

**CANADIAN HUMAN RIGHTS TRIBUNAL**

**B E T W E E N:**

**FIRST NATIONS CHILD AND FAMILY CARING SOCIETY OF CANADA  
and ASSEMBLY OF FIRST NATIONS**

Complainants

- and -

**CANADIAN HUMAN RIGHTS COMMISSION**

Commission

- and -

**ATTORNEY GENERAL OF CANADA  
(representing the Minister of Indigenous and Northern Affairs Canada)**

Respondent

- and -

**CHIEFS OF ONTARIO, AMNESTY INTERNATIONAL CANADA  
and NISHNAWBE ASKI NATION**

Interested Parties

---

**AFFIDAVIT OF AMBER POTTS  
(Affirmed March 3, 2025)**

---

I, AMBER POTTS, of the City of Ottawa, in the Province of Ontario, AFFIRM:

1. I am the Vice-President of Strategic Policy Integration for the Assembly of First Nations (AFN), a co-complainant in this matter and, in this capacity, I have personal knowledge of the matters to which I hereinafter affirm, unless the matters are stated to be on my information and belief, in which case, I verily believe them to be true.
2. I have been working at the AFN since 2017 and I've held several senior management positions, including acting as the Chief Executive Officer, the Senior Director of the

Social Branch, as well as the Director of Policy and Research Coordination. Before joining the AFN, I spent more than twenty (20) years as a federal public servant, where I worked for Indigenous and Northern Affairs Canada and Human Resources and Skills Development Canada.

3. The AFN is a not-for-profit corporation, incorporated pursuant to the *Canada Not-for-profit Corporations Act*, S.C. 2009, c. 23. First and foremost, it is a national advocacy organization for First Nations across Canada.
4. The AFN advances the aspirations of First Nations in Canada, which includes more than 1,048,400 people living in 634 First Nations communities and in cities and towns across the country. The AFN is mandated to protect the rights and interests of First Nations peoples in Canada, as set out in its Charter.
5. The AFN functions according to a democratic process. At least twice a year, the Chiefs of all member First Nations across Canada gather to examine and vote on issues of interest to their constituents. Together, these representatives are referred to as the “First Nations-in-Assembly.” They provide direction to the AFN and define its mandate by way of formal Resolutions.
6. The AFN Executive Committee, which also functions as the Board of Directors for the AFN Secretariat, is comprised of the AFN’s Regional Chiefs and the National Chief and is responsible for implementing the directions of the First Nations-in-Assembly, as well as tending to the regular operations of the AFN further to their Charter derived responsibilities and authorities.
7. The AFN has been actively involved in the child welfare space and the proceedings before the Tribunal for a significant period time, culminating in the Tribunal’s landmark decisions on the Merits and Compensation (2016 CHRT 2 and 2019 CHRT 39). The following outlines the AFN’s participation in advancing long-term reform efforts of the First Nations Child and Family Services (“FNCFS”) Program.

## **The Consultation Protocol**

8. Further to the directions of the Panel in 2018 CHRT 4, the AFN, along with the First Nations Child and Family Caring Society of Canada (“Caring Society”), Canada, the Chiefs of Ontario (“COO”), the Nishnawbe Aski Nation (“NAN”) and the Canadian Human Rights Commission (the “Commission”) engaged on the development of a Consultation Protocol, which was completed by these parties on March 2, 2018.
9. The Consultation Protocol established funding commitments to facilitate the parties efforts, and the creation of a Consultation Committee and its role in overseeing the development and implementation of immediate relief measures, noting that said role would be extended to mid and long term relief measures unless otherwise agreed by the parties. The Consultation Protocol further noted that as the Tribunal had yet to rule on mid and long term relief issues, a final Protocol on same may be premature, however provided room for the Consultation Protocol to be amended by the parties for the purposes of its application to mid and long term relief.

## **Mediation (1)**

10. The Consultation Committee met regularly, until in and around December of 2020, at which point in time the AFN, Caring Society and Canada entered into mediation before the Honourable Justice Leonard Mandamin following the Canadian Human Rights Tribunal decision in 2019 CHRT 39 (“Compensation Decision”) which was released in September of 2019. The scope of the mediation, the discussions of which were and remain privileged, sought to resolve both the issue of compensation, as well as long-term reform of the FNCFS Program.
11. Intensive mediation took place regularly before Justice Mandamin, with the AFN participating in same with the Caring Society and Canada at the long-term reform table from December 2020 until in and around September of 2021. At said time, the AFN Executive Committee was asked to consider potential terms of resolution of relating to compensation and rejected same. The mediation before Justice Mandamin was paused in the interim, with the Consultation Committee engaging in its last recorded meeting in or around October of 2021.

12. During this period of time, the AFN and other parties to the proceedings before the CHRT also continued to engage on supporting efforts derived from the Panel's capital order (2021 CHRT 41).
13. Parallel to these processes, Canada had proceeded with its judicial review of the Tribunal's Compensation Decision, the hearing of which proceeded in June of 2021. The Federal Court released its decision on the matter in September of 2021, upholding the Tribunal's Compensation Decision. Canada, while filing for judicial review, highlighted its intention publicly to seek a resolution of Compensation and Long-Term reform by way of Agreement by December of 2021.

### **Mediation (2) and the Agreement-in-Principle**

14. Further to Canada's commitments, the AFN, Caring Society and Canada, joined by COO and NAN, thereafter engaged into a second round of intensive mediation on the issue of long-term reform, which proceed in parallel to discussions regarding compensation. These sessions were led by the Honourable Justice Murray Sinclair, another eminent First Nations person, and the parties engaged in an intensive mediation schedule with an eye to reaching some level of agreement on the issue of both compensation and long-term reform by the December deadline.
15. Ultimately, the Agreement-in-Principle on long-term reform of the FNCFS Program ("AIP") was endorsed by each of the parties to the mediation on December 31, 2021, which reflected a \$19.807 billion dollar commitment by the Government of Canada and the broad strokes which would inform ongoing negotiations between the parties to the AIP in developing a Final Settlement Agreement. While the full AIP was not made public, an Executive Summary was, outlining the Parties intention that it would act as a framework for the long-term reform of the FNCFS Program, i.e. the basis for a comprehensive settlement and necessary actions. The AIP also provided for capacity for the parties' participation, including funding by Canada for the necessary legal expertise and other associated participation costs. The AIP also contemplated a Final Settlement Agreement being finalized by December 31, 2022.

### **Post-AIP Discussions and Engagement**

16. Following the execution of the AIP, the AFN, Caring Society, Canada, COO and NAN (the “AIP Parties”) launched into regular settlement privileged discussions and negotiations relating to terms associated with a Draft Final Settlement Agreement. Said discussions occurred over the full 2022 calendar year. As part of these efforts, and further to the commitments under the AIP, the AIP Parties endorsed a joint-motion before the Tribunal culminating in the consent order as provided for within 2022 CHRT 8. During 2022, the AFN also proceeded in both regional and national level engagements in relation to the ongoing work based on the AIP.
17. With respect to regional engagement, the AFN provided each of the AFN regions with funding to conduct regional engagement on long-term reform of the FNCFS Program and Jordan’s Principle in 2022. These engagements and reports informed the AFN’s positions on long-term reform. The AFN participated in several of the regional engagement sessions during 2022, both virtually and in-person, to share information about long-term reform, hear input from leadership and technicians and identify next steps. To support engagements, the AFN developed a Workbook providing an overview of long-term reform and providing questions for consideration. Several regions, technicians and working groups provided feedback utilizing the Workbook to inform the AFN’s positions on long-term reform.
18. With respect to National Engagement, on October 18-20, 2022, the AFN hosted the “Virtual National Townhall on First Nations Child and Family Services and Jordan’s Principle Long-Term Reform”. The Townhall provided First Nations leadership and their technicians with information about long-term reform of the FNCFS Program and Jordan’s Principle, including goals, priorities and next steps, and facilitated feedback from First Nations to inform the AFN’s ongoing efforts in relation to the development of a Final Settlement Agreement. Speakers at the Townhall included representatives of the AFN, Caring Society, Indigenous Services Canada, the Institute for Fiscal Studies and Democracy (IFSD), and Youth and Elders.
19. In July 2022, at the AFN Annual General Assembly, the AFN held plenary and dialogue sessions on long-term reform, and held further sessions at the December 2022 Special Chiefs Assembly. These plenary sessions provided opportunities for

the AFN to share information on the state of negotiations and related research, as well as for First Nations leadership and their technicians to provide feedback on the path forward.

20. At the December 2022 SCA, the Chiefs in Assembly provided further direction by way of mandate to the AFN as it pertained to long-term reform of the FNCFS Program and Jordan's Principle by way of Resolution 40/2022 *To Ensure Quality of Life to the First Nations Child and Family Services Program and Jordan's Principle*, which reflected on the AIP being signed as "a framework for the negotiation of a Final Settlement Agreement on First Nations child and family services, Jordan's Principle, and the reform of Indigenous Services Canada. While providing direction on some long-term reform measures, it also highlighted a desire the creation of evidence and policy-based options for the long-term reform of Jordan's Principle, and returning to the First Nations-in-Assembly for review and approval. It further called on Canada to extend the timeframe for the signing of a Final Settlement Agreement on long-term reform. A copy of Resolution 40/2022 is attached hereto as **Exhibit "A"**.
21. As the AIP Parties continued to work towards a Final Settlement Agreement on long-term reform, Canada secured a mandate extending the negotiations to March 31, 2023.

### **Bifurcation and a new negotiation mandate**

22. While the negotiations continued to proceed into the beginning of 2023, the Caring Society and the AFN ultimately advised the parties in March of 2023 of a proposed redirection of the long-term reform negotiations, proposing the bifurcation of long-term reform of Jordan's Principle and of the FNCFS Program. The Joint-Proposal reflected on the mandates of securing evidence informed solutions for Jordan's Principle, as noted in Resolution 40/2022. As the evidence behind reform relating to the FNCFS Program was more advanced than Jordan's Principle, it was proposed that efforts should be concentrated on securing a Final Settlement Agreement on

FNCFS, after which the parties could focus on Jordan's Principle once additional evidence became available further to the ongoing work of the IFSD.

23. The AIP Parties were advised that Canada would have to seek out a new mandate on long-term reform as a result of the Joint-Proposal on bifurcation. While such a mandate was sought, the AIP Parties continued to meet regularly in an effort to push matters forward that were not necessarily subject to the obtainment of a revised mandate by Canada.
24. The AIP Parties continued to meet regularly until October of 2023, at which point Canada advised that it had secured a mandate to move ahead on the bifurcation of Jordan's Principle, and seek a Final Settlement Agreement on long-term reform of the FNCFS Program by March 31, 2024, and Jordan's Principle by December 31, 2024.
25. While the AIP Parties contemplated efforts at moving forward with negotiations on a Final Settlement Agreement, it became apparent that issues were arising with respect to a backlog of cases in Jordan's Principle. The Caring Society announced in December of 2023 that it would be removing itself from the AIP process in order to advance its non-compliance motion on Jordan's Principle, which was filed in or around December 12, 2023.

### **Intensive FSA Negotiations**

26. While the AIP Parties had always made efforts to meet regularly to advance the work associated with a Final Settlement Agreement, it became apparent that an extremely intensive schedule of negotiations would be necessary to achieve a Final Settlement Agreement and expedite resolution in the best interest of First Nations children and families, with consideration also being given for the window of Canada's revised mandate and for the AFN's governance obligations to seek approval from the First Nations-in-Assembly.
27. Following the Caring Society's withdrawal from negotiations under the AIP process, the remaining AIP Parties (AFN, Canada, COO and NAN) prepared an exhaustive

schedule for negotiations, culminating in full week-long sessions at times between January and April 2024, and additional discussions between May and July of 2024.

