

Master Education Agreement: Education Services Agreement Guidelines

DRAFT

Note: These guidelines are being presented in draft form to the participants at the Niigaan Gdizhaami – We are Moving Forward Together Forum on February 27th and 28th, 2018. The guidelines will be finalized and approved by the Kinoomaadziwin Education Body and the Ministry of Education for distribution and use by the Anishinabek First Nations and the School Boards before June 2018.

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Part 1: Introduction and Purpose

1.1 Introduction

On August 16, 2017, 23 Anishinabek First Nations signed the Anishinabek Nation Education Agreement (ANEA) with Canada. The ANEA formally establishes the Anishinabek Education System (AES). This Agreement recognizes Anishinabek control over education on-reserve from Junior Kindergarten to Grade 12 in the First Nations in Ontario that signed the Agreement. Federal legislation was introduced, passed and received royal assent in December 2017 giving effect to the ANEA.

The ANEA recognizes a three-level education structure for the AES:

- Local Education Authorities (LEAs) responsible for the delivery of education services,
- Regional Education Councils (RECs) provide a forum to support the coordination and delivery of education on-reserve and relationships with adjacent School Boards, and
- The Kinoomaadziwin Education Body (KEB) as a central education body for the AES responsible for the distribution of transfer payments from Canada, establishing policies and guidelines for the operations of the AES, and acting as the central liaison with Ontario through the Ministry of Education.

The AES will come into effect as an operational system on April 1, 2018.

Ontario is not a party to the ANEA. The 23 Anishinabek First Nations and Ontario negotiated a complementary agreement, the Master Education Agreement (MEA), which was signed concurrently with the ANEA on August 16, 2017.

The MEA is based on a shared vision that establishes a new relationship between the Anishinabek First Nations and Ontario that supports Anishinabek student success and well-being in the AES and Provincially-Funded Education System.

The definitions in the MEA apply to these guidelines, unless otherwise stated.

The objectives of the MEA are to:

- (a) realize the shared vision for student success and well-being that addresses physical, mental, emotional, and spiritual well-being;
- (b) enhance the collaboration among the Anishinabek First Nations, the Kinoomaadziwin Education Body, Ontario and School Boards;
- (c) enhance opportunities for the engagement and participation of students, families, and communities to support student success and well-being;
- (d) increase knowledge and understanding Bimaadziwin, Kendaaswin, and Anishinaabe languages in the Anishinabek First Nations' schools and provincially-funded schools;
- (e) facilitate the transition of students between the Anishinabek First Nations' schools and provincially-funded schools; and,
- (f) establish a process to collaborate on and monitor the ongoing alignment of standards between the Anishinabek First Nations' schools and the Provincially-Funded Education System.

Under the AES, Anishinabek students will continue to attend provincially funded schools through Education Services Agreements (ESAs).

The Parties have agreed to develop ESA guidelines to facilitate the collaborative development of ESAs between AES First Nations and School Boards.

It is expected that beginning in the 2018-2019 school year, ESAs between AES First Nations and School boards will reflect these guidelines and the shared vision expressed in the MEA.

Any changes to the Ontario *Education Act* and its regulations in relation to ESAs may require amendments to these guidelines.

1.2 Purpose of these Guidelines

The philosophy behind these guidelines is that an ESA should encompass an education partnership between an AES First Nation and a School Board that supports Anishinabek student success and well-being. The ESA should be student-focussed.

An ESA provides an opportunity for the AES First Nation and School Board to describe their relationship and express in writing their shared vision of how the parties will work together to support learners.

These guidelines set out the scope, activities and processes that AES First Nations and School Boards should consider in developing ESAs that reflect the commitments made through the MEA.

These guidelines do not include Reverse Education Services Agreements that cover students who reside off-reserve and attend school on-reserve. Guidelines for Reverse Education Services Agreements will be issued at a future date.

First Nation Trustees are an important point of contact between First Nations and School Boards. The requirement for First Nation Trustees is set out in Ontario Regulation 462/97, "First Nations Representation on Boards", not ESAs. For further information, attached to these guidelines as Appendix 1 is a summary of the role of First Nation Trustees.

