



**FIRST NATION SCHOOL BOARD**

**1. Present status**

After the Yukon government passed an order-in-council<sup>1</sup> on February 11, 2021, to approve the *Agreement Respecting Education and the Establishment of a First Nation School Board in Yukon* (the “**FNSB Agreement**”), ten Yukon First Nations<sup>2</sup> (the “**Participating First Nations**”) and the Minister of Education signed the FNSB Agreement, that sets out the process for the establishment and operation of an independent First Nation school board (the “**FNSB**”) throughout the Yukon under the *Education Act*.

Under the FNSB Agreement, the Minister would be able to establish the FNSB in accordance with the FNSB Agreement if an existing school council passes a resolution and a majority vote of the residents of that school council’s attendance area support the establishment of the FNSB. Thereafter, a school council could be combined with the FNSB by resolutions passed by both, but only after both have been in existence for one year. The affected school council(s) would be dissolved upon the establishment of the FNSB.

At this time, no such resolutions have been made any school council and, therefore, the FNSB has not been created yet.

**2. Overview of the FNSB Agreement**

The FNSB Agreement was negotiated pursuant to section 7 of the *Education Act*. It would be a contractual agreement between the Minister of Education, on behalf of the YG, and the Participating First Nations. Other Yukon First Nations would still be able to become parties to the FNSB Agreement.

The FNSB would have all of the authorities and responsibilities of school board under the *Education Act*, as outlined in Appendix B, and would not be an institution of the Yukon government or Yukon First Nations. It would allow Yukon First Nation communities to assume substantive responsibilities and powers with respect to the operation of their school and the education of their children based on a partnership between the YG and Yukon First Nations.

The main elements of the FNSB Agreement are summarized below.

- 2.1 Initial creation of the FNSB.** The Minister would establish the FNSB if an existing school council passes a resolution and a majority vote of the residents of that school council’s attendance area support the establishment of the FNSB. See Appendix “A” for a detailed overview of the process.
- 2.2 A school council joining the FNSB.** A school council can be combined with the FNSB if they pass separate resolutions but only after both have been in existence for one year. See Appendix “A” for a summary of this process.

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<sup>1</sup> Order-in-Council 2021/15.

<sup>2</sup> Carcross/Tagish First Nation, Champagne and Aishihik First Nations, First Nation of Na-Cho Nyäk, Selkirk First Nation, Liard First Nation, Ross River Dena Council, Ta’an Kwäch’an Council, Tr’ondëk Hwëch’in, Vuntut Gwitch’in First Nation and White River First Nation.



- 2.3 Membership of the FNSB.** The membership of the FNSB would be five trustees elected by: residents of the Yukon whose ancestral language is a Yukon First Nation language as defined in the FNSB Agreement and parents of the children who attend the schools operated by the FNSB.

The FNSB trustee candidates must be residents of the Yukon whose ancestral language is a Yukon First Nation language as defined in the FNSB Agreement or parents of the children who attend the schools operated by the FNSB.

Both the candidates and electors must be Canadian residents and at least 18 years of age.

- 2.4 Authority and responsibilities of the FNSB.** The FNSB would have the authorities and responsibilities of a school board under the *Education Act*. See Appendix "A" for a list of those authorities and responsibilities.
- 2.5 Joint decision-making between the Minister and Participating First Nations.** While the Minister has the final authority under the *Education Act* with respect to certain matters relating to school boards, the FNSB Agreement directs the YG and the CCOE officials to make best efforts to reach consensus before the Minister exercises these authorities. This would be a legal obligation unique to the FNSB.

If the Minister varies or does not accept the recommendation made by YG officials and the CCOE officials, the Minister will provide written reasons for his or her decision.

Such a recommendation would be made to the Minister before he or she exercises the following authorities:

- a. closing a school operated by the FNSB;
  - b. approving locally developed courses of study to be used in educational programs for school(s) operated by the FNSB;
  - c. approving the use of textbooks, instructional materials, apparatus or equipment that are in addition to those prescribed by the Minister for use in all schools, for any course of study for school(s) operated by the FNSB;
  - d. authorizing an educational program or part of an educational program provided in an aboriginal language at a school operated by the FNSB;
  - e. appointing, on the recommendation of the FNSB, a person to fill a vacancy on the FNSB where that vacancy occurs during the six-month period immediately preceding the next general election for the FNSB;
  - f. imposing requirements for the FNSB to prepare reports, provide information, or perform additional duties, beyond those required by the *Education Act*; and
  - g. issuing policies and guidelines respecting the terms and procedures for school evaluations of schools operated by the FNSB.
- 2.6 Delegations of Ministerial authorities to the FNSB.** At the request of the FNSB, the YG would enter into negotiations with the FNSB respecting the delegation of the following authorities of the Minister under the *Education Act*:
- a. approve locally developed courses of study to be used in educational programs for schools operated by the FNSB;



