



May 24, 2023

VIA EMAIL: Registry.Office@chrt-tcdp.gc.ca

Judy Dubois
Registry Operations
Canadian Human Rights Tribunal
240 Sparks Street, 6th Floor West
Ottawa, ON K1A 1J4

Dear Ms. Dubois:

**Re: FIRST NATIONS CHILD AND FAMILY CARING SOCIETY OF CANADA ET AL
v ATTORNEY GENERAL OF CANADA – T#1340/7008**

Nishnawbe Aski Nation (NAN) has had the opportunity to review the submissions of Canada, the First Nations Child and Family Caring Society (Caring Society), and the Chiefs of Ontario (COO) all dated May 10, 2023, in response to the Panel's letter of March 16, 2023. We write to provide additional commentary on the submissions we have reviewed and further response to the Panel's request for updates.

Canada's Submission, Remoteness, and the 1965 Agreement

We agree that Canada's submission details the investments and commitments that have been made in response to the Tribunal's orders. We confirm the following developments of particular concern to NAN:

- NAN's and ISC's establishment of the NAN-Canada Remoteness Quotient (RQ) Table, further to 2017 CHRT 7, and ISC's provision of resources to conduct research and develop an RQ methodology that ISC could use to determine evidence-based funding adjustments required to account for the increased costs associated with remoteness with respect to the delivery of child and family services in NAN communities;
- NAN's filing with the Tribunal on March 29, 2019, of the Final Report for Phase II of the Remoteness Quotient research project, which details the research conducted and the RQ methodology developed as described above;
- NAN's ongoing work with ISC through the RQ Table to conduct further research and develop a Remoteness Quotient Adjustment Factor (RQAF) methodology, building on NAN's RQ methodology and ISC's Cost Adjustment Factor (CAF) methodology, which ISC could use to determine evidence-based funding adjustments required to account for



the increased costs associated with remoteness with respect to the delivery of child and family services in remote First Nation communities across the country;

- NAN's establishment in partnership with four other First Nations organizations of the National Assembly of Remote Communities (NARC) to provide a national advocacy voice for remote Indigenous communities;
- Canada's commitment in the AIP to establish a NARC-Canada Remoteness Table to develop a First Nations-sighted, evidence-based statistical model to estimate and account for the increased costs associated with remoteness in the funding and provision of child and family services to First Nations on a national basis, building on the RQ Table's work;
- Canada's commitment in the AIP and ongoing work with NAN toward establishing a dedicated First Nations-led Remoteness Secretariat with the primary responsibility for addressing remoteness issues and supporting the NARC-Canada Remoteness Table;
- Canada's commitment in the AIP to adjust and/or index First Nations Child and Family Services (FNCFS) funding in the Reformed FNCFS Funding Approach to account for increased costs associated with remoteness, and ongoing work with NAN to determine the adjustment or indexing that will be applied; and
- Canada's continued engagement with COO and NAN with respect to ensuring that reform of the FNCFS Program and the approach to reforming the 1965 Agreement respond to the priorities and contexts of First Nations in Ontario and remote First Nation communities.

In NAN's view, implementation of the Tribunal's order that ISC cease its discriminatory practices and reform the FNCFS Program to ensure substantive equality requires the application of an evidence-based methodology to index funding to fully account for the increased costs associated with remoteness. Unfortunately, the Institute of Fiscal Studies and Democracy's (IFSD) Reformed FNCFS Funding Approach does not provide such an evidence-based methodology. Fortunately, the RQ Table's work, conducted by NAN in partnership with ISC, does provide such evidence-based methodologies in the RQ and CAF approaches and in the RQAF approach currently under development.

Also in NAN's view, reforming the 1965 Agreement with a view to substantive equality will require hearing the unique perspectives of remote communities. NAN intends to continue its engagement with COO and ISC to ensure remote communities have a strong voice in that process.

“Actuals”, Population, Inflation, Prevention, FNRS, and PMSS

We share COO's concern about whether the various “actuals” processes, including with respect to First Nation Representative Services and prevention funding, reflect the true needs of First Nations and FNCFS agencies. We also share the concern of COO and the Caring Society about distributing per capita prevention funding based on the “registered” population on reserve. We also share the Caring Society's concern about the measure of inflation/cost of living used to adjust prevention funding and that such adjustments were not made for fiscal year 2023-2024.



Further to those shared concerns, we note that ISC's provision of prevention funding since April 1, 2022, does not include an adjustment or indexing for remoteness, though Canada committed in the AIP to adjust or index prevention funding to account for the increased costs associated with remoteness. We also note that ISC has not committed to adjust or index First Nation Representative Services or Post-Majority Support Services funding to account for the increased costs associated with remoteness. We are also not aware of any commitment to address remoteness issues in the reform of ISC and related cultural competency training. However, we confirm that NAN has a seat on the Expert Advisory Committee addressing those particular areas.

Other Areas

At this time, Nishnawbe Aski Nation has no further update to provide with respect to the implementation of 2022 CHRT 8, 2016 CHRT 2, or the Tribunal's compensation orders. Likewise, with respect to the Caring Society's 2022 update report on Jordan's Principle, we have nothing further to add at this juncture.

We hope this update is helpful and would be pleased to provide further information at your request.

Yours very truly,



Julian N. Falconer

