

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

- **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.

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 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.

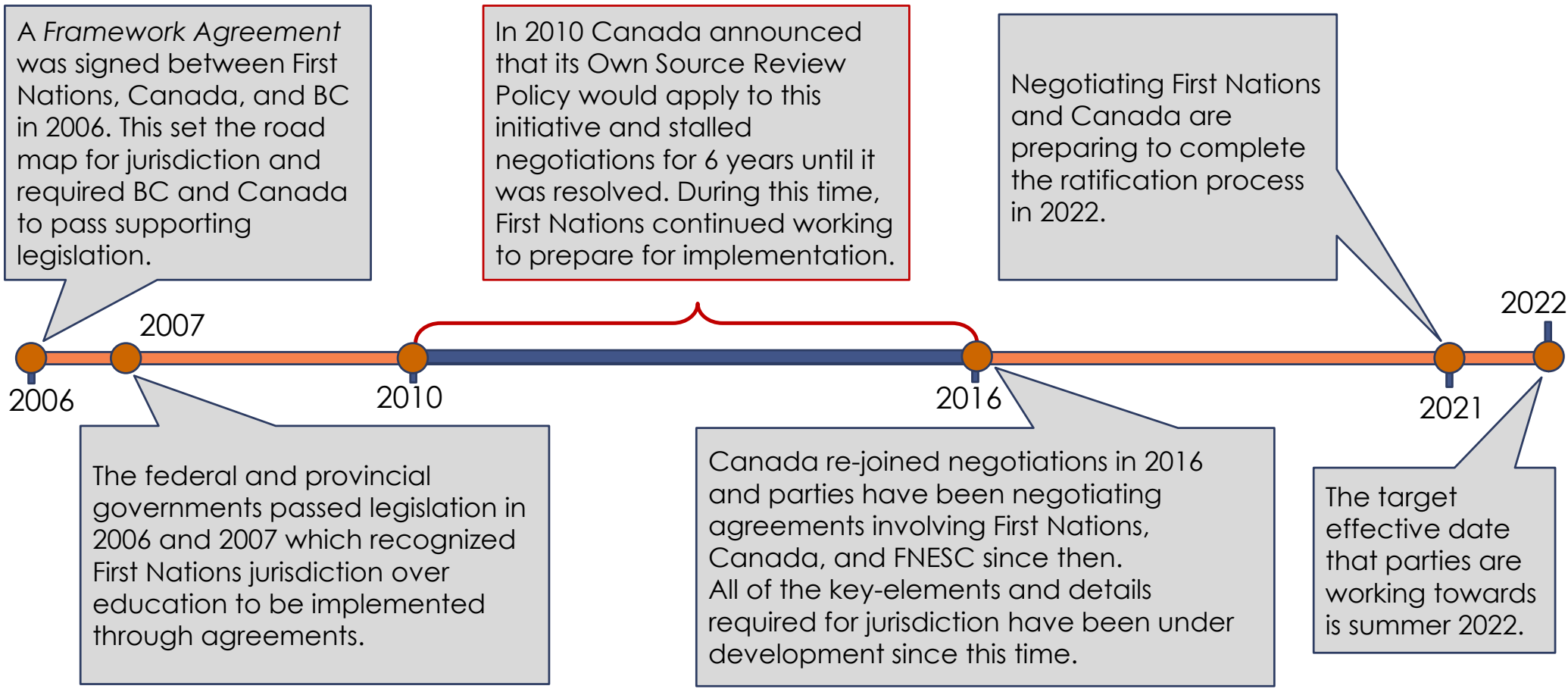
Current Legislation and Policy Supporting Schools

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.

