

# ABINOOJII INAKONIGWIN TOOLKIT



GRAND COUNCIL  
**TREATY #3**

THE GOVERNMENT OF THE ANISHINAABE NATION IN TREATY #3



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## ACKNOWLEDGEMENTS - CHI MIIGWECH:

The Grand Council Treaty # 3 would like to acknowledge the important contributions of the following who contributed to the formation of the Abinoojii Inakonigewin Toolkit:

The guidance and leadership of our spiritual items that are at the forefront of our work;

*Elders and Traditional Knowledge Keepers* for providing their support, wisdom and guidance at our meetings and in sharing their knowledge about Anishinaabe customary practices in the well-being of children, youth and families;

*Children and Youth* for their inspiration and being at the center of the work for our leadership and communities;

*Citizens of Treaty # 3 Anishinaabe Nation* for their involvement in this process;

*Leadership and Grand Council Treaty # 3 Social Sustainability Chiefs Committee* in their continued work and commitment to Abinoojii Inakonigewin;

*Grand Council Treaty # 3 Technical Working Group* for the dedication in providing and sharing their knowledge and expertise related to children and families;

*Grand Council Treaty # 3 Women's Executive Council* (1996 to present) for initiating a process and being a 'voice' through ongoing advocacy for our children, youth and families. The role of women in the protection of children, families and communities is central to the well-being of our Nation. The Grand Council Treaty # 3 Women's Executive Council women have been leaders in teaching, traditional knowledge keeping, traditional knowledge sharing, decision-making and advocacy in the care of children and families. Additionally, the Treaty # 3 Women's Executive Council have shared their spiritual obligations and protocols in the ceremonies and connections to the land and water;

*Former Grand Chiefs:* Grand Chief Eli Mandamin, Grand Chief Leon Jourdain and Ogichidaa Arnold Gardner for taking the initial and pivotal steps to advancing change resulting in the development of Abinoojii Inakonigewin;

*Child Welfare Warriors in Treaty # 3* for their tireless work in advocating for change in the child protection system;

*Colin Wasacase, George Simard, Larry W. Jourdain and Adolphus Cameron* for their leadership, providing their expertise and establishing the foundation for change in child protection for Treaty # 3 Nation;

*Wabaseemoong Independent Nation* for their leadership in the development of Customary Care Codes and continuing to be instrumental in serving as a resource which includes the development of the Abinoojii Inakonigewin Toolkit;

*Indigenous Professionals and Experts* in Child Protection;

*Agencies and/or Organizations* for their contributions to the Technical Working Group.

## MESSAGE FROM THE GRAND COUNCIL TREATY # 3



### Grand Council Treaty #3 Office of the Ogichidaa

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~~Boozhoo akinaawiyaa~~ (everyone),

I was honored to have been selected as Ogichidaa at the Traditional Selection process held at Wauzhushk Onigum Roudhouse during the Spring Assembly in 2015 and to be provided with the opportunity to serve for a second term as Ogichidaa.

One of the first tasks the leadership and I undertook was a review of the governance model for the Anishinaabe Nation in Treaty #3. Following subsequent meetings and discussions, the leadership adopted the Four Directional Model of Governance in the summer of 2017. Under the Four Directional Model the Social Sustainability Chiefs have responsibility for specific areas: Education, Health, Child Welfare and Social Issues.

The Anishinaabe Nation in Treaty#3 continue to exercise their inherent right and jurisdiction regarding child care and customary care and have identified the need to establish a process between Grand Council Treaty #3 and the Crown to address the issues of jurisdiction and the provision of child care services.

Since the early 1990's, the Treaty #3 leadership has received direction from the citizens of the Anishinaabe Nation to begin discussions on the development of a Child Care Law. In response to this, Anishinaabe Abinoojii ~~Inakonigewin~~ was passed by the Treaty #3 leadership in October 2005 at the National Assembly held at Big Grassy First Nation.

In 2017, Minister ~~Coteau~~ and I signed a Relationship Agreement at ~~Wauzhushk Onigum~~ to further the work being done by the MCYS-ICYS Technical Work group and the advancement and implementation of Anishinaabe Abinoojii ~~Inakonigewin~~.

I look forward to this important work continuing this year and next; and acknowledge that the Anishinaabe Abinoojii Inakonigewin Toolkit is an important resource tool to support and empower the capacity on Anishinaabe ~~Abinoojii Inakonigewin~~ for our communities.

Miigwech,

Ogichidaa, Francis Kavanaugh



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# SECTION ONE





# GRAND COUNCIL TREATY #3

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## INTRODUCTION

Since the enactment of Abinoojii Inakonigewin (also referred to as the, “Child Care Law”) by the National Assembly in 2005 at Big Grassy First Nation, the Grand Council Treaty # 3 has been committed to the development and implementation of the law in order to empower First Nations in exercising their jurisdiction in matters related to children and families.

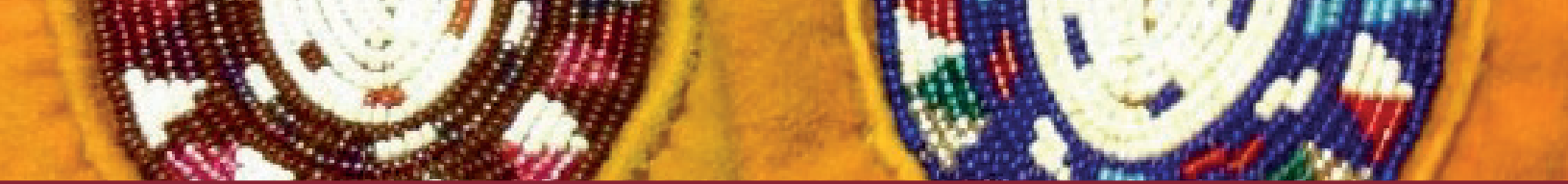
Prior to the arrival of Euro-Canadians, the Anishinaabe Nation in Treaty # 3 exercised independence and self-governance through inherent systems to determining their customary practices and approaches to economic, familial, cultural and educational matters. The practice of Anishinaabe Customary Practices in caring for children predates the establishment of any formal child protection systems and the enactment of governing statutes and regulations. However; the imposition of colonization, assimilation, statutes and institutions has proven to be detrimental to these inherent systems of governance and comprehensive social structures.

The Grand Council of Treaty # 3 wishes to recognize and acknowledge the survivors and those that did not return home from Indian Residential Schools, the Sixties Scoop and The Northern Adoption Project. The Northern Adoption Project was during the period of 1964-1965 whereby children were removed by plane and taken to Northern First Nation communities to be adopted. The devastating impacts of historical and intergenerational trauma on our communities and the establishment of policies and institutions such as Indian Residential Schools and the child welfare system has contributed to the derogation of inherent social systems.

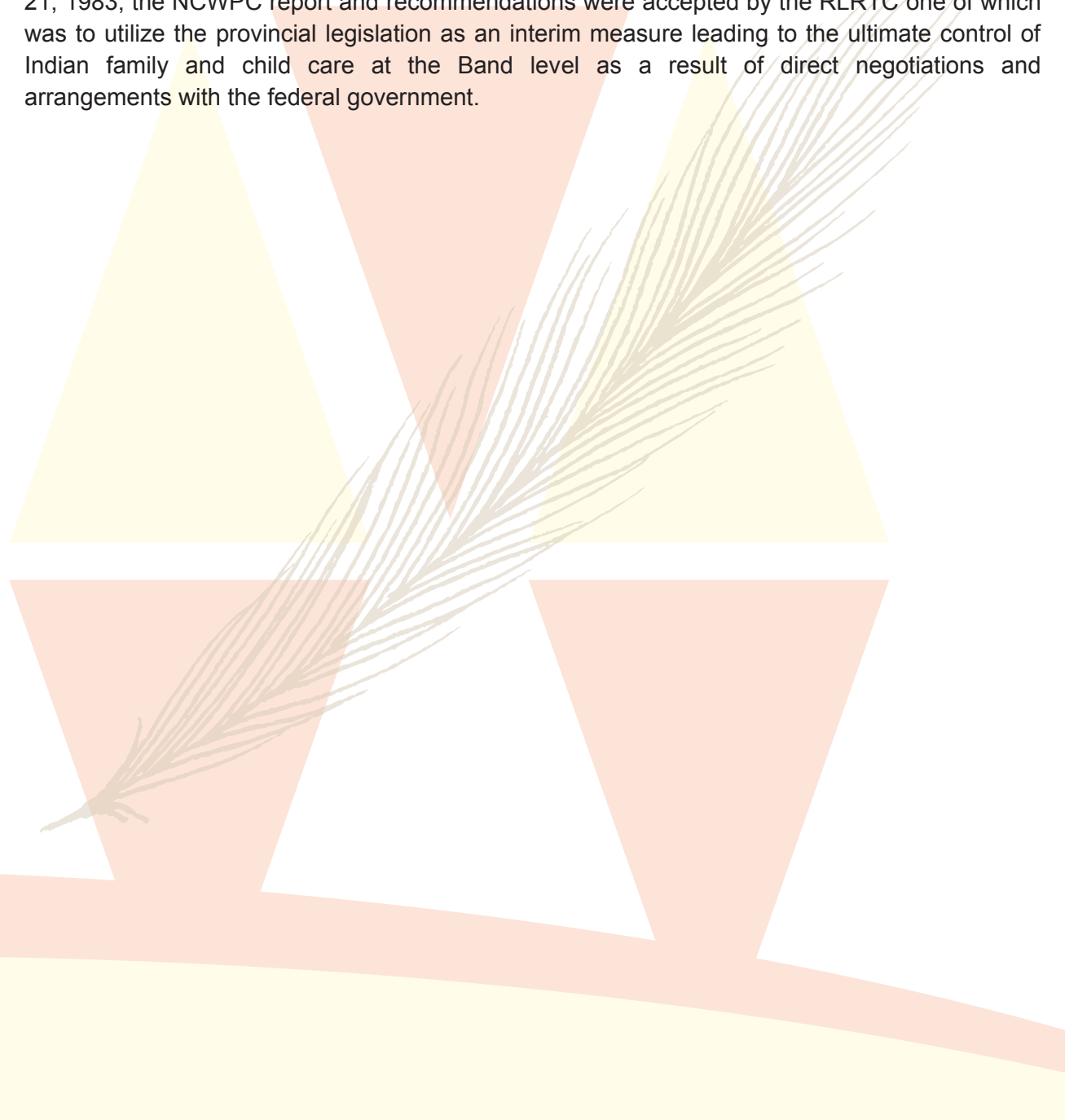
In addition to this, the 1965 Welfare Agreement led to further deterioration of Anishinaabe family systems as non-aboriginal child protection authorities removed aboriginal children from their families and placed them in non-aboriginal foster homes. The removal of children further disregarded the importance of Anishinaabe culture; demonstrated a blatant disrespect for tribal authority; and left families ill-equipped to deal with the social implications that resulted from the loss of generations of children.

In 1977, the communities of Big Grassy and Big Island appealed to the non-aboriginal child welfare agency responsible for delivering child welfare services to the First Nations located in the Rainy River District. Through the cooperative efforts of the Children’s Aid Society and these two communities, the Native Child Welfare Prevention Program was born. Consequently, alternative methods for helping Anishinaabe children and their families were explored and the number of children removed from communities was drastically reduced.

Although the Native Child Welfare Preventions Program actively sought to involve First Nation communities in various aspects of child welfare services, the non-aboriginal agency retained control of the decision making process. Further discussions eventually led to a study which examined alternatives to providing non-aboriginal child welfare services to aboriginal communities. The Native Child Welfare Prevention Workers (Moses Tom and Joseph Big George) spearheaded the process of examining alternative models of services delivery and were a pivotal force in articulating a service delivery model developed by and for Anishinaabe



The originating Resolution as an interim measure and not an end result. In March 15, 1982, the Rainy Lake Region Tribal Chiefs (RLRTC) passed a Resolution which served Notice to the federal and provincial governments that a process to creating an Indian alternative to the then existing child welfare system and a Native Child Welfare Planning Committee (NCWPC) was established to assess the state of Indian child welfare. Accordingly, by Resolution dated April 21, 1983, the NCWPC report and recommendations were accepted by the RLRTC one of which was to utilize the provincial legislation as an interim measure leading to the ultimate control of Indian family and child care at the Band level as a result of direct negotiations and arrangements with the federal government.





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## PURPOSE OF TOOLKIT

The **Abinoojii Inakonigewin Toolkit** is a resource that has been developed by the Grand Council Treaty # 3 Technical Working Group. The purpose of this Toolkit is to assist the twenty-eight (28) First Nations in Treaty # 3 in order to provide an overview of the Abinoojii Inakonigewin and provide a framework to assist in the development of Community Customary Codes.

This Toolkit is designed primarily for First Nations leadership, service providers from First Nations and Indigenous organizations, provincial and federal government agencies. It is meant to provide information and practical guidance that will help First Nations participate effectively in implementing the law within their First Nation.

The Abinoojii Inakonigewin Toolkit will serve as an educational resource and has been developed to empower First Nations in the development of their own Customary Care Codes which will assert their inherent jurisdiction over matters related to their children and families. The Customary Care Code will reflect their own customary practices in providing programs, services and support to their communities. In addition, provide more generalized information for Agencies, provincial and federal governments.

