

EXPLORING THE LEGISLATIVE COMPLEXITY OF ELCC FOR FIRST NATIONS CHILDREN

Denise Webb




National Collaborating Centre
for Indigenous Health

Funded by the Government
of Canada's Early Learning and Child
Care — Data and Research Program

Canada 

CHILD, YOUTH, AND FAMILY HEALTH



© 2025 National Collaborating Centre for Indigenous Health (NCCIH). This publication was funded by the NCCIH and made possible through a financial contribution from the Employment and Social Development Canada (ESDC) and the Public Health Agency of Canada (PHAC). The views expressed herein do not necessarily represent the views of ESDC or PHAC.

Acknowledgements

The NCCIH uses an external blind review process for documents that are research based, involve literature reviews or knowledge synthesis, or undertake an assessment of knowledge gaps. We would like to acknowledge our reviewers for their generous contributions of time and expertise to this manuscript.

This publication is available for download at: nccih.ca.

All NCCIH materials are available free of charge and can be reproduced in whole or in part with appropriate attribution and citation. All NCCIH materials are to be used solely for non-commercial purposes. To help us measure impact of these materials, please inform us of their use.

La version française est également disponible sur le site Web ccnsa.ca sous le titre : *Examen de la complexité législative de l'AGJE pour les enfants des Premières Nations*.

Citation: Webb, D. (2025). *Exploring the legislative complexity of ELCC for First Nations children*. National Collaborating Centre for Indigenous Health.

For further information or to obtain additional copies, please contact:

National Collaborating Centre for Indigenous Health (NCCIH)
3333 University Way
Prince George, BC,
V2N 4Z9 Canada

Tel: (250) 960-5250
Fax: (250) 960-5644
Email: nccih@unbc.ca
Web: nccih.ca

ISBN (print): 978-1-77368-504-5
ISBN (online): 978-1-77368-505-2

CONTENTS



INTRODUCTION	5
BRIEF POLICY BACKGROUND AND CONTEXT TO ELCC IN CANADA	8
UNDERSTANDING EARLY LEARNING VS. CHILD CARE --	10
PT APPROACHES TO REGULATING AND FUNDING ON-RESERVE ELCC PROGRAMS	12
FIRST NATIONS GOVERNANCE IN ELCC LEGISLATION AND REGULATIONS	16
Blanket support	16
Participation in ELCC boards of directors	17
Consultation with and influence of First Nations communities in decision-making	17
Respect for self-government, land claim agreements, and First Nations' laws	18
HOW FIRST NATIONS-LED PROGRAMS ARE SUPPORTED BY PT LEGISLATION, ACCORDING TO FIRST NATIONS ELCC FRAMEWORK PRINCIPLES	19
First Nations ELCC principle no. 1	22
First Nations ELCC principle no. 2	22
First Nations ELCC principle no. 3	23
First Nations ELCC principle no. 4	26
First Nations ELCC principle no. 5	28
First Nations ELCC principle no. 6	29
First Nations ELCC principle no. 7	31
SUMMARY OF FINDINGS AND FINAL REFLECTIONS ----	32
REFERENCES	34



Download publications at
nccih.ca/34/Publication-Search.nccih



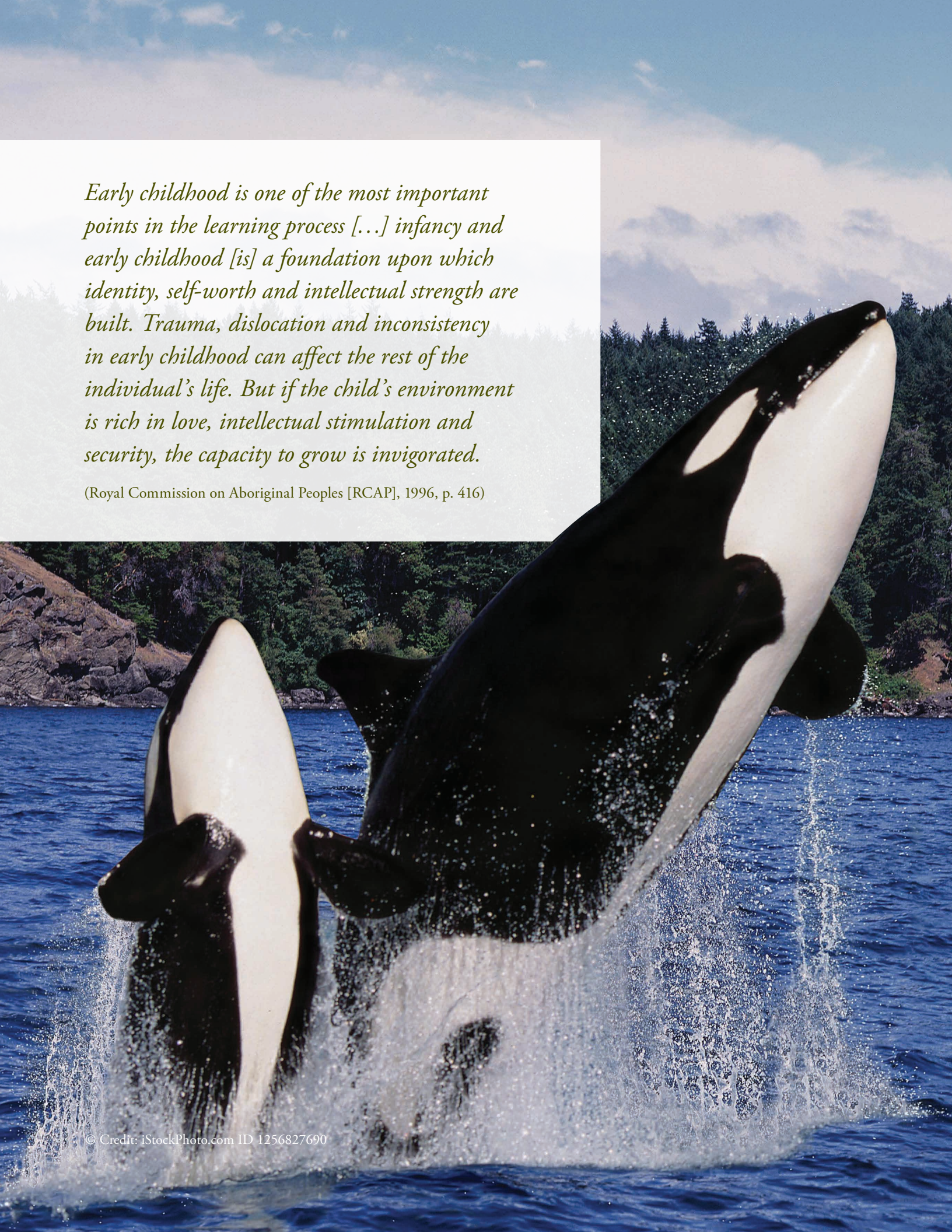
Télécharger des publications à
ccnsa.ca/524/Recherche-publication.nccih



issuu.com/nccah-ccnsa/stacks

Early childhood is one of the most important points in the learning process [...] infancy and early childhood [is] a foundation upon which identity, self-worth and intellectual strength are built. Trauma, dislocation and inconsistency in early childhood can affect the rest of the individual's life. But if the child's environment is rich in love, intellectual stimulation and security, the capacity to grow is invigorated.

(Royal Commission on Aboriginal Peoples [RCAP], 1996, p. 416)



INTRODUCTION



The quality of early learning and child care (ELCC) programs is paramount to the healthy growth and development of young First Nations children. Decades of evidence have confirmed that the value of quality programming for First Nations children grows exponentially when ELCC programs are designed and led by First Nations peoples (Halseth & Greenwood, 2019; RCAP, 1996). Programming that is grounded in local First Nations cultures and languages are conducive to promoting a sense of identity and belonging, and strengthening the emotional, cognitive, spiritual, and physical development and well-being of First Nations children. Whether embedded in oral traditions, like songs and storytelling, or immersed in hands-on learning through daily activities (Halseth & Greenwood, 2019), these attributes of First Nations-led ELCC programs are fundamental not only to empowering healthy, capable, and strong individuals, families, and communities, but also for preserving and protecting the traditional knowledges of First Nations for future generations.

There are over 630 distinct First Nations communities and 50 First Nations languages in Canada (Indigenous Services Canada [ISC], 2023). Canada's 2021 Census of Population estimates that up to 37.5% of status First Nations people¹ (approximately 311,895 persons) live on reserve (ISC, 2023). Of those living on reserve, 39.8% of First Nations people reported they could speak an Indigenous² language, compared to just 8.0% of First Nations people living off reserve. Some of the common First Nation languages spoken include Cree languages, Dene, Ojibway languages, and Mi'kmaq (Statistics Canada, 2023).

¹ Status First Nations people are First Nations people who are registered under the *Indian Act*.

² The term 'Indigenous' is used in this report to refer to First Nations peoples, Inuit, and Métis peoples collectively. The terms 'First Nations,' 'Inuit,' and 'Métis' are used when referring to specific populations.



