

**Response to Bill 25,  
*an Act to Amend the Education Act and  
the Inuit Language Protection Act***

Submitted by the Representative for Children and Youth's Office

September 13, 2019



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**NUTAQQANUT INULRAMIRNULLU**  
**UQAQTIKHAANIK**

**REPRÉSENTANT DE**  
**L'ENFANCE ET DE LA JEUNESSE**

**REPRESENTATIVE FOR**  
**CHILDREN AND YOUTH**

The Representative for Children and Youth's Office (RCYO) is pleased to make this submission to the Standing Committee on Legislation (Standing Committee) regarding Bill 25, *An Act to Amend the Education Act and the Inuit Language Protection Act* (Bill 25). This submission falls under the RCYO's legal duty to make recommendations on child and youth-related legislation.

The United Nations *Convention on the Rights of the Child* is a legally binding, human rights agreement, which details young people's civil, political, economic, social, and cultural rights, as well as the roles and responsibilities governments and families have in supporting these rights. It can also be used as a guide to assess how child rights are supported in legislation, programs, and policies. The United Nations *Convention on the Rights of the Child* guided our review of the proposed changes to the *Education Act* and our recommendations were made in support of young people's rights.

In September 2016, when the Department of Education proposed amendments to the *Education Act* and held public consultations that lead to Bill 37, *An Act to Amend the Education Act and the Inuit Language Protection Act* (Bill 37), the RCYO provided recommendations #1, #2, #3, and #4 for the department's consideration. In early 2017, the RCYO was pleased to learn that the Department of Education planned to include three of the four recommendations in the amending bill. However, due to the rejection of Bill 37 by Members of the Legislative Assembly of Nunavut (Legislative Assembly), these recommendations were not adopted. In November 2018, as part of the Department of Education's review of the *Education Act* prior to the introduction of Bill 25, the RCYO again submitted recommendations #1, #2, #3, and #4, as well as recommendations #5, #6, #7, and #8 to the department. In addition to the eight aforementioned recommendations previously submitted to the Department of Education, the RCYO submits one additional recommendation, #9, for the Standing Committee to consider, as it has only recently come to the RCYO's attention.

### **Recommendation #1**

**Expressly include commitment to the United Nations *Convention on the Rights of the Child* as a guiding principle in the administration and interpretation of the revised *Education Act*.**

The RCYO was pleased to see recommendation #1 incorporated into the preamble of Bill 25. We encourage the Standing Committee to support this addition.

### **Recommendation #2**

**Deliberately and thoughtfully seek input from students past and present when developing policies and procedures in support of the revised *Education Act* and in future legislative reform.**

We encourage the Standing Committee to consider any submissions provided by young Nunavummiut, and reflect their thoughts and concerns about their education in the Standing Committee's findings and recommendations on Bill 25.

### **Recommendation #3**

**Address the exclusion of minor students from initiating and actively participating in administrative proceedings, particularly those that pertain to student suspension and/or expulsion.**

While the RCYO supports the proposed changes that increase the right for minors to be heard,<sup>1</sup> this appears to only apply to reviews related to inclusive education. The RCYO continues to advocate for the right of minor students to have a voice in all administrative proceedings that affect them. The RCYO requests that the Standing Committee re-visit this recommendation and in doing so, also take into consideration the RCYO's recommendation #8, which calls for the introduction of the concept of mature minors into the *Education Act*.

### **Recommendation #4**

**Strengthen student participation in the work of the District Education Authorities by adding clearer provisions in the legislation and establishing voting privileges for the elected student representatives.**

We were pleased to see that this recommendation has been fulfilled with the proposed amendment to section 134(5).<sup>2</sup> We encourage the Standing Committee to support this proposed amendment.

### **Recommendation #5**

**The Department of Education deliver Early Childhood Education programs in all communities in Nunavut.**

The amendments outlined in Bill 25 state that every five years, following consultation with the community, District Education Authorities (DEA) can elect to provide early childhood programs for the following five school years. Subsection 17(1) of Bill 25 states that DEAs who elect to do so shall provide an early childhood program that promotes fluency in the Inuit language and knowledge of Inuit culture, and may provide other early childhood programs. DEAs cannot use third-party ECE providers to provide these programs. Under subsection 17(7) of Bill 25, it is stated:

Minister may provide programs

(7) For greater certainty, the Minister may provide early childhood programs in schools through agreements with third parties.

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<sup>1</sup> As outlined in Bill 25, under subsection 50(5), minor students have the right to be heard "unless the review board determines that giving this opportunity can reasonably be expected to be inappropriate or harmful to the student."

<sup>2</sup> As amended in Bill 25, "the student representative elected under this section has the same rights and responsibilities as members of the district education authority, including the right to vote."

The use of the words “shall” and “may” in subsections 17(1) and 17(7) are of interest, as it appears that while DEAs who elect to provide ECE programs shall do so, the Minister may do so through agreements with third parties. Review of section 28(2) of the *Interpretation Act* states:

28(2) The expression “shall” is to be construed as imperative and the expression “may” as permissive.

