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First Nations Jurisdiction Over Education

Community Presentation



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Suggested Procedure for Discussion and Questions

- After each section there will be an allotted time for questions and discussion.
- If questions come up during the slides, please record them in the Zoom chat and they will be collected by the discussion moderators.

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Presentation Overview

- Background and Context
- BCTEA compared to Jurisdiction
- Funding Before and After Jurisdiction
- Timelines of Education Jurisdiction
- Implementing Jurisdiction Over Education
- Comparison of First Nations Education Before and After Jurisdiction
- Overview of Critical Legislation, Agreements, and Processes
- Signing the Agreements and the Ratification Process
- Post Ratification Activities and Implementation

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Background and Context

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Glossary and Acronyms

- **Interested First Nations:** Are those First Nations who are interested in the jurisdiction initiative and invited to attend IFN meetings to get updates on the process.
- **Negotiating First Nations:** Are those First Nations who are actively involved in the negotiation process and moving towards signing education jurisdiction agreements.
- **Participating First Nations:** Are First Nations that have voted on and ratified an Education Jurisdiction Agreement and had their names added to the schedule to the federal supporting legislation.
- **First Nations Education Authority:** Is a regulatory body established through the Education Jurisdiction Agreements and the federal supporting legislation. It is made up of PFN representatives and is intended to serve the interests of the First Nations in BC who are exercising jurisdiction over education.
- **First Nation Schools Teaching Certification:** A teaching certificate that is being developed under the direction of NFNs to be administered by the FNEA to PFNs.
- **First Nations Authorized Courses:** A course that is developed by a PFN which will be approved by the FNEA and can be used towards an elective credit for the provincial Dogwood Diploma.
- **First Nations Graduation Certificate:** A graduation certificate developed by First Nations which can be offered to students in PFN schools.

History and Context

- In BC there are over 130 First Nations schools. Historically, these schools existed through the sheer resilience of First Nations communities. First Nations schools were underfunded, receiving 30-40% less than BC public schools. As a result, First Nations schools had to spread their money to cover programs and services including language and culture programming.
- We recognized that we had to address this funding issue first so that funding did not become the incentive for drawing down jurisdiction.
- This was addressed through the negotiation of the Tripartite Education Framework Agreement (TEFA) where First Nations were able to secure more equitable funding in 2012. Then, even more funding was secured through the BC Tripartite Education Agreement (BCTEA) signed 2018.
- Each successive agreement secured more funding and supports for First Nations. This funding has been used to support language and culture, special needs, and transportation. As a result, First Nations schools are no longer underfunded.

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Current Legislation and Policy Supporting Schools

First Nations' ability to operate their schools are subject to federal policies. This makes them vulnerable to political change.

Under jurisdiction, First Nations would:

- Have law making authority over their education systems.
- These laws would be recognized by Canada and BC and would provide protection from potential changing federal policies.
- Ultimately, First Nations would have control over their education systems including teacher certification, courses required for graduation, and curriculum development.

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BCTEA Compared to Jurisdiction

It is important to understand the differences between the BC Tripartite Education Agreement (BCTEA) and Jurisdiction.

BCTEA:

- Is an agreement between Canada, BC, and FNEC that provides broad supports for First Nations students and schools across BC.
- Is a time-limited agreement which expires in 2023; preparations are now being made for it to be re-negotiated.

First Nations Jurisdiction:

- Recognizes the law-making authority of First Nations over their education systems (k-12) on First Nation's land.
- Jurisdiction is not time limited and has no expiration date.

