



BC Tripartite Education Agreement:
Supporting First Nation Student Success
2018



**BC TRIPARTITE EDUCATION AGREEMENT:
SUPPORTING FIRST NATION STUDENT SUCCESS**

(the "Agreement")

This Agreement is dated for reference the 1st day of July 2018 (the "Effective Date").

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF CANADA,
as represented by the Minister of Indigenous Services

(hereinafter referred to as "Canada")

AND:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA,
as represented by the Minister of Education

(hereinafter referred to as the "British Columbia")

AND:

FIRST NATIONS EDUCATION STEERING COMMITTEE,
a society incorporated under the Society Act (British Columbia),
as represented by its President

(hereinafter referred to as "FNESC")

(Collectively referred to hereinafter as the "Parties")

WHEREAS

- A. Indigenous peoples have the right to establish and control their educational systems and institutions as affirmed in the *United Nations Declaration on the Rights of Indigenous Peoples* ("UN Declaration"), and as a fundamental aspect of their inherent right of self-government recognized by Canada and British Columbia pursuant to section 35 of the *Constitution Act, 1982*.
- B. First Nations in British Columbia have worked for more than two decades to build the BC First Nations Education System (described in Schedule A), which is premised fundamentally on quality education for First Nation Students and First Nations control of First Nations education.

- C. FNEESC is a policy and advocacy organization that represents and works on behalf of First Nations in British Columbia, with a mandate to advance First Nations education in British Columbia by disseminating information, undertaking research, working with the First Nations Schools Association (FNSA) to administer programs and services, and advocating and negotiating with the provincial and federal governments and other key stakeholders at the direction of First Nations.
- D. The FNSA's purpose is to promote improved educational outcomes for students attending First Nations Schools by supporting the development and implementation of appropriate, meaningful and quality education programs and providing a forum for networking and information sharing amongst schools and other education partners. FNSA develops and delivers programs to First Nations Schools.
- E. FNEESC and the FNSA work jointly and within their complementary but unique mandates to advance higher levels of achievement for First Nations students in British Columbia, and work collaboratively, through inter-organizational arrangements and agreements, on the design and implementation of the BC First Nations Education System, with each organization bringing forward their respective areas of specific expertise and focusing on the components of the System that relate most directly to their respective memberships.
- F. Based on the authority and direction of First Nations, FNEESC and the FNSA have worked to establish an effective and relevant education system to support First Nation Students and First Nation Schools that:
 - i. is founded upon the priority of exercising and revitalizing First Nations' languages and cultures, and reflects the cultures, values and traditions of the communities they serve;
 - ii. strives for excellence in First Nations education programs and services to support successful First Nation Student educational outcomes;
 - iii. includes processes for regular and ongoing engagement with First Nations and First Nation Schools to ensure the system is responsive to First Nation Student needs; and
 - iv. includes processes and agreements with Canada and British Columbia.
- G. British Columbia is responsible for laws governing the education of all persons who are ordinarily resident in British Columbia, except for education at First Nation Schools or a Community Education Authority established by one or more participating First Nations under the *First Nations Jurisdiction over Education in British Columbia Act* (Canada).
- H. The Ministry of Education has a responsibility to First Nation Students, their Parents and First Nations to help improve their school experience and educational outcomes. Locally elected boards of education are responsible for the provision of educational programs within public schools in British Columbia pursuant to the *School Act* and subject to the Minister of Education's authority governing the provision of educational programs.
- I. Some First Nations in British Columbia have entered into treaties or self-government agreements with the Crown, defining their respective roles and responsibilities with respect to governance matters, including education of First Nation Students and, where applicable, other students enrolled in First Nation Schools.

