Engagement Process

Stakeholders shared that the engagement process facilitated by ECE was flawed citing that the language in Bill 81, and the plain language and supplementary materials were difficult to understand and amendments were unclear. Not enough time was provided to allow for meaningful feedback. Further, Indigenous governments want meaningful engagement; face-to-face meetings; and Ministerial visits to the communities to meet youth, students, community members, elders, and to see schools firsthand. It was emphasized that youth need to be engaged as a special group on the *Act*. Committee therefore recommends:

Recommendation 1: The Department of Education, Culture and Employment create a stakeholder plan that prioritizes meaningful engagement and face-to-face meetings with Indigenous governments, youth, students, community members, and elders.

Administrative Focus

In addition to dissatisfaction with the engagement process, stakeholders overwhelmingly shared that a phased approach to legislative amendments was wrong. Proposed administrative amendments do not effectively address the changes needed in the *Act* to improve educational outcomes for NWT students. Phase 1 does not include amendments that address absenteeism; educational outcomes for students; increased readiness for university; supports for students with disabilities; the curriculum; on the land programming; trades programming; wrap-around supports for students; trauma-informed approaches; need for local and Indigenous teachers; and new infrastructure and schools. Committee therefore recommends:

Recommendation 2: The Department of Education, Culture and Employment draft aspirational legislation for its next iteration of the Education Act that takes a holistic, trauma-informed, and culturally responsive approach to education that is accountable to all NWT communities, its residents, and most of all its youth.

Absenteeism

Community members, and in particular parents, identified the issue of chronic absenteeism impacting students' educational outcomes in the NWT. Community members shared various reasons why students may not attend school, including lack of parental or other caregiver support, unstable home environments, and/or having responsibilities in their families that take priority over school. ECE has identified causes of absenteeism in numerous reports and initiatives over the decades. Committee wants to build on the strengths of NWT students and communities and calls on coordinated

strategies between communities, education bodies, and schools. Committee therefore recommends:

Recommendation 3: The Department of Education, Culture and Employment work with education bodies and schools to promote school attendance by building on community strengths and parental involvement.

Wrap Around Services

Stakeholders shared that schools are natural hubs where wrap-around services are needed and can be effectively delivered. Schools that deliver a coordinated suite of health and social services, after-school programs, and engagement with families and communities are better positioned to meet the holistic needs of students and families in real-time. This is a model for supporting equity in education. Committee therefore recommends:

Recommendation 4: The Department of Education, Culture and Employment build a northern-specific model of coordinated wrap-around services for NWT schools.

Supports for Students

Stakeholders from all communities expressed a serious need for supports for students. Committee hears about the need for supports for students with physical and invisible disabilities. Educators and staff lack training and tools necessary to support students with disabilities access meaningful education. In addition, people raised concerns about the lack of adequate data collection on students with disabilities to inform evidence-based decision-making to support students with disabilities best.

In addition to student supports and staff training to provide meaningful and accessible education for students with diagnosed disabilities, people also expressed frustration around inclusive schooling. The leading frustration that Committee heard about was “social passing,” the process of moving students to a higher grade to keep them with their peers regardless of whether they met grade level requirements. This is considered a best practice in education. However, its success relies on student access to additional support to work toward grade-level requirements. Time and time again, Committee heard from communities that these educational supports are not available in their schools and they need the help of ECE to make education accessible with a robust suite of classroom supports that help all NWT students achieve greater educational outcomes that prepare them for life after high school.

Committee therefore recommends:

Recommendation 5: The Department of Education, Culture and Employment:

- A. Increase funding and expand professional development opportunities for staff to best support students with disabilities;**
- B. Expand the suite of programs and services available to students with disabilities in their home communities; and**
- C. Improve data collection as it relates to students with disabilities.**

Recommendation 6: The Department of Education, Culture and Employment review the Territorial Based Support Team function to ensure teachers and students receive the support they need in a way that meets the community's needs and establish outcome-focused measures to determine if the team is achieving its goals.

Typically, Committee includes a recommendation in each report requesting a response from government within 120 days. The recommendation is then moved as a motion in the House and Cabinet is required to respond. However, since the 19th Legislative Assembly will dissolve in less than 120 days, Committee has decided to leave out this recommendation and request that the government provide a public response to this report, even of a preliminary nature, before the beginning of the 20th Assembly.

CONCLUSION

On August 15, 2023, Committee held a clause-by-clause review⁴. Committee passed the motions to report Bill 81 as amended to the Legislative Assembly and ready for consideration in Committee of the Whole.

This concludes the Standing Committee on Social Development's review of Bill 81.

