

**2019: B18**

**MEMORANDUM TO:** Directors of Education  
Senior Business Officials  
Secretary/Treasurers of School Authorities

**FROM:** Nancy Naylor  
Deputy Minister  
Ministry of Education

**DATE:** **August 9, 2019**

**SUBJECT:** ***The Reciprocal Education Approach (REA)***

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I am pleased to share that the ministry is targeting the implementation of the Reciprocal Education Approach (REA) for the beginning of the 2019-2020 school year. This achievement will remove barriers for First Nation students' access to education. I wish to thank all members of the working group for their dedication and collaboration.

As you know, the *Education Act* was amended in 2018 to set out the legislative framework for the REA. This framework will govern access to education for First Nation students residing on-reserve who wish to attend a school of a school board and those students residing off-reserve who wish to attend a First Nation-operated or federally operated school. The REA is a new approach that seeks to support First Nation students in achieving greater access to education and strengthen a parent or guardian's choice when selecting the type of education that best meets their child's needs. These amendments and regulatory changes will come into effect on September 1, 2019. Under the REA, and when specific requirements are met, school boards will be required to take a student first approach by:

- Admitting eligible students who wish to attend a school of a school board; and
- Supporting eligible students who wish to attend a First Nation-operated or federally-operated school, subject to that school's admission policies.

The purpose of this memo is to provide information to help ensure boards understand and comply with the legislation and related regulations once they are effective.

## A. Key Components for the Implementation of the REA

Key Components for the Implementation of REA	Eligible students attending a school of a school board – formerly ESA	Eligible students attending a First Nation-operated or federally operated school – formerly RESA
<b>1. WHO MAY PARTICIPATE</b>		
Schools which may participate	<ul style="list-style-type: none"> <li>• Schools of a board that offer day school programming.</li> </ul>	<ul style="list-style-type: none"> <li>• A school must be operated by a band, a council of a band, the Crown in right of Canada, or an education authority that is authorized by a band, a council of a band, or the Crown in right of Canada to be eligible under the REA.</li> <li>• School boards will be required to verify that the school is eligible under the REA.</li> <li>• Eligible schools will be listed publicly on the ministry’s website.</li> <li>• If the board is not able to verify that the school is an eligible First Nation-operated or federally operated school under the REA, the school board must verify the school’s eligibility with the Ministry of Education.</li> <li>• More information about school eligibility for REA will be provided in the coming weeks.</li> </ul>
Eligible students	<ul style="list-style-type: none"> <li>• Students who are eligible to attend a school of a school board under the REA are students who:               <ul style="list-style-type: none"> <li>○ Are eligible to receive funding from a band, a council of a band, the Crown in right of Canada, or an education authority that is authorized by the Crown in right of Canada; and</li> <li>○ Ordinarily reside on a reserve.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Students who are eligible to attend a First Nation-operated or federally operated school under the REA are students who are:               <ul style="list-style-type: none"> <li>○ Registered as a pupil of the board; or</li> <li>○ Students who are under the age of 21 and a resident of Ontario, provided that person does not fall into one of the exceptions that will be listed in regulation.</li> </ul> </li> <li>• School boards are required to verify that the student for whom a written notice is received, falls into one of the two categories set out above by verifying that the student satisfies the criteria</li> </ul>

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		to be recorded as a pupil of the board as set out under the <i>Education Act</i> .
<b>2. ADMISSION OF STUDENTS</b>		
School board requirements	<ul style="list-style-type: none"> <li>School boards will be required to admit eligible students to a school of a school board when specific requirements are met.</li> </ul>	<ul style="list-style-type: none"> <li>School boards will be required to provide funding to First Nation-operated or federally operated schools in respect of students that are eligible to receive provincial funding under the REA.</li> </ul>
Written notice process	<ul style="list-style-type: none"> <li>The school board’s obligation will be triggered when the written notice is provided to the school board or one of its schools.</li> <li>Written notice must be provided by both the eligible entity<sup>1</sup> (as specified under the <i>Education Act</i>) and the parent, guardian<sup>2</sup>, or the student themselves<sup>3</sup>.</li> <li>School boards must ensure that all the required fields in the written notice forms have been completed.</li> <li>School boards are expected to retain a copy of the written notice form on file for auditing purposes and to support the school board’s invoicing process to the First Nation.</li> <li>This is the phase at which school boards will be expected to verify the eligibility of the student, school, and entity as applicable (see above for eligibility requirements).</li> <li>Please refer to <i>Appendix A</i> for an example of the written notice form.</li> </ul> <p><b>Note:</b> an agreement between a school board and the First Nation entity will no longer be required to ensure that the base fee is charged and paid for eligible students. Admission should not be delayed if the parties are negotiating amounts in addition to the base fee (see <i>Section B</i> for additional information).</p>	
<b>3. INVOICING AND PAYMENT PROCESS</b>		
Prescribed fees charged or paid to the First Nation entity	<ul style="list-style-type: none"> <li>The base fee, which the school board will be required to charge or pay the First Nation entity, would be prescribed in a new regulation, tentatively titled “<i>Calculation of Fees for Pupils for the 2019-20 School Board Fiscal Year</i>” (hereinafter referred to as the fees</li> </ul>	