- J. First Nation Students often transition between First Nation Schools and BC Schools, requiring compatibility between the two education systems and collaboration and cooperation among the Parties.
- K. The Parties have entered into a series of agreements and arrangements over the years which recognize, and form components of, the evolving regional BC First Nations Education System, including:
- i. the *K-12 Memorandum of Understanding on Education* on February 2, 1999, committing the Parties to work together with other K-12 system partners, to improve school success for Aboriginal learners in British Columbia;
 - ii. the tripartite *Education Jurisdiction Framework Agreement*, and the bilateral British Columbia First Nation Education Agreement, both entered into on July 5, 2006, initiating a framework for the implementation of jurisdiction over education by First Nations in British Columbia, and supported by the federal *First Nations Jurisdiction over Education in British Columbia Act*, S.C. 2006, chapter 10, and the provincial *First Nations Education Act*, S.B.C. 2007, chapter 40 (“Education Jurisdiction initiative”);
 - iii. the *Bilateral Protocol* (2015) entered into by British Columbia and FNEESC, giving expression to a collaborative partnership and working relationship on educational initiatives, which respects the integrity of the commitment to establish a new relationship, including joint initiatives on curriculum development, enhancement agreements, local education agreements, and recognition of Aboriginal languages and teachers and supports the transferability of students between First Nation Schools and BC Public Schools; and
 - iv. the *Tripartite Education Framework Agreement* (TEFA) entered into by the Parties on January 27, 2012 identifying their respective roles and responsibilities relating to the improvement of educational outcomes for First Nation students in British Columbia, and implementing a new approach to funding the education of First Nation Students in British Columbia, based on the provincial funding model with specific adaptations, opportunities for collaboration and improved First Nation Student supports, and also provided opportunity for early implementation of components of the Education Jurisdiction initiative for the benefit of First Nation Students.
- L. Section 10.2 of TEFA committed the Parties to renewal of TEFA and, through resolutions in 2016 and 2017 at the BC Assembly of First Nations (BCAFN), the First Nations Summit (FNS) and the Union of BC Indian Chiefs (UBCIC), BC First Nations Chiefs supported TEFA, and directed FNEESC to prepare for and engage in negotiations to conclude a renewed TEFA, with the “overriding objective of implementing funding and other measures that continue to support all First Nation learners in achieving improved educational outcomes.” The political executives of the BCAFN, FNS and UBCIC (collectively referred to as the First Nations Leadership Council) provide political support to FNEESC pursuant to their *Declaration & Protocol of Recognition, Support, Cooperation, and Coordination* (2015).
- M. The Parties remain fully committed to working together to close the gap between First Nation Students and non-First Nation students through continuous improvement in educational outcomes.

- N. In the 2015 *Commitment Document* (updated in 2018), British Columbia and First Nations in British Columbia committed to “jointly design, construct and implement a principled, pragmatic and organized approach to implement the section 35 *Constitution Act, 1982* framework in British Columbia, informed by the *Tsilhqot’in* decision and other established law, the UN Declaration, and the Truth and Reconciliation Commission’s (TRC) Calls to Action - with tangible milestones to demonstrate progress”.
- O. Under the *Commitment Document*, British Columbia and First Nations set out shared guiding principles for our ongoing work of reconciliation, including:
- i. “Recognition of First Nations’ rights must be affirmed and implemented (through laws, policies, operational practices, agreements, etc.) as the required standard for reconciliation, and for Crown conduct and relations with Indigenous peoples and Nations” (guiding principle 4); and
 - ii. ...a shared interest in supporting First Nations to develop and strengthen their governance capacity to deliver the range of services to their citizens, including with regard to child and family well-being, emergency services to keep communities safe, excellence in education, and supporting healthy families” (guiding principle 16).

- P. In July 2017, the Government of Canada released the *Principles respecting the Government of Canada’s relationship with Indigenous peoples*, which are stated to be:

“...a starting point to support efforts to end the denial of Indigenous rights that led to disempowerment and assimilationist policies and practices. They seek to turn the page in an often troubled relationship by advancing fundamental change whereby Indigenous peoples increasingly live in strong and healthy communities with thriving cultures. To achieve this change, it is recognized that Indigenous nations are self-determining, self-governing, increasingly self-sufficient, and rightfully aspire to no longer be marginalized, regulated, and administered under the Indian Act and similar instruments. The Government of Canada acknowledges that strong Indigenous cultural traditions and customs, including languages, are fundamental to rebuilding Indigenous nations. As part of this rebuilding, the diverse needs and experiences of Indigenous women and girls must be considered as part of this work, to ensure a future where non-discrimination, equality and justice are achieved. The rights of Indigenous peoples, wherever they live, shall be upheld.”

- Q. In May 2018, the Government of British Columbia released the *Draft Principles that Guide the Province of British Columbia’s Relationship with Indigenous Peoples*, which:

“...are intended as bold statements to guide this new relationship and end the denial of Indigenous rights that have led to disempowerment and assimilationist policies and practices. The principles will assure the Province conducts itself in a way that reflects a clear shift in an often troubled relationship with Indigenous peoples to a modern government-to-government relationship that is strong, sophisticated and valued. These principles create the space needed to exercise our respective jurisdictions for the benefit of all British Columbians. We will recognize success when we know Indigenous peoples believe themselves to be self-determining, self-governing, self-sufficient and can practise their Indigenous cultural traditions and customs as an important and respected part of B.C. society.”

- R. The Parties are committed to continuing their working relationships, based on mutual respect, recognition, collaboration and clarity of roles and responsibilities for the education of First Nation Students, recognizing that Aboriginal and treaty rights are protected under section 35 of the *Constitution Act, 1982*, children's rights are affirmed in the *Convention on the Rights of the Child*, Indigenous rights are affirmed by the UN Declaration, and key studies and reports offer important recommendations on advancing reconciliation between the Crown and First Nations, such as the TRC's Final Report and Calls to Action.
- S. The Parties also remain committed to moving toward the full implementation of First Nations jurisdiction over education, as initiated by the *Education Jurisdiction Framework Agreement* and the *British Columbia First Nations Education Agreement* in 2006.

