

## **INFORMATION NOTE**

### **EDUCATION SERVICE AGREEMENTS (ESAs)/REVERSE EDUCATION SERVICE AGREEMENTS (RESAs)**

#### **PURPOSE:**

- To provide background, chronology, and next steps for the work around ESA's/RESA's

#### **KEY INFORMATION:**

- Education Services Agreements (ESAs) and Reverse Education Services Agreements (RESAs) are contractual agreements between school boards and First Nations, including First Nation education authorities.
- The Ontario Education Act is the legislation that speaks to how boards may enter into agreements with First Nations. Ontario regulations describe the “how”, including how fees are calculated.
- The Ministry of Education is not party to ESAs or RESAs
- Recently, both boards and First Nations have identified areas for further discussion and alignment, including the calculation of fees, which is guided by specific regulation, and more specific issues in developing RESAs.
- Ministry of Education receives the advice and recommendations of the ESA/RESA Working Group (see below) on ESAs and RESAs.

#### **BACKGROUND:**

- The 2012 All Chiefs Resolution #12/39 called for the ministry to work with First Nations on RESAs.
- In 2013, the Ministry of Education collaborated with Ontario First Nation partners, the Ontario Public School Boards Association, and Aboriginal Affairs and Northern Development Canada on the development of ESAs/RESAs through The Education Services (Tuition) Agreement Guide.
- In September 2017, the Ministry of Education published a Board Memorandum informing boards of the Ministry's intention to propose legislative changes to the Education Act following engagement with First Nation partners and education stakeholders, and strongly encouraged boards to begin discussions with First Nations and education authorities interested in developing RESAs with them.

- Due to the complexity of some of the outstanding challenges, further in-depth discussion with partners and stakeholders was found necessary.
- In fall 2017, a working group was established with representatives from First Nations across Ontario, Trustee and School Board associations, and Ministry of Education staff (including the Indigenous Education Office, Education Finance Branch, Special Education/ Success for All Branch, and Legal Services Branch) to advise on issues related to Education Services Agreements (ESAs) and Reverse Education Services Agreements (RESAs). This working group has been developing policy and legislative options to enhance opportunities for First Nation learners to choose the educational path that best meets their needs and well-being.
- In January 2018, the ESA/RESA working group supported an alternative formula-based approach to ESAs and RESAs referred to as the Reciprocal Education Approach (REA). This approach is intended to improve access and reduce barriers for First Nation students who wish to attend First Nation schools or provincially funded schools, and for students transitioning between school systems.
- On March 28, 2018, amendments to the Ontario Education Act, [in the form of Schedule 9 to Bill 31, Plan for Care and Opportunity Act (Budget Measures), 2018,] were introduced in the Legislative Assembly. If passed by the Legislature, the proposed amendments would set out the legislative framework for the REA, including authorizing the Lieutenant Governor in Council (LGIC) to make new regulations under the Education Act to support implementation. If the amendments are passed, it is expected that the Working Group would work over the coming months to develop and propose the content of regulations to implement this new approach.
- The proposed legislative changes are intended to support First Nation students and their educational pathways, through productive and positive partnerships between First Nations and School Boards that focus on student success and well-being.

### ESA/RESA Working Group Discussion Synopsis

- Currently, the approach to facilitating First Nation on-reserve students attending board schools, and pupils of the board attending First Nations schools has been for First Nations and school boards to enter into ESAs and RESAs. Many of these agreements have evolved into very relevant, forward-thinking documents that speak to data-sharing, unique supports for student success, and the increased presence of Indigenous cultures and languages in all schools, amongst other matters. In some instances however, there have been challenges associated with developing these agreements, such as discussions around special education fees, and challenges getting RESAs in place. Should the proposed amendments to the Education Act be passed and proclaimed, this model will change.

- The ESA/RESA Working Group is currently moving through discussions on what new regulations would entail under the REA, and is building on the process for existing and new entities.
- The Working Group is developing recommendations on the regulations under the proposed amendment, including:
  - a) school eligibility (for REA) criteria including how the school is validated by the First Nation)<sup>1</sup>;
  - b) the written notice process;
  - c) the process of transitions;
  - d) calculation of fees and which programs/services should be included ; and,
  - e) special education (Special Incidence Portion and Special Equipment Amounts) amounts and costing.

The Working Group is a joint effort, with learning occurring by all parties. One of the most important areas of discussion is how Indigenous culture and languages are honoured in this process and how they are respectfully referenced and included in the discussions and to inform the work.

The timeline of the next phase of the work will be determined by the proposed amendments to the Education Act as described above and by the Working Group when it meets again after the election. This working group is open to additional members of First Nation Communities.

#### **ATTACHMENTS:**

- Appendix A – Qs and As on Reciprocal Education Approach

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<sup>1</sup> Under the proposed amendments to the *Education Act*, a board would be required to provide for the admission of a pupil of the board (and other prescribed pupils) to a *prescribed school*, in specified circumstances. A ***prescribed school*** would be described in regulations and would need to be operated by a band, a council of a band, the Crown in right of Canada, a *prescribed entity* or an education authority that is authorized by the Crown in right of Canada.