



Whitecap Dakota First Nation Fact Sheet Self Government

What is Self-Governance? – Fact Sheet # 1

“The recognition of inherent right of self-government is based on the view that the Aboriginal peoples of Canada have the right to govern themselves in relation to matters that are internal to their communities, integral to their unique cultures, identities, traditions, languages and institutions, and with respect to their special relationship to their land and resources”

Historically, First Nations always had jurisdiction to govern themselves according to their own laws, customs and tradition. When Europeans came to Canada, they brought a system of government and law that used formal legislative and constitutional processes. All of the First Nation, Metis and Inuit traditional ways of governance were suppressed while the federal government insisted in European political structures. Since the Indian Act was enacted in 1876, the First Nations have had little control of their own internal affairs. The Band Councils had limited and delegated powers to govern themselves and most decisions were made by the Minister of Aboriginal Affairs and Northern Development Canada (AANDC).

Today, the Government of Canada recognizes the inherent right to self-government under Section 35 of the Constitution Act of 1982. Self-government agreements set out arrangements for Aboriginal groups to govern their internal affairs and assume greater responsibility and control over decisions that affect their communities. Self-Government Agreements address the structure and accountability of Aboriginal governments, law-making powers, financial arrangements and their responsibilities for providing programs and services to their members.

Because each First Nation has different needs, negotiations will result in different models for each agreement. The self-government agreement that WDFN is negotiating will give more control and law-making authority over a comprehensive range of jurisdictions, including governance, education, health, lands, culture and language and more. In collaboration with the government of Canada, WDFN is negotiating 33 jurisdictional areas in the Agreement. The jurisdictional areas covered in the Agreement are drafted by Legal Counsel, Chief and Council, Self-Government Team and then brought back to the community committees to ensure it reflects what WDFN is looking for in the Final Agreement.



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What is Self-Governance? – Fact Sheet # 1 (continued)

WDFN and the Province of Saskatchewan have been working jointly together on partnerships in areas such as Health, Child and Family Services and Environmental Protection. The Province has decided to observe the negotiations between Canada and WDFN and will give recommendations on some areas including environment and education.

1 - **Aboriginal Self-Government: The Government of Canada's Approach to the Implementation of the Inherent Right and the Negotiation of Aboriginal Self-Governance, Pg. 3.**

2 - <https://www.aadnc-aandc.gc.ca/eng/1100100032275/1100100032276>



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Why Self-Governance – Fact Sheet # 2

Objectives of Self-Government:

- To negotiate the terms of a more respectful and modern government-to-government relationship.
- To establish a new legal framework for First Nation governance that replaces the Indian Act.
- To increase First Nation control over internal matters including elections, membership, culture and language.
- To create healthy, self-sufficient Aboriginal communities.
- Integration into local, regional, and national economies.
- Reconciliation of the Crown and First Nations.
- Comparable life chances for Aboriginal individuals.

Under Self-Government Whitecap Dakota First Nation:

- Will ensure openness and accountability in all areas of government.
- Will have control and decision-making over its own affairs including law-making in areas where WDFN assumes jurisdiction.
- Will be responsive to local needs.
- Will promote trust and stability with community, government and investors.
- Will enact a Non-Member Advisory Council Law that allows for input of non-member residents.
- Will establish clearly defined roles, responsibilities and procedures that cannot be changed without approval of WDFN membership.



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History of Negotiations – Fact Sheet # 3

- WDFN started the process of self-governance in 2009
- In 2012, the Framework Agreement was completed
- Currently working on the Governance Agreement-in-Principle
- Final Agreement is targeted for ratification in 2018

The objective of all self-government initiatives is to restore the balance of power to Whitecap Dakota First Nation (WDFN). Self-governance allows communities to shape their social and economic well-being and future. Under self-governance, bands develop and enforce their own laws regarding education, culture, finance and lands. Aboriginal Affairs and Northern Development Canada will no longer decide which laws could be passed, or which priorities are important. The community would become the ultimate authority over its own affairs in almost all of the sections of the Indian Act. It is important to remember that becoming a self-governing nation will not affect the Aboriginal rights of members. Some parts of the Indian Act will remain to protect First Nations status and rights. The governance structures will be developed by the members through a community constitution and will be accountable to the members. WDFN has been working towards self-governance since April of 2009. The community gave mandate to Chief and Council to begin the process.