NOW THEREFORE the Parties agree as follows:

1.0 PRINCIPLES

- 1.1 The Parties agree that the following principles apply to the implementation and interpretation of this Agreement and the Schedules:
- a) Indigenous families and communities have the right to retain shared responsibility for the upbringing, training, education and well-being of their children, consistent with the rights of the child, and Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning;
 - b) First Nations in British Columbia have control of, and decision-making responsibility for, First Nations education;
 - c) First Nations in British Columbia that own and operate a First Nation School, have control of and decision-making responsibility for their school, including identifying priority issues and undertaking the management and delivery of education programs and services;
 - d) First Nation Students, at all levels of education, must have access to educational opportunities that:
 - i. ensure that they are confident in their self-identity, their families, their communities and traditional values, languages and cultures;
 - ii. give them the skills they need to thrive in contemporary society, including 21st century technological skills; and
 - iii. prepare them to access any opportunities they choose for higher learning, employment and life choices;
 - e) First Nations education in British Columbia is highly complex, engaging federal, provincial and First Nation authorities, roles and responsibilities and, therefore, requiring collaboration and cooperation to ensure that all First Nation Students are supported to achieve successful education outcomes;

- f) The gap in educational outcomes between First Nation Students and non-First Nation students is a persisting legacy of colonialism, and concerted efforts and proactive measures are required to eliminate this gap and contribute to reconciliation in education;
- g) The Parties have a shared interest and priority in supporting excellence in First Nations education, including supporting First Nation Students to fulfil their educational potential by having access to and receiving quality education that is respectful and reflective of their unique culture and history;
- h) Strong, effective and inclusive educational systems provide a fundamental opportunity for building relationships and advancing reconciliation between the Crown and First Nations, as expressed in the TRC's Calls to Action and the UN Declaration;
- i) Quality First Nations education includes standards, programs, services, school supports and investments that provide appropriate tools and resources aimed at achieving successful First Nation Student outcomes and achievements, while addressing their unique needs;
- j) The Parties recognize and respect the rights of Parents to decide where their children will be enrolled to receive the benefit of an education program;
- k) This Agreement is intended to benefit all First Nations, First Nation Schools, and First Nation Students, regardless of where they attend school, in British Columbia;
- l) This Agreement is intended to support the government-to-government relationship between First Nations, British Columbia and Canada with regard to First Nations education; and
- m) Sufficient, sustained, and predictable funding is required to meet the unique needs of First Nation Students and is integral to providing education services and programs that result in improved outcomes for First Nation Students.

2.0 DEFINITIONS

2.1 The definitions set out in Schedule B [Definitions] apply to this Agreement and the Schedules.

3.0 PURPOSE AND OBJECTIVES

3.1 The purpose of this Agreement is to set out how the Parties will work together, including making systemic shifts (i.e. legislative, policy and practice reforms), to support successful educational outcomes of all First Nation Students, regardless of where they live or are enrolled in school in British Columbia:

- a) through the provision of high quality and culturally relevant elementary and secondary education programs and services; and

- b) supported by sufficient, sustained and predictable funding, that is responsive to unique needs of First Nation Students, First Nation Schools and communities.
- 3.2 For greater clarity, this Agreement replaces and builds upon TEFA, while acknowledging the ongoing Education Jurisdiction initiative, by identifying the Parties' respective roles, responsibilities and commitments in supporting improved and successful educational outcomes of First Nation Students, and in supporting First Nations control of First Nations education.
- 3.3 The Parties agree that improved educational outcomes for students attending First Nations Schools, and for First Nation Students attending BC Schools, will be central to the shared objective of restoring, revitalizing and strengthening the economic and social sustainability of First Nations in British Columbia.
- 3.4 The Parties are committed to decolonizing approaches to First Nations education and developing new approaches aligned with the UN Declaration.
- 3.5 The Parties recognize that First Nation Students often transition between First Nation Schools and BC Schools and the Parties have a shared interest in ensuring those transitions are smooth and supported.
- 3.6 The Parties will work jointly to develop and implement measures of accountability for First Nation Student outcomes.
- 3.7 The Parties acknowledge that changes to enrollment in First Nation Schools may impact the level of funding provided for First Nation Students and agree that such impacts will be mitigated through a funding protection mechanism.
- 3.8 The BC First Nations Education Funding Model will be updated annually to account for additional provincial investments, changes to the Nominal Roll, with funding protection to mitigate potential decreases in funding for First Nation communities. Funding levels will be updated within the School Year as new investments are made available from provincial systems for both First Nation and provincial schools.

