

EDUCATION JURISDICTION INITIATIVE

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BACKGROUND

1. The Education Jurisdiction Initiative refers to the processes and mechanisms which support First Nations’ exercise of self-government over education on First Nation land.
2. The Education Jurisdiction Initiative provides formal recognition by the federal and provincial governments of a First Nation’s right to pass their own education laws and make decisions about the education of its children through signed agreements.
3. On July 5, 2006, First Nations (represented by the First Nations Education Steering Committee – FNEESC), Canada, and BC signed an Education Jurisdiction Framework Agreement (Framework Agreement). This agreement sets the overall context and road map for implementing First Nations’ jurisdiction over education in BC.
4. Federal and provincial legislation to recognize the Education Jurisdiction Initiative was passed in 2006 and 2007, respectively.

5. A model Canada-First Nation Education Jurisdiction Agreement, and a model Canada-First Nation Education Jurisdiction Funding Agreement to be entered into by Canada and a First Nation that chooses to participate in the Education Jurisdiction Initiative are appended to the Framework Agreement.
6. On July 1st, 2022 the First Nations Education Authority (FNEA) became fully operational with a board appointed by the Participating First Nations (PFNs).

PURPOSE

7. The purpose of these Terms of Reference is to describe how First Nations engage in the Education Jurisdiction Initiative and the role that FNEA will play in supporting them.

STRUCTURE

8. The Education Jurisdiction Initiative is comprised of the following participants:
 - a. Engaged First Nations, which include the following groups as described below and illustrated in the diagram at Annex A:
 - i. Interested First Nations that have formally expressed an interest in the Education Jurisdiction Initiative through a First Nation resolution;
 - ii. Committed First Nations that have received a current offer or formally requested an offer from Canada respecting a Canada-First Nation Education Jurisdiction Agreement;
 - iii. Accepted Offer First Nations that have received and accepted an offer from Canada respecting a Canada-First Nation Education Jurisdiction Agreement, but not yet ratified the agreement; and
 - iv. Ratified First Nations that have successfully ratified a Canada-First Nation Education Jurisdiction Agreement and law-making protocol.
 - b. FNEA; and
 - c. FNEA

ROLES AND RESPONSIBILITIES

9. **Each Engaged First Nation** will appoint a representative to participate in meetings related to the Education Jurisdiction Initiative on their behalf as required.
10. **Engaged First Nation Representatives** are responsible for:
 - (a) providing recommendations to FNEC on the Education Jurisdiction Initiative;
 - (b) reviewing and providing recommendations on the FNEC workplan and budget for the Education Jurisdiction Initiative;
 - (c) providing regular updates to their respective First Nations;
 - (d) providing relevant information to FNEC regarding their offer from Canada, including timelines for acceptance and for carrying out a ratification process, and the outcome of their ratification vote;
 - (e) seeking direction and feedback from their respective First Nations;
 - (f) participating in ad hoc working group meetings as required; and
 - (g) participating in Engaged First Nation Jurisdiction Meetings.
11. **FNEA** is responsible for supporting Participating First Nations in the implementation of jurisdiction over First Nations education.
12. **FNEC** is responsible for:
 - (a) providing technical and general secretariat support for the Education Jurisdiction Initiative for:
 - i. new First Nations entering into the initiative; and
 - ii. existing Engaged First Nations through the initiative until they become Participating First Nations;
 - (b) carrying out negotiations, if required, with Canada and British Columbia on the common elements of the Agreements under the Education Jurisdiction Initiative, as directed by the Engaged First Nations;
 - (c) providing updates to, and receiving recommendations from, EFN Representatives;
 - (d) organizing and supporting Engaged First Nation Jurisdiction Meetings and working group meetings and follow-up;

- (e) developing and implementing FNEESC workplan and budget for the Education Jurisdiction Initiative;
- (f) maintaining current lists of Interested First Nations, Committed First Nations, Accepted Offer First Nations and Ratified First Nations;
- (g) providing notification to individual First Nations when their First Nation is removed from the list of Interested First Nations, Committed First Nations, Accepted Offer First Nations or Ratified First Nations;
- (h) administering the required contracts for the Education Jurisdiction Initiative, including a legal advisor; and
- (i) coordinating communications for the Education Jurisdiction Initiative, including reporting and providing updates.

