

EDUCATION JURISDICTION INITIATIVE

TERMS OF REFERENCE

BACKGROUND	1
PURPOSE	2
STRUCTURE.....	2
ROLES AND RESPONSIBILITIES	3
INVOLVED FIRST NATION JURISDICTION MEETINGS	4
INTERESTED FIRST NATION INFORMATION SESSIONS.....	5
AD HOC WORKING GROUPS	5
APPOINTMENT AND REPLACEMENT OF EFN REPRESENTATIVES.....	6
BECOMING AND WITHDRAWING FROM BEING AN INTERESTED FIRST NATION	6
BECOMING A COMMITTED FIRST NATION.....	7
WITHDRAWAL FROM BEING A COMMITTED FIRST NATION	7
BECOMING AN ACCEPTED OFFER FIRST NATION	8
WITHDRAWAL FROM BEING AN ACCEPTED OFFER FIRST NATION	8
BECOMING A RATIFIED FIRST NATION	9
FIRST NATION ELIGIBILITY FOR FUNDING	9
REIMBURSEMENT OF EXPENSES	9
APPROVAL AND AMENDMENT	10
DEFINITIONS.....	10
ANNEX A.....	12
ANNEX B.....	13
ANNEX C.....	14

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 – FNESEC), 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. **Involved 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 Involved First Nation Jurisdiction Meetings.
11. **Interested First Nation Representatives** are responsible for participating in Interested First Nation information sessions and ad hoc working group meetings, where applicable, and reporting back to their respective First Nations.
12. **FNEA** is responsible for supporting Participating First Nations in the implementation of jurisdiction over First Nations education.
13. **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 Committed First Nations, Accepted Offer First Nations and Ratified First Nations;

- (c) providing updates to, and receiving recommendations from, EFN Representatives;
- (d) organizing and supporting Involved First Nation Jurisdiction Meetings, Interested First Nation information sessions 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.

INVOLVED FIRST NATION JURISDICTION MEETINGS

- 14. The purpose of Involved First Nation Jurisdiction Meetings is to give the Committed First Nations, Accepted Offer First Nations, and Ratified First Nations an opportunity to receive updates from and provide direction to FNEESC.
- 15. Involved First Nation Jurisdiction Meetings may be held in person, by phone, or by other electronic means.
- 16. Involved First Nation Representatives must be provided with at least 14 days' notice of an Involved First Nation Jurisdiction Meeting, except in cases where a meeting is required to address an issue on an urgent basis.
- 17. Quorum for an Involved First Nation Jurisdiction Meeting is 30% of the Committed First Nations, Accepted Offer First Nations and Ratified First Nations present in person or electronically at the meeting.
- 18. If the quorum requirements for an Involved First Nation Jurisdiction Meeting are not met, the meeting may proceed as an information session or an ad hoc working group meeting.
- 19. Involved First Nation Jurisdiction Meetings will be chaired by a FNEESC staff member.

20. Formal decisions made at Involved First Nation Jurisdiction Meetings will be made by resolution approved by:
- (a) a majority (i.e. 50% plus one) of the Involved First Nation Representatives in attendance either in person or electronically at an Involved First Nation Jurisdiction Meeting voting in support of the resolution; or
 - (b) a majority of the Involved First Nation Representatives confirming their support for the resolution in writing and transmitting it by email.
21. Each Involved First Nation may cast a single vote at an Involved First Nation Jurisdiction Meeting.
22. Involved First Nation Representatives, or their alternates who have provided FNEC with a written authorization from an Involved First Nation Representative or from an authorized representative on the letterhead of the respective First Nation, may cast a vote at an Involved First Nation Jurisdiction Meeting.

INTERESTED FIRST NATION INFORMATION SESSIONS

23. The purpose of Interested First Nation information sessions is to give the Interested First Nations an opportunity to receive updates from FNEC and support for becoming a Participating First Nation.
24. Interested First Nation information sessions will be open to any First Nation that is an Interested First Nation and may also include First Nations that are contemplating becoming Interested First Nations.

AD HOC WORKING GROUPS

25. Working groups will be created as needed to support collective work by Engaged First Nations with common interests or concerns or in similar circumstances.
26. Working groups can set up their own informal decision-making process as needed for matters that impact only on them.
27. Working groups established under section 25 must provide regular reports at Involved First Nation Jurisdiction Meetings, as applicable.