⁴ Legislative Assembly of the Northwest Territories, Standing Committee on Social Development, *Public Clause-by-Clause Review regarding: Bill 81 An Act to Amend the Education Act*, August 15, 2023, Accessed September 7, 2023 <https://www.youtube.com/watch?v=LCKR-aOeuW0>



BEHDZI AHDA” FIRST NATION

P.O. Box 53, Colville Lake, N.T. X0E 1L0

Ph: (867)709-2200 FAX: (867)709-2202

June 7, 2023

To the Standing Committee on Social Development,

Behdzi Ahda” has reviewed *Bill 81: An Act to Amend the Education Act, No. 2* (“Bill 81”), which proposes several amendments to the *Education Act* (the “Act”). We understand that this is Phase 1 of a two-phased approach towards modernizing the Act. That being said, the practical changes that Bill 81 makes in the delivery and governance of school programs are quite limited.

Many of the changes in Bill 81 are semantics; rewording or restructuring sections of the Act. For example, the term “Indigenous governments” was added to the Preamble, which now recognizes Indigenous governments’ role in overseeing the education system. However, Indigenous governments were not afforded further powers or duties within the Act, so there is limited practical benefit to this addition.

There are two main changes in Bill 81 that are the most useful, in our view. The first is the creation of a mediation option where there are overlapping powers between the Colville Lake District Education Authority (DEA) and the Sahtu Divisional Education Council (SDEC) (s 120). This is a useful tool due to the overlap between the duties and powers of the Colville Lake DEA and the SDEC.

The second is the ability for schools to share student records with education bodies when requested, to track student progress and monitor school progress (ss 30(4.1)). This will allow the Colville Lake DEA to access and use this information to advocate for changes to programming or to highlight positive programs. These changes are positive. They provide new mechanisms for Behdzi Ahda” to have more control over the delivery of education in Colville Lake through the Colville Lake DEA.

A few amendments requires clarification:

- How does the Minister’s role concretely change under s 126(2)?
- Who will pay for student transportation, which is now required under s 117(1)?
- Under ss 117(1)(k), can culture-based school programs that were not developed in accordance with the requirements of the curriculum also be delivered, or only those that accord with the requirements?

Lastly, we would like to note that Behdzi Ahda” should be informed if an oversight committee is created relating either to general education programs in the Northwest Territories, or specifically to education programs in Colville Lake.

We look forward to working with the Standing Committee on Social Development on Phase 2, which we understand will include changes to the structure and governance of the education system. We hope that future changes will address BAFN's concerns.

Sincerely,

From: [Yvonne Careen](#)
To: [DST LEG Committees](#)
Cc: [Jean de Dieu Tuyishime](#)
Subject: Bill 81 - Change to wording "busing"
Date: May 31, 2023 6:14:14 PM

EXTERNAL: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender's name and email address and know the content is safe.

Hello committee chair and members,

I'm writing on behalf of the Commission scolaire francophone des Territoires du Nord-Ouest to express our concerns regarding the language change in Bill 81 specifically related to busing. Minister Simpson has heard from all NWT Superintendents and Education Body Chairs regarding their concerns on several occasions, but they have had little impact.

First, the language change from 'may' to 'must' provide transportation to school is what is being proposed. In and of itself, it is laudable to want to provide transportation to schools in each and every community of the Northwest Territories, however, this will be extremely difficult for Education Bodies to operationalize.

The Minister refers to the lack of transportation as being an important factor to explain why students are not attending school. We differ in opinion. There are several other significant reasons why students do not attend school, but we do not believe busing to be of great significance. Social and mental health issues, as well as parents' difficult relationships with the school environment stemming from Residential Schools experiences are much more of a concern and a factor pertaining to students not attending school than the lack of busing. These issues are not being dealt with in an appropriate manner or at all. Providing busing will not improve these long standing difficult issues, but will be a costly band aid solution to a much more substantive issue. I can speak for Yellowknife Education Bodies when I say that we have always made every effort to provide our students with special circumstances, ways to get to our school buildings and be transported as necessary, even between schools if needed. I feel confident in saying that where it has been possible, other Education Bodies have done the same.

The main concerns regarding the change in wording to 'must' provide transportation to school are:

- 1) Regardless of what this transportation will be in each community, it will be costly. Will the GNWT finance education bodies appropriately? We have serious concerns.
- 2) In Yellowknife, a lack of bus drivers is persistent and very few proposed solutions have been brought forward to improve the situation. Will bus drivers be available in each community or will transportation carriers be available?
- 3) Costs of busing infrastructure - bus storage, maintenance, parts and repairs, and the increasing fuel costs. Is there a certified mechanic in each community? What will the storage and maintenance costs be and who will be responsible for paying these costs? Does each community have the capacity to manage a transportation or bus service appropriately without it gauging into the DEA's regular school funding?
- 4) Transportation for students presenting with special needs will be an additional cost. Will said students be able to ride buses? Will other modes of transportation be necessary? Will these modes of transportation be available in each community?