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<sup>1</sup> Eligible entities include: a band, a council of a band, an education authority that is authorized by a band or council of a band, an education authority that is authorized by the Crown in Right of Canada, or the Crown in Right of Canada.  
<sup>2</sup> Guardian” in this context means a person defined in section 18 of the *Education Act*. This is either a legal guardian (other than a parent), or anyone who has received into their care or residence, a person of compulsory school age.  
<sup>3</sup> The student may provide written notice if they are 16 or 17 and withdrawn from parental control or 18 years of age or older.

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	<p>regulation).</p> <ul style="list-style-type: none"> <li>○ The base fee is derived from the Grants for Student Needs (GSN) and therefore will be unique to each school board. The fee calculated in the fees regulation for each board will be the same fee that is charged or paid to the First Nation entity.</li> <li>○ The REA ensures that the negotiation of an agreement will no longer be a barrier for eligible students to start attending school at the school board or a First Nation-operated or federally operated school.</li> <li>● The parties may negotiate an agreement for specific additional services and supports not included in the base fee as outlined in <i>Section B</i> of this memo.</li> </ul>	
Required documentation to support fees charged or paid to the First Nation entity	<ul style="list-style-type: none"> <li>● Both parties will be required to provide a list of students (hereinafter referred to as the student tracking list) attending either a First Nation/federally operated school or school of a school board under the REA as documentation to support the fees payable to either party.</li> <li>● The student tracking list will require the following information: <ul style="list-style-type: none"> <li>○ The student’s name;</li> <li>○ Ontario Education Number (OEN);</li> <li>○ Full-time equivalency status based on the student’s scheduled time for day school programming (i.e., full-time or part-time); and</li> <li>○ The name of the school the student is attending.</li> </ul> </li> <li>● Both parties will be required to provide this student tracking list to the party in which the fee is payable following the two count dates in each school year (October 31 and March 31). Further details about the process will be released in the coming weeks.</li> <li>● In addition to the student tracking list, both parties will be required to provide an attestation confirming that it accurately reflects the active pupils at the time of the count date.</li> <li>● Both parties are encouraged to also provide student timetables as part of the verification process.</li> </ul>	
Documentation supporting student enrolment	<ul style="list-style-type: none"> <li>● School boards will continue to be required to report eligible students attending a school of a school board under the REA on the enrolment register as “Other Pupils” in accordance with the <a href="#">Enrolment Register Instructions for Elementary and Secondary Schools</a>.</li> </ul>	<ul style="list-style-type: none"> <li>● In order to receive funding, boards will be required to submit a Student Information Report (hereinafter referred to as the report) documenting pupils of the board who are attending First Nation-operated or federally operated schools using the Secure Online Data Transfer system. A template for this report is attached to this memo as <i>Appendix B</i>.</li> <li>● This report will serve as the register for pupils of the board</li> </ul>

Key Components for the Implementation of REA	Eligible students attending a school of a school board – formerly ESA	Eligible students attending a First Nation-operated or federally operated school – formerly RESA
		<p>attending a First Nation-operated or federally operated school for the 2019-20 school year. Boards will require the written notice for each student and the student tracking lists provided by the First Nation entity or eligible school following each count date to complete this report.</p> <ul style="list-style-type: none"> <li>• Students included on the report must be removed from the enrolment register for funding purposes.</li> <li>• The report must be submitted to the ministry for funding purposes following both count dates during the school year. Further details about the process will be released in the coming weeks.</li> <li>• The ministry will review the submission and provide funding to the school board for the eligible students attending a First Nation-operated or federally operated school under the REA, in accordance with the amount generated under the fees regulation.</li> </ul>
<b>4. TRANSITIONS OF CURRENT AGREEMENTS</b>		
Transition of current Education Service Agreements (ESAs) and Reverse Education Service Agreements (RESAs)	<ul style="list-style-type: none"> <li>• The regulation will provide that all ESAs and RESAs that were entered into before September 1, 2019, may remain in effect unless the agreement is terminated before it expires.</li> <li>• Agreements will be subject to the condition that the base fee, as described above, applies.</li> </ul>	