In a survey conducted by the First Nations Information Governance Centre (FNIGC), primary caregivers living on First Nations reserves or northern communities with children attending regular child care evaluated the importance of cultural elements to child care programs. Most caregivers reported that learning traditional teachings was very important for their children aged zero-four and/or five-eleven (67.0% and 66.0%, respectively). Similarly, most caregivers agreed with the importance of speaking a First Nations language for children aged zero-four and/or five-eleven (65.4% and 66.6%, respectively), rating this element as very important (FNIGC, 2018). These elements are directly

linked to children's growth and development. The FNIGC (2016) also found that First Nations children who attended an early childhood program that was designed specifically for First Nations people, such as the Aboriginal Head Start On Reserve program (discussed below), were more likely to meet communication milestones, compared to those who did not attend a First Nations-specific program. For instance, 73.3% of caregivers of children aged five and under attending a First Nations-specific program reported their children could understand them on a consistent basis when they spoke. Likewise, 63.5% of caregivers reported that they could understand their children

when their children spoke, and 47.8% reported that other people could understand their child. These values compare to 57.5%, 41.0%, 23.7%, respectively, for children who did not attend a First Nations-specific program (FNIGC, 2016). Such findings support the importance of having First Nations specific cultural curriculum in ELCC for First Nations children.

Yet, First Nations peoples' control of well supported and equipped ELCC programs and services, specifically in First Nations communities, is complex, with intersecting influences from federal, provincial, and territorial (PT) policies, legislation, and regulations. This report aims

to untangle the legislative complexities that define the control, regulation, and cultural appropriateness of on-reserve ELCC programs and services for First Nations children aged birth to 6 years across Canada.

The information presented in this report was drawn primarily from grey literature related to ELCC programming, sourced from ministerial websites, CanLII, Publications of Canada, and supplemented by academic literature from Google Scholar and Education Resource Information Center. The report includes all provinces and territories, with the exception of Nunavut, due to the absence of First Nations reserves in the territory.

This report is part of a larger collaborative project aimed at uncovering a deepened understanding of the current sociopolitical situation concerning First Nations early childhood learning and development in Canada. Together, the National Collaborating Centre for Indigenous Health (NCCIH) and the FNIGC are unraveling concepts of *quality* ELCC programming and arrangements for First Nations families with young children on reserve. More information on this work is available on the NCCIH website.

The following sections provide a brief policy background and context to ELCC in Canada; describe and compare early

learning and child care concepts; explore PT approaches to regulating and funding on-reserve ELCC programs; investigate how First Nations governance in PT ELCC legislation and regulations is upheld; and analyze how First Nations-led ELCC programs are supported by PT legislation, according to principles of a First Nations ELCC framework. A summary of the findings and final reflections are provided at the end of the report.

BRIEF POLICY BACKGROUND AND CONTEXT TO ELCC IN CANADA



ELCC is situated within a public health policy realm because of the well-established holistic and long-term connection between children’s health and well-being and the quality of ELCC environments (Dhuey, 2024). In Canada, ELCC falls under PT jurisdiction, by way of the division of powers set by the *Constitution Act* (1867). This role has grown into the responsibility of provinces and territories to set practice standards and regulations for regulated ELCC spaces through legislation, resulting in 13 distinct

ELCC legislative frameworks across the country. These PT regulations are discussed further in later sections.

The federal government provides some policy leadership in the area of ELCC, by way of funding prioritization and commitments. From the late 20th century onwards, there have been varied attempts and some accomplishments in providing national-level funding programs and financial assistance to support ELCC providers, parents, and

caregivers (Dhuey, 2024; Fryer et al. 2023; Richardson & Langford, 2018). From the 1960s to the mid-1990s, the Canada Assistance Plan (CAP), albeit unintentionally, increased funding availability for ELCC for families and non-profit child care centres. In 1996, the CAP was replaced by the Canada Health and Social Transfers, which saw some funding – although a decrease from the CAP – flow to ELCC services. By 2006, the Universal Child Care Benefit was introduced as a tax program for parents and



© Credit: iStockPhoto.com ID 2153503109

Learning from PT legislation and associated regulations that govern ELCC programs is important given the instrumental role these directives play in prescribing the scope and quality of ELCC, in terms of structural components that are to be adopted by regulated programs and services.

caregivers, which then switched to a similar expanded program, the Canada Child Benefit, in 2015. The greatest federal investments into ELCC arguably started in 2017, with the Multilateral ELCC and Indigenous ELCC Frameworks committing the federal government to funding agreements with PT and Indigenous governments to support high-quality, accessible, affordable, flexible, and inclusive ELCC. These frameworks led to bilateral agreements signed in 2021 and a renewed federal commitment to achieve \$10-a-day ELCC for all families across the country by 2026 (Dhuey, 2024; Fryer et al. 2023).

Federal-level ELCC legislation has been less involved and features three legislative works. The first federal ELCC Act was the 1942 *Dominion-Provincial Wartime Day Nurseries Act*, which supported child care centres for women working during World War II. This effort was discontinued after the war. In 1988, Bill C-144 *Canada Child Care Act* was proposed to provide nation-wide tax breaks for

families and support the growth of workplace-based child care centres. However, the Act did not survive a federal election and was never passed (Richardson & Langford, 2018). It was not until only recently, in 2024, that Bill C-35 *Canada ELCC Act* was passed and received royal assent. Bill C-35 enshrines the federal government's aforementioned commitment to funding a national ELCC system for an average of \$10-a-day regulated community-based ELCC services that are based on principles of accessibility, affordability, inclusivity, and high quality. As is later discussed, Bill C-35 marks a significant step forward in the federal government's policy leadership in ELCC. Behind this legislation, the provinces and territories maintain their responsibility for setting regulations through PT legislation that ELCC services must abide by to ensure their eligibility for funds under Bill C-35.

Learning from PT legislation and associated regulations that govern ELCC programs is important given the instrumental role these

directives play in prescribing the scope and quality of ELCC, in terms of structural components that are to be adopted by regulated programs and services. As a policy instrument, ELCC legislation and regulations denote some degree of permanency and accountability for licensed programs, as their standards are required by law, and financial means are offered as an incentive for compliance with the regulations. Depending on the policy language and embedded requirements, nuances in ELCC legislation and regulations depict a story of First Nations' authority in the design and control of ELCC programs, including what these programs should look like, where First Nations' approaches to early childhood learning and development may be supported, and where related gaps remain. This report therefore investigates PT ELCC legislation and regulations to share this story and explore what is, or is not, required of regulated ELCC programs and services operating on First Nations reserves.

UNDERSTANDING EARLY LEARNING VS. CHILD CARE



To fully make sense of the PT regulations underpinning regulated ELCC programs across Canada, it is first necessary to distinguish between the concepts of *early learning* and *child care*, and the roles these interrelated sectors play in the ELCC policy landscape. *Early learning* and *child care* are often presented as a singular or uniform entity but they are distinct in terms of meaning and purpose. Early learning emphasizes children’s holistic development, including parent and community involvement. Child care, on the other hand, focuses on child supervision, based on its roots in Canadian women’s rights movements and support for maternal workforce participation (White, 2002). From a policy standpoint, child care is more often the accepted program or service in which PT governments regulate through child care legislation. Only a few jurisdictions in Canada include

arrangements in their legislation to address early learning and child care separately, namely Ontario (ON) and Prince Edward Island (PEI).³ What this distinction does is ensure that early childhood learning and development programs are regulated and subsequently licensed or accredited, which grants them eligibility for PT funding. The same process applies to child care programs, although when the two facets – early learning *and* child care – are distinctly licensed and funded, specific or enhanced funds may be available for respective programs.

In cases where early learning and child care programs are not separate, child care becomes the focus in PT legislation (this is the case for all jurisdictions, apart from ON and PEI). Programs specific to early childhood learning and development are therefore not licensed and have little to no funding eligibility

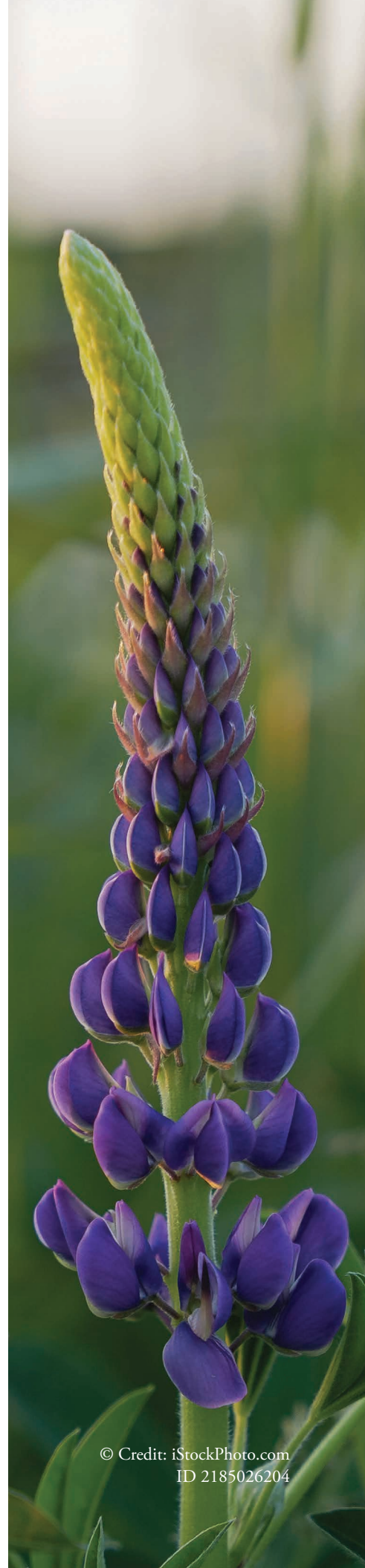
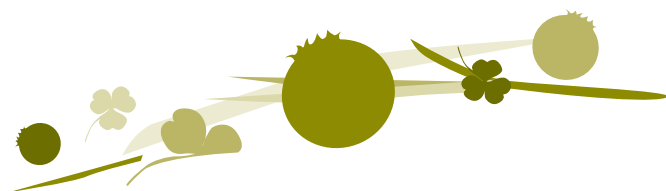
for PT funding pools. In recent years, PT child care legislation has been amended to embed early learning principles – such as creating environments to support holistic growth and development and including parents in daily programming – but programs specific to early childhood learning and development that do not focus on child care remain outside of legislation. As a result, some early learning programs follow provincial policy guidelines and borrow from child care regulations to standardize their practice. Examples include MB’s guideline “On the road to best practice: Recommended guidelines for parent child programs,” informed by the *Community Child Care Standards Act*; NS’s “Early Learning Curriculum Framework”; and BC’s “Early Learning Framework” (BC Ministry of Education et al. 2019; Healthy Child Manitoba, 2008; NS Department of Education and Early Childhood

³ Abbreviations are used throughout this report when referring to provinces and territories and provincial and territorial (PT) matters in Canada. For reference, these include: British Columbia (BC), Alberta (AB), Saskatchewan (SK), Manitoba (MB), Ontario (ON), Québec (QC), New Brunswick (NB), Nova Scotia (NS), Prince Edward Island (PEI), Newfoundland and Labrador (NL), the Yukon (YK), and Northwest Territories (NWT).