28. The Caring Society advised the remaining AIP Parties that it remained available for discussion on the Final Settlement Agreement at various times during these intensive negotiations, but affirmed that it would not return under the rubric of the AIP, which was not agreeable to the remaining AIP Parties who had been operating under that settlement privileged space for over 2 years. The door was left open for the Caring Society's return under the terms of the AIP, and it was provided with copies of the draft agendas associated with the ongoing negotiations between the remaining AIP Parties on a weekly basis, with a standing invitation to attend to provide perspectives. Further, a copy of the Draft Final Settlement Agreement, which was renamed the Draft Final Agreement, was provided to the Caring Society for consideration and comment in or around April 12, 2024.
29. I have been advised by AFN counsel, and do verily believe, that the Caring Society expressed its views to Canada during this period of an ongoing obligation for Canada to engage the Caring Society in ongoing discussions further to the Consultation Protocol and the CHRT's consultation orders in 2018 CHRT 4. The Caring Society also sought to reconvene the Consultation Committee, and a response was provided by COO on behalf of the remaining AIP Parties identifying that the First Nations Parties (COO, NAN and the AFN) and Canada were of the view that the Consultation Process identified in the Consultation Protocol had evolved and been superseded by the AIP's negotiation process (See Exhibit "C" of the Affidavit of Katherine Quintana-James affirmed the 13th day of February, 2025).
30. The Draft Final Agreement was finalized and announced on July 11, 2024, with First Nations being notified that engagements would be taking place during the course of the summer of 2024. The Draft Final Agreement remained subject to approval by the First Nations-in-Assembly further to the direction from the First Nations-in-Assembly in Resolution 86-2023 *To Ensure Quality of Life to the First Nations Child and Family Services Program and Jordan's Principle*, which called for regional engagement on the Draft Final Agreement and its approval by the First Nations-in-



Assembly. The Draft Final Agreement was scheduled to be advanced at a Special Chiefs Assembly (“SCA”) convened for these purposes on or around September 17-18, 2024. A copy of Resolution 86-2023 is attached hereto as **Exhibit “B”**.

### **Intensive Engagement**

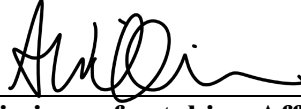
31. The AFN thereafter proceeded to participate in an extensive series of engagements on the Draft Final Agreement with First Nations across the country to explain scope of the agreement, as well as seek feedback which could inform potential amendments. These engagements occurred at the national, regional and individual First Nations level, between July 28 to October 8, 2024, and were conducted both virtually and in-person and frequently were accompanied by representatives of Indigenous Services Canada. A copy of Appendix A of the AFN’s Regional Engagement Summary on First Nations Child and Family Services Long-Term Reform dated September 17, 2024, reflecting the scope of these engagements prior to this date and a summary of regional results is attached hereto as **Exhibit “C”**.
32. As a result of the feedback heard during the course of the engagement with First Nations on the Draft Final Agreement, the Special Chiefs Assembly was pushed back to allow the AFN to engage in further discussions with First Nations on the terms of the Draft Final Agreement. The SCA was rescheduled to October 16-18, 2024, and the September date originally scheduled for the SCA was repurposed and proceeded on September 18, 2024, as a national level virtual engagement session, led by presentations from the AFN, COO, NAN and ISC. The Draft Agenda for this virtual information and dialogue session is attached hereto as **Exhibit “D”**.
33. The First Nations-in-Assembly were presented with the Draft Final Agreement on October 17, 2024. While the AFN was hopeful that its lengthy efforts in advancing a Draft Final Agreement and engaging on same would culminate in the endorsement of the Draft Final Agreement, and its advancement to the Panel for consideration comparably to the process observed in the context of the Compensation Final Settlement Agreement, the First Nations-in-Assembly ultimately rejected same.

34. The Chiefs noted several concerns, including the settlement privileged nature of the negotiations, an unfortunate reality of the litigation process, as well as their desire for the negotiation mandate to be expanded beyond the terms of the Agreement-in-Principle and the Draft Final Agreement. This revised mandate included issues such as ensuring funding was made available for children residing off-reserve, which were not covered by the FNCFS Program nor the proposed reforms to same, the indefinite continuation of the actuals process for a variety of the funding streams beyond the recommendations of the Institute for Fiscal Studies and Democracy, as well as the retention of oversight of the CHRT with respect to the implementation of any Final Agreement.
35. The Chiefs ultimately called for the formation of a National Children’s Chief Committee (“NCCC”) to advance these new mandates, as outlined in Resolutions 60-2024 *Addressing Long-Term Reform of the First Nations Child and Family Services Program and Jordan's Principle* and resolution 61-2024 *Meaningful Consultation on Long-Term Reform of First Nations Child and Family Services*. A copy of these resolutions are attached hereto as **Exhibit “E”**.
36. In accordance with the direction of the Chiefs, the National Chief wrote to the Honourable Patty Hajdu, Minister of Indigenous Services, confirming the rejection of the Draft Final Agreement and reflecting on the Chiefs new mandates. The letter called upon Canada to respect the new governance structure relating to reforms, and to obtain a new negotiation mandate aligned with the resolutions, in addition to further resources to advance this work. A copy of the National Chiefs letter to the Minister dated October 25, 2024, is attached hereto as **Exhibit “F”**.
37. The AFN thereafter held a Special Chiefs Assembly on December 3-5, wherein the First Nations-in-Assembly adopted several additional resolutions affirming their rejection of the Draft Final Agreement, rejecting all elements of the AIP not in alignment with their resolutions, and calling on Canada to confirm its new mandate within thirty (30) days consistent with the directions of the Chiefs. Copies of these relevant resolutions can be found within the Affidavit of Katherine Quintana-James affirmed the 14<sup>th</sup> day of January, 2025, at Exhibit D therein.

38. On January 6, 2025, the AFN received correspondence from Paul Vickery, counsel for Canada, that Canada did not have a mandate to continue to pursue a national level agreement on the long-term reform of the FNCFS Program effectively derailing any efforts by the AFN or the new independent NCCC at advancing the expanded mandates of the First Nations-in-Assembly on long-term reform.
39. On January 21, 2025, the AFN Executive Committee passed a motion detailing its commitment to engaging with the NCCC on how the AFN and the NCCC would work collaboratively on the implementation of the First Nations-in-Assemblies resolutions. A draft of same was initially provided by the Caring Society for proposal to the Regional Chiefs. A copy of the correspondence and Final Motion are attached hereto as **Exhibit “G”**.
40. The AFN has invited and considered the recommendations of the NCCC. The NCCC, while not a party in these proceedings, did provide a letter of support to the Caring Society outlining its positions on the matter, which we attach hereto as **Exhibit “H”**.
41. The AFN has, and continues, to call on Canada to return to the negotiation table further to the will of the Chiefs. Examples of such calls include AFN press releases dated December 1, 2024, December 13, 2025, January 7, 2025, and February 26, 2025, attached hereto as **Exhibit “I”**.
42. Despite these calls, Canada has yet to provide notice of a revised mandate or a willingness to engage in negotiations relating to long-term reform of the FNCFS Program, further to the mandates of the First Nations-in-Assembly.
43. I make this affidavit in support of the AFN's forthcoming written submissions on the within motion and for no other purpose.



**This is Exhibit "A" referred to in  
the Affidavit of Amber Potts, Affirmed  
before me, on this 3<sup>rd</sup> day of March, 2025**

A handwritten signature in black ink, appearing to read "A. Di...", written over a horizontal line.

**A commissioner for taking Affidavits**

---

## Assembly of First Nations

---

55 Metcalfe Street, Suite 1600  
Ottawa, Ontario K1P 6L5  
Telephone: 613-241-6789 Fax: 613-241-5808  
www.afn.ca



---

## Assemblée des Premières Nations

---

55, rue Metcalfe, Suite 1600  
Ottawa (Ontario) K1P 6L5  
Téléphone: 613-241-6789 Télécopieur: 613-241-5808  
www.afn.ca

**SPECIAL CHIEFS ASSEMBLY**  
**December 6,7,8, 2022, Ottawa, ON**

**Resolution no. 40/2022**

---

**TITLE:** To Ensure Quality of Life to the First Nations Child and Family Services Program and Jordan's Principle

---

**SUBJECT:** Child and Family Services

---

**MOVED BY:** Kukpi7 Judy Wilson, Neskonlith Indian Band, BC

---

**SECONDED BY:** Kevin Hart, Proxy, Little Grand Rapids First Nation, MB

---

**DECISION** Carried by consensus

---

**WHEREAS:**

- A. The First Nations Child and Family Caring Society ('Caring Society') and the Assembly of First Nations (AFN) filed a discrimination claim in 2007 alleging Canada's inequitable funding of First Nations child and family services and its choice not to implement Jordan's Principle were discriminatory, which resulted in harms including the removal of children from their families and communities and those delayed and denied in receiving services.
- B. The Canadian Human Rights Tribunal (CHRT) substantiated the discrimination claim in 2016 CHRT 2 and ordered Canada to immediately cease its discriminatory conduct towards First Nations children and families.
- C. The CHRT ruling establishes that First Nations children and families are legally entitled to receive prevention services and the least disruptive measures.
- D. Between 2016 and 2021, the First Nation parties were required to hold Canada accountable and return to the Tribunal on multiple occasions, resulting in 21 non-compliance orders.
- E. In the wake of First Nations and public pressure related to the children in unmarked graves near Residential

---

**Certified copy of a resolution adopted on the 8<sup>th</sup> day of December, 2022 in Ottawa, Ontario**

---

**ROSEANNE ARCHIBALD, NATIONAL CHIEF**

**40 – 2022**  
Page 1 of 3

**SPECIAL CHIEFS ASSEMBLY  
December 6,7,8, 2022, Ottawa, ON**

**Resolution no. 40/2022**

Schools and the Federal Court's dismissal of two of Canada's appeals, the federal government finally admitted that the discrimination was ongoing and asked the parties to negotiate a resolution.


- F. In fall 2021, the complainants (the Caring Society and AFN), the interested parties (Chiefs of Ontario & Nishnawbe Aski Nation) and Canada entered into negotiations to resolve outstanding discrimination pursuant to the CHRT orders.
- G. On December 31, 2021, an Agreement in Principle (AIP) was signed as a framework for the negotiation of a Final Settlement Agreement on First Nations child and family services, Jordan's Principle, and the reform of Indigenous Services Canada.
- H. The CHRT issued an order (2022 CHRT 8) by consent of the parties providing funding for prevention, post-majority services, and other measures. This funding, combined with an order on capital (2021 CHRT 41) and other previous CHRT orders, amounts to over 75% of the \$19.807 billion over 5 years announced as part of the AIP.
- I. Community-driven research to inform long-term funding solutions for child and family services for First Nations with and without agencies is not due to be completed until the Spring of 2023, and dates for a final funding approach on Jordan's Principle are still being defined.
- J. The Final Settlement Agreement will have a direct impact of unprecedented magnitude on the lives of First Nations children, their families, and their communities.