The process to self-governance is broken into four stages:

- The Framework Agreement (FWA) was approved at a community meeting in January of 2012. The Framework Agreement is the stage where the individuals involved agree on issues to be discussed, how they will be discussed, and decide deadlines for reaching a final agreement. The Framework Agreement was approved by the Minister of Indian Affairs and Whitecap Dakota First Nation Chief and Council.
- The Agreement-in-Principle (GAIP) is the agreement in which WDFN can negotiate where they would like authority. This Agreement is targeted for completion by end of 2015. This stage is where the parties involved negotiate the issues that were set out in the Framework Agreement. This stage takes longer than any other stage in the Self-Governance process because the parties are attempting to resolve the broad range of matters set out in the Framework Agreement. The GAIP contains all of the major elements of the Final Agreement.



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History of Negotiations – Fact Sheet # 3 (continued)

- The Governance Agreement (GA) is targeted for completion by 2018 and is the outcome of a successful negotiation. The Final Agreement details successful negotiations reached between the two parties. The Final Agreement must be ratified by Canada and WDFN. The Agreement will then be passed on to Cabinet for Final approval.
- Legislation / Implementation will happen at the Federal level. The agreement will go to Cabinet in which it will need approval by the Cabinet members. The government will require evidence that negotiated agreements have been ratified by WDFN members.

Community Involvement in the Negotiation Process What is the Self-Government Advisory Committee?

Transparency is also ensured through regular communications and consultation with WDFN Elders and members. Regular communication occurs with Whitecap members through the community newsletter and news site, the Wapahaska Wotatin. In addition, the Self-Government Advisory Committee (SGAC) is made up of six community members who have interest in influencing the negotiation process.

The purpose of SGAC is to consult with Chief and Council to develop the Self-Government Framework Agreement, Self-Government Final Agreement and the Self-Government Financial Transfer Agreement. The committee meets at least quarterly with Chief, Council and the Self-Government team.

Chief and Council will provide the committee with updates on jurisdictional items that have been discussed with the government. The Committee may make recommendations to Council on ways to improve program service delivery for Self-Government negotiations and Lands Programming as well as reviewing and developing program standards.



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History of Negotiations – Fact Sheet # 3 (continued)

At the end of the day, it is up to each First Nation Member to vote on whether these agreements should be approved. The Self-Government Agreement is intended to enhance the life of WDFN members and restore the inherent right of governance to the members.





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Jurisdiction – Fact Sheet # 3 (continued)

Jurisdiction in relation to Self-Government means the official power to make legal decisions and judgements.

Jurisdiction not negotiable:

The below topics outline areas in which Canada retains Jurisdiction.

- Foreign policy
- National defence and security
- Immigration
- International trade
- Management and regulation of the national economy
- Intellectual property
- Criminal law
- Broadcasting and telecommunications
- Aeronautics, navigation and shipping

Jurisdiction Negotiable:

The below topics outline areas in which Whitecap Dakota First Nation may have Jurisdiction over.

- Structure of WDFN Government
- Membership
- Lands and natural resources
- Culture and language
- Financial management and accountability
- Enforcement of WDFN Laws
- Local traffic and transportation
- Education
- Health services
- Social services
- May also include:
 - Licensing and regulation of business
 - Liquor
 - Gaming
 - Agriculture



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Status of Negotiations – Fact Sheet # 4

- The Governance Agreement-in-Principle has a total of 33 sections. The Chapters (sections) in the Agreement are areas in which WDFN is negotiating Jurisdiction.
- 23 chapters are completed, 7 chapters are in progress and 3 have not yet been started.
- The Governance Agreement-in-Principle is not a legally binding document and can be changed at any time during the process.