Part 2: Objectives of the ESAs

2.1 The objectives of the ESAs are to:

- (a)** create student focussed arrangements that support Anishinabek student success including their physical, mental, emotional and spiritual well-being;
- (b)** recognize that AES First Nations are self-governing for the purposes of education;
- (c)** enhance opportunities for the engagement and participation of students, families and communities to support Anishinabek student success and well-being;
- (d)** establish an education partnership between the AES First Nation and School Board;
- (e)** foster mutual respect and commitment to ongoing and meaningful communication and dialogue between the AES First Nation and School Board on Anishinabek student success and well-being; and
- (f)** set out the funding arrangements for students who ordinarily reside on-reserve to attend provincially-funded schools off-reserve.

Part 3: Roles and Responsibilities of the AES and Provincially-Funded Education System Structures

- 3.1** The AES is established by the AES First Nations under First Nation education laws to support the First Nations in the delivery of education programs and services to Students residing on-reserve for JK to Grade 12 and in the delivery of the Post-Secondary Student Support Program. The AES includes the AES First Nations, the LEAs the RECs and the KEB. The responsibilities of the Anishinabek education structures are described in sections 5.2 to 5.14 of the MEA.
- 3.2** The Provincially-Funded Education System is a decentralized system under provincial legislation that delivers education in the Province of Ontario for JK to Grade 12. The Provincially-Funded Education System includes the Government of Ontario, as represented by the Minister of Education, and School Boards. Some of the responsibilities of the Ministry of Education and School Boards are described in sections 5.15 to 5.20 of the MEA.

Part 4: Collaborative Development of ESAs

4.1 The Principles

- (a)** The goal of an ESA is to set out education services and supports that promote success and physical, mental, emotional and spiritual well-being of Anishinabek students. It is recommended that ESAs be developed in the spirit of reconciliation as collaboratively co-created agreements based on a process of dialogue, open communication, good faith and mutual respect.
- (b)** An ESA should express an ongoing commitment to a collaborative process of negotiation, implementation, review and re-negotiation.
- (c)** The ESA with an AES First Nation should not reference the *Indian Act* because the *Indian Act* provisions for education no longer apply to the AES First Nation under the ANEA.

4.2 The Parties

- (a)** The parties to the ESA are the AES First Nation and the School Board.

- (b) Each party should select representatives to participate in the ESA development and negotiation process. For example:
 - i. Representatives from School Boards may include: Directors, designated Supervisory Officer, Business Supervisory Officers / finance representatives, and Indigenous Education Leads.
 - ii. Representatives from the AES First Nation may include: Education Director or Manager, finance representative, council representative, education committee representative, and AES REC representatives.
- (c) The AES First Nation and School Board may invite additional representatives as required and agreed to.

4.3 Processes and Timelines

- (a) It is recommended that the parties jointly develop a process to guide the discussion and negotiation of the ESA and associated timelines.
- (b) Recognizing that the ESAs are legal documents, it is the responsibility of each Party to determine when to seek legal advice.
- (c) Each Party will follow their own approval process, with identified timelines.

Part 5: Funding for AES Students Attending Public Schools Under ESAs

- 5.1 The AES First Nations receive education funding from the Government of Canada under negotiated funding arrangements to support the delivery of education programs and services. This is a source of funding for programs and services provided through an ESA.
- 5.2 The province provides funding to School Boards through the annual Grant for Student Needs (the GSN) to support funding for the classroom, school leadership and operations, specific student-related priorities and local management by School Boards. School Boards are allocated funding based on regulations set out in the *Education Act* (O. Reg. 252/17: Grants for Student Needs. - Legislative Grants for the 2017-18 School Board Fiscal Year).

Part 6: Components of Education Services Agreements

6.1 The following are suggested components of an ESA. To facilitate discussions on these components in the negotiation of an ESA, conversation starter questions are included with the description of the components.

6.2 Preamble

(a) The purpose of the preamble is to set out fundamental understandings of the parties to the ESA.

