

Chapel Island Education Act

1. The Right to Attend School

(1) Subject to this Act, every member resident on the reserve over the age of four (4) has the right to attend school.

(2) Where the Band Council provides a school on reserve, the right to attend that school shall be free for all members over the age of four (4) and under the age of eighteen (18) years.

(a) The Board may establish regulations the availability of schooling for individuals over the age of 18.

(3) Where the Band Council provides a school on reserve, a student may, at the request of the student's parent or guardian, or if the student is at least nineteen (19) years old, at the request of the student, attend a school, delivering the same grade levels as the school operated on reserve, and operated off reserve by a school board established by the Province of Nova Scotia. In that event, the Board shall not be responsible for the payment of any charges imposed by the Provincial school board in respect of that student **and any other costs required, such as transportation and human resources.**

(4) Any non-member resident on reserve who attends a school on reserve shall comply with established rules governing conduct of students attending that school.

2. School Attendance

(1) **Every member** resident on **reserve** over the age of four (4) and under the age of eighteen (18) shall attend school in accordance with this Act.

(2) It is part of the duty of the parent to the Mi'kmaq Nation for parents to cause their children to attend school as required by this Law.

(a) When a child lives with or is under the care or in the custody of a person other than the child's parents, that person during the time that the child lives with that person or is under that person's care or in that person's custody, is subject to the duties imposed by this Law on the parents, but the duties and responsibilities of the parents are not affected or in any way diminished.

(3) It is part of the duty to the Mi'kmaq Nation of every child to attend school as required by this Law.

(4) A child shall not be required to attend school under this Law if:

(a) the child is being provided with a home education program according to this Law;

(b) the child is enrolled in and in attendance at a private school.

In any of such cases, the child is receiving training and instruction equivalent to school that which he would be receiving if he were in regular attendance in a school where he resides.

(5) A child shall not be required to attend school under this Law if:

(a) the physical and mental abilities of the child are such as to render his attendance at or instruction in school impractical, to the extent that the child cannot benefit from the program offered; or

(b) the child was temporarily unable to attend school by reason of his illness or for other unavoidable causes and evidence is provided by the parent or a doctor when requested by the teacher or school principal, or

(c) with the approval of the child's parents, and upon the parents applying to the Attendance Counsellor, the Attendance Counsellor has provided a written statement stating that the child is not required to attend school for a specific period of time, or is no longer required to attend school because other acceptable arrangements have been made for the child's development.

(6) No person shall employ a child, between the ages of 5 and 18, during school hours, unless the child is on a program approved by the school, or has been permitted to leave school according to Section 5.

3. Attendance Counsellor

(1) The Board may designate an employee of the Board or such other individual as it deems appropriate to be the Attendance Counsellor.

(2) The Attendance Counsellor for the First Nation shall:

- (a) monitor the attendance of students;
- (b) take steps to reduce absenteeism of students from school;
- (c) recommend remedial steps and policies in respect of those students who have been reported as being habitually absent from school without acceptable excuse.

(3) The Attendance Counsellor may cause to be hand delivered personally, or sent by registered mail to a parent or other person having care of any child, a notice naming the child and stating the concern with regard to the child's absence from school.

(4) A parent or other person having care of any child shall within three (3) school days of receiving the notice from the Attendance Counsellor under subsection 3(3) advise the Attendance Counsellor as to why the child has been absent from school.

(5) Upon reviewing the information from the parent and the school, the Attendance Counsellor may:

- (a) notify the parent and/or the child that the response has been satisfactory,
- (b) require the parent and/or the child to provide further information, or
- (c) provide the parent and/or the child with a written warning that the child's absenteeism is contrary to this Law and that if the child does not attend school as required by this Law within a specified time, the parents and/or the child may be found to be failing in their duty to the Mi'kmaq Nation; or
- (d) provide the parent and/or the child and the Board with a written statement that the child's absenteeism is unacceptable and the

parents and/or the child have failed in their duty to the Mi'kmaq Nation.