The burden of what seems, at first glance, a simple wording change is a daunting and potentially huge undertaking for an Education Body. The extra funding must be attached and flow through to the Education Bodies if this word change is passed by the Assembly.

Is providing busing the best response to student absenteeism? The CSFTNO does not believe it is.

Should you have any questions, I would be happy to discuss this matter further.

Thank you for the opportunity to share our concerns with the Standing Committee.

Regards.

--

Yvonne Careen (elle/elle) (she/her/hers)
Directrice générale/Superintendent
Commission scolaire francophone des TNO
C.P. 1980
Yellowknife, NT X1A 2P5



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Pronouns | Pronoms : she/her/hers | elle/elles

Nous tenons à remercier et à reconnaître que les terres sur lesquelles nous travaillons et apprenons se trouvent sur le territoire traditionnel partagé de la Première nation dénée de Yellowknife, territoire du chef Drygeese.

We would like to give thanks and acknowledge that the lands on which we work and learn are on the shared traditional territory of the Yellowknife Dene First Nation, Chief Drygeese Territory.

- La confiance en soi est le premier succès de la vie.

Ralf Waldo

- Soyez le changement que vous voulez voir dans le monde.

Gandhi

Ce courriel est strictement destiné à l'usage du destinataire auquel il est adressé et peut contenir des renseignements confidentiels et personnels. Veuillez me contacter immédiatement si vous n'êtes pas le destinataire visé par ce courriel. De plus, veuillez ne pas reproduire ou distribuer ce courriel ou prendre les mesures voulues relatives à son contenu. Si vous avez reçu par erreur ce courriel et les réponses suivant son envoi, vous devez les supprimer ou les détruire.

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The Honourable Caitlin Cleveland
Chair, Standing Committee on Social Development
Northwest Territories Legislative Assembly
PO Box 1320
Yellowknife, NT
X1A 2L9

Sent via email: committees@ntassembly.ca

June 17, 2023

Chair Cleveland,

Re: Response to request for comments relating to Bill 81: *Amendments to the Education Act*

On behalf of the Déljné Got'jné Government (DGG), I write in response to the Standing Committee on Social Development request for comments on Bill 81: *An Act to Amend the Education Act*. I would like to thank you and the members of the Committee on Social Development for taking the time to join us in Déljné on June 8 to discuss this important legislation. As you heard during the community engagement, ensuring that our children have access to a high-quality education in their own community and are well-supported in their learning journey are first priorities for the residents of Déljné.

Before addressing specific aspects of Bill 81, a note on the process that was followed in the development of the Bill is necessary. In 2021, DGG representatives participated in a working group dedicated to the collaborative development of “Phase 1” amendments to the *Education Act*. However, it is our understanding that the Government of the Northwest Territories (GNWT) discontinued their engagement with this working group. Consequently, the Bill currently before you is not the result of collaboration with Indigenous Governments. Given the unique circumstances in communities across the Northwest Territories (NWT) and our constitutionally protected right to exercise jurisdiction over education within Déljné, this lack of collaboration is frustrating and sets a troubling precedent for legislative amendment processes involving more substantive changes. The DGG *must* have the opportunity to ensure our self-government rights are protected during the development phase and not only once a Bill has been tabled.

Turning to the contents of Bill 81, as indicated by Ɂekw'ahtjádá, Danny Gaudet, during our meeting with the Standing Committee, the DGG is concerned that proposed sections 8 and 9 of Bill 81 further reinforce social passing. Section 8(3) states: “For greater certainty, if, in the opinion of a principal, a student has not met all of the curricular expectations of a school program for the student’s current grade, a modification of the school program under subsection (2) may include (a) placing the student into the next grade; or (b) retaining the student in their current grade”. While this section does include a requirement to inform a parent of the student of the proposed modifications and obtain their consent, subsection (5) provides for deemed consent where a parent has not responded within the prescribed period. The operation of these provisions results in a disservice to our youth who

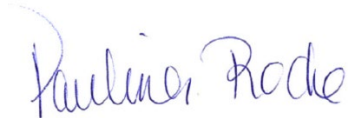
arrive at the end of grade 12 without having completed the K-12 curriculum and now face the task of having to catch up without a great deal of support.

We heard during the public hearing of this Bill before the Standing Committee that one of the objectives behind the amendments was to clarify the areas where the Minister is responsible for providing directions pursuant to the Act as this has been the cause of some confusion. The DGG appreciates the clear listing of these existing directions as described in section 29 of the Bill. However, as the Phase 2 *Education Act* amendments are developed, space must be maintained or created to ensure the DGG has the space to exercise jurisdiction over education in Délnę. Further centralization of authority within the Department of Education and the Minister may not align with the DGG's future plans to exercise jurisdiction over education.

