

## **National Expert Working Group on First Nations Early Learning and Child Care Terms of Reference**

**Note to reader:** The purpose of this document is not to impose terms of reference onto the National Expert Working Group but rather to provide a potential structure and examples as a starting point for the group discussions.

### **Purpose**

To set the direction and accountabilities for the work authorized in AFN resolution #39-2016, which constitutes and requires funding for a National Expert First Nations Early Learning and Child Care (ELCC) Working Group to oversee and implement a 4-6 month community engagement process that will identify and confirm the key principles, priorities and actions of a First Nations ELCC framework, along with an action plan that takes into account regional priorities, needs and circumstances.

### **Background**

A new federal climate of willingness to engage with First Nations in all policy areas has led to new opportunities for First Nations to work to improve the social conditions of Indigenous peoples, and assume responsibility and leadership to do so. Strong practices and supportive structures and systems of early learning and child care are important for many reasons in contemporary societies, but are especially so where the provision of comprehensive supports to Indigenous families is concerned. The importance of developing First Nations-led systems of care and support for raising young children is central to reconstitute and sustain cultural strength in accordance with the responsibilities of Indigenous traditional law(s), inherent rights and title, and political and social arrangements pursuant to them.

After Indigenous authorities, contemporary instruments and commitments are authoritative such as, but not limited to, the Principles of Reconciliation and Calls to Action of the Truth and Reconciliation Commission of Canada and the United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration). As the “framework for reconciliation...at all levels and across all sectors of Canadian society” (TRC Principles of Reconciliation #1), the UN Declaration is pertinent to First Nations ELCC in its centrality to the development of Indigenous capacities in the free pursuit of self-determination (Article 3), of Indigenous autonomy and self-government (Article 4) where ELCC as a distinct Indigenous social and cultural institution (Article 5). As such, the First Nations ELCC is a part of Indigenous cultural revitalization (Article 13) that will enable Indigenous control of educational systems and institutions (Article 14). Also relevant to ELCC, the UN Declaration creates a state obligation to “specific measures” which take into account children’s special vulnerability and the importance of education for their empowerment (Article 17.2), as well as an obligation of “particular attention” to be paid to the rights and needs of Indigenous children (among others) (Article 22).

As authority requires capacity, financial and technical assistance for Indigenous development as provided for by the UN Declaration are a state obligation (Article 39) for which the “ways and means”—as matters of Indigenous self-determination—are protected by a right to autonomy (Article 4). The framework provided by the UN Declaration provides “the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world” (Article 43). In resolution #39-2016 the Chiefs-in-Assembly fore fronted the necessity for funding support for engagement process capacity development in order to develop an ELCC framework in a good way.

## **Mandate**

The working group is an advisory body comprised of ELCC experts and stakeholders and government officials tasked with the mandate to make recommendations to the Chiefs in Assembly on the key components of a First Nations ELCC Framework and action plan.

Subject to the goals and priorities identified in regional engagement, activities the working group may undertake to fulfil this mandate include:

- To review across-the-board reforms, including of federal government authorities, policies and practices, that bear on the delivery, development, and establishment of First Nations ELCC;
- To provide direction on future reforms to all ways in which First Nations ELCC is organized, delivered, funded and controlled, taking into account the distinct needs and circumstances of First Nations children and families – including their historical and ongoing disadvantage and their cultural, linguistic, and geographical needs and circumstances;
- Upon agreement by the members of the ELCC National Expert Working Group, it may select and retain experts to assist it in its work, on an as-needed basis. Preference will be given to experts with demonstrated expertise regarding First Nations early learning and child care. All research will be conducted in keeping with OCAP ;
- The ELCC National Expert Working Group may establish subcommittees to further its goals, work and objectives, as appropriate;
- The products of the ELCC National Expert Working Group will be made available to the public; and
- The copyright of materials produced under the auspices of the ELCC National Expert Working Group will presumptively be held by the Assembly of First Nations pursuant to OCAP protections for its participants—especially where elements of regional engagement processes and related research are concerned. Canada and other non-First Nations participants shall retain copyright over any materials it/they produced as sole author.

