

## SCHEDULE “N”

### **MANDATE FOR THE TRUTH AND RECONCILIATION COMMISSION**

*There is an emerging and compelling desire to put the events of the past behind us so that we can work towards a stronger and healthier future. The truth telling and reconciliation process as part of an overall holistic and comprehensive response to the Indian Residential School legacy is a sincere indication and acknowledgement of the injustices and harms experienced by Aboriginal people and the need for continued healing. This is a profound commitment to establishing new relationships embedded in mutual recognition and respect that will forge a brighter future. The truth of our common experiences will help set our spirits free and pave the way to reconciliation.*

#### **Principles**

Through the Agreement, the Parties have agreed that an historic Truth and Reconciliation Commission will be established to contribute to truth, healing and reconciliation.

The Truth and Reconciliation Commission will build upon the “Statement of Reconciliation” dated January 7, 1998 and the principles developed by the Working Group on Truth and Reconciliation and of the Exploratory Dialogues (1998-1999). These principles are as follows: accessible; victim-centered; confidentiality (if required by the former student); do no harm; health and safety of participants; representative; public/transparent; accountable; open and honourable process; comprehensive; inclusive, educational, holistic, just and fair; respectful; voluntary; flexible; and forward looking in terms of rebuilding and renewing Aboriginal relationships and the relationship between Aboriginal and non-Aboriginal Canadians.

Reconciliation is an ongoing individual and collective process, and will require commitment from all those affected including First Nations, Inuit and Métis former Indian Residential School (IRS) students, their families, communities, religious entities, former school employees, government and the people of Canada. Reconciliation may occur between any of the above groups.

#### **Terms of Reference**

##### **1. Goals**

The goals of the Commission shall be to:

- (a) Acknowledge Residential School experiences, impacts and consequences;
- (b) Provide a holistic, culturally appropriate and safe setting for former students, their families and communities as they come forward to the Commission;
- (c) Witness, support, promote and facilitate truth and reconciliation events at both the national and community levels;
- (d) Promote awareness and public education of Canadians about the IRS system and its impacts;
- (e) Identify sources and create as complete an historical record as possible of the IRS system and legacy. The record shall be preserved and made accessible to the public for future study and use;

- (f) Produce and submit to the Parties of the Agreement<sup>2</sup> a report including recommendations<sup>3</sup> to the Government of Canada concerning the IRS system and experience including: the history, purpose, operation and supervision of the IRS system, the effect and consequences of IRS (including systemic harms, intergenerational consequences and the impact on human dignity) and the ongoing legacy of the residential schools;
- (g) Support commemoration of former Indian Residential School students and their families in accordance with the Commemoration Policy Directive (Schedule “X” of the Agreement).

## **2. Establishment, Powers, Duties and Procedures of the Commission**

The Truth and Reconciliation Commission shall be established by the appointment of “the Commissioners” by the Federal Government through an Order in Council, pursuant to special appointment regulations.

Pursuant to the Court-approved final settlement agreement and the class action judgments, the Commissioners:

- (a) in fulfilling their Truth and Reconciliation Mandate, are authorized to receive statements and documents from former students, their families, community and all other interested participants, and, subject to (f), (g) and (h) below, make use of all documents and materials produced by the parties. Further, the Commissioners are authorized and required in the public interest to archive all such documents, materials, and transcripts or recordings of statements received, in a manner that will ensure their preservation and accessibility to the public and in accordance with access and privacy legislation, and any other applicable legislation;

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1. This refers to the Aboriginal principle of “witnessing”.

2. The Government of Canada undertakes to provide for wider dissemination of the report pursuant to the recommendations of the Commissioners

3. The Commission may make recommendations for such further measures as it considers necessary for the fulfillment of the Truth and Reconciliation Mandate and goals.

- (b) shall not hold formal hearings, nor act as a public inquiry, nor conduct a formal legal process;
- (c) shall not possess subpoena powers, and do not have powers to compel attendance or participation in any of its activities or events. Participation in all Commission events and activities is entirely voluntary;
- (d) may adopt any informal procedures or methods they may consider Expedient for the proper conduct of the Commission events and activities, so long as they remain consistent with the goals and provisions set out in the Commission’s mandate statement;
- (e) may, at its discretion, hold sessions in camera, or require that sessions be held in camera;