Thank you once again for coming to Délnę to engage with our leadership and the members of our community.

If you have any questions, please do not hesitate to contact our General Counsel, Kate Darling, at general.counsel@gov.deline.ca or 867-678-0099.

Mahsi,



Paulina Roche
Chief Executive Officer
Délnę Got'łnę Government



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June 9, 2023

The Standing Committee on Social Development
committees@ntassembly.ca

Madam Chair,

The Dene Nation is providing comments to your committee regarding Bill 81: An Act to Amend the Education Act, No 2. Further to the letter of August 12, 2022, and Dene National Assembly resolution sent to Minister Simpson (see attached) we have grave concerns that we must bring to your attention.

Firstly, you are aware that the Dene have an existing Treaty right to education by virtue of the international Treaties #8 in 1899 and # 11 in 1921 with the British Crown. This agreement is not with Canada and the Dene never gave consent to the GNWT or any other government to administer education on their behalf. The GNWT receives Treaty funding from the federal government to provide education in the NWT without the consent of the Dene.

As stated in the letter to Minister Simpson, the Dene Nation cannot support the proposed amendments to the education act. There are too many outstanding questions and concerns that need to be addressed. The minister responded on September 21, 2022, to my letter (see attached) by saying that "... minor technical improvements...." are necessary. The proposed amendments are not minor. And the jurisdictional question of authority to administer the education act is not minor. There is a major issue before us that needs to be addressed and resolved. The Dene National Assembly resolution proposes a solution to address the education of the Dene. They put forward the suggestion that the Dene communities must have the resources to meet and fully discuss their Treaty right to education and determine how to proceed from there. They propose that the existing act should not be amended until that occurs.

Your government receives the Treaty education funding and therefore needs to account to the Dene. There are 31 communities telling you to not amend the Education Act. That is a majority of the communities in the NWT. In addition, we are aware that many school boards are also telling you not to proceed with the proposed amendments. Changing the Act requires much dialogue and understanding from all parties involved.

You must also be aware that many communities are in self government negotiations which includes the question of education in their communities. More than half of the communities in the Mackenzie Valley are at the negotiations table dealing with this very topic. How can you change the Act “ in good faith “ and expect it to not influence the outcome of the negotiations?

We studied your proposed amendments and are convinced that they should not proceed within the life of this assembly (you have an election in 5 months) because there is not a common understanding going forward. For example, the preamble proposes to begin using the term “ Indigenous “. This is an international expression that has a definition used around the world. It is meant to include Peoples who have lived in their territories before the colonists or settlers arrived. In other words, this means the Métis are not considered Indigenous. How can you include the Métis to be Indigenous and unilaterally change the meaning of the word? The Dene were not part of this discussion.

By using the term Indigenous in your proposed legislation, you are attempting to redefine and domesticate the term Indigenous. We can also say the same for GNWT using Treaty funding within the public government. This is an attempt to domesticate our Treaties with the Crown which the GNWT has no role to play. It also prevents the Dene from exercising their right to self determination and governance.

Much discussion is needed to clarify this and agree on the best way forward. This cannot be done adequately before the next Territorial election in the fall.

The preamble also makes reference to the role of our governments and the GNWT. It says “... recognizing that Indigenous governments and the government of the Northwest Territories have an equal and important role in overseeing the education system in the Northwest Territories;” We already referred to the term Indigenous so we will focus on the word equal. We mentioned earlier that we are Treaty Dene. We entered into Treaty on our own behalf because we are a Nation of People. Canada did not have authority to enter into Treaty therefore, the British Crown represented them.

The Supreme Court of Canada makes it clear that the GNWT does not have constitutional authority. They made this abundantly clear in the 1990s when the GNWT attempted to get their own seat at the constitutional discussions leading up to the Charlottetown accord. The GNWT has delegated authority from the federal government under section 91 of the Constitution Act 1982. We are not equal and to insert that into legislation is misleading and false. The GNWT may have a role to play with the general public in the NWT.

However, the Dene are not the public. They have Dene and Treaty rights which are very different and are not the same in law.

