

DITIDAHT FIRST NATION EDUCATION BOARD

TERMS OF REFERENCE

Background

1. The Ditidaht First Nation (“**DFN**”) has the right to establish and control its educational systems and institutions as affirmed in Article 14 of the United Nations Declaration on the Rights of Indigenous Peoples, and as a fundamental aspect of its inherent right of self-government recognized by Canada and British Columbia pursuant to section 35 of the Constitution Act, 1982.
2. DFN’s elected Chief and Council (“**Council**”) has entered into a Canada-First Nation Education Jurisdiction Agreement with Canada which recognizes and affirms DFN’s jurisdiction over education on DFN lands.
3. On behalf of DFN, Council is responsible for law-making and administration in respect of education on DFN lands (“**Education Matters**”).
4. Pursuant to the Canada-First Nation Education Jurisdiction Agreement, Council intends to establish a community education authority which shall be called the Ditidaht First Nation Education Board (the “**Education Board**”).
5. These Terms of Reference, which may be amended by Council from time to time, set out the Education Board’s purpose, powers, duties and composition.
6. In the event of any conflict between these Terms of Reference and any education law in force, the education law shall prevail.
7. If at any time the Education Board exceeds these Terms of Reference, Council may dissolve the Education Board by way of a Council resolution that sets out the reasons for dissolution.

Purpose and Powers of the Education Board

8. The purpose of the Education Board is to provide advice and recommendations to Council in respect of Education Matters.
9. The Education Board is currently an advisory board only and does not have the authority to:
 - (a) Make decisions in respect of the administration of education; or
 - (b) Approve any laws, regulations, policies or rules.

10. The Education Board may, at any time, accept from DFN community members recommendations, complaints or concerns regarding any Education Matters and communicate such community input to Council or DFN's Education Director (the "**Education Director**").
11. The Education Board may take any additional steps in furtherance of its purpose, including the following, but only when specifically requested to do so by Council or DFN's Executive Director (the "**Executive Director**"):

Law, Regulation and Policy Development

- (a) Assist Council with the creation or amendment of education laws or regulations;
- (b) Assist the Education Director on the creation or amendment of education policies or program specific policies to ensure the effective and efficient running of DFN's educational programs;

Budgeting

- (c) Monitor DFN's education budgets alongside the Education Director and education program coordinators;
- (d) Report to Council on issues concerning DFN's education budget;

Rule Development

- (e) Recommend to the Education Director and education program coordinators the creation or amendment of rules governing the administration of education, including rules in respect of:
 - (i) Schools and educational programs provided by DFN;
 - (ii) Students attending schools or education programs provided by DFN;
 - (iii) Programs for suspended students; or
 - (iv) Individuals who work for DFN's educational programs, including volunteers.

Administration

- (f) Make recommendations to the Education Director in respect of administrative decisions, including:

- (i) the suspension of students in accordance with the DFN behaviour policies, ensuring a plan is in place for the continued learning of these students;
- (ii) permitting people other than students to utilize DFN Education facilities;

Program Development

- (g) Provide input and assistance to the Education Director with the establishment, operation, administration and management of:
 - (i) DFN's community school;
 - (ii) Education programs based on community needs, including Ditidaht language programs for K-12 and the larger Ditidaht community; or
 - (iii) Transportation for the purposes of DFN's educational programs;
- (h) Review academic, attendance, behaviour and other data as it pertains to DFN education and advise the Education Director of any concerns and suggestions for improvement in all DFN education programs;

And the Education Board must stop taking such additional steps when directed to do so by Council.

- 12. Council may give the Education Board any additional powers and authority that may be permitted under any education law by amending these Terms of Reference.

Structure of the Education Board

- 13. The Education Board shall consist of up to five Directors (each a "**Director**" and together the "**Directors**").
- 14. The powers of the Education Board must be exercised as a group and no individual Director acting alone may exercise the power and authority of the Education Board.
- 15. Directors may only be appointed by Council.
- 16. Directors are appointed for two-year terms, except Council may appoint any Director for a term that is less than two-years for the purpose of ensuring that Director terms do not all expire at the same time.
- 17. Director terms ordinarily commence on October 1 of each year.
- 18. Directors may serve any number of consecutive terms.