Examples of Jurisdiction:

Laws for teacher certification

Laws for graduation requirements

Laws for school calendar

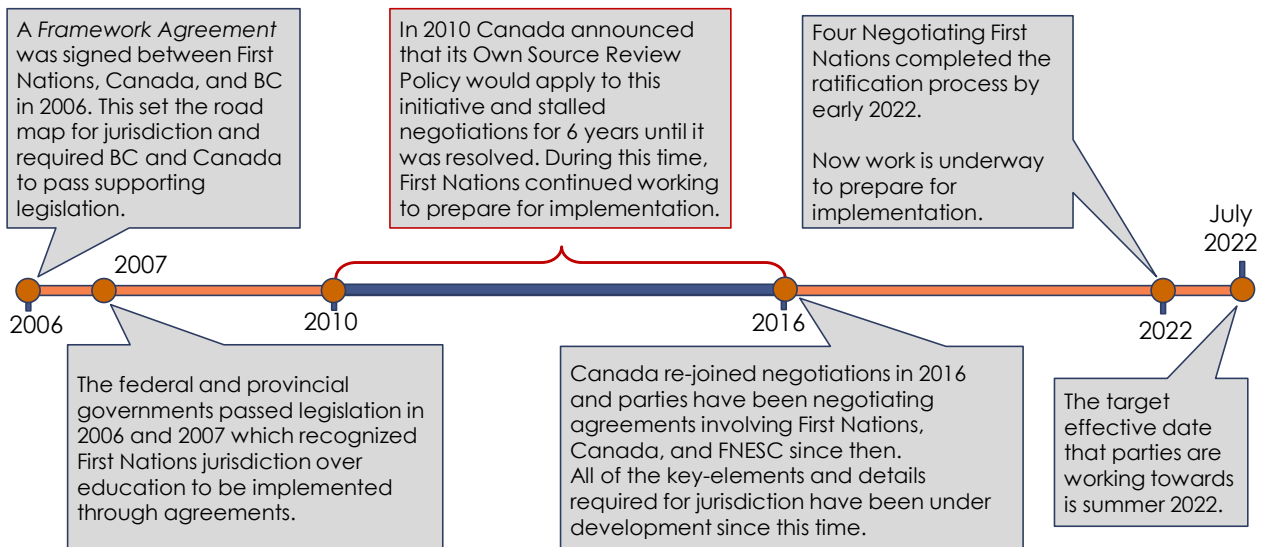
Funding Before and After Jurisdiction

Under Jurisdiction, Participating First Nations (PFNs) continue to receive the same funding and supports currently available, which includes:

- Direct First Nations School funding, including school staff salaries, which is calculated using the BCTEA methodology
- Extra support from FNESC (known as *Second and Third Level Services*) including language and culture and Special Education Programming
- Any other funding or support available to other First Nations now or in the future

They will also will receive new *Governance Funding* to support the implementation of jurisdiction and their new governance responsibilities.

Education Jurisdiction Time-line and Background 10





Implementing Jurisdiction Over Education

Becoming a Participating First Nation

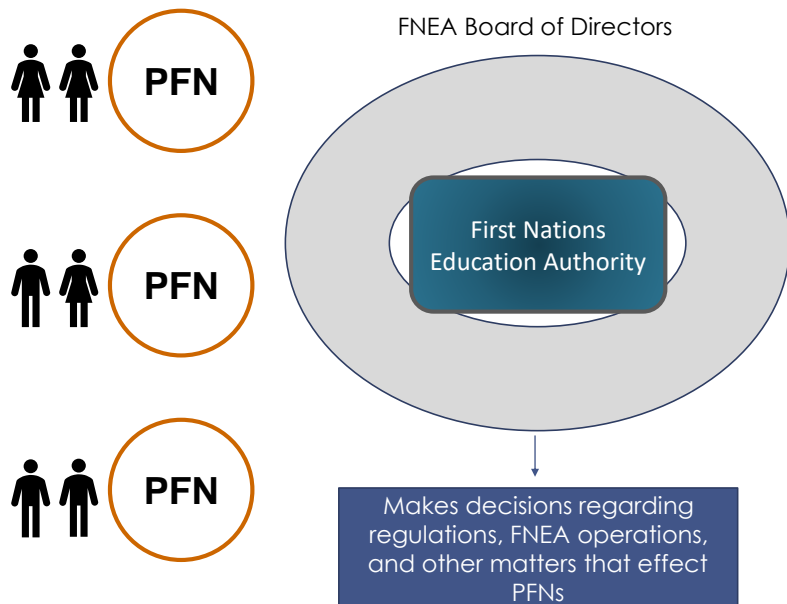
- Once a First Nation has completed the ratification process and has signed a Canada-First Nation Education Jurisdiction Agreement with Canada, Canada will pass an Order in Council making the First Nations a **Participating First Nation** (PFN) on the effective date.
- Once a Nation becomes a PFN, it will then have jurisdiction over its education system, which includes the authority to:
 - Make education laws for education on its land through its Chief and Council.
 - Establish a governance structure either through their Chief and Council or another governing authority that they establish (e.g. a Community Education Authority).
- The *education laws* and *governance structure* provide the framework for how the PFNs' education system will work including the operation of their schools.