4.0 EDUCATION SERVICES AND COLLABORATION

- 4.1 Canada and British Columbia recognize FNEC, working with the FNSA, as having demonstrated the capacity to administer education programs and services on behalf of First Nations and First Nation Schools in British Columbia, to implement research-based and relevant programs to support First Nation Schools to deliver quality education and improve student outcomes, to provide Second and Third Level Services to First Nations and First Nation Schools, and to advocate for and advance the interests and needs of First Nation Students attending BC Schools.
- 4.2 FNEC, working with the FNSA where appropriate, will provide Second and Third Level Services to First Nations and First Nation Schools to support the provision of quality education services and programs that improve outcomes for First Nation Students, as described in Schedule C [Second and Third Level Services].

- 4.3 FNESC, working with the FNSEA, will provide special education services to support First Nation Students with special needs who are attending First Nations Schools, as set out in Schedule D [Special Education for First Nation Students Attending First Nation Schools].
- 4.4 The Parties will collaborate to identify necessary improvements to support First Nation Students with special needs in BC Schools.
- 4.5 FNESC, working with the FNSEA, will provide language and culture services to support First Nation Students attending First Nation Schools, as set out in Schedule E [Language and Culture].
- 4.6 The Parties acknowledge that First Nations are responsible for the provision of quality education services to First Nation Students in First Nation Schools.
- 4.7 British Columbia is responsible for the provision of quality education services to First Nation Students attending any BC Public School.
- 4.8 British Columbia will continue to work with FNESC to improve educational outcomes for First Nation Students in BC Schools.
- 4.9 British Columbia and FNESC agree to continue to work in collaboration to support the successful transfer of First Nation Students between BC Public Schools and First Nation Schools under this Agreement, and their Bilateral Protocol, including:
 - a) continuing to facilitate First Nation Schools to administer provincial assessments;
 - b) continuing, and further developing, processes to enable students attending a First Nations School to obtain a Dogwood Graduation Certificate, as set out in Schedule F [Graduation Credential]; and
 - c) developing processes to enable First Nation Students attending a First Nations School to obtain an Adult Dogwood Graduation Certificate.
- 4.10 The Parties will work together as set out in Schedule G [Transportation] to ensure First Nation Students have transportation services to BC Public Schools.
- 4.11 The Parties recognize Local Education Agreements as an integral part of the delivery of education services to First Nation students attending BC Schools, as they are an important mechanism for building relationships between First Nation communities and boards of education and schools, or independent school authorities, to support improved First Nation student outcomes.
- 4.12 The Parties agree to work in partnership to develop and implement a strategy, and related policies to support the negotiation and implementation of Local Education Agreements (LEAs) between First Nations and boards of education, as set out in Schedule H [Local Education Agreements].
- 4.13 British Columbia mandates and funds local boards of education to deliver education services to students, including First Nation Students, attending BC Public Schools, and is responsible for implementing effective measures to hold local boards of education accountable.

- 4.14 British Columbia agrees that First Nation Students will receive at least the same level of services and programs that are generally available to all other students, recognizing the need for culturally relevant services and programs, and additional supports, designed to support improved educational outcomes for First Nation Students are also needed, and will be identified and implemented in collaboration with FNEESC.
- 4.15 The Parties acknowledge that educational outcomes for First Nation Students vary significantly among school districts within British Columbia, that numerous factors contribute to the level of educational success experienced by First Nation Students and agree that additional efforts are required to improve outcomes for First Nation Students.
- 4.16 As one measure of increased accountability for First Nation Student outcomes, British Columbia will undertake a program to build capacity to improve outcomes for First Nation Students within school districts, with a priority for those school districts having consistently low outcomes for First Nation Students, as follows:
- a) British Columbia in consultation with FNEESC will prioritize school districts for examination, and identify any school district specific issues believed to be impacting educational outcomes for First Nation Students in a particular school district;
 - b) British Columbia will establish First Nations Educational Outcome Improvement Teams comprised of individuals having expertise in the specific issues identified for a specific school district, to engage that school district and develop a school district plan to improve educational outcomes for First Nation Students in that school district;
 - c) British Columbia will invite FNEESC to name a representative to be part of any First Nations Educational Outcome Improvement Team established pursuant to section 4.16(b);
 - d) Each First Nations Educational Outcome Improvement Team will report to the relevant Assistant Deputy Minister, who will share the outcome of the Team's intervention with the First Nations whose First Nation Students attend a BC School within that school district, the board of education, and the Aboriginal Education Council; and
 - e) The Assistant Deputy Minister Learning Division will report to the Deputy Minister, including recommending any further interventions to be considered by the Minister, to improve educational outcomes for First Nation Students attending a BC Public School in a particular district, and the Deputy Minister will report to the Minister accordingly.
- 4.17 Commencing in the 2019/20 school year, and for the duration of this Agreement, British Columbia will ensure not less than one non-instructional day per school year is focused on enhancing First Nation student learning outcomes.
- 4.18 British Columbia will report data regarding First Nation Student - and education system - outcomes as set out in Schedule I [Regional Reporting, Mutual Accountabilities and Data Sharing].