- (f) shall perform their duties in holding events, in activities, in public meetings, in consultations, in making public statements, and in making their report and recommendations without making any findings or expressing any conclusion or recommendation, regarding the misconduct of any person, unless such findings or information has already been established through legal proceedings, by admission, or by public disclosure by the individual. Further, the Commission shall not make any reference in any of its activities or in its report or recommendations to the possible civil or criminal liability of any person or organization, unless such findings or information about the individual or institution has already been established through legal proceedings;
- (g) shall not, except as required by law, use or permit access to statements made by individuals during any of the Commissions events, activities or processes, except with the express consent of the individual and only for the sole purpose and extent for which the consent is granted;
- (h) shall not name names in their events, activities, public statements, report or recommendations, or make use of personal information or of statements made which identify a person, without the express consent of that individual, unless that information and/or the identity of the person so identified has already been established through legal proceedings, by admission, or by public disclosure by that individual. Other information that could be used to identify individuals shall be anonymized to the extent possible;
- (i) notwithstanding (e), shall require in camera proceedings for the taking of any statement that contains names or other identifying information of persons alleged by the person making the statement of some wrong doing, unless the person named or identified has been convicted for the alleged wrong doing. The Commissioners shall not record the names of persons so identified, unless the person named or identified has been convicted for the alleged wrong doing. Other information that could be used to identify said individuals shall be anonymized to the extent possible;
- (j) Shall not, except as required by law, provide to any other proceeding, or for any other use, any personal information, statement made by the individual or any information identifying any person, without that individual's express consent;
- (k) shall ensure that the conduct of the Commission and its activities do not jeopardize any legal proceeding;
- (l) may refer to the NAC for determination of disputes involving document production, document disposal and archiving, contents of the Commission's Report and Recommendations and Commission decisions regarding the scope of its research and issues to be examined. The Commission shall make best efforts to resolve the matter itself before referring it to the NAC.

3. **Responsibilities**

In keeping with the powers and duties of the Commission, as enumerated in section 2 above, the Commission shall have the following responsibilities:

- (a) to employ interdisciplinary, social sciences, historical, oral traditional and archival methodologies for statement-taking, historical fact-finding and analysis, report-writing, knowledge management and archiving;
- (b) to adopt methods and procedures which it deems necessary to achieve its goals;
- (c) to engage the services of such persons including experts, which it deems necessary to achieve its goals;
- (d) to establish a research centre and ensure the preservation of its archives;
- (e) to have available the use of such facilities and equipment as is required, within the limits of appropriate guidelines and rules;
- (f) to hold such events and give such notices as appropriate. This shall include such significant ceremonies as the Commission sees fit during and at the conclusion of the 5 year process;
- (g) to prepare a report;
- (h) to have the report translated in the two official languages of Canada and all or parts of the report in such Aboriginal languages as determined by the Commissioners;
- (i) to evaluate commemoration proposals in line with the Commemoration Policy Directive (Schedule "X" of the Agreement).

4. **Exercise of Duties**

As the Commission is not to act as a public inquiry or to conduct a formal legal process, it will, therefore, not duplicate in whole or in part the function of criminal investigations, the Independent Assessment Process, court actions, or make recommendations on matters already covered in the Agreement. In the exercise of its powers the Commission shall recognize:

- (a) the unique experiences of First Nations, Inuit and Métis former IRS students, and will conduct its activities, hold its events, and prepare its Report and Recommendations in a manner that reflects and recognizes The unique experiences of all former IRS students;
- (b) that the truth and reconciliation process is committed to the principle of voluntariness with respect to individuals' participation;
- (c) that it will build upon the work of past and existing processes, archival records, resources and documentation, including the work and records of

the *Royal Commission on Aboriginal Peoples* of 1996;

- (d) the significance of Aboriginal oral and legal traditions **in** its activities;
- (e) that as part of the overall holistic approach to reconciliation and healing, the Commission should reasonably coordinate with other initiatives under the Agreement and shall acknowledge links to other aspects of the Agreement such that the overall goals of reconciliation will be promoted;
- (f) that all individual statements are of equal importance, even if these statements are delivered after the completion of the report;
- (g) that there shall be an emphasis on both information collection storage  
And information analysis.

## 5. **Membership**

The Commission shall consist of an appointed Chairperson and two Commissioners, who shall be persons of recognized integrity, stature and respect.

- (a) Consideration should be given to at least one of the three members being an Aboriginal person;
- (b) Appointments shall be made out of a pool of candidates nominated by former students, Aboriginal organizations, churches and government;
- (c) The Assembly of First Nations (AFN) shall be consulted in making the final decision as to the appointment of the Commissioners.

## 6. **Secretariat**

The Commission shall operate through a central Secretariat.