Exercising Jurisdiction

- First Nations will have law making authority over their K4 -12 education systems in First Nations Schools.
- Three large areas of jurisdiction have been collaboratively developed by Negotiating First Nations (NFNs) which will be jointly exercised and regulated by First Nations through the First Nations Education Authority (FNEA). These areas are:
 - Teacher Certification;
 - School Certification; and
 - Graduation Requirements, curriculum, and course approvals

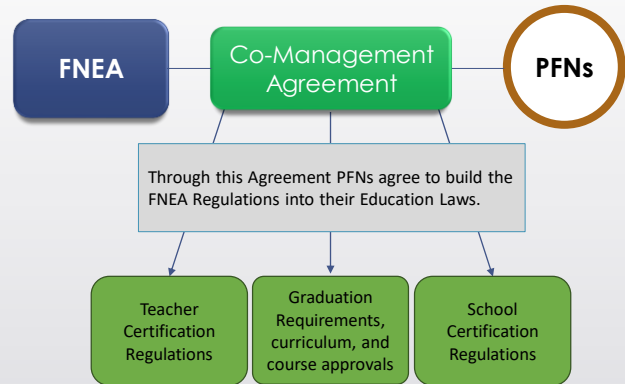
FNEA Structure

- Each PFN will appoint two directors to the FNEA.
- These directors will jointly oversee the FNEA and make key FNEA decisions.
- Each director will have a duty to act in the best interests of the FNEA.



Overview of the Co-Management Agreement

- The Co-Management Agreement is an agreement between Participating First Nations (PFNs) and the First Nations Education Authority (FNEA) and it outlines their relationship and responsibilities to one another.
- The following regulations are appended to it:
 - Teacher Certification Regulations;
 - School Certification Regulations;
 - Graduation Requirements, curriculum, and course approvals



First Nations Education Authority Funding

The First Nations Education Authority (FNEA) will be funded by the federal government to carry out its regulatory duties. This includes funding for staff, office space, minor capital, and the regulation of:

- Teacher Certification;
- School Certification;
- Graduation Requirements, curriculum, and course approvals

There will also be funding to cover the cost of travel, accommodations, and catering for FNEA meetings.

However, note that FNEA directors will not be paid by the FNEA for their participation in FNEA meetings (since Participating First Nation [PFN] governance funding provided by Canada is intended to cover those costs). For that reason, the FNEA budget does not include compensation for FNEA directors, or for the executive (President, Vice-President, Secretary, and Treasurer).

Other Areas of Jurisdiction

Other areas of jurisdiction to be determined by the Participating First Nation could include:

- Conflict of interest and code of conduct for staff and the school authority
- Language and culture curriculum, and on the land learning
- School Calendar, length of school days, and hours per year
- Discipline Policy for students
- Elder and traditional knowledge keeper compensation policy
- Etc.

Comparison of First Nations Education Before and After Jurisdiction

Independent school considerations

Note: According to the definition of an Independent School in the provincial *Independent School Act*, schools operated by Participating First Nations (PFNs) or their community education authorities (CEAs) will not be able to retain their status as, or apply to become, "independent schools" under the Independent School Act.

This means that when First Nations choose to become Participating First Nations (PFNs), they will no longer be Independent Schools and should consider the implications of this decision.

