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Engagement on Federal Early Learning and Child Care Legislation:

WHAT WE HEARD REPORT



Employment and
Social Development Canada

Emploi et
Développement social Canada

Canada

Engagement on Federal Early Learning and Child Care Legislation: What We Heard Report

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List of abbreviations

ELCC

Early learning and child care

ESDC

Employment and Social Development Canada

IELCC

Indigenous Early Learning and Child Care

UNDRIP or the Declaration

United Nations Declaration on the Rights of Indigenous Peoples

Overview

The Government of Canada is committed to working with provincial, territorial and Indigenous partners to create a Canada-wide early learning and child care (ELCC) system. The goal is to offer all families access to high-quality, affordable, flexible and inclusive ELCC no matter where they live. This vision builds on the principles of the Federal-Provincial-Territorial Multilateral Early Learning and Child Care Framework¹ and the Indigenous Early Learning and Child Care (IELCC) Framework. Following a comprehensive engagement process, the co-developed Indigenous ELCC Framework was endorsed by the Government of Canada, the Assembly of First Nations, Inuit Tapiriit Kanatami and the Métis National Council.²

In Budget 2021, the Government of Canada committed to tabling federal ELCC legislation to further support a lasting federal commitment over time and enshrine the principles of a Canada-wide child care system in law. Budget 2021 also committed to engaging with provincial, territorial and Indigenous partners, and stakeholders on this commitment prior to introducing the legislation. The commitment to introduce legislation was reinforced in the mandate letter of the Honourable Karina Gould, Minister of Families, Children and Social Development in December 2021.

Federal legislation in this area would respect provincial, territorial and Indigenous jurisdiction, including First Nations, Inuit and Métis right to self-determination in the design and delivery of ELCC programs and services that reflect their needs, priorities and aspirations. At the same time, the federal government has a role to play in setting

¹ While the Government of Quebec supports the general principles of the Early Learning and Child Care Framework, it does not adhere to the Framework as it intends to preserve its sole responsibility in this area on its territory.

² The Indigenous ELCC Framework sets out a shared vision, principles and a path forward for Indigenous early learning and child care—a Canada where all Indigenous children have the opportunity to experience high-quality, culturally rooted early learning and child care programming. Furthermore, it provides a commitment to collaborate, through real partnerships with Indigenous peoples, to enable Indigenous-led early learning and child care programming for their children and families.

guiding federal principles for ELCC, as well as in providing funding support. The ELCC legislation would build on the Multilateral and Indigenous ELCC Frameworks and associated bilateral agreements with provinces and territories. The legislation would be intended to build on progress, further support the jointly established objectives, and facilitate ongoing collaboration and success, including through distinctions-based approaches with Indigenous partners.

Subsequent to the commitment in Budget 2021 to table ELCC legislation, the United Nations Declaration on the Rights of Indigenous Peoples Act received royal assent and came into force in Canada on June 21, 2021. With the passing of this Act, the federal government has 2 years to develop an action plan with Indigenous peoples to achieve the objectives of the Declaration.

Pre-tabling engagement process objectives and methods

From early-January to the end of March 2022, Employment and Social Development Canada (ESDC) undertook outreach with:

- approximately 50 Indigenous governments and organizations, including national First Nations, Inuit and Métis Nation leadership; Modern Treaty and Self-Government Holders; and national and regional Indigenous organizations
- provincial and territorial governments
- nearly 70 ELCC national or regional stakeholder organizations and experts

A discussion guide was shared with all participants, which contained the following questions:

- What would you like the Government to consider when including the core federal principles in the legislation?
- What do you think needs to be included in the legislation to support a lasting federal commitment to this transformative and generational investment?
- What mechanisms do you think should be included in the legislation to strengthen federal accountability?

In total, ESDC received 33 written submissions. On March 8, 2022, the Public Policy Forum also held a roundtable on behalf of ESDC with 18 ELCC experts and stakeholders, seeking additional input on the proposed federal ELCC legislation.

This document provides a summary of the distinct feedback received from First Nations, Inuit and Métis governments and organizations, urban Indigenous and women's organizations, provincial and territorial governments, as well as other stakeholders and experts. It highlights the main themes conveyed during this engagement process. It should be noted that, in addition to the specific feedback summarized below, provincial/territorial governments, as well as several Indigenous governments and organizations, and experts/stakeholders stated that they felt this engagement process on the legislation was limited in terms of scope and timelines.

What we heard: Perspectives from Indigenous governments and organizations

The main themes that were raised by Indigenous governments and organizations are highlighted below.

Commitment to reconciliation and respect of Aboriginal and treaty rights (Section 35 of the Constitution Act, 1982)

Responses pointed to the critical need for quality, culturally appropriate ELCC services for Indigenous peoples and communities. A number of Indigenous responses underlined the importance of ensuring that the proposed ELCC legislation respects the right to self-determination. This includes the right to control the design, delivery and administration of an Indigenous ELCC system that reflects their unique needs, priorities and aspirations, as identified in the co-developed Framework. Furthermore, responses suggested that the legislation should be consistent with the United Nations Declaration on the Rights of Indigenous Peoples, as per section 5 of the *United Nations Declaration on the Rights of Indigenous Peoples Act*. In keeping with these commitments, some Indigenous governments asserted the importance of being involved in discussions with provinces and territories on child care agreements.

Co-development

Some Indigenous responses suggested that the drafting of the legislation should be more transparent. They proposed that the federal government consider a collaborative, co-development approach with regular and ongoing engagement.

