

1 **First Nations – Government of Canada**

2 **Terms of Reference for**

3 **Joint Collaboration between the Assembly of First Nations’ (AFN)**  
4 **Chiefs Committee on Education (CCOE) and Canada as represented by Indigenous**  
5 **and Northern Affairs Canada (INAC)**

6 **to develop new funding mechanisms for First Nations Education that support First**  
7 **Nations development of a holistic, culturally-responsive, high-quality education for**  
8 **First Nation students (2016-2018)**

9 **VERSION 17 – Nov 15, 2016**

10 **1. Background**

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11 First Nations parents and communities must have the opportunity to implement their vision of education  
12 which requires us to work collaboratively to improve outcomes and opportunities for First Nation students.  
13 Decades of studies, reports, research and resolutions set out consistent recommendations in First Nations  
14 education and provide a solid foundation for moving forward.

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16 Based on our inherent responsibilities and Aboriginal and Treaty rights First Nations across Canada have  
17 called on the Government of Canada to engage in an honourable process to develop a new fiscal framework  
18 for First Nations education. This process must recognize and support regional and local diversity.

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20 A mechanism is required to ensure a statutory guarantee of education funding from the Government of  
21 Canada to First Nations. This work will be guided by AFN Resolution 35/2014, “A Federal Act for Funding  
22 First Nation Education,” which called for the development of an honourable process between First Nations  
23 and the federal government to achieve statutory funding and AFN Resolution 16/2016 on “Honourable  
24 Process to develop recommendations to support First Nations Education Reform.”

25  
26 In response to these recent resolutions, INAC seeks to work collaboratively with the AFN and the CCOE to  
27 move toward sufficient, predictable and sustained funding. INAC is committed to improve the way  
28 education funding is provided to First Nations and First Nation organizations so that all First Nation students  
29 receive a holistic, culturally-responsive, high-quality education that improves student outcomes, while  
30 respecting the principle of First Nations control of First Nations education.

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32 In 2016, Prime Minister Trudeau declared that the Government of Canada is committed to a “renewed  
33 Nation to Nation relationship with Indigenous Peoples, based on recognition of rights, respect, cooperation  
34 and partnership” and to fully implement the Calls to Action (CTA) of the Truth and Reconciliation  
35 Commission, starting with the implementation of the United Nations Declaration on the Rights of  
36 Indigenous Peoples. CTA #8 called for “the federal government to eliminate the discrepancy in federal  
37 education funding for First Nations children being educated on reserve and those First Nations children  
38 being educated off reserve.”

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40 We note that this Terms of Reference reflect K4-grade 12 but it is understood that further discussions  
41 concerning lifelong learning including post-secondary education and early childhood education must take  
42 place.

44 **2. Considerations**

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45 As the joint collaboration and regional and community engagement processes begin and progress to  
46 completion, some key considerations are noteworthy: support resolutions; inherent jurisdiction, required  
47 First Nations consent, and northern and remote First Nations communities.

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49 INAC and the AFN/CCOE (the parties) mutually recognize the following noteworthy considerations:  
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51 **Support Resolutions.** Many resolutions passed by the Chiefs in Assembly provide support for First Nations  
52 control of First Nations education. First Nations have consistently pushed for fundamental transformation of  
53 education, in 1972 with *Indian Control of Indian Education*. A Backgrounder is available which provides an  
54 outline of the different AFN documents and resolutions relating to this matter. These documents  
55 demonstrate the strong and ongoing commitment of First Nations to this initiative.  
56

57 **Inherent Jurisdiction.** As stated in many of the AFN resolutions, First Nations have an inherent right to  
58 jurisdiction derived from their existence as self-governing entities at the time of contact. In addition, Article  
59 14 of the *United Nations Declaration on the Rights of Indigenous Peoples* states that "Indigenous peoples  
60 have the right to establish and control their educational systems and institutions". This is at the heart of the  
61 work to be done on this initiative: "respecting the principle of First Nations control of First Nations  
62 education" as stated in the mandate letter to Minister Bennett.  
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64 **Required First Nations Consent.** A First Nations consent mechanism is necessary for those who choose to  
65 participate in the new funding mechanisms.  
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67 **Northern and Remote First Nations Communities.** Real cost factors will be included in determining funding  
68 levels for First Nations communities in northern and remote areas.  
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70 **3. Objectives**