4.19 The Parties agree to develop a purposeful approach to the collection, use and sharing of relevant data to further the purpose and objectives of this Agreement, as set out in Schedule I [Regional Reporting, Mutual Accountabilities and Data Sharing].

5.0 BC FIRST NATIONS REGIONAL EDUCATION FUNDING

5.1 Canada and British Columbia agree to provide funding to support the education of First Nation Students in British Columbia in accordance with this Agreement and Schedule J [Funding Protocol].

5.2 The BC First Nations Education Funding Model set out in:

- a) section 6.0 of this Agreement;
- b) Schedule J [Funding Protocol]; and
- c) Schedule K [BC First Nations Education Funding Model - Overview of Components];

is the federal funding for K4-12 First Nations education in British Columbia.

5.3 For greater clarity, Canada may make additional investments in First Nations education from time to time, outside of the BC First Nation Education Funding Model, such as additional federal education programs, services or funding to support First Nations education, with regard to which BC First Nations or FNEESC will be eligible to participate and benefit.

5.4 Canada will work jointly with FNEESC, and British Columbia as appropriate, to develop any federal budget asks related to First Nations education in British Columbia during the term of the Agreement, including the preparation and submission of all necessary information to support such asks.

5.5 For greater clarity, a federal budget ask under section 5.4 includes any additional or supplementary funding the Parties may determine is required to implement the BC First Nations Education Funding Model.

5.6 In fulfilling section 5.4, the Parties will be guided by:

- a) furthering the purpose and objectives of the Agreement, consistent with the UN Declaration and TRC Calls to Action;
- b) supporting the government-to-government relationship; and
- c) acting in partnership, with openness and transparency to support effective implementation of this Agreement.

5.7 Any federal funding to be provided pursuant to the Agreement is subject to the appropriation of funds by the Parliament of Canada.

6.0 FEDERAL FUNDING

For First Nation Students and First Nation Schools:

- 6.1 In accordance with this Agreement, Schedule J [Funding Protocol] and Schedule K [BC First Nations Funding Model - Overview of Components], Canada will provide sufficient, sustained, and predictable funding for the provision of education services to First Nation Students who:
- a) are enrolled in First Nation Schools; and
 - b) are enrolled in BC Schools.
- 6.2 For greater clarity, Canada will provide annual funding to individual First Nations for First Nation Students enrolled in First Nation Schools using the funding calculation as published in the BC First Nations Education Funding Handbook and updated from time to time to reflect changes to the provincial education funding and any agreed upon adaptations.
- 6.3 For greater clarity, Canada will provide annual funding to individual First Nations for First Nation Students enrolled in BC Schools based on the First Nation Student Rate for the relevant school district.
- 6.4 Notwithstanding section 6.3, where a First Nation opts to have no LEA, or opts for Canada to provide funding for First Nation Students enrolled in BC Public Schools directly to British Columbia on the First Nation's behalf, Canada will provide that funding to British Columbia pursuant to the 2016 Funding Agreement, or the tripartite funding arrangement to be added to this Agreement as a schedule pursuant to section 2.0 of Schedule J [Funding Protocol], once concluded, with all related correspondence being copied to the First Nation.
- 6.5 In addition to funding under section 6.2, Canada has the following federal programs and initiatives that remain available to BC First Nations or Tribal Councils directly or through FNESC:
- a) Child First Initiatives (Jordan's Principle);
 - b) Education Partnerships Program (EPP);
 - c) First Nations and Inuit Youth Employment Strategy (FNIYES); and
 - d) FNSSP - Early Literacy Initiative (program ends March 31, 2019).
- 6.6 Canada will provide funding annually to individual First Nations for the operation of First Nation Schools, including the provision of quality education services and programs to First Nation Students attending those schools.
- 6.7 Canada will provide funding for the transportation of First Nation Students attending BC Public Schools, as described in Schedule G [Transportation of First Nation Students Attending BC Public Schools].

