

Kaska Dena National Government – Kaska National Constitution

What is the Kaska National Constitution?

The Kaska National Constitution (" the Constitution") is based on the following principles:

“The Constitution, known as Gukeyeh Guk’eh Gus’ani, is binding upon our Kaska Dena National Government.

Our Kaska Dena Nation is comprised of the people of the Tsyone Dena and Mesga Dena clans. Our home is the Kaska Dena Kayeh which is unsundered lands. We are of the Athabaskan people. The Kaska Dena share a common history, language, culture, and traditional laws. We speak the dialects of the Kaska Dena language, which include, among others: Hestah godena, Ispato dogena, Thucho godena, and Tsalona godena.

Our Kaska Dena Nation has existed from time immemorial as has our inherent right to govern ourselves. This Constitution is an exercise of our fundamental right to self government and is protected under section 35 of the *Constitution Act* (Canada). We have never surrendered our rights and title to the Kaska Dena Kayeh or our right to govern ourselves. We do not recognize the Canadian provincial or territorial borders that divide our Kaska Dena Nation.

We have a deep spiritual attachment to Kaska Dena Kayeh which, together with our culture, language and ancient traditions makes us Kaska Dena. We govern ourselves accordingly.

Therefore, Kaska Dena Governance shall always be guided by Dena Aaat Na San and by our Elders who shall be the teachers for the Kaska Dena leadership of tomorrow; be exercised in accordance with the principles of respect, fairness and openness with our citizenship, and leadership will be exercised with honour and integrity; be guided by the requirement to preserve our rights, title and interests and the rights, title and interests of each Kaska First Nation throughout Kaska Dena Kayeh; promote the involvement of all Kaska Dena, regardless of age, gender or status within the community, in the future development of our communities and our Kaska Dena Kayeh as the pride and honour of our Kaska Dena Nation is sustained by the involvement of us all in the life of the Kaska Dena Nation; promote the sharing of wealth of Kaska Dena Kayeh with all Kaska Dena; ensure the protection, preservation and sustainability of the air, lands, waters, plants and animals of Kaska Dena Kayeh for future generations of Kaska Dena; respect and promote our traditional laws, principles, values, customs and practices; respect and promote our language and dialects; and promote investment in the spiritual, emotional, physical and mental welfare of us all as the well being of individuals and families is our strength.”

The Kaska Constitution is based on the following Fundamental Values:

“We revere Tsu'guya (Mema De'hya'i) who created this land, placed us in it as stewards to care for Kaska Dena Kayeh, and endowed each person in it with a unique spirit; maintain and live the spirituality of our people; honour the traditions of our ancestors live by the authority of Dena Aaat Na San; respect the dignity of each person; sustain our deep spiritual attachment and relationship to the land Kaska Dena Kayeh, and fulfill our unique responsibility to care for it; ensure the protection, preservation, and sustainability of the air, lands, waters, plants and animals of Kaska Dena Kayeh for future generations of Kaska Dena while pursuing a healthy and sustainable Kaska economy; protect the aboriginal rights and title claims of each Kaska First Nation and their membership to Kaska Dena Kayeh; commit to care for each other spiritually, physically, mentally, and emotionally in accordance with Dena Aaat Na San; and

commit to fulfilling our individual responsibility to engage in the activities required of us to ensure good governance.

Kaska Dena Kayeh is our traditional territory. We have a deep spiritual attachment to Kaska Dena Kayeh and all living things that make it home, as together with our culture, language and ancient traditions, these define what it means to be Kaska Dena. We will work together to develop national legislation for the protection of Kaska Dena Kayeh and that legislation will include provisions and powers: To designate areas within Kaska Dena Kayeh identified as Sacred Sites by the Kaska Dena National Elders Council such that they may not be used in any manner or for any purpose inconsistent with Kaska Dena traditions. To designate areas within Kaska Dena Kayeh that may be identified by the Kaska Dena National Elders Council, a Kaska First Nation, or the Kaska Dena National Government as Specific Use Areas, including but not limited to conservation areas, land marks, traditional use sites, critical habitat areas, harvesting areas, or development areas, such that those areas may not be used in any manner inconsistent with these designations unless otherwise approved by the entity that designated the Specific Use Area. Respecting the rights of Kaska Citizens to practice traditional activities throughout the Kaska Dena Kayeh. Providing for fair and reasonable administrative measures, decision-making processes, and appeals procedures with respect to land use designations.”

The Constitution provides for the following Definitions:

Dena Aaat Na San means Kaska Dena Spiritual Law which encompasses the ancestral laws that have governed the Kaska Dena since time immemorial.