(b) The following are suggestions for inclusion in a preamble:

- i.** recognition of AES First Nation law making authority over education on-reserve;
- ii.** acknowledgement that the AES First Nations and Ontario have entered into a MEA to enhance collaboration between AES First Nations and School Boards;
- iii.** acknowledgement of the roles and responsibility of the AES;
- iv.** acknowledgement of the roles and responsibility of the Provincially-Funded Education System; and
- v.** a commitment to collaboration and partnership between the AES First Nation and School Board to support student success and well-being.

6.3 Definitions and Interpretation

(a) The purpose of a section on definitions and interpretation is to ensure that there is clarity and consistency in the meaning and use of important terms in the ESA. The parties may consider referring to the MEA on definitions of terms and on interpretation.

(b) consider including:

- i.** mutually agreed to definitions for key terms; and
- ii.** an interpretation section of the ESA.

6.4 Objectives of the ESA

- (a)** see Part 2 above.

6.5 Communication

- (a)** It is recommended that the parties include a communication protocol to support the implementation of the ESA, that would address communication between:

- i.** the AES First Nation and School Board;
- ii.** the AES First Nation and the school within the School Board which the AES Students attend; and
- iii.** the AES First Nation families and School Board.

- (b)** It is recommended that the protocol identify the lead contact person for the AES First Nation and School Board.
- (c)** The lead contact person would direct inquiries to appropriate persons within the respective AES First Nation or School Board.
- (d)** It is recommended that the protocol requires that the terms of the ESA are shared by the School Board with other key persons, such as other supervisory officers, system staff and principals in the schools attended by the AES Students to facilitate the delivery of services described in the ESA.
- (e)** The protocol could include requirements for informing each Party of staff changes and new initiatives, timing of communication, ensuring appropriate information is shared with the appropriate parties, and confidentiality requirements are met.

6.6 Student, Parent, Caregiver, Family and Community Engagement

A goal of the MEA is to promote opportunities for student, parent, caregiver, family and community involvement with School Boards, school councils, parent involvement committees, and advisory bodies. Dialogue and engagement can foster common understanding, identify mutually agreed upon goals, and establish a commitment for shared accountability for results.

Conversation starters:

1. How will AES First Nation and School Board ensure that students, parents, caregivers, families and communities are engaged in the school environment?
2. How will the AES First Nation reach out to School Board to share and encourage staff and student participation in First Nation community events and/or learning opportunities?

6.7 School Environment

A safe and welcoming school environment and appropriate cultural supports are essential elements in a student's transition to the off-reserve school environment, and their navigation, success and well-being in that environment. This section of the ESA could set out how these objectives would be achieved.

Conversation starters:

1. How will the AES First Nation, families, students, and communities have a voice in the development of a safe and inclusive educational environment?
2. What will the School Board do to ensure the school environment is safe and welcoming to Anishinabek students?
3. How are appropriate First Nation territorial/treaty acknowledgement protocols determined?
4. How are AES First Nation designated spaces/presence identified? For example: space for staff, elders, smudging, community members, and cultural teachings.
5. What is the process for the AES First Nation to access board/school facilities for community use of schools?

6.8 Student Programs and Services

The MEA encourages AES First Nations and School Boards to work together to align student programs and services focusing on student success and well-being. Student programs and services may include, but should not be limited to the following areas that are set out below. It is recommended that the ESA describe the programs and services to be provided to Anishinabek students. Starter questions are included for each area to facilitate the identification of agreed-upon programs and services.

(a) Student well-being

Conversation starters:

1. How will the richness of the community culture and the value of the gifts that students bring to the school be included in the fabric of the school community?
2. How will the parties collaborate to provide supports and services to ensure the physical, mental, emotional, and spiritual well-being for students?
3. What measures or assessment tools will be used to determine Anishinabek student well-being?
4. What reporting mechanisms will be established to share or communicate information on Anishinabek student well-being?
5. How will Anishinabek students be engaged to communicate their needs to address their physical, mental, emotional and spiritual well-being?

