

First Nations Jurisdiction Over Education

Community Presentation



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.

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

Background and Context

Glossary and Acronyms

- **Accepted Offer First Nations (AOFNs)**: means those 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;
- **Committed First Nations (CFNs)**: means those First Nations that have received or formally requested an offer from Canada respecting a Canada-First Nation Education Jurisdiction Agreement;
- **Engaged First Nations**: means the IFNs, CFNs, AOFNs, and RFNs;
- **Interested First Nations (IFNs)**: means those First Nations that have formally expressed an interest in the education jurisdiction initiative through a First Nation resolution; and
- **Participating First Nations (PFNs)**: 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.
- **Ratified First Nations (RFNs)**: means those First Nations that have successfully ratified a Canada-First Nation Education Jurisdiction Agreement and law-making protocol.

Glossary and Acronyms

- **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.

Current Legislation and Policy Supporting Schools

- First Nations' ability to operate their schools is subject to federal policies. This makes them vulnerable to political change.
- *The jurisdiction initiative* refers to the collective work spearheaded by First Nations in BC and the First Nations Education Steering Committee (FNESC) to support First Nations in exercising law-making authority (jurisdiction) over their education systems on First Nations land.
- The key foundation for the jurisdiction initiative is the *Sectoral Self-government Agreement* between individual PFNs and Canada.

The Jurisdiction Initiative

- Under the jurisdiction initiative, PFNs have law making authority over their education systems on their land.
- The *education laws* passed by PFNs are recognized by Canada and BC and would provide PFNs with a measure of protection from potential changing federal policies.
- Under this initiative, PFNs can rely on Chief and Council as the governance structure to oversee education or establish a separate governing authority (e.g. a Community Education Authority) for that purpose.

Signing of Agreements and Timeline

History

- First Nations in BC have been working to have jurisdiction over their education systems recognized by Canada and BC for over two decades. The first milestone was reached when Canada, BC and FNEC signed a Memorandum of Understanding in 2003.
- Those parties then signed a Framework Agreement in 2006 which describes how PFNs will exercise jurisdiction over education on First Nations land (reserve) through jurisdiction agreements, and the roles of each of the parties.
- Among other things, the Framework Agreement:
 - Led to Canada and BC passing supporting legislation
 - Bound Canada to negotiate and attempt to reach agreement on a template jurisdiction agreement and funding agreement after the legislation was passed
 - Secured a commitment from Canada to provide funding to support FNEC and First Nations in advancing the jurisdiction initiative

Signing of Jurisdiction Agreements

- In May 2022, Canada and four First Nations signed individual Canada-First Nation Education Jurisdiction Agreements (Jurisdiction Agreements).
- These agreements came into effect on July 1, 2022 and these first four First Nations officially became PFNs.
- The first four PFNs are:
 - ʔaq'am
 - Cowichan Tribes
 - Lil'wat Nation
 - Seabird Island