ENGAGED FIRST NATION JURISDICTION MEETINGS

13. The purpose of Engaged First Nation Jurisdiction Meetings is to give the Engaged First Nation Representatives an opportunity to receive updates from and provide direction to FNEESC.
14. Engaged First Nation Jurisdiction Meetings may be held in person, by phone, or by other electronic means.
15. Engaged First Nation Representatives must be provided with at least 14 days' notice of an Engaged First Nation Jurisdiction Meeting, except in cases where a meeting is required to address an issue on an urgent basis.
16. Quorum for an Engaged First Nation Jurisdiction Meeting is 30% of the Engaged First Nations present in person or electronically at the meeting.
17. If the quorum requirements for an Engaged First Nation Jurisdiction Meeting are not met, the meeting may proceed as an information session or an ad hoc working group meeting.
18. Engaged First Nation Jurisdiction Meetings will be chaired by a FNEESC staff member.
19. Formal decisions made at Engaged First Nation Jurisdiction Meetings will be made by resolution approved by:
 - (a) a majority (i.e. 50% plus one) of the Engaged First Nation Representatives in attendance either in person or electronically at an Engaged First Nation Jurisdiction Meeting voting in support of the resolution; or

(b) a majority of the Engaged First Nation Representatives confirming their support for the resolution in writing and transmitting it by email.

20. Each Engaged First Nation may cast a single vote at an Engaged First Nation Jurisdiction Meeting.

21. Engaged First Nation Representatives, or their alternates who have provided FNEESC with a written authorization from an Engaged First Nation Representative or from an authorized representative on the letterhead of the respective First Nation, may cast a vote at an Engaged First Nation Jurisdiction Meeting.

AD HOC WORKING GROUPS

22. Working groups will be created as needed to support collective work by Engaged First Nations with common interests or concerns or in similar circumstances.

23. Working groups can set up their own informal decision-making process as needed for matters that impact only on them.

24. Working groups established under section 22 must provide regular reports at Engaged First Nation Jurisdiction Meetings, as applicable.

APPOINTMENT AND REPLACEMENT OF EFN REPRESENTATIVES

25. Engaged First Nations may replace their EFN Representative by providing FNEESC with a copy of the band council resolution appointing their new representative or a letter on the First Nation's letterhead that identifies the new representative.

BECOMING AND WITHDRAWING FROM BEING AN INTERESTED FIRST NATION

26. If a First Nation wishes to become an Interested First Nation, it must provide a notice to FNEESC and documentation to show that it meets the following criteria:

- a. have, or have confirmed funding for, a First Nation School for students in K4 to grade 12 (or some of these grades) on its reserve land; and
- b. have passed a band council resolution in the form set out in Annex B indicating its interest in exercising jurisdiction over education.

27. Upon receiving the information set out in section 26, FNEESC will add the name of that First Nation to the list of Interested First Nations.

28. A First Nation that has been confirmed as an Interested First Nation under section 27 may not be eligible for funding from FNEESC that is designated for Interested First Nations until the following fiscal year.
29. If a First Nation no longer wishes to be an Interested First Nation, it must provide written notice to FNEESC by letter on the First Nation's letterhead stating that it wishes to withdraw from the Education Jurisdiction Initiative. Following receipt of the notice, FNEESC will revise the list of Interested First Nations to remove the name of that First Nation.
30. Once a First Nation becomes an Interested First Nation, it will retain that status for a period of three years unless it chooses to withdraw under section 29 or becomes a Committed First Nation.
31. Commencing on April 1, 2023, if a First Nation has been an Interested First Nation for three years from the date when they last confirmed their commitment to the Education Jurisdiction Initiative, FNEESC will send a letter to the First Nation to determine if they wish to remain an Interested First Nation. If the First Nation confirms that it would like to remain an Interested First Nation, it will retain that status.
32. If the First Nation does not provide confirmation to FNEESC within one month of the date of the letter referred to in section 31, FNEESC will follow up with a phone call. If FNEESC does not receive confirmation that the First Nation would like to remain engaged in the Education Jurisdiction Initiative then they will be removed from FNEESC's list of Interested First Nations.

BECOMING A COMMITTED FIRST NATION

33. If an Interested First Nation wishes to become a Committed First Nation, it must provide a notice to FNEESC and provide documentation to show that it meets the following criteria:
 - a. have, or have confirmed funding for, a First Nation School for students in K4 to grade 12 (or some of these grades) on its reserve land;
 - b. have passed a band council resolution indicating its interest in exercising jurisdiction over education (substantially in the form attached as Annex B);
 - c. have passed a second band council resolution, substantially in the form attached as Annex C, confirming their request for an offer from Canada and confirming the name of their negotiator; and

- d. have either received an offer from Canada that has not expired or formally requested an offer, or renewed offer, from Canada.
34. Upon receipt of a notice under section 33, FNEESC will review the documentation provided by the Interested First Nation. If the Interested First Nation meets the criteria set out in section 33, then FNEESC will add the First Nation to the list of Committed First Nations and remove it from the list of Interested First Nations.
35. A First Nation that has been confirmed as a Committed First Nation under section 34 may not be eligible for funding from FNEESC that is designated for Committed First Nations until the following fiscal year.