(6) Upon receiving a notice Provided under subsection 2(5)(c) or (d), the Board shall convene to determine the appropriate manner in which to deal with the child's absenteeism,

- (a) The Board will meet with the parents, the child, the child's teachers and any other individuals involved in the family or in the child's life who may be able to assist in determining how the situation can be resolved in an atmosphere of mutual respect, and concern for the child, the family and the community.
- (b) The Board will determine a resolution which will help the child and the parents, to understand the importance of fulfilling their duties to the community and which provides them with the incentive, support and where necessary the resources to make sure that the child attends school.

(7) If a parent is not satisfied with the resolution determined by the Board under subsection 2(6-b), he may appeal the decision to the Appeals Circle.

- (b) The Appeals Circle shall review the manner regarding and respecting the traditional Mi'kmaw methods of dispute resolution and shall develop a resolution which shall be binding on all parties.
- (c) The Appeals Circle shall have the jurisdiction to hear all information that it considers necessary and shall not be bound by the rules of evidence.
- (d) The Appeals Circle may conduct an inquiry in a manner which considers the traditional Mi'kmaw methods of dispute resolution and problem solving and may include a non-adversarial meeting of the individuals who are affected by the child's absence from school, such as the child, the parents, other family members, peers, teachers, school officials, Board members, Band Council members, staff and a representative of Mi'kmaq Family and Children's Services.
- (e) The resolution of matter as determined by the Appeals Circle shall

be final and binding on all parties and there shall be no right of further appeal to any Court.

4. Home Education

(1) With the approval of the Board, a parent may provide a home education program to his/her child. This approval may be granted only in the most extraordinary of circumstances.

(2) A parent providing a home education program shall register the child for each school academic year with the school which the child would otherwise attend. If that school is not on reserve, that home education program must meet the criteria established by the Province of Nova Scotia.

(3) If the school which the child would otherwise attend is on reserve,

(a) The Parent providing instruction must report the child's progress to the Board;

(b) The Board may require the parent of a child in a home education program to provide evidence of the child's educational progress by providing one or more of the following:

(i) results of a standardized test as administered by a person certified to conduct the testing;

(ii) an assessment from a qualified assessor;

(iii) a portfolio of the child's work.

(c) Notwithstanding subsection (b), where, in the opinion of the Board further evidence of a child's educational progress is required, the Board may appoint an independent assessor, to assess and report whether,

(i) the child is making reasonable educational progress;

(ii) the home education program is adequately providing the

child's

needs;

(iii) the available public school program will do more to further the child's educational progress than the home education program.

(d) A parent may not provide or continue to provide a home education program to a child if, based on the evidence provided, the Board determines that:

(i) the home education program does not meet the requirements of this Law; or

(ii) the child is not making reasonable education All progress as determined by the child's performance.

(e) Before making a determination pursuant to subsection 3(d), the Board shall:

(i) notify the parent in writing by registered mail of its intention to make the determination;

(ii) give the parent an opportunity to make representation to the Board in writing as to why the home education program should be provided or continued.

(e) If a child receives a home education program, under no circumstances shall the Board be required to pay the cost of tutoring or other programming.

(g) The child's grade placement, after participation in a home education program shall be determined by the school in which he or she is enrolling.

5. Private Schools

(1) A child may attend a private school,

(a) The Board is under no obligation to pay the cost of a child attending private school.

(2) The Board may appoint or designate an officer to assess a private school, including its teachers, its educational programs and its instructional materials, to inspect its facilities and to perform such other duties with respect to the private school as the Board may require.

(3) The Board may accept a private school recognized by the Province of Nova Scotia.

6. Education Meetings

(1) In this section, reference to education meetings means meetings of the Board dealing with education issues and in the exercise of the Board's education jurisdiction.

(2) Except as otherwise provided in this Law and in the Education Constitution, the rules governing Board meetings shall be as established in the laws and policies enacted by the Board.