The following slides compare 3 areas of jurisdiction that are being jointly developed by the Negotiating First Nations which will be exercised through the First Nations Education Authority. This includes teacher certification, school certification, and Graduation Requirements, curriculum, and course approvals.

Teacher Certification	
Before Jurisdiction	After Jurisdiction
<ul style="list-style-type: none"> • First Nation schools can only hire teachers who have a valid teaching certificate from BC or another province. • Each province sets the teacher certification requirements which generally include a minimum of 4 years post-secondary experience. 	<ul style="list-style-type: none"> • In addition to being able to hire teachers with provincial certificates, Participating First Nation schools (PFN) will also be able to hire teachers certified with a First Nations Schools Teaching Certificate (FNSTC). • The FNSTC requirements will be determined by the First Nations Education Authority. • Qualified individuals can apply for a FNSTC only with the support of a PFN school.

School Certification

Before Jurisdiction

- Currently, most First Nations schools complete the First Nations Schools Assessment and Certification Process for the purpose of being certified.
- First Nation schools with Independent School Status must complete an Independent Schools evaluation / monitoring inspection under the Independent School Act.

After Jurisdiction

- Under jurisdiction, it is proposed that PFNs will complete the First Nations Schools Assessment and Certification Process at least for an interim period.

Graduation Requirements, Curriculum, and Course Approvals

Before Jurisdiction

- Currently, First Nations schools' students can access the provincial Dogwood and Adult Dogwood graduation certificates if they are certified through the First Nations Schools Assessment and Certification Process.
- The province determines the Dogwood / Adult Dogwood graduation requirements (i.e. they choose the courses students must complete to be awarded the graduation certificate).
- Non-Independent First Nation schools can also choose to offer their own graduation certificate recognized by their respective nation.

After Jurisdiction

- Under jurisdiction, the following options will be available for students who graduate from PFN schools, as long as students meet the specific requirements established for each certificate.
 - The Dogwood or Adult Dogwood Diploma, with requirements set by the BC Ministry of Education and Child Care
 - A First Nations Graduation Certificate, with requirements set by the FNEA
 - A PFN Graduation Certificate, with requirements set by the PFN and approved by the FNEA
- A specific process exists for schools that want to offer the Dogwood or Adult Dogwood, as outlined in a program guide that is available from FNEA.

Graduation Requirements, Curriculum, and Course Approvals Cont.

Before Jurisdiction	After Jurisdiction
<ul style="list-style-type: none"> • First Nations schools can create locally developed courses and have them count as elective credits towards graduation through a FNEESC/FNSA course approval process. • First Nations Independent schools can create locally developed courses and have them count as elective credits towards graduation if they are approved through a provincial course approval process. 	<ul style="list-style-type: none"> • First Nations schools can create locally developed courses and have them count as elective credits towards the Dogwood, Adult Dogwood or First Nations Graduation Certificate through a FNEA course approval process.