Development, 2018). NL is on the path to this distinction through its Pre-Kindergarten Pilot, which offers regulated play-based early learning programs at child care centres; however, early learning is not yet included in the province's child care legislation. Thus, in addition to meeting child care regulatory requirements, staff must also complete training on NL's Early Childhood Learning Framework (NL Department of Education, 2019; 2022).

The regulation of early learning and/or child care programs on First Nations reserves adds to the puzzle. Education, and by close association early learning, falls under PT jurisdiction in Canada. As per Section 91 of the *Constitution Act* (1867), however, matters pertaining to First Nations peoples and reserves are considered under federal jurisdiction. This provision suggests regulation and funding of on-reserve ELCC programs are a federal responsibility, although in practice, this has not been the case. The federal approach to ELCC on First Nations reserves has been one of programming, primarily the Aboriginal Head Start on Reserve (AHSOR) program and the First Nations and Inuit Child Care Initiative

(FNICCI). Both programs are funded by the federal government and administered by First Nations communities, with some funding from PT governments, as well. The AHSOR program focuses on strengthening First Nations children's cultural identity, language knowledge and skills, health and nutrition, and intellectual skills, and includes parent involvement (ISC, 2021). Some provinces and territories, including BC, AB, MB, ON, NB, PEI, and NWT, may also license and fund AHSOR programs. The FNICCI provides program funding to support child care for First Nations parents entering or participating in the workforce or a training program. However, licensing and sustainable funding for ELCC programs on First Nations reserves are largely contingent on PT approaches to on-reserve programs and services which, indeed, will look different depending on the program's purpose of *early learning* or *child care*. Nevertheless, to avoid complication and because early learning principles are increasingly adopted by child care legislation, this report refers to ELCC programs and services collectively, unless otherwise separately addressed by PT policy.



PT APPROACHES TO REGULATING AND FUNDING ON-RESERVE ELCC PROGRAMS



PT ministries of education and child and family services – or related variations of such departments – are responsible for the regulation and funding of ELCC programs and services. Several variables are addressed in ELCC legislation and regulations, including staff qualifications; equipment, nutritional, and program requirements; child-staff ratios; and licensing procedures (see Beach et al. [2021] for a comprehensive summary of PT legislation and regulated variables to ELCC programs). Compliance with legislation and regulations ensures ELCC programs are regulated and subsequently eligible for licensing or accreditation. It also

provides access to PT funding opportunities through grants, subsidies, and other financial aids to support the accessibility, affordability, and capacity of ELCC programs for operators, staff, and families.

Provinces and territories differ in their approach to the regulation and funding of on-reserve ELCC programs. Table 1 summarizes these diverse approaches into three categories. BC and QC are the only two jurisdictions that include First Nations communities and governing bodies as legal entities in which their respective ELCC Act applies. On-reserve ELCC programs are thus eligible for provincial licensing (BC) or

permits (QC) and subsequent funding – like all other ELCC programs – as long as their programs comply with applicable ELCC legislation. This application is stated in Section 1 of the *Community Care and Assisted Living Act* in BC and Section 11 of the *Educational Childcare Act* in QC. In addition to this arrangement, Indigenous persons in BC may also apply for child care grants paid by the Ministry of Education and Child Care to facilitate “the design or delivery of child care by Indigenous peoples for Indigenous peoples” (*Early Learning and Child Care Act*, 2021, s. 3).

TABLE 1. REGULATION OF FIRST NATIONS ELCC PROGRAMS ON RESERVE

Regulated under PT legislation	Regulated by special agreement in legislation	Regulated by arrangements made outside of legislation
BC, QC	SK, ON, QC, YK	AB, MB, NB, PEI, NL, NWT



Other models of on-reserve ELCC program regulations exist through agreements embedded in ELCC legislation or through programs. For example, ELCC legislation in SK, ON, QC, and the YK include provisions within which an agreement may be entered between the province/territory and respective First Nations governing bodies or organizations to administer ELCC programs under the regulations of the Act. With this agreement, ELCC programs operating on reserve may also be eligible for PT licensing or accreditation and funding, as applicable. Interestingly, the terminology used to describe these types of agreements differs across jurisdictions.

In SK, an agreement signed between the Ministry of Education and a First Nations community denotes the *application* of the provincial Act to child care services on First Nations reserves (Child Care Regulations, 2015). In the YK, explicit language is used to describe an official *transfer in responsibility* for the administration of the Act from the Department of Education to signatory First Nations (*Child Care Act*, 2002). Depending on how this language is interpreted, one form, either an application or transfer, may carry more weight than the other in terms of the First Nations' administrative power in operating ELCC

programs. What's more, the language in ON's legislation articulates the components of agreement on how First Nations communities "establish, administer, operate and fund child care and early years programs and services", thereby extending First Nations' authority beyond administrative capacity (*Child Care and Early Years Act*, 2014, s. 60). In this case, the separate application of the Act toward child care *and* early learning programs is noted.



QC takes a slightly different approach to ELCC legislation pertaining to First Nations early years programming on reserve. As QC’s ELCC legislation already applies to First Nations by way of Section 11 of the *Educational Childcare Act*, an agreement may be signed on an additional clause with First Nations to ensure the application of the Act takes into account “[Indigenous] realities” (s. 121). Similarly in the YK, in addition to an agreement to transfer administrative responsibility for ELCC programming from the Department of Education to a First Nations community, another agreement may be entered, “respecting anything

necessary for the administration of this Act” (*Child Care Act*, 2002, s. 34). This allows First Nations communities the opportunity to adjust the Act’s application in accordance with their local needs. Only QC and the YK provide clauses that afford such adaptability and flexibility in First Nations ELCC administrative agreements.

Arrangements outside of ELCC legislation exist in AB, NL, NWT, MB, NB, and PEI. In AB and NL, regulation of on-reserve ELCC programs exists through programs established by the province. The On-Reserve Child Care Licensing Pilot in AB was introduced in 2017, under which

First Nations communities may apply to have their on-reserve child care program licensed by the province, in accordance with provincial standards and regulations. This licensing opens the door to provincial subsidies for families, as well as operational funding for child care programs, which includes wage top-ups for program staff (Government of AB, 2018). As of 2021, five full-day child care centres and one half-day centre on First Nations reserves have been licensed by the province (Beach et al. 2021).

NL hosts a similar program through its Child Care Capacity Initiative (CCCI), initiated in 2013. The program is a needs-based funding initiative to support new and existing licensed child care spaces offered by non-profit or community-based organizations, with specific targets to increase the number of regulated child care spaces in Indigenous communities across the province. Funding is available not only for start-up, but also for completing renovations or assessments to evaluate the need for licensed child care in a designated area (Government of NL, 2022). With funding from the Canada-Wide ELCC Agreement (discussed further below), the CCCI is projected to continue expansion of the program’s reach in Indigenous communities through to 2026 (Government of Canada, 2022a).



ELCC programs on First Nations reserves in the NWT are licensed and eligible for territorial funding, consistent with other ELCC programs in the territory operating off-reserve (see for example: Government of NWT, n.d.). Arrangements for licensing on-reserve programs are not addressed in the territory's ELCC regulations; however, it is stipulated that allowances are to be paid on top of ELCC staff wages for individuals working in Northern communities. Indigenous ELCC staff and individuals with five or more years of experience working in Northern communities are also eligible for wage bonuses.

In MB and NB, regulation of on-reserve ELCC programs is not addressed by provincial legislation; rather, First Nations communities may apply to have their ELCC programs licensed and subsequently funded by the province upon request. MB articulates this approach in its Canada-Wide ELCC Agreement, stating that provincial legislation in ELCC “is a law of general application” and that the province “does not enforce a formal role in licensing under the authority

established in the legislation. The preferred approach is to meet and engage when invited [by First Nations communities]” (Government of Canada, 2023a). However, the province does indicate in its ELCC legislation that child care grants may be payable by the provincial Ministry of Education and Early Childhood Learning to support licensed child care centres that are established or maintained by Indigenous governing bodies.

