



GUIDE TO
School Legislation
in British Columbia

PART XII
**INDIGENOUS
EDUCATION**

BCSTA

British Columbia
School Trustees
Association

GUIDE TO SCHOOL LEGISLATION IN BRITISH COLUMBIA

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PART XII

INDIGENOUS EDUCATION IN BC

Education of First Nations students in British Columbia takes place in a complex and changing environment involving mixed provincial, federal, board of education and First Nations jurisdictions.

First Nations students can receive their education through the public school system, the independent school system, or First Nations schools subject to federal jurisdiction under the auspices of Indigenous Services Canada.

First Nations schools in British Columbia are supported by the First Nations Education Steering Committee (FNESC) and the First Nations Schools Association (FNSA). As of 2018, there are 131 First Nations schools, owned and operated by First Nations. Of those First Nations schools, 29 have opted also to be BC-certified independent schools. These 29 schools operate according to the *Independent School Act*.

120.1 Federal Responsibility

The federal government no longer directly operates schools on reserves in BC but does provide funding for education of Registered (Status) Indians living on reserves in a variety of ways: it provides funding for First Nations-operated schools; funds students to attend group 1 and group 2 independent schools; provides funding to First Nations who have elected to administer funding themselves; and gives funding to the province to pass on to the boards of education where the First Nation has not elected to administer funding itself.

120.2 Local Education Agreements (LEAs)

The *School Act* enables a board of education to enter into an agreement, termed a local education agreement (LEA), with the council of an Indian band (section 86(3) *School Act*) for the education of the children of the band. These local education agreements developed out of the desires of First Nations for more control over their children's education. Increased community and family involvement is seen as the key to improved achievement for First Nations students in education programs that both prepare children for full

participation in the modern world and enable them to retain a sense of their own cultures.

LEAs can:

- provide clear frameworks for services
- delineate the roles of all involved in working for the success of students
- provide dispute resolution mechanisms
- support the involvement of First Nations in education.

LEAs may set out statements of intent and objectives; commit parties to joint processes and communication, such as through a joint advisory committee; provide for consultation on student placement; may include the board's commitment to try to hire First Nations staff; may provide for involvement in staff selection; will require the band to pay tuition fees; and may include a dispute resolution mechanism. Many boards of education provide locally developed courses in First Nations language and culture with assistance from band elders. Agreements may deal with how decisions will be made about the funds that the board of education receives from the Ministry of Education for services and programs for Aboriginal students.

120.3 Tripartite Agreements

Canada, British Columbia and FNEA have entered into a variety of tripartite agreements relating to the education of First Nations students and the development and funding of a First Nations education system.

On July 5, 2006, the parties signed a Tripartite Education Jurisdiction Framework Agreement which will govern the terms of the relationship between BC and a participating First Nation (PFN).

In 2006 and 2007, Canada and British Columbia, respectively, passed legislation relative to First Nations jurisdiction over First Nations education: *First Nations Jurisdiction over Education in British Columbia Act* SC 2006 c. 10 and *First Nations Education Act* S.B.C. 2007 c. 40 to enable the implementation of the Framework Agreement:

- Canada and a Participating First Nation may make an agreement to provide the First Nation with jurisdiction over education on the land of the First Nation. These agreements will have the effect of law, be binding on third parties and override other federal legislation.
- A Participating First Nation (PFN) will have the authority to enact laws respecting education on the land of the First Nation and can delegate authority to the First Nations Education Authority.
- The First Nations Education Authority (FNEA) is established; each PFN will have the right to appoint two members to the FNEA board of directors.
- The FNEA may enter into a co-management agreement with a PFN, which may provide for
 - establishment of standards for school curriculum and examinations
 - a teacher certification process
 - a school certification process.
- A PFN may establish a Community Education Authority to operate, administer and manage the PFN's educational system.

PFNs will also sign an agreement with BC.

Under the BC/First Nations Education Agreement:

- PFNs and the FNEA will have the jurisdiction to issue First Nations graduation certificates to students of Participating First Nation schools that have completed the graduation requirements set out by the FNEA; and to students from Participating First Nations schools who have completed the graduation requirements at provincial public schools if the students have achieved learning outcomes substantially comparable to those required by the First Nation Education Authority.
- BC will issue graduation certificates (“Dogwood certificates”) to students from PFN schools who have achieved learning outcomes substantially comparable to those required for graduation by the Ministry of Education.
- Upon the recommendation of a First Nation Language Authority designated by a PFN, BC will recognize a program of study in the PFN's language as fulfilling the requirement for a second-language credit as part of the graduation requirements.
- Under reciprocal tuition arrangements, PFNs must pay boards of education for students from PFNs who are enrolled in public school. BC pays for students who do not qualify for federal funding but are enrolled in an education program from the PFN.
- Teacher certification standards will be at minimum comparable to those applicable to BC public school teachers.
- Education standards, curriculum and examination standards will enable PFN students to transfer to the provincial system and to meet postsecondary requirements.
- BC will work with FNEA to make provincial exams and FSA exams accessible to students in First Nations schools.

Parents who are members of a Participating First Nation will have a choice of whether to send their children to the First Nations schools or elsewhere. Under funding agreements between PFNs and Canada, where a PFN determines that members wish to access K-12 services provided by a third-party

education service provider (public board of education or independent school), the PFN must enter into a service contract with that provider. The PFN is required to maintain the service contract in good standing for its full term.

In 2012, FNEESC, Canada and British Columbia entered into a Tripartite Education Framework Agreement that provided a new funding model for First Nations school funding and core second level services to support Indigenous students.

In 2015, FNEESC and the BC Ministry of Education entered into a Bilateral Protocol affirming a collaborative partnership and working relationship on educational initiatives which respects the integrity of the commitment to establish a new relationship, including amongst other things, joint initiatives on curriculum development, enhancement agreements and local education agreements.

In 2018, FNEESC, BC and Canada entered into a further Tripartite Education Agreement: Supporting First Nation Student Success, with a joint commitment that First Nations students “must have access to educational opportunities that ensure they are confident in their self-identity, their families, their communities and traditional values, languages and cultures; that give them the skills they need to thrive in contemporary society; and that prepare them to access opportunities for higher learning, employment and life choices.”

120.4 Band Taxation and Agreement Powers

The *Indian Act* provides band councils with property taxation powers over non-Aboriginal occupiers of reserve land who have leased such land from the band councils. Consistent with this initiative, the province enacted legislation in 1990 to ensure coordination of provincial and municipal property taxes of these non-Aboriginal occupiers – the *Indian Self-Government Enabling Act*. It provides band councils with three taxation options and may involve band-board agreements for provision of services. Section 37 of the *Indian Self-Government Enabling Act* empowers boards of education to enter into these contracts with bands.

120.5 Reciprocal Tuition

The province pays reciprocal tuition for school-aged students who, while the funding responsibility of BC, choose to attend band-operated schools on reserve.

More Information

First Nations Education Steering Committee

<http://www.fnesc.ca/>

Ministry of Education

Aboriginal Education in British Columbia

<https://www2.gov.bc.ca/gov/content/education-training/k-12/aboriginal-education>

BC Tripartite Education Agreement:

Supporting First Nation Student Success 2018

<https://www2.gov.bc.ca/assets/gov/education/ways-to-learn/aboriginal-education/bc-tripartite-education-agreement.pdf>