Overview of Jurisdiction Agreements

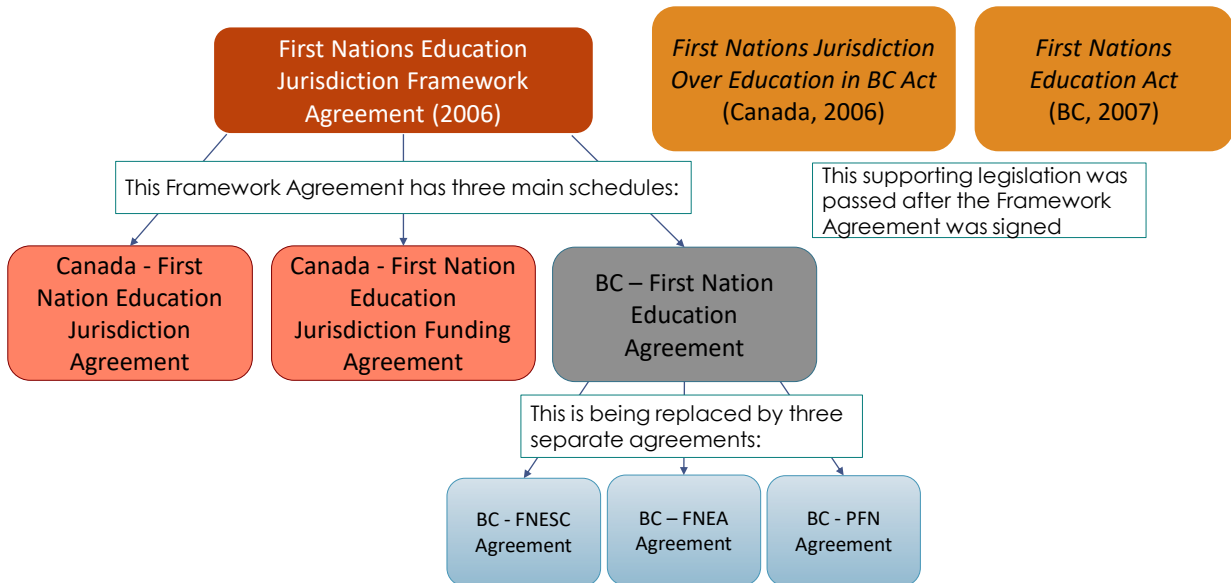
In order for First Nations to implement jurisdiction, a number of agreements must be signed between the various groups who will be involved in the process. This includes:

- The First Nations themselves (who will be called Participating First Nations – PFNs);
- Canada;
- British Columbia;
- FNEESC; and
- The First Nations Education Authority (FNEA).

The following slides provide a high level overview of each agreement.

Overview of Key Jurisdiction Agreements

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Canada - First Nations Education Jurisdiction Agreement

Canada - First Nations Education Jurisdiction Funding Agreement

- These two agreements are between Canada and the First Nations who will enter into jurisdiction. They involve all of the details and responsibilities of Canada and the First Nations.
- The Canada – First Nations Education Jurisdiction Agreement must be ratified by the First Nations community members. This means the members will vote on the agreement in order to pass it.
- The Canada – First Nations Education Jurisdiction Funding Agreement must be approved by Chief and Council.

Overview of BC Agreements

BC - FNEESC Agreement

This Agreement addresses FNEESC's "interim" role until certain tasks are completed and the First Nations Education Authority (FNEA) is in full operation.

(FNEESC has ongoing role with regard to broader issues that affect First Nations beyond jurisdiction)

BC – FNEA Agreement

This Agreement focuses on BC and FNEA obligations to support PFNs' exercise of Jurisdiction, including:

- (a) teacher certification;
- (b) school certification and regulation; and
- (c) graduation requirements and evaluation of courses required to graduate.

It would also address ongoing engagement and collaboration on effective data/information sharing.

BC - PFN Agreement

This Agreement sets out commitments of BC and the Participating First Nation (PFN) to work together to support the PFN's exercise of Jurisdiction, including:

- (a) reciprocal tuition;
- (b) granting graduation credentials; and
- (c) shared services opportunities.

It would also address ongoing engagement and collaboration on effective data/information sharing.

Overview of administrative agreements

There are two administrative agreements involving FNEESC and its continued role in supporting and collaborating with the FNEA and PFNs.

FNEESC - FNEA Agreement

This Agreement will focus on the role of FNEESC in supporting the FNEA in:

- the FNEA Teaching Certificate process
- First Nations Schools certification process
- Graduation requirements and approval of courses required for graduation
- the process and methodology for calculating the funding for these services
- any data sharing and management considerations (e.g. access and adaptations to DRUMS).

FNEESC – PFN Agreement

The agreement will cover aspects of the relationship between PFNs and FNEESC including:

- a process for drawing down centralized education services and funding
- continued supports from FNEESC.

*It is important to note that these agreements are subject to change over time.

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Signing the Agreements and the Ratification Process

- *Ratification* is the process by which communities vote to approve documents to move into jurisdiction. These documents must be approved by 50% + 1 of those who vote in order for this to happen. The two documents that must be ratified by the community are:
 - the template Canada – First Nations Education Jurisdiction Agreement; and
 - the Participating First Nation's (PFN's) Law-Making Protocol (the process by which the First Nation passes the education law).