**THEREFORE BE IT RESOLVED that the First Nations-in-Assembly:**

- 1. Direct Canada to ensure that funding and other mechanisms related to long-term reform measures regarding child and family services enable First Nation Child and Family Services (FNCFS) Agencies and First Nation child and family service providers to deliver services based on substantive equality, best interests of the child, that is culturally appropriate and takes into full account the distinct circumstances of their communities.
- 2. Direct Canada to ensure that any interim and long-term reform measures, including the Reformed CFS Funding Approach, do not reduce or disrupt current funding levels and are sufficiently flexible to respect First Nations authorized service providers to deliver child and family services at a level that protects and promotes the best

---

**Certified copy of a resolution adopted on the 8<sup>th</sup> day of December, 2022 in Ottawa, Ontario**



---

**ROSEANNE ARCHIBALD, NATIONAL CHIEF**

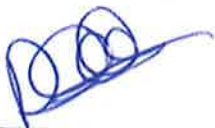
**40 – 2022**  
*Page 2 of 3*

interests of their children in keeping with the principles of sovereignty, inherent jurisdiction, and nation-to-nation building.

3. Direct the Parties to develop evidence-and policy-based options for the long-term reform of Jordan's Principle that will include mechanisms to enable and support self-determination and to return to the First Nations-in-Assembly for review and approval.
4. Call upon Canada to extend the timeframes for signing the Final Settlement Agreement (FSA) on long-term reform. The First Nations-in-Assembly must approve the FSA on long-term reform.
5. Call upon Canada to increase funding commitments above the currently allocated \$19.807 billion, over 5 years and beyond, that is needs-based to ensure substantive equality, the best interests of the child, and services that are culturally appropriate and reflective of the distinct needs and circumstances of individual First Nation communities.
6. Direct Canada to fund the Assembly of First Nations National Advisory Committee on First Nations Child and Family Services Program Reform and regional and other technical experts to inform the FSA.
7. Call upon Canada to ensure Chiefs shall be provided with all available options and related supporting financial resources and materials to ensure First Nations can exercise their Free, Prior and Informed Consent on long-term reforms.
8. Ensure that the FSA does not detract from the right of the Parties to the current complaint before the CHRT from seeking orders from the Tribunal to ensure that all First Nations children, youth, and families will be free from discrimination and its recurrence for all generations to come.
9. Call upon Canada to develop legislative protections to ensure that First Nations have sufficient liability coverage over the services they provide.
10. Call upon Canada to continue funding capital at actual costs for First Nations, FNCFS Agencies and First Nation Service Providers, pursuant to 2021 CHRT 41, until otherwise ordered by the Tribunal.

---

**Certified copy of a resolution adopted on the 8<sup>th</sup> day of December, 2022 in Ottawa, Ontario**



---

**ROSEANNE ARCHIBALD, NATIONAL CHIEF**

**40 – 2022**  
*Page 3 of 3*



**This is Exhibit "B" referred to in  
the Affidavit of Amber Potts, Affirmed  
before me, on this 3<sup>rd</sup> day of March, 2025**

A handwritten signature in black ink, appearing to read 'A. Di...', written over a horizontal line.

**A commissioner for taking Affidavits**

---

# Assembly of First Nations

---

50 O'Connor Street, Suite 200  
Ottawa, Ontario K1P 6L2  
Telephone: (613) 241-6789 Fax: (613) 241-5808  
www.afn.ca



---

# Assemblée des Premières Nations

---

50, rue O'Connor, Suite 200  
Ottawa, Ontario K1P 6L2  
Téléphone: (613) 241-6789 Télécopieur: (613) 241-5808  
www.afn.ca

## SPECIAL CHIEFS ASSEMBLY

December 5,6,7, 2023, Ottawa, ON

Resolution no.86/2023

---

**TITLE:** To Ensure Quality of Life to the First Nations Child and Family Services Program and Jordan's Principle

---

**SUBJECT:** Child and Family Services

---

**MOVED BY:** Chief Brian Perrault, Couchiching First Nation, ON

---

**SECONDED BY:** Chief Mark McCoy, Ojibways of Batchewana First Nation, ON

---

**DECISION** Carried by Consensus

---

### WHEREAS:

- A. The First Nations Child and Family Caring Society (Caring Society) and the Assembly of First Nations (AFN) filed a discrimination claim in 2007 alleging Canada's inequitable provision of First Nations Child and Family Services (FNCFS) and its choice not to implement Jordan's Principle were discriminatory which resulted in harms including the removal of children from their families and communities and those delayed and denied in receiving services.
- B. The Canadian Human Rights Tribunal (CHRT) substantiated the discrimination claim in 2016 CHRT 2 and ordered Canada to immediately cease its discriminatory conduct towards First Nations children and families.
- C. The CHRT ruling established that First Nations children and families are legally entitled to receive prevention services and the least disruptive measures.
- D. Between 2016 and 2021, the First Nations parties were required to hold Canada accountable and return to the Tribunal on multiple occasions, resulting in 21 non-compliance orders.
- E. In the wake of First Nations and public pressure regarding the children in unmarked graves near Residential Schools and the Federal Court's dismissal of two of Canada's appeals of rulings from the CHRT, the federal government finally agreed to negotiate a resolution.

---

Certified copy of a resolution adopted on the 7th day of December 2023 in Ottawa, Ontario

---

CINDY WOODHOUSE, NATIONAL CHIEF

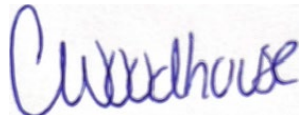
- F. In Fall 2021, the complainants (the Caring Society and AFN), the interested parties (Chiefs of Ontario & Nishawbe Aski Nation) and Canada entered into negotiations to resolve outstanding discrimination pursuant to the CHRT orders.
- G. The CHRT issued an order (2022 CHRT 8) by consent of the parties providing funding for prevention, post-majority services, and other measures. This funding, combined with an order on capital (2021 CHRT 41) and other previous CHRT orders, amounts to over 75% of the \$19.807 billion over five years announced as part of the Agreement-in-Principle (AIP).
- H. The Institute of Fiscal Studies and Democracy's research to inform long-term funding solutions for FNCFS for First Nations with and without agencies is not due to be completed until March 2024, and Jordan's Principle in December of 2024.
- I. Community-driven research to inform long-term funding solutions for FNCFS for First Nations with and without agencies is not due to be completed until the Fall of 2023 and Jordan's Principle in the spring of 2024.
- J. Under the reformed FNCFS funding model, Canada has proposed that a 2% inflation adjustment be provided, which mirrors the discriminatory funding cap imposed on First Nations' budgets for nearly two decades. The 2% inflation adjustment does not reflect the higher costs of living nor the impact of inflation on First Nations, nor the record-high rates of inflation being observed in Canada.
- K. Canada has also imposed using the Indian Registry to identify the number of people in a First Nation for the purposes of calculating prevention. This excludes many citizens who are eligible for registration but aren't currently registered, and particularly disadvantages communities in remote areas.
- L. Canada has been imposing an unnecessarily heavy burden on First Nations and First Nations child and family service providers and Jordan's Principle service providers to access the capital funding that Canada is legally compelled to provide pursuant to Canadian Human Rights Tribunal Order 2021 CHRT 41.
- M. The Final Settlement Agreement will have a direct impact of unprecedented magnitude on the lives of First Nations children, their families, and their communities.

**THEREFORE BE IT RESOLVED that the First Nations-in-Assembly:**

1. Support regional-specific, independent, First Nations-led secretariats to support First Nations in implementing and transitioning to a reformed First Nations Child and Family Services (FNCFS) approach, including data, best practices, tools, and research.
2. Call upon the Assembly of First Nations (AFN) to consult with the National Advisory Committee on FNCFS Program Reform to provide expert advice on long-term reform of FNCFS.
3. Call upon the AFN to provide an update to First Nations leadership on the implementation of AFN-Resolution 40/2022, *To Ensure Quality of Life to the First Nations Child and Family Services Program and Jordan's Principle*.
4. Call upon the AFN to ensure the establishment of an Alternative Dispute Resolution process under long-term reform that is apolitical, independent, properly resourced, culturally sensitive, trauma-informed, and accessible to safeguard the rights of First Nations children, youth, and families are respected and upheld.

---

**Certified copy of a resolution adopted on the 7th day of December 2023 in Ottawa, Ontario**



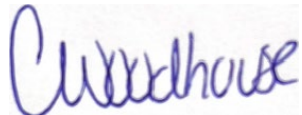
---

**CINDY WOODHOUSE, NATIONAL CHIEF**

5. Call upon the AFN to work with regional First Nations leadership and FNCFS experts to strengthen the role of regional experts within the FNCFS and Jordan's Principle negotiations.
6. Call upon Canada to ensure that the population count used to calculate FNCFS services reflect the actual number of people who are the residents and citizens of a First Nation.
7. Call upon Canada to provide its negotiating mandates and any relevant information in a timely manner to facilitate good faith negotiations.
8. Call upon the AFN to advocate for the use of the Consumer Price Index, with a minimum of 2% per annum adjusted upwards if the Consumer Price Index exceeds 2% for any given year, to account for inflation in the reformed FNCFS funding model and the provision of funding respecting Jordan's Principle.
9. Call on the AFN to conduct and support regional engagement on the Final Settlement Agreement on long-term reform to ensure that First Nations leadership has an adequate opportunity to discuss and approve the Final Settlement Agreement.

---

Certified copy of a resolution adopted on the 7th day of December 2023 in Ottawa, Ontario



---

CINDY WOODHOUSE, NATIONAL CHIEF

86 – 2023  
Page 3 of 3

**This is Exhibit "C" referred to in  
the Affidavit of Amber Potts, Affirmed  
before me, on this 3<sup>rd</sup> day of March, 2025**

A handwritten signature in black ink, appearing to read "A. Di...", written over a horizontal line.

**A commissioner for taking Affidavits**



# First Nations Child and Family Services Long-Term Reform

Regional Engagement Summary



## Appendix

### Regional Engagements

The AFN participated in the following regional and community-based engagements on the Draft Agreement:

Region	Date	Location	Participants
<b>Alberta (AB)</b>	August 6, 2024	Edmonton	Treaty 6 Chiefs, Technicians
	August 7, 2024	Edmonton	Treaty 8 Chiefs, Technicians
	August 8, 2024	Calgary	Stoney Nakoda and Tsuut'ina First Nations Chiefs, Technicians
	August 19, 2024	Calgary	Blackfoot Confederacy Chiefs, Technicians
<b>British Columbia (BC)</b>	August 7, 2024	Merritt	Upper Nicola Band Chief, Technicians
	August 13, 2024	Virtual	BC Tripartite Working Group
	August 22, 2024	Virtual	First Nations Leadership Council Chiefs, Technicians
	September 3, 2024	Vancouver	Musqueam First Nation, Lower Mainland Chiefs
	September 4, 2024	Kamloops	Secwepemc Territory Chiefs
	September 5, 2024	Merritt	Nicola Valley Chiefs
	September 6, 2024	Kelowna	Okanagan First Nations Chiefs
	September 10, 2024	Victoria	South Island Coast Salish Chiefs
	September 11, 2024	Port Alberni	Nuu-chah-nulth First Nations Chiefs
	September 12, 2024	Abbotsford, BC	Fraser Valley Chiefs
<b>Manitoba (MB)</b>	August 6, 2024	Norway House Cree Nation	
	August 14, 2024	Winnipeg	Regional Chief, Keewatin Tribal Council Chiefs, Technicians, Anishinaabe Pimadiziwin Inc. Agency Directors
	August 19-21, 2024	Winnipeg	Regional Chief, Chiefs, Technicians, Agency Directors
	August 27, 2024	Winnipeg	Manitoba Keewatinowi Okimakinak Chiefs, Councillors, Technicians



