

Information Booklet

**Draft Agreement on Long-Term Reform
of the First Nations Child and Family
Services Program**





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At a Glance

Draft Agreement on Long-Term Reform of the
First Nations Child and Family Services Program





Introduction

On July 11, 2024, the Assembly of First Nations (AFN), Chiefs of Ontario, Nishnawbe Aski Nation, and the Government of Canada (the “Parties”) reached a historic Draft Agreement on Long-Term Reform of the First Nations Child and Family Services (FNCFS) Program. The agreement remains subject to approval by the First Nations-in-Assembly at a future AFN Special Chiefs Assembly.

Addressing Discrimination found by the Canadian Human Rights Tribunal

The purpose of the Final Agreement on Long-Term Reform of the FNCFS Program (the “Final Agreement”) is to address the discrimination found by the Canadian Human Rights Tribunal (CHRT) and to prevent its recurrence. The reformed program is designed to support First Nations in addressing the best interests of First Nations children, youth, young adults, and families by mitigating the drivers of the ongoing overrepresentation of First Nations children involved with Child and Family Services (CFS).

The reforms will also respect the right to self-determination of First Nations, a right recognized and affirmed in the *United Nations Declaration on the Rights of Indigenous Peoples*.

Total Amount in the Agreement

Once approved, the Final Agreement commits \$47.8 billion in funding to First Nations and First Nation service providers over ten years starting April 1, 2025, to implement a reformed FNCFS Program. The FNCFS Program will continue after the ten-year mark and will be based on the recommendations of two program assessments scheduled for finalization at the five-year and ten-year marks.

Recipients of the Funding

Both First Nations and FNCFS agencies will use FNCFS Program funding to deliver child and family services to First Nations children, youth, and families on-reserve and in the Yukon.

Funding Mechanisms

The Final Agreement provides that funding be distributed to First Nations and FNCFS agencies using the most flexible funding mechanism. This mechanism will generally enable First Nations and FNCFS agencies to move funding across expenditure categories and to carry forward unused funds to the following fiscal year to meet the needs of the children, youth, young adults, and families they serve. FNCFS agencies will be encouraged to engage with their affiliated First Nations to discuss the use of unexpended funds.

For example, the Parties anticipate that as prevention services are utilized, the number of First Nations children entering care should decrease. As the number of children placed into care decreases, those funds that normally support



apprehensions and maintenance can be redirected to prevention services. In short, there should not be a net loss of funding during the first five years of the program.

Elements of the Reformed FNCFS Funding Approach

The reformed FNCFS funding approach is a ten-year funding framework informed by First Nations-led research. It is made up of the following components:

- i. **Baseline Funding for FNCFS Agencies:** Starting April 1, 2025, baseline funding will be provided to FNCFS agencies based on the 2022-23 operations and maintenance expenditures, including least disruptive measures, adjusted annually for inflation and population growth going forward.
- ii. **Prevention:** In 2024-25, funding for prevention services or activities will be provided based on a formula that multiplies \$2,603.55 by the number of registered persons resident on-reserve of a First Nation, and in the Yukon. When the calculation yields an amount less than \$75,000, this is the minimum provided for a First Nation. Starting on April 1, 2026, except in Ontario, this prevention funding will be allocated entirely to First Nations, unless a First Nation and its FNCFS agency have come to an arrangement where the allocation can be divided amongst the two or flow fully to the agency. In Ontario, the allocation for prevention funding will continue to be split between FNCFS agencies and First Nations as negotiated by the Ontario First Nations Parties.
- iii. **First Nation Representative Services:** Except in Ontario, funding for First Nation Representative Services in 2024-25 will be provided to each First Nation based on a formula that multiplies \$294.72 by the number of registered persons resident on-reserve of a First Nation, and in the Yukon, based on the total registered population of a First Nation. Even if this calculation yields an amount less than \$75,000, this is the minimum that will be provided to a First Nation. In 2025-26 First Nations in Ontario will be provided with funding such that each First Nation is funded for First Nation Representative Services at its highest annual amount of First Nation Representative Services funding received over the preceding six fiscal years, from fiscal year 2019-20 to 2022-23. In subsequent years, First Nations in Ontario will receive funding for First Nation Representative Services equal to that of the preceding year adjusted for inflation and population growth.
- iv. **Post-Majority Support Services:** Funding will be provided to First Nations for post-majority support services for youth aging out of care and young adults formerly in care, up to their 26th birthday or the age of majority in the applicable provincial or the Yukon legislation, whichever age is greater. Post-majority support services assist youth and young adults who were, are, or plan to be ordinarily resident on-reserve or in the Yukon. Post-majority support services funding will be allocated to First Nations.



- v. **Capital:** Funding will be provided to First Nations and FNCFS agencies for needs assessments, feasibility studies, and the purchase, construction, or repair of capital assets needed to support the delivery of child and family services to First Nations children, youth, or families on-reserve or in the Yukon.
- vi. **Household Supports (previously called poverty funding):** This funding will be provided to First Nations to support them in meeting the basic needs of families, keeping them together and out of care wherever possible. The Final Agreement provides \$25.5 million for household supports in 2024-25, and this amount will be adjusted for inflation in each subsequent fiscal year for the term of the agreement.
- vii. **Information Technology:** This funding will support the information technology needs related to the implementation of the reformed FNCFS Program. This funding is calculated at 6% of the annual baseline funding and will be provided to First Nations.
- viii. **Results:** This funding will support the implementation of the performance measurement framework and related indicators, most notably for capturing and reporting data related to First Nations wellbeing. The funding will amount to 5% of the annual baseline funding and will be provided to First Nations.
- ix. **Emergency:** This funding will support responses to unanticipated circumstances affecting or related to the delivery of the reformed FNCFS Program. The funding is calculated at 2% of the annual baseline funding and will be split between First Nations and FNCFS agencies.
- x. **Remoteness adjustment:** This funding adjustment recognizes the barriers that impact remote First Nations communities and reflects the increased costs of delivering child and family services in those communities. The adjustment, based on the Remoteness Quotient Adjustment Factor (RQAF) developed by Nishnawbe Aski Nation, will apply to funding for prevention, First Nation Representative Services, post-majority support services, household supports, information technology, results and emergency. The costs associated with remoteness will be built into the baseline funding for agencies, which is based on actual expenditures from the 2022-23 fiscal year.

Housing Fund

The Final Agreement provides \$2 billion over five years from 2023-24 to 2027-28 to support the purchase, construction, and renovation of housing units in First Nations for the purposes of preventing First Nations children from being taken into care and supporting reunification where housing is a barrier. This funding is in addition to \$210 million provided in 2023-24.

Reform of the 1965 Agreement in Ontario

The Chiefs of Ontario, Nishnawbe Aski Nation and Canada will continue to work together on an expedited basis to pursue reform of the 1965 Canada-Ontario Agreement with the Government of Ontario.