The primary purpose is to ensure the implementation of the law in order fulfill the following objectives are achieved:

- “1. Educate the governments of Canada and the Provinces of Manitoba and Ontario and initiate discussions on harmonization on the administration of the laws;**
- 2. Inform the citizens and communities to prepare for the transition and to clarify the law and the administrative harmonization;**
- 3. Take counsel amongst the Elders and traditional ceremonies;**
- 4. Seek direct transfer funding from the government of Canada”** (The Anishinaabe Nation of Treaty # 3 Resolution #CA05-05, October 6, 2005)

In the creation of this document, information was gathered from various sources including Elders, Traditional Knowledge Keepers, Leadership, Indigenous services providers/practitioners and experts as well as a review of historical documents.

The **Abinoojii Inakonigewin Toolkit** has been compiled through a collaborative process and a culmination of work that has been gathered over the years from Elders, Traditional Knowledge Keepers, Leadership, Technical Working Groups, Agencies and Indigenous experts.





## BACKGROUND OVERVIEW

Abinoojii Inakonigewin was initiated by the Chiefs-in-Assembly (CIA) who directed a Drafting Team to develop the Law. The Drafting Team rendered their first Draft in 2003 and various revisions have been made thereafter. Following the enactment of the National Assembly, the Chiefs-in-Assembly declared and adopted the Abinoojii Inakonigewin on October 6, 2005 at Big Grassy First Nations.

Abinoojii Inakonigewin or the Child Care Law, has its roots in Anishinaabe Sacred Law that is kept by our people and it is not codified and does not change. Sacred Law comes from Giizhe Manido through an ancient law-making process called - minigoosiwin. The word implies all that was bestowed, bequeathed and imparted by the Giizhe Manido upon the Anishinaabeg and this includes traditional stewardship of the lands, resources and all living things. The sacrosanct bestowment assigns customary duties, roles, and responsibilities which includes the safety and security of children. The part that governs the subject of children in the Sacred Law instructs the Anishinaabe people that: a child is a sacred gift from Giizhe Manido and as such it shall be guarded and protected from all threats and that this child represents the continuity of the Nation (Anishinaabe).

The concepts that guide Abinoojii Inakonigewin come from Traditional Anishinaabe Law which is universal and is forever.

***"Traditional Anishinaabe Law recognizes that the child must live, belong and grow within an environment of human relationships rooted in the family, the clan and the community, and that these needs are essential to the best interest of every Anishinaabe child; and Anishinaabe culture comprises the whole accumulated knowledge and wisdom that has enabled the people to survive and live a good life: and, Traditional Anishinaabe Law requires each Anishinaabe person to protect and uphold the culture for the benefit of future generations, and gives the Anishinaabe people guidance for their lives."*** (The Anishinaabe Nation of Treaty #3, Child Care Law, 2005)

Unlike Sacred Law, Anishinaabe Customary Law can be compared to Temporal Law; it can be codified and it can change over time. Customary Law or Temporal Law changes because the source of law comes from the cultural, ceremonial and custom practices (beliefs, vales and norms) of the Anishinaabe. Culture is not a static module that remains in its initial form forever because it is subject to reconstruction as the people who practice the culture start to implement and assign meaning to the changes. The change-effect equally effects Customary and Temporal Law as adjustments are made by the people. This social movement causes:

***"The Anishinaabe people has since time immemorial passed down to successive generations, and adapted for each generation, temporal law consistent with traditional law to meet the needs of successive generations as they may arise, including law for the care and protection of its children and families"*** (The Anishinaabe Nation of Treaty #3, Child Care Law, 2005).



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## CHRONOLOGY OF HISTORY RELATED TO DEVELOPMENT OF ABINOOJII INAKONIGEWIN

**June 24, 1996:** The Elders did accord their validation for renewal of Anishinaabe governance held at Pow Wow Island at the Elders Gathering held at Wauzhushk Onigum First Nation.

**July 23, 24, 25 and 26, 1996:** Chiefs Meeting which included Minister Ron Irwin (on July 24, 1996) was held at Wauzhushk Onigum First Nation which resulted in an Agreement to begin a joint process of reviewing governance in the Treaty # 3 area. Grand Chief Eli Mandamin announced a vision of governance under the Anishinaabe law. Grand Chief Eli Mandamin and Minister of Indian Affairs Ron Irwin Shook Hands in the Sacred Lodge of Wauzhushk Onigum to undertake a process that would give meaningful expression to, “Miinigozowin”. The Hand Shake in 1996 was and is as significant as the Hand Shake in 1873 upon signing Treaty # 3 in Northwest Angle. We must always refer back and recognize the significance of the Hand Shake.

**October 3, 1996:** Treaty No. 3 Chiefs Resolution: “Child Care and Customary Care Services”

**May 22, 1997:** A Framework Agreement on an Agenda and Process to negotiate an Agreement-In-Principle was signed in the Sacred Lodge at Pow Wow Island, Wauzhushk Onigum between the Grand Council Treaty # 3 Grand Chief Willie Wilson and Her Majesty the Queen in Right of Canada as represented by the Minister of Indian Affairs and Northern Development Ron Irwin. The Framework Agreement set out the process referred to as, “the Peoples Process”.

**May 1998:** 16 Facilitators, Supervisors, Chiefs Team on Governance, management and technical support gathered at Bill Lake Lodge, Grassy Narrows First Nation to begin orientation for the Governance Initiative.

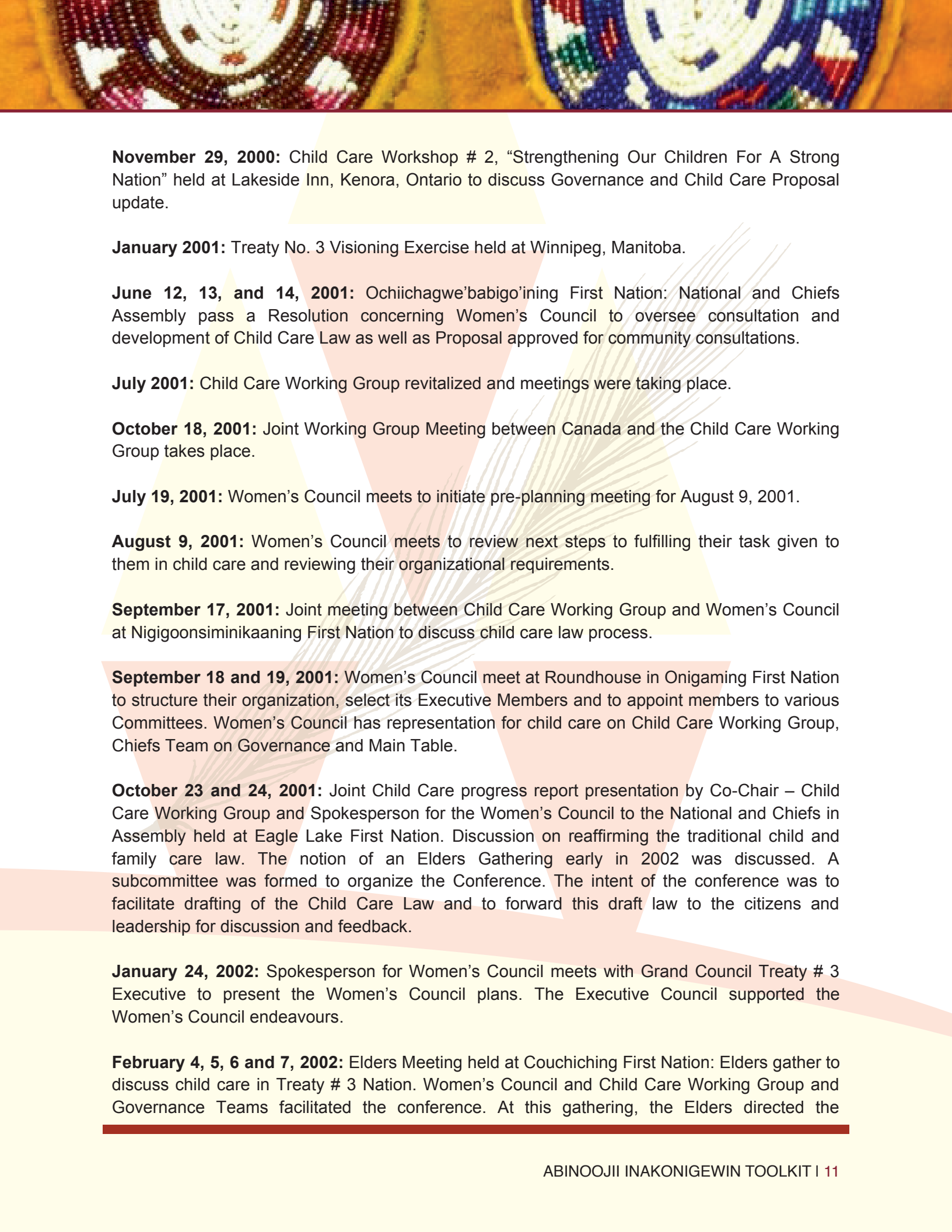
**July 1998:** The “Peoples Process” began consulting with the Treaty No. 3 communities.

**1998 - 2001:** Community Consultations on Traditional Child Care are undertaken; visits to communities are taking place during this period. Traditional Child care was one of the topics to which information was solicited.

**December 7, 1999:** Child Care Workshop # 1 with three agencies of Treaty No. 3 which included all Family Service Workers and Staff to establish vision and guiding principles for re-establishing traditional child care practices. Held at Fort Frances, Ontario.

**January 2000:** Millennium Resolution is passed which acknowledged the generational pain and suffering on the Anishinaabe as a result of colonization and as such, outlines a commitment to the vision of restoring the Government of the Nation and Nation Building.

**May 2000:** Draft Proposal: Alternative Funding and Administration of Customary Care Services for the Children and Families of the Anishinaabeg Nation in Treaty No. 3.



**November 29, 2000:** Child Care Workshop # 2, “Strengthening Our Children For A Strong Nation” held at Lakeside Inn, Kenora, Ontario to discuss Governance and Child Care Proposal update.

**January 2001:** Treaty No. 3 Visioning Exercise held at Winnipeg, Manitoba.

**June 12, 13, and 14, 2001:** Ochiichagwe’babigo’ining First Nation: National and Chiefs Assembly pass a Resolution concerning Women’s Council to oversee consultation and development of Child Care Law as well as Proposal approved for community consultations.

**July 2001:** Child Care Working Group revitalized and meetings were taking place.

**October 18, 2001:** Joint Working Group Meeting between Canada and the Child Care Working Group takes place.

**July 19, 2001:** Women’s Council meets to initiate pre-planning meeting for August 9, 2001.

**August 9, 2001:** Women’s Council meets to review next steps to fulfilling their task given to them in child care and reviewing their organizational requirements.

**September 17, 2001:** Joint meeting between Child Care Working Group and Women’s Council at Nigigoonsiminikaaning First Nation to discuss child care law process.

**September 18 and 19, 2001:** Women’s Council meet at Roundhouse in Onigaming First Nation to structure their organization, select its Executive Members and to appoint members to various Committees. Women’s Council has representation for child care on Child Care Working Group, Chiefs Team on Governance and Main Table.

**October 23 and 24, 2001:** Joint Child Care progress report presentation by Co-Chair – Child Care Working Group and Spokesperson for the Women’s Council to the National and Chiefs in Assembly held at Eagle Lake First Nation. Discussion on reaffirming the traditional child and family care law. The notion of an Elders Gathering early in 2002 was discussed. A subcommittee was formed to organize the Conference. The intent of the conference was to facilitate drafting of the Child Care Law and to forward this draft law to the citizens and leadership for discussion and feedback.

**January 24, 2002:** Spokesperson for Women’s Council meets with Grand Council Treaty # 3 Executive to present the Women’s Council plans. The Executive Council supported the Women’s Council endeavours.

**February 4, 5, 6 and 7, 2002:** Elders Meeting held at Couchiching First Nation: Elders gather to discuss child care in Treaty # 3 Nation. Women’s Council and Child Care Working Group and Governance Teams facilitated the conference. At this gathering, the Elders directed the



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assembly to begin drafting a Child Care Law. A document called, “Drafting Instructions for Abinoojii Inakonigewin” was passed by consensus. This document to guide the drafters in re-affirming the Child Care Law. A group of drafters were identified to draft the law. A group of Elders were selected to guide and direct the drafting group in drafting the law. Of the eight Elders, two women Elders are also members of the Women’s Council.

**June 2, 2002:** A ceremony was arranged to seek further direction on specific elements of the Child Care Law at Wauzhushk Onigum First Nation.

**June 25 and 26, 2002:** representatives from Canada and Treaty No. 3 met at Waazhushk Onigum First Nation to discuss moving ahead with building an Agreement-in-Principle.

**July 3, 2002:** A progress report on developments to date on draft the Child Care Law was made to Youth, Council and Elders for the Child Care Law, Women’s Council and Child Care Working Group at Ochiciichagwe’babigo’ing First Nation.

**July 23, 24 and 25, 2002:** Treaty # 3 National and Chiefs Assembly is noted as an important point in the future of the Treaty No. 3 Nation and rebuilding as the proposed Abinoojii Inakonigewin is presented in draft form to the Assembly. Law is approved in principle and will go to the communities for a proposed adoption at the October 2002 Assembly.