**B. Additional services and supports**

Fees for additional services and supports charged to the First Nation entity (ESA context):

- School boards may negotiate an agreement with the First Nation entity for specific additional services and supports above the base fee where an eligible student is attending a school of a school board. A board may only charge a First Nation entity for any services and supports that are listed in the regulation, which are:
  - Additional special education staffing required to support the health or safety of a student (similar to staffing that would be eligible for Special Incidence Portion (SIP) claims submitted to the Ministry of Education);
  - Special education equipment required to support a student (similar to equipment needs that would be eligible for Special Equipment Amount (SEA) claims submitted to the Ministry of Education);
  - Transportation services provided to the student; and,
  - Indigenous languages course or Indigenous studies course, if the course is not offered at the school of the school board to which the student would be admitted.
  
- These additional charges may only be invoiced to the First Nation entity if the school board and First Nation entity enter into an agreement that sets out the additional fees to be paid. The regulation also would require that any agreements must include the following terms:
  - If there is an agreement for the First Nation to pay for special education staffing to support the health and safety of a student, the amount shall not exceed the amount that the board is entitled to receive under SIP from the Ministry of Education under the GSN grant regulation.
  - If there is an agreement for the First Nation to pay for the purchase of special education equipment, the deductible per claim, will be an amount of \$800, or less, similar to SEA claims that would be eligible for submission to the Ministry of Education under the GSN grant regulation.
  
- School boards are required to admit eligible students (when the specified requirements are met) and admission should not be delayed as the parties are negotiating an agreement for additional services and supports. For further information regarding the admission of students, please refer to Section A under “Admission of Students”.

**Fees for additional services and supports paid to the First Nation entity (RESA context):**

- School boards may provide additional funding to First Nation entities in addition to the base fee to support a student attending an eligible First Nation-operated school or federally operated school under the REA. These additional funds may only be provided if the school board and First Nation enter into an agreement that sets out the additional funds to be paid. The regulation would require that any such agreements include the following terms:
  - If there is an agreement for the school board to pay for special education staffing to support the health and safety of a student, the amount shall not exceed the amount that the board is entitled to receive under SIP from the Ministry of Education under the GSN grant regulation.

- If there is an agreement for the school board to pay for the purchase of special education equipment, the deductible per claim, will be an amount of \$800, or less, similar to SEA claims that would be eligible for submission to the Ministry of Education under the GSN grant regulation.

### C. First Nation Trustees

- Under the *Education Act*, and as outlined in O. Reg. 462/97 - First Nation Representation on Boards, students attending schools of a school board may be entitled to representation by a First Nation trustee.
- Technical amendments to the regulation, which would come into effect on September 1, 2019, would ensure that students attending a school of a board could continue to be represented by a First Nation trustee, whether they are attending under an Education Services Agreement, or under the REA.
- Please note, the thresholds for First Nation trustee appointments remain unchanged.
- For more information, boards and First Nations should refer to O. Reg. 462/97 – First Nation Representation on Boards.

### D. NOTICE

Some of the elements and proposals set out in this memo can only take effect if certain regulations are made by the Minister of Education or Lieutenant Governor in Council under the *Education Act*. Such regulations have not yet been made. Therefore, the content of this memo should be considered to be subject to such regulations, if and when made.

### E. INFORMATION RESOURCES

- Additional information to support the implementation of REA, including the process for negotiating additional services and supports, will be provided in the coming weeks.

If you require further information, please contact:

Subject	Contact	Email
Written notice Eligible entities Eligible schools Student eligibility Additional services and supports Transitions of ESAs and RESAs to REA	Taunya Paquette	<a href="mailto:Taunya.paquette@ontario.ca">Taunya.paquette@ontario.ca</a>
First Nation Trustees	Bruce Drewett	<a href="mailto:Bruce.drewett@ontario.ca">Bruce.drewett@ontario.ca</a>
Base Fee Calculation Process of Payments	Paul Duffy	<a href="mailto:Paul.duffy@ontario.ca">Paul.duffy@ontario.ca</a>

Original signed by

Nancy Naylor  
Deputy Minister  
Ministry of Education

Attachments:      Appendix A – Sample Written Notice Forms  
                         Appendix B – Sample Student Information Report