Funding for First Nations Not Affiliated with an FNCFS Agency

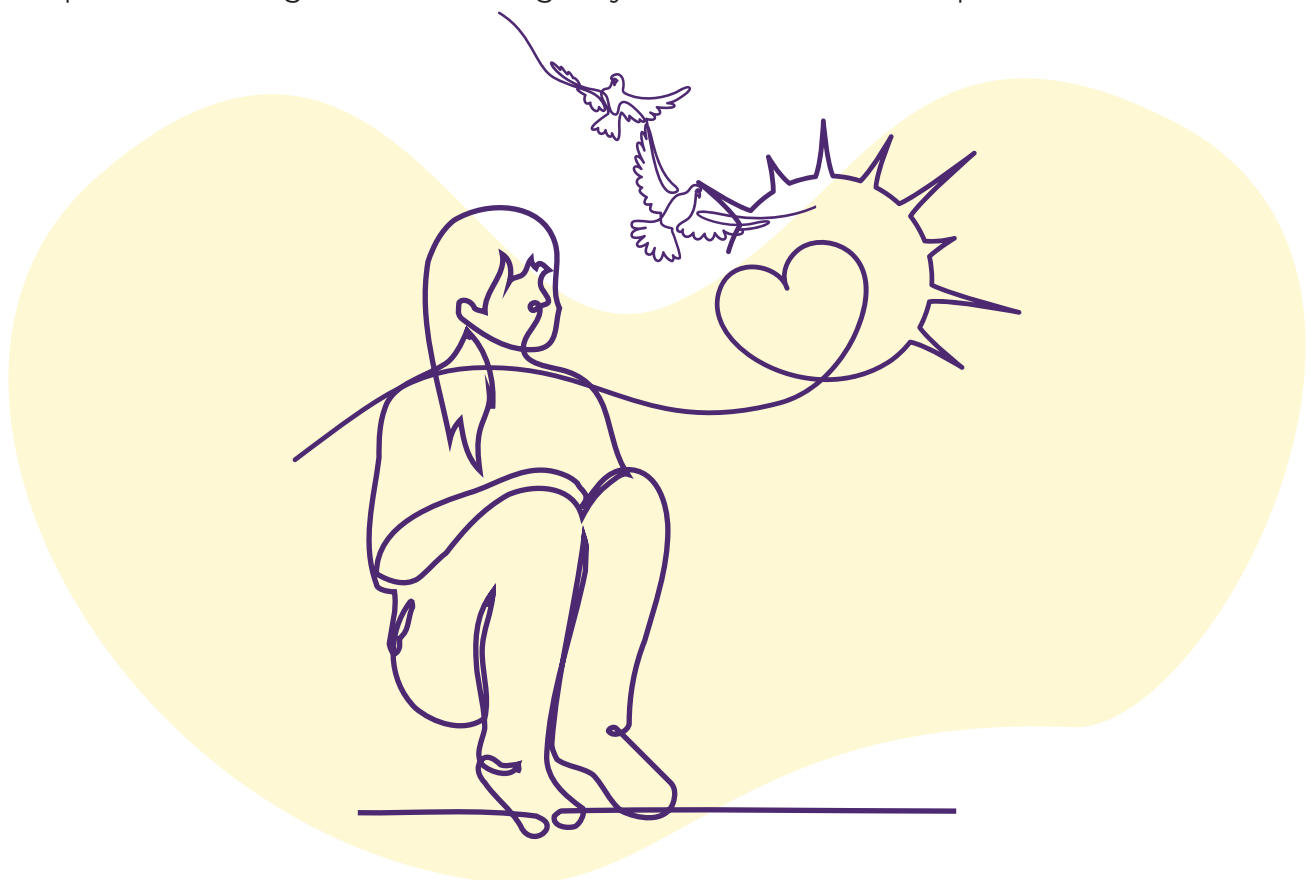
The Final Agreement provides funding to provincial governments and the Yukon government for protection services for First Nations not affiliated with an FNCFS Agency. Under the Reformed FNCFS Funding Approach, Canada will distribute all prevention funding and emergency funding to those First Nations (in other words, that funding will not be split between a First Nation and another entity).

Reform of Federal-Provincial and Federal-Yukon Funding Agreements

The Final Agreement commits Canada to engaging with provincial governments and the Yukon government to ensure that agreements with these governments adhere to the principles of the Final Agreement.

New FNCFS Agencies and FNCFS Agency Transitions within Reformed Program

With written notice, a First Nation may transition its protection services from a provincial government, the Yukon government or their affiliated FNCFS agency to a new or existing FNCFS agency. Canada will fund and facilitate this transition. Where a First Nation transitions to a new FNCFS agency, Canada will provide funding to the FNCFS agency for reasonable start-up costs.





First Nations Exercising Jurisdiction over Child and Family Services

First Nations that are funded to exercise jurisdiction in the delivery of some or all aspects of child and family services in accordance with a self-government agreement, a treaty arrangement, a coordination agreement under *An Act respecting First Nations, Inuit and Métis children, youth and families*, or some alternative federal jurisdictional and funding process, will not be offered less funding than what their entitlement would be for services funded under the Reformed FNCFS Funding Approach and covered by such federal jurisdictional and funding process.

Where a First Nation receives funding for services in accordance with a jurisdictional agreement, the First Nation and its affiliated FNCFS service providers will not receive funding under the Reformed FNCFS Funding Approach for the services covered by the jurisdictional agreement.

Agency Accountability to First Nations

Accountability of FNCFS agencies to the First Nations government they serve is one of the principles of this Final Agreement. Canada's funding agreements with FNCFS agencies under the Reformed FNCFS Program will require FNCFS agencies to co-develop a child and community wellbeing plans with its affiliated First Nation(s). FNCFS agencies will also be required to collect data and report to their affiliated First Nations on a range of indicators to provide a holistic view of the people they serve and their operational context and develop priority areas for future funding.

Measuring Reformed FNCFS Program Performance

Standardized data on the efficacy of the Reformed FNCFS Program and on services provided to First Nations children under the Reformed FNCFS Program will be collected and contribute to the reporting to Parliament and Canadians on the outcomes of the Reformed FNCFS Program. To support monitoring related to structural drivers that lead children and families into contact with the child welfare system, Canada will continue to report publicly, through Indigenous Services Canada's Departmental Results Report, on indicators that are consistent with the Measuring to Thrive Framework, in areas such as safe and suitable housing, livable income and mental health services. Canada will also support the establishment and function of national and regional secretariats to assist First Nations and agencies with collecting, synthesizing, and reporting child and family wellbeing and related data.

Reform of Indigenous Services Canada and Successor Departments

As established by the Agreement-in-Principle, an Expert Advisory Committee was initiated to identify and provide recommendations to redress internal departmental processes, procedures and practices that contribute to the discrimination identified by the CHRT. Canada will continue to support the Expert Advisory Committee, whose work will be overseen and guided by the Reform Implementation Committee.