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

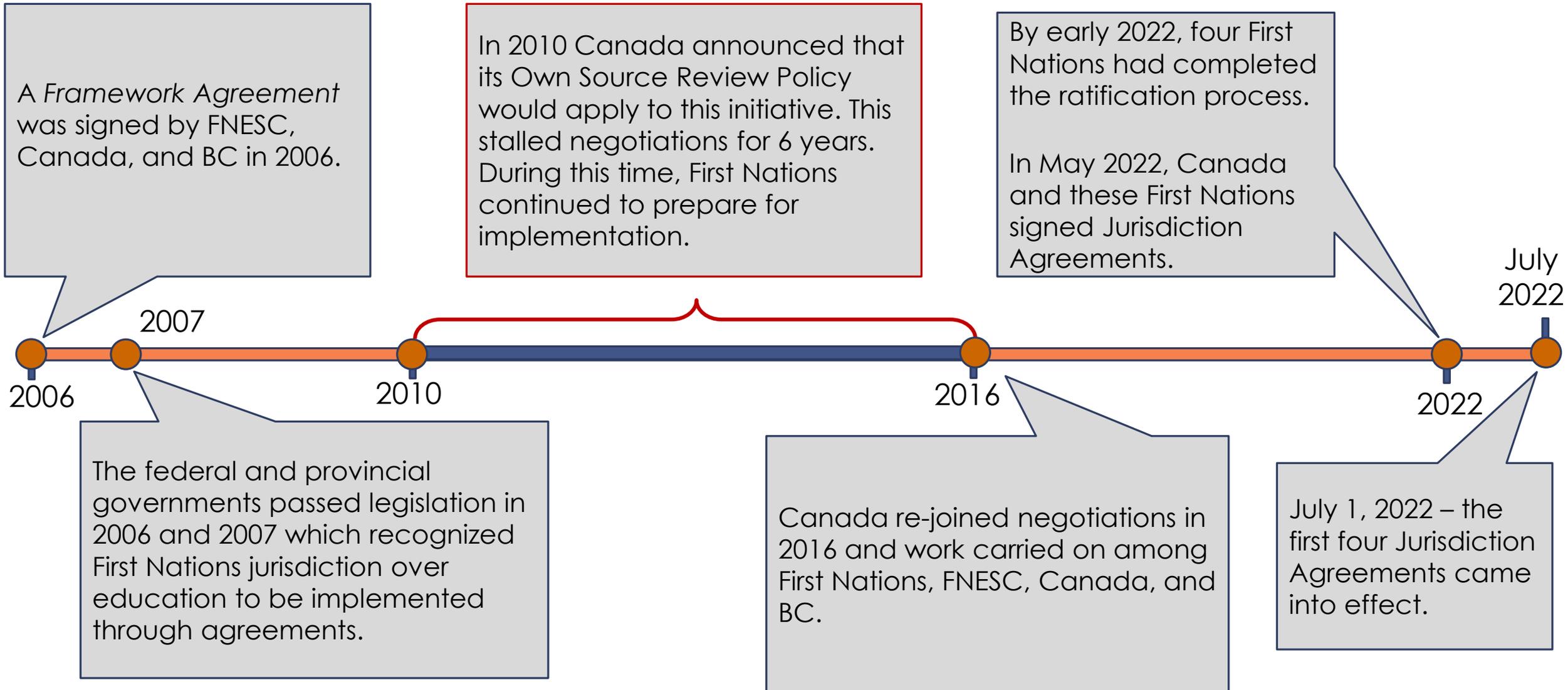
Funding Before and After Jurisdiction

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 FNEESC (known as *Second and Third Level Services*) including language and culture and Special Education Programing
- 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 14



