



Sucker Creek (Picture by Peter Nahwegahbo)

# EDUCATION CODE OF THE AUNDECK OMNI KANING FIRST NATION

## **ABSTRACT**

The Education Code of the Aundeck Omni Kaning First Nation is the governance and law-making structure for the administration of education and the pursuit of excellence for the Aundeck Omni Kaning First Nation members. Hereby recorded and accepted by the membership this \_\_\_ day of \_\_\_\_\_, 201\_.

**Peter Nahwegahbow**

Consultation, Capacity and Resource  
Development Officer

# Education Code of the Aundeck Omni Kaning First Nation

## PREAMBLE

By virtue of our Rights and Freedoms as a self-governing First Nation in an historical relationship with the Crown, and recognized under the Robinson Huron Treaty of 1850, the Manitoulin Treaty of 1862 and 1836 and other applicable Treaties, we do hereby proclaim and confirm the ***“Education Code of the Aundeck Omni Kaning First Nation”***; ***hereby referred to as simply Education Code within this document.***

It is upon this foundation that the Aundeck Omni Kaning First Nation put into place this Education Code, which is the basis for our government authority, our jurisdiction and our laws as it pertains to the provision and governance of education.

This Education Code confirms the rights, responsibilities and freedoms of the First Nations’ Members, its government and its governing institutions in relation to the jurisdictions set out in this Education Code as confirmed by the ratification by its Members.

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### PART 1 – Supreme Law

- 1.1 We, the Aundeck Omni Kaning First Nation establish this Education Code as our **Supreme Law** over all matters pertaining to education in accordance with our Traditional Values and Principles on which our Culture has existed.
- 1.2 Nothing in this Education Code should be construed or interpreted in any way so as to abrogate or derogate from the aboriginal and treaty rights of Aundeck Omni Kaning which are constitutionally protected by the section 35 (1) of the *Constitution Act, 1982*.
- 1.3 In the event of conflict between this Education Code and Aundeck Omni Kaning First Nation Laws or regulations, this Education Code will prevail to the extent of the conflict.
- 1.4 ***The Education Council will be elected by the Aundeck Omni Kaning eligible voters in accordance with the Aundeck Omni Kaning First Nation Election Law.***

## **PART 2 – Title “Education Code of the Aundeck Omni Kaning First Nation”**

2.1 This document shall be cited as the Education Code of the Aundeck Omni Kaning First Nation.

## **PART 3 - Definitions**

3.1 In this Education Code of the Aundeck Omni Kaning First Nation:

- 3.1.1 Sacred Bundle includes our traditional Community Drum, Eagle Staff, Head-Dress and Pipe and all other sacred items;
- 3.1.2 “Member” means a person who belongs to the First Nation and whose name appears on the Aundeck Omni Kaning Band Membership List in accordance with the Aundeck Omni Kaning Band Membership Code;
- 3.1.3 “Gimah” (Chief) means the person elected as Gimah (Chief) in accordance with the Aundeck Omni Kaning First Nation Election Law;
- 3.1.4 “Councillor(s)” means a member or members of Council elected in accordance with Aundeck Omni Kaning First Nation Election Law;
- 3.1.5 “Band Council” means the executive decision making body made up of the Gimah and Councillors of Aundeck Omni Kaning elected in accordance with the Aundeck Omni Kaning First Nation Election Law;
- 3.1.6 “Education Council of Aundeck Omni Kaning” means the identified education authority as recognized by the Education Code of Aundeck Omni Kaning and elected as per procedures established in accordance with the Aundeck Omni Kaning First Nation Election Law.
- 3.1.7 “Public Institution” means a body, board, commission, tribunal, judicial body, corporation, advisory council, committee or other bodies or authority established in writing by Aundeck Omni Kaning First Nation Government to exercise certain jurisdictions or authority of the government in relation to education;
- 3.1.8 “Canada” or “Crown” means Her Majesty the Queen in Right of Canada;
- 3.1.9 “Eligible Voter” means a Member who has attained the age of eighteen (18) years by or on the date of the vote in accordance with the Aundeck Omni Kaning First Nation Election Law;