- b. approve the use of textbooks, instructional materials, apparatus or equipment that are in addition to those prescribed by the Minister for use in all schools, for any course of study for schools operated by the FNSB; and
  - c. authorize an educational program or part of an educational program provided in an aboriginal language at a school operated by the FNSB.
- 2.7 Future agreements.** At the request of the FNSB, YG would enter into discussions with the FNSB to negotiate separate agreements for operational matters related to schools operated by the FNSB, including discussions related to:
- a. construction of a Yukon First Nation school(s) and/or designation of an existing school on an interim or long-term arrangement;
  - b. admissions to FNSB schools;
  - c. roles and responsibilities in respect of student transportation;
  - d. role and responsibilities of the director of the FNSB, beyond the duties set out in the *Education Act*;
  - e. management of the FNSB's facilities;
  - f. human resources management; and
  - g. involvement of the FNSB in the YTA bargaining.
- 2.8 Funding.** Once the FNSB has been established, the YG would seek to enter into negotiations with the FNSB with a view to developing a funding formula to inform the annual operations and maintenance budget prepared by the FNSB and reviewed by the Minister in accordance with section 174 of the *Education Act*. With the agreement of the FNSB, YG would invite the CCOE to observe these negotiations.
- 2.9 Regional Education Agreement.** The FNSB Agreement also recognizes that the CCOE intends to engage with ISC to negotiate a regional education agreement for the provision of multi-year base funding for the education of Indigenous students in the Yukon. The CCOE would provide updates to the YG about those negotiations from time to time and, where appropriate, seek their views.
- 2.10 Evaluation and review of the FNSB Agreement.** The Parties agree to undertake a comprehensive evaluation of this Agreement, which may include a review of the operation of the FNSB, the management and administration of its school(s), and the outcomes of the students served by those schools, no sooner than the third anniversary of the signing of the Agreement, unless otherwise agreed by the Parties.
- 2.11 Jurisdiction not affected.** Nothing in the FNSB Agreement would be construed to limit or affect any authority or jurisdiction of a Yukon First Nation, including the negotiation of a program and service transfer agreement pursuant to section 17 of its self-government agreement.



**3. Community committee agreements**

A key objective for the FNSB Agreement is the establishment of local management of schools. Therefore, it is expected that the FNSB would enter into agreements with the affected Yukon First Nation(s)<sup>3</sup> for the establishment of community committees.<sup>4</sup>

It is contemplated that community committees – comprised of the FNSB trustees and community representatives appointed by the affected Yukon First Nation - would make most of the decisions relating to the operation and management of the affected school.<sup>5</sup> However, the community committees would have no authority to act for or bind the FNSB or make any financial decisions on behalf of the FNSB, unless expressly provided for in the community committee agreement. Please see the list of the FNSB’s authorities listed in Appendix “B”.

The community committee would convene public meetings, from time to time, to provide annual updates by the operation and management of the school and seek input and comments from parents and community members. It would provide a written annual report to the affected First Nation for each school year that, among other matters, outlines its activities for the past year and summarizes the recommendations that it made, if any.

Perhaps a community committee agreement could be implemented by or incorporated into a law made by the affected Yukon First Nation.

In addition, the FNSB and Minister could also jointly establish community-based advisory committees for communities in which there is a school that is under the FNSB.<sup>6</sup>

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<sup>3</sup> The FNSB would have the power to enter into agreements with a Yukon First Nation pursuant to section 118(1) of the *Education Act* about the “provision or joint provision and operation of education and other ancillary services” and may establish committees and specify powers and duties for those committees under section 116(2)(b) of the *Education Act*.

<sup>4</sup> Subsection 116(2)(b).

<sup>5</sup> It is expected that the FNSB would delegate some of its authorities under the FNSB Agreement to a community committee to exercise with respect to the affected school.

<sup>6</sup> Subsection 118.2.