<b>New Brunswick (NB)</b>	August 14, 2024	St. Andrews-by-the-Sea	Regional Chief, Chiefs, Technicians
<b>Newfoundland (NL)</b>	August 26, 2024	Virtual	Miawpukek First Nation Chief, Technicians
	August 29, 2024	Virtual	Innu Round Table Chiefs, Technicians
	September 9, 2024	Virtual	Innu Nation Chiefs, Technicians
<b>Nova Scotia (NS)</b>	August 13, 2024	Millbrook First Nation	Regional Chief, Chiefs, Technicians
<b>Ontario (ON)</b>	August 7, 2024	Shoal Lake 40	
	August 22, 2024	Grand Council Treaty 3	
	September 9, 2024	Virtual	Nishnawbe Aski Nation Chiefs, Technicians
<b>Prince Edward Island (PE)</b>	August 15, 2024	Virtual	Regional Chief, Chiefs, Technicians
	August 29, 2024	Virtual	Mi'kmaq Confederacy of PEI Chiefs, Technicians
<b>Quebec (QC)</b>	August 29, 2024	Quebec City	Regional Chief, Chiefs, Technicians
<b>Saskatchewan (SK)</b>	August 8, 2024	Cowessess First Nation	Cowessess First Nation Chief, Technicians
	August 20-21, 2024	Saskatoon	Regional Chief, Chiefs, Technicians
<b>Yukon (YT)</b>	August 1, 2024	Virtual	Regional Chief, Chiefs
	August 20, 2024	Virtual	Yukon Federal Provincial Territorial (ICYC)

**\*Note:** Engagements were not held in the Northwest Territories as the First Nations Child and Family Services Program does not operate in this region.





## Regional Engagement Summary

### Alberta

Participants at the regional engagements expressed gratitude for the work that has been undertaken on long-term reform and in securing a significant and historic sum of money for First Nations to advance reforms. Participants raised concerns about the sufficiency of the funding, what will happen after the 10-year term of the Draft Agreement expires, and using the 2022-23 fiscal year as the reference point for baseline funding. Additional concerns were raised about liability and capacity-building needs, representation on the Reform Implementation Committee, oversight of Canadian Human Rights Tribunal ending, why the Ontario region seemed to be treated differently under the Draft Agreement, and the timeframe for making an informed decision.

### British Columbia

Participants at the regional engagements were generally supportive of the reforms. Participants raised concerns about the timing of the decision required and how funds would be distributed. Concerns were also expressed regarding regional representation in the Draft Agreement.

### Manitoba

Participants expressed concerns about the timeline to approve the reforms, the next steps if the Draft Agreement was not approved, and what a change in government would mean for the funding. Participants also emphasized the need to prevent children from being apprehended for reasons of poverty, which it was noted that the Draft Agreement aims to support. Concerns were raised about the use of the 2022-23 fiscal year as the reference point for baseline funding and what will happen after the end of the 10-year term of the Draft Agreement. Concerns about lack of transparency in the drafting of the agreement were noted, along with concerns about the imbalance of Ontario representation on the governance committees. A request for the Reform Implementation Committee to reflect regional diversity was made.

### New Brunswick

Participants at the regional engagement expressed concerns about using the Indian Registration System as the source of population as a large population of First Nations in New Brunswick receive services in their community but reside off-reserve. Concerns were raised that the Draft Agreement only reforms some elements of the FNCFS Program and does not reform the program in its entirety. Participants expressed that more funding is needed, and that for instance \$2,500 per capita for prevention is not sufficient. Participants recommended that the governance mechanisms and committees should include Chiefs and community members to ensure regional diversity.

### Newfoundland

Participants expressed interest in participating in further engagements on long-term reform. Participants also raised questions about funding and requested further information on the regional breakdown.



## Nova Scotia

Participants expressed concerns regarding transparency of the negotiations process. Participants also raised concerns about post-majority services, noting that, in some cases, other federal programs extend to age 35. Participants were also seeking additional information on infrastructure provisions in the Draft Agreement and how the funding for housing is calculated and will be allocated. Participants noted that the Draft Agreement is not “user friendly,” and recommended that the term “reform” not be used, as this connotes negativity. Participants emphasized that the housing funds should be easily accessible. Participants also expressed dissatisfaction with the reliance on the Indian Registration System for population-based funding.

## Ontario

Participants raised questions about the impact of the Draft Agreement on various settlements, including the FNCFS compensation settlement and the water claim settlement, and those First Nations exercising jurisdiction under *The Act respecting First Nations, Inuit and Metis children, youth and families*. Participants also inquired about what would happen should there be a change in government and the AFN informed participants that once signed, the Agreement would become a legally binding document.

## Prince Edward Island

Participants at the regional engagements commended the work that the AFN undertook to reach this agreement. Participants raised significant concerns about the timeline and expressed the need for more time to review to make an informed decision on the proposed reforms. Concerns were also noted about the composition of the Reform Implementation Committee and the need for an advisory body for this Committee. Participants expressed concerns about the end of the Canadian Human Right Tribunal's oversight and perceived this as lack of protection for First Nations under the Draft Agreement, including the lack of an opt-out provision. Clarification was provided that there are mechanisms in the Draft Agreement that offer protections, including the ability to seek additional funds and the Alternative Dispute Resolution mechanism.

## Québec

Participants expressed concerns regarding lack of regional representation in the Governance mechanisms, specifically the Reform Implementation Committee. Participants also noted frustration about receiving the French language version of the Draft Agreement several weeks after the English language draft was released. Participants inquired about the safeguards in the Draft Agreement that would ensure a future government is not able to cancel the funding for reforms, noting their experience with Québec's Supreme Court Challenge of *An Act Respecting First Nations, Inuit, Metis children, youth and families*. Participants expressed the need for the Draft Agreement to reflect and address regional variation. Participants recommended strengthening sections on the ability to develop regional variations for implementation, and Chiefs proposed developing a Québec-specific recommendation. Participants also spoke to the importance of prioritizing French language in the AFN's processes and recommended the President of the Dispute Resolution Tribunal be bilingual in French and English.



## Saskatchewan

Participants noted concerns relating to the lack of regional representation on the Reform Implementation Committee. While some participants expressed support for the Draft Agreement, others noted they could not speak in favour of an agreement they are not represented in and could not depend on other regions to speak on their behalf. Concerns were also noted relating to the polarization between the lawyers during the negotiation process. Participants noted the problematic use of the population count through the Indian Registration System and whether this will lead to continued underfunding. Participants also expressed concerns with the exclusion of off-reserve members from the Draft Agreement and noted its continued discrimination. Participants also questioned what would occur following the 10-year mark.

## Yukon

Participants at the regional engagements were eager to learn about the Draft Agreement, the impact the Draft Agreement would have on First Nations without Agencies, and those exercising jurisdiction under the *Act respecting First Nations, Inuit and Metis children, youth and families*. Participants expressed concern about the timeline for approvals, noting the need for additional time to contemplate the reforms and next steps.



**This is Exhibit “D” referred to in  
the Affidavit of Amber Potts, Affirmed  
before me, on this 3<sup>rd</sup> day of March, 2025**

A handwritten signature in black ink, appearing to read 'A. Di...', written over a horizontal line.

**A commissioner for taking Affidavits**



# Virtual Information and Dialogue Session on Long-Term Reform of First Nations Child and Family Services

Date: September 18, 2024

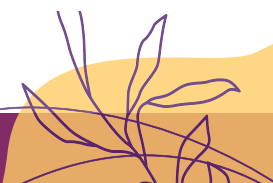
Time: 11:00am to 4:00pm ET



## Draft Agenda

September 18, 2024

Time	Activity
11:00am	<b>Opening</b> <ul style="list-style-type: none"> <li>• Opening Prayer</li> <li>• Welcoming Remarks</li> <li>• Review of Agenda</li> </ul>
11:20am	<b>Overview of the Draft Agreement and Political Perspectives</b> <ul style="list-style-type: none"> <li>• Assembly of First Nations</li> <li>• Chiefs of Ontario</li> <li>• Nishnawbe Aski Nation</li> </ul>
11:50am	<b>Key Elements of the Draft Agreement</b> <ul style="list-style-type: none"> <li>• Presentation of the key elements of the Draft Agreement: <ul style="list-style-type: none"> <li>◦ Baseline Funding Model/Regional Allocations</li> <li>◦ Prevention</li> <li>◦ Protection and Agency Funding</li> <li>◦ Governance and Accountability</li> <li>◦ Performance Measurement and Secretariats</li> <li>◦ Remoteness</li> <li>◦ First Nations Representative Services</li> <li>◦ Dispute Resolution</li> </ul> </li> </ul>
12:50pm	<b>Discussion, Question and Answers</b>
1:45pm	<b>What We Heard: Feedback from Regional Engagement Sessions</b> <ul style="list-style-type: none"> <li>• Overview of strengths, concerns and recommendations from Regional Engagement Sessions</li> <li>• Proposed changes to the Draft Agreement</li> </ul>
2:15pm	<b>Indigenous Services Canada Presentation</b> <ul style="list-style-type: none"> <li>• Implementation of the Draft Agreement</li> </ul>
2:45pm	<b>Discussion, Questions and Answers</b>
3:45pm	<b>Closing</b> <ul style="list-style-type: none"> <li>• Review of Discussion and Next Steps</li> <li>• Closing Remarks</li> <li>• Closing Prayer</li> </ul>
4:00pm	<b>Session Adjourns</b>



**This is Exhibit "E" referred to in  
the Affidavit of Amber Potts, Affirmed  
before me, on this 3<sup>rd</sup> day of March, 2025**

A handwritten signature in black ink, appearing to read "A. Di...", written over a horizontal line.