WITHDRAWAL FROM BEING A COMMITTED FIRST NATION

36. If a First Nation no longer wishes to be a Committed First Nation, it must provide a band council resolution or letter on the First Nation's letterhead to FNEESC stating that it wishes to change its status to Interested First Nation or to withdraw from the Education Jurisdiction Initiative.
37. Following receipt of the resolution or letter under section 36, FNEESC will revise the list of Committed First Nations to remove the name of that First Nation.
38. If a Committed First Nation receives an offer from Canada that it does not accept within the timeframe set by Canada and has not requested a new offer, FNEESC will remove that First Nation from the list of Committed First Nations.

BECOMING AN ACCEPTED OFFER FIRST NATION

39. A Committed First Nation will become an Accepted Offer First Nation once it accepts an offer from Canada and informs FNEESC that it has accepted an offer.
40. Upon receipt of notice under section 39 or notice from Canada, FNEESC will add the name of that First Nation to the list of Accepted Offer First Nations and remove them from the list of Committed First Nations.
41. A First Nation that has been confirmed as an Accepted Offer First Nation under section 40 may not be eligible for funding from FNEESC that is designated for Accepted Offer First Nations until the following fiscal year.

WITHDRAWAL FROM BEING AN ACCEPTED OFFER FIRST NATION

42. If a First Nation no longer wishes to be an Accepted Offer First Nation, it must provide a band council resolution or letter on the First Nation's letterhead to FNEESC stating that it wishes to withdraw from the Education Jurisdiction Initiative.
43. Following receipt of the resolution or letter referred to in section 42, FNEESC will revise the list of Accepted Offer First Nations accordingly.
44. In the event that an Accepted Offer First Nation holds a ratification vote that is not successful it must inform FNEESC whether it plans to hold another ratification vote within one year.
45. If an Accepted Offer First Nation's ratification vote is not successful and it is not proposing to hold another vote within one year, FNEESC will remove that First Nation from the list of Accepted Offer First Nations.
46. An Accepted Offer First Nation will cease to be an Accepted Offer First Nation if it has not conducted a successful ratification vote within the timeframe set by Canada.

BECOMING A RATIFIED FIRST NATION

47. An Accepted Offer First Nation will become a Ratified First Nation once it successfully completes the community ratification process approving both its individual Canada-First Nation Education Jurisdiction Agreement and its Community Law-Making Protocol and provides notice to FNEESC.
48. Upon receipt of notice under section 47, or notice from Canada, FNEESC will add the name of that First Nation to the list of Ratified First Nations and will remove them from the list of Accepted Offer First Nations.
49. Ratified First Nations are eligible to receive funding support from Canada.
50. A Ratified First Nation will become a Participating First Nation on the date its individual Canada-First Nation Education Jurisdiction Agreement comes into force.
51. Upon a Ratified First Nation becoming a Participating First Nation, FNEESC will revise the list of Ratified First Nations accordingly.

FIRST NATION ELIGIBILITY FOR FUNDING

52. Engaged First Nations' eligibility to receive funding will depend on whether they participate in Engaged First Nation Jurisdiction Meetings or ad hoc working groups as applicable.
53. Commencing in fiscal year 2024/2025 Interested, Committed and Accepted Offer First Nations are only eligible to receive support funding from FNEC for a total of five years. Such funding will be subject to FNEC receiving funding from Canada to support Engaged First Nations.

REIMBURSEMENT OF EXPENSES

54. Engaged First Nations' expenses shall be reimbursed in accordance with FNEC Finance Policies.

APPROVAL AND AMENDMENT

55. These Terms of Reference come into effect once they have been approved by resolution of the Engaged First Nation Representatives.
56. These Terms of Reference may be amended by resolution of the Engaged First Nation Representatives. Amendments will be effective from the date of their approval by resolution, unless otherwise stated in the amendment.
57. Engaged First Nations and members of FNEC shall be provided a copy of these Terms of Reference and of any amendments to these Terms of Reference.