(3) The Board shall hold at least one (1) regular meeting every **month during the school year** to deal with education issues.

(4) Education meetings shall be publicly advertised in a reasonable manner to permit members of the community to attend the meetings. Members of the community may address the education meeting if the agenda of the meeting makes provision for a public discussion. The member of the community must advise the chair in writing of the desire to have a matter discussed 48 hours before the meeting. The chair shall have the discretion whether or not to place the matter on the agenda.

(5) Education meetings are public; however, where the majority of members present are of the opinion that it is in the interests of the Board to hold a closed education meeting on any matter involving students, school personnel or the legal affairs of the Board, the Board may, by consensus or resolution, close the meeting to the public.

(6) The minutes of an education meeting held in accordance with this section shall contain the results only of any motion or resolution passed at the meeting and shall be read into the minutes of the next education meeting that is open to the public.

(7) The books, records and accounts of the Board with respect to education, including the budget and any audited statements, but not including personnel records or records or benefits of individual employees, shall be open to the inspection of any band member without fee at all reasonable times.

7. Conflicts of Interest

(1) When a member of the Board has a possible personal interest in any matter and is present at a meeting when that matter is being discussed, he or she must tell the other members about this interest and the nature of the possible conflict.

(a) The member may identify this as conflict of interest and remove himself or herself from the discussions and leave the room.

(b) If the member does not identify this as a conflict of interest and remove himself or herself from the discussions, another board member can, upon being identified as being in conflict of interest, the member must leave the room while the remaining members discuss the nature of the conflict and the circumstances of the case.

(c) The member may not vote on any conflict of interest matters pertaining to himself or herself.

(2) No member shall attempt to influence the vote of the other members, before, during or after the meeting either on the issue regarding if there is a conflict of interest or potential conflict of interest or on the main issue being discussed.

(3) If, as a result of a number of members being eligible to participate in a matter under discussion because of potential conflicts, the remaining members will constitute a quorum, provided it is not less than two (2).

8. Policies and Procedures (Band Operated Schools)

(1) The Board may, by consensus or by resolution of the members present at a meeting with respect to schools within its jurisdiction:

- (a) prescribe the time in session, holiday and vacations;
- (b) prescribe the minimum number of hours of instruction to which students in schools are entitled;

(c) exercise general supervision and control over the schools within the jurisdiction of the band and making such further rules with respect to school management as may be considered necessary for the effective and efficient operation of the schools;

- (d) approve administrative procedures pertaining to the internal organization, management and supervision of the schools within its jurisdiction;
- (e) provide and maintain school accommodations, equipment and facilities considered necessary and adequate for the educational programs and instructional services provided by the schools within its jurisdiction;
- (f) appoint and employ under written contract teachers for the schools within the Board's jurisdiction and such principals and other assistants as the Board considers necessary;
- (g) authorize and approve the courses of instruction which shall constitute the instructional program of each school within the Board's jurisdiction;
- (h) prescribe procedures with respect to the design, maintenance and supervision of school buildings within the Board's jurisdiction for the purpose of maintaining satisfactory standards of comfort, safety and sanitation for the students and other users of the schools;
- (i) define, regulate and control the uses, in addition to the regular school program, to which school buildings and other facilities within the jurisdiction of the Board, may be put during both school

9. Policies and Procedures

(1) The Board for purposes of governing education, may, by consensus or by resolution of the members present at a meeting:

- (a) administer and manage the educational affairs of the Board;
- (b) prescribe the reporting systems and forms for the administration and effective carrying out of this Law.
- (c) establish a policy respecting discipline of students;
- (d) establish a policy respecting students who have been suspended,
- (e) furnish transportation services for pupils to and from school that may be considered by the Board to be necessary to ensure access of students to, and regularity of attendance in schools;
- (f) employ such staff as considered necessary for the efficient management and execution of the policies, programs and business of the Board with respect to education;
- (g) keep a full and accurate record of the proceedings, transactions and financial affairs of the Board with respect to education;
- (h) appoint, no later than April 1st in each year, one or more persons or an incorporated company or partnership to audit the books and accounts of the Board with respect to education;
- (i) prepare or cause to be prepared such reports and returns concerning statistical data, budgetary information and reports respecting the operation of the education system as may be required from time to time, including an audit and annual report submitted to the Mi'kmaw Kina'matnewey in accordance with the terms of the Agreement with Canada and the Mi'kmaq Education