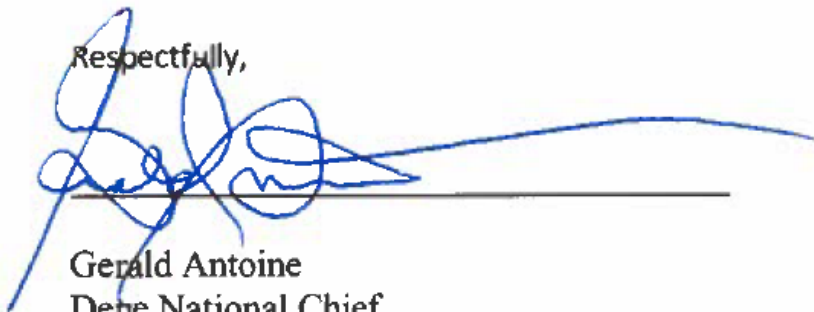
In section 4.1(1) the proposed amendment refers to how the Act is to be interpreted. It makes reference to the recognition and affirmation of existing “ Aboriginal and Treaty rights “ in section 35 of the Constitution Act 1982, including the duty to consult. You are proposing to use the words, Indigenous and Aboriginal interchangeably without clearly defining what they mean. This is confusing and will not provide any meaningful assistance to the Dene in any way.

In terms of “ the duty to consult “ , this does not go far enough to protect the rights of the Dene. Rather than the duty to consult, you should include the free, prior, and informed consent (FPIC). This is a specific right that pertains to our People which permits us the opportunity to withhold consent on a matter that may affect our rights or our territory.

In closing, we reiterate the need to take a comprehensive approach to making any amendments to the Education Act. A full discussion is required in our communities to determine the best way forward. That did not occur with the Covid 19 virus amongst us during most of the term of this legislative assembly. We ask your standing committee to support the wishes of the Dene Chiefs and delegates at the Dene National Assembly who made this decision. We cannot support amendments to the Education Act.

Thank you for your attention to this important matter.

Respectfully,

A handwritten signature in blue ink, appearing to read 'Gerald Antoine', is written over a horizontal line. The signature is stylized and extends to the right of the line.

Gerald Antoine
Dene National Chief
AFN Regional Chief Northwest Territories

CC
Northwest Territories MLAs
Dene Chiefs



September 23, 2022

Dene National Chief Gerald Antoine
Dene Nation/Assembly of First Nations
PO BOX 3090, LOT 185
HAY RIVER NT X0E 1G4

Dear Dene National Chief Antoine:

Proposed Amendments to the NWT Education Act

Thank you for your letter dated August 12, 2022 outlining your perspectives related to the proposed amendments to the *Education Act* and the legislative development process.

As the Minister responsible for education in the Northwest Territories (NWT), I have a responsibility to ensure that our Government is providing the highest standard of education possible and that we are responsive to the urgent and significant findings and recommendations of evaluative bodies such as the Office of the Auditor General as they relate to the provision of Junior Kindergarten to Grade 12 education (JK - 12). We know from such findings that many aspects of the operation of our current education system require addressing immediately and that minor technical improvements have the potential to have measurable impacts on the quality of the education we provide.

The Government of the Northwest Territories (GNWT) has an important and imminent opportunity to make concrete changes to the existing system that will help us to improve educational outcomes for the current cohort of JK - 12 students. In order for us to be able to make any improvements to the education system within the life of this government, which are key to making progress on our commitment to increase student outcomes to the same level as the rest of Canada, technical amendments must be made in the life of the 19th Assembly.

As indicated previously, the types of technical amendments being proposed by the Department of Education, Culture and Employment (ECE) are grounded in the extensive engagement that occurred in 2021 with Education Bodies, Indigenous Governments and Organizations, teachers, parents, current and former students, community governments, public interest groups and the NWT residents. These amendments were acknowledged as needing immediate attention or received no significant comments of concern from stakeholders, including Education Bodies and Indigenous Governments, during engagement.

.../2

The proposed Phase 1 amendments are intended to provide immediate and interim solutions to identified operational and technical challenges present in the current education system to better support the current student body, education staff and administrators. They are being made in direct consultation with Education Bodies, who will be most affected.

The proposed amendments intentionally do not focus on education system structure or governance, or the role of Indigenous governments in the education system, and neither implicate nor impact land claim and self-government agreements, or Aboriginal and Treaty rights. The GNWT continues to support the negotiation and implementation of Indigenous self-government agreements, including the pursuits of Indigenous Governments to assume jurisdiction for the provision of education for their citizens.

While the proposed technical amendments are intended to address immediate issues with our current system, comprehensive legislative changes that may result in transformation of the overall structure and governance of the education system in the NWT will be the subject of future collaboration. This will be a monumental undertaking that is expected to take a number of years to complete. Because of the fundamental importance of this work, I have committed to collaboratively developing the Phase 2 legislative changes with Indigenous Governments. Although it was recently announced that Phase 2 would be put on hold in order to allow our government the necessary time to focus on concluding the legislative initiatives currently underway, it does not diminish ECE's commitment to working collaboratively with Indigenous Governments on modernizing the *Education Act*.