- 3.1.10 "First Nation" means Aundeck Omni Kaning, its ancestors, the present and our descendants, which represents and comprises all its Members for whose use and benefit in common, our lands, were gifted to us by the Creator.
- 3.1.11 "First Nation Law" means a law made by the First Nation in accordance with this Election Law;
- 3.1.12 "Rule" means a standard, statement or procedure, other than a regulation or policy, adopted by the Council to govern the behaviour or conduct of Council or Public Institutions;
- 3.1.13 "Registry" means a secure, fireproof storage facility within the Aundeck Omni Kaning administration office which will contain all of Aundeck Omni Kaning's laws, patents, ballots, audit statements and constitution;

## 1. Name

The *Education Council of Aundeck Omni Kaning*, herein and throughout the document shall be called the **Education Council** shall exercise education jurisdiction with respect to Aundeck Omni Kaning First Nation community standards and objectives.

## 2. Objectives

The objectives of the **Education Council** with respect to education shall be:

- (a) To be responsible for the exercise of education jurisdiction for the Aundeck Omni Kaning First Nation with respect to kindergarten, elementary and secondary education for all persons whether Members or non-members, resident on the Aundeck Omni Kaning First Nation reserve and with respect to post-secondary student support for all Members, whether or not resident on reserve.
- (b) To work with Members to ensure that the highest quality of education is provided to the students and that the provisions of this Agreement with respect to transferability are met by the Aundeck Omni Kaning First Nation.
- (c) To work with the identified Regional District School Board proposed under the Anishinabek Education System and the Rainbow District School Board to research, develop and implement initiatives and new directions in education until such a time that Aundeck Omni Kaning has developed and are able to deliver their own education curriculum and provide unsolicited direction.
- (d) To develop policies and procedures which will enhance the education program and delivery of education services necessary to the success and goals of the Aundeck Omni Kaning First Nation.
- (e) To ensure that the education program delivered to Members and Non-Members of the Aundeck Omni Kaning First Nation accurately reflect the needs of the community.

### 3. Statement of Principles

- (a) The Anishinabek Nation in Ontario has an inherent right to self-government in the area of education.
- (b) The Anishinabek Nation in Ontario has entered into a process, outside Canada's so-called "Inherent Rights" Policy, to exercise its jurisdiction and the fiduciary obligations of Canada to continue to fund education.
- (c) The Aundeck Omni Kaning First Nation, as part of the Anishinabek Nation in Ontario, affirms the vital importance of education to the future of the Nation. Anishinabek education must respect the cultural and linguistic heritage of Anishinabek children and provide the highest education experience.
- (d) The Aundeck Omni Kaning First Nation, as part of Anishinabek Nation in Ontario, is committed to pursuing, in partnership with (identified authority), an educational system which prepares Anishinabek children for the challenges of the future with a full understanding and appreciation of their rich Anishinabek heritage.

### 4. Rules and Procedures

*The normal rules and procedures governing Aundeck Omni Kaning Band Council meetings shall govern meetings of the Education Council of Aundeck Omni Kaning in exercising jurisdiction with respect to education, unless those rules and procedures are otherwise modified by this Education Code.*

### 5. Conflict of Interest

- (a) No member of *Education Council of Aundeck Omni Kaning* shall vote or participate in the discussions at a meeting in which he/she has a conflict of interest. For the purpose of this Education Code, a conflict of interest is considered to occur when a decision involves a person who is part of the immediate family which includes parents, children, grandparents, grandchildren, and spouses. Spouses may be married, common-law, or are engaged in a co-habitational situation which is considered by the community to be part of a family regardless of traditional or same sex gender partnerships. The *Education Council* member must reveal that interest to the discussion commencing on the matter. The other members of the *Education Council* will decide whether he/she must leave the meeting room during those discussions. If the member does not disclose the interest and another member is aware of this interest, he/she may raise the matter with the *chairperson* or another *Education Council* either directly in the meeting or before the meeting and *either member* may put the matter before *Education Council*. The absence of *Education Council* member from the meeting room during which discussions in

which the member is considered to be in conflict of interest shall not result in the absence of quorum.

- (b) Nothing prevents the *Education Council* from engaging in business with the *Education Council* provided that the *Education Council* member discloses the nature of the relationship, does not take part in the discussions, does not attempt to influence other members and does not vote.