Education Jurisdiction Time-line and Background 10





Implementing Jurisdiction Over Education

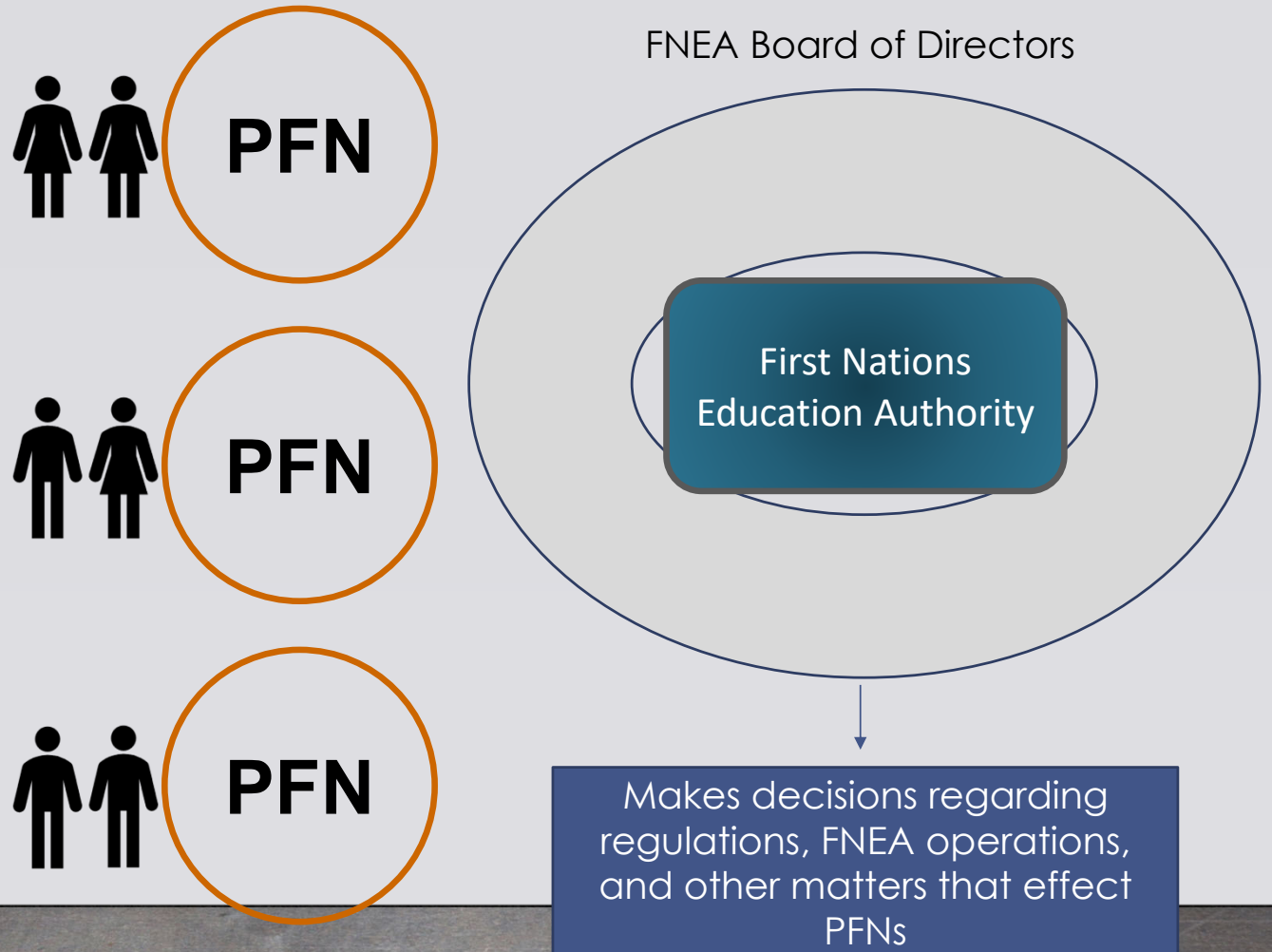
Exercising Jurisdiction

- 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

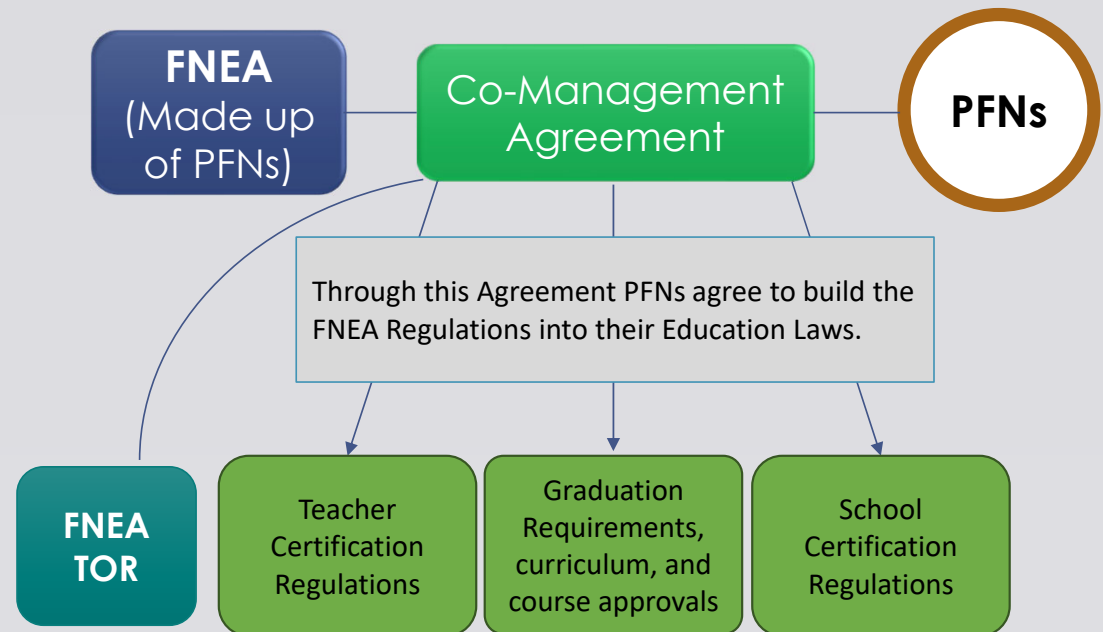
Each PFN will appoint two directors to the FNEA.

