

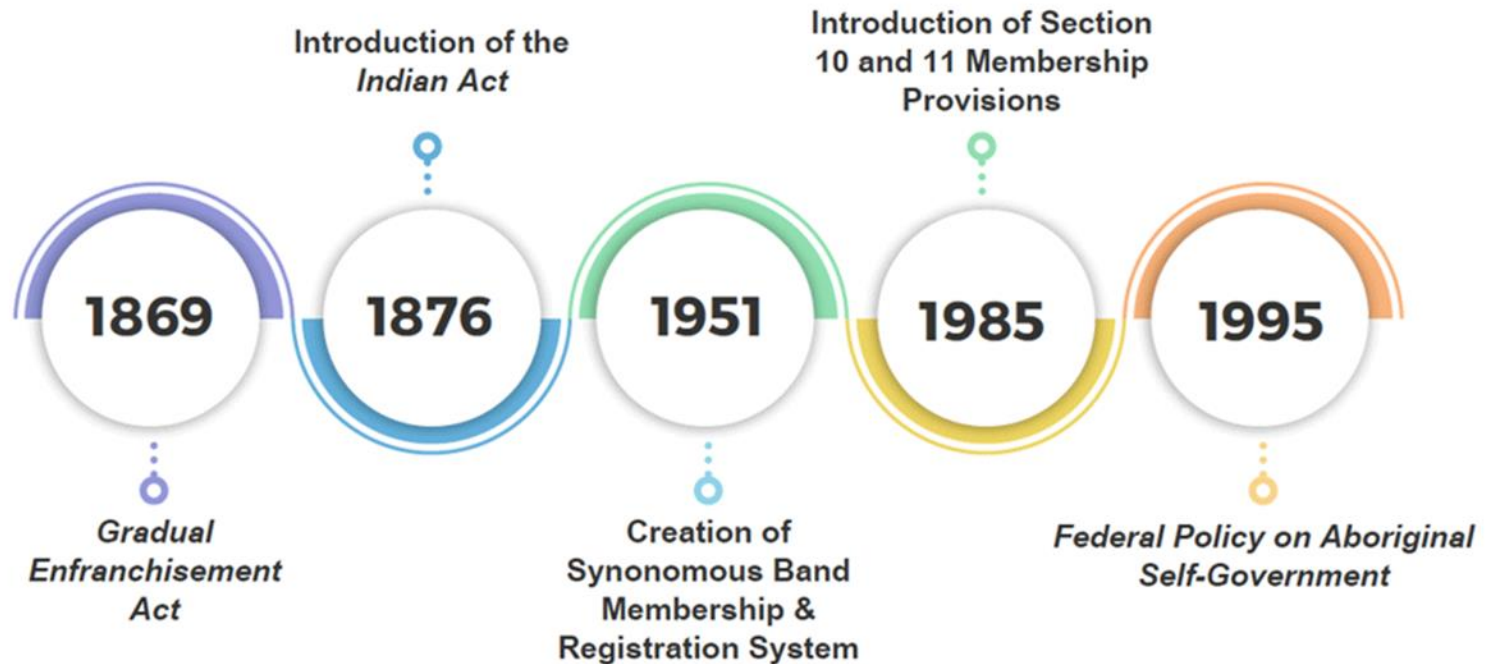


SECTION 10 VOTING THRESHOLDS





BACKGROUND ON BAND MEMBERSHIP





BAND MEMBERS UNDER SECTION 10

- Being band members is one of the ways that individuals access membership rights in their communities. *An Act to amend the Indian Act* introduced two options for the control of band membership under section 10 and 11 of the *Indian Act*.
- Under section 10, First Nations can assume control of their band membership through the creation of membership rules and codes
- Membership codes must be approved by the Minister of Indigenous Services, as defined in the *Indian Act*.





FIRST NATION UNDER SECTION 10

- The department cannot add members to the First Nation list that have assumed control under section 10;
- Membership is determined by the First Nation;
- Acceptance to a First Nation band that determines their own membership is dependent on the membership rules established by the band;





FIRST NATION UNDER SECTION 10

- For these First Nations, a registered person under the *Indian Act*, who is or is not affiliated to them may or may not be recognized as a band member.
- A band member affiliated to a First Nation that controls membership may or may not be registered under the *Indian Act*.





FIRST NATION UNDER SECTION 11

- First Nations that have not been able to take control of their band membership under section 10, their band membership lists are maintained by Indigenous Services Canada;
- Once a person is registered to a section 11 band, they are automatically added to the band's membership;