## 6. Meetings and Notices

- (a) Meetings of the *Education Council*, in exercising its jurisdiction with respect to education shall be on the same notice as is provided for other meetings of the *Education Council*, unless otherwise determined by the *Education Council*.
- (b) Except for amendments to the Education Code made according to paragraph 15, notice of any meeting of the *Education Council* need not specify the purpose for which the meeting is called or the nature of the business to be transacted at such meeting but may include a provisional agenda.
- (c) Regular meetings of the *Education Council*, in exercising its jurisdiction with respect to education, shall be open to the public unless the Council is dealing with matters relating to personnel, the acquisition, sale, lease, or security of property, labour relations, legal opinions, and other similar matters, in which case the meeting shall be in camera.

## 7. Quorum

The quorum of the *Education Council*, in exercising its jurisdiction with respect to education, shall be the same as the quorum for other Band Council meetings. All questions arising before the *Education Council* shall be decided by a majority of votes. In the event of a tie vote, the Chairperson will cast the deciding vote. An abstention is not a vote in the affirmative nor is it a vote in the negative. When a *Education Council* member abstains from voting, that person's vote is not counted. Generally, matters will be decided by a consensus rather than a formal vote. Every reasonable effort will be made to achieve consensus. Only if consensus cannot be reached will a formal vote be called.

## 8. Boards and Committees

The *Education Council* may create such boards and committees as it deems advisable, with terms of reference and membership to be determined by *Education Council* passed in accordance with the provisions of this Education Code. The *Education Council* shall have the authority to delegate, to such boards and committees, the power to pass regulations, dealing with subject matters which are specifically defined within the terms of reference establishing the board or committee. Any regulation passed by such a committee shall be maintained and published as a law in the manner as set out for the publication of laws and Articles 10 and 11 of this Education Code.

## 9. Law Making

Only the *Band Council* have the authority to pass laws, therefore, *laws pertaining to the administration of education can be enacted after the required procedures are fulfilled as determined under the Aundeck Omni Kaning Referendum Policy*. For the purpose of this Education Code, "laws" includes laws, by-laws, and regulations proposed by the *Education Council* for the purpose of exercising jurisdiction with respect to education and submitted for approval to the *Band Council* for consideration and action as prescribed by the *Aundeck Omni Kaning Referendum Policy*.

## 10. Publication of Laws

- (a) The *Education Council* shall cause to be kept at the Registry an up-to-date record of all laws.
- (b) The record of all laws shall be available to any Member of the community to review on reasonable notice.

## 11. Laws of General Application

Upon any law of general application coming into effect, the *Education Council* shall make that law generally available to the members of the community and shall make every effort to ensure that a copy of the law is provided to every Member. Failure on part of the Band to provide copies of any law shall not render that law invalid by reason of the failure to provide it. Laws of general application are those which are intended to apply to all people, or to groups of people, within the jurisdiction of the *Education Council*.

## **12. Signature and Certification of Documents**

Contracts, documents, or any instruments in writing requiring the signature of the *Education Council* shall be signed by such persons designated by resolution of the *Education Council* and all contracts, documents and instruments in writing so signed shall be binding upon the *Education Council* without any further authorization or formality.

## **13. Appeals**

The *Education Council* shall establish an appeal process to ensure that the Education Code is properly and fairly applied and that reasonable procedures are in place which reflect fundamental fairness, the operational effectiveness of the *Education Council* and the utilization of traditional dispute resolution techniques either band community-driven and approved or through the application of a developed Appeals and Redress Services administered under the Union of Ontario Indians Restoration of Jurisdiction Program .

## **14. Amendment of the Education Code**

This Education Code may be amended through adherence and utilization of the Aundeck Omni Kaning Referendum Policy to assure the Members of transparency and accountability for any and all changes to the Education Code.

## **15. Interpretation of these By-Laws**

The singular shall include the plural and plural the singular. The masculine shall include the feminine.

## **16. Adoption of the Education Code**

The Aundeck Omni Kaning has adopted this Education Code under the process established in the Aundeck Omni Kaning Referendum Policy.