**2002:** Abinoojii Inakonigewin Law passed by Chiefs in Assembly;

**2005:** Abinoojii Inakonigewin Law passed by Chiefs in Assembly and National Assembly at Big Grassy First Nation;

**2011 to 2012:** Elders Gatherings, Teaching and Principles in the Abinoojii Omibig Igos Owin held at 6 of 8 First Nations to implement GCT # 3 Resolution No. CA 10-27: Resolution Asserting: Development of Standards and Regulations for Abinoojii Inakonigewin. A 2<sup>nd</sup> report dated September 10, 2012 entitled, “Grand Council Treaty # 3: Abinoojii Omibig Igos Owin – Anishinaabe Elder Teachings; Principles of Abinoojii Caring and The Family” was drafted for Chiefs Sustainability Committee.

**September 7, 2017:** Ogichidaa Francis Kavanaugh, Grand Council Treaty # 3 and Michael Coteau, Minister of Child and Youth Services signed a Relationship Agreement in Kenora, Ontario that will strengthen the relationship between Ontario and Grand Council Treaty # 3. It is a commitment to work together to improve outcomes and opportunities for Anishinaabe children and youth in Treaty # 3 territory.



## CHRONOLOGY OF RESOLUTIONS PASSED BY GRAND COUNCIL TREATY NO. 3

**October 3, 1996:** Treaty No. 3 Chiefs Resolution passed: “Child Care and Customary Care Services”.

**January 18, 2000:** Anishinaabe Nation in Treaty # 3 Resolution of the Constituent Assembly held at Dryden, Ontario on the 18<sup>th</sup> day of January, 2000. referred to as, “the Millennium Resolution” and affirms a commitment to the vision of restoring the government of the Nation and our inherent right to establish our own governing structures.

Grand Chief Leon Jourdain.

**Resolution No. A #00-003** Chiefs In Assembly  
Resolution Concerning: Child Welfare Issues

Agreed by the Chiefs in Assembly in Dryden, Ontario at the Best Western on January 19, 2000.  
Grand Chief Leon Jourdain.

**Resolution No. SP 00-001:** Resolution of the Grand Council Treaty # 3 Special Chiefs’ Meeting  
Resolution Concerning Provincial Chief Welfare Reform Initiatives

Agreed to at a Special Meeting of the Grand Council Treaty # 3 Chiefs held at Lakeside Inn in Kenora, Ontario on February 25, 2000.

Grand Chief Leon Jourdain

**Resolution No. SP 00-002:** Resolution of the Grand Council Treaty # 3 Special Chiefs’ Meeting  
Resolution Concerning: *Part X of the Child and Family Services Act:*

Agreed to at a Special Meeting of the Grand Council Treaty # 3 Chiefs held at Lakeside Inn in Kenora, Ontario on February 25, 2000.

Grand Chief Leon Jourdain

**July 5, 2000: Treaty No. 3 Chiefs Resolution A #00-008:** To complete proposal on Alternative Funding and Administration of Customary Care Services for the Children and Families of the Anishinaabeg Nation in Treaty No. 3. Grand Chief provided direction to meet with Minister to secure commitment to proposal.

Grand Chief Leon Jourdain

**Resolution No. NA 05-02** The National Assembly

Resolution Concerning: Capacity Building for Abinoojii Inakonigewin in Treaty # 3

Adopted by National Assembly of the Anishinaabe Nation in Treaty No. 3 in Wabaseemoong on May 25, 2005.

Ogichidaa Arnold Gardner

**Resolution No. CA 05-05 Chiefs in Assembly**

Resolution Concerning: Resolution to Adopt the Traditional Child and Family Care Law; Abinoojii Inakonigewin adopted as codified law of the Anishinaabe Nation in Treaty # 3

Agreed on October 6, 2005 at Big Grassy First Nation. Ogichidaa Arnold Garner



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## **Resolution No. CA 05-06** Chief in Assembly

Resolution Concerning: Forming a Technical Working Group

Agreed on October 6, 2005 at Big Grassy First Nation

Ogichidaa Arnold Gardner

## **Joint Declaration of Chiefs**

Declaration Concerning: The First Nations situated within the northern portion of the Treaty # 3 territory and affiliated with Anishinaabe Abinoojii Family Services with respect to the provision of child care. Signed the 25<sup>th</sup> day of October, 2005.

## **Resolution No. 06-16** Chiefs In Assembly

Resolution Concerning: The Establishment of Diplomatic Relationships on Child Care with NAN

Agreed on October 12, 2006 at Seine River First Nation

Ogichidaa Arnold Gardner

## **Resolution No. CA 07-01** Chiefs in Assembly

Resolution Concerning: Child Protection Jurisdiction

Decided on October 18, 2007 at Naotkamegwanning First Nation.

Ogichidaa Arnold Gardner

## **Resolution No. RD 08-03** National Assembly

**Record of Decision:** National Assembly of the Anishinaabe Nation in Treaty # 3 on Child Care and implementation of Abinoojii Inakonigewin which includes a directive to Weechi-it-te-win Family Services and Anishinaabe Abinoojii Family Services to assume technical lead in collaboration with the Ogichidaakwe and Chiefs Responsible

Unanimously adopted on the 7<sup>th</sup> day of October, 2008

Ogichidaakwe Diane Kelly

## **Resolution No. CA 08-09** Special Chiefs Assembly

Resolution Concerning: Jurisdiction Transfer to Anishinaabe Abinoojii Family Services

Decided on October 9, 2008 at Onigaming First Nation.

## **Resolution No. CA 08-10** Special Chiefs Assembly

Resolution Concerning: Child Care and Residential Policies

Decided on October 9, 2008 at Onigaming First Nation

Ogichidaakwe Diane Kelly

## **Resolution No. CA-10-07** Chiefs in Assembly

Resolution Concerning: Support for the Development of a Framework Agreement on Child Welfare

Decided on June 10, 2010, at Wabigoon Lake Ojibway Nation

Ogichidaakwe Diane Kelly



**Resolution No. CA 10-18** Chiefs Assembly

Resolution Asserting: Commission on Sustainable Child Welfare regarding submission of a new funding approach for 2011-2012.

Decided on October 21, 2010 at Nigigoonsiminikaaning First Nation.

Ogichidaakwe Diane Kelly

**Resolution No. CA-10-19** Chiefs in Assembly

Resolution Asserting: Child Care: Report Card for Anishinaabe Abinoojii Inakonigewin; the Social Sustainability Chiefs request the assistance of the First Nation agencies in Treaty No. 3 to collaborate with the Grand Council Treaty # 3 staff on the development and implementation of the report card.

Decided on October 21, 2010 at Nigigoonsiminikaaning First Nation.

Ogichidaakwe Diane Kelly

**Resolution No. CA-10-27** Chiefs Assembly

Resolution Asserting: Development of Standards and Regulations for Abinoojii Inakonigewin

Decided on October 21, 2010 at Nigigoonsiminikaaning First Nation

Ogichidaakwe Diane Kelly

**Resolution No. CA-10-28** Chiefs Assembly

Resolution Asserting: Northern Aboriginal Child Care Advisor to Minister

Decided on October 21, 2010 at Nigigoonsiminikaaning First Nation

Ogichidaakwe Diane Kelly

**Resolution No. CA 13-59** Chiefs In Assembly

Resolution Concerning: convening a meeting with Kenora-Rainy River Family Services and Ministry of Child and Youth Services

Decided on July 10, 2013 at Nigigoonsiminikaaning First Nation

Ogichidaa Warren White

**Resolution No. CA-15-06** Chiefs Assembly

Resolution Asserting: Treaty # 3 Child Welfare Advocate and the development of Ka Niigaanibowe't which would have similar functions and responsibilities as an advocate for our children and communities

Decided on May 28, 2015 at Big Grassy Anishinaabe Nation

Ogichidaa Warren White

**Resolution No. CA-15-15** Chiefs Assembly

Resolution Asserting: Child Welfare Jurisdiction

Decided on May 28, 2015 at Big Grassy Anishinaabe Nation

Ogichidaa Warren White



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## **Resolution No. SCA-16-02** Chiefs in Assembly

Resolution regarding implementation of Abinoojii Inakonigewin through the signing of a Relationship Agreement between the Grand Council Treaty # 3 and the Ministry of Children and Youth Services to move forward with a process to harmonize the administration of Abinoojii Inakonigewin and provincial laws.

Decided on April 9, 2016 at Winnipeg, Manitoba.

Oghichidaa Warren White

**Record of Decision** of the National Assembly of the Anishinaabe Nation in Treaty No. 3 on the support of Wabaseemoong Independent Nation's implementation of the Abinoojii Inakonigewin. The National Assembly unanimously supports Wabaseemoong in their towards the implementation of the Community Code under Abinoojii Inakonigewin and Wabaseemoong's efforts to seek exemptions from the Child and Family Services Act to be replaced by the Community Code. Refers to adoption of Abinoojii Inakonigewin at Big Grassy First Nation in 2005.

Unanimously decided on the 6<sup>th</sup> day of October 2016 at Wabigoon Lake Ojibway Nation.

Ogichidaa Francis Kavanaugh

**September 7, 2017:** Ogichidaa Francis Kavanaugh, Grand Council Treaty # 3 and Michael Coteau, Minister of Child and Youth Services signed a Relationship Agreement in Kenora, Ontario that will strengthen the relationship between Ontario and Grand Council Treaty # 3. It is a commitment to work together to improve outcomes and opportunities for Anishinaabe children and youth in Treaty # 3 Territory.

## **Resolution No. CA-19-09** Chiefs in Assembly

Resolution regarding Abinoojii Inakonigewin and achieving consensus and consistency of implementation as well as to convene a two-day gathering to facilitate information and process discussions on Abinoojii Inakonigewin.



# SECTION TWO





## WHAT IS ABINOOJII INAKONIGEWIN?

Abinoojii Inakonigewin is referred to as the “Child Care Law” and was enacted on October 6, 2005 with the specific purpose of exercising the inherent jurisdiction of the Nation and respective First Nations to enact their own laws. The specific purposes of the Law, pursuant to Part 1, section 4 is:

- “a. To provide for the well-being of children;***
- b. Ensure that their best interests are understood and given effect; and,***
- c. Prevent the intrusion of laws of other jurisdiction in their lives contrary to their best interests”***

The development of the Abinoojii Inakonigewin has been the result of dedication and tireless work of Leadership, Elders, Elders Councils and Traditional Knowledge Keepers, Women, Women’s Councils, Youth, Children, the Nation and its citizens, Technical Working Groups, Anishinaabe Professionals and Experts, Agencies and Organizations.

The foundation of Abinoojii Inakonigewin is rooted in the responsibility that First Nations, communities, families and individual citizens inherently possess with respect to the safety, protection, well-being and care of children.

The source of Anishinaabe law is bestowed to us by the Creator through Miinigowiziwin. Abinoojii Inakonigewin is essentially, “the law of children” which ensures the safety, security, protection and well-being of children. The law of children is an extensive, expansive law, in that, it extends to the law of their families, their rights as Anishinaabe children and encompasses social organizational orders that ensure safety and protection such as clan systems.

The Law of the Anishinaabe can be considered as the following:

- Sacred Law: which cannot be written
- Secular Law: which can be written

Abinoojii Inakonigewin extends the authority of First Nations to make Law based on their own customary practices, beliefs, philosophies, traditions and language. The Abinoojii Inakonigewin sets out provisions which enable First Nations to develop their own laws through Customary Codes and Manuals.

It has long been recognized that the provincial mainstream child protection system and its applicable statute cannot converge with Abinoojii Inakonigewin. There are fundamental, core conflicting philosophies in caring for children and families between the two systems and the Laws reflect two different systems however; are parallel and equivalent in authority. Abinoojii Inakonigewin provides the legal framework to operationalize Anishinaabe best practices that are in the best interests of our children, families and communities.

## SUMMARY OF PROVISIONS: ABINOOJII INAKONIGEWIN

### PART ONE: SECTIONS 1-6

#### Interpretation

The Law is intended to be and should be interpreted as consistent with traditional Anishinaabe Law as well as sets out the definitions and concepts that are relevant to children and families.

### PART TWO: SECTIONS 7-20

#### Responsibilities

- Sets out the responsibilities of the parent(s), extended family members, clan members, community members, citizens and Nation.

#### Authority

- Sets out the responsibilities and authority of citizens, community workers, Anishinaabe Abinoojii Agency to care for a child as provided by the Law.

#### Placement only by Consent

- Placement with the consent of the parent, of its family extended family, community or Nation.

#### Fiduciary Duty

- Affirms: every person who has the authority to make a decision affecting the life of a child has a fiduciary duty to have regard to the best interests of the child.