WDFN Chief and Council and the Governance team have been negotiating the Governance Agreement-in-Principle (GAIP) since January 2012 with the Federal government. This agreement is a bilateral agreement between the Federal Government and Whitecap Dakota First Nation. The GAIP outlines the details of what will be negotiated in the Final Agreement.

The GAIP includes 33 chapters which outline what will be negotiated in the Final Agreement. The GAIP identifies which law-making powers WDFN will have and how its government will be structured. The GAIP is a non-binding agreement (it cannot progress into law), but it sets out all of the key elements of the Final Governance Agreement.

Currently, there are 23 chapters complete and 7 in progress and 3 not yet started.

The chapters in the GAIP have been worked on by the Governance team, the Self-Government Advisory Committee, Chief, Council and the Federal Government.

The GAIP can be revised at any time and must be approved by the WDFN Chief and Council before entering the Final Agreement stage.



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Status of Negotiations – Fact Sheet # 4 (continued)

The GAIP is broken into four parts:

- Part I of the GAIP recognizes the WDFN Government.
- Part II of the GAIP sets out WDFN Law-Making Powers
- Part III of the GAIP is Implementation and Financial Arrangements.
- Part IV of the GAIP is General Provisions.

When the Governance Agreement-in-Principle is approved, WDFN will move into the Final Agreement as well as the Implementation process. All items negotiated in the Agreement will provide a starting point for the Final Self-Government Agreement. Whitecap Dakota First Nation Chief and Council will continue to use committees different consultation processes to keep community members updated and to ensure all Members interests are not compromised.

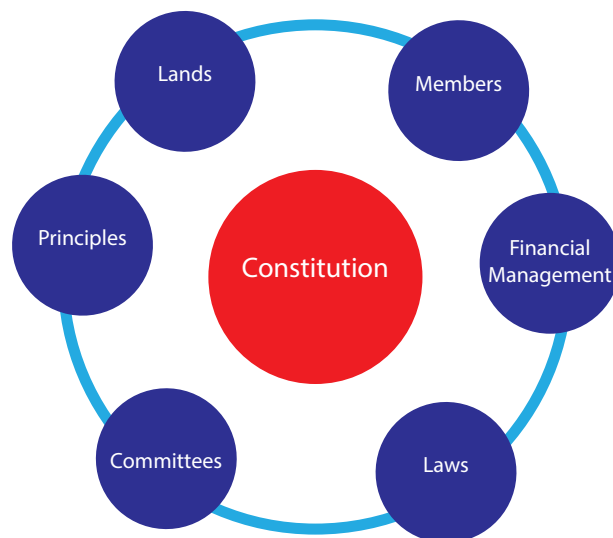


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WDFN Constitution – Fact Sheet # 5

Benefits of a Constitution:

- The Constitution will describe the First Nation and its framework for governance;
- Outlines the powers or jurisdiction of the governing authority and the First Nation citizens/members;
- Describes the values and principles that guide the First Nation;
- Gives Chief and Council the powers to act on behalf of the community;
- Protects the rights and freedoms of the citizens/members.



A Constitution is a body of fundamental principles or established models according to which an organization is governed. The Constitution is being developed with the community committees and Chief and Council are ensuring that no details are over looked and ensuring all members' needs are reflected in the document.



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What is “Good” Governance? – Fact Sheet # 6

The definition of Governance is “the action or manner of governing”. However, the complexity of governance is difficult to capture in a simple definition. Most agree that governance is the way communities or groups make decisions and organize to meet needs of their citizens and include the tools and mechanisms to provide services to the people.

Historically First Nations have been governed by the Indian Act and policies of the Aboriginal Affairs and Northern Development Canada. This has led to profound impacts on the First Nation culture. Through the Indian Act, the Canadian Government is the authority over Aboriginal affairs including politics, culture, educations and personal lives. This Act also located all financial control of Aboriginal peoples with the government.

WDFN believes there is a more effective way to govern their land and their people. The chart to the right shows some differences between the system currently in place by the Indian Act and what the system would look like under Self-Government.