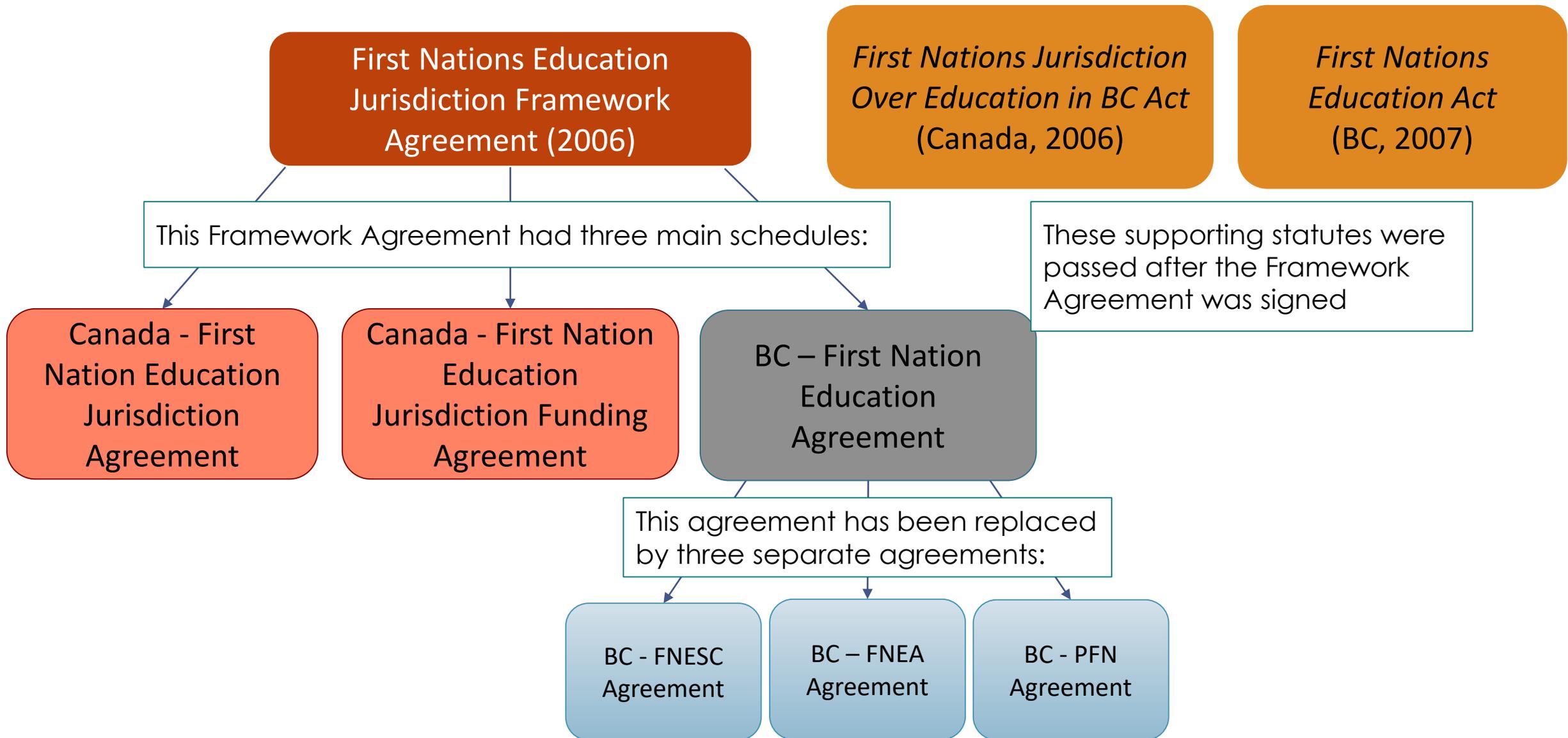
Overview of Agreements

Overview of Jurisdiction Agreements

First Nations, FNEESC, Canada, BC, and the newly-established First Nations Education Authority (FNEA) have negotiated a number of agreements that support the effective implementation of the Jurisdiction Agreements between Canada and PFNs.

The following slides provide a high level overview of the agreements among the various parties.

Overview of Key Jurisdiction Agreements



Canada - First Nation Education
Jurisdiction Agreement
(Jurisdiction Agreement)

- This is the Sectoral Self-government Agreement between Canada and individual PFNs.
- It recognizes a PFN's law-making authority and sets out the parties' responsibilities.
- The *Jurisdiction Agreement* must be ratified by a First Nation's community members.

Canada - First Nation Education
Jurisdiction Funding Agreement
(Funding Agreement)

- This funding agreement is intended to support the implementation of the Jurisdiction Agreement.
- It sets out how Canada will fund a PFN to meet its responsibilities under the *Jurisdiction Agreement*.
- The *Funding Agreement* must be approved by Chief and Council.

Overview of BC Agreements

BC - FNEA Agreement

This Agreement addresses FNEA's interim role until the First Nations Education Authority (FNEA) is in full operation.

(FNEA also has an ongoing role regarding broader issues that affect First Nations beyond jurisdiction.)

BC – FNEA Agreement

This Agreement focuses on BC and FNEA's obligations, including:

- (a) teacher certification and regulation;
- (b) graduation requirements and granting credentials;
- (c) shared services opportunities; and
- (d) representation on provincial bodies.

BC - PFN Agreement

This Agreement focuses on BC and each PFN's obligations, including:

- (a) teacher employment information;
- (b) reciprocal tuition;
- (c) graduation requirements and granting credentials; and
- (d) shared services opportunities.

Overview of administrative agreements

Two administrative agreements involving FNEC are under development.

FNEC - FNEA Agreement

Sets out the commitments and responsibilities of FNEC and FNEA to work together to support the jurisdiction initiative.

FNEC – PFN Agreement

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

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

Implementing Jurisdiction Over Education and the First Nations Education Authority

Funding Before and After Jurisdiction

Under jurisdiction, PFNs will continue to receive the same funding and support currently available to other First Nations in BC for K4-12 education, which includes:

- Direct First Nations School funding, including school staff salaries, which is calculated using the BCTEA methodology
- Additional support from FNEESC (known as *Second and Third Level Services*) including language and culture and Special Education Programming
- Any other funding or support that is 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.