#### Liability

- Affirms: the responsibility of every person in their actions affecting a child

#### Abinoojii Inakonigewin (S. 3-19)

To assert that the Anishinaabe Nation can make law;

To secure that the Nation has the duty to maintain the safety and security of the children;

To provide for the well-being of the children and that their best interests are understood;

To prevent the intrusion of laws in their lives as contrary to their best interests;

To state that all children have a right to a good life and a safe and secure family milieu;

To insist that Anishinaabe identity, language, cultural and society are essential to best interests;

To assure the protection of children from all forms of abuse including neglect;

To ensure that children are connected to their extended family as defined by the law;

To support services that strengthen mental, physical, emotional and spiritual functioning;

To provide services that provide for family preservation and prevention;

To enlist all citizens of the Nation to assure the protection of children as a customary duty;

To declare that every person holds a fiduciary duty for decisions or be heard respecting children;

To procure that the extended Anishinaabe family has the customary duty to care for the children;

To hold that all placements of children must be done by consent and it is preferential;

To uphold customary care and custom adoptions as practices by the Anishinaabe Nation



# GRAND COUNCIL TREATY #3

THE GOVERNMENT OF THE ANISHINAABE NATION IN TREATY #3

## PART THREE: SECTIONS 21-49

### **Ka Niigaanibowe't**

- Responsible for the administration of the Law, as appointed by Grand Chief (Ogichidaa) pursuant to traditional protocol(s) and any additional steps that may need to be undertaken
- Ka Niigaanibowe't is subject to ratification by the National Assembly
- Ka Niigaanibowe't also represents a drum that will be part of the Agency in accordance with the Agency's' cultural personification
- Two Elders presented to the Chiefs in Winnipeg and provided understanding in relation to Ka Niigaanibowe't which also references a drum
- Consistent with other Indigenous Agencies, this is part of the cultural development of the Agency to acquire these sacred gifts to assist in the fulfillment of their spiritual responsibilities and obligations
- There are dual responsibilities of Ka Niigaanibowe't which includes:
  - (i) recognizing that a cultural process is concurrently taking place and at some point, there will be a drum which may be referred to as Ka Niigaanibowe't for the Omibikiasowin Protectorate (Agency). Given the spiritual component, this will resolve over time; the spirit of the drum will provide strength, support and direction in carrying out cultural and ceremonial practices;
  - (ii) Administrative role: Ka Niigaanibowe't is the leader who will provide the oversight and lead the law
- Further clarification was provided by the Elders during the Elders Conference in February 2018 in relation to the qualifications and/or considerations for Ka Niigaanibowe't

#### Grand Chief - Ogichidaa: (S. 21, 22, 24)

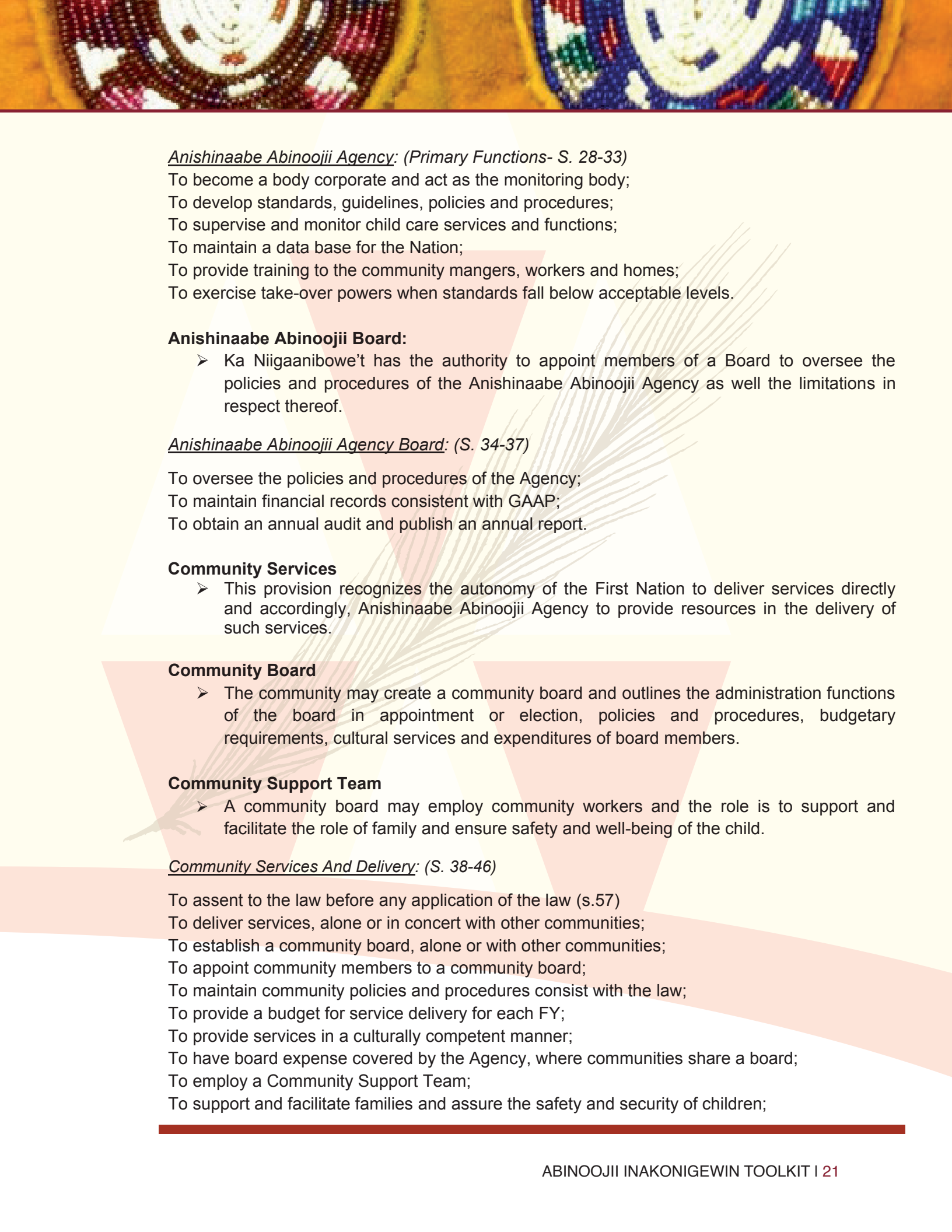
To appoint the Ka Nigaanibow'et and receive assistance in respect of this;  
To supervise the Oath of Office of the Ka Nigaanibow'et;  
To report to the National Assembly about the appointment at the first opportunity;  
To pay prior approved expenses to the Agency Board (s.37).

#### Ka Niigaanibowe't: (Subject to Ratification Of The National Assembly)

To take Office upon completion of the Oath (s.22, 23);  
To report to the National Assembly (s.26);  
To issue clarifications, consistent with the law, of its meaning or application;  
To constitute or reconstitute an Agency (s. 28);  
To appoint members to the Agency Board;  
To be at arms-length of the operations and not be involved (s. 34);  
Acts as the Leader as well as recognition that Ka Niigaanibowe't is a drum

### **Agency**

- Agency obligations under the Abinoojii Inakonigewin such as: assignment by Ka Niigaanibowe't, training, caregivers, oversight of community teams, case management, reporting and other service requirements.



*Anishinaabe Abinoojii Agency: (Primary Functions- S. 28-33)*

To become a body corporate and act as the monitoring body;  
To develop standards, guidelines, policies and procedures;  
To supervise and monitor child care services and functions;  
To maintain a data base for the Nation;  
To provide training to the community managers, workers and homes;  
To exercise take-over powers when standards fall below acceptable levels.

**Anishinaabe Abinoojii Board:**

- Ka Niigaanibowe't has the authority to appoint members of a Board to oversee the policies and procedures of the Anishinaabe Abinoojii Agency as well the limitations in respect thereof.

*Anishinaabe Abinoojii Agency Board: (S. 34-37)*

To oversee the policies and procedures of the Agency;  
To maintain financial records consistent with GAAP;  
To obtain an annual audit and publish an annual report.

**Community Services**

- This provision recognizes the autonomy of the First Nation to deliver services directly and accordingly, Anishinaabe Abinoojii Agency to provide resources in the delivery of such services.

**Community Board**

- The community may create a community board and outlines the administration functions of the board in appointment or election, policies and procedures, budgetary requirements, cultural services and expenditures of board members.

**Community Support Team**

- A community board may employ community workers and the role is to support and facilitate the role of family and ensure safety and well-being of the child.

*Community Services And Delivery: (S. 38-46)*

To assent to the law before any application of the law (s.57)  
To deliver services, alone or in concert with other communities;  
To establish a community board, alone or with other communities;  
To appoint community members to a community board;  
To maintain community policies and procedures consist with the law;  
To provide a budget for service delivery for each FY;  
To provide services in a culturally competent manner;  
To have board expense covered by the Agency, where communities share a board;  
To employ a Community Support Team;  
To support and facilitate families and assure the safety and security of children;



# GRAND COUNCIL TREATY #3

THE GOVERNMENT OF THE ANISHINAABE NATION IN TREATY #3

## Conflict with Laws of other jurisdictions (section 47-49)

- Ka Niigaanibowe't has discretion to approve Anishinaabe Abinoojii Agency to establish and maintain agreements with other jurisdictions for harmonizing administration of laws and may represent the Nation in any proceeding respecting a child.

## PART FOUR: SECTION 50-59

### Offences

- Every citizen should respect abinoojii aatisiwin and to proclaim that all citizens should respect Abinoojii

### Transition

- Outlines authority to implement transition plan and provisions of funding.

To be involved in the transition with the written consent of the Grand Chief (s,51-56);

### Role of the NATIONAL ASSEMBLY:

To hear the law and to enact the law;

To approve the appointment of the Ka Niigaanibowe't (s. 25);

To develop a process for implementing the Law;

To hear the progress from the Ka Niigaanibowe't.

### Key Principles of Abinoojii Inakonigewin (Part 1, s. 5):


- (a) This Law applies to parental responsibilities and related responsibilities;
- (b) This Law is based on Anishinaabe concepts of parental and other responsibilities for a child and not upon concepts of parental rights such as custody;
- (c) A child exists in the cultural and social context of its family, which in turn exists in the cultural and social context of the extended family, clan, community and nation and the best interests of the child require that its cultural and social context to be supported;
- (d) Access to fundamental attributes of Anishinaabe life, including Anishinaabe identity, language, culture and society, is essential to the best interests of the child;
- (e) Family Services should support and strengthen the role of families in mental, physical, emotional and spiritual care of children;
- (f) Prevention services should include a focus on the causes of molestation, abuse and abandonment;
- (g) Child and family services should be delivered at the community level;
- (h) Decisions affecting the life of a child must be free from intimidation, from political influence and from any influence that may be affected by conflict of interests;
- (i) Healing of the people is essential to caring for children.



## **NATIONAL STANDARDS IN THE ABINOOJII INAKONIGEWIN**

### *ABINOOJII INAKONIGEWIN (s. 3-19)*

To assert that the Anishinaabe Nation can make law;  
To secure that the Nation has the duty to maintain the safety and security of the children;  
To provide for the well-being of the children and that their best interests are understood;  
To prevent the intrusion of laws in their lives as contrary to their best interests;  
To state that all children have a right to a good life and a safe and secure family milieu;  
To insist that Anishinaabe identity, language, cultural and society are essential to best interests;  
To assure the protection of children from all forms of abuse including neglect;  
To ensure that children are connected to their extended family as defined by the law;  
To support services that strengthen mental, physical, emotional and spiritual functioning;  
To provide services that provide for family preservation and prevention;  
To enlist all citizens of the Nation to assure the protection of children as a customary duty;  
To declare that every person holds a fiduciary duty for decisions or be heard respecting children;  
To procure that the extended Anishinaabe family has the customary duty to care for the children;  
To hold that all placements of children must be done by consent and it is preferential;  
To uphold customary care and custom adoptions as practices by the Anishinaabe Nation.





# GRAND COUNCIL TREATY #3

THE GOVERNMENT OF THE ANISHINAABE NATION IN TREATY #3

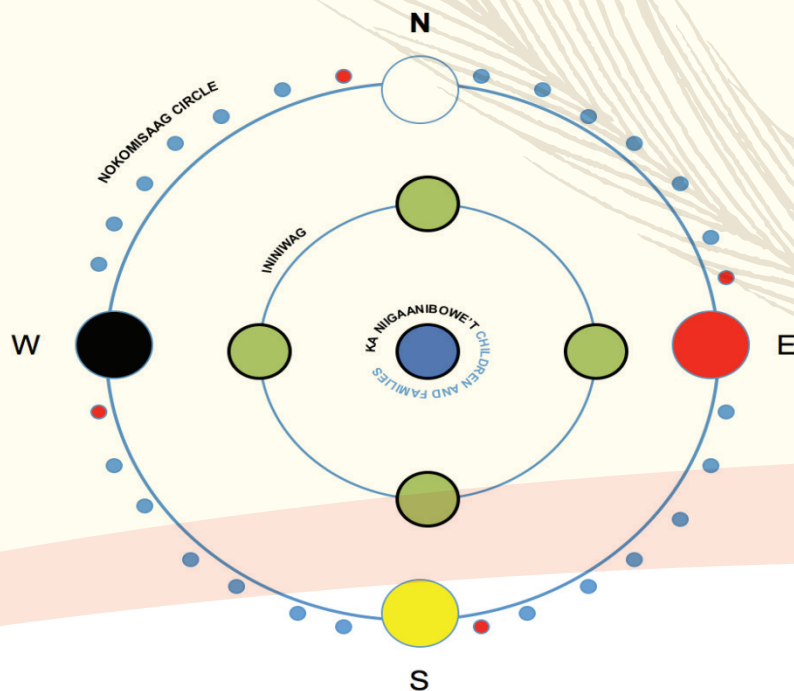
## NOKOMISAAG CIRCLE:

Nokomisaag is an Anishinaabe word which translated refers to Grandmothers. In the Anishinaabe Family Structure, a Grandmother plays an integral and pivotal role in addressing matters related to children and families. To reflect and acknowledge their important position, the Nokomisaag Circle has been established to provide wiitookaazowin. Wiitookaazowin: refers to advisement, support, help and guidance to Ka Niigaanibowe't. The Nokomisaag Circle was identified as being an central aspect of the governance structure with respect to the oversight of Abinoojii Inakonigewin.