DEFINITIONS

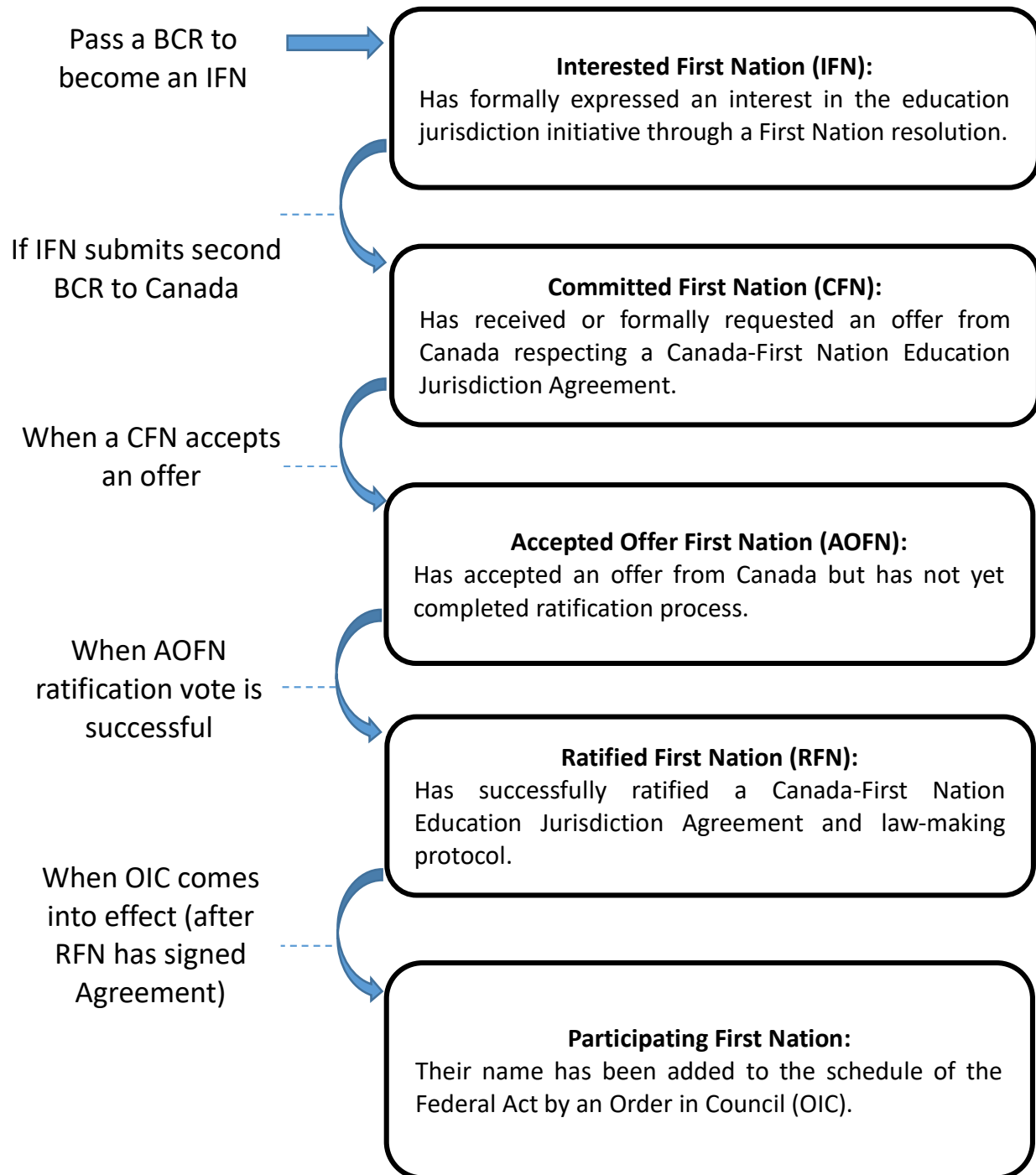
58. For the purposes of these Terms of Reference:
 - (a) "Accepted Offer First Nation" means a First Nation that has received and accepted an offer from Canada respecting a Canada-First Nation Education Jurisdiction Agreement, but not yet ratified the agreement;
 - (b) "Canada-First Nation Education Jurisdiction Agreement" means the education jurisdiction agreement to be concluded between a Ratified First Nation and Canada;
 - (c) "Canada-First Nation Education Jurisdiction Funding Agreement" means a funding agreement to be entered into between a Ratified First Nation and Canada to support