APPOINTMENT AND REPLACEMENT OF EFN REPRESENTATIVES

28. 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

29. 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.
30. Upon receiving the information set out in section 29, FNEESC will add the name of that First Nation to the list of Interested First Nations.
31. A First Nation that has been confirmed as an Interested First Nation under section 30 may not be eligible for funding from FNEESC that is designated for Interested First Nations until the following fiscal year.
32. Commencing in fiscal year 2023/2024, Interested First Nations are only eligible to receive Interested First Nation support funding from FNEESC for a period of three years.
33. 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.
34. 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 33 or becomes a Committed First Nation.
35. 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. However, in accordance with section 32, the First Nation will no longer receive Interested First Nation support funding.

36. If the First Nation does not provide confirmation to FNEC within one month of the date of the letter referred to in section 35, FNEC will follow up with a phone call. If FNEC does not receive confirmation that the First Nation would like to remain engaged in the Education Jurisdiction Initiative then they will be removed from FNEC's list of Interested First Nations.

BECOMING A COMMITTED FIRST NATION

37. If an Interested First Nation wishes to become a Committed First Nation, it must provide a notice to FNEC 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.
38. Upon receipt of a notice under section 37, FNEC will review the documentation provided by the Interested First Nation. If the Interested First Nation meets the criteria set out in section 37, then FNEC will add the First Nation to the list of Committed First Nations and remove it from the list of Interested First Nations.
39. A First Nation that has been confirmed as a Committed First Nation under section 38 may not be eligible for funding from FNEC that is designated for CFNs until the following fiscal year.
40. Committed First Nations are only eligible to receive CFN support funding from FNEC for as long as their offer from Canada is open for acceptance.

WITHDRAWAL FROM BEING A COMMITTED FIRST NATION

41. 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 FNEC stating that it

wishes to change its status to Interested First Nation or to withdraw from the Education Jurisdiction Initiative.

42. Following receipt of the resolution or letter under section 41, FNEESC will revise the list of Committed First Nations to remove the name of that First Nation.
43. 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

44. 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.
45. Upon receipt of notice under section 44 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.
46. A First Nation that has been confirmed as an Accepted Offer First Nation under section 45 may not be eligible for funding from FNEESC that is designated for AOFNs until the following fiscal year.
47. Accepted Offer First Nations are only eligible to receive AOFN support funding from FNEESC until the deadline for carrying out its ratification process. To support AOFNs in this regard, FNEESC will ask the AOFN to provide information regarding their deadline.

WITHDRAWAL FROM BEING AN ACCEPTED OFFER FIRST NATION

48. 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.
49. Following receipt of the resolution or letter referred to in section 48, FNEESC will revise the list of Accepted Offer First Nations accordingly.
50. 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.

51. If an Accepted Offer First Nation's ratification vote is not successful and it is not proposing to hold another vote within one year, FNEC will remove that First Nation from the list of Accepted Offer First Nations.
52. 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

53. 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 FNEC.
54. Upon receipt of notice under section 53, or notice from Canada, FNEC 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.
55. Ratified First Nations are eligible to receive funding support from Canada.
56. A Ratified First Nation will become a Participating First Nation on the date its individual Canada-First Nation Education Jurisdiction Agreement comes into force.
57. Upon a Ratified First Nation becoming a Participating First Nation, FNEC will revise the list of Ratified First Nations accordingly.

FIRST NATION ELIGIBILITY FOR FUNDING

58. Involved First Nations' eligibility to receive funding will depend on whether they participate in Involved First Nation Jurisdiction Meetings or ad hoc working groups as applicable.
59. Interested First Nations' eligibility to receive funding will depend on whether they participate in Interested First Nation information sessions.

REIMBURSEMENT OF EXPENSES

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

APPROVAL AND AMENDMENT

61. These Terms of Reference come into effect once they have been approved by resolution of the Involved First Nation Representatives.
62. These Terms of Reference may be amended by resolution of the Involved First Nation Representatives. Amendments will be effective from the date of their approval by resolution, unless otherwise stated in the amendment.
63. 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.