## Goals

The overarching goal is to ensure regional and national leadership and input in a First Nations ELCC framework and action plan that takes into account regional needs, diversity and priorities. The main deliverables of the work group will include the following:

- Develop a work plan and budget for community engagement process;
- With regional input and direction, co-develop with federal partners an over-arching First Nations ELCC Framework which takes into account community needs, facilitates Indigenous and local control, and results in equitable access to ELCC services for all children and families;
- Commission relevant evaluation and research to support and inform the development and implementation of a First Nations ELCC Framework;
- In collaboration with federal partners, identify ongoing and long-term capacity needs and infrastructure support to ensure First Nations control and governance of ELCC programming and services; and
- To evaluate the success of framework co-development in terms of the United Nations Declaration on the Rights of Indigenous People, United Nations Convention on the Rights of the Child and the Truth and Reconciliation Principles of Reconciliation and Calls to Action.

## Principles

ELCC National Expert Working Group members adhere to and are guided by principles of reciprocal accountability, where responsibility is shared to achieve the shared goal of a national First Nations ELCC framework that will support First Nations children, families and communities, support Indigenous capacity development in self-determination, and results in local direction of programs and services developed and controlled by First Nations. Members will also be guided by the following principles:

- The best interests, well-being, voice and participation of First Nations children, families, communities and institutions will be paramount in guiding the development of the Indigenous Early Learning and Child Care Framework;
- First Nations diversity is a strength and a sacred trust;
- The parties are committed to good faith negotiations within a Nation-to-Nation rubric, and will actively work towards advancing and empowering First Nations to plan, develop and implement ELCC programming based on inherent right principles, the UN convention on the Rights of the Child,<sup>1</sup> and the UN Declaration on the Rights of Indigenous Peoples;<sup>2</sup>
- Existing federal investments in First Nations ELCC programs and services will be maintained and/or expanded; and
- Ensure engagement of other programs, ministries (INAC, HC, ESDC, Justice, and Heritage) and stakeholders.

## **Membership and Commitment**

First Nations nominations to the ELCC National Expert Working Group will be confirmed by AFN Vice- Chiefs. Membership on the committee will be as follows:

- A maximum of 10 regional representatives (one per region);
- 1 representative each from Education and the Aboriginal Skills and Employment Training Strategy Technical Working Group; and
- [Up to a maximum of 4 contributors from the government of Canada (e.g., INAC, FNIHB, ESDC, PHAC)] to participate on an invitation basis.

Meetings of the ELCC National Expert Working Group will be co-chaired by a senior AFN staff person. Other participants/observers may be invited as determined by the working group.

Federal Commitment to Co-Development: In the spirit of collaboration on a national Indigenous ELCC Framework, working-level federal contributors will fully participate as invited, including to: attend meetings; support open dialogue; review material as requested; provide available documents in a timely manner; and, coordinate among federal departments (ESDC, INAC, HC, PHAC, SWC). The Working Group's recommendations will not be subject to federal approval.

The ELCC National Expert Working Group will meet every two months or as required to discuss issues, share information about regional processes, and provide required input and feedback on relevant policy issues or documents.

Each ELCC National Expert Working Group member is expected to participate fully in scheduled meetings to provide insight, comments, feedback and knowledge with respect to contents and implementation of the ELCC framework. First Nations members on the ELCC National Expert Working Group will also be expected to act as the liaison between their regional ELCC working group/community engagement processes and the ELCC National Expert Working Group.

## **Reporting & Accountability**

A record of meeting minutes will be maintained by the AFN and shared with all members in a timely fashion. Ad hoc reports, or leadership briefings, as agreed upon by the ELCC National Expert Working Group members will also be developed and shared. A roll up report of regional consultations will be developed for review and adoption by the First Nations in Assembly in (summer 2017) or early fall 2017. A comprehensive report will be available by January 31, 2018.

## **Budget**

Subject to allocation of funds from the federal government, AFN will provide capacity funding for regional engagement processes, including staffing, travel expenses for First Nations participation in the ELCC regional working groups/consultations/fora and other engagement venues, as well as meeting accommodations expenses and other requirements of technical and administrative infrastructure requisite to regional ELCC working group engagement.

---

<sup>1</sup> The Government of Canada appeared before the United Nations Committee on the Rights of the Child (Committee) in 2012 to undergo a review of its compliance with the UN Convention on the Rights of the Child (UNCRC). Committee report recommendations relevant to First Nations ELCC framework development include items 17; 32(d); 33(d); 42; 43; 54; 56; 67 & 68(c).

<sup>2</sup> With special consideration in guiding and evaluating Working Group progress for Articles 2; 3; 4; 5; 8; 11; 14; 15; 18; 19; 20; 21; 22; 23; 34; 38; 39 & 43.