

LIL'WAT NATION EDUCATION LAW-MAKING PROTOCOL

Dated for Reference-----, __ 2021

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Whereas the Lil'wat Nation will be entering a Canada-First Nation Education Jurisdiction Agreement (the "Jurisdiction Agreement") with Canada;

Whereas the Jurisdiction Agreement recognizes the Lil'wat Nation's jurisdiction over education as set out in that agreement;

Whereas the Council of the Lil'wat Nation will have the power to make laws with respect to education once the Jurisdiction Agreement comes into effect; and

Whereas paragraph 2.11 of the Jurisdiction Agreement requires Lil'wat Nation to adopt, prior to exercising its jurisdiction, a First Nation Education Law-Making Protocol that provides for the following matters:

- (a) procedures for the passage and amendment of First Nation Education Laws;*
- (b) challenging the validity of First Nation Education Laws;*
- (c) the amendment of the First Nation Education Law-Making Protocol;*
- (d) conflict of interest rules; and*
- (e) other matters, as determined by the Participating First Nation.*

The Lil'wat Nation hereby adopts the following education law-making protocol to set out the process for enacting and amending its laws with respect to education and related matters.

INTERPRETATION

1. For the purposes of this Protocol,

- (a)** "Appeal Board" means a body established by the Lil'wat Nation and empowered to address appeals under this Protocol;
- (b)** "Chiefs" means the Political and Cultural Chiefs of the Lil'wat Nation, elected pursuant to the Lil'wat Nation Election Code;
- (c)** "Community Education Authority" means a legally constituted entity established or identified by Lil'wat Nation to operate its Education system;
- (d)** "Council" means the Chiefs and Councillors of the Lil'wat Nation;
- (e)** "Councillor" means a councillor of the Lil'wat Nation, elected pursuant to the Lil'wat Nation Election Code;
- (f)** "Education" means education programs and services of a nature generally provided to students enrolled in kindergarten to grade 12;

- (g) "Education Law" means a law proposed or passed by the Lil'wat Nation in relation to Education and in accordance with the Jurisdiction Agreement and this Protocol;
 - (h) "Jurisdiction Agreement" means the Canada-First Nation Education Jurisdiction Agreement entered into between the Lil'wat Nation and Canada;
 - (i) "Citizen" means a member of the Lil'wat Nation as defined by the Lil'wat Citizenship Code; and
 - G) "Regulation" means a regulation passed pursuant to an Education Law.
2. A meeting of the Council is considered to be "duly convened" if the requirements of the laws and policies governing the Lil'wat Nation are followed.
 3. Unless otherwise provided, words defined in the Jurisdiction Agreement have the same meaning in this Protocol.
 4. When calculating time, where anything is to be done within a time after, from, of, or before a specified day, or where a time is expressed to begin after or to be from a specified day, the time includes that day.

PROCESS FOR PASSING EDUCATION LAWS

5. The Council may introduce and pass an Education Law in accordance with the following process:
 - (a) Any member of Council may introduce a draft of a proposed Education Law at a duly convened meeting of the Council.
 - (b) Following its introduction, the Council must post notice in a public area of the Lil'wat Nation community accessible to Citizens and on the Lil'wat Nation's website:
 - i. advising Citizens of its intention to pass an Education Law,
 - ii. providing information on how Citizens may obtain a copy of the proposed Education Law, and
 - iii. giving at least seven (7) days' notice of when a community meeting will be held to discuss the proposed Education Law.
 - (c) The Council must hold at least one community meeting at which:
 - i. the proposed Education Law is presented,
 - ii. copies of the proposed Education Law and a summary of the proposed Education Law in plain English are made available, and

iii. Citizens are invited to ask questions and provide comments.

- (d) Following the community meeting referred to in subsection (c), the Council will review any comments received during the consultation process and determine whether to amend the proposed Education Law.
- (e) If the Council decides not to amend the proposed Education Law, they may vote on it at their next duly convened meeting.
- (f) If the Council decides to amend the proposed Education Law and it deems the amendment requires further consultation and input from Citizens, Council will re-introduce the proposed Education Law as amended and carry out the activities set out in subsections (b), (c) and (d) in relation to the amended proposed Education Law.
- (g) After the Council has completed the steps set out in subsection (f), they will consider any comments received during the second round of the consultation process and determine whether to further amend the proposed Education Law. The Council may vote on the proposed Education Law, whether or not they decide to further amend it, at their next duly convened meeting.

Additional Steps

- 6. The Council may, at its discretion, include additional steps other than those set out in section 5 prior to voting on an Education Law. These additional steps may include holding additional community meetings, information sessions or a binding or non-binding referendum with respect to the proposed Education Law.