(b) Extra-curricular activities

Conversation starters:

1. How will the parties engage and support Anishinabek students to participate in all aspects of student life?
2. How will the parties support equitable access to extra-curricular activities?
3. How will the barriers to participation in extra-curricular activities be addressed? For example, fees/costs for participation, transportation, among other things.

(c) Special Education

Conversation starters:

1. What is the AES First Nation process for providing input on the development of the School Board's special education plan for all students?
2. How will the parties support AES First Nation representation on the Special Education Advisory Committee (SEAC)?
3. How are the objectives of the ESA informing the work of the SEAC and vice versa?
4. How will provincially-funded schools communicate and address special education needs for Anishinabek students with the AES First Nation and School Board?
5. How will the AES First Nation communicate and address special education needs for Anishinabek students within the AES First Nation and School Board?
6. Regarding individual student needs:
 - a. How is the AES First Nation involved in the initial stages of the referral process connected to Anishinabek students

- requiring/receiving special education support services?
- b. How is the AES First Nation involved in assessment and identification of special education needs?
- c. How is the AES First Nation involved in determining special education programs and services to address the identified needs?
- d. How will the decisions for additional special education services and/or additional costs be addressed?
- e. How do Anishinabek students access special education and health support services?
- f. What transition planning and protocols are required to address special education needs as Anishinabek students transition from First Nation schools to off-reserve schools?

(d) Extended day programs

Conversation starters:

1. This is an additional cost outside of tuition? If available, will extended day programming be part of the ESA?

(e) Locally relevant curriculum and resources

Conversation starters:

1. How will the AES First Nation and the School Board participate in the development of and support access to locally-developed and interdisciplinary curriculum?
2. How will the parties collaborate to ensure the use of locally-developed curriculum and resources that are relevant to the education of Anishinabek students?
3. How will students and staff from the School Board utilize land-based learning opportunities with the AES First Nation?
4. How might other students benefit from access to locally-developed curriculum and resources?

6.9 Resource People

The MEA is intended to promote access to Anishinabek education resources. In this regard, the AES will provide a list of resources, including experts in Anishinabek culture, language, education and governance. The protocol for engaging and compensating Elders and cultural resource people is an important to address in an ESA.

Conversation starters:

1. The expectation of the AES First Nation is that Elders and/or other cultural resource people will be cared for. Knowledge and wisdom are honoured through an honoraria and gift. How will appropriate honoraria and gifts be determined?

2. How will the School Board ensure that it is working with recognized Elders and/or other cultural resource people?
3. What is the process to identify areas of expertise held by Elders and/or other cultural resource people?

6.10 Shared Education Resources

Sharing curriculum and other education resources provides an opportunity to enhance the education and learning experience of all students.

Conversation starters:

1. What resources do the AES First Nation and the School Board have that could be shared? For example: curriculum materials, space, people, and other programs and services in the First Nation.
2. What is the process for accessing resources?
3. How will the costs of sharing resources be addressed?
4. How will the parties be respectful of intellectual property rights?

6.11 Professional Development and Teacher/Paraprofessional Support

The MEA highlights the foundational role that professional and leadership development at all levels can play in student success and school effectiveness. The ESA provides an opportunity to facilitate the sharing of knowledge, expertise and tools through professional development and leadership initiatives.

Conversation starters:

1. Are there professional development, cultural celebrations, or training opportunities where teachers/paraprofessionals from both systems can participate?
2. How will these opportunities be communicated?
3. How will costs be addressed?
4. How will joint professional and leadership development opportunities be planned, communicated, and implemented?
5. Is there a process for teachers/paraprofessionals to access community/cultural support?

6.12 Cultural Protocols

Cultural protocols express standards, codes and practices that reflect a community's culture, history, traditions and ways of knowing. Recognizing and following First Nation cultural protocols is foundational to a respectful relationship that fosters mutual understanding and collaboration. ESAs should address how cultural protocols will be respected and implemented within the school environment and School Board practices.

Conversation starters:

1. How are educators and staff being made aware of the cultural protocols of the AES First Nation communities in their district?
2. How are cultural protocols being embedded in the fabric of School Board practices?
3. How are cultural protocols being communicated to and used by students, teachers and administrators?
4. Who is recognized and consulted in relation to cultural protocols?