Sincerely,

A handwritten signature in black ink, appearing to read 'R.J. Simpson', with a long horizontal stroke extending to the right.

R.J. Simpson
Minister, Education, Culture
and Employment

c. Distribution List

Distribution List

Honourable Caroline Cochrane
Premier

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Principal Secretary

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Secretary to Cabinet/Deputy Minister
Executive and Indigenous Affairs

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Deputy Minister
Education, Culture and Employment

Shawn McCann
Deputy Secretary, Indigenous and Intergovernmental Affairs
Executive and Indigenous Affairs

Tyler Dempsey
Chief of Staff
Dene Nation



**Dene National / Assembly of First Nations
Office (NWT)**

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Honourable R.J. Simpson
Minister of Education, Culture and Employment
Communications and Public Affairs
Government of Northwest Territories

August 12, 2022

Dear Hon. R.J. Simpson:

RE: PROPOSED AMENDMENTS TO THE NWT EDUCATION ACT

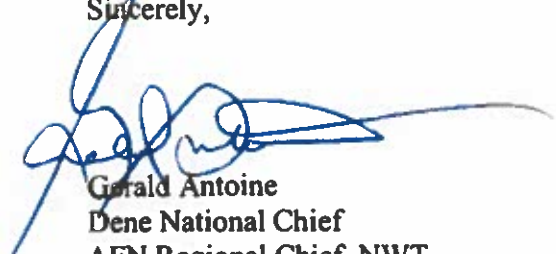
Please find enclosed the 52nd Dene National Assembly Resolution #22/23-011 regarding the proposed amendments to the Northwest Territories (NWT) *Education Act*. After discussing this issue, the Dene National Assembly believes it is not appropriate to amend the *Education Act* at this time. Education is a very serious and important Treaty #8 and #11 Right that the Dene cherish. They would like to have a full comprehensive study, review and discussion of the existing act, analyzing the impact and the implications it has on the Dene. Once that occurs, then they will be prepared to offer recommendations, suggestions and a proposal for education of the Dene.

It is important to mention as the resolution indicates, that the Dene did not authorize the Federal or Government of the Northwest Territories to administer Dene education on their behalf. The authority to administer Dene education in the NWT was assumed by those governments.

We trust you and your government will support the Dene National Assembly and not go forward with amendments at this time. We will discuss with you further our proposal to study and review the existing act and work with you to provide the best educational options and opportunities to the Dene based on their Treaty Rights to education.

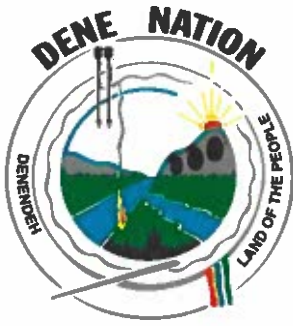
Thank you for your attention to this important matter.

Sincerely,



Gerald Antoine
Dene National Chief
AFN Regional Chief, NWT

File: 22/23 – #410



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**52nd DENE NATIONAL ASSEMBLY
WILIIDEH SITE (YK RIVER)
JULY 18-20, 2022**

RESOLUTION #22/23-011

SUBJECT: Education

MOVED BY: Chief Edward Sangris, Dettah, Yellowknives Dene First Nation

SECONDED BY: Chief David Etchinelle, Begade Shotagotine

DECISION: Carried Unanimously

WHEREAS, the Dene Nation has convened the Dene National Assembly, Wiliideh Site (YK River), Chief Drygeese Territory, Akaitcho Region, Denendeh on July 18-20, 2022; and

WHEREAS, the Chiefs derive their authority from the Creator and the members of their respective Nations/Tribes, and in the exercise of their Inherent authority and Treaty Rights are beneficiaries of all aspects of international law; and

WHEREAS, the Dene are a Nation and have always governed themselves in their own Territory; and

WHEREAS, the Dene authority to govern themselves is inherent and comes from the Creator; and

WHEREAS, the Dene have entered into international peace and friendship Treaties #8 and #11 with the British Crown in 1899-1900 and in 1921-1922; and

WHEREAS, the Dene have the Treaty right to education as understood at Treaty making; and

WHEREAS, the "Paulette Case "of 1973 confirmed the Dene ownership of 450,000 square miles of land and sovereign power and authority over Dene Territory; and

WHEREAS, The United Nations Study on treaties, agreements and other constructive arrangements between States and indigenous populations: final report affirms our Treaties as recognized international arrangements between the Dene and British Crown; and

WHEREAS, the Dene never extinguished their educational authority to any other government; and

WHEREAS, the GNWT receives "Indian education funding" from the federal government without the consent of the Dene; and

WHEREAS, the GNWT is proposing to amend its *Education Act* and are inviting the Dene to participate; and

THEREFORE, be it resolved that the Dene National Assembly support the Dene communities to get adequate funding to do a comprehensive review and analysis of the proposed amendment process; and

THEREFORE, BE IT FURTHER RESOLVED that this comprehensive review and analysis include a full and meaningful discussion in Dene communities, including a special assembly to determine the way forward in regard to Dene education.