19. One Director must be a member of Council, but only one member of Council may be a Director at any given time.
20. While it may not always be possible, the Education Board will ideally be composed of:
 - (a) One member of Council;
 - (b) One elder;
 - (c) One youth aged 18 to 30;
 - (d) One parent or caregiver of a student attending Ditidaht Community School; and
 - (e) One DFN member who normally resides out of community.
21. It is recognized that a Director may satisfy more than one of the above criteria (the "**Criteria**").
22. The Education Board must, at all times, have at least one Director who is not a member of Council but who meets one of the other Criteria.

Director Qualifications, Application and Appointment

23. No person may stand for appointment as a Director unless:
 - (a) The person is 18 years of age or older at the beginning of their term;
 - (b) The person has undergone a satisfactory criminal record check;
 - (c) The person is a member of DFN; and
 - (d) The person is not a staff member of any of the DFN Education Programs;
24. Any person meeting the above qualifications may apply to become a Director by submitting a written application to the Education Director between July 1st and September 1st of any year in which an appointment is needed.
25. The written application shall be in the form set out in **Schedule A** to these Terms of Reference, and must state:
 - (a) Why the person wishes to be on the Education Board;
 - (b) What they can contribute to the Education Board; and
 - (c) Which of the Criteria they meet, if any.

26. The Education Director is expected to make available the list of Director applicants to Council one week before the last Council meeting held prior to September 15.
27. Council is expected to appoint any new Directors at the last Council meeting held prior to September 15.
28. Mandatory training shall be provided to new Directors as soon as possible after their appointment and once a year for all other Directors.

Director Roles and Responsibilities

29. The Directors must, at all times:
 - (a) Uphold the purpose of the Education Board, and its obligations and responsibilities, as set out in these Terms of Reference;
 - (b) Recognize the limits on the Education Board's power and authority, as set out in these Terms of Reference, and avoid taking any action that exceeds such power and authority;
 - (c) Abide by their oath of office, as set out in **Schedule B**; and
 - (d) Abide by the obligations of Directors set out in any rules or policies applicable to the Education Board, including any code of conduct or conflict of interest rules.
30. Council may, at any time, create or amend any rules or policies that apply to the Education Board, including any code of conduct or conflict of interest rules.
31. Until Council imposes any rules or policies that specifically apply to the Education Board, the Directors shall be bound by same oath of office, code of conduct, and conflict of interest rules as apply to members of Council as set out in DFN's Governance Policy Manual (see pages 12-19).
32. In addition to any conflict of interest rules that may apply to Directors from time to time, each Director must openly declare any conflict of interest when dealing with issues relating to themselves or a member of their immediate family, which includes their:
 - (a) Spouse (which herein includes a common-law partner);
 - (b) Children, including children of a spouse;
 - (c) Parents, including parents of a spouse; and
 - (d) Siblings, including siblings of a spouse.

33. In addition to any rules of confidentiality that may apply to Directors from time to time, each Director must treat all information obtained in their role as Director as confidential and may only use such information for Education Board business. For greater certainty, no Director may use such confidential information for the Director's personal interest or for the private interests of any other person.
34. The failure of a Director to comply with his or her obligations is sufficient grounds for that Director's removal from the Education Board.

Compensation

35. Each Director will receive an honorarium of \$300 per meeting with one regularly scheduled meeting being held each month. A director may be compensated for additional meetings if approved or requested by Council.

Meetings

36. Meetings may be held in person or by video or telephone conference as required.
37. The Directors must meet as often as is necessary to conduct business and, in any event, not less than once per month.
38. The Directors must call a meeting within 30 days after the appointment of a new Director.
39. Directors are entitled to at least 7 calendar days' notice of a meeting. Notices of meetings must specify the place, day and time of the meeting, and in the case of meetings held by video or telephone, the notice must specify how Directors may join the call.
40. The accidental omission to give notice of a meeting to, or the non-receipt of notice by, any Director entitled to receive a notice shall not invalidate the proceedings at that meeting.
41. If a Director has an agenda item for an upcoming meeting, the Director should present the agenda item to the Education Director at least 10 calendar days prior to the meeting.
42. If an urgent agenda item arises, it may be added to the agenda at the time of the meeting.
43. The Education Director shall chair all meetings and provide advice to the Education Board, but the Education Director is not entitled to vote.
44. The Education Director is expected to:
 - (a) Arrange and facilitate meetings, whether in person or by telephone or video;

- (b) Schedule presentations at meetings by DFN staff, community members or other outside parties;
- (c) Circulate meeting agendas to Directors at least 7 days prior to a meeting; and
- (d) Ensure meeting minutes are recorded and made readily accessible to DFN community members, Council and DFN's administrative staff (except for minutes of in-camera sessions); and
- (e) Perform any other duties for the Education Board as may be directed by Council from time to time.