6.13 Anishnaabemowin language and culture programs

The MEA includes a commitment to support the advancement of Bimaadziwin and Kendaaswin in learning environments and promote access to Anishinabemowin language and cultural programs in School Boards.

Conversation starters:

1. What process will the AES First Nation and School Board consider in order to accommodate student access and continuity in language programs?
2. How are Anishnaabemowin courses and Indigenous studies being promoted within the board?
3. How are Anishinabek histories, cultures and traditions being imbedded in the curriculum from kindergarten to grade 12?
4. How will the School Board:
 - (a) promote access to Anishinabemowin language classes for students attending their schools; and
 - (b) ensure they contract or engage Anishinabemowin teachers that are recognized by the AES?

6.14 Student Transitions

An objective of the MEA is to establish protocols and support arrangements to facilitate student transitions between and into AES First Nation schools and schools in the provincially-funded education system.

Conversation starters:

1. How is the AES First Nation and School Board working collaboratively to develop transition plans for students coming from: early years programs, elementary school, First Nations schools, School Board feeder schools, or transitioning between schools?
2. How will the parties ensure the timely transition of complete and accurate student records?
3. What processes are in place to ensure AES First Nation participation in

school accommodation reviews and school operations? For example: changes in school day hours and bussing.

4. How is the AES First Nation and School Board promoting parent, guardian, caregiver and community support for student transitions?
5. How is the AES First Nation and School Board promoting teacher, principal and school administrators support for student transitions?

6.15 Personnel Provided by the First Nation

In some circumstances, AES First Nations will pay for support workers to provide additional academic and other support to their students attending a provincially-funded school. An ESA should address how these personnel will be supported and supervised within the school environment.

Conversation starters:

1. What considerations are undertaken to accommodate First Nation support staff to work with AES First Nation students in School Board schools? (orientation, roles and responsibilities, inclusion in school community life)
2. Who will oversee the AES First Nation support staff?
3. Who will manage the day-to-day supervision of the AES First Nation support staff?
4. What is the employment relationship among the AES First Nation support staff, the AES First Nation and the School Board?
5. What are the financial arrangements and human resource implications in relation to personnel provided by AES First Nations?

6.16 Committees

As part of the engagement process, the ESA may include provisions related to AES First Nation participation in School Board and school committees.

Conversation starters:

1. How is the First Nation engaged with School Board committees? For example: First Nations Advisory Council, Special Education Advisory Council, and Indigenous Education Advisory Committee.
2. How is information from School Board committee meetings communicated to the AES First Nation and its families?
3. How will School Board committee meetings be accessible? (For example: google hangout, video link, adobe connect, face to face)
4. How is the AES First Nation engaged with school committees? For example, school councils and student councils.
5. How is information from school committee meetings communicated to the AES First Nation and its families?

6.17 Transportation

An ESA will need to address the safe transportation of Anishinabek students to and from school off-reserves and transportation related to extracurricular activities.

Conversation starters:

1. What transportation needs do we need to address?
2. How can the AES First Nation and School Board collaborate on transportation planning to maximize efficiency for the First Nation, School Board and students?

6.18 Calculation and Application of Fees

An ESA should address the calculation and application of fees.

Conversation starters:

1. What are the applicable fees?
2. What services are covered under the fee regulation (O. Reg. 253/17)?
3. What additional services are being provided?
4. What are the fees for these services?

6.19 Administration of fees

The ESA should set out processes and procedures for the efficient administration of fees and reconciliation of payments.

Conversation starters:

1. How are invoicing procedures determined?
2. How are services and fees described in the invoice?
3. What is the impact of strikes or work-to-rule days on School Board invoicing to the AES First Nation?
4. How are year-end reconciliations reviewed and agreed to?

6.20 Reporting and accountability of the ESA

It is recommended that the parties to an ESA consider processes for reporting on results related to student success and well-being as well as their relationship. Some of the elements to be reported upon could include student programs and services, student achievement, and communications.

