



EDUCATION JURISDICTION FRAMEWORK AGREEMENT

Agreement Signed by Minister of Indian Affairs and Northern Development, Minister of Education and First Nations Education Steering Committee
British Columbia, Canada
5 July 2006

Whereas:

The negotiation of this Agreement is guided by the principles established in the tripartite Memorandum of Understanding with Respect to First Nations Authority and Jurisdiction over Education of July 24, 2003, signed by Canada, British Columbia and FNEC on behalf of its members;

Now therefore, the parties agree as follows:

Part 1 – Definitions

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Part 2 – Purposes of Agreement

2.1 The purposes of this Agreement are:

- a) to establish a process to enable the recognition of Jurisdiction by a Participating First Nation over Education on First Nation Land as set out in a Canada-First Nation Education Jurisdiction Agreement;
- b) to outline the responsibilities of each of the Parties to support the exercise of Jurisdiction by Participating First Nations over Education on First Nation Land;
- c) to confirm the steps, including the recommendation of Federal Enabling Legislation to Parliament, required for ratification of a Canada-First Nation Education Jurisdiction Agreement; and
- d) to confirm the commitment of British Columbia to recommend Provincial Enabling Legislation to the Legislature.

Part III – Responsibilities of the parties

Canada

3.1 Upon receipt of a minimum of 12 band council resolutions from Interested First Nations, Canada will prepare and recommend Federal Enabling Legislation to Parliament.

3.2 Subject to obtaining the approval of the Federal Cabinet, Canada will consult with FNEC and British Columbia during the drafting of Federal Enabling Legislation.

3.3 Federal Enabling Legislation will:

- a) enable subsequently ratified Canada-First Nation Education Jurisdiction Agreements to be approved, given effect and declared valid by order-in-council;
- b) establish Participating First Nations as having the capacity, rights, powers and privileges of a natural person for the purposes of exercising the duties, powers and functions set out in Canada-First Nation Education Jurisdiction Agreements;
- c) establish the First Nation Education Authority and set out its powers, duties, functions and composition;
- d) enable Participating First Nations to establish Community Education Authorities in accordance with Canada-First Nation Education Jurisdiction Agreements;
- e) provide that sections 114 to 122 of the *Indian Act* will no longer apply to a Participating First Nation after it has passed a First Nation Education Law;

- f) provide that the *Indian Act*, and any related regulations or orders, will continue to apply to Participating First Nations, their Members and First Nations Land, except as set out in subparagraph (e);
- g) give effect to consequential amendments to federal legislation in order to implement the Canada-First Nation Education Jurisdiction Agreements;
- h) provide that Federal Enabling Legislation prevails over other federal legislation to the extent of any conflict; and
- i) provide that Canada-First Nation Education Jurisdiction Agreements are binding on third parties.

British Columbia

3.4 Following the passage of Federal Enabling Legislation, British Columbia will prepare and recommend Provincial Enabling Legislation to the Legislature in accordance with the commitments set out in the British Columbia-First Nation Education Agreement.

3.5 Subject to obtaining the approval of the Attorney General of British Columbia, British Columbia will consult with FNEC and Canada during the drafting of Provincial Enabling Legislation.

3.6 Provincial Enabling Legislation prevails over other provincial laws to the extent of any conflict.

FNEC

3.7 FNEC will work with Interested First Nations to develop templates for a First Nation Education Law, an Education Co-Management Agreement, a First Nation Education Law Making Protocol, roles and responsibilities for Community Education Authorities, a community consultation and information process and an Interested First Nation ratification process.

3.8 Prior to the introduction of Federal Enabling Legislation, FNEC will work with Canada and British Columbia to ensure the First Nation Education Authority will have the capacity to carry out its responsibilities set out in the Canada-First Nation Education Jurisdiction Agreement and other matters as agreed to by the parties.

Part IV – Canada-First Nation Jurisdiction Agreements

4.1 Following the passage of Federal Enabling Legislation, Canada will negotiate and attempt to reach agreement on a Canada-First Nation Education Jurisdiction Agreement with each Interested First Nation.

4.2 Canada intends that the implementation plan to be attached to each Canada-First Nation Education Jurisdiction Agreement will be based on the template implementation plan set out in Schedule D.

4.3 Upon ratification of a Canada-First Nation Education Jurisdiction Agreement by a Participating First Nation and Canada, Canada intends to commence negotiations and attempt to reach agreement on a funding agreement with the Participating First Nation in accordance with the provisions of the Canada-First Nation Education Jurisdiction Agreement. For greater certainty, Canada intends that the template funding agreement set out in Schedule C will form the basis of the first education funding agreement contemplated by the Canada-First Nation Education Jurisdiction Agreement.