- (a) There shall be an Executive Director in charge of the operation of the Commission who shall select and engage staff and regional liaisons;
- (b) The Executive Director and the Secretariat shall be subject to the direction and control of the Commissioners;
- (c) The Secretariat shall be responsible for the activities of the Commission such as:
  - (i) research;
  - (ii) event organization;
  - (iii) statement taking/truth-sharing;
  - (iv) obtaining documents;

- (v) information management of the Commission's documents;
  - (vi) production of the report;
  - (vii) ensuring the preservation of its records;
  - (viii) evaluation of the Commemoration Policy Directive proposals.
- (d) The Executive Director and Commissioners shall consult with the Indian Residential School Survivor Committee on the appointment of the Regional Liaisons.
- (e) Regional liaisons shall:
- (i) act as knowledge conduits and promote sharing of knowledge among communities, individuals and the Commission;
  - (ii) provide a link between the national body and communities for the purpose of coordinating national and community events;
  - (iii) provide information to and assist communities as they plan truth and reconciliation events, coordinate statement-taking/truth-sharing and event-recording, and facilitate information flow from the communities to the Commission.

## 7. **Indian Residential School Survivor Committee (IRSSC)**

The Commission shall be assisted by an Indian Residential School Survivor Committee (IRSSC).

- (a) The Committee shall be composed of 10 representatives drawn from various Aboriginal organizations and survivor groups. Representation shall be regional, reflecting the population distribution of Indian Residential Schools (as defined in the Agreement). The majority of the representatives shall be former residential school students;
- (b) Members of the Committee shall be selected by the Federal Government, in consultation with the AFN, from a pool of eligible candidates developed by the stakeholders;
- (c) Committee members are responsible for providing advice to the Commissioners on:
  - (i) the characteristics of a "community" for the purposes of participation in the Commission processes;
  - (ii) the criteria for the community and national processes;
  - (iii) the evaluation of Commemoration Policy Directive proposals;

- (iv) such other issues as are required by the Commissioners.

## 8. **Timeframe**

The Commission shall complete its work within five years. Within that five year span, there are two timelines:

### Two Year Timeline

- (a) Preparation of a budget within three months from being launched, under the budgetary cap provision in the Agreement;
- (b) Completion of all national events, and research and production of the report on historic findings and recommendations, within two years of the launch of the Commission, with the possibility of a 6 month extension, which shall be at the discretion of the Commissioners.

### Five Year Timeline

- (a) Completion of the community truth and reconciliation events, statement taking/truth sharing, reporting to the Commission from communities, and closing ceremonies;
- (b) Establishment of a research centre.

## 9. **Research**

The Commission shall conduct such research, receive and take such statements and consider such documents as it deems necessary for the purpose of achieving its goals.

## 10. **Events**

There are three essential event components to the Truth and Reconciliation Commission: National Events, Community Events and Individual Statement-Taking/Truth Sharing. The Truth and Reconciliation process will be concluded with a final Closing Ceremony.

### (A) **National Events**

The national events are a mechanism through which the truth and reconciliation process will engage the Canadian public and provide education about the IRS system, the experience of former students and their families, and the ongoing legacies of the institutions.

The Commission shall fund and host seven national events in different regions across the country for the purpose of:

- (a) sharing information with/from the communities;
- (b) supporting and facilitating the self empowerment of former IRS students and those affected by the IRS legacy;

- (c) providing a context and meaning for the Common Experience Payment;
- (d) engaging and educating the public through mass communications;
- (e) otherwise achieving its goals.

The Commission shall, in designing the events, include in its consideration the history and demographics of the IRS system.

National events should include the following common components:

- (f) an opportunity for a sample number of former students and families to share their experiences;
- (g) an opportunity for some communities in the regions to share their experiences as they relate to the impacts on communities and to share insights from their community reconciliation processes;
- (h) an opportunity for participation and sharing of information and knowledge among former students, their families, communities, experts, church and government officials, institutions and the Canadian public;
- (i) ceremonial transfer of knowledge through the passing of individual-statement transcripts or community reports/statements. The Commission shall recognize that ownership over IRS experiences rests with those affected by the Indian Residential School legacy;
- (j) analysis of the short and long term legacy of the IRS system on individuals, communities, groups, institutions and Canadian society including the intergenerational impacts of the IRS system;
- (k) participation of high level government and church officials;
- (l) health supports and trauma experts during and after the ceremony for all participants.

#### **(B) Community Events**

It is intended that the community events will be designed by communities and respond to the needs of the former students, their families and those affected by the IRS legacy including the special needs of those communities where Indian Residential Schools were located.