These directors will jointly oversee the FNEA and make key FNEA decisions.



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
- The FNEA Terms of Reference (TOR) are also appended to it.



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).

Comparison of First Nations Education Before and After Jurisdiction

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 the FNEA will accept the First Nations Schools Assessment and Certification Process or an Independent Schools evaluation for FNEA School Certification purposes, at least for an interim period.
- Note: It is unclear whether or not the Independent School evaluation will be accepted by the FNEA as fulfilling its school certification requirements.

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 certification, but it would not be collectively determine or recognized.

After Jurisdiction

- Under jurisdiction, Participating First Nations (PFN) will be able to collectively establish their own First Nations Graduation Certificate that will be available to PFN schools that do not have Independent school status.
- The course requirements for the First Nations Graduation Certificate will be set by the First Nations Education Authority. This certificate could be called the "FNEA Graduation Certificate."
- In addition to being able to offer the FNEA Graduation Certificate, First Nations under jurisdiction will be able to offer their own individual First Nations Graduation Certificate.
- First Nations schools' students will also still be able to access the provincial certificates, as long as they meet the graduation requirements set by BC.

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 FNESC/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 FENA course approval process. • First Nations Independent Schools will continue to use the provincial course approval process.

Independent school considerations

NFNs with Independent School Status would be required to adhere to provincial Independent Schools legislation for:

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

NFNs must consider if the fundamental exercise of jurisdiction over education is possible while maintaining Independent school status and remaining under the authority of the province.

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.