Governance of the Reformed FNCFS Program

A Reform Implementation Committee, consisting of members appointed by the Parties, will be established to oversee and monitor the implementation of the Reformed FNCFS Program. This Committee will consider the reviews and processes established by the Final Agreement to inform recommendations to Canada with respect to changes to the Reformed FNCFS Program.

Reformed FNCFS Program Assessments

Two program assessments will be conducted. The first program assessment will commence around 2028-29, and the other assessment as the end of the ten-year term nears. The assessments will review and document the Reformed FNCFS Program's achieved progress toward the elimination of discrimination and prevention of its recurrence. The assessments will also recommend any improvements to the FNCFS Program that addresses the well-being and advancement of the best interests of First Nations children, youth, young adults and families. The scope of the program assessments will be defined by the Reform Implementation Committee. The subsequent reports will contain recommendations for the Reform Implementation Committee to consider and bring forward.

Dispute Resolution

A binding dispute resolution process, through a Dispute Resolution Tribunal, will resolve disputes among the Parties related to the implementation of the Final Agreement. The Dispute Resolution Tribunal will also be available to address any disputes between Canada and First Nations and FNCFS agencies. This Tribunal will be established on an interim basis through order-in-council, and Canada shall use its best efforts to establish a Dispute Resolution Tribunal through legislation.

Next Steps

If, after an engagement period, the Final Agreement is approved by the Parties, a motion will be brought to the CHRT asking that the Panel approve the agreement and end its oversight of the FNCFS Program. Following that approval, the Final Agreement can be fully implemented.





What is Primary, Secondary and Tertiary Prevention?

Prevention activities in the context of First Nations Child and Family Services (FNCFS) are broadly defined as activities that address community, family, and child risk factors, and generally build resilience among children, families, and First Nations. Reform of the FNCFS Program aims to address the root causes of involvement with FNCFS through funding to support primary and secondary prevention activities.

Best practices in prevention typically involve three levels of services: (1) Primary (Community-centered) prevention; (2) Secondary (Family-centered) prevention; and (3) Tertiary (individual-centered) prevention. First Nations are funded to provide primary and secondary prevention services aimed at mitigating the drivers of the overrepresentation of First Nations children in child welfare. However, First Nations may determine that the agency is best suited to provide those services and flow their funds to the agency accordingly. Only FNCFS Agencies will be provided with tertiary prevention funding to provide services such as least disruptive measures.



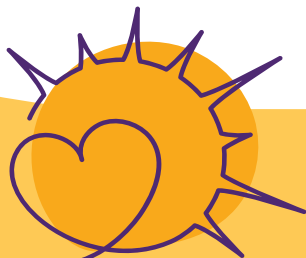
Prevention Services in the Draft Agreement

To distinguish between the prevention funding allocated to First Nations and the agency, the Draft Agreement uses the broad term “Prevention” to describe primary and secondary prevention services. Agencies are able to provide least disruptive measures as part of their overall protection services. However, agencies will also receive tertiary prevention to complement a wider array of “least disruptive measure” like services.

Prevention funding will be allocated directly to First Nations to develop and administer primary and secondary prevention. A First Nation may choose to instruct Indigenous Services Canada (ISC) to direct some or all of its prevention funding to an affiliated FNCFS agency or service provider if they so choose. Prevention funding under the Draft Agreement is funded on a per capita basis and adjusted annually by the First Nations population on-reserve, on Crown Land, or in the Yukon recorded in the Indian Registration System as of September 30th of the previous year. Prevention for the fiscal year 2024-25 will be funded at \$2,603.55 per person, with a minimum of \$75,000.00 to ensure that First Nations with smaller populations have adequate funding to offer prevention activities. These funds will be adjusted annually for inflation using the Consumer Price Index (CPI) to ensure that funding keeps up with the costs of goods and services. Prevention funding is also subject to upward funding adjustments to account for the costs of delivering services in remote First Nations.


First Nations have been receiving some prevention funds under 2022 CHRT 8, which ordered Canada to fund prevention on reserve starting at \$2,500 per capita: \$2,603.55 represents funding amount adjusted for inflation for the fiscal year 2024-25.

Prevention also includes least disruptive measures (sometimes referred to as least intrusive measures or family enhancement services under various provincial or territorial legislation), which are tertiary prevention services provided by agencies. Least disruptive measures include actions or services that agencies are mandated by provincial or Yukon legislation to provide in order to prevent family separation or promote reunification, as well as to mitigate risk of child maltreatment or harm. FNCFS agencies will receive funding for their provincial/territorial mandated prevention activities under the expenditure category of least disruptive measures in their baseline funding (see baseline funding information sheet). As least disruptive measures generally require intensive interventions provided by one or more child and family professionals working under clinical supervision, only agencies will be funded for these activities.



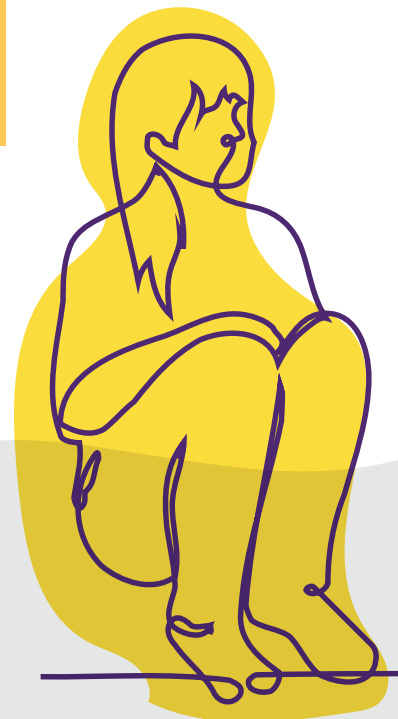


Prevention for the fiscal year 2024-25 will be funded at **\$2,603.55 per person**, with a **minimum of \$75,000.00** to ensure that First Nations with smaller populations have adequate funding to offer prevention activities.



These funds will be **adjusted annually for inflation** using the Consumer Price Index (CPI) to ensure that funding keeps up with the costs of goods and services.

Disclaimer: There may be some variation in how prevention funds are allocated across jurisdictions based on provincial/territorial legislation.



What is Primary, Secondary and Tertiary Prevention?

PRIMARY

Primary prevention is a public health approach to educate and provide services to the community in order to promote family wellness and to prevent child maltreatment, including:

- ✓ Ongoing education around traditional child caring approaches
- ✓ Classes and workshops on family well-being and preservation
- ✓ Cultural and recreational activities for families and children

SECONDARY

Secondary prevention services are intended to assist families who are at higher risk of involvement with child and family services. These services are part of the continuum of least disruptive measures, including:

- ✓ Parent mentoring
- ✓ Parenting skills programs
- ✓ In-home supports
- ✓ Respite care
- ✓ Mental health counselling
- ✓ Mediation of disputes
- ✓ Food vouchers
- ✓ Clothing

TERTIARY

Tertiary prevention involves least disruptive measures for families where a child has been identified as experiencing maltreatment or at high risk for becoming involved with child and family services. Tertiary prevention is also provided to families who have a child in care with the goal of family reunification, including:

- ✓ Reducing exposure to intimate partner violence
- ✓ Caregiver capacity enhancement services
- ✓ Individual restorative justice services



What are Post Majority Support Services?