The community events are for the purpose of:

- (a) acknowledging the capacity of communities to develop reconciliation practices;
- (b) developing collective community narratives about the impact of the IRS system on former students, families and communities;



- (c) involving church, former school employees and government officials in the reconciliation process, if requested by communities;
- (d) creating a record or statement of community narratives – including truths, insights and recommendations - for use in the historical research and report, national events, and for inclusion in the research centre;
- (e) educating the public and fostering better relationships with local communities;
- (f) allowing for the participation from high level government and church officials, if requested by communities;
- (g) respecting the goal of witnessing in accordance with Aboriginal principles.

The Commission, during the first stages of the process in consultation with the IRSSC, shall develop the core criteria and values consistent with the Commission’s mandate that will guide the community processes.

Within these parameters communities may submit plans for reconciliation processes to the Commission and receive funding for the processes within the limits of the Commission’s budgetary capacity.

**(C) Individual Statement-Taking/Truth Sharing**

The Commission shall coordinate the collection of individual statements by written, electronic or other appropriate means. Notwithstanding the five year mandate, anyone affected by the IRS legacy will be permitted to file a personal statement in the research centre with no time limitation.

The Commission shall provide a safe, supportive and sensitive environment for individual statement-taking/truth sharing.

The Commission shall not use or permit access to an individual’s statement made in any Commission processes, except with the express consent of the individual.

**(D) Closing Ceremony**

The Commission shall hold a closing ceremony at the end of its mandate to recognize the significance of all events over the life of the Commission. The closing ceremony shall have the participation of high level church and government officials.

**11. Access to Relevant Information**

In order to ensure the efficacy of the truth and reconciliation process, Canada and the churches will provide all relevant documents in their possession or control to and for the use of the Truth and Reconciliation Commission, subject to the privacy interests of an individual as provided by applicable privacy legislation, and subject to and in compliance with applicable privacy and access to information legislation, and except for those documents for which solicitor-client privilege applies and is asserted.

In cases where privacy interests of an individual exist, and subject to and in compliance with applicable privacy legislation and access to information legislation, researchers for the Commission shall have access to the documents, provided privacy is protected. In cases where solicitor-client privilege is asserted, the asserting party will provide a list of all documents for which the privilege is claimed.

Canada and the churches are not required to give up possession of their original documents to the Commission. They are required to compile all relevant documents in an organized manner for review by the Commission and to provide access to their archives for the Commission to carry out its mandate. Provision of documents does not require provision of original documents. Originals or true copies may be provided or originals

may be provided temporarily for copying purposes if the original documents are not to be housed with the Commission.

Insofar as agreed to by the individuals affected and as permitted by process requirements, information from the Independent Assessment Process (IAP), existing litigation and Dispute Resolution processes may be transferred to the Commission for research and archiving purposes.

## **12. National Research Centre**

A research centre shall be established, in a manner and to the extent that the Commission's budget makes possible. It shall be accessible to former students, their families and communities, the general public, researchers and educators who wish to include this historic material in curricula.

For the duration of the term of its mandate, the Commission shall ensure that all materials created or received pursuant to this mandate shall be preserved and archived with a purpose and tradition in keeping with the objectives and spirit of the Commission's work.

The Commission shall use such methods and engage in such partnerships with experts, such as Library and Archives Canada, as are necessary to preserve and maintain the materials and documents. To the extent feasible and taking into account the relevant law and any recommendations by the Commission concerning the continued confidentiality of records, all materials collected through this process should be accessible to the public.

## **13. Privacy**

The Commission shall respect privacy laws, and the confidentiality concerns of participants. For greater certainty:

- (a) any involvement in public events shall be voluntary;
- (b) notwithstanding 2(i), the national events shall be public or in special circumstances, at the discretion of the Commissioners, information may be taken in camera;
- (c) the community events shall be private or public, depending upon the design

provided by the community;

- (d) if an individual requests that a statement be taken privately, the Commission shall accommodate;
- (e) documents shall be archived in accordance with legislation.

#### 14. **Budget and Resources**

The Commission shall prepare a budget within the first three months of its mandate and submit it to the Minister of Indian Residential Schools Resolution Canada for approval. Upon approval of its budget, it will have full authority to make decisions on spending, within the limits of, and in accordance with, its Mandate, its establishing Order in Council, Treasury Board policies, available funds, and its budgetary capacity.

The Commission shall ensure that there are sufficient resources allocated to the community events over the five year period. The Commission shall also ensure that a portion of the budget is set aside for individual statement-taking/truth sharing and to archive the Commission's records and information.

Institutional parties shall bear the cost of participation and attendance in Commission events and community events, as well as provision of documents. If requested by the party providing the documents, the costs of copying, scanning, digitalizing, or otherwise reproducing the documents will be borne by the Commission.