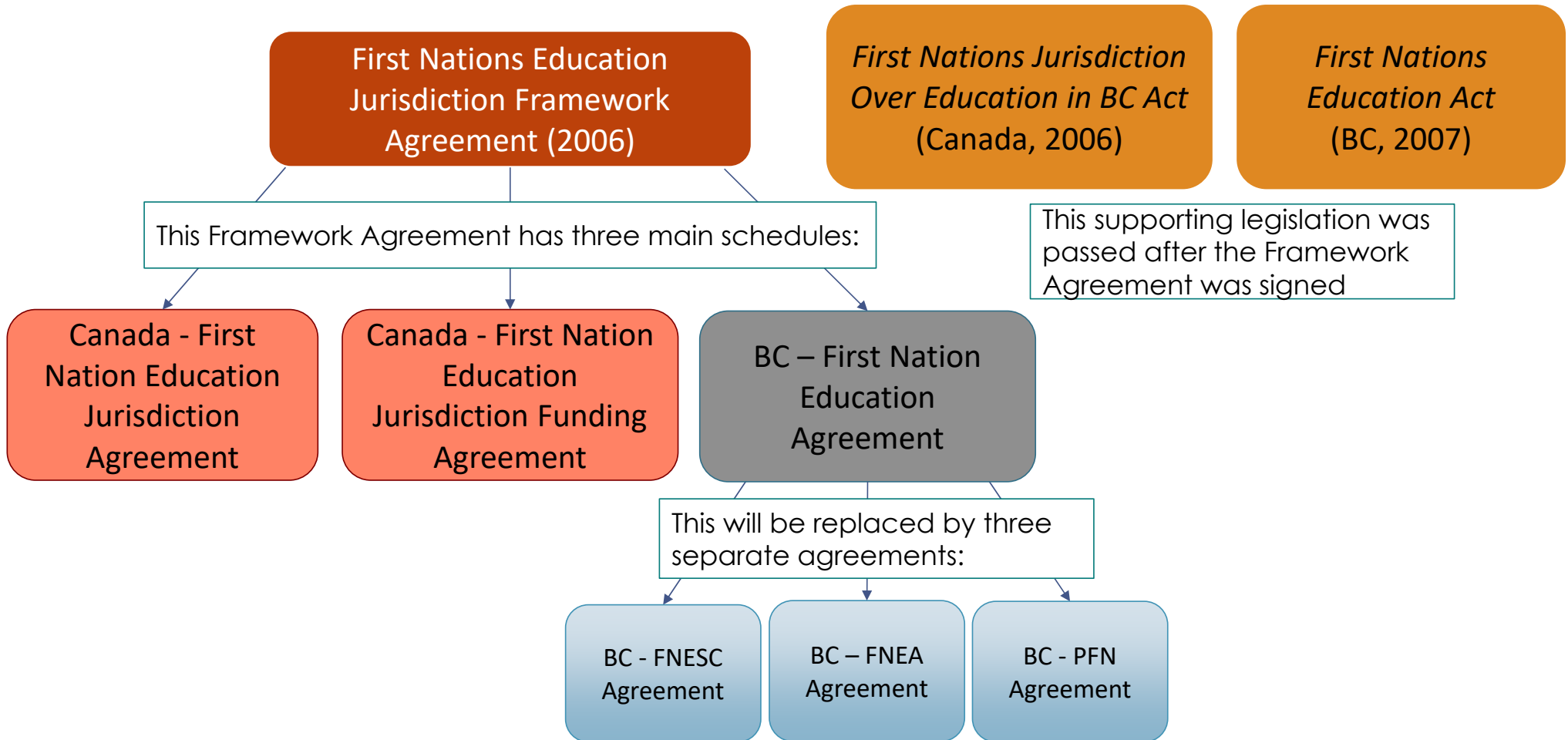
Overview of Jurisdiction Agreements

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



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 - FNEA Agreement

The agreement would cover an “interim” role for FNEA until tasks are completed and the First Nations Education Authority (FNEA) is in full operation.

FNEA would have a continuing role after the FNEA is in full operation with regard to: (a) broader issues that affect First Nations beyond jurisdiction; and (b) representing Interested First Nations (IFNs) and Negotiating First Nations (NFNs) on jurisdiction-related matters.

BC – FNEA Agreement

This Agreement would focus on BC’s and the FNEA’s obligations to one another in respect of the following: (a) teacher certification; (b) school certification; and (c) graduation requirements and evaluation of courses required to graduate.

BC - PFN Agreement

This Agreement sets out commitments of BC and the Participating First Nation (PFN) in working together to improve educational opportunities and outcomes for students, including tuition obligations, granting graduation credentials, and shared services opportunities.

Overview of Administration Agreements

There are two administrative agreements involving FNEESC and their continued role in supporting and collaborating with Participating First Nations (PFNs) and the First Nations Education Authority (FNEA).

FNEESC – PFN Agreement

The agreement would cover aspects of the relationship between Participating First Nations and FNEESC including:

- process for drawing down centralized services and funding;
- continued support from FNEESC;
- and a process for Participating First Nations to engage in the renewal/renegotiation of BCTEA.

FNEESC - FNEA Agreement

This Agreement would focus on the role of FNEESC in supporting the First Nations Education Authority in:

- First Nations Schools Teacher Certification Process;
- School Certification Process;
- Graduation Requirements, curriculum, and course approvals;
- and the process and methodology for calculating the funding for these services; and
- any data sharing considerations (e.g. access and adaptations to DRUMS).

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

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

Once three NFNs ratify agreements, then Canada will go through their ratification process and add the names of those three First Nations to a federal schedule and they will officially become PFNs on the effective date.

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

Interim Work to be Completed Before Ratification

Although it is expected that ratification will be completed and the first effective date will be in 2022 it is important to note that much work must continue in the interim.

- Before the ratification process can be started, Negotiating First Nations must complete the negotiation of all three of the agreements with BC and the two Administration Agreements.
- Also, all of the processes for the FNEA must also be completed and finalized which includes the FNEA funding agreement, Terms of Reference, and all of the FNEA regulations (teacher certification; school certification; and graduation requirements, curriculum, and course approval).
- Lastly, First Nations also have to complete the necessary steps to brief their communities and chief and council to prepare for the ratification process. This includes the development and distribution of briefing materials and communication resources.

Post Ratification Activities and Implementation

After First Nations and Canada have ratified agreements they 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.

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:

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