**APPENDIX "A"**

**CREATION OF FNSB + COMBINING SCHOOL COUNCIL WITH FNSB**

**Overview**

The Minister will conduct a vote of electors in the attendance area of a school board to determine if the FNSB should be established if a school council(s) approves a resolution or at least 20 percent of the electors resident in the attendance area of the council request the Minister to hold a vote of electors<sup>7</sup>. The Minister would establish the FNSB in accordance with the FNSB Agreement if a majority of the voting electors in the affected school attendance area(s) vote in favour of the establishment of the FNSB.<sup>8</sup> The affected school council(s) would be dissolved upon the establishment of the FNSB.

One year after establishment of the FNSB, the Minister may combine a school council with the FNSB if each passed resolutions.<sup>9</sup> Or alternatively, a school council could be combined with the FNSB if:

- there is a petition from at least 20 percent of the electors in the education and attendance areas of the affected school council and the FNSB; and
- at least 50 percent plus one of the voting electors resident in each affected education and attendance area vote in favour of combining the affected school council and the FNSB.

If a school council is replaced by the FNSB upon its establishment or is subsequently combined with the FNSB, the five FNSB trustees would have the authority to manage and operate the affected schools, including designing and delivering educational programs to meet the needs of students, in accordance with its powers and duties under the FNSB Agreement and the *Education Act*.

However, it is expected that the FNSB would enter into agreements with the affected Yukon First Nation(s)<sup>10</sup> for the establishment of community committees<sup>11</sup> that would be delegated specific powers and duties with respect to the operation and management of the affected schools. In addition, the FNSB and Minister could also jointly establish community-based advisory committees for communities in which there is a school that is under the FNSB.<sup>12</sup>

**Step-by-step process**

The education area for the FNSB has been established as the entire Yukon. The FNSB would be established, and for one or more K to 12 schools in the Yukon in accordance with the following process.

- a) Either a school council passes a resolution to change to a school board or 20% or more of electors in the attendance area of the school petition the Minister to establish the FNSB to replace the school council.
- b) Within 90 days of the Minister receiving this request there needs to be a vote of electors in the attendance area must be held to determine if the FNSB will be

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<sup>7</sup> "Electors" means those persons who are: (a) Canadian citizen; (b) at least 18 years of age; and (c) either a resident of the attendance area, or the parent of a child attending the school in the attendance area.

<sup>8</sup> Section 72.

<sup>9</sup> Section 75.

<sup>10</sup> Subsection 118(1).

<sup>11</sup> Subsection 116(2)(b).

<sup>12</sup> Subsection 118.2.



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established. If two or more councils concurrently undertake the first two steps, they may be combined into one single board.

- c) If at least 50%-plus-one of the voting electors vote in favour, a school board will be established, and the school council will be dissolved.
- d) The FNSB would come into effect on the first day of the next following school year.
- e) Afterwards, the school(s) in the attendance area(s) would come under the authority of the newly created FNSB.
- f) Once the FNSB has been established, an election would select the five trustees for the FNSB. These trustees will serve a term of three years.
- g) Initially, those eligible to serve as trustees and to vote in the first election of trustees are those who are residents of Yukon and whose ancestral language is a First Nation language.
- (a) Once the FNSB is established, the parents/guardians of any student enrolled in a school operated by the FNSB will also be able to participate in FNSB elections and be nominated to become a trustee.
- h) Any other school council that seeks to join the FNSB once it has been established must wait one year from the establishment of the FNSB to do so.