Post-Majority Support Services (PMSS) provide wrap-around supports that meet the distinct needs of First Nations youth and young adults who are aging out of care, and promotes and supports holistic positive outcomes.

Through PMSS funding, youth and young adults aging out of care and/or formerly in care will have access to culturally safe wellness supports, which includes, but is not limited to: life skills; Indigenous language classes; community and cultural connections; harm reduction practices; counselling; tuition supports for post-secondary studies; mental health; and other programming to support the transition to adulthood. PMSS service providers may prioritize meeting the unique needs of Two-Spirited and LGBTQIA2S+ First Nations youth. To access supports through PMSS, an eligible First Nations youth or young adult will need to connect with their First Nation or First Nations Child and Family Services (FNCFS) provider.



Post Majority Support Services in the Draft Agreement



The Draft Agreement proposes \$795.8 million for PMSS to support First Nations in providing services to youth aging out of care and young adults who were formerly in care during the transition to adulthood and independence, up to age 26 for the first five years of funding. The approach to allocating PMSS funding will be co-developed between Indigenous Services Canada (ISC) and the First Nations negotiating parties, in alignment with the principles of needs-based funding and the recommendations of First Nations before the funding implementation date of April 1, 2025. PMSS funding is subject to funding adjustments to account for the realities of delivering services in remote First Nations.

First Nations Child and Family Services (FNCFS) Program — Post-Majority Support Service Delivery Examples

TYPE OF PROVIDER	First Nation	FNCFS Agency	First Nations-Authorized Service Provider
<p>Service Delivery Options</p>	<p>Provide post-majority services directly, individualized and/or by group/community programming;</p> <p>Provide post-majority services jointly with others (integrated service delivery model), and/or;</p> <p>Not provide post-majority services directly, authorize service provider to deliver.</p>	<p>Provide post-majority services directly to the First Nations the agency is authorized to serve, and/or;</p> <p>Provide post-majority services jointly with First Nation or other authorized service providers.</p>	<p>Provide post-majority services directly to the First Nations when authorized to do so, and/or;</p> <p>Provide post-majority services jointly with First Nation or other service provider as authorized by First Nation to do so.</p>
<p>Service Delivery Example</p>	<p>The youth and young adults aging out of FNCFS care are struggling with their mental health after a community crisis of suicide amongst their peers in care.</p> <p>The First Nation consults with community-based mental health professionals to support the creation and facilitation of a support group specific to those youth and young adults who are affected by trauma.</p> <p>In addition to peer-based support and group work, facilitators can work with youth and young adults individually to provide direct services based on their needs.</p> <p>The First Nation built on the development of this programming to support youth and young adults transitioning from care by hiring a youth coordinator, post-majority services specific navigators, and includes prospective planning for capital projects.</p>	<p>FNCFS agencies already providing care and maintenance services would continue to provide services to the youth and young adults in care after reaching the age of majority to ensure that those individuals thrive into adulthood.</p> <p>The FNCFS agency proceeded to hire two youth coordinators, post-majority services specific navigators, and is developing a plan in collaboration with the First Nation on prospective capital projects to meet the needs of youth and young adults transitioning from care.</p> <p>The FNCFS agency is already providing care and maintenance services to children and youth, and can build on the transitional supports throughout a young person's care experience that will help support the transition to post-majority as their needs change into adulthood. The FNCFS agency would work collaboratively with the First Nation they serve to aid in the development of the First Nation's integrated service delivery model when applicable. This could include the agency continuing with individualized and peer driven services while the First Nation builds on broader cultural, crisis response and life skills programming for young people transitioning from care.</p> <p>The FNCFS agency would work collaboratively with the First Nation they serve to aid in the development of the First Nation's integrated service delivery model when applicable. This could include the agency continuing with individualized and peer driven services while the First Nation builds on broader cultural, crisis response and life skills programming for young people transitioning from care.</p>	<p>The First Nation identified that the organization serves many of the young people from their community who have transitioned from care and moved to the urban center where the organization is based.</p> <p>The First Nation reaches out to the organization to develop a plan to better serve the needs of youth and young adults who've aged out of FNCFS care and are living outside of the community.</p> <p>The First Nation authorizes the organization to be a service provider of post-majority supports, and the First Nation and organization work together to coordinate their approach to service delivery for young people.</p>



What are Post Majority Support Services (PMSS)?

Post-majority services aim to support the safety and well-being of First Nations youth and young adults in an approach that is culturally appropriate, in their self-identified best interest, and provided based on substantive equality. The Assembly of 7 Generations' Children Back, Land Back report states that the decision to formally transition into adulthood must be made in consultation with the youth leaving care, based on their own readiness level. The report emphasizes that supports must be provided to help youth transition into adulthood.

The supports they highlighted include, but are not limited to:



A “social safety net” of community, workers, resources, and supports.



Safe, appropriate, accessible housing and other infrastructure (water, transportation, etc.).



Life skills training and assistance (how to cook, do taxes, access to a social insurance number, getting a drivers' license and other identification).



Financial support, including a Registered Education Savings Plans (RESP) with contributions from the government and financial management education and access to an emergency fund (to tap into when, for example, facing housing instability, family emergencies, etc.).



Trauma-informed, accessible, and continuous healthcare. It is important that health services, including mental health, sexual health, gender affirming care, and harm reduction care, are not cut off once First Nations youth in care transition to adulthood.



Supporting community and cultural (re)connection, including funding to move to or visit one's First Nation, participate in land-based activities, and spend time with cultural and language mentors.

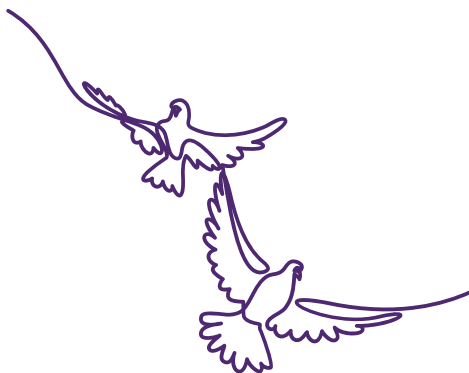


Support to finish education at both high school and postsecondary levels, without age or time limits.



What are First Nations Representative Services?

First Nation Representative Services (FNRS; also referred to as Band Representative Services in Ontario) supports First Nations to have a voice when children, youth, and families are involved/at risk of involvement with child and family services. First Nations are the recipients of FNRS funding.