Gudesdeje means the leader or Chief of the Kaska Dena National Government.

Gukeyeh Guk’eh Gus’ani means “on our land we follow our ways”.

Kaska Dena Community means any of the following communities: Translation (Dease River), Translation (Fireside), Translation (Frances Lake), Translation (Liard [including Translation (Upper Liard), Translation (Watson Lake), Translation (Francis Lake), Translation (Good Hope Lake), Translation (2 Mile), Translation (2/1/2 Mile)], Translation (Lower Post), Translation (Kwadacha), Translation (Muncho), Translation (Pelly Banks), Translation (Rancheria) and Translation (Ross River [including Translation (North Canal) and Translation (Blind Creek)], Translation (McDames) and Translation (One Mile Point).

Kaska Dena Kayeh means the traditional territory of the Kaska Dean and each of the Kaska First Nations and which is approximately 97,000 square miles of unsundered lands as set out in the map attached as Schedule 1.

Kaska First Nation means those Bands as defined under the *Indian Act*, R.S.C. 1985, c. I-5 which include: Dease River Band Council; Kwadacha First Nation; Liard First Nation (including Daylu Dena Council); and Ross River Dena Council.

Kaska Dena law means traditional law but may also include laws adopted by a Kaska First Nation through procedures recognized by that First Nation.

Kaska Dena Nation means the people of the Tsyone Dena and Mesga Dena clans whose home is the Kaska Dena Kayeh and who share the history, language, culture, and traditional laws.

Kaska Dena Elders, Language and Culture, Citizenship and Citizenship Rights

The Constitution recognizes Kaska Dena Elders, Language and Culture, Citizenship and Citizenship rights.

Kaska Dena Elders will advise the Kaska Dena National Council (“National Council”) through the Kaska Dena National Elders Council (“Elders Council”). The Kaska Dena National Government (“National Government”) and each of its institutions will honour the use of Kaska Dena language and culture. A person may use Kaska Dena or English when speaking at any meeting of a Kaska Dena National Assembly (“National Assembly”), the National Council or Elders Council. The National Council must provide interpretation between Kaska Dena and English at any meeting. A person is Kaska Dena by reason of birth into a Kaska Dena clan of his or her mother or by reason of adoption. Adoptions must be validated by a Kaska First Nation. Every person who is a member of a Kaska First Nation is entitled to be a Kaska Dena Citizen.

Every Kaska Dena Citizen is encouraged to and has the right to attend National Assemblies. Kaska Dena Citizen’s who are at least 21 years of age are eligible to hold office in the National Council and every Kaska Dena Citizen who is at least 16 years of age is eligible to vote in National Council elections or referendums and National Assemblies. Kaska Dena Citizen’s who are between 16 and not yet 27 years of age are eligible to hold office in the Kaska Dena National Youth Council (“Youth Council”).

Kaska Dena National Government

The Kaska Dena National Government is the central governing authority of the Kaska Dena Nation. It is primarily responsible for matters that may affect more than one Kaska First Nation, in so far as these responsibilities are explicitly delegated to it by Kaska First Nations. Within Kaska Dena Kayeh, governance is provided by the government of each Kaska First Nation, the National Government and traditional structures of governance through family, clan and Dena Aaat Na San.

The National Government consists of the following governing institutions: the National Assembly, the National Council, the Kaska Dena National Executive (“National Executive”), the Elders Council, the Kaska Dena National Gudesdeje (“Gudesdeje”) and the Youth Council.

The National Government will administer the Kaska Dena National Government and its institutions and may exercise any responsibility, deliver programs and services, and regulate and resolve any matter concerning the exercise by Kaska Dena Citizens of their rights under this Constitution as long as those powers have been explicitly designated to it.

Delegation of Authorities and Division of Powers

Each Kaska First Nation will endeavor to create its own constitution that explicitly sets out the full range of its powers, duties, responsibilities and authority. Each Kaska Dena First Nation shall retain its full powers, duties and responsibilities existing at the time of the coming into force of the Constitution, including powers to negotiate Aboriginal rights, title and interests of behalf of its members.

Where there is any inconsistency or conflict between a Kaska Dena National Law (“National Law”) and a Kaska First Nation Law the Kaska First Nation law shall prevail and the National Law, to the extent of the inconsistency or conflict, is of no force or effect.

Any matter that may be within the authority of both Kaska First Nation and the National Government, each Kaska First Nation retains exclusive authority to enact laws for its First Nation. The National Government has exclusive authority to enact laws for the purpose of administering the National Government. Where a Kaska First Nation has delegated authority to the National Government to make laws with respect to a particular matter, any law of that First Nation with respect to that matter is of no force or effect so long as such delegation remains in effect.

