
Assembly of First Nations

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Assemblée des Premières Nations

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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

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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

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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.

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