First Nations Representative Services in the Draft Agreement

FNRS under the Draft Agreement is funded on a per capita basis - based on the First Nations population on-reserve, on Crown Land, or in the Yukon, recorded in the Indian Registration System as of September 30th of the previous year. For First Nations, except those in Ontario, in fiscal year 2024-25, FNRS is funded at \$294.72 per person. Each First Nation will receive a minimum of \$75,000.00 to ensure that First Nations with smaller populations have adequate funding to offer FNRS. These amounts are subject to annual adjustments for inflation and population, as well as remoteness adjustments.

First Nation (outside of Ontario) Example FNRS Budget:

First Nation A	First Nation B
Population as of September 30, 2024: 500	Population as of September 30, 2024: 150
Per capita calculation: 500 people x \$294.72 = \$147,360.00	Per capita calculation: 150 people x \$294.72 = \$44,208.00
Total FNRS funding for 2025-26 : \$147,360.00	Total FNRS funding for 2025-26 : \$75,000.00



First Nations in Ontario are funded differently from First Nations in other jurisdictions, as funding models were negotiated by Ontario First Nations to correspond to those differences. In fiscal year 2025-26, Ontario First Nations will receive funding for FNRS/Band Representative funding at the highest amount that a given First Nation received during the period of fiscal years 2019-20 to 2022-23. Each First Nation will receive a minimum of \$75,000.00, and funds will be increased to account for the higher costs of delivering services in remote communities. In fiscal years 2026-27 to 2028-29 (i.e., the remainder of the initial five-year funding period), FNRS in Ontario will be based on the prior year's funding amount, adjusted for inflation and population growth.

First Nation in Ontario Example FNRS Budget:	
Sample First Nation 2025-26	Sample First Nation 2026-27 to 2028-29
<p>FNRS funding in 2019-20: \$100,000</p> <p>FNRS funding in 2020-21: \$105,000</p> <p>FNRS funding in 2021-22: \$110,000</p> <p>FNRS funding in 2022-23: \$120,000</p> <p>As the highest amount of this period was \$120,000.00, this is the amount that this First Nation will receive in 2025-26.</p>	<p>2026-27: Inflation and Population Growth is 5%, so the budget for this year is \$126,000.00 (\$120,000 x 1.05).</p> <p>2027-28: Inflation and Population Growth is 4%, so the budget for this year is \$131,040.00 (\$126,000 x 1.04).</p>

What are First Nations Representative Services (FNRS)?

FNRS functions include, but are not limited to:



Serve as the main contact between a First Nation and child and family services providers.



Supporting the assertion of the rights and responsibilities of the First Nation applicable child and family services laws.



Ensure that child and family services providers address the real needs of First Nations children, youth, and families, including needs tied to culture, land, and the effects of historical and contemporary disadvantage.



Build and maintain meaningful cultural, family, and community connections for children, youth, and families involved with child and family services.



Facilitate the repatriation and/or reunification of children and youth in care with their family and First Nation.



May intervene in child protection proceedings before a provincial court.



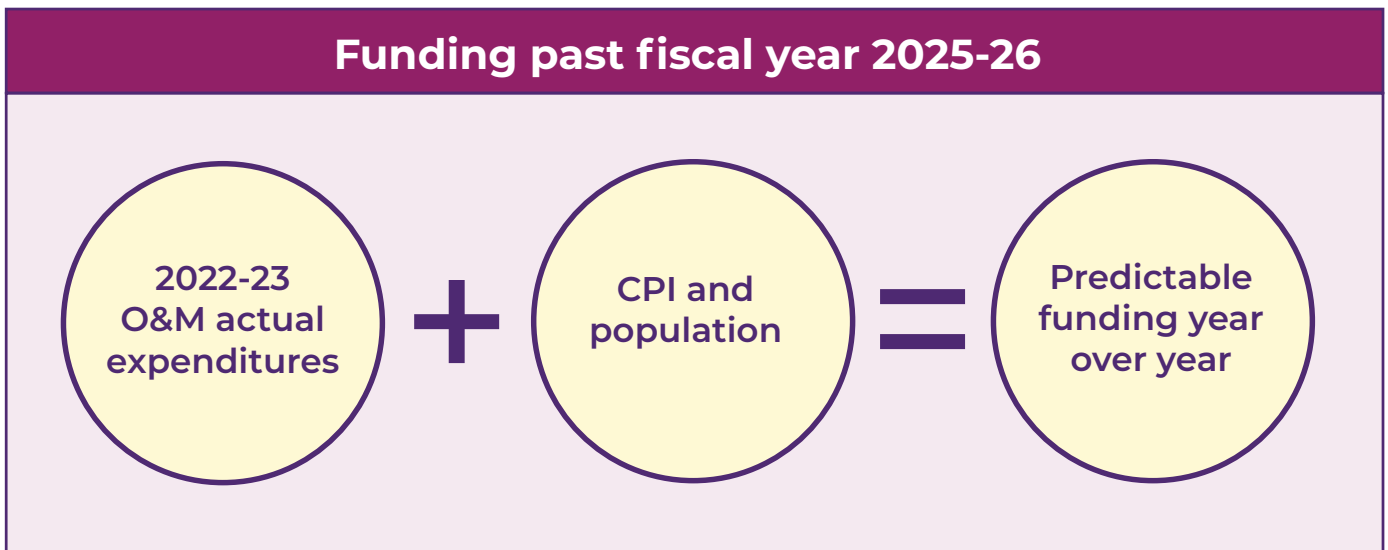
What is Baseline Funding and what does it include?

Baseline funding is the money that First Nation Child and Family Services (FNCFS) Agencies will receive for operations and maintenance, including funding for delivering least disruptive measures (also known as tertiary prevention) to the affiliated First Nation. This funding model is based on the principles of predictability, stability and flexibility to support agencies to plan and set priorities well into the future in collaboration with their affiliated First Nation(s).



Baseline Funding in the Draft Agreement

If the Draft Agreement is approved by First Nations-in-Assembly and the Canadian Human Rights Tribunal, the first year of baseline funding will begin on April 1, 2025. The baseline budget for agencies that serve First Nations will be derived from the agency's 2022-2023 actual expenditures for operations and maintenance. In subsequent years, baseline funding will be upwardly adjusted for inflation and population. Agencies will not see a reduction in their baseline funding at any point over the next 10 years.



FNCFS Agencies will receive funding for their provincial/territorial mandated prevention activities under the expenditure category of least disruptive measures.

“Least disruptive measures” is the term used to describe the services required by provincial or territorial child protection legislation for tertiary prevention activities aimed at keeping families together when risk of maltreatment and/or apprehension is high. The information for funding least disruptive measures under the baseline funding will be drawn from the agency’s reported expenditures in 2022-23.

Agencies will be encouraged to work with their affiliated First Nations to coordinate the delivery of services aimed at preventing maltreatment and risk of child apprehension. First Nations are funded to provide primary and secondary prevention services aimed at mitigating the drivers of overrepresentation of First Nations children in child welfare. However, First Nations may decide that the agency is best suited to provide those services and flow funds to the agency accordingly. As least disruptive measures generally require intensive interventions provided by one or more child and family professionals working under clinical supervision, only agencies will be funded for these activities.