**A commissioner for taking Affidavits**



**SPECIAL CHIEFS ASSEMBLY**  
**October 16, 17, 18, 2024, Calgary, AB**

**Resolution no. 60/2024**

---

**TITLE:** Addressing Long-Term Reform of the First Nations Child and Family Services Program and Jordan's Principle

---

**MOVED BY:** Khelsilem, Council Chairperson, Squamish Nation, BC

---

**SECONDED BY:** Chief Ira McArthur, Pheasant Rump Nakota First Nation, SK

---

**DECISION** Carried; 7 opposition; 10 abstention

---

**WHEREAS:**

- A. The *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration) states:
- i. Article 18: Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own Indigenous decision-making institutions;
  - ii. Article 19: States shall consult and cooperate in good faith with the Indigenous peoples concerned through their own representative institutions in order to obtain their free, prior, and informed consent before adopting and implementing legislative or administrative measures that may affect them; and
  - iii. Article 37: Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements, and other constructive arrangements.
- B. Recognizing the sacredness of First Nations children, youth and families and Jordan's Principle, a child-first legal requirement ensuring substantively equal and culturally appropriate access to products, services and supports for First Nations children, and that the government entity of first contact pays for the support without delay.
- C. The First Nations Child and Family Caring Society (Caring Society) and the Assembly of First Nations (AFN) filed a Canadian Human Rights Act complaint in 2007 alleging Canada's inequitable provision of First Nations Child and Family Services (FNCFS) and its choice not to implement Jordan's Principle were discriminatory resulting in serious and irremediable harms.
- 

**Certified copy of a resolution adopted on the 18th day of October, 2024 in Calgary, Alberta**

*Cindy Woodhouse*

---

**CINDY WOODHOUSE NEPINAK, NATIONAL CHIEF**

**60 – 2024**

Page 1 of 5

- D. The parties (“CHRT Parties”) to the 2007 Canadian Human Rights Act complaint included:
- i. The AFN;
  - ii. The Chiefs of Ontario;
  - iii. The Nishnawbe-Aski Nation;
  - iv. Caring Society;
  - v. The Canadian Human Rights Commission; and
  - vi. Amnesty International;
- E. The Canadian Human Rights Tribunal (CHRT) substantiated the discrimination claim in 2016 CHRT 2 and ordered Canada to cease its discriminatory conduct immediately.
- F. Between 2016 and 2024, the CHRT Parties were required to hold Canada accountable and return to the Tribunal on multiple occasions, resulting in 24 non-compliance and procedural orders.
- G. On December 31, 2021, an Agreement in Principle (AIP) was signed as a framework for the negotiations of a Final Settlement Agreement (FSA) on First Nations child and family services, Jordan’s Principle, and the reform of Indigenous Services Canada.
- H. The Final Settlement Agreement will have a direct impact of unprecedented magnitude on the lives of First Nations children, youth, their families, and their communities for generations to come.
- I. The CHRT Parties have agreed to split the FSA negotiations with a child and family services agreement to come first and an agreement on Jordan’s Principle to follow.
- J. Canada has entered negotiations with some of the CHRT Parties (AFN, Chiefs of Ontario, Nishnawbe-Aski Nation) to complete an FSA on child and family services while other CHRT Parties are not included (Caring Society, the Canadian Human Rights Commission, and Amnesty International).
- K. In 2022 CHRT 8, the CHRT ordered the creation of the Expert Advisory Committee (EAC) composed of independent and multidisciplinary experts to develop and oversee the implementation of an evidence-informed workplan to prevent the recurrence of discrimination by ISC.
- L. The CHRT ordered the federal government to work with the Parties to completely overhaul the on-reserve child and family services program and fully implement Jordan’s Principle.
- M. As a result, an agreement was made to re-establish the National Advisory Committee on First Nations Child and Family Services Program Reform (the NAC) to address issues pertaining to child and family services reform, including funding, legislation, immediate relief, Jordan’s Principle and other reforms.
- N. The NAC was mandated by the First Nations-in-Assembly to provide expert advice on long-term reform of FNCFS.
- O. The NAC has not:
- i. completed its review of the proposed funding model for First Nations agencies;
  - ii. begun to review the proposed funding model for First Nations without agencies; or
  - iii. met since February 8, 2024.

---

**Certified copy of a resolution adopted on the 18th day of October, 2024 in Calgary, Alberta**

*Chixelhouse.*



- P. The AFN has not set any further NAC meetings despite requests to do so.
- Q. The AFN and Caring Society requested that the Institute of Fiscal Studies and Democracy (IFSD) conduct community-based research to inform the reform of the FNCFS Program and Jordan's Principle.
- R. Recalling and reaffirming Resolution 40/2022, *To Ensure Quality of Life to the First Nations Child and Family Services Program and Jordan's Principle*, directing:
- i. the Parties to develop evidence-and policy-based options for the long-term reform of Jordan's Principle that will include mechanisms to enable and support self-determination and to return to the First Nations-in-Assembly for review and approval;
  - ii. Canada to extend the timeframes for signing the FSA on long-term reform. The First Nations-in-Assembly must approve the FSA on long-term reform; and
  - iii. Canada to fund the AFN National Advisory Committee on First Nations Child and Family Services Program Reform and regional and other technical experts to inform the FSA.
- S. In light of these legal proceedings and their outcomes, it is critical to ensure that any long-term reforms of the FNCFS Program and Jordan's Principle are driven by community-led processes that reflect the needs of First Nations children and families, and that any agreements related to the FNCFS Program and Jordan's Principle (the LTR Agreements) shall meet the needs of First Nations children, youth and families.

**THEREFORE BE IT RESOLVED that the First Nations-in-Assembly:**

**Final Settlement Agreement**

1. Reject the draft Final Settlement Agreement on Long-Term Reform of the First Nations Child & Family Services Program dated July 11, 2024 and the "Proposed Amendments on the Draft Agreement on Long Term Reform" released on or about October 7, 2024, and call for a new negotiation process for agreements related to the First Nations Child and Family Services (FNCFS) Program and Jordan's Principle (the LTR Agreements) to be developed and approved by the First Nations-in-Assembly based on the spirit and intent of this resolution.

**Governance and Transparency of the LTR Agreements for the FNCFS Program and Jordan's Principle**

2. Direct the Assembly of First Nations (AFN) Executive Committee to adopt the following approach to the LTR Agreements negotiations:
  - a. establish a national Children's Chiefs Commission with representation appointed by every region (including regions not represented by the AFN) that will work openly and transparently to provide strategic direction and oversight of the LTR Agreements negotiations, reporting back to the First Nations-in-Assembly;
  - b. the Children's Chiefs Commission will establish a negotiation team, with regional representation and a new legal team, that will be responsible for carrying out the negotiations for the LTR Agreements under the direction of, and reporting to, the Children's Chiefs Commission;

---

**Certified copy of a resolution adopted on the 18th day of October, 2024 in Calgary, Alberta**

*Chixelhouse.*

- c. the negotiation team's Terms of Reference for the FNCFS Program will be provided to the First Nations-in-Assembly for approval no later than December 2024 ; and
  - d. the Children's Chiefs Commission shall report to the First Nations-in-Assembly in December 2024 as to its anticipated timeframes for the completion of the negotiations in relation to the FNCFS Program and on the anticipated timeframes for the Terms of Reference for Jordan's Principle.
3. Direct the AFN Executive Committee and the Children's Chiefs Commission to ensure that governance structures set out in an LTR Agreement shall uphold the sacredness of children, youth, and families, be transparent, open, and accountable to First Nations, preserve First Nations decision-making, and include the guidance of youth, youth in care and formerly in care, and First Nations child and family service experts.
4. Direct the AFN Executive Committee and the Children's Chiefs Commission to develop an open and transparent amendment process for the First Nations-in-Assembly to suggest changes, allow for consideration of those changes, and make changes to the LTR Agreements before being put to a vote, such process to be approved by the First Nations-in-Assembly.
5. Direct the Children's Chiefs Commission to provide a detailed report to the First Nations-in-Assembly on all suggested amendments, the decisions made on each amendment, and the outcomes of negotiations, before the First Nation-in-Assembly proceed with any decision-making on the LTR Agreements.
6. Direct the AFN to refrain in the future from committing to support or otherwise make efforts to procure support from First Nations leadership on an agreement, arrangement, protocol or other similar instrument that has not been approved by First Nations-in-Assembly.

### **Inclusion and Representation**

7. Direct the AFN Executive Committee and the Children's Chiefs Commission to take positive and effective measures throughout the respective LTR Agreement negotiations, review, and approval processes (including at the negotiation tables) to seek out and incorporate the expertise of:
  - a. First Nations;
  - b. First Nations child and family service providers;
  - c. Jordan's Principle experts;
  - d. Elders and Youth;
  - e. the National Advisory Committee ("NAC");
  - f. Jordan's Principle Operations Committee (JPOC), and;
  - g. Regional experts.
8. Direct the AFN Executive Committee and the Children's Chiefs Commission to review and approve the Terms of Reference for the NAC no later than December 2024.
9. Call upon Canada and direct the AFN Executive Committee to unconditionally include the Caring Society in negotiations of the LTR Agreements on the FNCFS Program and Jordan's Principle, and to conduct those negotiations pursuant to a negotiation protocol developed in collaboration with the Caring Society,

---

**Certified copy of a resolution adopted on the 18th day of October, 2024 in Calgary, Alberta**

*Chixelhouse.*

including the requirement that those negotiations be conducted in a manner that is open, transparent, and accountable to First Nations.

10. Call upon Canada to obtain a new negotiation mandate to address the matters in this resolution.

#### **Communication and Feedback**

11. Call on Canada to fulfill its obligation to consult with First Nations on any long-term reform approaches of the FNCFS Program and Jordan's Principle in a manner consistent with honour of the Crown.
12. Direct the AFN Executive Committee to postpone any votes on the LTR Agreements or any other agreements until all First Nations have had at least 90 days to review the complete agreement with appendices, available in both official languages.
13. Call on Canada to ensure that First Nations who are not AFN members are given a formal opportunity to express their views on the LTR Agreements, and for Canada, the AFN Executive, and the Children's Chiefs Commission to fully consider and incorporate those perspectives into the LTR Agreements.

#### **Voting**

14. Direct the AFN to ensure that First Nations Chiefs and Proxies can vote on the LTR Agreements virtually, in-person, or by another means (via specific accommodation to a Chief or Proxy), to accommodate First Nations leadership who are unable to attend in person due to community circumstances or emergencies.
15. Direct the AFN Executive Committee to support the EAC to conduct its work freely as an independent expert body and invite the EAC Members and NAC Members to present to the First Nations-in-Assembly in December 2024 and prior to any vote on the LTR Agreements.

#### **Support and Resources**

16. Call on Canada to provide funding for First Nations to secure independent legal and technical advice, ensuring that all communities can review the LTR Agreements with a full understanding of its implications.

---

**Certified copy of a resolution adopted on the 18th day of October, 2024 in Calgary, Alberta**

*C. Woodhouse*

---

**CINDY WOODHOUSE NEPINAK, NATIONAL CHIEF**

**60 – 2024**  
*Page 5 of 5*



**SPECIAL CHIEFS ASSEMBLY**  
**October 16, 17, 18, 2024, Calgary, AB**

**Resolution no. 61/2024**

---

**TITLE:** **Meaningful Consultation on Long-Term Reform of First Nations Child and Family Services**

---

**MOVED BY:** Proxy, Judy Wilson, Skawahlook First Nation, BC

---

**SECONDED BY:** Chief Carolyn Wahobin, Nekaneet First Nation, SK

---

**DECISION** Carried; 6 opposition; 4 abstention

---

**WHEREAS:**

- A.** The *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration) states:
- i. Article 18: Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own Indigenous decision-making institutions;
  - ii. Article 19: States shall consult and cooperate in good faith with the Indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them; and
  - iii. Article 37: Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements, and other constructive arrangements.
- B.** First Nations Chiefs are elected by the citizens of their Nations to make informed decisions on their behalf.
- C.** The Assembly of First Nations, Chiefs of Ontario, Nishnawbe Aski Nation and Canada have reached a counsel-endorsed draft Final Settlement Agreement on long-term reform of the First Nations Child and Family Services Program (FSA).
- D.** The draft FSA, if accepted by the First Nations-in-Assembly and the Canadian Human Rights Tribunal, will have a direct impact of unprecedented magnitude on the lives of First Nations children, youth, their families, and their communities for generations to come.

---

**Certified copy of a resolution adopted on the 18th day of October, 2024 in Calgary, Alberta**

*C. Woodhouse*

- E. First Nations Chiefs and their advisors need adequate time to review, consider, comment, and give direction to make amendments to the draft FSA.
- F. A failure to provide adequate time for Chiefs to review and consider the draft FSA contravenes article 18 of the UN Declaration and impedes Chiefs in discharging their responsibility to make the best, fully-informed decisions possible on behalf of their citizens.