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71 The parties have agreed on a collaborative process that will include a joint working committee and a series  
72 of task teams to identify and address the multifaceted needs of First Nation learners and enhance student  
73 outcomes. INAC commits to financially supporting regular meetings of the joint working committee and  
74 task teams through its allocations to the AFN and regional First Nations organizations.  
75

76 The main focus will be to develop the following:

- 77 a) A responsive, flexible and indexed fiscal framework for First Nations education that includes a more  
78 streamlined and effective funding mechanism for individual First Nations and First Nation  
79 organizations. Transparent and comprehensive regional funding formulae will replace antiquated and  
80 outdated methodologies to be reviewed and updated as appropriate within respective regions.
- 81 b) A new funding mechanism that is regionally-based and responds to First Nations demands for a  
82 statutory guarantee of sufficient, predictable and sustainable funding, while also recognizing the  
83 diversity of First Nation peoples, communities and their education systems across all regions.
- 84 c) The parties agree to mutual accountability developed within regional processes and agreements.
- 85 d) The parties agree to establish task teams as required to implement the objectives.  
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89 **4. Principles**

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90 In working together to meet the objectives set out above, the parties will work in a collaborative manner  
91 that is consistent with the following principles:

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- 93 1. First Nations have an inherent and Treaty right to education and each First Nation has authority and  
94 autonomy over their citizens with respect to education.
  - 95 2. Work collaboratively to continuously improve educational outcomes for First Nation students.
  - 96 3. Acknowledge existing regional processes and honour the autonomy of each to determine their own  
97 education systems, funding mechanisms and processes.
  - 98 4. Recognize the diversity of First Nation peoples, communities, languages, cultures, traditions and  
99 spiritual practices.
  - 100 5. Acknowledge Canada’s commitment, through Minister Bennett’s mandate letter from Prime  
101 Minister Trudeau, to make significant new investments for First Nations education to ensure that  
102 First Nations children on-reserve receive a quality education while respecting First Nations Control  
103 of First Nations Education.
  - 104 6. Affirm Canada’s obligation to section 35 of the Constitution Act, 1982, which recognizes existing  
105 Aboriginal and Treaty rights.
  - 106 7. Affirm Canada’s commitment to implement the United Nations Declaration on the Rights of  
107 Indigenous Peoples and the UN Convention on the Rights of the Child, which promote and protect  
108 the inherent rights of First Nations students.
  - 109 8. Recognize the calls to action related to education from the Truth and Reconciliation Commission.
  - 110 9. Recognize First Nation’s vision of holistic, lifelong learning that ensures all students receive a quality  
111 education within a linguistically and culturally appropriate learning environment.
  - 112 10. Affirm the government’s commitment to First Nation’s vision of First Nations control of First Nations  
113 education and to a quality education for all First Nations students.
  - 114 11. The development of regional funding models for First Nations education will be based on  
115 engagement with First Nations, existing regional structures and processes where applicable,  
116 research, legal decisions and a rationale that outlines the needs of First Nations students and not  
117 solely provincial comparability of funding.
  - 118 12. Affirm that these are joint and collaborative processes and shall not be construed as consultations.
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121 **5. Scope of Work & Composition**

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122 The parties will establish a joint work plan outlining the operational terms of the task teams to engage in  
123 the following collaborative work:

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125 COORDINATION

126 The parties will serve an overall national coordinating role for the consistency and sharing of content  
127 between the regions across Canada as appropriate. The parties of the working group have the responsibility  
128 to share information and get feedback from the parties they represent.

129

130 The parties agree to hold meetings of the joint working committee to discuss the implementation of  
131 activities governed by this Terms of Reference and results to date.

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133 The parties agree that joint working committee meetings will be co-chaired by the two parties. Meeting  
134 agendas and other preparatory materials will be jointly discussed and distributed to both parties prior to  
135 each meeting.