A key step in establishing an effective reporting and accountability process is to agree upon indicators and measures that will be used to assess progress and results. It is important that these processes support ongoing monitoring and continuous improvement.

The parties will also need to consider how they share data and the timeframes for reporting results.

Conversation starters:

1. How will the AES First Nation and School Board measure, monitor and report on the successful implementation of the ESA?
2. What information does the School Board publicly report on the ESA?
3. What information does the AES First Nation publically report on the ESA?
4. How will the parties determine protocol for approvals of research and public reporting?
5. Will the parties share the ESA or information related to the ESA to support third party research?
6. Will the AES First Nation and School Board publicly share information on Anishinabek student success and well-being?

6.21 Access to live Data and Information

The MEA requires the AES and EDU to maintain a Data and Information Sharing Agreement. The Data and Information Sharing Agreement addresses the collection, storage, access and sharing of data and information between the AES and EDU. It does not address data or information sharing between the AES First Nation and School Board.

Access to live data and information is negotiated into some ESAs, but not all ESAs. There is no requirement to address this topic in an ESA. AES First Nations and School Boards may negotiate separate agreements access to live data and information.

Some AES First Nations and School Boards do address the real time sharing of data related to student attendance and other information in their ESAs. Therefore, this topic is included in the ESA guidelines.

Conversation starters:

1. What information does the AES First Nation and School Board wish to share and what is the purpose for sharing the information?
2. What consents are required to share that information?
3. What process is in place to ensure the collection of appropriate parental consents to facilitate information sharing between the First Nation and School Board?
4. Who will be authorized to access that information?
5. How will the confidentiality of personal information related to Students be protected?

6.22 Process for dispute resolution

It is recommended that the AES First Nation and School Board include a dispute resolution process in the ESA.

Conversation starters:

1. Consider language such as: use best efforts to prevent or minimize disputes, provide notice in writing to appropriate individuals, and establish timelines for dispute resolution (see example of dispute resolution process in the MEA)
2. What are the steps in our dispute resolution process? For example, collaborative meeting, mediation and arbitration.

6.23 Process for amending, renegotiating, and termination of the ESA

The ESA should include a process for amending, renegotiating, and termination of the ESA. The parties will need to determine the length of the term of an ESA and the timeframe for renegotiation. The parties should seek legal advice in developing these provisions.

When considering amending, renegotiating and terminating an ESA, the parties should consider the impact on students, families and communities.

Conversation starters:

1. What is the term of the ESA?
2. What is the process for amending the ESA?
3. What is the timeframe and process for renegotiating the ESA?
4. On what basis and how may the ESA be terminated?

Appendix 1 – First Nation Trustees

Ontario Regulation 462/97 (First Nations Representation on Boards), made under section 188(5) of the *Education Act*, provides that a board may appoint First Nation Trustees to the board where a First Nation or First Nations have ESAs with that board.

The regulation sets out the conditions governing the number of First Nation Trustees and how the Trustees are appointed. Where the number of First Nation students enrolled in the schools of the board is:

- fewer than the lesser of 10 per cent of the average daily enrolment and 100, one First Nation Trustee may be appointed by the board;
- more than 100, the First Nation(s) may name one person and the Board shall appoint that person to be a member of the board;
- where the number of First Nation students exceeds 25 per cent of the average daily enrolment of the Board, the First Nation(s) may name two persons and the board shall appoint those persons to be members of the board.

A person appointed to the board as a First Nation Trustee is deemed to be an elected member of the board, with all the rights and responsibilities of the other trustees of the board.

The First Nation Trustee represents the interests of the students attending school under the ESA(s). The First Nation Trustee is in a unique position to ensure that First Nation culture is part of the board vision and that the strategic direction of the board includes the interests of First Nations.

The First Nation Trustee also has a key role in representing the interests of the First Nation communities at the School Board level and ensuring that there is dialogue with the First Nation communities about the work of the board and, in particular, matters affecting First Nation students. The First Nation Trustee is also in a position to encourage the involvement of the parents and the First Nations communities in their students' education.