The Nokomisaag Circle shall honour its responsibility of ensuring the safety and security of children and families which is at the core of Anishinaabe customary practice.

The Nokomisaag Circle will provide wiitookaazowin to Ka Niigaanibowe't. Wiitookaazowin refers to advisement, support, help and guidance when it is required and/or as requested by Ka Niigaanibowe't.

## ILLUSTRATION OF NOKOMISAAG CIRCLE





# SECTION THREE





# GRAND COUNCIL TREATY #3

THE GOVERNMENT OF THE ANISHINAABE NATION IN TREATY #3

## ANISHINAABE NATION LAW MAKING PROCESS

The Anishinaabe Nation who is a signatory to the Northwest Angle Treaty No. 3 (NWA Treaty No. 3) assert that they have not given up the right to make law and protect their children. The acts of foreign governments to deconstruct our customary law-making and traditional practices for the protection of our children has nearly decimated the nation. The Anishinaabe Nation is gaining strength and is steady in stating that:

***“The nation now finds it necessary for the care of its children and protection of its families to express certain aspects of its temporal law in writing so that it may be better and more widely understood and respected, and to adapt it to meet the needs of the present generation”*** (The Anishinaabe Nation of Treaty #3, Child Care Law, 2005)

The Anishinaabe Nation in the NWA Treaty No. 3 territory have enacted two laws: The Manito-Aki Inakonigewin and Abinoojii Inakonigewin. The first law governs the natural resources in the territory and sets out the process for permission, access, fees and the mutual processes for development. The second is the law that governs the protection of children; the preservation of the traditional family; sets out the national standards and provides the structure and processes for the implementation of the law. The laws of the Nation were enacted by the National Assembly who receive a formal request from the Chiefs-in-Assembly to consider the law. The Chiefs-in-Assembly cause the development of a law after deliberating interests of a national nature and go before the Nation Assembly for direction to make a law. The Chiefs-in-Assembly do not have the authority to enact law but only acknowledge that a law has been passed by the National Assembly. The Chiefs-in-Assembly can direct the development of a law with the consent of the National Assembly.

The customary law-making process of the Anishinaabe Nation in NWA Treaty No. 3 is both a secular and sacred process. The act of making the law is a secular process meaning that the law is being made by people who are acting from the instructions provided by the Chiefs-in-Assembly. Once the law is acceptable to the Chiefs-in-Assembly then they provide instructions for sacralizing the law through ceremonial practices. Both of the laws have undergone extensive cultural-validation including: four Shaking Tents (Jisakiwin); four Sweat Lodges (maatowin) and numerous Elder Consultations (gagisondiwin). Only after satisfying these ceremonial sessions do the Chiefs-in-Assembly bring the law before the National Assembly for debate and enactment.



### **The Steps of Anishinaabe in Treaty No. 3 Law-Making Process:**

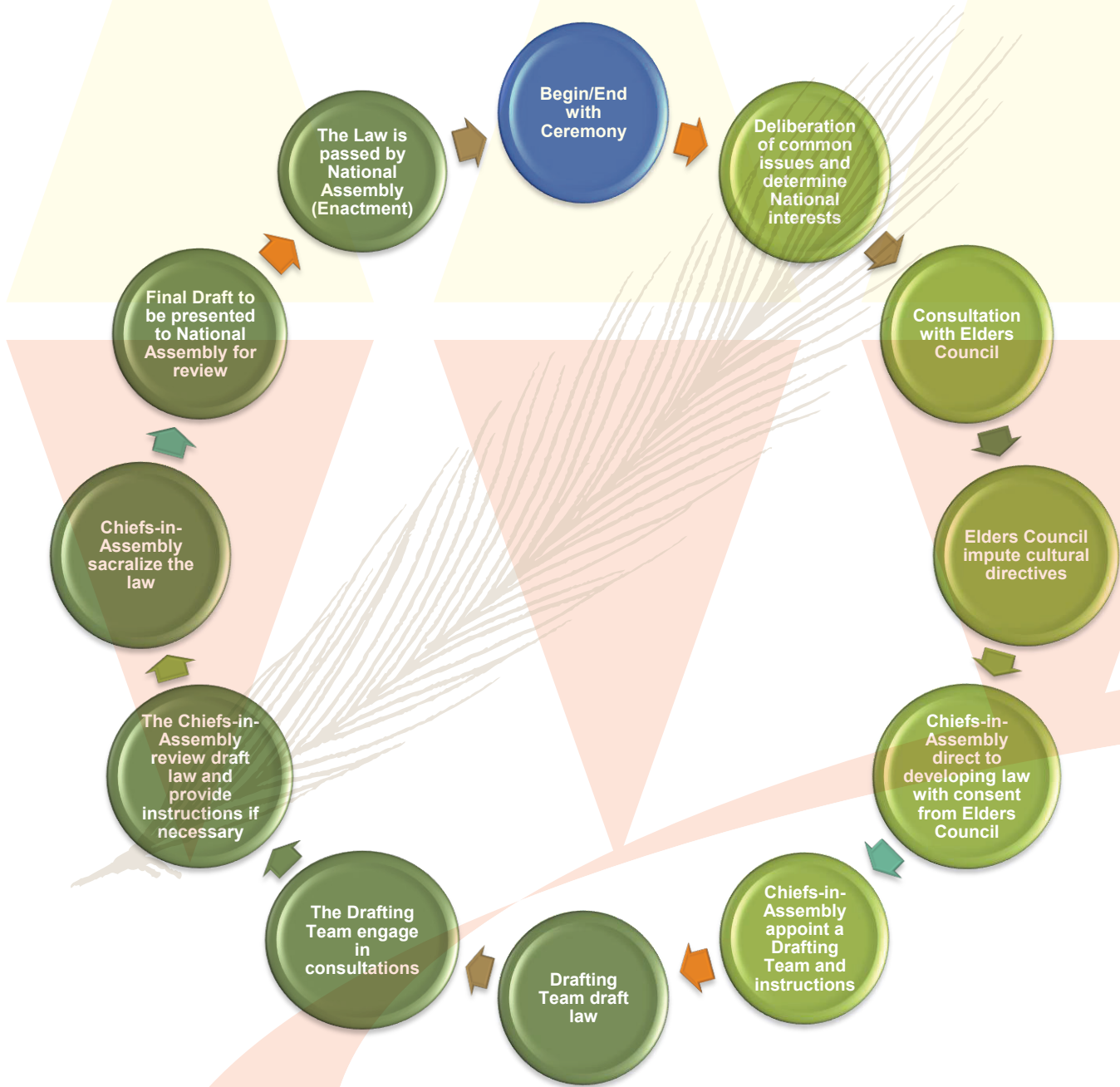
1. Deliberating common issues and determining national interests;
2. Chiefs-in-Assembly seek the guidance of the Elders Council;
3. The Elders Council may impute cultural directives;
4. Chiefs-in-Assembly direct a law to be made with the consent from the Elders Council;
5. Chiefs-in-Assembly assign a Drafting Team and dispense Instructions;
6. The Drafting Team set out to draft the law;
7. The Drafting Team may consult with the people and seek their input;
8. The Chiefs-in-Assembly read the draft law and provide further instructions, if required;
9. Upon satisfaction, the Chiefs-in-Assembly request ratifying the law through traditional processes and/or protocols;
10. Upon sanctioning the law, the Chiefs-in-Assembly agree to go before the National Assembly;
11. The Chiefs-in-Assembly cause the law to be presented to the National Assembly;
12. The National Assembly debates the law and may request further readings;
13. Upon satisfaction, the law is passed by the National Assembly and it has the effect of law.



# GRAND COUNCIL TREATY #3

THE GOVERNMENT OF THE ANISHINAABE NATION IN TREATY #3

## Illustration: ANISHINAABE NATION LAW-MAKING PROCESS





## **PROCESS OF FIRST NATION ASSENT TO ABINOOJII INAKONIGEWIN**

### **PHASE I: FIRST NATION ASSENT TO ABINOOJII INAKONIGEWIN AT NATIONAL ASSEMBLY**

In preparation for implementation of Abinoojii Inakonigewin, the following must be undertaken:

1. Inform Grand Council Treaty No. 3 of First Nation intention to assent to Abinoojii Inakonigewin during a National Assembly;
2. The First Nation will be added to the Agenda and the Chief of the First Nation will provide notice to the National Assembly of intention to assent to Abinoojii Inakonigewin pursuant to section 57 and brief overview on the importance of developing the First Nation Customary Care Code (ie. reclamation of inherent jurisdiction, development of our own Customary Practices based on community standards, etc);
3. A vote of the National Assembly will be undertaken;
4. An honour song to adhere to traditional process and protocol;
5. A record of decision will be ratified, for First Nation record and Grand Council Treaty No. 3 record.

### **PHASE II: DEVELOPMENT WORK**

1. First Nation Implementation and Transition Plan to be developed by the First Nation;
2. Development work in your community begins or continues, pursuant to a community-based and community-directed process.

### **PHASE III: RATIFICATION UNDER NATIONAL ASSEMBLY**

Upon completion of Development Work/Customary Care Code(s):

1. Return to National Assembly following same process as noted above (such as contact GCT No. 3 to be added to Agenda, etc), with completed document(s) it is not necessary to circulate the completed documents, this is for your reference purposes only;
2. Provide an update to the National Assembly on the work completed and its significance for the community to create an understanding of the significant work undertaken at the community level.
3. A vote of the National Assembly will be undertaken;
4. An honour song to adhere to traditional process and protocol;
5. A second record of decision will be ratified, for First Nation record and Grand Council Treaty No. 3 record affirming that the Development Work/Customary Care Code(s) is complete and in full force and effect under Abinoojii Inakonigewin. Accordingly; the Customary Care Code is the governing authority for the First Nation in all matters respecting children and families.



# GRAND COUNCIL TREATY #3

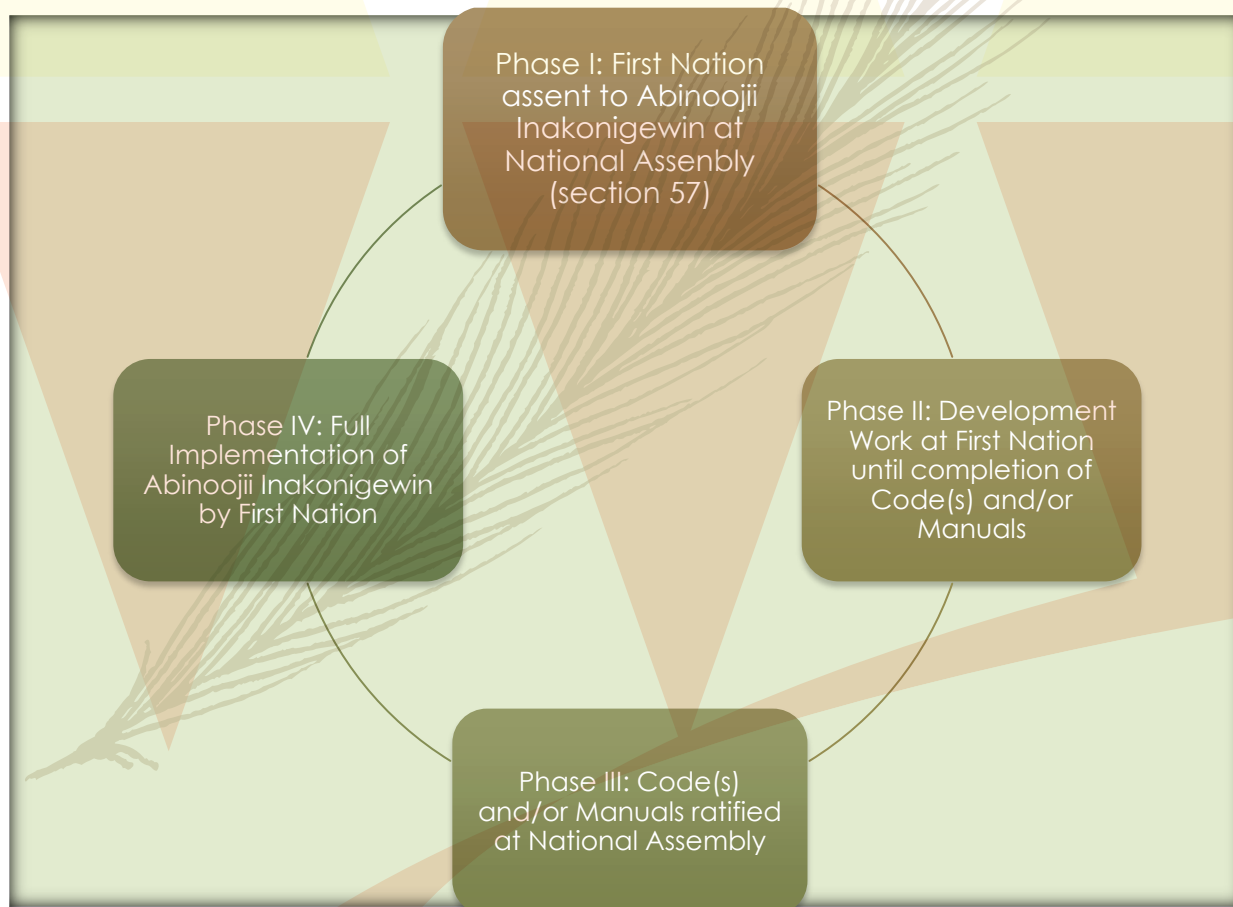
THE GOVERNMENT OF THE ANISHINAABE NATION IN TREATY #3

## PHASE IV: FULL IMPLEMENTATION

Upon completion of Development Work/Customary Care Code(s) and ratification at National Assembly:

1. Implementation process and transitional plans are undertaken;
2. Notice to Internal and External Parties;
3. Training to Internal and External Parties.

