

SCHEDULE J

TRIPARTITE FUNDING PROTOCOL AND PROCEDURES ("FUNDING PROTOCOL")

WHEREAS

- A. The matter of education services provided to First Nation Students attending all schools is a matter with respect to which each Party has interest and responsibility.
- B. Historically, Canada and British Columbia entered into a bilateral master tuition agreement with regard to funding for First Nation Students attending provincial public schools, an approach not supported by BC First Nations or FNEESC.
- C. The Parties entered into a tripartite tuition letter dated November 29, 2017 (to rescind and replace the bilateral master tuition agreement between Canada and British Columbia, dated March 23, 2004), which has been scheduled to the funding agreement between Canada and British Columbia, dated August 26, 2016, with a term of April 1, 2016, to March 31, 2026 (the "2016 Funding Agreement").
- D. The Parties further committed to negotiating and concluding, subject to necessary approvals, a new tripartite funding arrangement to permanently replace the master tuition agreement and 2016 Funding Agreement.
- E. The Parties seek to confirm protocol and procedures related to the flow of funding for First Nations education in support of the terms of the Agreement.

THEREFORE, the Parties agree as follows:

1.0 PURPOSE

- 1.1 The purposes of this Protocol are to set out agreed funding principles and processes regarding funding for education services and programs for First Nation Students, as described in part 6.0 of the Agreement, which includes:
 - a) the exchange of relevant financial information and data between the Parties, and the use of that information or data, to further the purposes and objectives of the Agreement; and
 - b) other related matters, as agreed.

2.0 TRIPARTITE AGREEMENT ON FUNDING FOR FIRST NATION STUDENTS ATTENDING BC PUBLIC SCHOOLS

- 2.1 The Parties will develop a tripartite funding arrangement in the spirit of, and consistent with, the purpose, principles and objectives of the Agreement, the UN Declaration and the TRC Calls to Action, to permanently replace the master tuition agreement and 2016 Funding Agreement by December 2018.
- 2.2 The Parties agree that the tripartite funding arrangement, once concluded, will form a Schedule to this Agreement.

3.0 PRINCIPLES AND OBJECTIVES

- 3.1 The principles and objectives in the Agreement apply to the implementation of this Protocol.

4.0 FUNDING FOR FIRST NATION STUDENTS ATTENDING FIRST NATION SCHOOLS

- 4.1 Under the terms of the Agreement, Canada agrees to provide funding for First Nation Students attending First Nations Schools in accordance with the BC First Nations Education Funding Model, as set out in the BC First Nations Education Funding Handbook.
- 4.2 Further to section 4.1, and consistent with the jointly developed *Policy Proposal - Transforming First Nations Elementary and Secondary Education* (December 2017), endorsed by Chiefs at the Assembly of First Nations Special Chiefs' Assembly by Resolution #65-2017, Canada agrees that the BC First Nations Education Funding Model will be updated annually to account for additional provincial investments, and that funding levels will be updated within the School Year as new investments are made available from provincial systems, for both:
- a) First Nation Schools; and
 - b) BC Schools.
- 4.3 For greater clarity, funding under section 4.1 is calculated periodically and is based on the Ministry's provincial funding formula, as amended from time to time, which includes:
- a) the formula funding amounts set out in the Operating Grants Manual (OGM) pursuant to section 106.3 and 106.4 of the *School Act*, as amended or replaced from time to time; and
 - b) non-OGM formula funding amounts ("special grants") pursuant to section 115 of the *School Act*, invested into education from time to time; and

includes specific adaptations to address unique or specific First Nation needs.

- 4.4 By April 30 of each year, the Parties will meet to discuss any updates and changes that are made to the OGM and provincial special grants and will jointly determine any adjustments to be made to the BC First Nation Education Funding Model.
- 4.5 For greater clarity, in addition to the funding under section 4.3, the BC First Nation Education Funding Model includes federal funding to FNEESC for Second and Third Level Services, Special Education for First Nation Students Attending First Nation Schools, Language and Culture, Transportation Capital, to support First Nation Students.
- 4.6 The Parties will maintain a BC First Nations Education Funding Handbook and the Estimator Tool for funding for First Nation Students attending First Nation Schools, amended or replaced from time to time, to reflect any changes to the funding for First Nation Students attending First Nation Schools.
- 4.7 Notwithstanding 4.6, the Parties intend that FNEESC will assume full responsibility for maintaining the Estimator tool within the term of the Agreement and, in support of this, Canada will provide relevant data, in a timely manner, to allow for regular updates to the Estimator Tool by FNEESC.
- 4.8 Canada will implement a funding protection mechanism through the BC First Nation Education Funding Handbook, based on the funding protection mechanism in British Columbia's education funding formula, to ensure First Nations are provided with stable, sustainable and predictable funding.
- 4.9 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; and
 - 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.