Certified copy of a resolution adopted on the 20th day of July 2022 in Wiliideh Site (YK River), Chief Drygeese Territory, Akaitcho Region, Denendeh.



Gerald Antoine, Dene National Chief

RESOLUTION #22/23-011

From: [Mary Ann Villeneuve](#)
To: [DST LEG Committees](#)
Subject: Bill 81: An Act to Amend the Education Act, No. 2
Date: June 28, 2023 2:15:38 PM

EXTERNAL: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender's **name and email address** and know the content is safe.

Good afternoon,

This email is a response to the amendment to the Education Act that is in process.

My concerns are with the education program and that the District Education Council and the District Education Authority are not enhancing the special needs of children in the school system.

Children should have access to Autism specialist teachers, children should have access to immediate support for learning disabilities.

Children are leaving school because they do not have confidence in themselves to keep up with the grade they have been placed in by Social Passing.

I don't understand why ECE is trying to establish an adhoc committee to investigate an Education Body. The current DEA is small, and has limited powers. The education body that should be investigated are the District Education Councils in every region. In my region I see the DEC building it's beauracracy and spending money on furniture, leasing of more than one vehicle, renting more office space and hiring more professional staff. Meanwhile students have no special needs supports working full time in the schools.

Do not look at the local DEAs as if they need to be investigated. They need capacity building, more funding, and more authority implemented under their jurisdiction. They also need a full-time assistant to carry out the work of the DEA in the communities. Stop underfunding their potential.

I do not agree with the voting by mail in ballot, unless there is a vote by ballot box included. Every individual has a right to vote by a process that is preferential to their needs. The DEA election should coincide with the municipal election. If it's not possible then more emphasis should put on the election to occur at school Assemblies. Every effort should be made to ensure a proper and equal opportunity to vote is established.

To recap my concerns:

1. Enhancing special needs of children and establishing fulltime supports in the schools.
2. Adhoc Committee include the investigation of the District Education Councils. Build up the capacity of the District Education Authorities in the communities and include a full-time assistant. Give more authority to the DEAs.
3. Provide a voting system that includes various methods to vote. Every person has a right to vote for the DEA in an election. This is a public body.

NWT residents need to make the Education Act a priority so that we can have the best act that guides the education of our children in our territory.

Thank you for your time in advance. I look forward to hearing back on the process.

Thank you, Mahsi' Choo,

Mary Ann Villeneuve
Box 2122
Inuvik, NT
X0E 0T0

(867)678-0700

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K'àlemì Dene School Ndilo District Education Authority

The Standing Committee on Social Development

June 8, 2023

RE: Proposed amendments to Education Act

Madam Chair,

The Ndilo District Education Authority (NDEA) has expressed concerns regarding the Government of the Northwest Territories' proposed Education Act amendments to the Minister of Education. We have both spoken with and written to GNWT officials, including the Honourable R.J. Simpson, on numerous occasions outlining our concerns and have proposed a viable solution to move forward. I have attached the NDEA's letter to Minister Simpson for your consideration.

The GNWT has attempted to implement an incredibly flawed process. Despite our reasonable attempts to collaborate in good faith with them, they have not acknowledged our concerns and proposed solutions. It is very unfortunate because this is about the future of our children.

Therefore, I am writing this letter to garner your support for our position. That is, the NDEA recommends that any proposed amendments to the Education Act be postponed until sufficient capacity, funding, and time are made available to the Dene to fairly participate in this process as they see fit.

Mahsi,

Sarah Erasmus
Ndilo District Education Authority
Board Chair

c.c. Chief Edward Sangris

/attch



Ndilo District Education Authority

K'àlemì Dene School

August 12, 2022

Minister R.J. Simpson
Education, Culture and Employment

Re: Proposed Amendments to Education Act

As you are aware the Modernization of the Education Act has been an area of interest for the Ndilo District Education Authority (NDEA). The NDEA actively participated in the consultation process and sought regular updates. We agree - the Education Act needs to be modernized; however, this is not a process that can be rushed. For example, we as the NDEA had a preliminary discussion regarding the *Proposed Technical Changes to the Education Act* (received July 5, 2022). However, we have not been able to gather feedback from the community of Ndilo, Yellowknives Dene First Nation Chief and Council, parents and other relevant people who are affected by amendments to the Education Act.

During Education Leaders' meetings, we have asked for updates about the process, and were assured that this would not be rushed.