## Illustration: FIRST NATION ASSENT TO ABINOOJII INAKONIGEWIN





## CUSTOMARY CARE CODE DEVELOPMENT

### What are Community or Customary Care Codes?

- First Nation must assent to Abinoojii Inakonigewin pursuant to Section 57;
- Community or Customary Care Codes are recognized as community laws that are endorsed through community processes as determined by the First Nation;
- Community or Customary Care Codes outline community laws that govern the customary practices and Service Delivery Model of caring for children and families;
- Community or Customary Care Codes are a recognition of the inherent right and responsibility of the First Nation with respect to the safety and security of children;
- Community or Customary Care Codes reflect and incorporate information compiled from consultation sessions;
- Consultation process to be determined by the First Nation;
- Focus on child well-being and family wellness;
- Reflect Anishinaabe family systems, culture and cultural practices, traditions, customary practices and empower cultural identity; connections to land/sacred sites in community; maintain connections to family, community and territory;

### Development of Community or Customary Care Codes:

There are specific documents that are required and need to be developed by the First Nation in preparation for the delivery and implementation of Abinoojii Inakonigewin. The contents of the documents will be Anishinaabe in origin.

Research and consultation must be conducted in a manner that is inclusive and represents the Anishinaabe traditional and customary laws, customary practices, customary care and customary indefinite care of the First Nation.

In addition to this, Anishinaabe traditional family structures, Anishinaabe child caring and community practices, Anishinaabe traditional healing practices, and consideration of social systems such as the Anishinaabe clan system, traditional family systems, medicine lodge societies and customary leadership processes are outlined. The information needs to be collected from the respective First Nation and will be utilized in the development of the following documents in the implementation of Abinoojii Inakonigewin:

1. Community or Customary Care Code which will outline the framework and best practices of providing services that will ensure the safety, security and well-being of children and families;
2. Policies and Procedures;
3. Program and Practice Manuals including any assessment tools;
4. Training and/or Manuals reflective of Cultural Competence and Congruence;
5. Case Management Considerations (community elders may have specific information that they want considered including cultural determinants).



# GRAND COUNCIL TREATY #3

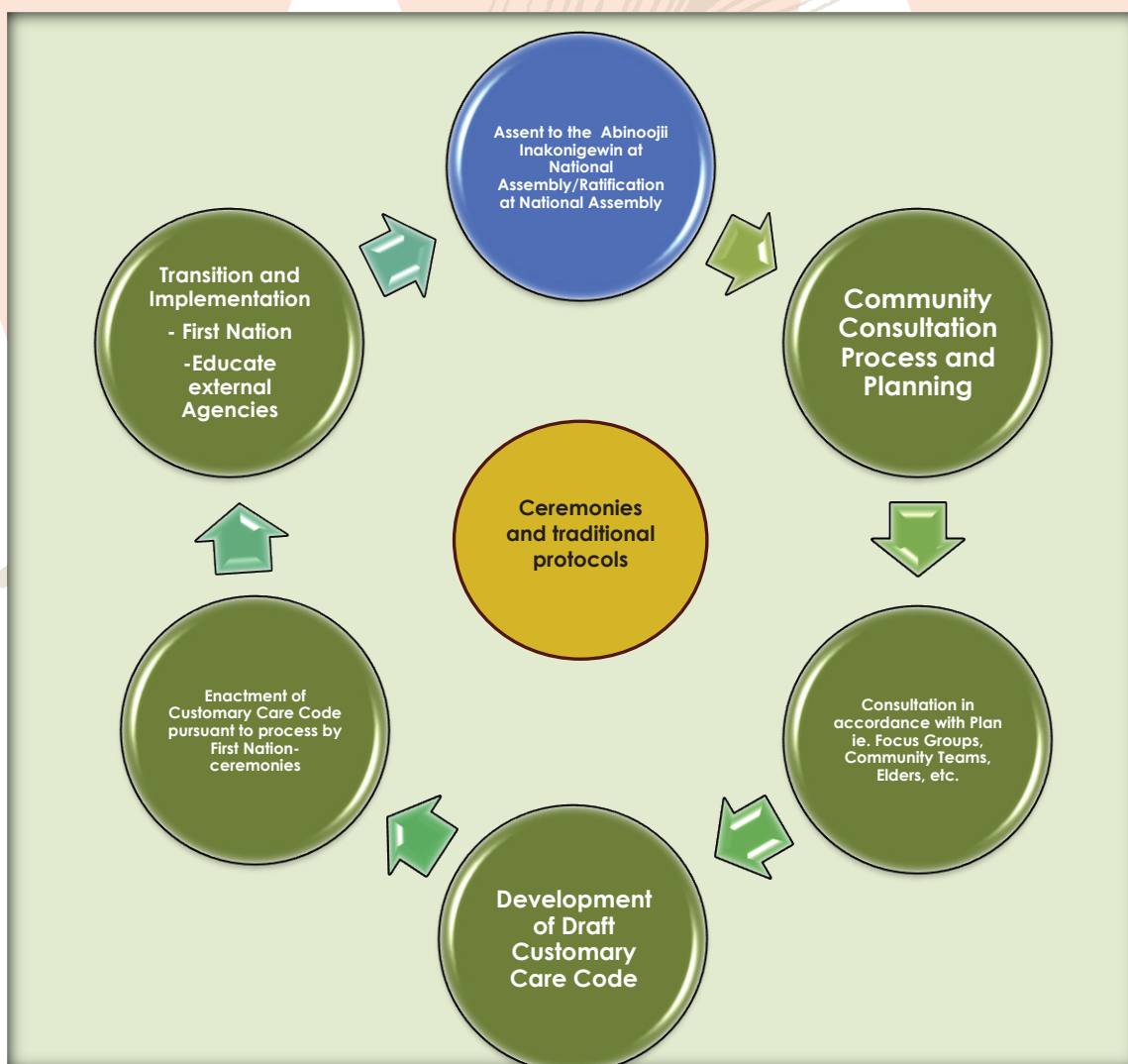
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The information in the documents can be acquired from research, exploration, examination of materials, interviews and other methods of soliciting the required information.

Throughout the process of development, implementation and transition of Community or Customary Care Codes, ceremonies play an integral role whereby cultural protocols are adhered to and maintained. Ongoing involvement of Community Elder(s) is necessary to establishing the spiritual aspect of the Customary Care Code and respective Agency. It is imperative to utilize the Anishinaabe language in order to capture the concepts of caring for children and families in the documents by translating the information being provided during the process of development.

It is recommended that a traditional process is engaged to acquire an Anishinaabe name for the Customary Care Code and the Agency.

## Illustration: PROPOSED DEVELOPMENT PROCESS OF A COMMUNITY or CUSTOMARY CARE CODE:







## **RECOMMENDED FRAMEWORK FOR DEVELOPMENT OF COMMUNITY or CUSTOMARY CARE CODES**

Prior to the development of a Community or Customary Care Code, it is imperative that a consultation and engagement plan is initiated at the beginning, in terms of, the individuals, parties or groups, that will be consulted. Elders and Traditional Knowledge Keepers are an integral part of this process.

### **SECTION ONE**

1. Jurisdiction: include a jurisdictional statement of the First Nation exercising their inherit right to govern matters related to their children and families
2. Authority: specifies the authority of Community or Customary Care Code
3. Definitions: outlines the definitions and acronyms of the Community or Customary Care Code including translation of Anishinaabe words or concepts related to Customary Care practices by the respective community

### **SECTION TWO**

1. Customary Care Definition: as determined by the First Nation through engagement and consultation sessions with Elders, Community Membership, Focus Groups and other appropriate groups such as women, men, former and current children-in-care, etc.
2. Community Service Delivery Model which will serve as:
  - The framework and process in the provision of services to be developed
  - The framework will set out the customary practices and beliefs related to Customary Care
3. Customary Adoption process: to be outlined and determined through consultation and engagement with the Elders, Community Membership and any other appropriate groups, as determined by the First Nation.

### **SECTION THREE**

1. Organizational structure of Agency which outlines staff composition, staff training and capacity development of teams: to be determined based on the needs of the community
2. Governing Body/Board/Committee such as Family Services Committee: outlines the Terms of Reference and authority
3. Structure of Programs, Services and Positions: provides a summary of programs and services as well as a brief overview of roles and responsibilities related to the positions with the Agency.



# GRAND COUNCIL TREATY #3

THE GOVERNMENT OF THE ANISHINAABE NATION IN TREATY #3

## SECTION FOUR

1. Internal Complaints Process: outlines the internal complaints review process that will need to be established if a process is not currently in place. The internal complaints review process should outline the process to initiate a complaint related to services received from the Agency.
2. Appeals Process: sets out the process of Appeals on decisions that are made related to Customary Care of child(ren).

## SECTION FIVE

1. Appendices can include:
  - Case Management Forms
  - Respective applicable policies of the First Nation
  - Any forms relevant to the Community or Customary Care Code

## SECTION SIX

Resolution:

Outlines the Resolution or Declaration enactment of the Community or Customary Care Code by Chief and Council through a process determined by the First Nation.

## OTHER CONSIDERATIONS

1. Elders and Traditional Knowledge Keepers: presence of sacred; traditional protocols during the process of consultation, engagement and implementation of the Community or Customary Care Code
2. Additional Manuals and/or Policies to be developed:
  - a. Investigations and Assessment Manual (to be developed pursuant to consultations with the First Nation) and any culturally congruent supplementary investigation and assessment tools to be utilized;
  - b. Customary Care Home Policy outlining:
    - Application and selection process of homes based on community standards
    - Placement Preferences
    - Customary Caregiver(s):
      - Obligations and responsibilities of Customary Caregiver(s) to children-in-care
      - Customary Caregiver Training
      - Orientation Manual
3. Employee Code of Conduct
4. Transition and Implementation Planning of Abinoojii Inakonigewin
5. Training Plans

# SECTION FOUR





# GRAND COUNCIL TREATY #3

THE GOVERNMENT OF THE ANISHINAABE NATION IN TREATY #3

## RESPONSIBILITY OF NATION

### AS OUTLINED IN PART 3 OF THE ABINOOJII INAKONIGEWIN (S. 21-37)

- ❖ Establishes processes for Implementation and Transition of Abinoojii Inakonigewin
- ❖ Appointment of Ka Niigaanibowe't
- ❖ Ka Niigaanibowe't to constitute or re-constitute an Agency to administer the Law, with the consent of the National Assembly
- ❖ Establish Corporate, Regulatory Body s. 39 (Ombikiasowin Protectorate)
- ❖ Appointment of Anishinaabe Abinoojii Board
- ❖ Develop and maintain Regional Offices for community-based services (s. 30 (k))
- ❖ Establishing a process for First Nations in the application and implementation of the law including the authority to mandate a First Nation Agency seeking exemptions from provincial statutes
- ❖ Administration, Implementation and Oversight of Abinoojii Inakonigewin
- ❖ Development and oversee Quality Assurance and Accountability Systems
- ❖ Compliance: Implement a new approach to Accountability and Systems Management
- ❖ Development and oversee Standards and Guidelines (s. 28-32)
- ❖ Training and Education
- ❖ Authority to Designate/License
- ❖ Work with government and community partners to implement AI
- ❖ Development of Standards, Policies and Processes (s. 30)
- ❖ Cultural Competence and Congruence
- ❖ Not a Service Delivery Agency
- ❖ Ensures adherence to AI and Community/Customary Codes (s. 33)
- ❖ Development including Curriculum, Training, Education
- ❖ Accountability processes and oversight
- ❖ Support
- ❖ Resource(s)



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## RESPONSIBILITY OF FIRST NATIONS

### AS OUTLINED IN PART 3 OF THE ABINOOJII INAKONIGEWIN (S. 38-49)

The role of First Nations is to assent to and implement Abinoojii Inakonigewin through the development of their own Customary Care Codes (laws) and any supplementary Manuals and/or Policies in the delivery of services and programs to their respective community members.

#### Requirements:

1. Pursuant to Part Four, Section 57: The First Nation is required to assent to Abinoojii Inakonigewin by serving Notice to the National Assembly and as may be further outlined in the Process of Assent section of the Toolkit on page 29.
2. The First Nation will develop a Customary Care Code in conjunction with any other Manuals and/or Policies that will form the service delivery structure and framework for children and families.
3. Assert their inherent jurisdiction and inherent authority over the provision of child protection and well-being services through the development of Customary Care Code and concurrent Program Manuals and/or Policies that will be utilized as the framework in the provision of services in the community.
4. Conduct appropriate consultations and research their own customary systems, structures and processes of caring for children and families.
5. Define: Customary Care specific to each First Nation which recognizes and outlines the traditional manner of caring for children and families; ensuring safety and well-being of children; and determined through a community-driven and inclusive process. The Customary Care Framework will be developed from information gathered.
6. Understand that Abinoojii Inakonigewin is based on the responsibility that First Nations, communities, families and citizens inherently possess with respect to care, safety and security of children.
7. Upon assenting to the law and completing the development of policies, procedures and/or Manuals outlining the provision of services, the First Nation becomes an independent authority in providing child protection services to their membership.
8. To develop processes of educating external Agencies and/or non-Indigenous Organizations and/or Governments about their Customary Care Codes.
9. To notify the National Assembly on the completion of development work.



