

BC First Nations Education Authority

Terms of Reference

1.0 Preamble

In BC, First Nations have concluded several agreements supporting the recognition of First Nations jurisdiction over education. The first was a Memorandum of Understanding regarding the recognition of First Nations' jurisdiction and authority over education in July 24, 2003, followed by a series of agreements including the tripartite Education Jurisdiction Framework Agreement to which four schedules are attached. Schedule A is the British Columbia First Nation Education Agreement between British Columbia and FNEA. Schedule B is the template Canada-First Nation Education Agreement to be entered into by specific First Nations and Canada, which will recognize that First Nation's jurisdiction. Schedules C and D are the template Canada-First Nation Education Jurisdiction Funding Agreement and the template Implementation Plan to be used by individual First Nations.

Jurisdiction rests with each First Nation. First Nations who choose to participate in this process have agreed to exercise certain components of their jurisdiction collectively through a BC First Nations Education Authority (FNEA). This will be done by individual First Nations incorporating the standards and requirements established by the FNEA into their own First Nation Education Laws. The three components that will be developed collectively through the FNEA include, but are not limited to:

- Teacher certification (except for language and culture teachers)
- School certification
- Standards for curriculum and examinations for courses necessary to meet graduation requirements

2.0 Purpose

The purpose of the FNEA is to support BC First Nations in the implementation of jurisdiction over First Nations education. The FNEA does not have inherent jurisdiction and will only exercise jurisdiction in areas that have been delegated to it by First Nations.

3.0 Structure of the FNEA

- 3.1 The directors of the FNEA will be appointed by the First Nations that have signed Canada-First Nations Agreements and have become full Participating First Nations. Each Participating First Nation will have the right to appoint two directors: a political representative and another individual (such as an education technician).

- 3.2 The FNEA will be the vehicle through which First Nations exercise some of their jurisdiction and authority, however, this jurisdiction and authority originates with the First Nations.
- 3.3 The FNEA will ensure that appropriate it has the necessary human resources to implement policy and manage the operations of the FNEA.

4.0 Relationship to the First Nations Education Steering Committee and the First Nations Schools Association

Since 1992, BC has had an overarching First Nations Education organization that is directed by BC First Nations and provides general education support for both on and off reserve First Nations learners. This organization is the First Nations Education Steering Committee (FNESC).

A second organization, the First Nations Schools Association (FNSA), was created in 1996 to provide support to BC First Nations schools. A representative of the FNSA sits on the FNESC board to ensure that there is no overlap between the two organizations' activities and that the limited funding available for support activities is maximized.

During the consultations regarding First Nations jurisdiction and authority over education, BC First Nations indicated that they did not want to see the creation of a third entity when they were satisfied with the services and organization of the existing bodies and after much deliberation and contemplation a compromise was proposed.

To satisfy the need to differentiate between Participating First Nations (those whose jurisdiction has been recognized through Agreements) and those who are not Participating First Nations, it was necessary to create a third legal entity. This entity has the rights, powers, privileges, and legal capacity of a natural person. However, to satisfy the concerns of First Nations about creating more bureaucracy and incurring unnecessary spending, the FNEA will enter into an administrative agreement with FNESC to provide the FNEA with services. This fee for service agreement will be reviewed annually to ensure the terms and conditions are serving both parties well.

The FNEA may also enter into partnerships with FNESC and/or the FNSA to jointly conduct work in the interests of both parties or to advocate on behalf of the membership of both parties when they have common interests .

5.0 FNEA Directors

5.1 Roles and Responsibilities

FNEA Directors:

- Shall uphold the purpose of the FNEA set out in section 2.0 and the obligations and responsibilities set out in these Terms of Reference;
- Shall bring forward any concerns which may have implications for the smooth and effective implementation of First Nations jurisdiction and authority over education;
- Shall declare in writing to the FNEA any conflict of interest that may bring into question the integrity of the decision-making processes of the FNEA and work with the FNEA to mitigate this conflict[s]; and
- Shall not be in the employ of the FNEA, FNESC, or the FNSA.

5.2 Discipline of FNEA Directors

5.2.1 The FNEA may impose discipline, appropriate in the circumstances, on a Director who has been determined by resolution of the FNEA to have breached any provision of these Terms of Reference.

5.2.2 A special meeting of the FNEA will be called to review the matter and make a decision. The Director will be given the opportunity to provide evidence on his or her behalf but cannot participate in the final decision-making process.

5.3 FNEA Alternates

In order to maintain consistency and continuity in decision-making, Participating First Nations will be asked to make best efforts to appoint and retain Directors for the length of the term set out in these Terms of Reference. However, the Participating First Nation may choose to send an alternate and, if so, will confirm this in writing at least one week prior to the meeting.