In PEI, on-reserve ELCC programs may also be regulated upon request by First Nations communities, although this includes both early learning *and* child care programs. Here, licensed child care centres may apply for Early Years Centre Designation, a title protected by PEI's ELCC Act. Through this approach, PEI demonstrates a formal and holistic blend of child care with early learning education. The designation accredits centres with delivering high-quality child care and ensures financial support for parent subsidies, standardized staff wages, and program development to prioritize children's well-being and parent involvement. Licensed child care

centres must meet specific criteria to receive designation, as well as align their child care programs with the provincial Early Learning Framework, which centres on relationships, child exploration, and holistic development in language, cognitive, emotional, creative, and physical realms (Government of PEI, 2023). The framework touches on cultural responsiveness and Mi'kmaq principles and values in learning as a means of promoting social and personal responsibility and respect for First Nations cultures and heritage (Flanagan, 2011). Both of the two First Nations communities in PEI – Abegweit First Nation and Lennox Island First Nation – have received Early Years Centre designation for their licensed child care centre (Government of Canada, 2022b).

Overall, most provinces and territories have some form of arrangement to regulate and fund on-reserve ELCC programs. NS was the only province found to not license or fund on-reserve programs; however, despite this, on-reserve ELCC programs in NS have closely aligned their programs with provincial standards.



FIRST NATIONS GOVERNANCE IN ELCC LEGISLATION AND REGULATIONS



First Nations governance is recognized and upheld in ELCC legislation to varying degrees in four jurisdictions: the YK, BC, QC, and ON. Table 2 identifies the legislation for each jurisdiction. The extent to which First Nations governance is addressed differs across these four provinces and territories and can be categorized into four approaches:

1. blanket support;
2. participation in ELCC boards of directors;
3. consultation with and influence of First Nations in decision-making; and
4. respect for self-government, land claim agreements, and First Nations' laws.

Together, these approaches create a unique policy landscape for other jurisdictions to learn from and fill policy gaps.



TABLE 2. PT LEGISLATION THAT INCORPORATES FIRST NATIONS GOVERNANCE IN ELCC

PT	Legislation
Yukon	<i>Child Care Act</i>
British Columbia	<i>Early Learning and Child Care Act</i> and <i>Early Learning and Child Care Regulation</i>
Québec	<i>Educational Childcare Act</i>
Ontario	<i>Child Care and Early Years Act</i> and <i>Child Care and Early Years Act: Regulations</i>

Blanket support

In the YK and ON, ELCC legislation includes broad objectives to support First Nations governance in ELCC services. The *Child Care Act* in the YK seeks to support aspirations of First Nations communities “to promote and provide culturally appropriate child care services” (s. 1). The *Child Care and Early Years Act* in ON aims to facilitate “the local planning and implementation of child care and early years programs and services by [...] First Nations...” in order to foster “the

learning, development, health and well-being of children and to enhance their safety” (s. 1). ON’s legislation also cites ELCC programs that respect “equity, inclusiveness and diversity in communities and the particular qualities of [...] First Nations” communities as matters of provincial interest (s. 49). These goals and interests are supported by agreements between the province and First Nations communities for administration of the Act.



Consultation with and influence of First Nations communities in decision-making

As previously discussed, agreements may be signed between jurisdictions and local First Nations for the administration of ELCC Acts (in SK, ON, QC, and the YK), with some agreements addressing how implementation of the Act will reflect “[Indigenous] realities” (QC) and ELCC concerns of First Nations people and communities (QC and the YK). Although these agreements support First Nations governance, other provisions in ON, QC, and BC also touch on decision-making procedures concerning ELCC programs. For instance, under ON’s *Child Care and Early Years Act*, signatory First Nations may be approached by child care and early years directors to inform decisions regarding the issuance or refusal of child care or early years licenses (s. 62). With this, First Nations communities are forwarded the submitted application materials for review and input, based on their community’s demand and capacity for ELCC programs (s. 20 & 23). Similarly in QC, the *Educational Childcare Act* asserts that First Nations communities must be consulted by the minister responsible for the Act: for child care permit applications that concern their respective community (s. 11.1); annual ministerial assessments regarding

Participation in ELCC boards of directors

ELCC legislation in both QC and the YK address First Nations’ participation on child care boards of directors. In QC, child care provided by non-profit or cooperative organizations must be governed by a board of directors to receive a child care centre permit (similar to licensing). The *Educational Childcare Act* specifies that no members of the board may be related; however, in recognition of cultural differences, child care centres operating in First Nations territories are exempt from this restriction (s. 7). The Act also specifies that some Mohawk communities may be exempt from all restrictions concerning the composition of child care boards (as long as some form of governance exists), in order to honour child care agreements

signed between the province and a Mohawk community (s. 10). These provisions align with the intentions of child care agreements as per section 121 of the Act, ensuring the realities of Indigenous communities are reflected when it comes to establishing child care boards.

In the YK, according to the *Child Care Act*, the Yukon Child Care Board must include members appointed by First Nations in the territory, alongside other child care groups and stakeholders. Membership on the Board must serve to support the ELCC service needs of First Nations families on reserve, by way of reviewing policies, programs, and services pertaining to child care and advising on child care development, standards, evaluations, and other administrative procedures under the Act (s. 4).

their community's needs and priorities for child care services (s. 11.2); and before the Ministry of Families allocates new subsidized child care spaces to permit applicants or holders within their community (s. 93).

In BC, the Ministry of Education and Child Care is required to complete annual reporting regarding the Ministry's progress in achieving affordable, inclusive, accessible, and high-quality child care. Indigenous partners must have a hand in this work through collaboration with the Ministry. BC's ELCC Act also states this collaborative work must be included in the Ministry's annual reporting, as well as take into account the United Nations Declaration on the Rights of Indigenous Peoples (s. 6).

First Nations communities in ON also influence ELCC policy decisions. The *Child Care and Early Years Act* asserts that the province must consider "the interests and particular qualities" of First Nations communities in developing policy statements on the operation of child care and early years programs (s. 55); however, an engagement medium is not described for this requirement. This provision of the Act may therefore benefit from a linked implementation or reporting plan. Moreover, regulations under the Act prescribe First Nations' authority to provide child care services without a child care license, on the condition that the program "can demonstrate to the First Nation that it [...] supports the health, safety and well-being of children" (s. 3.1).

Respect for self-government, land claim agreements, and First Nations' laws

The YK's *Child Care Act* respects and upholds First Nations land claim and self-government agreements. This is enforced by the assertion that these agreements will prevail in times of conflict with the Act (s. 41). In ON, First Nations' by-laws are respected by regulations under the *Child Care and Early Years Act*, which ensures building, equipment, and playground infrastructure of child care and early learning centres comply with local by-laws on First Nations reserves (s. 13). In BC, the Early Learning and Child Care Regulation includes provisions that respect authority made under Indigenous law. In describing the criteria for families that might be exempt from income requirements to receive financial child care benefits, the regulations state that exemptions apply to individuals who have and are responsible for the care, custody, or guardianship of a child under an Indigenous law. Indigenous authority under Indigenous law is also respected and recognized in matters dealing with the totality of child care benefits in circumstances when an Indigenous child's safety is in question or at risk.



HOW FIRST NATIONS-LED PROGRAMS ARE SUPPORTED BY PT LEGISLATION, ACCORDING TO FIRST NATIONS ELCC FRAMEWORK PRINCIPLES

In 2018, Employment and Social Development Canada (ESDC) released the Indigenous ELCC Framework, developed in partnership with national Indigenous organizations through public engagement activities. Distinctions-based structures are embedded throughout the framework to generally guide provinces and territories, communities, and service providers in the development and implementation of ELCC programs for First Nations,

Inuit, and Métis children and families. As such, the First Nations ELCC framework sets out to inform a First Nations-specific ELCC system that accounts for “the rights, interests, and circumstances” of First Nations children, families, and communities (ESDC, 2018, p. 8).

This section explores how PT ELCC legislation and regulations might align with the seven principles embedded within the First Nations ELCC framework

to support on-reserve ELCC programs that are responsive to and reflective of First Nations knowledges, cultures, languages, needs, and priorities. Because the seven principles are not specific to First Nations ELCC programming on reserve, they are only used in this analysis as a guiding framework and readers must exercise caution that these principles may shift or change depending on the needs and priorities of specific First Nations communities.



Guiding principles for a First Nations ELCC system (ESDC, 2018, p. 11):

1. [System that is] anchored in distinct First Nations knowledges, languages and cultures and responds to First Nations priorities, needs and responsibilities.
2. [System that is] controlled and directed by First Nations, including authority and decision-making at all levels of policy development, and funding allocations and governance, with reciprocal accountability.
3. Well-funded ELCC programs, services and supports that are diverse and of high quality, as evidenced in children’s programming and learning, physical environments, Elders’ leadership, well trained staff who earn equitable wages, and family and community engagement.
4. ELCC programs and services that are available, affordable, flexible and responsive to the unique needs of First Nations children and their families, including flexible funding approaches that respond to community needs and provide supports for children and families with diverse and exceptional needs.
5. Programs and services that are transparent and accountable.
6. Collaborations and partnerships that support the establishment of a coordinated, integrated First Nations-led ELCC system of policies, programs, services and supports, including national and regional linkages between relevant departments, governments, nations, and related sectors.
7. First Nations capacity that is supported at national, regional and community levels to successfully establish and guide a First Nations ELCC system.