FIRST NATION & SELF-GOVERNING AGREEMENT

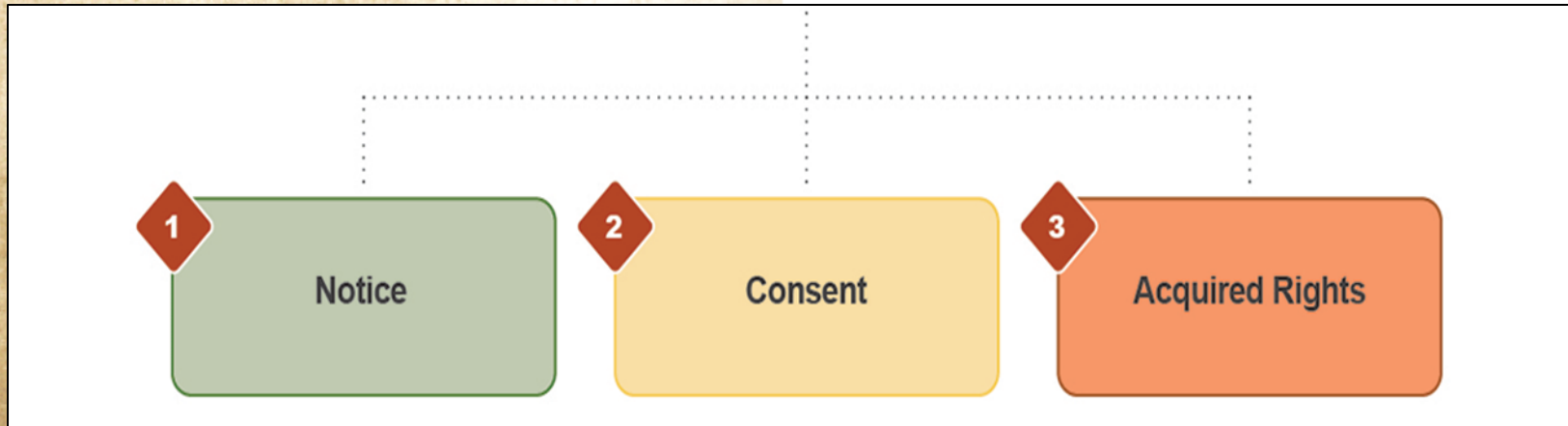
- Self-governing agreements provide another avenue for First Nations to take control of membership;
- Self-government agreements set out arrangements for First Nation communities to govern their internal affairs and take responsibility and control over the decision making that affects their communities.
- Self-government agreements address areas such as the structure and accountability of First Nation governments, their law-making powers, financial arrangements, and their responsibilities for providing programs
- Registration is still determined by Canada under the *Indian Act*, but membership is governed by the First Nation





PROCESS FOR FIRST NATIONS SEEKING TO ASSUME CONTROL OVER BAND MEMBERSHIP UNDER SECTION 10

TRANSITION TO SECTION 10





NOTICE: 3 REQUIREMENTS

- The First Nation will give 2 notices to eligible voters
 1. The band's intention to assume control over their membership and;
 2. The band's intention to establish a membership rule for itself.
- They can be at the same time and/or combined in single notice to vote that reaches are eligible voters.
- After the First Nation has met the top two requirements then they can inform the Minister and the Department that the First Nation is taking control over its membership as per section 10 and share the membership code for Ministerial approval.





CONSENT

- The First Nation must obtain consent from its eligible electors about its intention to assume control over its membership and its intention to write its own membership code.
- The First Nation must:
 1. Take reasonable measures to locate electors;
 2. Provide the eligible voters with the ability to review the content of the membership code;
 3. Inform eligible voters about their right to vote;
 4. Inform them about voting
- Consent is only achieved when a “double majority” voting threshold is met.





- A double majority means that the majority of the eligible voters of the band must vote and a majority of those who vote must be in favour.

Voting threshold for 1,000 voters	Minimum number of voters that must participate out of 1,000	Minimum number that must vote in favour out of 1,000
Absolute majority	501	501
Double majority (majority of a majority)	501	251
25% + 1	251	251
Simple majority	No minimum	Of those that participate 50% + 1





PROTECTION OF ACQUIRED RIGHTS

- The membership rules must protect the acquired membership rights of individuals whose names were on the membership list maintained by the department or who were entitled to have their names entered on the membership list up until the day before the First Nation assumes control of membership.





AFTER THE FIRST NATION MEETS THE REQUIREMENTS

- Canada will notify the band of the change of membership control;
- The band is required to maintain its own band list;
- Any individual that wishes to be a band member to specific First Nation under section 10 must contact that First Nation;
- The department continues to provide Letters to the Registration Administrator





CHALLENGES TO ASSUMING CONTROL

- The threshold of double majority;
- Up to date contact for all members;





ANGA - AMENDMENTS

- Grand Council Resolution, #2022-05 – *Support for Anishinabek First Nation Decision-Making Processes.*
- Issue of 25%+1 Voting Thresholds within ANGA.
- Parties agreed to amend the Ratification Process to recognize *First Nation decision-making, customs, practices and traditions.*





ANGA AMENDMENTS

- **Section 14.6** - A First Nation seeking to be added as a Party to this Agreement will be required to follow its community approval process that the Anishinabek Nation and Canada have agreed will be used by the First Nation
- **Section 14.7** – Prior to the approval of this Agreement by a First Nation referred to in section 14.6, the Parties will negotiate such amendments as may be required to the Anishinabek Nation Fiscal Agreement and take any necessary steps to add that First Nation as a Party to the Agreement.