5.4 Compensation

FNEA Directors will not be paid an honorarium for FNEA work, unless specifically authorized by the FNEA at a duly convened meeting.

Participating First Nations will cover the costs, other than travel costs, of the participation of the Directors it has appointed.

5.5 Voting

Each Director of the FNEA, including the Chair, shall have one vote on the FNEA.

As the decisions of the FNEA affect the collective exercise of jurisdiction by all Participating First Nations, every effort will be made to make decisions by consensus. In the event that consensus cannot be achieved, a resolution will be considered passed if 75% or more of the Directors present at a meeting at which there is a quorum vote in favour of the resolution.

Individuals carrying properly executed proxies will be allowed to vote.

5.6 Quorum

Quorum of the FNEA shall consist of at least 75% of the Participating First Nations being represented by at least one of their duly appointed Directors. For example if there are 12 Participating First Nations quorum would require that at least one Director be present from a minimum of 9 Participating First Nations. Once quorum has been achieved, it will be deemed to continue for the duration of the designated time of the meeting.

5.7 Terms of Appointment of FNEA Directors

The terms of appointment of the FNEA Directors are recommended to be for a period of two years. However, Participating First Nations have the discretion to establish a shorter or longer term for their representatives.

6.0 FNEA Chair and Vice-Chair

6.1 Roles and Responsibilities

The FNEA Chair (and, in the absence of the Chair, the Vice-Chair) shall:

- Chair FNEA meetings;
- Act as a spokesperson for the FNEA;
- Act as a liaison with other organizations as relevant to the business of the FNEA;
- Oversee the implementation of the FNEA workplan;
- Monitor with the FNEA Treasurer, the FNEA financial records;
- Monitor and review annually any administrative or other agreements of the FNEA; and
- Provide direction to the FNEA staff as required.

6.2 Appointment

FNEA Directors are responsible for selecting a Chair and Vice-Chair from among the FNEA Directors. In order to ensure that meetings can proceed effectively and that there is continuity, both the Chair and the Vice-Chair shall be familiar with the operations of the FNEA.

6.3 Term

The FNEA Chair and Vice-Chair shall be appointed for a two-year term. These terms may be extended for further two-year periods as determined by the FNEA Board of Directors.

7.0 FNEA Treasurer

7.1 Roles and Responsibilities

The FNEA Treasurer shall:

- Attend FNEA meetings;
- Monitor with the Chair/Vice-Chair, the FNEA financial records and report on these to the FNEA Board of Directors; and
- Serve as the signatory for cheque requisitions that are in excess of the signing authority of the financial administrator.

7.2 Appointment

The FNEA Board of Directors is responsible for selecting a Treasurer from among the Directors.

7.3 Term

The FNEA Treasurer shall be appointed for a two-year term. This term may be extended for further two-year periods as determined by the FNEA Board of Directors.

8.0 Functions of the FNEA

The main function of the FNEA is to support Participating First Nations as they implement jurisdiction and authority over education. This may involve many diverse roles and responsibilities that cannot be anticipated within the context of these Terms of Reference, so what follows is a process for receiving delegated jurisdiction and authority as well as generic parameters for carrying out these functions.

8.1 Establishing Standards and Requirements for Three Designated Powers/Responsibilities

Participating First Nations are agreeing to incorporate the standards and requirements established collectively through the FNEA with respect to three areas in the Canada-First Nations Education Jurisdiction Agreements:

- Teacher certification (except for language and culture teachers)
- School certification
- Standards for curriculum and examinations for courses necessary to meet graduation requirements

The specific parameters for these powers/responsibilities are included in Appendices A to C to these Terms of Reference.

8.2 Delegating Other Powers/Responsibilities

The Participating First Nations may delegate powers/responsibilities not outlined in the Canada First Nations Agreement according to the following process:

- Submit a letter requesting specific services to the FNEA;
- The FNEA will respond to the Participating First Nation according to its capacity to provide the requested service[s]; and
- Every effort will be made on the part of the FNEA to accommodate Participating First Nations request.

8.3 Rescinding Delegation

In the event that a Participating First Nation wishes to rescind the delegation of powers or responsibilities it may do so according to the following process:

- Submit a letter requesting the rescinding of the delegation;
- The FNEA will respond to the Participating First Nation acknowledging the rescinding of the powers/responsibilities and if appropriate conduct follow-up regarding the reasons if the services of the FNEA need to be improved.

This section does not apply to the three powers/responsibilities outlined in section 8.1 .

9.0 Accountability

The FNEA is accountable to the Participating First Nations. It will fulfill this responsibility by:

- Developing annual and long term work plans for the approval of the FNEA Board of Directors;
- Hosting quarterly meetings to attend to FNEA business and reporting out to the FNEA Board of Directors;
- Meeting minutes will be prepared and approved by the FNEA Board of Directors and made available as requested;
- Providing updates to all First Nations in BC through the Fall First Nations education regional sessions;
- Producing and distributing a comprehensive annual report in hard copy and online; and
- Responding to Participating First Nation's inquiries in a timely fashion as they arise.