Act, S.C. 1998, C. 24;

- (j) keep in force a Policy of insurance for the purpose of indemnifying:
 - (i) the Board and its employees in respect of any claim for damages to property or other personal injury or death arising from any program, activity or service authorized or provided

by the Board or from any activity approved under this Law;

- (ii) teachers or other education employees employed by the Board in respect of any claim for damages arising from performance of duties and functions of teachers under this Law that are required or approved by the Board;

- (iii) the Board in respect of any claims for damages arising out of arrangements of the Board for the transportation of students to and from school or to and from other places for the purpose of engaging in activities authorized by the Board.

- (k) provide a school calendar for each school within its jurisdiction, specifying the number of school days and the total time of instruction for the school year;

- (l) provide for the negotiation and signing of tuition agreements with other school boards for the purpose of providing education off reserve where necessary;

- (m) establish policies and procedures regarding eligibility for post-secondary student support, and the manner in which applications will be made and eligibility determined;

- (n) Recommend a representative that will be appointed to sit on the local provincial school board;

- (o) establish such committees as may be required for the effective

administration of this Law, including a committee to hear disciplinary and attendance appeals, which committee may receive notice on behalf of the Board and act as the delegate of the Board in attendance matters under Section 3, and disciplinary matters under Section 15.

10. Student Records

(1) The Board shall establish and maintain written procedures regarding the storage, retrieval and appropriate use of student records and ensure confidentiality of the information contained in the student records, ensure privacy for students and their families, and provide for the secure retention of relevant educational records.

11. Agreements with Other Boards

(1) The Board may enter into an agreement, for the provision of developmental and cognitive learning services or instructional services, with another First Nation, a school board or an educational institution or school board in Canada.

12. Textbooks

(1) The Board shall make textbooks available free of charge to all students attending schools within its jurisdiction. The textbooks remain the property of the Board.

(2) The Board shall make regulations regarding the choice, use, supervision and preservation of works, manuals, textbooks and teaching materials.

(3) Each student shall take reasonable care of the books provided and return them at the end of the school year. If students fail to return the books, they will be required to pay all or part of the costs of those books.

13. Special Educational Needs

(1) The Board may offer special educational services for children who are unable, by reason of physical or mental disability, to benefit from the instructional program available through the regular classes or courses.

(2) The admission of children to special education services will be done after consultation with their parents, the teachers identified with those services and the staff concerned.

14. Mi'kmaq Language and Culture

(1) The languages of instruction in all schools operated by the Board are Mi'kmaq and English.

(2) The Board may by law or policy provide for the establishment of programs, the teaching of subjects and the use of teaching materials in Mi'kmaq and English based on Mi'kmaq culture.

(3) The Board may by law or policy establish training courses for teachers of Mi'kmaq and English allowing Mi'kmaq people to be qualified as elementary and secondary teachers and non-Mi'kmaq who are called upon to teach in schools of the Board to become familiar with Mi'kmaq culture, and the unique needs and abilities of the students. Such courses may be given at schools of the Board or at any other place determined by the Board.

15. Student Discipline

(1) The Board may develop a policy on discipline, which may lead to the eventual suspension of a student from school or from use of school transportation or facilities, following appropriate procedures respecting the culture and tradition of the community.

(2) When a student is suspended from school, from school facilities or from school transportation, the principal and other person in charge of the school shall immediately notify, in writing, the student, the student's teachers, the Board and the student's parents of the reasons for the suspension by delivering the notification to them, or by sending the notification by registered mail. The student will only be reinstated only after a home visit with the student's parents by a representative of the school.