Quorum and Voting

- 45. A quorum for meetings is a majority of Directors.
- 46. Each Director shall have one vote. The Directors should strive to make decisions by consensus, but if consensus cannot be reached, a resolution will be considered passed if a majority of Directors at a meeting at which there is quorum vote in favour of the resolution.

Persons Entitled to Attend Meetings

- 47. All meetings of the Education Board are generally open to DFN community members for observation purposes.
- 48. If any person other than a Director, the Executive Director or the Education Director wishes to make a presentation to the Education Board, they must make a request to the Education Director at least 10 days prior to the meeting with a brief description and probable length of time for their presentation.
- 49. The Directors may decide to hold a portion of their meeting as an in-camera session, which means that all persons other than Directors and their invitees are to be excluded from that portion of the meeting.
- 50. The Directors may only hold an in-camera session if they determine that:
 - (a) The matter for discussion is particularly sensitive, such as matters of litigation, employment, management performance, or matters that involve someone's personal information; and
 - (b) Holding the in-camera session is in the best interest of any person other than a Director or group of Directors.
- 51. The Education Director is expected to record the in-camera minutes and make such minutes available to each Director and Council.

52. If the Directors decide to hold an in-camera session where the Education Director is excluded, the Director who is a member of Council shall chair the session and is responsible to ensure that minutes of the session are recorded and subsequently made available to each Director, the Executive Director, and Council. Minutes of in-camera sessions are not available to DFN members.

Improper Conduct at Meetings

53. The chair of a meeting may expel any person, including a Director, from a meeting for disruptive or improper conduct.

Emergencies

54. In the case of an emergency in relation to an Education Matter that cannot be easily resolved by DFN's education staff or that is sufficiently serious, the Education Director or the Executive Director may call an emergency meeting of the Education Board, which shall be convened as soon as possible.
55. The Education Board must consider the emergency and either make a recommendation to the Education Director or refer the matter to Council.
56. The Education Director is expected to report all emergencies in relation to an Education Matter to the Education Board, whether or not they have been resolved by DFN's education staff without the need for an emergency meeting of the Education Board, and to further advise the Education Board of all actions taken in respect of any emergency.

Committees

57. The Education Board may establish committees, composed of two or more Directors, to assist the Education Board with any specific tasks within the scope of the Education Board's power and authority.
58. Any committee must, in the exercise of any powers delegated to it:
 - (a) Conform to any rules that may from time to time be imposed on it by the Education Board; and
 - (b) Report every act or thing done in the exercise of those powers at such times as the Education Board may require.
59. With respect to a committee, the Education Board may, at any time:
 - (a) Revoke or alter its authority; or
 - (b) Change its membership, including appointing or terminating its members.

60. Unless the Education Board imposes different rules on a committee, the committee is bound by the same rules for meetings, quorum and voting that apply to the Education Board.

Resignation of Directors

61. A Director may resign by giving written notice to the Education Director.
62. Resignation is irrevocable when given and is effective immediately unless the notice provides for the resignation to occur in the future, in which case the resignation is effective on the earlier of:
- (a) The date a successor Director takes office; and
 - (b) The date specified in the notice.
63. Upon the resignation of a Director, the Education Director must:
- (a) Notify the Education Board at its next scheduled meeting; and
 - (b) Notify DFN's Executive Director and Council in advance of Council's next scheduled meeting and disclose which Criteria the resigning Director met for the purpose of making a new appointment.

