



Guide on jurisdiction of Indigenous organizations



Determining if your Indigenous organization falls under federal or provincial/territorial jurisdiction may be complex. This page aims to guide you in your determination. Establishing your employment jurisdiction will help you understand whether federal or provincial/territorial labour legislation applies to you.



IF YOUR INDIGENOUS ORGANIZATION

FALLS UNDER FEDERAL JURISDICTION, you will be subject to the [Canada Labour Code](#) (Code) for the purposes of labour relations, occupational health and safety and labour standards. In addition, other legislation may apply such as the [Accessible Canada Act](#), the [Canadian Human Rights Act](#), the [Employment Equity Act](#) and the [Pay Equity Act](#).

IS SUBJECT TO PROVINCIAL/TERRITORIAL JURISDICTION, the labour legislation of the [province or territory](#) in which you work would apply.

DETERMINING JURISDICTION OF INDIGENOUS ORGANIZATIONS

Provincial/territorial jurisdiction applies to most employers in Canada. However, federal jurisdiction will apply when the organization or undertaking is subject to the legislative authority of the Parliament of Canada.

For Indigenous organizations, such as band councils, when they or their administration is governed by the [Indian Act](#) they are considered federally regulated for the purposes of labour legislation. Therefore, the Code covers employees who work on band council activities, such as overall band administration and governance.

Federal jurisdiction may also apply to the delivery of, on-reserve, municipal type services if:

- the administration of the service is integrated with band council governance powers and administrative duties
- band council involvement is essential to the governance and administration of the service

However, a municipal type service may be provincial/territorial jurisdiction if it is administered:

- independently from the band council
- to comply with provincial/territorial legislation or regulations

Generally, the provinces regulate municipal type services, that exist similarly off reserve. Provincial/territorial jurisdiction applies to these services as band council involvement is not essential to their effective operation (for example, policing, fire services and health care providers).

EXAMPLES OF INDIGENOUS ORGANIZATIONS THAT FALL UNDER FEDERAL JURISDICTION

There are a number of Indigenous services that may fall under federal jurisdiction, such as:

- band council operations and administration
- education
 - education is generally a matter of provincial/territorial jurisdiction. However, where there is oversight of the school's administration by the band council, federal jurisdiction will apply

EXAMPLES OF INDIGENOUS ORGANIZATIONS THAT FALL UNDER PROVINCIAL/TERRITORIAL JURISDICTION

There are a number of Indigenous services that may fall under provincial/territorial jurisdiction, such as:

- Child and Family services
- Rehabilitations services
- Health and medical services
- Old age homes
- Economic development

HELP IN DETERMINING JURISDICTION

For employer assistance in determining employment jurisdiction, please consult legal council. In certain situations, for example, upon receipt of a complaint for non-compliance, the Labour Program may conduct an analysis to determine employment jurisdiction.

INFORMATIONAL RESOURCES

For information on the relevant legal precedent, please consult [NIL/TU,O Child and Family Services Society v. B.C. Government and Service Employees' Union](#).

CONTACT THE LABOUR PROGRAM

Information on federal labour standards is available at [Federal labour standards - Canada.ca](#). For additional questions and inquiries, please call us at: 1-800-641-4049 (toll-free).