# GRAND COUNCIL TREATY #3

THE GOVERNMENT OF THE ANISHINAABE NATION IN TREATY #3



## Community Services and Delivery: (Abinoojii Inakonigewin sections 38-49)

- To assent to the law before any application of the law (s.57)
- To deliver services, alone or in concert with other communities;
- To establish a community board, alone or with other communities;
- To appoint community members to a community board;
- To maintain community policies and procedures consist with the law;
- To provide a budget for service delivery for each FY;
- To provide services in a culturally competent manner;
- To have board expense covered by the Agency, where communities share a board;
- To employ a Community Support Team;
- To support and facilitate families and assure the safety and security of children;





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## RESPONSIBILITY OF AGENCIES

### RESPONSIBILITIES OF THE AGENCIES OF NATIONAL INTEREST (Abinoojii Family Services and Weechi-it-te-win Family Services)

- ❖ To educate the First Nations on the National Law-Abinoojii Inakonigewin, as may be required
- ❖ To assist and support the First Nations in developing their Community or Customary Care Codes;
- ❖ To assure complementary and to not act in violation of National Law;
- ❖ To Monitor and oversee that Community or Customary Care Codes are administered accordingly;
- ❖ To act in a coordinating and administrative function;
- ❖ To provide child care services to the communities, if desired;
- ❖ Develop processes that recognize and empower the Community or Customary Care Codes
- ❖ Serve as a Regional Office s. 30 (k)
- ❖ Provide assistance in Development of Customary Codes and implementation of AI
- ❖ Implementation of Standards and any Training developed through AI
- ❖ Develop of processes for implementation of Customary Care Codes
- ❖ Resource to First Nations
- ❖ Family Preservation
- ❖ Oversight
- ❖ Coordination and administrative function
- ❖ Customary Care and revitalization of Customary child care practices
- ❖ Cultural Competence and Congruence
- ❖ Develop implementation and transition process for Agency and First Nation and Community or Customary Care Codes
- ❖ Establish Anishinaabe values, culture, tradition and healing practices as core service functions
- ❖ Service provision when necessary

### RESPONSIBILITIES OF NON-INDIGENOUS AGENCIES

- To be cognizant and remain informed about Treaty # 3 First Nations in the implementation of their own Community or Customary Care Codes and/or are in process of developing Community Customary Care Codes;
- To establish processes of training and educating their staff on Community Customary Care Codes;
- Development of Protocols when necessary
- To work collaboratively with all parties in the implementation and transition of Abinoojii Inakonigewin



## COMMUNITY DEVELOPMENT

### COMMUNITY DEVELOPMENT:

The development of Customary Care Codes and Standards takes the National Law further into implementation and delivery of child care services. The Customary Care Codes are the Law of the community and they are unique to each First Nation and they may include such things as, for example, amnesty vs. expulsion, community standards for services, customary care and custom adoption, and the management and investigation of child abuse. The communities are required to develop their own standards of care and the infrastructure for the provision of services which may include Community Boards and Community Support Teams. The communities can design their own adjudication system that made involve the Clans in any non-voluntary cases. The development of Customary Care Codes, policies and procedures are subject to the approval of the Agency. The communities will Serve Notice to Grand Council that the work is complete and provide a Report to the National Assembly.

To date, the following communities have completed Customary Care Codes and supplementary Manuals and/or Policies as well as provided their assent for the development of their Customary Care Codes:

- Wabaseemoong Independent First Nation
- Ojibways of Onigaming First Nation
- Lac La Croix First Nation
- Naotkamegwaaning First Nation

In addition to this, the following are status updates related to Customary Care Code Development:

- Naicatchewenin First Nation has completed and signed their Customary Care Code;
- One First Nation scheduled a final signing date of Customary Care Code;
- Three First Nations have initiated consultations with community membership to begin development of Customary Care Code.



# SECTION FIVE





## ABINOOJII INAKONIGEWIN: COPY

### The Anishinaabe Nation in Treaty # 3

May, 2005

#### WHEREAS:

Manito gave to the Anishinaabe duties and responsibilities to govern themselves; and

Manito gave to the Anishinaabe the responsibility to provide care and protection for their children and families; and

The child is a sacred gift from Manito and represents the continuity of the nation; and

Traditional Anishinaabe law recognizes that the child is a sacred gift and that the best interests of the child are the paramount consideration in all matters relating to the child; and

Traditional Anishinaabe Law recognizes that the child must live, belong and grow within an environment of human relationships rooted in the family, the clan and the community, and that these needs are essential to the best interests of every Anishinaabe child; and

Anishinaabe culture comprises the whole accumulated knowledge and wisdom that has enabled the people to survive and to live a good life; and

Traditional Anishinaabe Law requires each Anishinaabe person to protect and uphold the culture for the benefit of future generations, and gives the Anishinaabe people guidance for their lives; and

The Anishinaabe people has since time immemorial passed down to successive generations, and adapted for each generation, temporal law consistent with traditional law to meet the needs of successive generations as they may arise, including law for the care and protection of its children and families; and

Anishinaabe law in respect of the care and protection of children and families continued to apply as law of the Anishinaabe Nation in Treaty # 3 following the Northwest Angle Treaty of October 3rd, 1873; and

The Crown failed to honour the Treaty and inflicted great injury on the nation and its citizens; and

Canada entered into a Framework Agreement on May 22, 1997 to assist the nation in rebuilding its traditional government; and

In a Statement of Reconciliation on January 8, 1998 the Crown apologized to the nation; and

The nation consists in its people, culture, language and sacred relationship to Mother Earth; and

The people may have recourse to sacred healing ceremonies, and



The nation has jurisdiction in respect of the care of its children; and

The nation has taken counsel among its Elders and citizens, and has consulted with the governments of Canada and the Provinces of Manitoba and Ontario; and

The nation now finds it necessary for the care of its children and protection of its families to express certain aspects of its temporal law in writing so that it may be better and more widely understood and respected, and to adapt it to meet the needs of the present generation;

**THEREFORE:**

The nation, with approval of the Elders and validation in traditional ceremony, and with ratification by the National Assembly, proclaims this Law:

**PART 1**

**Name**

1. This Law is Abinoojii Inakonigewin.

**Interpretation**

2. This Law is intended to be, and should be interpreted as, consistent with traditional Anishinaabe Law.

3. In this Law:

“alternative justice” means a formal system for administration of justice established by a community, where applicable depending upon severity of the offence;

“the Anishinaabe Abinoojii Agency” means an Agency established pursuant to this Law;

“Anishinaabe Abinoojii Board” means a voluntary board of grandparents who are willing to share their lifelong experience and who are appointed by Ka Niigaanibowe’t pursuant to this Law;

“Band” means any of the Bands listed in Schedule 1;

“candidate” means a suitably qualified citizen;

“child” means a child of a citizen who has the opportunity to grow up as a citizen, and includes an adoptive child;

“citizen” means a citizen of the nation and includes any member of a Band at the date this section comes into effect;

“community” means a community of the Anishinaabe, recognized as such in accordance with the traditional constitution of the nation;

“community board” means a voluntary board established by on or more communities pursuant to this Law;

“community worker” means any qualified person employed by a community board or the Anishinaabe Abinoojii Agency to provide services pursuant to this law;



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“custody” has the meaning derived from the laws of Canada;

“develop” includes consultation with community boards and workers;

“extended family” includes Niiwen’en’h and clan;

“family” means adult persons related by blood, adoption or marriage;

“fiduciary duty” means a duty to place the best interests of a child above all competing considerations;

“the Grand Council” means the government of the nation;

“intervene” means to take action to care for a child and includes giving consent to placement;

“jurisdiction” includes a province or territory of Canada or a state or territory of the United States of America, and an aboriginal nation;

“ministry” means Ka Niigaanibowe’t and such staff as the Grand Council may provide from time to time, but does not include the Anishinaabe Abinoojii Agency or the Anishinaabe Abinoojii Board;

“the nation” means the Anishinaabe Nation in Treaty #3;

“Ka Niigaanibowe’t” means the person nominated and sworn in pursuant to this Law from time to time;

“non-citizen” means any person other than a citizen;

“parent” means any parent of a child and includes an adoptive parent and a foster parent;

“placement” means any arrangement, for any definite or indefinite time, for the care of a child and, for certainty, may include wardship, supervision orders, temporary care agreements, special needs agreements, customary care, customary adoption with or without subsidy, and private customary arrangements;

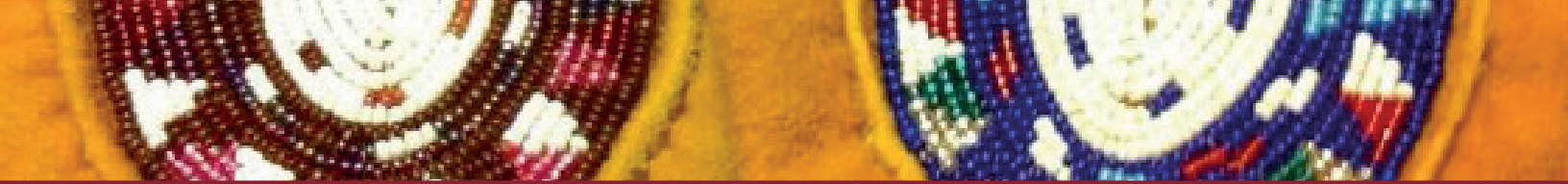
“services” means the child and family services to be provided pursuant to this Law;

“standards” means standards developed by the Anishinaabe Abinoojii Agency in consultation with communities and approved by Ka Niigaanibowe’t;

“the traditional territory” means the territory of the nation, as recognized and affirmed by Treaty # 3.

4. The purposes of the Law are to:

- a) provide for the well-being of children;
- b) ensure that their best interests are understood and given effect; and
- c) prevent the intrusion of laws of other jurisdictions in their lives contrary to their best interests.



5. This Law gives effect to the following principles:

- a) This Law applies to parental responsibilities and to related responsibilities.
- b) This Law is based on Anishinaabe concepts of parental and other responsibilities for a child and not upon concepts of parental rights such as custody.
- c) A child exists in the cultural and social context of its family, which in turn exists in the cultural and social context of the extended family, clan, community and nation, and the best interests of the child require that its cultural and social context be support and protected.
- d) Access to fundamental attributes of Anishinaabe life, including Anishinaabe identity, language, cultural and society, is essential to the best interests of a child.
- e) Family services should support and strengthen the role of families in mental, physical, emotional and spiritual care of children.
- f) Prevention services should include a focus on the causes of molestation, abuse and abandonment.
- g) Child and family services should be delivered at the community level.
- h) Decisions affecting the life of a child must be free from intimidation, from political influence and from any influence that may be affected by conflict of interests.
- i) Healing of the people is essential to caring for children.

6. This Law should be interpreted having regard to realities that may affect the best interests of a child, including:

- a) The effect of severing a child's ties with fundamental attributes of Anishinaabe life may be as traumatic and long lasting as those of physical amputation.
- b) No life is free from risk, nor will it be.
- c) Living conditions affecting many Anishinaabe people may expose their children to higher risks than those of most other Canadians.
- d) Standards that reduce certain risks but result in injury to a child's identity or cultural supports may not be consistent with the best interests of the child.

## PART 2

### Responsibilities

- 7. Every parent has a responsibility to care for his or her child.
- 8. Every citizen has a responsibility to care for the child of an extended family member, if the parents do not.
- 9. Every citizen has a responsibility to care for the child of a clan member, if the extended family members and parents do not.
- 10. Every citizen has a responsibility to care for the child of a community member if the clan members, extended family members and parents do not.



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11. Every citizen has a responsibility to care for the child of a citizen if community members, clan members, extended family members and parents do not.
12. The nation has a responsibility to care for the child of a citizen, if citizens, community members, clan members, extended family members and parents do not.
13. As between Anishinaabe parents, extended family members, clan members, community members, citizens and the nation, the best interests of the child are always the paramount consideration.

## **Authority**

14. Every citizen who has a responsibility to care for a child should do so if and when the child is at need, and every citizen has authority to intervene as and to the extent necessary to do so.
15. A community worker has a responsibility to care for a child when the child is at need and has authority to intervene on behalf of the community as and to the extent necessary to do so.
16. The Anishinaabe Abinoojii Agency has a responsibility to care for a child when the child is at need and has authority to intervene on behalf of the nation as and to the extent necessary to do so.
17. The authority of a community worker and the authority of the Anishinaabe Abinoojii Agency are limited as provided by this Law.

## **Placement only by consent**

18. Every placement of a child shall be made as needed with the consent of a parent, of its family, of its extended family, of its community, or of the nation.

## **Fiduciary duty**

19. Every person who has the authority to make a decision affecting the life of a child has a fiduciary to have regard to the best interests of the child.