10.0 FNEA Funding

The funding for the operation of the FNEA will be negotiated with Canada and will be expended according to the approved work plan described in 9.0, first bullet.

The FNEA will operate in a cost effective manner.

11.0 Legally Binding Agreements

The FNEA will only negotiate and enter into agreements that bind the Participating First Nations at the direction of the Participating First Nations. Such agreements could include opportunities for, but are not limited to:

- Bulk purchasing;
- Sharing services to maximize cost effectiveness; and
- Confirming working partnerships.

12.0 Data Collection and Analysis

As part of the operation of the FNEA and the accountability the FNEA will develop and implement in partnership with the FNSA a mutually satisfactory database system.

The data collected in this system will only include data that has been approved by the FNEA Board of Directors and will be used to inform the FNEA regarding progress and areas requiring assistance.

13.0 Law Making Authority

The FNEA will only have the authority to make and pass laws for those powers delegated to it by the Participating First Nations.

The FNEA may undertake to make and pass laws in areas where five or more Participating First Nations have delegated this power.

Appendix A

Teacher Certification

1. Upon approval of the Board of Directors of the First Nations Education Authority (FNEA), the FNEA will develop a Teacher Certification process that will lay out the standards for professional educators and determine the process by which teachers are assessed, certified, disciplined, suspended, and dismissed. The FNEA process will not apply to First Nations language and culture teachers, unless the First Nation specifically determines that it should.

The law will also include a time line for the process which takes into consideration for certification:

- Application deadlines;
- Receipt and review of applications by panel of appointed experts; and
- Recommendations to and approval by the FNEA Board of Directors.

The law will also establish the procedures by which a teacher is disciplined which may include:

- Reporting misconduct and requesting a review;
- Preliminary investigation into allegations which will include discussions with both parties;
- If warranted, full investigation into the allegations including a hearing at which both parties have the opportunity to present their arguments to a duly appointed panel for review and recommendations;
- Recommendations to the FNEA Directors responsible for making final decisions; and
- The creation of an appeal process.

2. It is anticipated that the following two types of bodies may grant certificates in the following categories, additional designations may be developed and added to the list from time to time.
 - a. The Provincially recognized body charged with the responsibility to set standards for professional educators, assess applicants to the profession, and issue teaching certificates (as of 2005 this is the BC College of Teachers) This body issues the following certificates:

The College issues the following certificates:

Professional Certificate: Five years of post-secondary studies including teacher education program

Standard Certificate: Four years of post-secondary studies including teacher education program

Basic Certificate: Individuals who held valid certificates in 1987, but did not qualify for the Standard Certificate as of January 1988.

First Nations Language Teacher Certificate: Issued to a proficient speaker of a First Nations language who has been recommended by the appropriate First Nations Language authority.

Developmental Standard Term Certificate: Completion of basic academic and teacher education program acceptable to the College, or completion of First Nations program of studies recognized by the College.

b. First Nations Education Authority

The First Nations Education Authority will establish teacher certification policies and issue teaching certificates as follows:

Type 1): Minimum of four years of post-secondary training including one year of teacher education.

Type 2): Individuals holding a four-year degree beyond grade 12 from a recognized university or college which does not include one year of teacher's training. The certificate will be issued on the condition that the teacher may only teach the subject(s) directly related to the subject concentrations in the degree.

Type 3): Individuals with specialized training. The certificate will be issued on the condition that the teacher gives instruction in the specified specialty, and only for the First Nation Band Council or Community Education Authority which endorses the application. This certificate will apply to qualified individuals who possess unique cultural and language skills that will be of benefit to students in a particular school. It will also apply to individuals who have specialized training in a subject specialty, such as music, art, industrial education.

3. The FNEA will require all teachers to complete criminal record checks and will define reporting procedures to be followed by First Nations schools when a teacher is dismissed, suspended or disciplined.
4. The FNEA will negotiate with the Province and school districts to facilitate the movement and exchange of teachers between First Nations schools and the BC

school system.

School Certification

1. The FNEA will establish school certification requirements based on updated versions of the existing First Nations Schools Association Assessment Project and Certification Process. The assessment project reviews a school's administrative structures, records, reporting procedures, parental and community involvement efforts, and educational programming, including the areas of First Nations language and culture, English language, math, science, social studies, physical education, and fine arts. The certification process further verifies that schools are meeting relevant learning outcomes and providing adequate opportunities for student learning in core academic subjects.
2. Schools that want to be certified by the FNEA will agree to the following:
 - a) The school will complete the entire FNEA assessment template.
 - b) The school will agree to a Certification Team of at least 2 people, including a Chair, from a designated list of external assessment team members maintained by the FNEA.
 - c) The school will agree to submit its completed internal assessment template to the Certification Chair and Team members no later than 2 weeks before the scheduled external visit.