- 6.8 Canada agrees that, consistent with TEFA, those First Nations that are block-funded may choose to open up their funding agreement to adjust their education funding to benefit from BC First Nations Education Funding Model under the Agreement.
- 6.9 Canada will implement a funding protection mechanism, to be incorporated into the BC First Nations Education Funding Handbook, based on the funding protection mechanism in British Columbia's education funding formula, to ensure that First Nations are provided with stable, sustainable, and predictable funding.
- 6.10 For greater clarity:
- a) Canada will implement a funding protection mechanism based on the provincial OGM funding protection supplement;
 - b) Funding Protection is an additional amount provided to First Nations to ensure that they are protected against any funding decline larger than 1.5% when compared to the previous year;
 - c) Funding protection is determined by comparing the total operating grant, calculated by the BC First Nations Education Funding Model, from the previous School Year to the total operating grant for the current year;
 - d) Funding protection will provide additional funding in an amount that ensures that the year-to-year decline is no greater than 1.5%; and
 - e) Funding Protection will apply to all components of the BC First Nations Education Funding Model as set out in the BC First Nations Education Funding Handbook, with the exception of the non-OGM factor funding amount.

For Second and Third Level Services and Specific Programs:

- 6.11 Canada will provide funding annually to FNEESC for:
- a) the provision of Second and Third Level Services, described in Schedule C [Second and Third Level Services], in support of First Nation Students, to First Nations and First Nation Schools;
 - b) special education services and programs for First Nation Students, which FNEESC will administer as set out in Schedule D [Special Education for First Nation Students Attending First Nation Schools];
 - c) language and culture services and programs for First Nation Students attending First Nation Schools, which FNEESC will administer as set out in Schedule E [Language and Culture]; and
 - d) transportation capital to improve access to education services and programs for First Nation Students attending First Nation Schools, and which FNEESC will administer for all First Nation Schools.

7.0 FUNDING MECHANISMS

- 7.1 Federal funding to First Nations will be provided in accordance with the terms of:
- a) a Funding Agreement between Canada and individual First Nations;
 - b) this Agreement; and
 - c) Schedule J [Funding Protocol].
- 7.2 Where an LEA is in effect in relation to the First Nation Students attending BC Public Schools or BC Independent Schools, Canada will provide funding under section 6.1(b) to the First Nation to administer under the terms of the LEA.
- 7.3 Where there is no locally negotiated LEA in effect in relation to the First Nation Students attending BC Public Schools, and the First Nation(s) opts to utilize the Provincial LEA (described in Schedule H [Local Education Agreements]):
- a) British Columbia will require the relevant board of education to enter into the Provincial LEA; and
 - b) Canada will provide funding under section 6.1(b) to the First Nation to administer under the terms of the Provincial LEA.
- 7.4 Notwithstanding sections 7.1 and 7.3, the Parties acknowledge that a First Nation may opt to have no LEA and request that Canada provide funding for First Nation Students attending BC Public Schools directly to British Columbia on behalf of the First Nation, which will be done in accordance with section 6.4.
- 7.5 The Parties acknowledge that Funding Agreements between Canada and individual First Nations are the mechanism to operationalize this Agreement for those First Nations and that the Parties will jointly ensure that such funding arrangements reflect the commitments made in this Agreement, as appropriate.
- 7.6 Federal funding to FNEC under section 6.11 will be provided in accordance with this Agreement, Schedule J [Funding Protocol], and a Funding Agreement between Canada and FNEC.

8.0 PROVINCIAL FUNDING

- 8.1 British Columbia agrees to pay tuition to First Nations in respect of students not ordinarily resident on reserve lands who are enrolled in a First Nation School that has been certified through the FNSA School Assessment Process, and who would otherwise qualify for tuition at a BC Public School, in accordance with the Memorandum of Understanding dated November 6, 2009 regarding reciprocal tuition.

8.2 British Columbia will provide funding to FNEESC to support its participation in provincial processes, and engagement with the Ministry, to support improved First Nation Student outcomes in BC Schools.

9.0 REGIONAL REPORTING, MUTUAL ACCOUNTABILITIES AND DATA SHARING

9.1 The Parties are committed to the principles of openness, transparency and accountability to First Nation Students and Parents, wherever the First Nation Student attends school.

9.2 The Parties confirm the regional reporting structure in Schedule I [Regional Reporting, Mutual Accountabilities and Data Sharing].

10.0 FIRST NATIONS EDUCATION SELF-GOVERNMENT AGREEMENTS

10.1 The Parties acknowledge any First Nation in British Columbia may choose to enter into negotiations and conclude a self-government education agreement pursuant to:

- a) the *First Nations Jurisdiction over Education in British Columbia Act* and become a Participating First Nation, as defined in that Act;
- b) treaty negotiations; or
- c) self-government negotiations;

in which case this Agreement will no longer apply with respect to that First Nation, unless otherwise agreed in those negotiations.

10.2 This Agreement is not intended to limit the ability or capacity of First Nations to negotiate or exercise jurisdiction in relation to education, such as through an education jurisdiction agreement, a treaty or self-government agreement.