Clearly define the principles to be enshrined in the legislation

Some Indigenous responses emphasized that the core federal principles must not take precedence over the principles established in the Indigenous ELCC Framework. A Canada-wide definition of ELCC and standards of practice to ensure consistency across jurisdictions was also recommended.

Long-term sustained funding

Some Indigenous responses noted that predictable, long-term, sustained funding is necessary to support Indigenous ELCC and should be reflected in the legislation.

Child care and the importance of Indigenous languages, cultures and knowledge

Most Indigenous responses stressed that access to Indigenous, culturally relevant ELCC is paramount in the early years of childhood. Many responses received expressed that supporting a strong sense of cultural identity early will help to address the negative impacts of socio-economic and health challenges faced by Indigenous peoples. The majority of responses also indicated that Indigenous peoples should be at

the forefront of the design and delivery of ELCC. In their view, this approach is important to help uphold Indigenous languages in instruction and care, and enable a variety of ways to transfer culture and knowledge.

Additionally, many highlighted in their responses intergenerational learning as important, with families **being** a child's first teacher, and therefore they wish to see the experiences of families considered in creating a holistic ELCC community.

Regular and robust reporting

Some Indigenous responses identified that regular and robust public reporting was a measure to strengthen accountability. This includes designing mechanisms for regular evaluation of outcomes, collecting data to evaluate investment and establishing performance standards. Responses also raised that the National Advisory Council on Early Learning and Child Care should be included in the legislation. They recommended regular public reporting by the Council on the state of child care and including Indigenous members on the Council.

What we heard: Perspectives from provinces and territories

Overall, some key themes emerged from the feedback received by provinces and territories.³

Respecting provincial and territorial jurisdiction

Provinces and territories said that federal ELCC legislation must clearly state that ELCC falls under their jurisdiction. They also indicated that the Government of Canada should be careful to avoid any potential jurisdictional conflicts. Provinces and territories indicated that any federal legislation that infringes on provincial and territorial jurisdictional authority may be challenged.

Long-term fiscal commitment

Provinces and territories stressed that along with federal legislation there should be a sustainable fiscal commitment that reflects the true costs of child care in each jurisdiction. Provinces and territories maintain that a sustainable, long-term fiscal framework is necessary to achieve the Canada-wide ELCC principles, should they be enshrined in legislation.

³ Any references in this document to joint provincial/territorial positions do not include Quebec. Quebec indicated they are opposed to any federal legislation in this area.

Flexibility and choice

Provinces and territories also underscored that federal legislation should recognize that provincial and territorial child care systems need to be flexible. According to provinces and territories, flexibility ensures that they can respond to their specific needs and circumstances (such as rural or remote locations, francophone and other minority language communities, children with varying needs).

Periodic review of the legislation

Provinces and territories also recommended building a review process into the legislation. They expressed that a review process should include provincial and territorial governments so that they would have meaningful opportunities to provide input on the legislation in the future. According to provinces and territories, a review process would also allow them to meet any goals and principles included in the legislation.

What we heard: Perspectives from experts and stakeholders

ESDC received considerable feedback from national and regional stakeholders, as well as a number of prominent ELCC experts in Canada. While expert and stakeholder views were wide-ranging, the majority raised several common recommendations.

Specify conditions on provinces and territories for federal funding

In many cases, stakeholders called for specific conditions on provincial and territorial funding to be included in the legislation. Some conditions outlined by experts and stakeholders include:

- to withhold funding to provinces and territories if principles are not met (for example, affordability)
- to include a condition to fund only not-for-profit and public child care
- to require provinces and territories to supply data for the creation of a national data bank on child care and early years

Clearly define the principles to be enshrined in the legislation

Most experts and stakeholders stated that the principles included in the Multilateral ELCC Framework (high quality, affordable, accessible, inclusive and flexible) must be clearly defined in the legislation. For them, this would ensure that they can be consistently put into practice. Concerns were raised that the principles were being implemented by provinces and territories in different ways (for example, the principle of

affordability). Stakeholders highlighted that the legislation could provide an opportunity to ensure that the principles are implemented consistently across the country.

The legislation should include a commitment to public reporting

Most experts and stakeholders recommended including provisions in the legislation to support regular monitoring and public reporting (in terms of frequency, annual public reporting was often mentioned). It was also noted that public reporting should include consistent benchmarks across jurisdictions. They noted that this may be best performed by an external third party organization outside of the influence of governments and ELCC advocacy groups.

Adopt a children’s rights-based approach to the legislation

Approximately one third of experts and stakeholders recommended a children’s rights approach to federal ELCC legislation (that is, that access to child care should be a right for all children and families). Specifically, it was proposed that the right to ELCC should be enshrined in the federal legislation. According to these experts and stakeholders, this approach could ensure evidence-based decision-making and contribute to the promotion of equal opportunities for the well-being of Canadians.

Ongoing, long-term federal funding

Several experts and stakeholders highlighted the importance of including a commitment to long-term, sustained federal ELCC funding in the legislation for both provinces and territories and Indigenous peoples. In some instances, it was recommended that the legislation link federal ELCC funding to specific benchmarks (for example, 1% of gross domestic product).

Conclusion

ESDC thanks all who participated in the engagement on the federal ELCC legislation. The feedback from First Nations, Inuit and Métis governments and organizations, provincial and territorial governments, and experts/stakeholders, was wide-ranging, varied and in some instances, opposing. The input provided by all engagement participants is appreciated. These perspectives are being taken into consideration as the Government of Canada works to achieve its commitment to table federal ELCC legislation.

The Government of Canada remains committed to ongoing collaboration and discussions with all partners as we work to build a Canada-wide ELCC system where all families have access to high quality, affordable, flexible, and inclusive ELCC no matter where they live.