**THEREFORE BE IT RESOLVED that the First Nations-in-Assembly:**

1. Reject the draft Final Settlement Agreement (FSA) on Long-Term Reform of the First Nations Child and Family Services program dated July 11, 2024 and the "Proposed Amendments on the Draft Agreement on Long-Term Reform" released on or about October 7, 2024, and direct the Children's Chiefs Commission (as defined in Assembly of First Nations (AFN) Draft Resolution 02/2024) to renegotiate the draft FSA in keeping with the directions of First Nations-in-Assembly including but not limited to:
  - a. Amend the purpose and associated text of the agreement to clarify that the agreement is intended to hold Canada accountable to stop the discrimination and prevent its recurrence;
  - b. Restore First Nations Chiefs as the key decision-makers on long-term reform;
  - c. Expand the principles to include honour of the Crown, Canada's responsibility to fully end discrimination and ensure it never happens again, intergenerational equity, transparency, accountability and inclusivity;
  - d. Make governance of long-term reform transparent and accountable to First Nations Chiefs;
  - e. Incorporate ongoing and meaningful oversight by, and consultation with, the National Advisory Committee on Long-Term Reform of the First Nations Child and Family Services (FNCFS) Program;
  - f. Preserve the mandate and independence of the Expert Advisory Committee to reform Indigenous Services Canada (ISC);
  - g. Expand the scope and strengthen the role of the Dispute Resolution Tribunal and ensure the remedies available to the Canadian Human Rights Tribunal (CHRT) are also available to the Dispute Resolution Tribunal;
  - h. Strengthen the Regional Modifications provisions to align with the CHRT orders that First Nations children must have access to and receive needs based, substantively equal, culturally appropriate services that account for the distinct circumstances of their communities;
  - i. Ensure that the definition of "First Nations child" as defined in 2020 CHRT 36 is considered and incorporated into the FSA;
  - j. Ensure that prevention funding is allocated as follows:
    - i. to First Nations to develop and deliver prevention programming in line with their self-determined service delivery model(s); and

---

**Certified copy of a resolution adopted on the 18th day of October, 2024 in Calgary, Alberta**

*Chixelhouse.*

- ii. to FNCFS agencies to ensure they can deliver prevention in a substantively equitable manner in keeping with legislative requirements to meet the needs of First Nations children and their unique cultural circumstances.
  - k. Ensure there is an evidence-informed, needs-based funding structure that is responsive to the distinct circumstances and needs of First Nations children and their families and can be upwardly adjusted to address those needs and circumstances on a First Nations, regional or sub-regional basis;
  - l. Ensure there is a region-specific, independent First Nations-led technical secretariat for each province/territory;
  - m. Ensure that Canada puts in place sufficient liability coverage and statutory immunity for First Nations and FNCFS Agencies in relation to the services they provide, and ensuring that Canada shall be the insurer of last resort for First Nations and FNCFS Agencies that have exercised good-faith decision-making;
  - n. Ensure that Canada discloses all federal-provincial-territorial service level agreements during the negotiation process and consults with those affected First Nations throughout the negotiation process; and
  - o. Ensure the CHRT retains jurisdiction over implementation of any FSA.
2. Call upon Canada to obtain a new negotiation mandate to address the matters in this resolution.
  3. Direct Canada to fully implement the funding principle of predictable, stable, sustainable, needs-based funding in the form of an unconditional grant consistent with the principles of substantive equality and cultural continuity in line with the CHRT orders to secure long-term positive outcomes for First Nations children, families and societies.
  4. Direct Canada and the AFN to refrain from bringing any motions or seeking direction from the CHRT to set aside existing CHRT orders, including but not limited to 2018 CHRT 4, 2021 CHRT 41 and 2022 CHRT 8, without the prior approval of First Nations-in-Assembly.
  5. Direct the Children's Chiefs Commission to ensure that any FSA does not abrogate or derogate from First Nations' title rights, treaty rights or in any way limit or diminish Canada's duty to consult, fiduciary obligations to First Nations or the honour of the Crown.

---

**Certified copy of a resolution adopted on the 18th day of October, 2024 in Calgary, Alberta**

*Chixelhouse.*

**This is Exhibit "F" referred to in  
the Affidavit of Amber Potts, Affirmed  
before me, on this 3<sup>rd</sup> day of March, 2025**

A handwritten signature in black ink, appearing to read "A. Di...", written over a horizontal line.

**A commissioner for taking Affidavits**



October 25, 2024

The Honourable Patty Hajdu, P.C., M.P.  
Minister of Indigenous Services  
10 Wellington Street  
Gatineau, QC K1A 0H4

Dear Minister:

On behalf of the Assembly of First Nations (AFN), I am writing to you regarding the results of the Special Chiefs Assembly on the long-term reform of the First Nations Child and Family Services (FNCFS) Program held on October 16-18, 2024.

I would like to start by thanking you for the good work that we have achieved together on this file. While there were many Chiefs in support of the Draft Agreement on Long-Term Reform of the FNCFS Program, ultimately it was rejected by First Nations-in-Assembly stating that more work is needed.

During the Assembly, the First Nations-in-Assembly provided us a new mandate to move forward via Resolution #02/2024, *Addressing Long-Term Reform of the First Nations Child and Family Services Program and Jordan's Principle*, and Draft Resolution #04/2024, *Meaningful Consultation on Long-Term Reform of First Nations Child and Family Services*.

These resolutions reject the Draft Agreement and provide us with a new mandate, and direction on reforms, including a new governance structure to oversee the reform. The resolutions call for extensive engagements, revised negotiation processes, and funding principles to be embedded in the process and revised Draft Agreement. Through these resolutions, we call on Canada to obtain a new negotiation mandate aligned with the resolutions and provide the resources to advance the work.

We look forward to advancing this work in a collaborative way, keeping our children at the forefront. We would appreciate a response from you in the coming week.



Megwetch,

*Cindy Woodhouse*

Cindy Woodhouse Nepinak  
National Chief  
Assembly of First Nations

Encl. Resolution #02/2024, *Addressing Long-Term Reform of the First Nations Child and Family Services Program and Jordan's Principle*, and Resolution #04/2024, *Meaningful Consultation on Long-Term Reform of First Nations Child and Family Services*.

c.c.: AFN Executive Committee

**This is Exhibit "G" referred to in  
the Affidavit of Amber Potts, Affirmed  
before me, on this 3<sup>rd</sup> day of March, 2025**

A handwritten signature in black ink, appearing to read "A. Di...", written over a horizontal line.

**A commissioner for taking Affidavits**



**Assembly of First Nations  
Executive Committee Meeting**  
Virtual Meeting  
January 21, 2025

**MOTION #3: Direction on Jordan’s Principle Litigation**

**Whereas** the Assembly of First Nations (“AFN”) implements the decisions and mandates of the First Nations-in-Assembly, as adopted by resolution, reflecting the collective sovereign will of First Nations;

**Whereas** in implementing the decisions of the First Nations-in-Assembly, the AFN Executive Committee must comply in all cases with the true spirit and intent of the resolutions passed by First Nations-in-Assembly;

**Whereas** the National Chief and the AFN Secretariat act under the direction and authority of the AFN Executive;

**Whereas** First Nations children are in an emergency situation and at immediate risk because of high-medical and specialized needs and are waiting for Jordan’s Principle decisions, and their number is growing;

**Whereas** the October Resolutions 60/2024 & 61/2024 and December Resolutions 87/2024, 88/2024, 89/2024 & 90/2024, passed by the First Nations-in-Assembly (“First Nations-in-Assembly Resolutions”), notably, establish the National Children’s Chiefs Commission (“NCCC”) and direct it to establish a negotiation team, with regional representation, and a new legal team;

**Whereas** it is essential for the physical, spiritual, emotional, and cognitive well-being of First Nations’ children that Long-Term Reform Negotiations on First Nations Child and Family Services and on Jordan’s Principle (together, the “LTR Negotiations”), and all the related legal proceedings, including at the Canadian Human Rights Tribunal (“CHRT”) in *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada* (“*FNCFCFS et al. v. Canada*”), move forward without delay; and

**Whereas** on December 18, 2024, the NCCC adopted in principle, by consensus, its terms of reference.

**Therefore**, the AFN Executive Committee hereby:

1. **Directs** that: (i) the new process for the LTR Negotiations and the related legal proceedings, including at the CHRT (*FNCFCFS et al. v. Canada*) proceed without any delay; and (ii) the AFN not take any actions whatsoever that seek to, or cause, delay in those matters;
2. **Instructs** that the AFN: (i) immediately withdraw its request to extend the CHRT deadlines, including those referenced in the CHRT letter decision of November 21, 2024, thereby rescinding any request by, or support from, AFN to delay implementation of the CHRT orders beyond the current deadlines set by the CHRT; and (ii) oppose any motions by, or requests from, Canada seeking to delay, in any way, the implementation of the CHRT orders;
3. **Directs**: (i) the National Chief, acting pursuant to Article 18(9) of the AFN Charter and in collaboration with the AFN Executive, to forthwith assign or re-assign the portfolio relating to First Nations Children

and Families, including matters pertaining to the LTR Negotiations and the CHRT hearing (*FNCFCS et al. v. Canada*) to [Regional Chief XXXX] and to [Regional Chief YYYY] and an alternate portfolio holder (collectively, the “Portfolio Holders”); and (ii) the Portfolio Holders to meet with the NCCC to determine how the AFN Executive and the NCCC will work collaboratively to implement this resolution and the First Nations-in-Assembly Resolutions;

4. **Directs** the Portfolio Holders to, on behalf of the AFN, with support of legal counsel in coordination with the NCCC, retain new, external legal counsel to represent AFN in coordination with internal counsel to represent AFN at the CHRT hearing and provide instructions to the new, external legal counsel that are in accordance with the First Nations-in-Assembly Resolutions and the positions the NCCC is taking in the LTR Negotiations;
5. **Directs** the Portfolio Holders to work collaboratively with the NCCC to ensure that any position the AFN takes in the CHRT hearing (*FNCFCS et al. v. Canada*) is consistent with: (i) the First Nations-in-Assembly Resolutions; and (ii) the positions of the NCCC in relation to the LTR Negotiations;
6. **Directs** that all of NCCC’s costs and expenses, general and legal, be included in AFN billings under the Consultation Protocol entered into pursuant to 2018 CHRT 4 and/or any other funding arrangements with Canada;
7. **Decides** that any NCCC costs and expenses, which are not covered by the Consultation Protocol entered into pursuant to 2018 CHRT 4 and/or under any other funding arrangements with Canada, will be paid for with funds from AFN’s unrestricted financial reserves and other monies within AFN’s control.

**Moved by:** Regional Chief Joanna Bernard

**Seconded by:** Regional Chief Kluane Adamek

**In favour:** Regional Chief Joanna Bernard, NB  
Regional Chief Bobby Cameron, SK  
Regional Chief Kluane Adamek, YT  
Regional Chief George Mackenzie, NT  
Regional Chief Ghislain Picard, QL  
Regional Chief Terry Teegee, BC  
Regional Chief Wendell LaBobe, PEI

**Opposed:** Regional Chief Brendan Mitchell, NL  
Regional Chief Andrea Paul, NS

**Abstentions:** Regional Chief Willie Moore, MB

**Motion carried.**

**From:** [Andrew Bisson](#)  
**To:** [Stuart Wuttke](#); [Adam Williamson](#); [Amber Potts](#); [Jonathan Thompson](#)  
**Subject:** FW: Executive Motions  
**Date:** Monday, 13 January, 2025 12:58:08 PM  
**Attachments:** [Motion for AFN Executive - Jan 13.2025.docx](#)  
[Motion 2 for AFN Executive - Jan 13.2025 .docx](#)

---

Motions seek to fund NCCC work via the Consultation Protocol and the unreserved funds at the AFN.