Table 3 indicates which PT legislation and regulations – albeit subject to official interpretation – may be relevant to the principles of the First Nations ELCC framework. As Table 3 shows, the legislative and regulatory frameworks of all provinces and territories contain clauses that align with one or

more of these principles. Each jurisdiction addresses principles three and five (to varying and differing degrees), but no jurisdiction clearly nor explicitly addresses the sixth principle, while the second principle is the least often addressed.

TABLE 3. PT ELCC LEGISLATION WITH RELEVANCE TO THE FIRST NATIONS ELCC FRAMEWORK PRINCIPLES

PT	ELCC Legislation	First Nations ELCC principles addressed by ELCC legislation	Summary of principles
BC	Community Care and Assisted Living Act: Child Care Licensing Regulation	Principles no. 2-3, 5, 7	2-5, 7
	<i>Community Care and Assisted Living Act</i>	no. 5	
	<i>Early Learning and Child Care Act</i>	no. 3-5, 7	
	Early Learning and Child Care Regulation	no. 4	

TABLE 3. PT ELCC LEGISLATION WITH RELEVANCE TO THE FIRST NATIONS ELCC FRAMEWORK PRINCIPLES (CONTINUED)

PT	ELCC Legislation	First Nations ELCC principles addressed by ELCC legislation	Summary of principles
AB	<i>Early Learning and Child Care Act</i>	no. 1, 3-5	1, 3-5
	Early Learning and Child Care Regulation	no. 3, 5	
SK	<i>Child Care Act</i>	no. 3, 5, 7	2-5, 7
	Child Care Regulations	no. 2-5, 7	
MB	<i>Community Child Care Standards Act</i>	no. 3-5, 7	3-5, 7
	Community Child Care Standards Act: Child Care Regulation	no. 3-5, 7	
ON	<i>Child Care and Early Years Act</i>	no. 1-5, 7	1-5, 7
	Child Care and Early Years Act: Regulations	no. 2-3, 5, 7	
	Child Care and Early Years Act: Regulations - Funding, Cost Sharing, and Financial Assistance	no. 4, 7	
QC	<i>Educational Childcare Act</i>	no. 1-4, 7	1-5, 7
	Educational Childcare Act: Reduced Contribution Regulation	no. 4	
	Educational Childcare Act: Educational Childcare Regulation	no. 3, 5	
NB	<i>Early Childhood Services Act</i>	no. 3-5	1, 3-5, 7
	Early Childhood Services Act: Licensing Regulation	no. 1, 3, 5	
	Early Childhood Services Act: Childcare Grants and Subsidies Regulation	no. 3-4, 7	
NS	Early Learning and Child Care Regulations	no. 3-5	3-5
PEI	<i>Early Learning and Child Care Act</i>	no. 3, 5	3, 5
	Early Learning and Child Care Act: Regulations	no. 3, 5	
NL	<i>Child Care Act</i>	no. 5	1, 3, 5
	Child Care Regulations	no. 1, 3, 5	
YK	<i>Child Care Act</i>	no. 1-3, 5, 7	1-5, 7
	Child Care Centre Program Regulation	no. 1, 3, 5	
	Child Care Subsidy Regulation	no. 4	
NWT	<i>Early Learning and Child Care Act</i>	no. 5	1, 3-5, 7
	Early Learning and Child Care Regulations	no. 1, 3-4, 7	

Note: Nova Scotia is included in Table 3 because Mi'kmaw communities often borrow from provincial ELCC legislation to guide their programs, despite their exclusion from provincial regulations.



First Nations ELCC principle no. 1

The first principle aims to ensure that ELCC programs are anchored in First Nations knowledges, languages, and cultures and respond to First Nations' priorities, needs, and responsibilities. This principle is most often addressed by the objectives or stated interests of ELCC Acts in AB, ON, and the YK, as well as in requirements or considerations for program curricula, such as in NWT and NB.⁴ Unique to the YK, regulations state that food offered at child care programs must comply with “Canada’s Food Guide to Healthy Eating and Native Food Guide” (s. 15), which reflects the values, traditions, and food choices of First Nations people, Inuit, and Métis people. Also unique to NWT, regulations assert that ELCC programs may be exempt from sleep or rest requirements, including the use of mainstream furnishings or equipment that conflict with “traditional Indigenous practice” (s. 30).

In QC, the first principle of the First Nations ELCC framework is captured under agreements to ensure child care programs reflect “[Indigenous] realities” (s. 121). The connection to this principle is more indirect in NL, with ELCC regulation stipulating that child care programs must align with NL’s early learning framework, where it is stated that program environments must “ensure cultural representation (including First Nations)” (NL Department of Education, 2019 p. 38). Other jurisdictions also include culturally responsive requirements and considerations for their ELCC programs (e.g., BC, MB); however, these requirements are not First Nations-specific.

First Nations ELCC principle no. 2

The second principle of the First Nations ELCC framework pertains to First Nations’ control and oversight of ELCC systems. ELCC legislation in BC and QC recognize First Nations as legal entities with authority to administer the Act under its regulations. Agreements signed under Acts in QC, ON, SK, and the YK also grant First Nations administrative and decision-making authority in ELCC programs and services, which may be applied to funding allocations, licensing eligibility, programming, policy making, or other areas.

⁴ Specific legislation and regulations pertaining to this section’s discussion are noted in Table 3. Sections of the Act or regulation are provided for direct quotes.

First Nations ELCC principle no. 3



Nearly all provinces and territories include requirements for ELCC programs to promote and support the social, emotional, physical, linguistic, and intellectual growth and development of young children; and to sustain a safe environment that centres on children’s curiosity, creativity, exploration, health, and well-being.


All PT ELCC regulations align variably with the third principle, which focuses on ensuring ELCC programs are well-funded and of high quality, as measured by “children’s programming, physical environments, Elders’ leadership, well trained staff who earn equitable wages, and family and community engagement” (ESDC, 2018, p. 11). Although no province or territory addresses Elders’ leadership in their ELCC legislation or regulations, evidence suggests that all other criteria are supported by varying provisions.

Nearly all provinces and territories include requirements for ELCC programs to promote and support the social, emotional, physical, linguistic, and intellectual growth and

development of young children; and to sustain a safe environment that centres on children’s curiosity, creativity, exploration, health, and well-being. Depending on jurisdiction, these program characteristics may be embedded in the principles or objectives of the respective ELCC Act (AB, ON, QC), or in the requirements for program furnishings and equipment (AB, MB, ON, PEI); daily program of activities and environment (BC, AB, MB, QC, NB, PEI, NL, YK, NWT); or written program statement, description, or philosophy (SK, ON, NL). In AB, the “safety, well-being and development” of children is also a consideration for the application of minimum staffing requirements (s. 28).

Both MB and NB entrench quality improvement grants in their regulations to support ELCC programs, including on-reserve programs led by First Nations communities. MB regulations elaborate on its “quality early learning environment grant,” indicating its intention not only to improve and enhance children’s environment and experiences in ELCC programs, but also to establish an “accessible and culturally diverse child care grant” (s. 37). Both grants may be put toward equipment, indoor or outdoor renovations, professional development for staff, or other programming matters requiring ministerial authorization.





Similarly, in 2024, BC and NWT updated their ELCC Acts and regulations to reduce costs and support child care operators. The BC ELCC Act establishes child care grants to support licenced child care facility development; enhance program accessibility, quality, inclusivity, or affordability; and “facilitate the design or delivery of child care by Indigenous peoples for Indigenous peoples” (s. 3). In the NWT, five funding programs have been created to improve access to child care and support child care operators: initial, dedicated, flexible, additional, and inclusion and support funding. Respectively, the funding programs cover immediate operational needs, staff wages to meet child-staff ratios, flexible needs addressed by a fixed annual sum, “other” operational needs addressed by funds with terms and conditions, and changes to programs to build inclusive and safe child care spaces for children with exceptional needs who might require individualized support.

ELCC staff qualification requirements are covered in all ELCC regulations. Employee training and qualifications are often measured against the length (in years) and type (diploma, degree, or related post-secondary program) of early childhood education completed by staff at accredited institutions recognized by the respective province or territory.⁵ BC specifies accredited institutions in its licensing regulations, stating which institutions one may acquire educator and assistant certificates in the province (in addition to Yukon College, YK and Lethbridge College, AB).

In some jurisdictions’ legislation, position titles of ELCC staff correspond with staff qualifications. In SK, for example, a level one early childhood educator (ECE) signifies the completion of a 120-hour introductory course in early childhood education; a level two ECE indicates completion of a one-year early childhood education

training program; and a level three ECE denotes two or more years of training in early childhood education. Similar qualification structures are used in AB, MB, NS, PEI, NL, NWT, and the YK.

Ministerial grants that are specifically intended to support ELCC staff are entrenched in ELCC regulations in SK, MB, NB, and NWT. SK offers tuition reimbursement grants for staff to complete or upgrade their credentials and qualifications, while MB provides similar training grants for staff to pursue professional skills development. MB also offers a staff recruitment and retention grant to improve a child care centre’s ability to hire and retain child care workers. The grant may be put towards advertising positions, providing bonuses to staff for long-term employment, supporting staff members’ professional development, or initiating other related activities, with authorization by the Ministry of Education and Early Childhood Learning.

⁵ For more information on ELCC training programs and curricula, see NCCIH (in press).