Exercising Jurisdiction

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

Other Areas of Jurisdiction

Other areas of jurisdiction that may be exercised a PFN include:

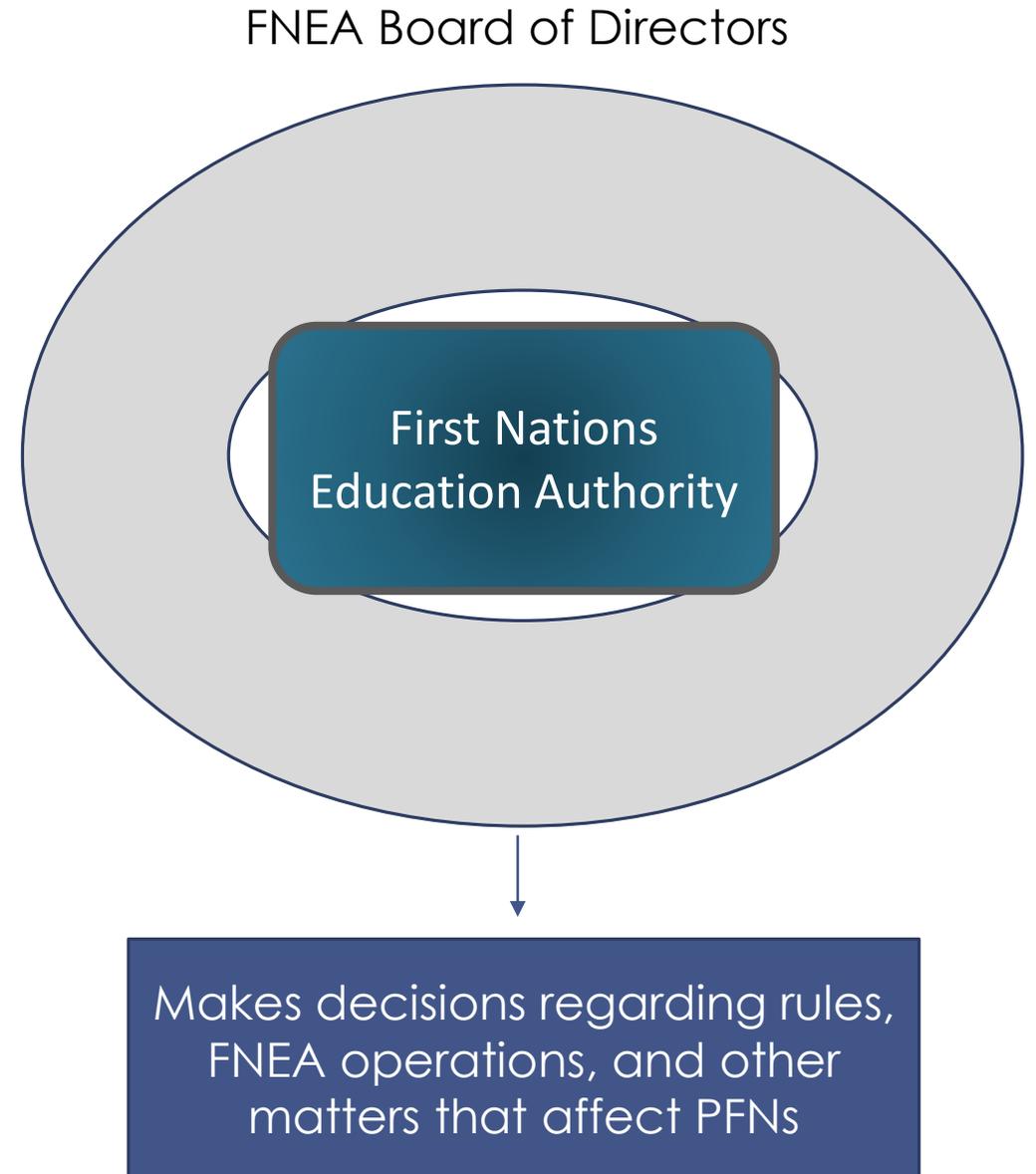
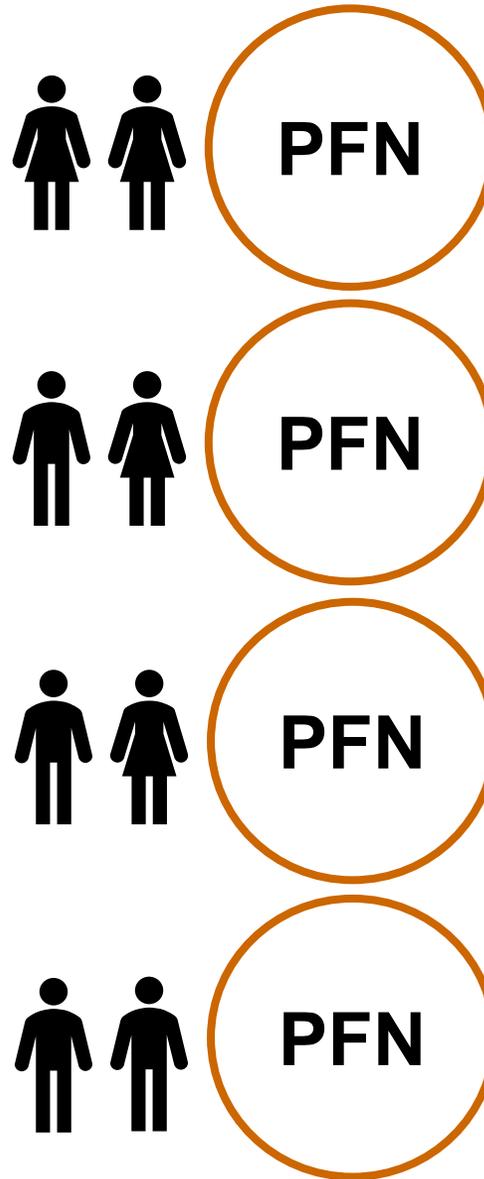
- Conflict of interest and code of conduct for staff and the school authority
- Language and culture curriculum, and on the land learning
- School calendar, length of school days, and hours per year
- Discipline policy for students
- Elder and traditional knowledge keeper compensation policy