**ANDREW BISSON**

Chief Executive Officer | Chef de la direction  
CEO | Direction générale  
Assembly of First Nations | Assemblée des Premières Nations  
[\(613\) 241-6789 - Ext/Poste](tel:(613)241-6789) | [ABisson@afn.ca](mailto:ABisson@afn.ca)  
50 O'Connor Street, Suite 200 | 50, rue O'Connor Bureau 200  
Ottawa, Ontario K1P 6L2  
[www.afn.ca](http://www.afn.ca)

---

**From:** Regional Chief Joanna Bernard <[JBernard@afn.ca](mailto:JBernard@afn.ca)>  
**Sent:** Monday, 13 January, 2025 12:51 PM  
**To:** Andrew Bisson <[ABisson@afn.ca](mailto:ABisson@afn.ca)>; Regional Chief Brendan Mitchell <[bmitchell@afn.ca](mailto:bmitchell@afn.ca)>;  
Regional Chief Terry Teegee <[regionalchief@bcfn.ca](mailto:regionalchief@bcfn.ca)>; Regional Chief Andrea Paul <[apaul@afn.ca](mailto:apaul@afn.ca)>;  
Regional Chief Bobby Cameron <[bcameron@afn.ca](mailto:bcameron@afn.ca)>; Regional Chief Ghislain Picard  
<[gpicard@apnql.com](mailto:gpicard@apnql.com)>; Regional Chief Abram Benedict <[orc.benedict@coo.org](mailto:orc.benedict@coo.org)>; Regional Chief  
Kluane Adamek <[KAdamek@afn.ca](mailto:KAdamek@afn.ca)>; Regional Chief Wendell Labobe <[wlabobe@peiorc.ca](mailto:wlabobe@peiorc.ca)>;  
Regional Chief Willie Moore <[wmoore@afn.ca](mailto:wmoore@afn.ca)>  
**Subject:** FW: Executive Motions

Hi Andrew,

I would like to add these two motions to the agenda

RC Joanna

---

**From:** Stephanie Wellman <[wellmans@fncaringsociety.com](mailto:wellmans@fncaringsociety.com)>  
**Date:** Monday, January 13, 2025 at 1:44 PM  
**To:** Regional Chief Joanna Bernard <[JBernard@afn.ca](mailto:JBernard@afn.ca)>  
**Subject:** Executive Motions

Hi RC,

Please see attached two motions

Stephanie

**This is Exhibit “H” referred to in  
the Affidavit of Amber Potts, Affirmed  
before me, on this 3<sup>rd</sup> day of March, 2025**

A handwritten signature in black ink, appearing to read 'A. Di...', written over a horizontal line.

**A commissioner for taking Affidavits**

***Sent by e-mail***

January 24, 2025

Cindy Blackstock, PhD  
Executive Director  
First Nations Child & Family Caring Society  
E-mail: [CBlackst@fncaringsociety.com](mailto:CBlackst@fncaringsociety.com)

Dear Dr. Blackstock:

**RE: Caring Society's January 14, 2025 motion directing Canada to continue negotiations**

---

**I. Introduction and Overview**

I write on behalf of the National Children's Chiefs Commission (the "**NCCC**") to express its support for the Caring Society's January 14, 2025 motion to the Canadian Human Rights Tribunal ("**CHRT**") seeking orders requiring Canada to continue negotiations on the national long-term reform of the First Nations Child and Family Services Program, federal child and family services, and Jordan's Principle (the "**LTR Agreements**").

As you know, the NCCC is a regionally-representative Commission that has been established by resolutions of the First Nations-in-Assembly to assist First Nations in conducting further negotiations in relation to the LTR Agreements.

In this letter, I describe the following matters:

- a) the mandate, structure, and purpose of the NCCC;
- b) the work of the NCCC on this matter so far; and
- c) the NCCC's views on the Caring Society's January 14, 2025 motion to the CHRT.

**II. Discussion**

**a) Mandate, structure, and purpose of the NCCC**

As described in more detail below, the NCCC was established by the First Nations-in-Assembly and provided with a mandate to oversee and move forward with further negotiations in relation to the LTR Agreements. Fundamentally, the NCCC's purpose and role is to assist in acting on the will of the First Nations-in-Assembly to take a fresh approach toward negotiations for the LTR Agreements.

The First Nations-in-Assembly established the NCCC by way of [Resolution No. 60/2024](#), which was passed at the Special Chiefs Assembly in October 2024 concurrently with the



rejection of the *Final Settlement Agreement on Long-Term Reform of the First Nations Child & Family Services Program*. Through Resolution No. 60/2024, the First Nations-in-Assembly expressed the desire to adopt a new negotiation approach in relation to the LTR Agreements. In particular, in Article 2 of that Resolution under the heading “Governance and Transparency of the LTR Agreements for the FNCFS Program and Jordan’s Principle”, the First Nations-in-Assembly directed the AFN Executive Committee “to adopt the following approach to the LTR Agreements negotiations”:

- a) establish the NCCC, which is to have representation appointed by every region, to “provide strategic direction and oversight of the LTR Agreements negotiations, reporting back to the First Nations-in-Assembly”;
- b) direct the NCCC to establish a regionally-representative negotiation team responsible for carrying out the negotiations under the direction of, and reporting to, the NCCC;
- c) require the NCCC to provide the terms of reference for the negotiation team to the First Nations-in-Assembly by December 2024; and
- d) require the NCCC to report to the First Nations-in-Assembly in December 2024 about its anticipated timeframes for the completion of negotiations.

Resolution No. 60/2024 also sets out the following aspects of the NCCC’s mandate and consequential changes to the negotiation direction of the AFN:

- **Article 3:** the AFN Executive Committee and the NCCC must ensure that governance structures set out in a new agreement will “uphold the sacredness of children, youth, and families, be transparent, open, and accountable to First Nations, preserve First Nations decision-making, and include the guidance of youth, youth in care and formerly in care, and First Nations child and family service experts”;
- **Article 4:** the AFN Executive Committee and the NCCC must develop an open and transparent process for the First Nations-in-Assembly to suggest and make changes to new agreements before they are put to a vote;
- **Article 5:** the NCCC must provide a detailed report to the First Nations-in-Assembly on suggested amendments, the decisions made on amendments, and negotiation outcomes, before the First Nations-in-Assembly proceed with any decision-making to approve further agreements;
- **Article 6:** going forward, the AFN must refrain from making efforts to procure support from First Nations leadership on any agreement, arrangement, protocol, or similar instrument that has not been approved by First Nations-in-Assembly;

- **Article 7:** the AFN Executive Committee and the NCCC must take “positive and effective measures” throughout the negotiation, review, and approval process for a new draft agreement to seek out and incorporate the expertise of: First Nations, child and family service providers, Jordan’s Principle experts, Elders and Youth, the National Advisory Committee, the Jordan’s Principle Operations Committee, and regional experts; and
- **Article 10:** calls on Canada “to obtain a new negotiation mandate to address the matters in this resolution.”

I have included Resolution 60 as **Schedule “A”** to this letter for ease of reference.

[Resolution 61/2024](#), which was also passed by the First Nations-in-Assembly in October 2024, provides more detailed negotiation directions from the First Nations-in-Assembly to the NCCC as to the content of new LTR Agreements, calls upon Canada “to obtain a new negotiation mandate to address the matters in this resolution” (including fully and unconditionally implementing the principle of predictable, stable, sustainable, needs-based funding), and directs the NCCC to ensure that any further draft agreement does not abrogate or derogate from First Nations’ title or treaty rights, or in any way diminish Canada’s duty to consult, fiduciary obligations to First Nations, or the honour of the Crown.

I have included Resolution 61 as **Schedule “B”** to this letter for ease of reference.

The First Nations-in-Assembly also [passed additional, related resolutions](#) at the December 3-5, 2024 Special Chiefs’ Assembly, which also have a bearing on the mandate of the NCCC, as follows:

- Resolution No. 88/2024: calling on Canada to “publicly and fully commit to respecting” the rejection of the draft agreement and the new direction represented by Resolutions 60 and 61/2024 (among other things);
- Resolution No. 89/2024: supporting the NCCC in establishing its negotiating team, approving in principle the draft terms of reference for the NCCC and the negotiation team, and directing the NCCC to report to First Nations-in-Assembly at every Assembly until its work is complete (among other things); and
- Resolution No. 90/2024: directing Canada to obtain a new negotiation mandate within 30 days “in full alignment with” Resolutions 60 and 61/2024, and supporting the NCCC in legal proceedings, including before the CHRT, to ensure First Nations children, youth and families receive the full benefit of existing CHRT orders, and to seek additional remedies as required (among other things).

I have included Resolutions 88, 89, and 90 as **Schedule “C”, “D”, and “E”** to this letter for ease of reference.

**b) Work of the NCCC to date**

Consistent with the resolutions of the First Nations-in-Assembly summarized above, the following steps have been taken to establish the NCCC structure and to get it up and running:

- Commissioners of the NCCC from every region (other than Ontario, whose First Nations leadership is pursuing a separate negotiation strategy) have been appointed, consistent with Article 2(a) of Resolution 60/2024;
- the NCCC is the process of establishing a regionally-representative negotiation team with legal support, consistent with Article 2(b) of Resolution 60/2024;
- the terms of reference for the NCCC and the negotiation team were conditionally approved by the First Nations-in-Assembly in December 2024; and
- the NCCC has met several times and is getting up to speed on the Commission's mandate, and it is now in the process of attempting to plan meetings with the AFN Executive Team to coordinate efforts.

**c) The NCCC's views on the January 14, 2025 motion**

The NCCC has reviewed the Caring Society's January 14, 2025 motion materials.

The NCCC fully supports the Caring Society moving the motion forward to get Canada back to the table, and shares the Caring Society's concern that Canada has expressed it no longer has a mandate to negotiate a national final settlement agreement for long-term reform. The NCCC's view is that Canada is yet again flouting its legal and constitutional obligations toward First Nations children, in clear violation of the CHRT's numerous orders and the honour of the Crown.

In particular, Canada's decision to abruptly and unilaterally withdraw from the national LTR Agreement negotiations is inconsistent with:

- the clear order of the CHRT that Canada is required to "consult not only with the Commission, but also directly with the AFN, the Caring Society, the [Chiefs of Ontario], and the [Nishinawbe Aski Nation] on the orders made in this ruling, the [merits decision], and its other rulings", as well as to enter a consultation protocol with the above-noted parties "to ensure that consultations are carried out in a manner consistent with the honour of the Crown and to eliminate the discrimination substantiated in the [merits decision]" (2018 CHRT 4 at para. 400); and, relatedly,
- the terms of the consultation protocol itself, developed pursuant to the CHRT's direction. In particular, Article 18 of the consultation protocol makes explicit that "[t]he purpose and objectives in this Protocol, as well as the principles and parameters [described therein] apply equally to mid and long term relief." Canada

has unlawfully gutted the consultation protocol by withdrawing entirely from national negotiations for LTR Agreements.

The NCCC is therefore of the view that the CHRT should grant the relief sought by the Caring Society. In addition to being clearly compelled by the CHRT's past rulings and the terms of the consultation protocol, it is consistent with the directions of the First Nations-in-Assembly surrounding the establishment of the NCCC summarized above. Those directions repeatedly call for Canada to acknowledge the new negotiation direction of the first Nations-in-Assembly expressed in Resolutions 60 and 61/2024, and to obtain a new mandate accordingly.