Inflation and Population Growth

The baseline budget will be increased each year to account for inflation and population growth to ensure that funding for First Nations and FNCFS service providers reflects the dynamic nature of the cost of goods and services and population on-reserve. Baseline funding will be adjusted annually for inflation and population using the Consumer Price Index (CPI) and Indian Registration System (IRS).

What if the baseline is not enough?

First Nations and FNCFS service providers, including agencies, will have the option to pursue a Service Provider Funding Adjustment Request if the provider is unable to provide services required by law due to funding shortfalls outside of the provider’s reasonable control. These requests will be made to ISC who will be required to respond in 30 days, or less for urgent requests. Funding adjustments may be requested for single or multi-year durations.

What is Baseline Funding and what does it include?

The baseline budget structure includes funding for all agency expenditures including:



Intake and investigation



Legal fees



Building repairs



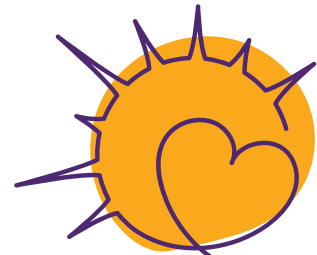
Child service purchases

However, these funding categories are notional because the reformed funding mechanism is flexible, allowing agencies and other First Nation service providers to reallocate funds across the baseline expenditure categories to best meet the needs and priorities of the First Nations they serve.



Alternative Dispute Resolution (ADR) Process under the Draft Agreement

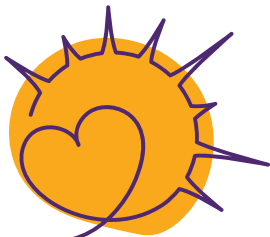
The ADR process is an opt-in, available to those First Nations and First Nations Child and Family Service (FNCFS) Agencies who wish to utilize it – it is not mandatory. The Canadian Rights Tribunal and the Courts remain available to both First Nations and FNCFS Agencies if needed.



The ADR process provides First Nations and FNCFS Agencies with an expeditious means to hold Canada accountable in cases where funding is withheld, miscalculated and other issues related to the implementation and interpretation of the agreement.

What is the ADR Process?

- The ADR process is divided into two streams – Party Disputes, which addresses implementation and interpretation issues between the parties to the Draft Agreement, and Claimant Disputes, which will be applicable to First Nations and FNCFS Agencies in relation to issues as to funding or adjustments thereto.
- The ADR process replaces the jurisdiction of the Canadian Human Rights Tribunal (CHRT) in relation to the FNCFS Program as between the parties to the Draft Agreement. In the context of First Nations and FNCFS Agencies, if they decide to opt-in to the process, it provides a cost efficient and culturally appropriate means of resolving disputes relating to funding under the Reformed FNCFS Program.
- Mediation is also an option for those First Nations or FNCFS Agencies who wish to partake in such a process.
- First Nations and FNCFS Agency disputes will be supported by navigators, which will help claimants file disputes; cultural officers who will help ensure a process that is culturally appropriate; optional mediation; as well as access to free duty counsel for legal assistance.
- The ADR process will be far more expeditious than traditional adjudication by way of the CHRT or the Courts, which can take many months or in some circumstances, years.



What accessibility and legal supports are included?

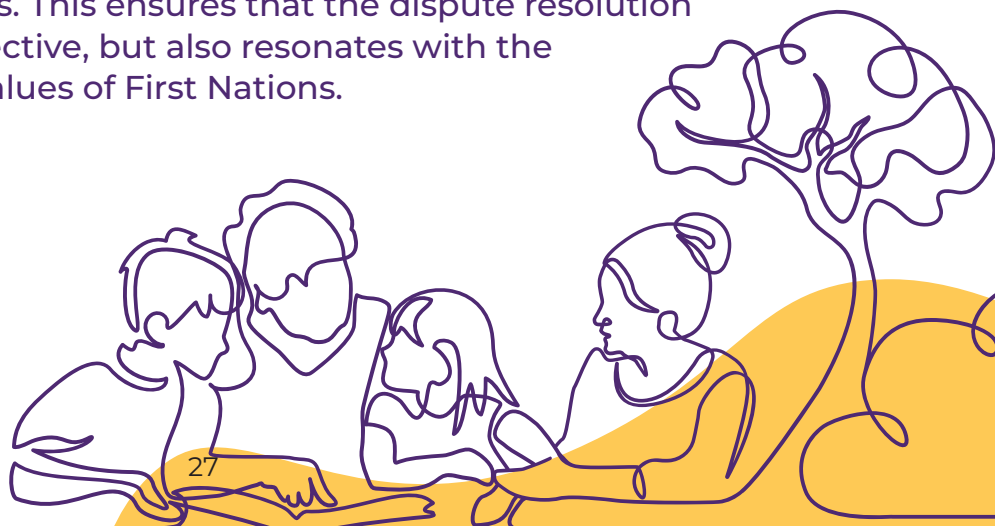
The ADR process is designed to be more accessible to First Nations than the Canadian Human Rights Tribunal (CHRT). It allows any First Nation or FNCFS Agency to access the dispute resolution process without needing to hire legal counsel or pay legal fees, thereby lowering barriers to seeking accountability from Canada. It provides free navigation services for the filing of claims, cultural officers to guarantee a culturally appropriate process, as well as access to free duty counsel.

How does the ADR protect legal rights?

The ADR system does not limit the rights of First Nations and FNCFS Agencies to pursue other legal avenues and retain the option to take Canada to court or launch a complaint with the CHRT if their case meets the necessary criteria under the CHRT's mandate. For clarity, the ADR process is entirely optional for First Nations and FNCFS Agencies – it is not mandatory.

How was the ADR process developed?

The development of the ADR process was led by the First Nations parties to the Draft Agreement, with a focus on incorporating cultural protocols and conflict resolution methods. This ensures that the dispute resolution mechanism is not only effective, but also resonates with the traditional practices and values of First Nations.



The Draft Agreement includes the establishment, by way of legislation, of a First Nations-led Dispute Resolution Tribunal, which operates independently from the Canadian government, though funded by Canada. The head of the Tribunal, being the President, will be selected in consultation with the parties to the Draft Agreement. The President will select a roster of Adjudicators, who will have the authority to issue binding orders on Canada.

First Nations and FNCFS Agencies will for the first time be able to have disputes heard by independent First Nations adjudicators with relevant expertise (as opposed to the existing internal government processes).

What are the benefits of the ADR?



Culturally Respectful: The process is led by First Nations and respects their cultural protocols and is informed by a cultural officer tasked with ensuring that the process remains culturally appropriate.