- the implementation of an individual Canada-First Nation Education Jurisdiction Agreement;
- (d) "Committed First Nation" means a First Nation that has received a current offer or formally requested an offer from Canada respecting a Canada-First Nation Education Jurisdiction Agreement;
 - (e) "Education Jurisdiction Initiative" refers to the processes and mechanisms which support First Nations' exercise of self-government over education on First Nation land;
 - (f) "Engaged First Nation" means an Interested First Nation, Committed First Nation, Accepted Offer First Nation or a Ratified First Nation;
 - (g) "Engaged First Nation Jurisdiction Meeting" means a meeting of the Engaged First Nations;
 - (h) "Engaged First Nation Representative" means a representative of an Interested First Nation, Committed First Nation, Accepted Offer First Nation or Ratified First Nation;
 - (i) "First Nation School" means a school located on-reserve and operated and administered by one or more First Nations in British Columbia, that provides education at one or more of the kindergarten, elementary or secondary levels, and includes First Nation Independent Schools.
 - (j) "FNEA" means the First Nations Education Authority, a body established by federal legislation with a board of Directors appointed by Participating First Nations;
 - (k) "FNESC" means the First Nations Education Steering Committee, a society whose members are First Nations;
 - (l) "FNSA" means the First Nations Schools Association, a society whose members are First Nations schools;
 - (m) "Interested First Nation" means a First Nation whose Band Council has passed a band council resolution or provided a letter on the First Nation's letterhead indicating their interest in exercising jurisdiction over education;
 - (n) "Interested First Nation Representative" means the individual representing an Interested First Nation who has been identified in a band council resolution or a letter on the First Nation's letterhead from that First Nation;
 - (o) "Participating First Nation" means a First Nation whose individual Canada-First Nation Education Jurisdiction Agreement has come into force; and

(p) "Ratified First Nation" means a First Nation that has successfully ratified a Canada-First Nation Education Jurisdiction Agreement and law-making protocol.

ANNEX A

PROCESS TO BECOME A PARTICIPATING FIRST NATION



ANNEX B

TEMPLATE WORDING FOR BAND COUNCIL RESOLUTION FOR INTERESTED FIRST NATIONS

WHEREAS:

1. The education jurisdiction initiative refers to the processes and mechanisms which support First Nations' exercise of self-government over education on First Nation land, which provide formal recognition by the federal and provincial governments of a First Nation's right to pass their own education laws and make decisions about the education of its children through signed agreements. The initiative is more fully described in the attached Backgrounder.
2. On July 5, 2006, First Nations, Canada, and BC signed an Education Jurisdiction Framework Agreement, which sets the overall context and road map for implementing First Nations' jurisdiction over education in BC and included the following schedules:
 - a. The BC First Nation Education Agreement,
 - b. the Canada-First Nation Education Jurisdiction Agreement, and
 - c. the Canada-First Nation Education Jurisdiction Funding Agreement.
3. Federal and provincial legislation to enable the education jurisdiction initiative was passed in 2006 and 2007, respectively.
4. A number of First Nations became Participating First Nations on July 1, 2022 and the First Nations Education Authority became fully operational.
5. The _____ First Nation has, or has received funding for, a First Nation School for students in K4 to Grade 12 (or some of these grades) on its reserve land.

The Council of the _____ First Nation (the "First Nation") resolves as follows:

The First Nation is interested in and supports the education jurisdiction initiative, described in the backgrounder attached as Appendix 1, and is considering taking steps to become a Participating First Nation within the next 3 years.

_____ [*name*] is appointed as the First Nation's representative and will be the primary contact for the education jurisdiction initiative.

The First Nation is aware of the Education Jurisdiction Initiative Terms of Reference, attached as Appendix 2, and agrees to abide by them as amended from time to time.

ANNEX C

TEMPLATE BAND COUNCIL RESOLUTION FOR COMMITTED FIRST NATIONS

WHEREAS:

The _____ First Nation has determined that it wishes to receive an offer from Canada respecting a Canada-First Nation Education Jurisdiction Agreement.

The Council of the _____ First Nation (the “First Nation”) resolves as follows:

_____ [*name*] is appointed as the First Nation’s jurisdiction lead and has the mandate and instructions to negotiate and finalize:

- a) a draft Canada-First Nation Education Jurisdiction Agreement for review by Chief and Council and a determination regarding whether the agreement is ready to be submitted for approval through a ratification vote; and
- b) a draft Canada-First Nation Education Jurisdiction Funding Agreement for consideration and approval by Chief and Council.