In NB, minimum wage rates for ELCC program staff are protected by legislation and wage enhancement grants are established by the regulations, which may be used to supplement staff members' base salary. Likewise, NWT ELCC regulations prescribe allowances, step increments, and bonuses for ELCC staff in efforts to support the “sustainability and growth of the ELCC sector” (*Early Learning and Child Care Act*, s. 41). Allowances are payable to ELCC staff based on their work in Northern communities and different regions across the territory, as well as their level of education (i.e., certificate, diploma, or degree). Step increments in wage are to increase as staff gain years of working experience (topping at 10 or more years of experience), and annual bonuses are to be granted to Indigenous staff with more than one year of working experience and individuals with more than five years of experience working in Northern communities. With these regulations, NB and NWT were the only jurisdictions found to protect and supplement ELCC staff wages in their ELCC program legislation and regulations.

Finally, family and community engagement in ELCC programs is addressed by nearly all PT ELCC legislation and/or regulations. In most cases, ELCC programs must include parents or caregivers of children attending programming in the operations, management, or general provision of programs (AB, MB, PEI, NWT). Oftentimes, parent involvement in ELCC programs involves participation on parent advisory committees or boards of directors (SK, MB, QC, NB, NS, YK). In MB, parent participation in a centre's board of directors is necessary to receive child care grants from the province. Moreover, AB's ELCC legislation expands on the purpose of community engagement and parent involvement, as measures to ensure accountability of ELCC programs and maintain high-quality programming. As per ELCC regulations, family and community involvement in programs may be included as required criteria in an application for an ELCC license (MB, PEI, NWT) or in an ELCC program statement (ON), plan (SK), handbook (NB, NS), or philosophy (NL) that is made available to parents.

Some jurisdictions specifically mandate the use of community resources in ELCC programs to improve program quality (ON, PEI, NL, YK, NWT). In the YK regulations, this requirement aims to “promote cultural awareness, social responsibilities and community involvement” among children in ELCC programming, as well as “respect and care of the natural environment” (s. 16). For example, an early years program hosted within and outside of First Nation communities in the YK incorporates workshops for parents to build parenting skills and strengthen cultural connections through sharing circles with Elders and beading and cooking classes (MacIntyre, 2022). In Ontario, Nipissing First Nation's two child care centres incorporate Ojibway language and cultural teachings into their programming by inviting and working with Anishinaabemwin Language Workers. Through experiential learning, children learn songs and stories and strengthen their knowledge of Nipissing Ojibway culture and teachings (Nipissing First Nation, n.d.).

Fostering healthy communication with families is a requirement of ELCC programs in ON, QC, the YK, and NWT. Instilling regular, open, and ongoing communication in ELCC programming is intended to engage and inform parents of their children's development and experiences in the program. Unique to the NWT and SK, parents are also invited to take part in the delivery of ELCC programs. In the NWT, ELCC regulations instruct ELCC programs to "allow and encourage" parents to visit the ELCC program and participate in daily programming activities (s. 19). In SK, active parent participation in ELCC programs is a requirement for teen student support centres that offer child care services for parents younger than 22 years who are attending high school. According to SK regulations, the centres must provide opportunities for parents to build parenting skills, enhance their capacity to support the healthy growth and development of their child(ren), and learn about additional community-based parenting resources and related supports.



First Nations ELCC principle no. 4

PT funding programs and ELCC subsidies align with the fourth principle of the First Nations ELCC framework, which ensures ELCC programs and services are "available, affordable, flexible and responsive to the unique needs of First Nations children and their families" (ESDC, 2018, p. 11). This could also include funding for children and families with exceptional needs. ELCC subsidies are entrenched in ELCC regulations in BC, SK, MB, ON, NB, NS, the YK, and NWT in various forms. Subsidies are typically paid to the service provider to lower the cost of services for families, with family eligibility criteria often based on income, employment, and educational status of parents, as well as family expenses, assets, and the medical needs of the family. Some exceptions to the eligibility criteria may be made for First Nations applicants. For example, in BC, regulations stipulate that total family income requirements for provincial child care benefits may be waived for First Nations families receiving financial assistance provided on First Nations reserves, by the Nisga'a Nation, or a treaty

First Nation (depending on the financial assistance program). Similarly in SK, First Nations families are not required to include funds received from Indigenous Services Canada or their First Nations band when calculating their total family income for child care subsidies.

QC differs slightly as it does not administer subsidies; rather, QC operates a publicly funded child care system in which all families pay a standardized flat rate. As prescribed by QC's regulations, some First Nations families are exempt from paying this flat rate, specifically beneficiaries of the "Income Security Program for Cree Hunters and Trappers" of the James Bay and Northern Québec Agreement.

In BC, SK, MB, ON, NWT, and the YK, additional funds are available to improve the accessibility of child care for families of children with exceptional, diverse, or additional support needs.⁶ For instance, in the YK, territorial subsidies operate on a greater maximum threshold for children with additional needs. BC and ON also allow families of children with additional needs to deduct costs from their total income when calculating their

⁶ A "child with support needs means a child who is experiencing a developmental delay or disability [and] requires additional support services to optimize the child's development, functional abilities and quality of life" (BC Early Learning and Child Care Act Regulation, s. 1).



© Credit: iStockPhoto.com ID 1982321308

subsidy eligibility. In this case, the lower the total income, the greater the amount of provincial subsidies families may receive. As per ON regulations, under certain conditions, First Nations communities that have entered into an agreement to establish, administer, operate, and fund ELCC services may have 100% of net costs for children aged five years and older with additional needs funded by the province, and 87% of net costs for children aged five years and younger. Furthermore, ELCC regulations in SK, MB, and NWT establish specific grants to cover additional

costs associated with child care services for children with additional support needs. This is covered by “inclusion grants” and “enhanced accessibility grants” in SK, “grants for additional support or exceptional additional support” in MB, and “inclusion and support funding” in NWT. Such grants may cover additional equipment, learning materials, specialized staff or staff training, space renovations, or other associated costs, as approved by provincial ministries.

Although not directly tied to additional funding, inclusion

policies are required by ELCC programs in MB and NB. The policy must be included in a licensee’s application to operate ELCC services and demonstrate how programs will address and accommodate children’s additional or exceptional support needs. Moreover, guiding principles and matters of provincial interest for the administration of ELCC Acts in AB and ON respectively denote *accessibility* of ELCC programs to be of high priority, forging some level of accountability for programs to provide accessible and affordable ELCC services.



First Nations ELCC principle no. 5

All provinces and territories included in this report have provisions in their ELCC legislation and regulations that pertain to the fifth First Nations ELCC principle, to ensure programs and services are transparent and accountable. This principle is most often addressed by legislation or regulations requiring ELCC programs to display or otherwise make easily accessible for parents and families their licensing information, including issuing dates, any terms or conditions, qualifications of staff, etc. (BC, AB, SK, MB, ON, NB, NS, PEI, NL, YK, NWT); child guidance methods (AB) and behaviour management policies (PEI, NL); program policies, statements, or philosophies (SK, ON, QC, NB, NS, YK); and daily plans or activities (SK, MB, NB, PEI, NWT). ELCC programs and services in PEI and NL must also possess an evaluation plan, as per provincial regulations, to ensure ongoing program evaluation and improvement.

In 2024, the ELCC Act in BC established the Provincial Child Care Council – a group intended to inform the Ministry of Education and Child Care in its efforts to improve the accessibility, quality, inclusivity, and affordability of child care across the province, while also addressing the social, cultural, educational, emotional, cognitive, and physical development of children. The Act asserts this work must be completed in collaboration with Indigenous partners, and for transparency and accountability purposes, the Ministry must conduct annual reporting to track and share its progress.

Transparency and accountability are widely embedded in ON’s ELCC Act. One of the many purposes of the Act is to provide “access to information that supports the ability of parents to evaluate and choose child care and early years programs and services” and improve “the ability to evaluate the effectiveness of the child care and early years programs and services” (s. 1). The Act also asserts appropriate and accountable use of public funding for ELCC programs and services as matters of provincial interest (*Child Care and Early Years Act*, 2014). Specific to First Nations ELCC programs and services, the Act protects the right of First Nations communities to collect personal information, directly or indirectly, for the purpose of establishing, planning, delivering, operating, funding, evaluating, monitoring, or allocating resources to ELCC programs and services, as well as determining recipient eligibility for financial assistance, improving service quality, and other administrative functions.

First Nations ELCC principle no. 6

No jurisdiction in Canada was found to contain clauses of explicit relevance to the sixth First Nations ELCC principle, which centres around collaborations and partnerships to support the “establishment of a coordinated, integrated First Nations-led ELCC system of policies, programs, services and supports, including national and regional linkages between relevant departments, governments, nations, and related sectors” (ESDC, 2018, p. 11). Generally, measures to support collaborative partnerships and linkages between national and regional entities for the purpose of First Nations-led ELCC systems do not exist in PT ELCC legislation. ELCC parent or advisory boards or committees offer an avenue to support cross-sector collaboration; however, very few jurisdictions specify cross-sector membership or collaboration as a requirement or recommendation for the composition of these bodies. For instance, while MB’s ELCC Act and NS’s ELCC regulations establish provincial advisory councils (the Child Care Qualifications and Training Advisory Council in MB) and committees (a licensing review committee, task force, or advisory committee in NS), neither jurisdiction specifies cross-sectoral membership or collaboration to

form such bodies. Some direction in this regard, however, may be provided by QC and the YK. In recalling that QC and the YK were the only two jurisdictions to require First Nations participation in ELCC boards – child care centre Board of Directors in QC and the Yukon Child Care Board in the YK – QC’s *Educational Childcare Act* does require that a child care centre’s Board of Directors includes at least one of its seven members “from the business sector or the institutional, social, education or community sector” (s. 7); while the YK’s *Child Care Act* requires that membership of the Yukon Child Care Board “reflects the cultural, regional and gender diversity of Yukon” (s. 4).