The proposed amendments in Bill 25 do not appear to clarify that in cases where DEAs elect not to provide ECE programming, the Department of Education must do so. This is of concern to our office, as we strongly encourage effective ECE programs be provided to all children in the territory. We ask the Standing Committee to review the proposed amendments to section 17 of Bill 25 and clarify that an ECE program is to be provided in all communities, whether by the DEA or the Department of Education.

### **Recommendation #6**

#### **Prioritize the recruitment of young Inuit into the teaching profession under the Inuit Employment Plan.**

Bill 25 states that “the Minister shall develop and maintain a strategy for the retention and recruitment of Inuit Language teachers for the purpose of implementing”<sup>3</sup> Language of Instruction<sup>4</sup> and Inuit Language instruction.<sup>5</sup> Although our recommendation speaks specifically to the Inuit Employment Plan, we encourage the Minister to ensure that the strategy they develop prioritizes recruitment of young Inuit into the teaching profession.

### **Recommendation #7**

#### **Add definitions of inclusive education and student supports to the *Education Act*, and ensure children, youth, and their families are made aware of the supports that are available to them. The definitions for education program and school program should be clarified in the legislation, including which matters fall under each program and who is responsible for tending to these matters.**

While Bill 25 revises provisions related to inclusive education, the RCYO’s recommendation to define inclusive education and student supports was not fulfilled. The amendments to education program and school program, now referred to as “local community program”, appear to offer more clarity as to which matters fall under each program however, further clarification would be beneficial. We encourage the

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<sup>3</sup> *Bill 25, An Act to Amend the Education Act and Inuit Language Protection Act*. (2019). 1<sup>st</sup> Reading June 4, 2019, 5<sup>th</sup> Assembly, 2<sup>nd</sup> Session. p. 51. Retrieved from <https://www.assembly.nu.ca/sites/default/files/Bill-25-5A2S-AATA-Education-Act-and-ILPA-EN-FR.pdf>

<sup>4</sup> The Minister shall develop and maintain this strategy to implement Part 4 of the *Education Act*, which is “Language of Instruction”.

<sup>5</sup> The Minister shall develop and maintain this strategy to implement section 8 of the *Inuit Language Protection Act*, which is “Inuit Language instruction”.

Standing Committee to consider adding a definition of inclusive education to the *Education Act* to ensure children, youth, and their families are aware of the supports that are available to them.

#### **Recommendation #8**

**Introduce the concept of mature minors to the *Education Act* to reduce barriers for minor students who wish to make decisions on their own behalf, and who have the maturity to do so.**

The amendments made to Bill 25 do increase the rights of minor students to participate in certain aspects of their schooling;<sup>6</sup> however, the concept of mature minors has not been introduced in this legislation. Our office requests that the Standing Committee give due consideration to introducing this concept to the *Education Act*, as doing so would align with Article 12 of the United Nations *Convention on the Rights of the Child*, which speaks to government's obligation to consider a child's opinion, based upon their capacity and circumstances, when decisions are being made about them.

#### **Recommendation #9**

**Shorten the timelines for the Minister to develop and establish orientation and mentoring for teachers, as outlined in s.96 of the *Education Act*, to within the first year after they take up the duties of their positions and ensure that a component of orientation and mentoring is completed prior to the start of teachers' employment.**

While the RCYO fully supports the development and establishment of orientation and mentoring programs for teachers, the two-year timeline provided for the Minister to do so is of concern. With annual attrition rates of between 30-40%, and "massive turnover in staff each year",<sup>7</sup> the timeline allotted in the *Education Act* for this training creates the potential for many teachers to work in the territory without ever receiving the orientation and mentoring intended to "integrate them into the Nunavut school system".<sup>8</sup>

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<sup>6</sup> As outlined in Bill 25, subsection 43(8) provides that minor students shall participate in the development of an individual student support plan unless "both the school team and a parent of a student determine that consultation can reasonably be expected to be inappropriate or harmful to the student", and subsection 50(5) provides that minor students have the right to be heard "unless the review board determines that giving this opportunity can reasonably be expected to be inappropriate or harmful to the student."

<sup>7</sup> Nunavut Teachers' Association (2019, June 18). NTA President's summer message. Retrieved from <https://ntanu.ca/nta-presidents-summer-message/>

<sup>8</sup> *Education Act*, S Nu 2008, c15. p.48. Retrieved from <https://www.nunavutlegislation.ca/en/consolidated-law/current?title=E>

The RCYO makes this submission to the Standing Committee in the spirit of collaboration with the Department of Education and the Legislative Assembly and in support of young Nunavummiut's rights under the United Nations *Convention on the Rights of the Child*, particularly:

**Article 2:** The right to protection against discrimination;

**Article 3:** The right to the protection of the best interests of the child;

**Article 4:** The right to the protection of children's rights;

**Article 12:** The right to have one's opinion heard and considered;

**Article 28-29:** The right to education;

**Article 30:** The right to practice one's own culture, language, and religion.

We thank you for the opportunity to contribute to this important work and we look forward to following how the Standing Committee responds to the recommendations put forward by the RCYO and other interested parties.

Sincerely,



Jane Bates  
Representative for Children and Youth