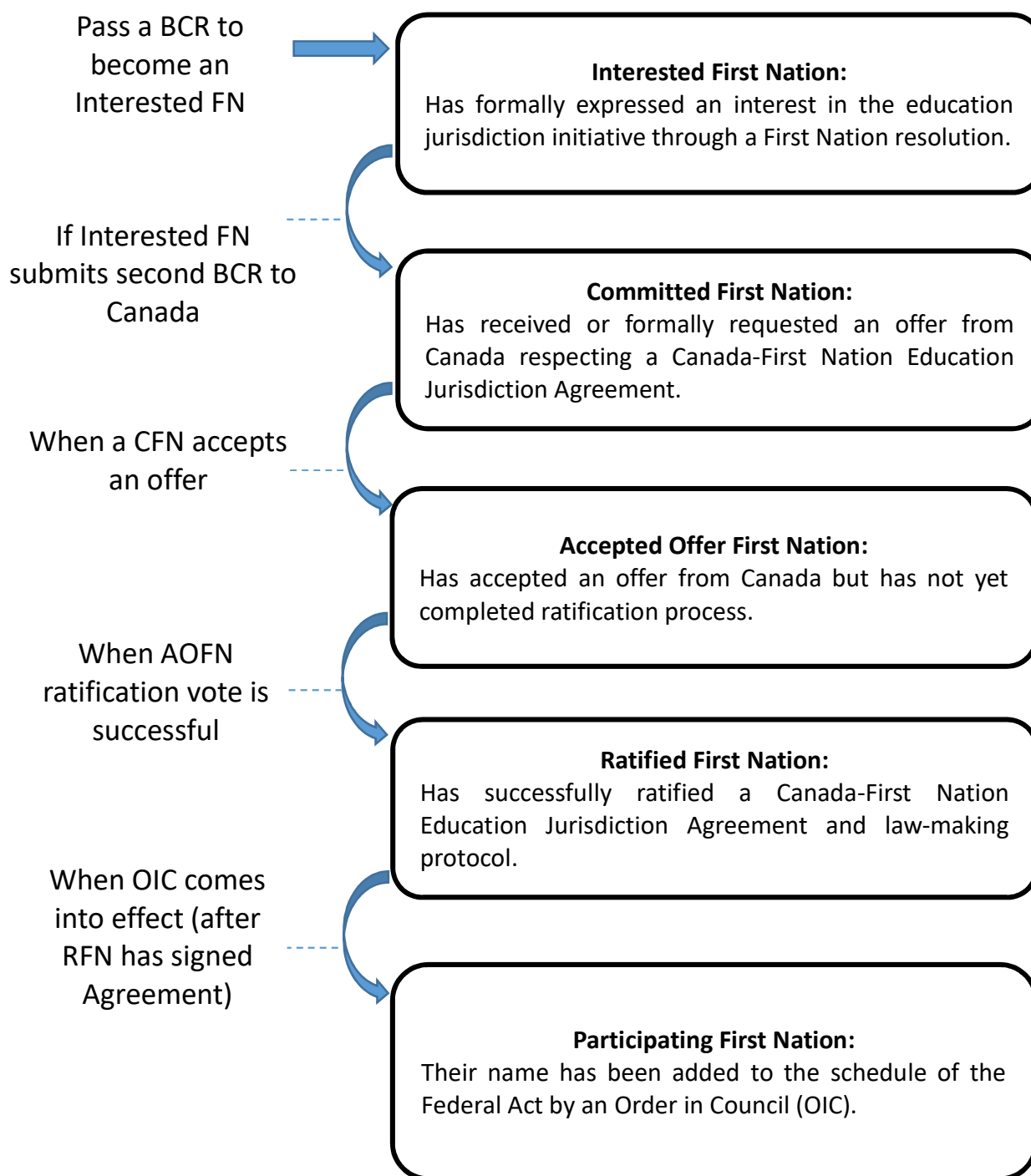
DEFINITIONS

64. For the purposes of these Terms of Reference:
 - (a) "Accepted Offer First Nation" or "AOFN" 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" or "CFN" 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) "EFN Representative" means an Interested First Nation Representative or a CFN, AOFN or RFN Representative;
 - (g) "Engaged First Nation" or "EFN" means an Interested First Nation, Committed First Nation, Accepted Offer First Nation or a Ratified First Nation;

- (h) “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.
- (i) “FNEA” means the First Nations Education Authority, a body established by federal legislation with a board of Directors appointed by Participating First Nations;
- (j) “FNESC” means the First Nations Education Steering Committee, a society whose members are First Nations;
- (k) “FNSA” means the First Nations Schools Association, a society whose members are First Nations schools;
- (l) “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;
- (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) “Involved First Nation Jurisdiction Meeting” means a meeting of the Committed First Nations, Accepted Offer First Nations and the Ratified First Nations;
- (o) “Involved First Nation Representative” means an individual representing a Committed First Nation, Accepted Offer First Nation or Ratified First Nation who has been identified in a band council resolution or a letter on the First Nation’s letterhead from that First Nation;
- (p) “Participating First Nation” or “PFN” means a First Nation whose individual Canada-First Nation Education Jurisdiction Agreement has come into force; and
- (q) “Ratified First Nation” or “RFN” 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 negotiator 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.