There are also lawful arrangements in which First Nations in BC, SK, ON, QC, and the YK may administer programs under their respective PT Acts or collaborate in PT decision-making processes, as prescribed by ELCC legislation in ON, QC, and BC (see the related discussion above). However, unless otherwise negotiated, these arrangements do not suggest involvement of other government ministries or departments. Colonial approaches to government structures and societal endeavors are traditionally siloed, with ELCC programs being no exception. For example,

in AB and QC, ministerial departments responsible for ELCC programs and services are siloed from those areas responsible for education (kindergarten to secondary), despite the inherent connection between the two sectors. Until only recently in 2022, BC transferred its child care operations to its Ministry of Education, symbolizing the integral role and place child care has in influencing a child’s trajectory in learning and educational success (Early Childhood Educators of BC, 2022).

The agreements signed between federal, PT, and Indigenous governments as part of the anticipated Canada-Wide ELCC system may offer another avenue for collaboration in support of First Nations-led systems. In recent years, all provinces and territories – apart from an asymmetrical agreement in QC – have signed agreements with the federal government spanning from 2021 to 2026 (Government of Canada, 2023b). These agreements set out to support a national ELCC strategy to promote and prioritize accessible, affordable, inclusive, and high quality community-based child care. The agreements acknowledge the ESDC’s Indigenous ELCC framework (2018), with each

signatory province and territory supporting Indigenous-led ELCC, to some degree.

Bill C-35, the *Canada Early Learning and Child Care Act*, was introduced in 2022 to enshrine the Liberal government’s commitment to the Canada-wide ELCC strategy in law and prevent any disruptions to the strategy’s goals, government supports, and allocated funding. The Bill received royal assent on March 19, 2024. With it, a National Advisory Council on ELCC was established to advise the federal government and consult with stakeholders, including parents, caregivers, and the early childhood education workforce, on matters related to ELCC across the country. Annual reporting was also mandated to track progress on the Act’s implementation. The *Canada ELCC Act* was implemented in recognition of international human and children’s rights, and the United Nations Declaration on the Rights of Indigenous Peoples.

It holds federal investments into ELCC accountable to the IELCC framework, including the First Nations ELCC framework principles (Fryer et al. 2023). As such, this Act coupled with the Canada-Wide Agreements may be leveraged as policy instruments to carry forward the sixth First Nations ELCC principle (to review agreements see: Government of Canada, 2023b).

The Canada-Wide Agreements hold all signatory jurisdictions accountable to work collaboratively and in partnerships with Indigenous communities, governments, and organizations to support Indigenous children’s and families’ access to culturally appropriate, high quality, and affordable ELCC programs and services (BC, AB, SK, MB, ON, NB, NS, PEI, NL, YK, NWT, NU).⁷ This requirement is built on the Truth and Reconciliation Commission (TRC) of Canada’s Call to Action no. 12, which calls for “federal, provincial, territorial, and Aboriginal governments to

develop culturally appropriate early childhood education programs for Aboriginal families” (TRC, 2015, p. 2). In some jurisdictions, this term of the agreement amounts to collaborative research with First Nations governments to identify the ELCC needs of Indigenous communities (such as in NL) or investments in Indigenous-led ELCC programs (BC) and culturally appropriate early childhood learning and development curriculum that is rooted in Indigenous knowledges, teachings, and perspectives (MB). Other jurisdictions are expected to develop plans with First Nations communities for ELCC programs and services, the details of which remain uncertain. Still, with these agreements and the *Canada ELCC Act* in mind, an assessment of each jurisdiction’s commitment to the sixth principle may be better assessed upon evaluation of their agreement’s implementation.



⁷ QC is excluded from this requirement as collaborations with First Nations are not included as a term to its Asymmetrical Agreement with the Government of Canada.

First Nations ELCC principle no. 7

The seventh and final principle of the First Nations ELCC framework encompasses national, regional, and community level support for First Nations communities “to successfully establish and guide First Nations ELCC systems” (ESDC, 2018, p. 11). This principle could be considered an overlap to other principles that are addressed by arrangements in BC, QC, SK, ON, and the YK for First Nations to design and operate their own ELCC programs and services under PT legislation. Additional provisions may also apply to this First Nations ELCC principle, such as with data sharing and funding arrangements in BC, ON, and MB.

ELCC legislation in BC and ON prescribe First Nations’ authority to collect information for the purpose of administrating ELCC programs. This authority is embedded within ON’s ELCC legislation. In BC, the authority stems from information-sharing agreements between the minister responsible for ELCC legislation and a legal entity representing a First Nations community. Depending on the terms of the agreement, this arrangement has the potential to support

First Nations data governance with regards to operating ELCC programs and services, and First Nations communities may build their capacity to plan and deliver programs and services according to their respective community-based needs and strengths.

In SK, NB, MB, BC, and NWT, ELCC program capacity is supported by ministerial grants, such as the staff tuition, wage enhancement, training, and quality improvement grants described in principle no. 3 above. Additionally, MB offers staff replacement grants in its regulations to support ELCC programs in filling voids for ELCC staff attending education, training, or professional development opportunities. The staff replacement grant may also be used to enhance on-reserve ELCC programs through education and skills training, without compromising the program’s staffing capacity. Alongside these grants, funding pools tailored to support First Nations capacity building in ELCC are found in ON, MB, BC, and NWT. For example, MB’s ELCC Act authorizes distinct grants to “support a licensed child care centre that

is established or maintained by [...] an Indigenous governing body” (s. 31.1), while ON’s ELCC regulations provide for distinct funding agreements between the province and First Nations operating ELCC programs in their communities. Under these agreements, the amount payable to First Nations communities is 80% of the net cost of providing ELCC services, although this value may increase to 100% of net costs when providing ELCC to children with additional needs. In BC and NWT, funding programs for Indigenous peoples broadly are available – such as wage bonuses for Indigenous ELCC staff in NWT and child care grants “to facilitate the design or delivery of child care by Indigenous peoples for Indigenous peoples” in BC (*Early Learning and Child Care Act*, s. 3).



SUMMARY OF FINDINGS AND FINAL REFLECTIONS



ELCC legislation and regulations across the provinces and territories tell a story of how and to what extent First Nations' governance of ELCC programs and services is upheld and supported, particularly with respect to development and implementation of culturally appropriate programs grounded in First Nations knowledges, languages, and cultures. All provinces and territories, with the exception of NS, have some form of arrangement to lend or transfer control of ELCC programs from the province or territory to First Nations governing bodies, with such arrangements bound by legislation in BC, QC, SK, ON, and the YK. The ways in which First Nations governance in ELCC programs may be exercised starts a new chapter of the story: legislation in the YK and ON promote First Nations' approaches to early learning and development programs, although without prescribed instruction; QC and the YK require First Nations' participation on ELCC boards of directors; ON, QC, and BC create space for First Nations communities in decision-making procedures regarding ELCC programs; and the YK, ON, and BC uphold First Nations' land claims and self-government agreements, First Nations' by-laws, and Indigenous laws ahead of their PT ELCC provisions, respectively.


The ESDC's Indigenous ELCC Framework offers guidance in navigating PT ELCC legislation and regulations and their applicability to First Nations early childhood learning and development (ESDC, 2018). The framework also helps to enhance understanding of the legislative complexity that underpins culturally appropriate ELCC programming for First Nations families on reserve. All provinces and territories contain provisions

to support well-funded, diverse, and high-quality programs (aspects of principle no. 3), with some degree of transparency and accountability (principle no. 5). Apart from PEI and NL, provinces and territories also have regulated measures to ensure ELCC programs are accessible and affordable for First Nations families through grants and subsidies (principle no. 4). Most provinces and territories prescribe provisions to build the ELCC capacities of First Nations communities (principle no. 7, found in BC, SK, MB, ON, QC, NB, NWT, and the YK), as well as ensure representation of First Nations knowledges, languages, and cultures in ELCC programs (principle no. 1, found in AB, ON, QC, NB, NL, YK, and NWT). First Nations' control of ELCC programs was mainly addressed through legislation in BC, SK, ON, QC, and YK (principle no. 2), but no province or territory was found to lend clear or explicit support for First Nations-led ELCC systems, specifically through collaborative partnerships or inter-governmental linkages required by legislation (principle no. 6).

Two notable gaps emerged from this review: the absence of leadership from First Nations Elders and Knowledge Keepers in ELCC legislation and regulations – called for in the third First Nations ELCC principle – and the lack of intergovernmental collaboration between the provinces and territories and First Nations communities, demonstrated by the siloes in which a transfer of ELCC control operates. In the Canada-Wide Early Learning and Child Care Agreements, provinces and territories recognize the Indigenous ELCC framework as a guide for working with

Indigenous communities to achieve affordable, high-quality, and culturally appropriate ELCC. The evidence and gaps discussed in this report may assist this work by highlighting key areas within the Indigenous ELCC framework that require greater attention to fulfill PT commitments to quality ELCC programs for First Nations families on reserve.