Voting Requirement

- 7. A majority of the Council (50% plus one) must vote in support of a proposed Education Law, or amending a proposed Education Law, as the case may be, in order for it to be passed or amended.

COMING INTO FORCE

- 8. An Education Law comes into force:
 - (a) on the date it is passed;
 - (b) on a date specified in the Education Law; or
 - (c) on a date specified in accordance with a process that is set out in the Education Law.

AMENDMENTS

9. The Council may amend an Education Law through the process described in sections 5 to 7 of this Protocol.

MAKING REGULATIONS

10. If an Education Law includes a provision enabling the Council or the Community Education Authority to make Regulations, the Education Law must:
 - (a) identify the body (i.e. the Council or the Community Education Authority) with the power to make Regulations;
 - (b) set out the scope of matters that may be addressed in Regulations; and
 - (c) stipulate that any Regulations must be consistent with the Education Law and the Jurisdiction Agreement.

REGISTRATION OF LAWS AND REGULATIONS

11. The Council must establish a registry at the Lil'wat Nation's administrative office where official copies of any Education Laws and Regulations that have been passed are to be kept. The registry may also keep copies of proposed Education Laws and Regulations, and proposed amendments to Education Laws and Regulations.
12. Within ten days of passing an Education Law or amending an Education Law, the Council must deposit an official copy of the Education Law at the registry.
13. Within ten days of a Regulation being passed or amended, the Council or the Community Education Authority, as the case may be, that passed or made the amendment must register the Regulation at the registry.
14. Any Citizen or Lil'wat Nation staff member may, during regular business hours, have reasonable access to the registry referred to in section 11 and may obtain a copy of the Education Laws and Regulations upon payment of such reasonable fee as may be set by Council or a body designated by Council.

PROCESS FOR CHALLENGING EDUCATION LAWS AND REGULATIONS

15. Until such time as the Appeal Board is established, any Citizen may challenge the validity of an Education Law or Regulation by filing a petition in writing to the Council outlining the nature of their concerns with the Education Law or Regulation. The Council must respond in writing to the petition within 30 days of receiving it. The Council's response must either:

- (a) confirm that the Council will take steps to rescind or amend the Education Law or Regulation to address the concern that has been raised; or
 - (b) set out the reasons the Council has determined that there is no basis for the challenge.
16. If the Citizen who launched the challenge is not satisfied with the response received from the Council, the Citizen may apply to bring the matter before the British Columbia Supreme Court.
17. If the Appeal Board is established, any Citizen may challenge the validity of an Education Law or Regulation by filing a petition in writing to the Appeal Board outlining the nature of their concerns with the Education Law or Regulation. The Appeal Board must respond in writing to the petition within 30 days of receiving it. The Appeal Board response must either:
- (a) confirm that the Appeal Board will recommend the Council to take steps to rescind or amend the Education Law or Regulation to address the concern that has been raised; or
 - (b) set out the reasons the Appeal Board has determined that there is no basis for the challenge.
18. If the Appeal Board makes a recommendation that the Council rescind or amend the Education Law or Regulation under subsection 17(a), the Council will review that recommendation and respond in writing within 30 days of receiving it. The Council's response must either:
- (a) confirm that the Council will take steps to rescind or amend the Education Law or Regulation to address the concern that has been raised; or
 - (b) set out the reasons the Council has determined that there is no basis for the challenge and for not agreeing with the Appeal Board's recommendation.
19. If the Citizen who launched the challenge is not satisfied with the response received from the Appeal Board or from the Council, the Citizen may apply to bring the matter before the British Columbia Supreme Court.

CONFLICT OF INTEREST RULES

20. Any member of the Council or the Community Education Authority must avoid conflicts of interest and comply with the requirements of the policies and procedures established by Council for the avoidance and mitigation of those conflicts, including annual disclosures of private interests by Council.

21. The Council or the Community Education Authority, as the case may be, must keep a written record (e.g. meeting minutes or a letter) of all disclosures of interest made under section 20.
22. The Council must establish a written policy setting out:
 - (a) the circumstances that would deem a member of the Council or the Community Education Authority to be, or appear to be, in a conflict of interest; and
 - (b) the consequences for a member of the Council or the Community Education Authority being in or appearing to be in a conflict of interest or for failure to follow the requirements of section 20.

AMENDMENTS TO THIS PROTOCOL

23. This Protocol may be amended in accordance with the following process:
 - (a) Prior to the vote being taken in accordance with subsection (b), the Council will take reasonable steps to inform the Citizens of:
 - i. their right to participate in the process for approving amendments to this Protocol and the manner in which that right can be exercised, and
 - ii. the content of the proposed amendment to this Protocol.
 - (b) On conclusion of the process provided for in subsection (a)(i) the Council may vote to adopt the proposed amendments to this Protocol at a duly convened meeting of the Council.