The First Nations Education Authority (FNEA)

- Through the jurisdiction initiative, First Nations determined that they wanted to collectively exercise jurisdiction over certain areas of education.
- As a result, they decided to jointly establish the First Nations Education Authority (FNEA), as a body with regulatory functions.
- The purpose of FNEA, as described in the Federal Enabling Legislation, is:
 - *to assist participating First Nations in developing the capacity to provide education on First Nation land and to provide for any other matters related to education that may be agreed to by the Authority and a participating First Nation in accordance with an individual agreement.*

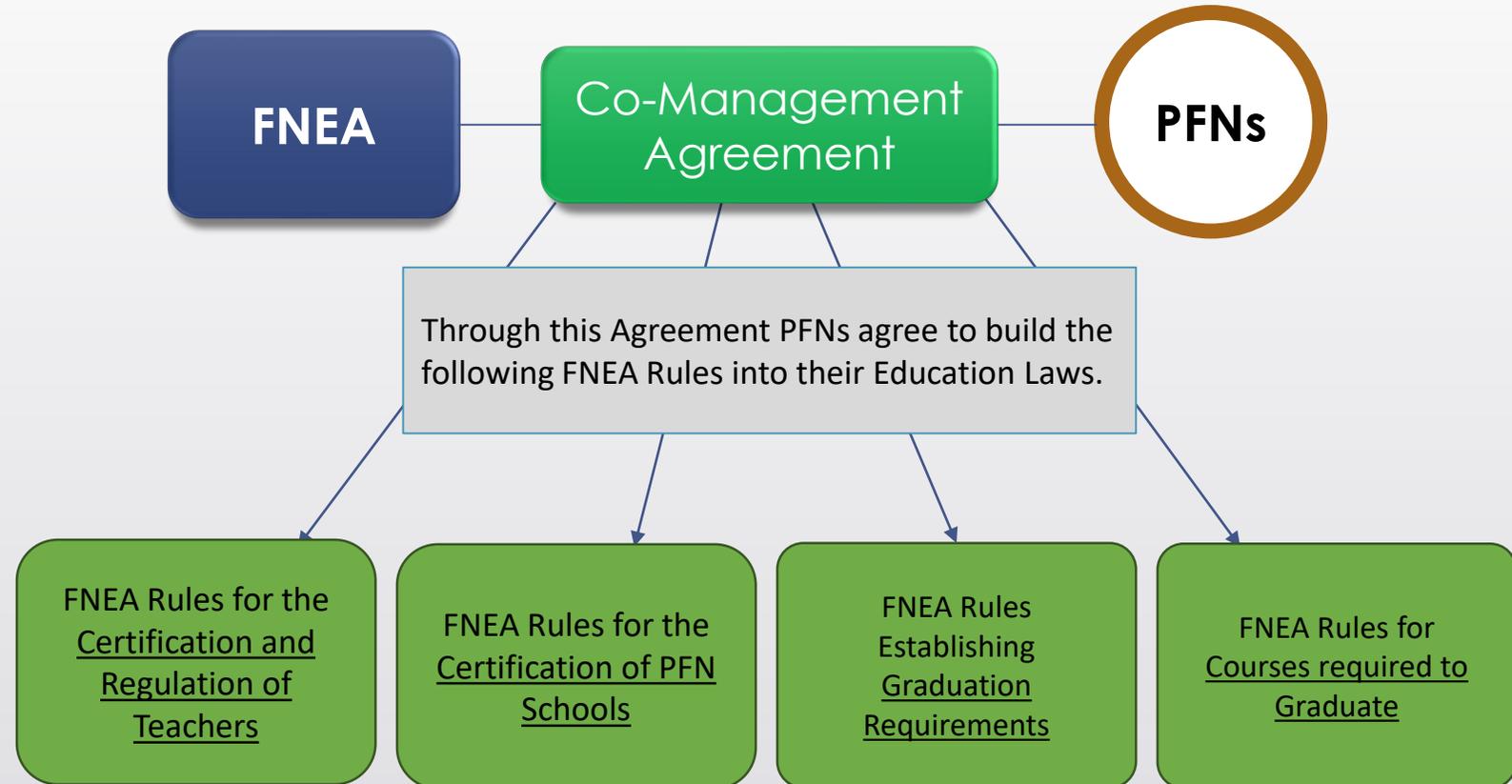
FNEA Structure

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



Overview of the Co-Management Agreement

- The Education Co-Management Agreement (Co-Management Agreement) is an agreement between PFNs and FNEA, and outlines their relationship and responsibilities to one another.



First Nations Education Authority Funding

FNEA will be funded by the federal government to carry out its regulatory duties in respect of:

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

This will include funding for staff, office space, minor capital.

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

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).

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	After Jurisdiction
<ul style="list-style-type: none">• 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.	<ul style="list-style-type: none">• 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.

Process to become a Participating First Nation (PFN)

Becoming a PFN

- In order for a First Nation to become a PFN, the following steps must be completed. It must:
 - Indicate its interest in the initiative by requesting a funding offer from Canada and contacting FNEESC
 - Receive and accept a funding offer from Canada
 - Complete the community ratification process approving its:
 - *Canada-First Nation Education Jurisdiction Agreement*
 - Law-making Protocol
 - Sign a *Canada-First Nation Education Jurisdiction Agreement* with Canada, after which Canada will pass an Order in Council making the First Nation a PFN

Other steps required for implementation

- First Nations also have to complete the necessary steps to prepare for implementation. This involves:
 - Signing the other agreements (including the Funding Agreement with Canada, the Co-Management Agreement with FNEA, the BC-PFN Agreement and the administrative agreement with FNEA).
 - Appointing two individuals to be directors of FNEA.
 - Briefing and preparing their communities and school staff for the transition process.
 - Drafting 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).

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

Signing the Agreements and the Ratification Process

Chief & Council



Chief and Council will approve the Funding Agreement.

Canada - First Nations Education Jurisdiction **Funding** Agreement

First Nation Members



To ratify agreements, First Nation members must vote on and approve the Education Agreement and the Law-Making protocol by at least 50% plus 1.

PFN Law-making Protocol



Canada

After receiving confirmation of successful band ratification, Canada will ratify Agreements and all parties will sign the agreements.

Canada - First Nations Education Jurisdiction Agreement

Current Update

Status of other First Nations in the Initiative

- Besides the first four PFNs, four more First Nations have accepted offers from Canada and are preparing to complete the ratification process and become PFNs on the next effective date (likely July 1, 2023).
- Other First Nations have also indicated their interest in the jurisdiction initiative. Some of them are expected to receive offers from Canada in the coming months.

Other work underway

- On July 1, FNEA became formally operational with a Board of Directors. It is currently completing the work necessary to support PFNs for this upcoming school year.
- FNEESC is working with FNEA to support it during this initial transition phase.
- A number of agreements are still being finalized:
 - The Education Co-Management Agreement between individual PFNs and FNEA
 - The Canada-FNEA Funding Agreement
 - A Coordination Agreement between FNEA and BC re: Teacher Certification and Regulation
 - FNEESC-FNEA Agreement
 - FNEESC-PFN Agreement

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)

Discussion and Questions?

Thank You

If you have any further questions, please contact:

- Benjamin Ironstand, Jurisdiction Communications Coordinator
- First Nations Education Steering Committee
- Suite 113 – 100 Park Royal South
- West Vancouver, BC V7T 1A2
- Email: jurisdiction@fnesc.ca
- Phone: 604-925-6087 ext. 150
- Fax: 604-925-6097