The information presented in this report provides a statutory backbone to inform and guide the work of jurisdictions, researchers, and policymakers in establishing First Nations-led ELCC systems. Whether driven by the vast developmental outcomes from early learning programs grounded in First Nations cultures and languages, or the importance that First Nations caregivers place on having their children learn about their traditional teachings and languages at their regular child care, there is a need to support this work (FNIGC, 2018; Halseth & Greenwood, 2019). Further research must fully discern the elements and characteristics of *quality* ELCC for First Nations families and communities. This includes finding voice and depth through qualitative methods to not only identify and explore the underlying complexities of the issues in this area, but also to understand and appreciate the development and implementation of First Nations-led ELCC programs.



The information presented in this report provides a statutory backbone to inform and guide the work of jurisdictions, researchers, and policymakers in establishing First Nations-led ELCC systems. Whether driven by the vast developmental outcomes from early learning programs grounded in First Nations cultures and languages, or the importance that First Nations caregivers place on having their children learn about their traditional teachings and languages at their regular child care, there is a need to support this work

(FNIGC, 2018; Halseth & Greenwood, 2019).

REFERENCES



- Beach J., Friendly, M., Nguyen, N., Nogueira, P. B., Taylor, M., Mohamed, S., Rotherman, L., & Forer, B. (2021). *Early childhood education and care in Canada, 13th edition*. Childcare Resource and Research Unit. https://childcarecanada.org/sites/default/files/Early-Childhood-Education-and-Care-2021_0.pdf
- British Columbia (BC) Ministry of Education., BC Ministry of Health., BC Ministry of Children and Family Development., & BC Early Learning Advisory Group. (2019). *British Columbia Early Learning Framework*. Government of British Columbia. https://www2.gov.bc.ca/assets/gov/education/early-learning/teach/earlylearning/early_learning_framework.pdf
- Canada Early Learning and Child Care Act*, S.C. 2024, c. 2. (Canada)
- Child Care Act*, RSY 2002, c. 30. (Yukon)
- Child Care and Early Years Act*, S.O. 2014, c. 11. (Ontario)
- Child Care and Early Years Act*, S.O. 2014, c. 11. (Ontario Regulation 137/15). (Ontario)
- Child Care Regulations, 2015, c-7.31 (Saskatchewan Reg 1). (Saskatchewan)
- Community Care and Assisted Living Act*, S.B.C. 2002, c. 75. (British Columbia)
- Community Child Care Standards Act*, C.C.S.M. 1987, c. C158. (Manitoba)
- Constitution Act*, 1867, 30 & 31 Vict, c 3.
- Dhuey, E. (2024). Will the increased investment in early childhood education and care in Canada pay off? It depends! *Canadian Public Policy*, 50(S1), 103-126.
- Early Childhood Educators of BC. (2022). *For immediate release: Child care moved to the Ministry of Education*. <https://www.ecebc.ca/news-events/updates-announcements/immediate-release-child-care-moved-ministry-education>
- Early Learning and Child Care Act*, S.B.C. 2021, c. 22. (British Columbia)
- Early Learning and Child Care Act*, RSNWT 2023, c. C-5. (Northwest Territories)
- Early Learning and Child Care Regulation, 2024, Reg 189. (British Columbia)
- Educational Childcare Act*, CQLR 2005, c. S-4.1.1. (Québec)
- Employment and Social Development Canada (ESDC). (2018). *Indigenous early learning and child care framework*. Government of Canada. https://www.canada.ca/content/dam/canada/employment-social-development/programs/indigenous-early-learning/1352-IELCC_Report-EN.pdf
- First Nations Information Governance Centre (FNIGC). (2016). *Now is the time: Our data, our stories, our future. The National report of the First Nations regional early childhood, education, and employment survey*. https://fnigc.ca/wp-content/uploads/2020/09/fnigc_fnreecs_national_report_2016_en_final.pdf
- First Nations Information Governance Centre (FNIGC). (2018). *Understanding child care in First Nations communities*. FNIGC Research Series. https://fnigc.ca/wp-content/uploads/2020/09/bd344e1dba275b7a507ecc2322bce7db_fnigc_research_series_child_care_en_final.pdf
- Flanagan, K. (2011). *PEI Early Learning Framework: Relationships, Environments, Experiences*. PEI Department of Education and Early Childhood Development. https://www.princeedwardisland.ca/sites/default/files/publications/eecd_eyfwrk_full.pdf
- Fryer, S., Perez-Leclerc, M., & Preston, V. (2023). *Bill C-35: An Act respecting early learning and child care in Canada. Legislative summary*. Library of Parliament.
- Government of Alberta (AB). (2018). *Children's service: Annual report 2017-18*. Alberta Children's Services Communications. <https://open.alberta.ca/dataset/476d1e4b-bdfa-4330-a88a-79bdacee1a9a/resource/4954b31c-add8-429f-91d5-57462c148cf9/download/childrensservices-annual-report-2017-2018.pdf>
- Government of Canada. (2022a). *Canada-Newfoundland and Labrador Canada-Wide Early Learning and Child Care Agreement*. <https://www.canada.ca/en/early-learning-child-care-agreement/agreements-provinces-territories/newfoundland-labrador-canada-wide-2021.html>
- Government of Canada. (2022b). *Canada-Prince Edward Island Canada-wide Early Learning and Child Care Agreement*. <https://www.canada.ca/en/early-learning-child-care-agreement/agreements-provinces-territories/prince-edward-island-canada-wide-2021.html>

- Government of Canada. (2023a). *Canada-Manitoba Canada-Wide Early Learning and Child Care Agreement*. <https://www.canada.ca/en/early-learning-child-care-agreement/agreements-provinces-territories/manitoba-canada-wide-2021.html>
- Government of Canada. (2023b). *Early learning and child care agreements*. <https://www.canada.ca/en/early-learning-child-care-agreement/agreements-provinces-territories.html>
- Government of Newfoundland and Labrador (NL). (2022). *Early learning and child development: Child care capacity initiative: Program for centre-based child care*. Department of Education. <https://www.gov.nl.ca/education/files/Child-Care-Capacity-Initiative-Program-Policy-Document-2022-08-19.pdf>
- Government of Northwest Territories (NWT). (n.d.). *Licensed early learning and child care programs directory*. <https://www.ece.gov.nt.ca/en/childcare>
- Government of Prince Edward Island (PEI). (2023). *Early years centre designation criteria*. Department of Education and Early Years. https://www.princeedwardisland.ca/sites/default/files/forms/eyc_criteria_march_2023.pdf
- Halseth, R., & Greenwood, M. (2019). *Indigenous early childhood development in Canada: Current state of knowledge and future directions*. National Collaborating Centre for Indigenous Health.
- Healthy Child Manitoba. (2008). *On the road to best practice: Recommended guidelines for parent child programs*. https://www.gov.mb.ca/healthychild/parentchild/pcc_bestpractices_2008.pdf
- Indigenous Services Canada (ISC). (2021). *First Nations Head Start – Standards guide*. Government of Canada. <https://www.sac-isc.gc.ca/eng/1582215017700/1582215088300>.
- Indigenous Services Canada (ISC). (2023). *An update on the socio-economic gaps between Indigenous Peoples and the non-Indigenous population in Canada: Highlights from the 2021 Census*. Government of Canada. <https://www.sac-isc.gc.ca/eng/1690909773300/1690909797208>
- MacIntyre, C. (2022). Early childhood learning program with a First Nations approach proving popular in Yukon. *CBC News*, April 25.
- National Collaborating Centre for Indigenous Health (NCCIH). (In press). Integration of First Nations/ Indigenous knowledges, worldviews, and perspectives in ELCC education and training programs across Canada. In *Quality care and young First Nations children: An exploration of optimal learning and development in early childhood settings on reserve*. NCCIH.
- Newfoundland and Labrador (NL) Department of Education. (2019). *Navigating the early years: An early childhood learning framework*. <https://www.gov.nl.ca/education/files/Early-Learning-Framework.pdf>
- Newfoundland and Labrador (NL) Department of Education. (2022). *Pre-kindergarten pilot set to create approximately 600 regulated early learning spaces in 2022-23*. <https://www.gov.nl.ca/releases/2022/exec/0526n01/>
- Nipissing First Nation. (n.d.). *Child Care Centres*. <https://nfn.ca/daycares/>
- Nova Scotia (NS) Department of Education and Early Childhood Development. (2018). *Capable, confident, and curious: Nova Scotia's early learning curriculum framework*. <https://www.ednet.ns.ca/docs/nselcurriculumframework.pdf>
- Richardson, B., & Langford, R. (2018). Early childhood education and care in Canada: Consistently inconsistent childcare policy. In Garvis, S., Phillipson, S., & Harju-Luukkainen, H. (Eds.), *International perspectives on early childhood education and care* (pp. 20-33). Routledge.
- Royal Commission on Aboriginal Peoples (RCAP). (1996). *Gathering strength. Report of the Royal Commission on Aboriginal Peoples, Volume 3*. Government of Canada. <https://caid.ca/RRCAP3.5.pdf>
- Statistics Canada. (2023). *Census in brief: Indigenous languages across Canada. Census of Population, 2021*. Government of Canada. <https://www12.statcan.gc.ca/census-recensement/2021/as-sa/98-200-x/2021012/98-200-x2021012-eng.pdf>
- Truth and Reconciliation Commission of Canada (TRC). (2015). *Calls to Action*. Truth and Reconciliation Commission of Canada. https://ehprnh2mwo3.exactdn.com/wp-content/uploads/2021/01/Calls_to_Action_English2.pdf
- White, L. A. (2002). Ideas and the welfare state: Explaining child care policy development in Canada and the United States. *Comparative Political Studies*, 35(6), 713-743.