**APPENDIX "B"**  
**AUTHORITIES AND RESPONSIBILITIES OF THE FNSB**

| <b>Authority of a School Council</b>   | <b>Authority of a School Board</b>   |
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| <p><b><u>SHALL</u></b></p> <ol style="list-style-type: none"> <li>1. Review, modify if necessary, and approve the school objectives, educational priorities and courses of study by grades, as prepared by the school administration, and other matters required for the effective functioning of the school</li> <li>2. Review, modify if necessary, and approve the rules and procedures developed by the school administration</li> <li>3. Make <u>recommendations</u> to the superintendent for allocation of resources within the budget approved</li> <li>4. Participate in the selection of the principal</li> <li>5. Establish an attendance policy for student who are enrolled in its school</li> <li>6. In consultation with the superintendent, school administration and teachers, establish a procedure for resolving disputes between schools, parents and teachers</li> <li>7. Specify fifteen hours for non-instructional purposes for its school in each school year (Three PD days)</li> <li>8. Consider any advice provided to it by the school administration and staff of the school</li> <li>9. Maintain records/banking/financials for the school council</li> </ol> | <p><b><u>SHALL</u></b></p> <ol style="list-style-type: none"> <li>1. Select staff, including principals and teachers, for hiring, dismissal, discipline, transfer, promotion and demotion subject to the Act and any applicable collective agreement</li> <li>2. Review, modify if necessary, and approve the rules and procedures developed by the school administration</li> <li>3. Review, modify and approve the school plan prepared by the school administration for each school operated by it</li> <li>4. Provide educational programs, including locally developed courses for students as required by the Act</li> <li>5. Establish policies for the administration, management and operation of its schools, including student attendance policy</li> <li>6. In consultation with the director, school administration and teachers, establish a procedure for resolving disputes between its schools, parents and teachers</li> <li>7. Specify the school opening date, the number and the days of school operation, the length of the school day and the number of minutes of classroom instruction in a school day.</li> <li>8. Specify 15 hours for non-instructional purposes for its schools (Three PD Days)</li> <li>9. Consider any advice provided to it by any parent advisory group established by the School Board</li> <li>10. Manage funds and financials that are approved by Minister</li> <li>11. Maintain all of its real and personal property</li> </ol> |



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|  | <ol style="list-style-type: none"> <li>12. Provide suitable and necessary equipment and supplies for schools operated by it, including locally approved instructional material</li> <li>13. Ensure there is a dispute resolution policy</li> <li>14. Ensure that its schools are conducted in accordance with the requirements of the Act</li> <li>15. Evaluate its schools every five years</li> <li>16. Consider any advice provide to it by the school administration and staff of each school in its education area or attendance area</li> <li>17. Select for appointment a Director of Education who shall be the Chief Executive Officer for the School Board and shall establish terms and conditions of employment for the Director</li> </ol>   |
| <p><b><u>MAY</u></b></p> <ol style="list-style-type: none"> <li>1. Propose and offer locally developed courses of student and locally approved instructional material subject to the approval of the Minister</li> <li>2. Receive and spend funds pursuant to the Ed Act</li> <li>3. Provide advice to the Minister respecting:             <ol style="list-style-type: none"> <li>a. Establishment of school calendar</li> <li>b. School closures</li> <li>c. Teaching and support staff requirements</li> <li>d. Transportation services</li> <li>e. School renovations and capital budget for the school</li> <li>f. School programs</li> </ol> </li> <li>4. Establish committees and specify the posers and duties</li> <li>5. Establish rules and policies on any matter within its jurisdiction</li> </ol> | <p><b><u>MAY</u></b></p> <ol style="list-style-type: none"> <li>1. May make agreements with the Government of Canada, a Yukon First Nation, any agency of the Government of Canada, the government or agent of any other jurisdiction, another School Board, or with a department or agency of the Government of Yukon respecting the provision or joint provision and operation of educational and other ancillary services, including transportation and the operation of school residences</li> <li>2. Advise the Minister respecting school closures and transportation services</li> <li>3. Establish committees and specific powers and duties for the committees</li> <li>4. Purchase or rent school premises or staff residences</li> <li>5. Direct the director to evaluate a teacher, principal or other staff member and provide a report to the School Board on the evaluation, which report shall be returned to the director immediately after the School Board has reviewed and considered it</li> </ol> |



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| <ol style="list-style-type: none"><li>6. Approve the allocation and expenditure of those discretionary funds allocated to the school within its budget</li><li>7. Direct the superintendent to evaluate a teacher, principal or other staff member to provide a report to the Council of the evaluation, which report shall be returned to the superintendent immediately after the Council has reviewed and considered it</li><li>8. Direct the principal to evaluate a teacher and provide a report to it of the evaluation, which report shall be returned to the superintendent immediately after the Council has reviewed and considered it</li><li>9. <u>Recommend</u> to the superintendent the dismissal, transfer, discipline or demotion of a teacher, principal or other employee in the school and provide reasons for the recommendation</li><li>10. Approve curricular and extra-curricular field trips of more than one day's duration</li><li>11. Approve allocation of school days for extra-curricular days</li></ol> | <ol style="list-style-type: none"><li>6. Direct a principal to evaluate a teacher and provide the report to the School Board on the evaluation, which report shall be returned to the Director immediately after the School Board has reviewed and considered it</li><li>7. Acquire real and personal property by way of purchase, bequest or lease</li><li>8. Provide for professional development of teachers</li><li>9. Approve curricular and extra-curricular field trips of mor than one day's duration</li><li>10. Approve the allocation of school days for extra-curricular activities</li></ol> |
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