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137 The parties agree that three initial task teams be prioritized. The parties will agree to appoint co-chairs for  
138 each of the task teams.

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#### 140 1: FUNDING MECHANISMS

141 This task team will provide a forum for jointly discussing and elaborating options for regionally-based fiscal  
142 frameworks for First Nation elementary and secondary education that would see current INAC  
143 methodologies replaced with more transparent and comprehensive formula-based funding approaches.  
144 This will include but not be limited to: languages and cultures, immersion/bilingual programming, virtual  
145 schools, technology, curriculum development, transportation, recreation, administrative governance,  
146 libraries, vocational education, adult education, teacher training, recruitment and retention, second and  
147 third level supports and other areas. This work would respect existing regional funding models.

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149 First Nations within regions will lead and determine appropriate discussions concerning the development of  
150 their funding mechanisms (i.e. formulae, structures and other costs). Discussions with First Nations  
151 leadership within the regions will be undertaken to approve regional funding mechanisms.

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#### 153 2: EDUCATION STATUTORY FUNDING

154 This task team will provide a forum to explore options on how to establish a statutory/legal guarantee of  
155 funding.

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#### 157 3: MUTUAL ACCOUNTABILITY/ RESULTS REPORTING

158 This task team will provide a forum for jointly discussing what can be regionally measured to represent First  
159 Nations student success. These indicators and measurements will be defined regionally by First Nations.

160 This task team will explore other global models/options on reporting, as well as discuss the importance of  
161 mutual accountability, INAC's existing EIS, relationships between First Nations and INAC, and issues of data  
162 privacy and data security. This work will not displace or interfere with existing regional models.

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#### 164 ADDITIONAL TASK TEAMS

165 The parties also agree to a series of additional task teams to address issues in the following areas. The  
166 topics include but are not limited to:

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1) Early Learning education

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2) Post-Secondary education

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3) Accountability of and funding for First Nations students attending Provincial Schools

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4) Unique Needs of Northern and Remote Communities

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5) Education Infrastructure (including major/minor capital and transportation)

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## 173 **6. Funding**

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174 INAC commits to financially supporting regular meetings of the joint working committee and task teams  
175 through its allocations to the AFN and regional First Nations organizations

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## 177 **7. Reporting**

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178 The joint working committee will report on mutually agreed upon outcomes and draft documents. The  
179 joint working committee will establish the parameters of work to be undertaken by each task team. Each  
180 joint task team will have a clear objective and work plan. Work produced through these joint task teams will  
181 be presented to the joint working committee for review and approval.

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183 Work undertaken will be taken to Chiefs-in-Assembly.

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185 **8. Amendments**

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186 These terms of reference may be amended from time to time by the parties through mutual agreement.

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188 **9. Dispute Resolution**

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189 The parties agree to develop a dispute resolution process.

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191 **10. Milestones**

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192 The parties agree to make every effort to adhere to the following timeline and milestones leading up to  
193 INAC's planned return to Cabinet in 2017-2018.

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195 **October 2016** – Mutually agreed upon Terms of Reference validated by AFN/CCOE and INAC.

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197 **October to December 2016** – First meetings of the 1) Funding Mechanisms and 2) Education Statutory  
198 Funding and 3) Mutual Accountability task teams. Timeline and order of priority for standing up other joint  
199 task teams confirmed by the parties.

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201 **December 2016** – INAC provides initial progress update to Minister Bennett; CCOE provides initial progress  
202 update to Chiefs in Assembly.

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204 **January 2017 to June 2017** – Task teams discuss and elaborate various recommendations for reforming First  
205 Nation education.

206

207 **March 2017 to July 2017** – Regional leadership dialogues between Canada and First Nation leadership.  
208 Format and schedule to be determined.

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210 **July 25-27, 2017** – Update on progress presented to Chiefs at AFN Annual General Assembly.

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212 **September 2017 to December 2017 (TBC)** – Options to Cabinet prepared and presented.

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214 Next steps dependent on direction/resolution from AFN Chiefs-in-Assembly as well as outcomes from  
215 Cabinet.