The NDEA met on July 19, 2022 and we reiterate the messaging from Chairperson for NWT Education Bodies, Ms. Pascua-Matte's letter dated July 12, 2022; these timelines are too rushed to fully understand the proposed changes and seek adequate feedback from all invested parties. We understand that ECE is limited to legislated deadlines, however, without providing appropriate timelines for meaningful consultation and specific language around those changes, we cannot support Phase 1. The NDEA is concerned that even "simple" language changes, such as "updating" aboriginal to indigenous, could impact our rights as treaty holders and should not be taken lightly.

On July 20, 2022, during the Dene National Assembly, the modernization of the Education Act was also discussed with a motion being passed. This motion was put

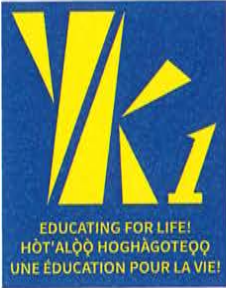
forward by our Yellowknives Dene First Nation Chief Edward Sangris. They as well are requesting more time and adequate funding to do a comprehensive review and analysis of the proposed amendments with full and meaningful discussions in Dene Communities including a special assembly to determine how to move forward with Dene education.

At this time, the NDEA does not support amending the Education Act, and we request your support our position.

Mahsi,

Sarah Erasmus

Sarah Erasmus
Ndilo District Education Authority
Board Chair



Yellowknife Education District No. 1
Commission scolaire publique n°1 de Yellowknife

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June 22, 2023

Standing Committee on Social Development
Government of the Northwest Territories
PO Box 1320
Yellowknife, NT X1A 2L9

Members of the Standing Committee on Social Development,

Re: *Bill 81: An Act to Amend the Education Act, No.2*

Yellowknife Education District No. 1 (YK1) is the largest public school board in the Northwest Territories and acts as a District Education Authority (DEA) serving over 2,100 students from the Yellowknife area. We would like to thank the members of the Standing Committee for considering the contents of *Bill 81* and both holding public hearings and taking written submissions. In follow up to our presentation on May 31st, YK1 has additional comments in regarding the new legislation.

Mail-in Elections

The YK1 Board of Trustees support the addition of a mail-in voting option in the *Education Act* to align election methods with the *Municipal Elections Act*. This change is required to ensure that voting methods for similar types of elections run at similar times can be managed the same way. This change is important to ensuring voter choice and providing options that may encourage increased turn out during local elections.

Transportation

YK1 is quite concerned about the changes to school transportation identified in *Bill 81*. Currently, student transportation is listed under section 118 of the *Education Act*, which provides that DEA's may offer transportation services. By moving to transportation to section 117 it will become an obligatory (shall) service.

While we strongly support student transportation and have operated (with considerable subsidy) a school transportation system for many years, this change raises several concerns. Our current system has restrictions including limitations in distance, service offerings (i.e., no bussing service for junior kindergarten students), and, as of this school year, availability, and there is uncertainty as to how this change would impact those limitations or problem situations.

Overall, YK1 is concerned that amendment will create an unfunded obligatory service that we are not able to fulfill without significant cuts to existing programming.

Significant additional funding would need to be in place for any expansion of service, and up until now there has been little additional clarity on what exactly would be required of YK1 under this change. Based on the current market conditions, we are further concerned that additional funding may not be enough to solve the problem as we currently are experiencing issues with our service provider and staffing.

Without any clear indication of what the specific obligations may be in final regulations, we recommend that this legislative change not be made until there has been planning, consultation and budgeting/costing of what the obligation would mean. This would also avoid the unfortunate circumstance of creating expectations for immediate service changes when it could take some time to come into force.

We recommend that school transportation be left under section 118 (services districts may offer) of the *Education Act* and that specific amendments be removed from the legislation, by:

- a. Striking section 26(a) from Bill 81,
- b. Striking section 33(4)(a)
- c. Amending section 27(1)(b) to only repeal paragraph (e)
- d. Any other necessary changes

Student Records

YK1 is further concerned about the changes to enable access to student records for the purposes of evaluating programs or student progression through the education system. While we acknowledge the key role that data management and information tracking plays in monitoring and improving our education system

We have concerns about the sharing of student information in ways that our students and families may not be aware of, and the administrative burden created by additional reporting requirements. We recommend that specific protections be placed into legislation guaranteeing student privacy, awareness, and permission, for any information sharing, or gathering that takes place by the Government of the Northwest Territories from education authorities.

We would be happy to answer any additional questions or expand upon any of these recommendations.

Regards,



David Wasylciw

Chairperson, Yellowknife Education District No. 1

- cc. Yellowknife Members of the Legislative Assembly
NWT Education Leaders
Honourable R.J. Simpson, Minister of Education, Culture and Employment