10.3 For greater clarity, this Agreement does not affect the ability of FNEESC to enter into service agreements directly with treaty or self-governing First Nations in British Columbia that wish to obtain Second-Level Services from FNEESC.

11.0 IMPLEMENTATION

11.1 The tripartite Oversight Committee established to oversee the implementation of TEFA is hereby continued and will oversee the implementation of this Agreement.

11.2 In addition to 11.1, the role of the tripartite Oversight Committee includes the reinforcement of a systemic shift in the provision of education services and programs to First Nation Students, and reinforcement of a BC-specific approach to the provision of education programs and services to First Nation Students.

- 11.3 For greater certainty, the Oversight Committee is comprised of the following:
- a) for Canada, the Regional Director General, BC Region and the Director General of Education Branch, ISC;
 - b) for British Columbia: the Deputy Minister, Ministry of Education; and
 - c) for FNEC: the President; and
 - d) for FNSA: the President.
- 11.4 The Parties will establish a Tripartite Implementation Working Group to collaborate on the implementation of this Agreement, at the direction of the Oversight Committee.
- 12.0 BC REGIONAL EDUCATION POLICIES AND GUIDELINES**
- 12.1 British Columbia will work with FNEC to develop or amend provincial policy as it affects First Nation Students to achieve the purposes of this Agreement, including improving accountability for First Nation Student outcomes.
- 12.2 For greater clarity, British Columbia will consult with FNEC regarding any contemplated action or decision that may affect the BC First Nations Education System, FNEC or First Nation Schools.
- 12.3 For greater clarity, matters that British Columbia will consult FNEC on under section 12.2 include, but are not limited to:
- a) proposed changes to provincial education policy, legislation, practices or standards that materially affect programs, assessments, teacher certification, graduation requirements, or curriculum offered by FNEC or First Nation Schools;
 - b) reasonable cost access to provincial learning resources; and
 - c) access to provincial bulk purchase initiatives.
- 12.4 To the extent that any proposed development or amendment of provincial policy referred to in 12.2 could affect Canada's obligations under this Agreement, British Columbia and FNEC will provide Canada with an opportunity to review and comment on proposed development or amendment of provincial policy.
- 12.5 Canada will work with FNEC to develop or amend federal policy, practices and guidelines as needed to achieve the purposes of this Agreement.
- 12.6 Canada will consult with FNEC regarding any proposed federal actions or decisions that may affect the BC First Nation Education System, FNEC, or First Nation Schools in British Columbia, including with regard to any proposed federal action or decisions relating to changes to federal laws, policies, guidelines, data collection mechanisms, or decisions or processes about research in relation to First Nation education in British Columbia.

- 12.7 For greater certainty, Canada will consult FNEESC regarding the matters set out in 12.6 at the earliest opportunity and through effective measures, including in-person meetings and as a standing item on the agenda of each meeting of the Oversight Committee, to ensure such consultation is timely and meaningful.
- 12.8 To the extent that any proposed development of federal education policy, practices and guidelines referred to in 12.5 could affect British Columbia's obligations under this Agreement, Canada and FNEESC will provide British Columbia with an opportunity to review and comment on proposed federal policy, practices and guidelines.
- 12.9 For greater certainty, where there is an inconsistency between this Agreement, or any of its Schedules, and federal education policy, including the Elementary/Secondary Education National Program Guidelines of ISC, this Agreement or the Schedule, as the case may be, will prevail.
- 12.10 The Parties agree that the laws, policies, and processes referenced or contemplated in this Agreement and the Schedules, including the BC First Nations Education Handbook and Funding Estimator, form the BC-specific First Nation education policy framework that supports the implementation of this Agreement and Schedules.

13.0 REVIEW

- 13.1 The Oversight Committee will determine an appropriate process and scope for review of this Agreement, to be conducted mid-way through the term of the Agreement.
- 13.2 For greater certainty, any review of this Agreement will be tripartite and include all Parties.

14.0 AMENDMENT

- 14.1 This Agreement may be amended with the consent of each Party.
- 14.2 Amendments to this Agreement shall be in writing and signed by the authorized representative of each Party, being:
- a) for FNEESC: the President;
 - b) for Canada: the Minister of Indigenous Services; and
 - c) for British Columbia: the Minister of Education.
- 14.3 Notwithstanding 14.2, the Parties agree that amendments to the Schedules to this Agreement shall be signed by the authorized representative of each Party, being:
- a) for FNEESC: the President;
 - b) for Canada: the Deputy Minister of ISC or authorized designate; and

c) for British Columbia: the Deputy Minister of Education.

14.4 The Parties will take the necessary steps to implement an amendment to this Agreement as soon as possible after the Parties have consented to the amendment.