Where there is any inconsistency or conflict between the Constitution and any National Law, the National Law, to the extent of the inconsistency or conflict, is of no force or effect. Where there is any inconsistency or conflict between this Constitution and any Kaska First Nation constitution or laws, the Constitution, to the extent of the inconsistency or conflict, is of no force or effect.

Kaska Dena National Assembly

The Kaska Dena National Assembly is an annual gathering of the Kaska Dena which normally occurs once a calendar year. A National Assembly may, by Resolution, give direction to approve policies of or make recommendations to the National Government and amend the Constitution. A Special National Assembly may be called in addition to the regularly scheduled annual National Assembly. A quorum for any National Assembly or Special National Assembly is two-thirds of the members of the National Council in addition to at least five (5) members of each Kaska First Nation and must include at least one elected representative from each Kaska First Nation.

Kaska Dena National Council

The Kaska Dena National Council is comprised of the Gudesdeje, all Chiefs and member of the Council of a Kaska First Nation, two representatives of the Elders Council, two representatives of the Youth Council, two Kaska Dena men's representatives, two Kaska Dena women's representatives, one from each of the Mesga Dena and Tsyone Dena Clans.

Every member of the National Council must ordinarily be resident within Kaska Dena Kayeh or take up residence and ordinarily reside within Kaska Dena Kayeh if elected. Every elected member of the National Council assumes duties after swearing or affirming the Kaska Dena National Oath of Office and Oath of Confidentiality. All nationally elected offices are considered vacated when the individual holding such an office dies, is removed from office, forfeits office or provides written resignation.

The National Council will approve the administration of National Laws, National Assembly resolutions and National Government decisions, address Elders Council resolutions and decisions, develop a Kaska Dena National Consultation Policy and oversee the administration of the National Government in accordance with National Law.

All decisions of the National Council are to be by consensus if possible or otherwise by a vote of a simple majority of the members present and participating. National Council proceedings, minutes and decisions shall be recorded and maintained and, subject to the Kaska Dena Good Governance Act, National Laws shall be made available for inspection by any Kaska Dena Citizen. A quorum for all National Council meetings shall be two-thirds of the National Council and will include at least one elected representative from each Kaska First Nation and the Daylu Dena Council. The Gudesdeje must sign all decisions that have been passed by the National Council. The Constitution provides for the number, content and process to be followed at meetings of the National Council and the process to remove elected officials.

Kaska Dena National Executive

The Kaska Dena National Executive is the executive body of the National Government. The National Executive consists of the Gudesdeje, the Chief of each Kaska First Nation, the two representatives of the Elders Council on the National Council, one of the representatives of the Youth Council on the National Council, one Kaska Dena Men's Representative, and one Kaska Dena Women's Representative.

The National Executive will represent the Kaska Dena Nation in intergovernmental relations respecting matters that have been delegated to the National Government, subject to direction from the National Council. They will also exercise the authorities, responsibilities and functions assigned to it by the National Assembly, the National Council or by National Law. The Constitution provides for the number, content and process to be followed at meetings of the National Executive. The National Executive must maintain a National Law Registry National Laws in the English language and, at the discretion of the Executive, in the Kaska Dena language. The National Executive may negotiate with any government on behalf of those Kaska First Nations who delegates it to.

Kaska Dena National Gudesdeje

The Kaska Dena National Gudesdeje is elected by the Kaska Dena Citizens in accordance with the Kaska Dena National Election Code. The Constitution defines the role and duties of the Gudesdeje. This includes presiding at meetings of the National Executive and National Council, overseeing the administration and financial management of the National Government in accordance with National Law, acting as spokesperson for the National Government and leading delegations representing the Kaska Dena Nation if delegated and required to do so. The National Executive will select a Deputy Kaska Dena National Gudesdeje annually from among the Chiefs of the Kaska First Nations. They will act in the capacity of the Gudesdeje when they are unable to carry out a function of that office or when a vacancy occurs.

Kaska Dena National Elders Council

The Kaska Dena National Elders' Council is an advisory body. Each Kaska First Nation will establish its own Elders Council. Each Kaska First Nation Elders Council will select a Mesga Dena and a Tsyone Dena Clan representative, preferably one Elder between the ages of 50-64 and one Elder greater than age 65. The Elders Council will mentor and guide the Youth Council, advise the National Council and the National Executive and select two Elders to serve on the National Council.