COMMUNITY APPROVAL PROCESS SCHEDULE C

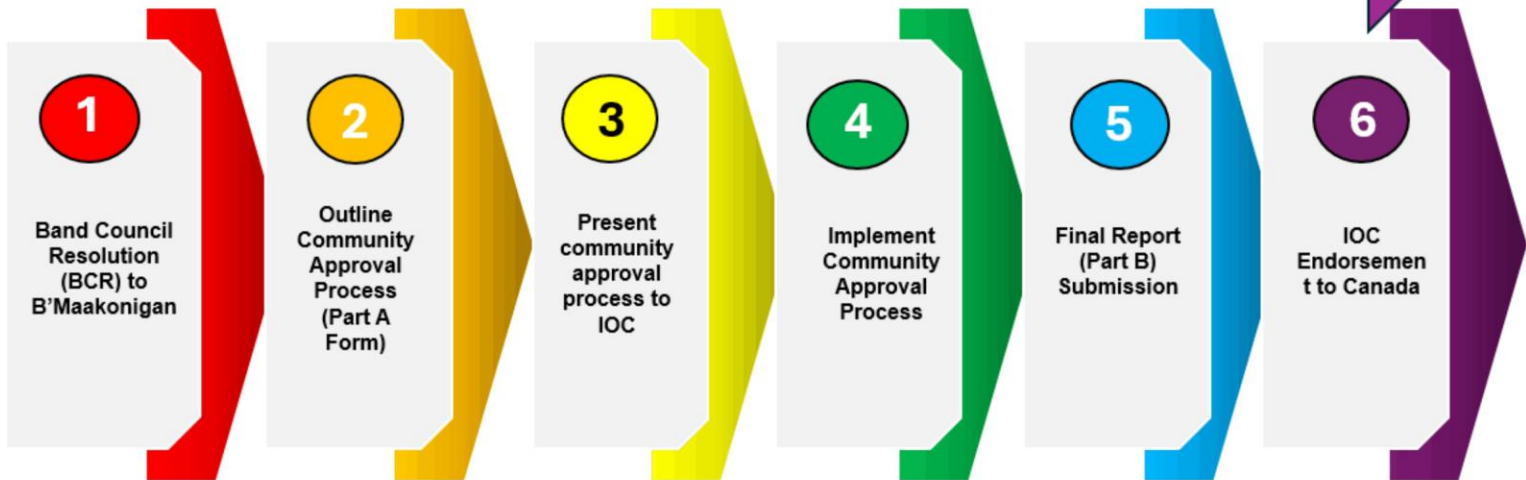
- **Schedule C** - *Protocol for the Addition of a First Nation as a Party to the Anishinabek Nation Governance Agreement.*
- **Principles:**
 - a) Openness
 - b) Transparency
 - c) Access to Information
 - d) Recording Keeping





COMMUNITY APPROVAL PROCESS SCHEDULE C

Community Approval Process





COMMUNITY APPROVAL PROCESS

1. In this Protocol and in relation to the community approval process referred to in section 14.6 of the ANGA, Eligible member means a person:
 - a) Who is at least 18 years of age on or by the last day of the community approval process and;
 - b) Whose name appears on or who is entitled to be on the “band list” as defined in the *Indian Act* of the FN seeking to be added as a Party to the agreement.
2. Defines B'Maakonigan
3. A FN seeking to become a Party to the agreement will provide evidence that the FN has the free, prior and informed consent of its Eligible Members by complying with its process and this protocol





COMMUNITY APPROVAL PROCESS

4. The ANGA Implementation and Operations Committee (IOC) may, if requested by a FN seeking to be added as a Party to the agreement, provide information about the agreement to that FN.
5. The FN seeking to be added as a Party to the Agreement will notify B'Maakonigan of its interest in becoming a Party to the agreement.
6. The FN's notification to B'Maakonigan will include a description of the Process
7. B'Maakonigan will provide the IOC with a copy of the notification including the description of the Process.
8. The IOC will acknowledge receipt of the notification to the FN and B'Maakonigan, and review the description of the Process to determine if it is consistent with the Principles





COMMUNITY APPROVAL PROCESS

9. Representatives of the FN will meet with the IOC and provide information on the process to the IOC, including how it will be implemented
10. If the IOC determines that the description of the Process has to be amended by the FN, the FN will work with the IOC to ensure the Process is consistent with the Principles.
11. Once the process has been finalized, the FN will follow the Process to determine if that FN is added as a Party to the agreement
12. If there is a dispute between IOC members in relations to the interpretation, application or implementation of the protocol there will be summary of the matter in dispute will be prepared by the IOC.





COMMUNITY APPROVAL PROCESS

13. Canada will pay the cost associated with the Process in an amount agreed upon by the FN, B'Maakonigan, and Canada.
14. If the FN has met all the requirements of the Process, including providing a report to the IOC indicating the FN wishes to become a Party to the agreement, the Parties agree to amend the agreement and the Anishinabek Nation Fiscal Agreement to add that FN as a party and to take any other necessary steps as described in this protocol.