For schools that request a certification component, the Certification Chair, in consultation with the other team members, will make the final certification decision.

Certification Criteria

The Certification Chair, in consultation with the other team members, will make the certification decision based upon two factors:

1. the Internal Assessment Template was adequately completed by an appropriate team; and
2. the school is meeting expectations in Core Topic Areas and the School Growth Plan.

A school will be certified if:

- a) for the Core Topic Areas, sufficient opportunities are being provided to promote student growth; and
- b) the School Growth Plan appropriately reflects the findings of the assessment process and will promote school improvement.

External Review Process

1. The external assessment component involves the Certification Chair and Team reviewing all areas of school operations and providing feedback and suggestions as relevant. The Certification Team will make as many “suggestions” as appropriate.

For the purposes of this certification process, “suggestions” are defined as ideas for improving school structures, programs and activities that are functioning at a satisfactory level and are not seen to be seriously detracting from the quality of education being provided to the school’s students.

2. If there are major deficiencies in terms of one or more of the Core Topic Areas, the Certification Chair, in consultation with the team, will offer “recommendations” for addressing the problems.

For the purposes of this certification process, “recommendations” are defined as ideas for improving school structures, programs and activities that are not functioning at a satisfactory level and are seen to be seriously detracting from the quality of education being provided to the school’s students.

3. A school will **not** be certified as having passed the assessment process until all recommendations have been addressed. Schools in such a situation will be said to be ***In Progress***.
4. When all recommendations have been addressed, schools that are ***In Progress*** can request a follow-up external visit from the Certification Chair who originally conducted the external assessment. Schools will be certified following that visit if the Certification Chair deems that all recommendations have been addressed.

Appeals

In the event that a First Nations school wants to appeal a certification decision, the following process will take place.

1. If a school wants to appeal a decision regarding the completeness of the internal template, the Project Administrator will review the template and make a final decision. That decision will be final.

2. If a school wants to appeal a decision regarding its meeting of expectations in the Core Topic Areas and/or School Growth Plan, the school will be asked to submit to the Assessment Project Administrator, in writing, its specific concerns about the certification decision. The Project Administrator will ask for any necessary clarifying information, and will also ask for relevant feedback from the Certification Chair. All information will be brought to an Appeals Committee for review.
3. If agreed, a second external visit will be arranged and paid for by the FNEA and the results of that review will be shared with the Appeals Committee.
4. Appeals Committees will meet, as necessary, in June, October, and/or February. The decision of the Appeals Committee will be final.

Appeals Committees

1. For the purpose of forming Appeals Committees, the Assessment Project Administrator will maintain a list of Certification Chairs who are willing to participate in that activity. When a written appeal is received, the Assessment Project Administrator will use the list to select five members of an Appeal Committee. The members will be selected specifically for the submitted appeal based upon the experience and expertise required. The FNEA Board of Directors will approve the Project Administrator's Appeals Committee selections.
2. The Project Administrator will participate in Appeals Committee meetings as a non-voting member. Appeals Committees may meet by Conference Call when feasible.
3. An appeals committee will not include an individual who is directly associated with the school making an appeal.

Appendix C

Consultation and Negotiation of Curriculum and Examination Standards

1.0 Setting Curriculum, and Examination Standards

The FNEA will in the first year of operation negotiate with the Province learning outcomes that are substantially comparable to those required by the Province, for the agreed upon core subjects necessary to meet graduation requirements.

These will be approved by the FNEA Board of Directors.

2.0 Consultation Regarding Changes to Provincial Curriculum, Examination or Processes

The Participating First Nations have agreed that the responsibility for organizing the consultation and negotiation of curriculum and examination standards shall rest with the FNEA. In the BC-FNESC Agreement the following commitments were made and form the basis for this relationship.

The Province will consult with the FNEA regarding changes to policy, legislation or standards that materially effect programs offered by First Nations assessment, teacher certification, graduation requirements and curriculum.

Where it is reasonably practical, consultation with the FNEA will take place at an early point in any consultation process initiated by the Ministry to facilitate opportunities for the FNEA to consult with Participating First Nations directly. Where it is not reasonably practical for the Ministry to consult prior to the implementation of the changes, the Province agrees to work with the FNEA to determine the impact of the changes on First Nations schools and a process for implementation, where necessary.

3.0 Membership on the Education Advisory Council

The Province agrees that the First Nations Education Steering Committee (FNESC) shall remain a member of the Education Advisory Council.

FNESC shall advise verbally and in writing the FNEA Board of Directors regarding the business of the Education Advisory Council and share potential changes and make recommendations regarding FNEA involvement in consultation processes.