Part V – Financial Arrangements

Funding for FNEC

5.1 Canada and FNEC will negotiate and attempt to reach agreement on a one-time funding arrangement to support the activities to be undertaken by FNEC and Interested First Nations set out in paragraphs 3.7 and 3.8.

Funding for First Nation Education Authority

5.2 Every year, or other time periods as may be agreed to in writing, Canada and the First Nation Education Authority will negotiate and attempt to reach agreement on a funding agreement to support the First Nation Education Authority in carrying out its responsibilities set out in Canada-First Nation Education Jurisdiction Agreements.

Appropriation

5.3 The financial provisions of this Agreement applicable to Canada are subject to the appropriation of funds by the Parliament of Canada.

Part VI – Dispute Resolution

Informal Discussion

6.1 In the event of a dispute between the Parties arising out of or relating to this Agreement, the Parties agree to meet, negotiate in good faith and attempt to resolve the dispute amicably.

Part VII – General Provisions

Nature of Agreement

7.1 This Agreement is not a treaty or a land claims agreement within the meaning of sections 25 and 35 of the *Constitution Act, 1982*.

7.2 This Agreement does not, of its own force and effect, recognize, affirm or deny any aboriginal or treaty rights of a Participating First Nation, nor does it abrogate or derogate from the recognition and affirmation of those rights in section 35 of the *Constitution Act, 1982*.

7.3 Nothing in this Agreement will be construed so as to affect in any manner the Constitution of Canada.

7.4 Nothing in this Agreement restricts Participating First Nations from entering into other agreements with Canada, British Columbia or other parties with respect to any matter, including those not covered in this Agreement.

Term and Extension of Agreement

7.5 The term of this Agreement is seven years, commencing on the date that it is signed by all Parties, unless extended or renewed in writing by the Parties.

7.6 Six months prior to the expiration of the term set out in paragraph 7.5, the Parties will meet to discuss the necessity of extending or renewing this Agreement.

Review of Agreement

7.7 The Parties will each designate a representative to review and monitor progress towards the completion of the responsibilities set out in this Agreement, with meetings to be held on a quarterly basis or at intervals as otherwise

agreed to by the parties, and the forum for such meetings to be an existing forum or as otherwise agreed by the Parties.

Amendment

7.8 Subject to paragraphs 7.9 and 7.10, this Agreement may be amended with the written consent of each Party.

7.9 Schedule “A” (the British Columbia First Nation Education Agreement) may be amended with the written consent of British Columbia and FNEC. Prior to British Columbia executing an amendment to Schedule “A”, British Columbia will notify and give reasons for the intended amendment to Canada.

7.10 Schedule “B” (the Canada-First Nation Education Jurisdiction Agreement) and Schedule “C” (the Education Jurisdiction Funding Agreement) may be amended with the written consent of Canada and FNEC. Prior to Canada executing an amendment to Schedule “B”, Canada will notify and give reasons for the intended amendment to British Columbia.

7.11 An amendment to this Agreement takes effect on a date agreed to by the Parties to the amendment, but if no date is agreed to, on the date that the last Party required to consent to the amendment gives its consent.

Entire Agreement

7.12 This Agreement is the entire agreement among the Parties in respect of the subject matter of this Agreement and, except as set out in this Agreement, there is no representation, warranty, collateral agreement, condition, right, or obligation affecting this Agreement.

No Implied Waiver

7.13 A provision of this Agreement, or the performance by a Party of an obligation under this Agreement, may not be waived unless the waiver is in writing and signed by the Party or Parties giving the waiver.

7.14 No written waiver of a provision of this Agreement, of performance by a Party of an obligation under this Agreement, or of default by a Party of an obligation under this Agreement, will be a waiver of any other provision, obligation, or subsequent default.

Interpretation

7.15 In this Agreement:

- a) unless it is otherwise clear from the context, a reference to a “Part” or “paragraph” means a Part or paragraph of this Agreement;
- b) headings and sub-headings are for convenience only, do not form a part of this Agreement and in no way define, limit, alter or enlarge the scope or meaning of any provision of this Agreement;
- c) unless otherwise provided, a reference to a statute includes every amendment to it, every regulation made under it and amendment made to such regulation, and any successor legislation;
- d) unless it is otherwise clear from the context, the use of the singular includes the plural and the use of the plural includes the singular; and
- e) where one or more Parties are mentioned in a provision of this Agreement, this will not be interpreted as implying or inferring any obligation or acknowledgement by any Party not mentioned in that provision.

Computation of Time

7.16 Sections 26 to 28 of the *Interpretation Act (Canada)* apply to the computation of time for the purposes of this Agreement.

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This landmark agreement was signed following six years of negotiation between the Federal and Provincial Governments and First Nations. It is a significant landmark recognising First Nations' jurisdiction over education on reserves in Canada.

The full text of this document is available online at: <http://www.fnesc.ca/Attachments/Jurisdiction/ed_agreement.pdf>