Removal of Directors

64. The Education Board may remove a Director if that Director is absent for three consecutive meetings and did not have prior permission from the Education Board for such absences.
65. Any Director who has been removed for failure to attend meetings may be re-appointed by Council.
66. Any Director immediately and permanently ceases to hold office upon:
- (a) Being convicted of an indictable offence;
 - (b) Being convicted of, or pleading guilty to, any criminal offence involving children or fraud; or
 - (c) Being found by a court, in Canada or elsewhere, to be incapable of managing their own affairs.
67. Any Director may be removed at a meeting by a resolution passed by 75% of the remaining Directors, provided that notice of a proposed removal is provided at least 7 days prior to that meeting along with reasons for the proposed removal.
68. Upon the removal of a Director, the Education Director must, as soon as possible, notify DFN's Executive Director and Council of the reasons for the

removal and which Criteria the removed Director met for the purpose of making a new appointment.

Community Input and Community Meetings

69. The Education Director, or any other DFN education staff, may forward to the Education Board any correspondence from a DFN community member about Education Matters, whether such correspondence is in the form of a recommendation, comment, complaint or concern.
70. DFN community members may also correspond directly to the Education Board about Education Matters.
71. Upon receipt of any such correspondence, the Education Board must:
 - (a) Ensure that each Director and the Education Director receives a copy of the correspondence;
 - (b) Confirm the Education Board's receipt to the DFN community member who sent the correspondence;
 - (c) Discuss the correspondence at a meeting; and
 - (d) Recommend whether or not any further action should be taken in connection with the correspondence, and if so by whom.
72. The Education Board must hold at least two community engagement meetings per year for the purpose of soliciting feedback on Education Matters and identifying education priorities.

Reporting

73. The Director who is a member of Council, together with the Education Director, is expected to provide updates to Council on Education Board business as needed.
74. The Education Director is expected to provide updates to the Executive Director on Education Board business as needed.
75. The Executive Director may request any or all of the Directors to report on Education Board business at any time.
76. Council may require any or all of the Directors to attend at a meeting of Council to report on Education Board business.
77. The Education Director is further expected to report to the Education Board on:
 - (a) The progress of action items identified at prior meetings;

- (b) The status of Education Board recommendations and whether they have been considered and/or implemented; and
- (c) The priorities and projects in respect of Education Matters that require the Education Board's attention, as directed by Council from time to time.

APPLICANT DECLARATION

I understand that:

1. The Education Board is governed by its Terms of Reference, as may be amended by Council from time to time, and I must abide by the Terms of Reference.
2. The Education Board is an advisory board only and any decisions must be ratified by Council.
3. All actions taken by the Education Board should be based on what is best for Ditidaht First Nation as a whole.
4. There will be a minimum of two board trainings that I must attend.
5. There will be work that will be largely outside of the regular workday that will require my time and that there may be work outside of meetings.
6. I must abide by any policy, including any code of conduct or conflict of interest rules, that Council imposes on the Education Board from time to time.
7. If no code of conduct or conflict of interest rules are specifically imposed on the Education Board, then I must abide by the same code of conduct and conflict of interest rules that apply to members of Council, as set out in the Ditidaht First Nation Governance Policy Manual (see pages 12-19).

Furthermore, I have read and understood:

1. The Education Board's Terms of Reference.
2. The Code of Conduct and Conflict of Interest Rules contained in the Ditidaht First Nation Governance Policy Manual (pages 12-19).

I _____ agree that all the information in this application is true and correct and that I agree to the declaration above.

Signature: _____

Date: _____

SCHEDULE B

DITIDAHT FIRST NATION EDUCATION BOARD

DIRECTOR OATH OF OFFICE

I, _____, a Director of the Ditidaht First Nation Education Board, declare that I have read, understood and agree to comply with the Ditidaht First Nation Education Board Terms of Reference, and that in carrying out my duties as a Director, I will:

1. Do my best to carry out my responsibilities respectfully, efficiently, and effectively according to Ditidaht First Nation values and beliefs;
2. Work with Councillors, Ditidaht First Nation employees and diitiid7aa7tx in a positive, problem-solving and collaborative manner;
3. Remember that my primary duty is to serve the best interests of diitiid7aa7tx;
4. Adhere to, and support the policies, values, and decisions of Council, including conducting myself at all times in a manner that will bring credit to the Ditidaht First Nation;
5. Continually work towards self-improvement and development through self-evaluation, traditional teachings, and the current educational system;
6. Act as a community development resource and political guide for all diitiid7aa7tx to help advance and resolve issues; and
7. Respect the decisions of Council and the Ditidaht First Nation Education Board, even if I do not agree with those decisions.

Signature: _____

Date: _____

Witness: _____
Name:

Date: _____