5.0 FUNDING FOR FIRST NATION STUDENTS ATTENDING BC PUBLIC SCHOOLS

- 5.1 Under the terms of the Agreement, Canada agrees to provide funding in accordance with the BC First Nation Education Funding Model for the provision of education services to First Nation Students attending BC Public Schools, and who are included on the approved Nominal Roll, based on the First Nation Student Rate established by the Ministry for the school district within which the First Nation Student attends a BC Public School.
- 5.2 For greater clarity, funding pursuant to section 5.1 shall provide for a First Nation Student to be funded in excess of 1.0 FTE if that First Nation Student is enrolled in more than 8 courses.
- 5.3 Where an LEA is in effect in relation to First Nation Students attending BC Public Schools, Canada will provide funding under section 5.1 to the First Nation to administer under the terms of the LEA.
- 5.4 For greater clarity, an LEA under section 5.3 includes a Provincial LEA, where the First Nation has opted to implement a Provincial LEA under section 7.3 of the Agreement.
- 5.5 Where there is no LEA in effect in relation to the First Nation Students attending BC Public Schools and/or a First Nation has requested that Canada provide funding for First Nation Students attending BC Public Schools directly to British Columbia on behalf of the First Nation, Canada will provide that funding to British Columbia pursuant to the 2016 Funding Agreement or the tripartite funding arrangement under part 2.0 of this Schedule, once concluded to rescind and replace the 2016 Funding Agreement, with all related correspondence being copied to the First Nation.
- 5.6 It is the responsibility of the First Nation and the board of education to address payment or other issues in accordance with the terms of the LEA.
- 5.7 The Parties will maintain funding information and instructions for the implementation of this part 5.0.

6.0 FUNDING FOR FIRST NATION STUDENTS ATTENDING BC INDEPENDENT SCHOOLS

- 6.1 Under the terms of the Agreement, Canada agrees to provide funding for First Nation Students attending BC Independent Schools based on the First Nation Student Rate established by the Ministry for the school district within which the First Nation Student attends a BC Independent School.

- 6.2 Whether there is an LEA in place or not between a BC Independent School and a First Nation:
- a) Canada will flow funds for the relevant First Nation Students directly to the First Nation; and
 - b) The BC Independent School will invoice the First Nation directly for education services.

6.3 It is the responsibility of the First Nation and the BC Independent School to address payment or other issues in accordance with the terms of the LEA.

6.4 The Parties will maintain funding information for the implementation of this part 6.0.

7.0 FUNDING FOR OFF-RESERVE STUDENTS ATTENDING FIRST NATION SCHOOLS

7.1 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.

8.0 PROVINCIAL FUNDING FORMULA AND FIRST NATION STUDENT RATE

8.1 British Columbia will initiate consultation with FNEC and Canada by December 15 of each year regarding:

- a) the calculation of the First Nation Student Rate prior to its approval by the relevant provincial Assistant Deputy Minister by January 15; and
- b) any proposed changes to the First Nation Student Rate as a result of changes to the Ministry's Budget, the OGM and/or changes in provincial policy;

as set out in the Agreement and this Schedule.

8.2 The Parties agree that, upon establishment of the First Nation Student Transportation Fund, the First Nation Student Rate will not include any funding paid by the Ministry to boards of education for transportation services.

8.3 To meet its commitment in section 8.1, and ensure there is opportunity for meaningful dialogue, British Columbia will convene meetings with FNEC.