At the same time, chief and council must approve the:

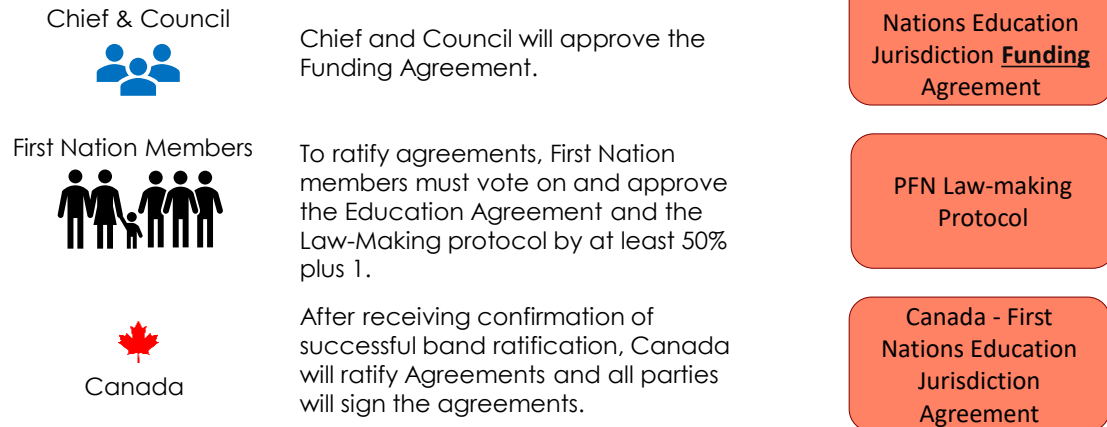
- Canada – First Nation Education Jurisdiction Funding Agreement

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Signing the Agreements and the Ratification Process cont.

- Four NFNs successfully completed the ratification process in 2021 and early 2022.
- Canada is now going through its approval process required to add the names of those four First Nations to a schedule to the federal Act.
- First Nations and Canada will sign agreements in May and will then officially become PFNs on the initial target effective date (July 1, 2022).
- After this initial cohort, each year a new cohort of First Nations who successfully complete the ratification process will become Participating First Nations.

Signing the Agreements and the Ratification Process



Interim Work to be Completed Before Implementation

It is important to note that much work must be completed before implementation:

- The two Administration Agreements must be completed.
- In order for the FNEA to become operational, the following documents/agreements must also be completed:
 - the FNEA funding agreement,
 - the FNEA Co-management agreement and Terms of Reference, and
 - the FNEA rules (teacher certification; school certification; and graduation requirements, curriculum, and course approval).

Interim Work to be Completed Before Implementation Cont.

- First Nations also have to complete the necessary steps to prepare for implementation. This involves:
 - Briefing and preparing their communities and school staff for the transition process.
 - Making education laws for education on its land.
 - Determining the governance structure for their education systems either through their Chief and Council or another governing authority that they establish (e.g. a Community Education Authority).

Post Ratification Activities and Implementation

After First Nations and Canada have ratified agreements the PFN must appoint two individuals to be directors for the First Nations Education Authority (FNEA). Then the FNEA will be fully operational. At this time the FNEA will:

- Sign the BC – FNEA Agreement; and
- Sign the FNEA – FNEA Agreement.

On effective date Participating First Nations (PFNs) will:

- Sign the Education Co-Management Agreement with the FNEA;
- Sign the BC – PFN Agreement with BC;
- Sign the FNEA – PFN Agreement; and
- Create, publish and implement their Education Laws.

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Education Jurisdiction Resources

- Community Template PowerPoint Presentation
- Web Resources (jurisdiction videos, template BCRs and letters, checklist, etc.)
- Jurisdiction Webpage: <http://www.fnesc.ca/about-fnesc/jurisdiction>
- A jurisdiction video file is also available online and is a great resource to provide a historical overview.
- Jurisdiction Toolkit (under development)

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Discussion and Questions?

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Thank You

If you have any further questions, please contact:

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