Accessible: There is no requirement for legal counsel, reducing financial barriers for First Nations. Free duty counsel is available to First Nations and FNCFS Agencies, and in complex matters, an Adjudicator can order Canada to pay for a lawyer for an unrepresented Claimant in a complex matter.



Independent Tribunal: The Tribunal operates independently of the Government and has the authority to make binding decisions. The President is chosen in consultation with the parties and will ensure that the Adjudicators reflect First Nations backgrounds and expertise in the area of child and family services.



Legal Rights Preserved: The ADR process does not restrict the ability to pursue remedies in court or at the CHRT.



Efficient: The ADR process is designed to provide the effective and timely determination of disputes, being heard by First Nations experts, and being far quicker than the Courts or the CHRT.



Draft Agreement on Long-Term Reform of the First Nations Child and Family Services (FNCFS) Program

Estimated Regional Funding Allocations 2025-2029



Overview

The Draft Agreement on Long-Term Reform of the First Nations Child and Family Services (FNCFS) Program commits \$47.8 billion over 10 years to ensure stable, predictable, and flexible funding to address the needs of First Nations children and families. Key areas of funding include prevention, First Nations representative services, post-majority support services, operations, protection, maintenance and care, and capital.

Indigenous Services Canada (ISC) has provided the following breakdown of the estimated funding to First Nations by region starting in 2025. These amounts do not include housing or capital funding. These estimates are based on several factors, which are explored further on the following page. There is a funding review mechanism in the Draft Agreement that will examine the sufficiency of funding in the first 5 years that will inform changes to the funding for the final 5 years of the agreement, and as such only the initial 5-year period is included in these estimates. Furthermore, if the Draft Agreement is approved in the 2024-25 fiscal year, then funding will begin to flow this fiscal year; however, these amounts are not yet determined as it will depend on the point during the fiscal year when the Agreement is approved and in place.

Region	Funding (2025-26 to 2028-29)	Increase from Current Funding (2022-23 to 2028-29)
Alberta	\$2.5 billion	34%
British Columbia	\$1.9 billion	50%
Manitoba	\$2.8 billion	58%
New Brunswick	\$469 million	30%
Newfoundland and Labrador	\$230 million	39%
Nova Scotia	\$264 million	38%
Ontario	\$3.6 billion	56%
Prince Edward Island	\$15 million	36%
Québec	\$1.2 billion	45%
Saskatchewan	\$2.1 billion	40%
Yukon	\$203 million	70%

Note: The funding estimates apply to the initial period of the Draft Agreement, up to 2028-29, and not the entire 10-year duration of the agreement because there is a program assessment before year 5 to determine if the funding is sufficient or if adjustments are necessary.



The calculations are based on a variety of factors:

Baseline Funding is calculated expenditures by FNCFS Agencies for operations and maintenance in fiscal year 2022-2023, which is the most recent available year of actual expenditures and financial data. The baseline includes actual expenditures for intake and investigations, legal fees, building repairs, and child service purchase. In subsequent years, Baseline Funding for FNCFS Agencies will be increased to account for inflation and population growth and will not be reduced. For those who are being provided child welfare services from a province, baseline amounts are based on 2022-23 Maintenance and Operations Future funding to the provincial and Yukon governments may change. A 2.1% inflation for 2023-24, and a 2% inflation for 2024-25 and 2025-26 each*, and a population growth of 1.1% for each of the three years have been applied to approximate the baseline amounts for 2025-26.

First Nation Representative Services allocation is based on \$294.72 per capita (using the estimated on reserve, on Crown land and in Yukon population for December 31, 2024) plus inflation at 2%. First Nations Representative Services will be funded at a minimum of \$75,000 to ensure sufficient funding to deliver services. First Nations Representative Services for Ontario is calculated differently as these services are required under provincial legislation.

Prevention allocation is based on \$2,603.55 per capita (using the estimated on reserve, on Crown land and in Yukon population for December 31, 2024) + inflation at 2% and minimum funding of \$75,000.

Information Technology represents 6% of the baseline amounts.

Results represents 5% of the baseline amounts.

Emergency represents 2% of the baseline amounts.

Household Support represents 5% of an estimate of the community-level poverty gap.

Post-majority Support Services: Annual envelope as per the Final Agreement.

Remoteness: Factors in the remoteness adjustment are based on the lived circumstances of First Nations communities, such as access (by road network, by ice road only, by air only, or otherwise), and geographic distance from, and access to, service centre well as costs related to personnel, including travel, shipping and living costs.

The Draft Agreement commits \$2.9 billion in capital funding under the reformed FNCFS Program. That funding will be distributed according to a planning and proposal process that will roll out over the course of the Draft Agreement. It is not possible to determine in advance how much capital funding each region will receive under that process.

*These inflation rates are for illustration purposes only. The Consumer Price Index (CPI) will be applied.

Assessments and Funding Adjustments

The Draft Agreement mandates two independent program assessments to evaluate the effectiveness of the First Nations Child and Family Services (FNCFS) reforms. The first assessment will occur in year four, which will inform funding levels at the five-year mark. It will assess the progress made in eliminating discrimination and preventing its recurrence, while also identifying areas for improvement, particularly regarding funding allocations for the following five years.

A second assessment will take place in year nine, right before the ten-year term concludes. The second assessment will review the long-term impact of the reforms and recommending further improvements to support the well-being and advancement of First Nations children, youth, young adults, and families beyond the ten-year term of this agreement. Based on the findings from these assessments the program's funding and operations will be adjusted to ensure the reforms remain effective and responsive to emerging needs.

The FNCFS Program will continue beyond the ten-year mark.

How much will each region receive?

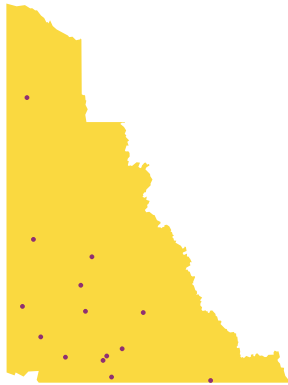
Note: For the regional profiles below, the population includes the registered population on-reserve and on Crown Land and in the Yukon as of December 31, 2023. The total funding excludes the housing and capital funding.