### **III. Closing and Next Steps**

The NCCC looks forward to working with the Caring Society and the other parties to advance work on these important matters.

Please feel free to share this letter with the CHRT and/or the other parties to the CHRT proceedings.

Sincerely,

National Children's Chiefs Commission

A handwritten signature in black ink, appearing to be 'Pauline Frost', written in a cursive style.

Chief Pauline Frost, Chair

c: NCCC  
AFN Executive  
Scott A. Smith and Liam A. Smith, interim legal counsel to the NCCC

**This is Exhibit "I" referred to in  
the Affidavit of Amber Potts, Affirmed  
before me, on this 3<sup>rd</sup> day of March, 2025**

A handwritten signature in black ink, appearing to read "A. Di...", written in a cursive style.

---

**A commissioner for taking Affidavits**



**ASSEMBLY OF FIRST NATIONS  
PRESS RELEASE/COMMUNIQUÉ  
ASSEMBLÉE DES PREMIÈRES NATIONS**

50, O'CONNOR STREET/RUE  
SUITE/BUREAU 200  
OTTAWA, ON K1P 6L2

(613) 241-6789 telephone / téléphone (613) 241-5808 fax / télécopieur

**Assembly of First Nations (AFN) Calls on Canada for New Mandate to Advance Long-Term Reform of the First Nations Child and Family Services Program**

(December 1, 2024 – Unceded Algonquin Territory, Ottawa, Ontario) — Assembly of First Nations (AFN) National Chief Cindy Woodhouse Nepinak is urging Canada to return to the table with a new mandate to advance long-term reform of the First Nations Child and Family Services (FNCFS) Program.

“Chiefs have given us clear direction. We’ve told Canada that they need to come back with a new mandate, one that aligns with what our Chiefs are asking for, as outlined in AFN Resolution #60/2024, *Addressing Long-Term Reform of the First Nations Child and Family Services Program and Jordan’s Principle*, and AFN Resolution #61/2024, *Meaningful Consultation on Long-Term Reform of First Nations Child and Family Services*,” said AFN National Chief Woodhouse Nepinak.

Following the new mandate provided by First Nations-in-Assembly at the Special Chiefs Assembly in October 2024, [National Chief Cindy Woodhouse Nepinak informed the Government of Canada of the mandate and called on Canada to return to the negotiating table with a revised mandate aligned with Chiefs’ direction](#). The Minister of Indigenous Services Canada, Patty Hajdu, has been invited to speak at this week’s AFN Special Chiefs Assembly in Ottawa, Ontario. The AFN Executive Committee continues to meet regularly to review the status of this critical file.

—30—

*The Assembly of First Nations (AFN) is a national advocacy organization that works to advance the collective aspirations of First Nations individuals and communities across Canada on matters of national or international nature and concern.*

For more information, please contact:

Genna Benson  
Director of Communications  
Assembly of First Nations  
[gbenson@afn.ca](mailto:gbenson@afn.ca)  
(604) 340-3117 (mobile)

Jamie Monastyrski  
Press Secretary  
Office of the National Chief  
[jamiem@afn.ca](mailto:jamiem@afn.ca)  
(613) 612-7229 (mobile)



**ASSEMBLY OF FIRST NATIONS  
PRESS RELEASE/COMMUNIQUÉ  
ASSEMBLÉE DES PREMIÈRES NATIONS**

50, O'CONNOR STREET/RUE  
SUITE/BUREAU 200  
OTTAWA, ON K1P 6L2

(613) 241-6789 telephone / téléphone (613) 241-5808 fax / télécopieur

**Assembly of First Nations (AFN) Concludes Productive Special Chiefs Assembly**

(December 13, 2024 – Unceded Algonquin Territory, Ottawa, Ontario) — The Assembly of First Nations (AFN) successfully concluded its Special Chiefs Assembly (SCA) held from December 3 to 5, 2024, on the traditional unceded territory of the Anishinabe Algonquin Nation in Ottawa, Ontario. The gathering brought together thousands of Chiefs, Proxies, youth, Elders, Knowledge Keepers, veterans, and other delegates to deliberate on critical issues and priorities for First Nations across Canada.

“The SCA provides a critical forum for dialogue and collective decision-making; the foundation on which the AFN was built,” said National Chief Cindy Woodhouse Nepinak. “This year’s Assembly saw thousands of delegates participate in meaningful dialogue and collective decision-making, while contributing their perspectives and expertise. Together, we adopted 34 resolutions that will guide our collective work moving forward.”

Among the resolutions passed was a call for a National Inquiry into Systemic Racism in Policing, reflecting the urgent need to address systemic injustices and ensuring the safety and protection of First Nations citizens. Chiefs and Proxies also advanced critical discussions on the Long-Term Reform of First Nations Child and Family Services, including the establishment of the Children’s Chiefs Commission. Additionally, the Assembly reiterated the call for Canada to secure a new negotiation mandate within the 30-day period outlined in the AFN Resolution, *Safeguarding First Nations Children and Holding Canada Accountable for its Canadian Human Rights Tribunal Legal Obligations*.

“The Chiefs have provided clear direction, and we are focused on ensuring that this work advances in the way they have outlined,” added National Chief Woodhouse Nepinak. “We look forward to the important role the Children’s Chiefs Commission will play in the work ahead.”

“The Assembly was forward-looking and a clear reflection of the dedication of First Nations leadership and delegates. The contributions and discussions at the SCA set a clear path forward on critical issues like systemic racism, justice, child welfare, climate action, and more. As we move forward, the AFN Executive Committee will remain focused on following the direction provided by First Nations-in-Assembly and driving meaningful progress for First Nations across Canada. We have come a long way in just one year, and it is truly inspiring to see us come together in unity,” concluded National Chief Woodhouse Nepinak.

*The Assembly of First Nations (AFN) is a national advocacy organization that works to advance the collective aspirations of First Nations individuals and communities across Canada on matters of national or international nature and concern.*

For more information, please contact:

Kelly Reid  
Senior Communications Officer  
Assembly of First Nations  
(613) 292-0857 (mobile)  
[kreid@afn.ca](mailto:kreid@afn.ca)

Jamie Monastyrski  
Press Secretary  
Office of the National Chief  
(613) 612-7229 (mobile)  
[jamiem@afn.ca](mailto:jamiem@afn.ca)





**ASSEMBLY OF FIRST NATIONS  
PRESS RELEASE/COMMUNIQUÉ  
ASSEMBLÉE DES PREMIÈRES NATIONS**

50, O'CONNOR STREET/RUE  
SUITE/BUREAU 200  
OTTAWA, ON K1P 6L2

(613) 241-6789 telephone / téléphone (613) 241-5808 fax / télécopieur

**National Chief Cindy Woodhouse Nepinak Responds to Canada's Decision on the Long-Term Reform of First Nations Child Welfare**

(January 7, 2025 – Unceded Algonquin Territory, Ottawa, Ontario) — Assembly of First Nations (AFN) National Chief Cindy Woodhouse Nepinak issued the following statement today in response to correspondence from the Government of Canada regarding calls for a new mandate to negotiate long-term reform of First Nations Child and Family Services (FNCFS):

“Since October of last year, we have repeatedly called on Canada to seek a new mandate for negotiations of long-term reform, in accordance with Resolutions #60/2024, [Addressing Long-Term Reform of the First Nations Child and Family Services Program and Jordan's Principle](#), and #61/2024, [Meaningful Consultation on Long-Term Reform of First Nations Child and Family Services](#), passed by First Nations-in-Assembly,” said National Chief Cindy Woodhouse Nepinak. “Canada has now confirmed in a letter that its mandate on reform of FNCFS, ‘does not permit further negotiations at a national level’, which is a very disappointing decision. The well-being of First Nations children and families remains our top priority, and we will continue to advocate for fair and equitable supports to ensure our children thrive, wherever they live. The AFN Executive Committee will continue its discussions to determine how best to support First Nations leadership to pursue resolution to long term reform either through negotiations or litigation.”

“Canada has indicated that it will move forward with regional negotiations with the Chiefs of Ontario (COO) and Nishnawbe Aski Nation (NAN),” continued National Chief Woodhouse Nepinak. “We support the Chiefs in these discussions, which have the potential to bring meaningful changes for children and families in Ontario. We lift up the dedication of the Ontario Chiefs in advancing this critical work.”

—30—

*The Assembly of First Nations (AFN) is a national advocacy organization that works to advance the collective aspirations of First Nations individuals and communities across Canada on matters of national or international nature and concern.*

For more information, please contact:

Genna Benson  
Director of Communications  
Assembly of First Nations  
(604) 340-3117 (mobile)  
[gbenson@afn.ca](mailto:gbenson@afn.ca)

Cherish Francis  
Deputy Chief of Staff  
National Chief's Office  
(343) 630-1372 (mobile)  
[cfrancis@afn.ca](mailto:cfrancis@afn.ca)



**ASSEMBLY OF FIRST NATIONS  
PRESS RELEASE/COMMUNIQUÉ  
ASSEMBLÉE DES PREMIÈRES NATIONS**

50, O'CONNOR STREET/RUE  
SUITE/BUREAU 200  
OTTAWA, ON K1P 6L2

(613) 241-6789 telephone / téléphone (613) 241-5808 fax / télécopieur

**Assembly of First Nations Congratulates Nishnawbe Aski Nation and Chiefs of Ontario on Ratifying Final Agreement on Long-Term Reform of First Nations Child and Family Services Program in Ontario**

(February 26, 2025 – Unceded Algonquin Territory, Ottawa) – National Chief Cindy Woodhouse Nepinak released the following statement today after Chiefs of Ontario and Nishnawbe Aski Nation ratified a Final Agreement on Long-Term Reform of First Nations Child and Family Services Program in Ontario at a separate Special Chiefs Assembly this week.

“Ontario's Final First Nations Child Care Agreement will create sweeping positive changes for children and families across the Territory, starting within the next 45 days,” said National Chief Woodhouse Nepinak. “We lift up Ontario Regional Chief Abram Benedict, Nishnawbe Aski Nation Grand Chief Alvin Fiddler and all Ontario Chiefs for their leadership to help end discrimination in Canada's racist child welfare system. They have been good relatives to the next generations of First Nation children.”

“We also continue to remind Canada that it has not met its obligations under the Canadian Human Rights Tribunal Orders,” continued National Chief Woodhouse Nepinak. “That order is to end discrimination for *all* First Nation children on-reserve and in Yukon, and we repeat our call for Canada to come back to the table to negotiate a new agreement with the National Children's Chiefs Commission (NCCC), as mandated by the First Nations-in-Assembly. The AFN will continue supporting the NCCC and all regions as they pursue a long-term reform agreement nationally or regionally that ends discrimination once and for all. The AFN will also continue to take all measures, including litigation, if necessary, to advance these needed long-term reforms.”

—30—

*The Assembly of First Nations (AFN) is a national advocacy organization that works to advance the collective aspirations of First Nations individuals and communities across Canada on matters of national or international nature and concern.*

For more information, please contact:

Genna Benson  
Director of Communications  
Assembly of First Nations  
(604) 340-3117 (mobile)  
[gbenson@afn.ca](mailto:gbenson@afn.ca)

Kelly Reid  
Senior Communications Officer  
Assembly of First Nations  
(613) 292-0857 (mobile)  
[kreid@afn.ca](mailto:kreid@afn.ca)