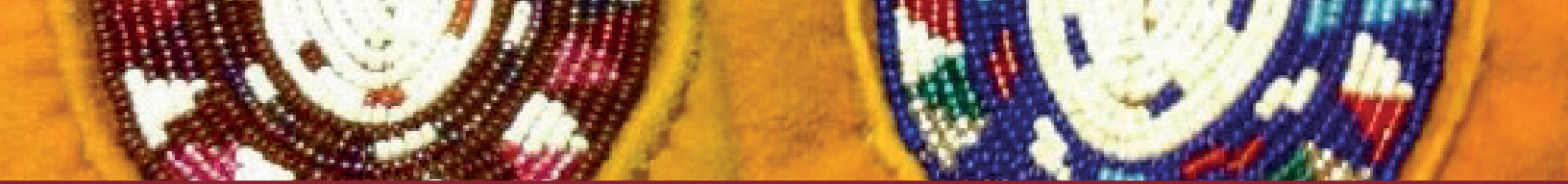
## **Liability**

20. Every person is responsible for his or her actions and inactions that affect a child, provided that no person is liable for anything done in good faith pursuant to his or her responsibility under this Law.

## **PART 3**

### **Ka Niigaanibowe't**

21. The Grand Chief may from time to time ask, in accordance with the traditional protocol, a candidate to accept responsibility for the administration of this Law.
22. Upon accepting, the candidate will take an oath of office in a ceremony administered by the Elders in Council.
23. Ka Niigaanibowe't takes office upon completion of the ceremony.
24. The Grand Chief will at the first opportunity report to the National Assembly on the qualifications of and reasons for choosing Ka Niigaanibowe't.



25. The appointment of Ka Niigaanibowe't is subject to ratification by the National Assembly.

26. Ka Niigaanibowe't shall report to the National Assembly.

27. Ka Niigaanibowe't may with the approval of the National Assembly issue written clarifications, consistent with this Law, of its meaning or application.

**Agency**

28. Ka Niigaanibowe't may, with the consent of the National Assembly, constitute or reconstitute an Agency to administer this Law.

29. The Anishinaabe Abinoojii Agency shall be a body corporate under the laws of the nation or of Canada.

30. The Anishinaabe Abinoojii Agency shall:

- a) Develop standards for child and family services, including cultural services and pre-natal services, and for the delivery of services;
- b) Develop standards for foster care training;
- c) Develop standards for community worker training;
- d) Develop standards for alternative caregivers;
- e) Develop standards for supervision and monitoring of community workers;
- f) Develop standards for board members;
- g) Monitor the delivery of services, having regard to standards;
- h) Carry out performance evaluations for community boards, supervisors and community workers;
- i) Develop and maintain a case management system and related databases;
- j) Subject to judicial and case management requirements, maintain the confidentiality of all parent or child information in the case management system;
- k) Develop and maintain regional offices for community-based services to off-reserve residents;
- l) Develop and maintain a foster home database;
- m) Maintain a capacity to supervise and deliver services temporarily at the community level if required;
- n) Manage all services that extend beyond the traditional territory;
- o) Manage all matters involving the laws of a Province;
- p) Develop and maintain effective and efficient systems for administer this Law; and
- q) Report to Ka Niigaanibowe't.

31. Standards developed pursuant to the preceding section shall take effect when adopted



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THE GOVERNMENT OF THE ANISHINAABE NATION IN TREATY #3

by the Anishinaabe Abinoojii Board and approved by Ka Niigaanibowe't.

32. The Anishinaabe Abinoojii Agency may, subject to direction of Ka Niigaanibowe't:

- a) Provide training in accordance with standards that have been certified in writing by Ka Niigaanibowe't;
- b) Adopt and amend codes of conduct for members of the Anishinaabe Abinoojii Board and community boards, supervisors and community workers; and
- c) Do all things reasonably incidental to the administration of this Law.

33. If the Anishinaabe Abinoojii Agency advises in writing that supervision or delivery of services in any community does not meet standards, Ka Niigaanibowe't may direct the Anishinaabe Abinoojii Agency to supervise or deliver services temporarily, and shall provide a written report to the Grand Chief.

## **Anishinaabe Abinoojii Board**

34. Ka Niigaanibowe't may from time to time appoint members of a Board to oversee the policies and procedures of the Anishinaabe Abinoojii Agency and, except as expressly authorized by this Law, Ka Niigaanibowe't shall not interfere in the day to day operations of the Agency.

35. The Board shall cause the Anishinaabe Abinoojii Agency to maintain financial records consistent with Generally Accepted Accounting Principles.

36. The Board shall obtain an annual audit and shall publish an annual report on the operations of the Anishinaabe Abinoojii Agency.

37. The Grand Council may pay prior approved expenses of members of the Board.

## **Community Services**

38. Subject to this Law, each community may, alone or in concert with others, deliver services directly, and the Anishinaabe Abinoojii Agency will provide resources for such services.

## **Community board**

39. Each community may, alone or in concert with others, establish a community board to oversee the supervision and delivery of services in that community or those communities.

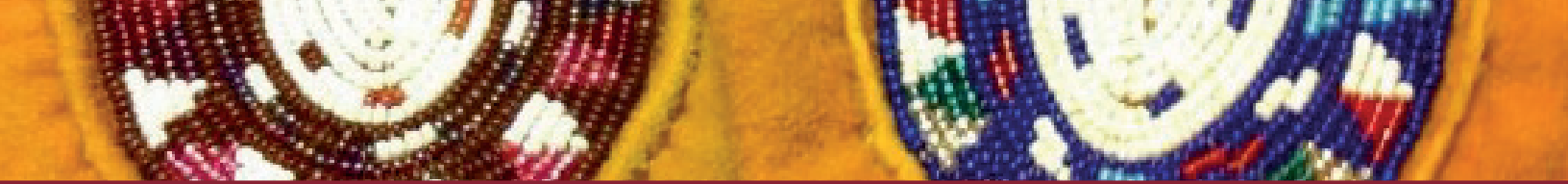
40. The members of a community board shall be appointed or elected by the community independently of the community leadership.

41. A community board must establish, maintain and apply written policies and procedures consistent with standards developed by the Anishinaabe Abinoojii Agency.

42. Where a community board provides a budget for a fiscal year, the Anishinaabe Abinoojii Agency may provide funds in accordance with the budget, subject to such reasonable conditions as it sees fit.

43. Subject to the policies and procedures of a community board, services may include cultural services.



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44. Where two or more communities share a single community board, the Anishinaabe Abinoojii Agency may pay the prior approved expenses of community board members.

#### **Community support team**

45. A community board may employ community workers as members of an integrated community care team.
46. The role of the community care team is to support and facilitate the role of the family and to monitor any situation that threatens the security or well being of a child.

#### **Conflicts with laws of other jurisdiction**

47. Subject to direction by and approval of Ka Niigaanibowe't, the Anishinaabe Abinoojii Agency may establish and maintain agreements with other jurisdiction for harmonizing the administration of this Law and the administration of their laws.
48. Every jurisdiction is requested to have due regard, in accordance with its law, to the purposes and provisions of this Law.
49. The Anishinaabe Abinoojii Agency may represent the nation in any proceeding respecting a child, and consent to any order that it is satisfied will be consistent with the best interest of the child and oppose any other order.

### **PART 4**

#### **Offences**

50. Every citizen should respect abinoojii aatisiwin.

#### **Transition**

51. Ka Niigaanibowe't may, with the written consent of the Grand Chief, authorize discussions with another jurisdiction, or may enter into an agreement with that jurisdiction on behalf of the Grand Council, to harmonize the administration of this Law and the laws of that jurisdiction.
52. Ka Niigaanibowe't may, with the written consent of the Grand Chief, constitute the Anishinaabe Abinoojii Agency and direct it to implement a written transition plan before section 28 takes effect.
53. The Executive Council may enter into agreements with Canada or the province of Manitoba or the province of Ontario on behalf of the nation to fund the provision of services pursuant to this Law.
54. The Executive Council shall cause funding received pursuant to the preceding section to be disbursed to participating communities and to the Anishinaabe Abinoojii Agency according to need.
55. The provisions of this Law concerning funding are subject to any law of the Nation providing for financial administration.
56. Ka Niigaanibowe't may with the written consent of the Grand Chief do all things necessary to give effect to the purposes and principles of this Law.



# GRAND COUNCIL TREATY #3

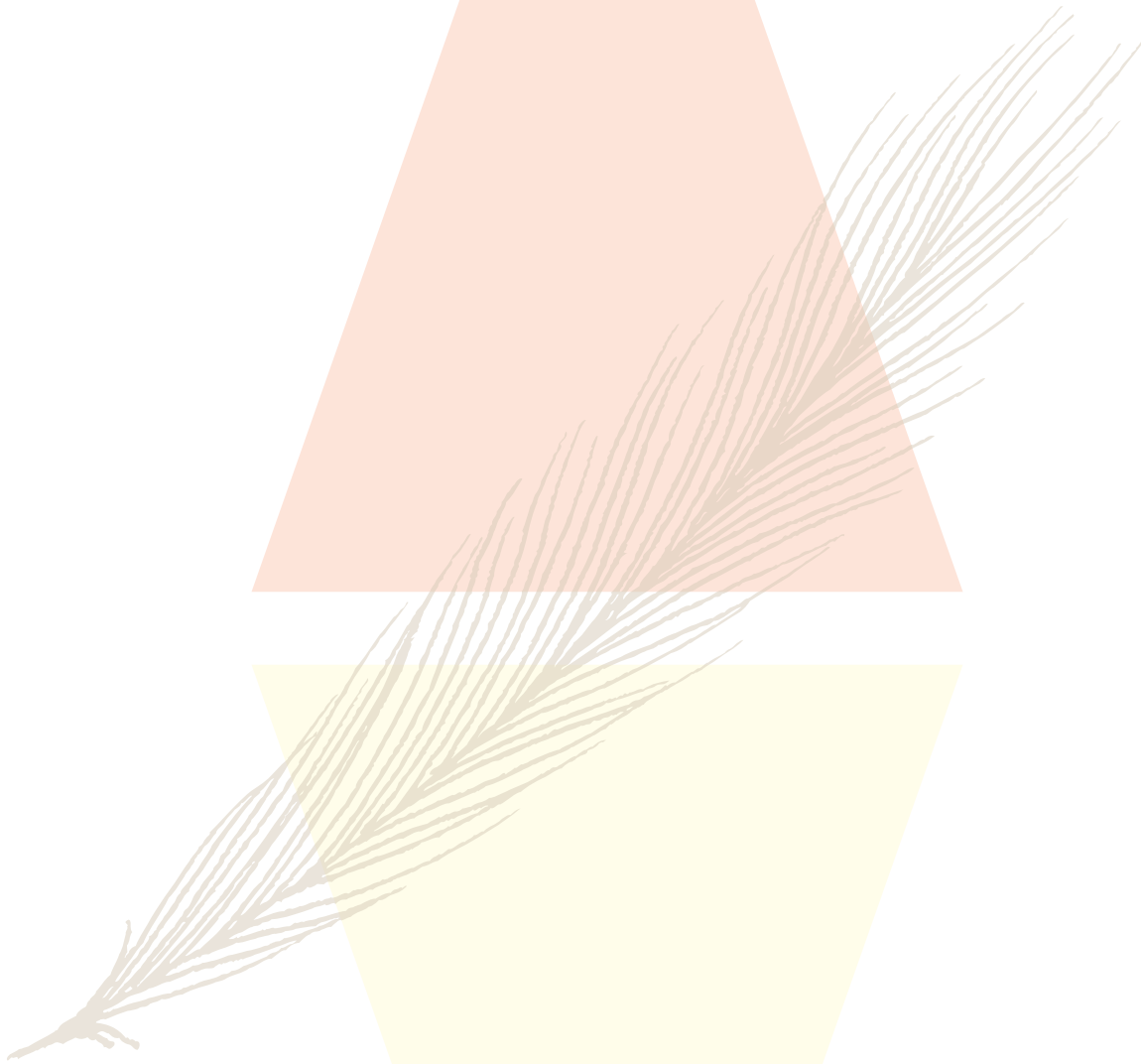
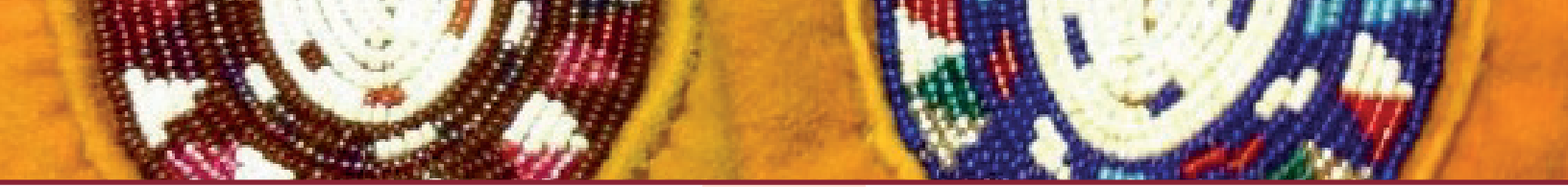
THE GOVERNMENT OF THE ANISHINAABE NATION IN TREATY #3

57. For greater certainty, notwithstanding anything in this Law, it shall not apply in respect of any community until that community has assented to it.

## **Date of effect**

58. Sections other than this section and the next shall come into effect on dates to be determined by resolution of the Executive Council.

59. Subject to the preceding section, this Law takes effect when adopted.





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