- 8.4 British Columbia will invite FNEESC and Canada to participate in any committees or advisory groups or processes that may be established to provide input into, or recommendations on, the provincial funding formula or approach.
- 8.5 British Columbia will include FNEESC as a member of the Technical Review Committee responsible for reviewing and recommending changes to the provincial education funding model.
- 8.6 The Parties acknowledge the Ministry has commenced a funding formula review that may change the current provincial education funding formula and special purpose grants under the *School Act*.
- 8.7 Once the funding review referenced under section 8.6 is complete, the Parties shall meet to examine the implications and impacts of the amended or new provincial funding formula on the Agreement and this Schedule and jointly determine any adjustments to the BC First Nations Education Funding Model.
- 8.8 In determining adjustments to the BC First Nations Education Funding Model under section 8.7, the Parties agree that adjustments will be made with the objectives of:
- a) following the provincial education funding model;
 - b) determining specific adaptations to meet the unique needs of First Nation Students, First Nation Schools and communities; and
 - c) implementing a funding protection mechanism to mitigate any funding losses to First Nations resulting from the adjustments.

9.0 FIRST NATION STUDENT COUNT

- 9.1 The First Nation Students count for purposes of the Nominal Roll will be taken on September 30 of each School Year.
- 9.2 For greater clarity, First Nation Students' number of days in attendance will have no impact on their inclusion on the Nominal Roll.
- 9.3 BC will collect the 1701 Information as at September 30 of each School Year.
- 9.4 The Parties agree to develop and implement a process to ensure that the Nominal Roll enrollment number in each school district matches the 1701 Information enrollment number for First Nation Students in that district, and that the school district and each First Nation having students attend a BC Public School within that district jointly sign off the agreed enrollment by September 30 each year.

- 9.5 The September 30th Nominal Roll enrolment shall be verified by:
- a) the First Nation; and
 - b) the Secretary-Treasurer of the board of education.
- 9.6 Canada agrees to work with FNEC, on an ongoing basis, to update and amend the Nominal Roll to ensure alignment between the determination of the Nominal Roll and the purpose and objectives of the Agreement and this Schedule.
- 9.7 British Columbia agrees to consult with FNEC and Canada regarding changes to the 1701 Instructions.
- 9.8 Further to section 9.7, British Columbia will work with FNEC, on an ongoing basis, to ensure alignment between the 1701 Information and the purpose and objectives of the Agreement and this Schedule.

10.0 FUNDING FOR SECOND AND THIRD LEVEL SERVICES

10.1 Under the terms of the Agreement, Canada agrees to provide funding to FNEC in accordance with the BC First Nation Education Funding Model for the provision of Second and Third Level Services as set out in Schedule C [Second and Third Level Services], and for the management of funding programs to support First Nations schools in providing specific educational services, including funding for:

- a) Activities to further the education capacity of First Nation communities;
- b) Local Education Agreement supports and materials;
- c) Policy and advocacy efforts to achieve systemic shifts for the benefit of First Nations learners, families and communities;
- d) Special Education, as set out in Schedule D [Special Education for First Nation Students Attending First Nation Schools];
- e) Language and Culture, as set out in Schedule E [Language and Culture];
- f) Transportation Capital to purchase new and replacement school buses; and
- g) Technology and connectivity upgrades to support education in First Nation schools; and

for additional programs, as may be negotiated with Canada over time.

10.2 Canada agrees to provide annual funding based on 5.67 percent of total funding provided pursuant to the BC First Nation Education Funding Model as set out in Schedule K [BC First Nation Education Funding Model], with the exception of the Special Education and Language and Culture components.

11.0 OTHER FEDERAL INVESTMENTS IN FIRST NATION EDUCATION

11.1 Canada and FNEESC agree to develop a process to jointly develop criteria for the existing federal research and innovation program for 2019-20.

11.2 For greater clarity, the development of the criteria under section 11.1 will include all First Nations, or their representatives, and Canada.

11.3 If, during the term of this Agreement, Canada implements additional education programs, services or funding to support First Nations education, FNEESC or BC First Nations will be eligible to participate and benefit from any federal programs or services that complement or supplement those provided in the BC First Nation Education Funding Model.

12.0 TREATY AND SELF-GOVERNING FIRST NATIONS

12.1 Consistent with section 10.3 of the Agreement, nothing in this Schedule affects 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, including Special Education and Language and Culture, from FNEESC.

13.0 BLOCK-FUNDED FIRST NATIONS

13.1 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.