14.5 FNEESC will provide a copy of any amendments to this Agreement to all First Nations in British Columbia.

15.0 DISPUTE RESOLUTION

15.1 The Parties will use best efforts to prevent or minimize disputes in relation to the interpretation, application or implementation of this Agreement.

15.2 In the event of a dispute between the Parties arising out of this Agreement, and upon written request of one or more Parties, the Parties will each designate a senior representative to meet and negotiate in good faith with the intention of resolving the dispute quickly and amicably within 5 working days.

15.3 Failing resolution under section 15.2, the Parties will refer the dispute to the Oversight Committee and convene a meeting of the Oversight Committee within 2 weeks, unless otherwise agreed, so that the Oversight Committee members may attempt to negotiate in good faith and resolve the dispute in a timely manner.

15.4 Failing resolution of the dispute by the Oversight Committee, the Parties will refer the dispute to the Assistant Deputy Minister, Education and Social Development Programs and Partnerships, ISC, the Deputy Minister of Education (BC), and the President of FNEESC.

15.5 The Parties acknowledge that:

a) federal representatives are guided by the *Principles respecting the Government of Canada's relationship with Indigenous peoples* (July 2017); and

b) provincial representatives are guided by the *Draft Principles that Guide the Province of British Columbia's Relationship with Indigenous Peoples* (Draft May 2018), as may be amended;

and that these apply in the context of this Agreement and in resolving disputes under this section 15.0.

15.6 For greater clarity, a dispute described in 15.2 does not relieve any Party of its obligations under this Agreement or Funding Agreement.

15.7 FNEESC agrees to establish a dispute resolution process available to individual First Nations and First Nation Schools to attempt to resolve disputes pertaining to the provision of Second Level Services and other educational programs and services by FNEESC to individual First Nations and First Nation Schools.

16.0 TERM

- 16.1 The term of this Agreement commences on the Effective Date and expires on June 30, 2023, unless extended or renewed in writing by the Parties.
- 16.2 Not less than eighteen (18) months prior to the expiration of the term set out above, the Parties will meet to discuss the renewal of this Agreement.

17.0 GENERAL

- 17.1 Nothing in this Agreement is to be construed so as to abrogate or derogate from existing Aboriginal or treaty rights of the First Nation peoples of Canada or the recognition and affirmation of those rights in section 35 of the *Constitution Act, 1982*.
- 17.2 All schedules to this Agreement are incorporated into this Agreement and form an integral and binding part of it.
- 17.3 Headings and sub-headings used in this Agreement are for reference purposes only and should not have any effect on the interpretation of the Agreement.
- 17.4 In the event of an inconsistency or conflict between this Agreement and federal education policy or guidelines of general application, the provisions of this Agreement shall prevail to the extent of the inconsistency or conflict.
- 17.5 Each Party will, at the request of and at no cost to the other Parties, execute and deliver to the requesting Party any instrument or document or will do anything that may reasonably be required to carry out its obligations under this Agreement, or to complete any transaction contemplated by this Agreement.
- 17.6 Where in this Agreement any notice or other communication is required to be given or made by any Party, it will be in writing and will be effective if by hand, transmitted by facsimile transmission or sent by e-mail or registered mail to the addresses set out below. The address of a Party may be changed by notice in the manner set out in this paragraph.

CANADA:
Minister
Indigenous Services
10 Wellington Street
OTTAWA ONTARIO K1A 0H4
Fax: (819) 953-4941
E-mail: aadnc.education.aandc@canada.ca

BRITISH COLUMBIA:
Minister of Education
Parliament Buildings
PO Box 9044 Stn Prov Govt
VICTORIA, BRITISH COLUMBIA V8W 9E2
Fax: 250-356-0948
E-mail: educ.minister@gov.bc.ca

FNESC:
President, FNESC
Suite 113, 100 Park Royal
WEST VANCOUVER, BRITISH COLUMBIA V7T 1A2
Fax: (604) 925-6087
Email: janh@fnesc.ca

- 17.7 A notice or communication will be considered to have been received:
- a) if delivered by hand during business hours on a business day, upon receipt by a responsible representative of the receiver, and if not delivered during business hours, upon the commencement of business on the next business day;
 - b) if sent by facsimile transmission during business hours on a business day, upon the sender receiving confirmation of the transmission, and if not transmitted during business hours, upon the commencement of business on the next business day;
 - c) if sent by e-mail during business hours on a business day, upon the sender receiving confirmation of receipt from the recipient, and if not transmitted during business hours, upon the commencement of business on the next business day; or
 - d) if mailed by registered post in Canada, five (5) business days after posting, except that, in the case of a disruption or an impending or threatened disruption in postal services, every notice or communication will be delivered by hand or sent by facsimile transmission.
- 17.8 This Agreement may be signed in counterparts.