Kaska Dena National Youth Council

The Youth Council is tasked with consulting the Kaska Dena youth regarding any and all issues of concern the youth wish to have addressed at a national level. The Youth Council is comprised of two youth selected by each Kaska First Nation Youth Council. The youth must be between the ages of 16 to 27 and ideally each Youth Council will select one youth of the Mesga Dena Clan and one youth of the Tsyone Dena Clan. The Youth Council will bring issues from the National Council and the National Executive back to the youth for input and response, and receive guidance from the Elders Council.

Kaska Dena National Women’s Representatives

Two Kaska Dena National Women’s Representatives, one each from the Tsyone Dena Clan and Mesga Dena Clan, will be elected by Kaska Dena women at the same time as the election for Gudesdeje. Each Kaska Dena National Women’s Representative will ensure that issues of concern to Kaska Dena women are addressed by the National Government and bring those issues to the attention of the National Council and the National Assembly, ensure that the perspectives of Kaska Dena women are represented in the deliberations of all Kaska Dena governing institutions, work for greater respect for Kaska Dena women and the achievement of equality ensure that matrilineal lines are recognized by the National Government and in National Laws.

Kaska Dena National Men’s Representatives

Two Kaska Dena National Men’s Representatives, one each from the Tsyone Dena Clan and Mesga Dena Clan, will be elected by the Kaska Dena men at the same time as the election for Gudesdeje. Each Kaska Dena National Men’s Representative will ensure that issues of concern to Kaska Dena men are addressed by the National Government and bring those issues to the attention of the National Council and the National Assembly, ensure that the perspectives of Kaska Dena men are represented in the deliberations of all Kaska Dena governing institutions, work for greater respect for Kaska Dena women and the achievement of equality and ensure that matrilineal lines are recognized by the National Government and in National Laws.

Principles of Financial Administration

Financial management and administration of the National Government shall be prudent, transparent, and accountable, provide for effective and efficient use of the financial resources of the Kaska Dena Nation, preserve and protect Kaska Dena National Assets and be duly accountable to the Kaska Dena Citizens. The National Government or any of its institutions may only spend money in accordance with a budget that has been approved by the National Council and only borrow money if it is authorized by regulation.

The National Council will develop laws and regulations consistent with the Constitution regarding financial management and accountability. A Finance Committee will be established in accordance with applicable National Law relating to financial management. It will be mandated with the Finance Portfolio and consist of one representative of each Kaska First Nation and a Chairperson appointed by the National Council. The Finance Committee will act as the chief advisory body to the National Council on all financial matters. The Constitution further defines the role of the Finance Committee.

The Finance Committee may recommend to the National Council such terms and conditions it considers necessary in order to enter into contracts. The National Council has sole authority to enter into contracts for the National Government unless such authority is delegated in writing to another public officer.

Kaska Dena National Judicial Council

The Kaska Dena National Judicial Council will be established by the National Council. The functions and purposes will include adjudicating any cases of alleged violations of National Laws and impose such sentences as are provided by law to ensure compliance, determine the validity of a National Law, regulation, order or decisions made or adopted by the National Government which has been challenged, mediate or arbitrate any disputes in relation to Kaska Dena Citizens and the National Government where

parties agree to the process, appoint an investigative committee to review any financial irregularities of the National Government and review appeals of the removal from office of Nationally elected officials.

The National Council is responsible for selecting the members and determining the criteria and composition of the Kaska Dena National Judicial Council, however it must have at least one member who has a law degree from a recognized university in Canada and is a practicing member of a law society in Canada. The Kaska Dena National Judicial Council may establish a Tribunal to conduct investigations of any matter referred to it by the National Council.

Law Making Process

The National Assembly, any Kaska First Nation, or the National Council may propose new legislation, legislative amendments and the repeal of existing legislation for consideration by the National Council by completing the required forms and submitting them to the National Executive.

The National Executive will then refer the proposal to the Law Drafting Committee for review, clarification and drafting. The National Council may refer the proposal to the Elders Council and/or the Youth Council for advice and comments and recommend amendments and the approval or rejection of the proposal for legislation by resolution.

The Constitution provides the process that the National Council will follow with respect to a proposal for legislation. This includes each Kaska First Nation reviewing and voting on the proposal. The Constitution also provides for the process to be followed once each Kaska First Nation approves or rejects the proposal. Legislation adopted by the National Council comes into force and becomes a National Law when signed by the members of the National Executive.

Constitutional Amendment

The Constitution may only be amended following the procedure set out in accordance with the Constitution and National Law. A Kaska First Nation may withdraw from participation in the National Government where it has held a referendum and where at least sixty percent of its voting members have voted in favour of withdrawal.