16. Appeals

(1) In the event that a resolution cannot be reached between staff members or other decision making person or group and the individual or person affected by the decision, every effort shall be made to reach a compromise or, consensus in a traditional non-adversarial and non-confrontational manner and, where appropriate, with the agreement

of those involved, by using the assistance of members of the community to facilitate such a compromise.

(2) If a resolution cannot be reached, on issues including employment matters, post-secondary student support, or student discipline, then the matter may be referred to the Executive Committee or Appeals Committee of the Board or where no such Executive Committee or Appeals Committee exists, the matter may be referred to the Board to receive such appeals.

(3) The Executive Committee or Appeals Committee, or the Board may:

(a) make a final decision which shall be binding on all parties involved;

(b) refer the matter to the Appeals Circle for a recommendation, which may then be considered by the committee in making its final decision,
or

(c) refer the matter to the Appeals Circle for the final resolution by the Appeals Circle;

(4) The procedure used by the committee hearing the appeal shall be informal and non-adversarial.

(a) The committee hearing the appeal, or the Appeals Circle, shall have jurisdiction to hear all information it considers necessary and shall not be bound by the rules of evidence;

(b) The committee may conduct the inquiry in the manner in which it considers right considering the traditional methods of dispute resolution and problem solving.

17. Appeals Circle

(1) The Band Council of Chapel Island, in consultation with the Board, shall establish a Circle to resolve disputes involving education or schooling in the manner set out in this Law.

(2) The Circle shall be comprised of six members of the community, of any age, respected for their wisdom and integrity, which may include elders, parents, students, Band Councillors and community members, and chosen each year by the Band Council, in the manner determined by the Band Council.

(3) In any situation in which the Circle is required to assist in resolving a dispute, any three members of the Circle may sit as the Circle.

(4) Notice of an appeal of the Circle shall be sent to all members of the Circle.

(5) The members of the Circle shall receive no pay or remuneration of any kind for their services.

(6) The Band Council and the Board shall provide to the Circle such reasonable support services as may be required, including meeting space and secretarial services.

(7) If a member of the Circle has conducted himself or herself in a manner which calls into question, in the view of the community, that person's wisdom and integrity, the matter will be dealt with by the entire Appeals Circle.

18. Finance

The Chapel Island Band Council shall be responsible for the Potlotek Board of Education's finances by accessing, administering and reporting of activities relating to the requirements set by funding agencies.

The Chapel Island Band Council shall adopt a balanced budget for the coming fiscal year for the purpose of the Education Act and Constitution. The period of the fiscal year shall begin April 1 of each year and end on March 31 of the subsequent year.

The Chapel Island Band Council shall cause to be kept proper books of account with respect to:

- a) all sums of money received and expended by the Board and the matters in respect of which the receipts and expenditures takes place;
- b) all sales and purchases by the Board
- c) all assets and liabilities of the Board
- d) all other transactions affecting the financial position of the Board

Bank or trust accounts may be opened at any chartered bank, trust company or other financial institution. Withdrawals and any other transactions involving the Board's bank or trust accounts requiring signature must be signed by at least two of the persons designated by the Board as signing officers for the Board's accounts

The Chapel Island Band Council shall provide the Potlotek Board of Education a monthly financial report and supporting documents in order for the Board to efficiently allocate the expenditures based on the funding formula provided by Mi'kmaw Kina'matnewey and any other sources of funding. A copy of the quarterly reports and yearly audit reports shall be provided to the Potlotek Board of Education.

The Chapel Island Band Council shall cause to be made available for inspection by members of the community, upon reasonable notice, copies of books, records and accounts relating to the finances of the Potlotek Board of Education.

The books, records and accounts shall be audited annually by the auditor of the Chapel Island First Nation. All matters concerning this annual audit shall be determined by the Band Council of the Chapel Island First Nation, in its sole discretion.