Indian Act	Self Government
Minister makes decisions, based around culture education, lands, and taxation	Community, and Council makes decisions, based around culture education, lands, and taxation
Accountable to the Government of Canada	Accountable to Members of WDFN
European laws and structures	Laws reflect WDFN culture
Limited financial certainty	Financial Security

As shown in the table above, there is more opportunity for WDFN Members out of the Indian Act. The Self-Government Agreement will allow WDFN people to have control of their lands, education, environment, culture as well as many other areas.



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Frequently Asked Questions

Question 1: Who will be affected by self-government?

Answer: Self-government will affect everyone. It will establish new relationships amongst people and governments and in the longer run will shape the society we live in. Of course, those residents who live in the communities or regions in which self-government agreements are in effect, will be more directly affected than those who live in a community where self-government has not been negotiated.

Question 2: How long will it take to conclude the Final Agreement?

Answer: Some self-government agreements can take up to 20 years to complete. WDFN and Canada are very optimistic that the Final Agreement will be completed by 2018.

Question 3: What impact will a final self-government agreement have on the day-to-day lives of First Nation members?

Answer: The final Self-Government Agreement will allow the community members to decide on decisions that will affect culture, education, lands and taxation. It will allow the community to have a more hands on approach to the way their futures are shaped. In addition, the Final Agreement will provide more financial stability to the community and maintain the accountability of Chief and Council to the people of WDFN.

Question 4: What is a community constitution and how will Members be engaged and consulted in its development?

Answer: The Constitution describes the most important principles by which WDFN will be governed and organized. The Constitution is considered the “supreme” document. The Self-Government Agreement is secondary to it. The Constitution is being developed with community committees to ensure members’ interests are reflected. Chief, Council and the Governance team are ensuring that no details are overseen.



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Frequently Asked Questions

Question 5: Will I lose any existing programs and services?

Answer: One of the intentions of the agreement is that the Nation will be able to design and deliver programs and services that can better meet the needs of the people better. The goal is to improve the design and delivery of programs and services, not reduce them.

Question 6: What type of vote will be required for a community approval?

Answer: 25% of the community must vote “yes” for the self-government agreement to take effect in the Final Agreement Stage. There will be a formal voting process held including a community meeting, ballots and an official count of votes.

Question 7: Can you provide more information on the implementation process for a self-government agreement?

Answer: It is important to ensure a smooth transition from current arrangements to implementation of the agreement. The implementation can be part of the negotiations but will generally be phased in as the laws are ready in the First Nation and the community has the capacity to implement particular sections of the agreement. WDFN and Canada will work together to ensure a smooth transition to the implementation of self-governance by utilizing an Implementation Plan. WDFN can assume all jurisdictions immediately, or may assume the jurisdictions in a phased manner when the Nation has adequate resources.

Question 8: Will my Aboriginal Rights be affected by the Self-Government Agreement?

Answer: Aboriginal Status Rights will not be affected by the Self-Government Agreement. Rather, the Self-Government Agreement will protect the rights and freedoms of First Nations people. A Status First Nation's person will still be entitled to all of the benefits that are applicable today when the agreement is in effect.



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Frequently Asked Questions

Question 9: How have the self-government agreements of other Aboriginal groups benefitted those communities?

Answer: First Nations who have implemented Self-Governance Agreements have seen positive impacts such as governance stability, economic growth, and the ability to manage land and language and culture. In addition, the agreement ensures political and financial accountability of the First Nation to its members which supports transparency and fairness.

Question 10: What subject matters will be covered by the agreement?

Answer: Chapters in the agreement (subject matters) include:

Purpose	Legal Status & Capacity	WDFN Constitution	General Provisions	Structures and Procedures of Government
Membership	Culture and Language	Public Order and Peace	Environment	Agriculture
Public Works, Infrastructure	Traffic and Transportation	Economic Development	Landlord, Tenant and Occupancy	Implementation and Intergovernmental Relations
Access to Information and Privacy	Dispute Resolution	Indemnification and Liability	General Provisions	Future Negotiations
Ratification and Approval of Agreement	Approval of Final Governance Agreement	Reserve Lands and Lands Management	Environmental Protection and Assessment	Resource Management
Taxation	Liquor and Gaming	Relationship of Laws		