PRE-AGREEMENT

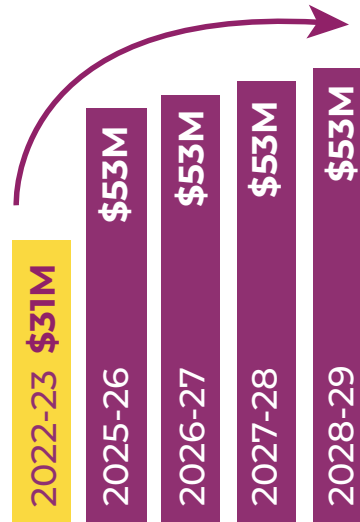
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Yukon

Population: 7,058
Number of First Nations: 14
2025-26 to 2028-29 Funding: \$203m

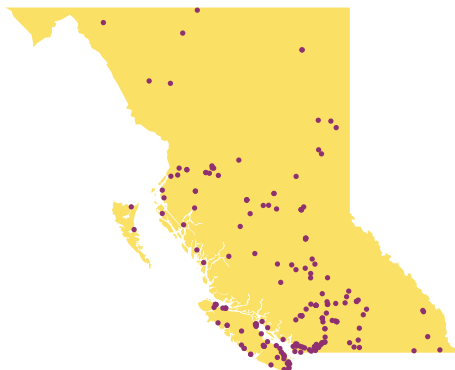


70% INCREASE

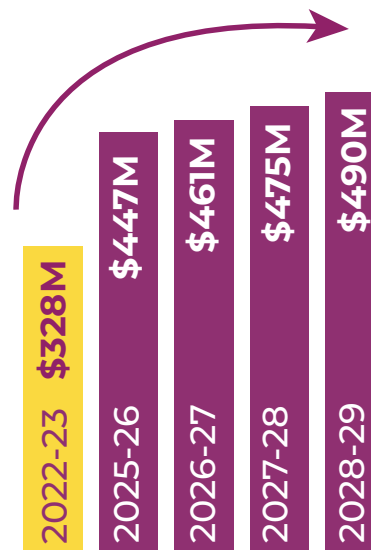


British Columbia

Population: 60,456
Number of First Nations: 202
2025-26 to 2028-29 Funding: \$1.9b



50% INCREASE



How much will each region receive?

PRE-AGREEMENT

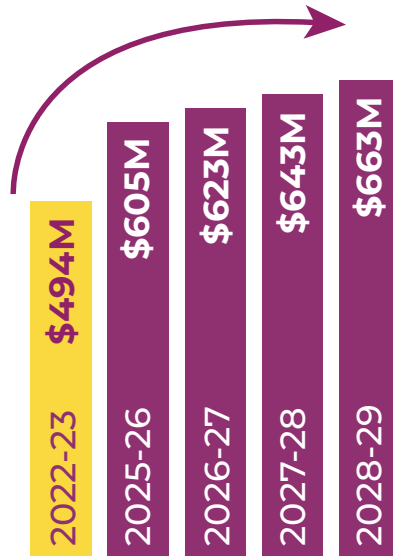
WITH AGREEMENT

Alberta

Population: 78,659
Number of First Nations: 45
2025-26 to 2028-29 Funding: \$2.5b

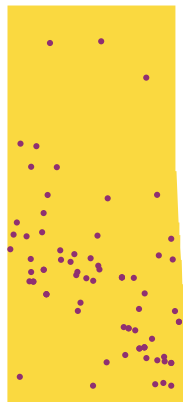


34% INCREASE

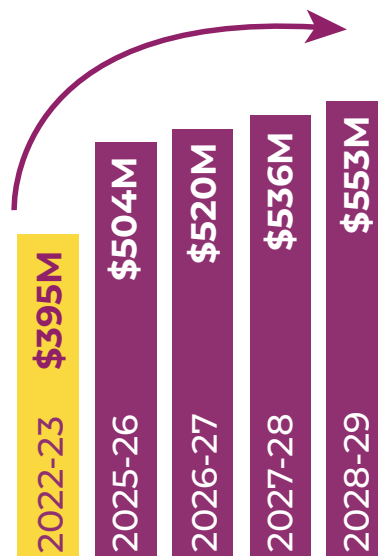


Saskatchewan

Population: 81,663
Number of First Nations: 75
2025-26 to 2028-29 Funding: \$2.1b



40% INCREASE



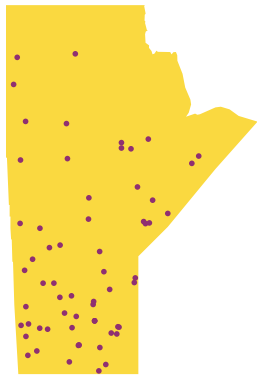
How much will each region receive?

PRE-AGREEMENT

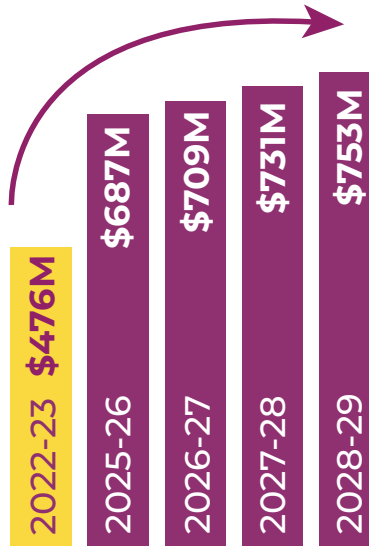
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Manitoba

Population: 92,272
Number of First Nations: 63
2025-26 to 2028-29 Funding: \$1.2b

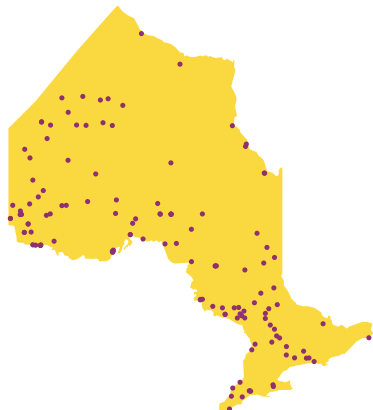


58% INCREASE

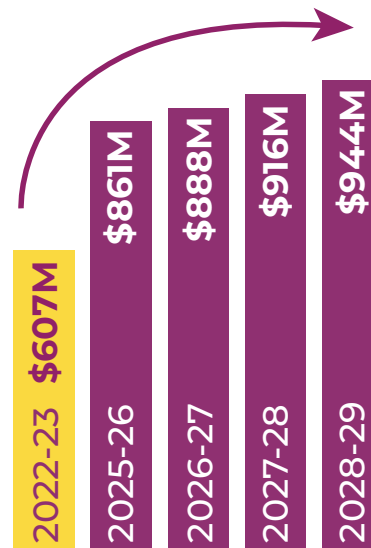


Ontario

Population: 97,530
Number of First Nations: 134
2025-26 to 2028-29 Funding: \$3.6b



56% INCREASE



How much will each region receive?

PRE-AGREEMENT

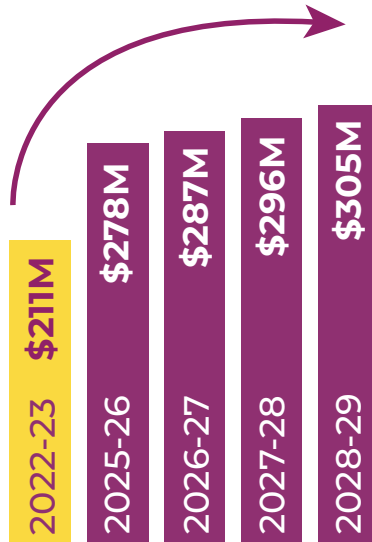
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Québec

Population: 41,206
Number of First Nations: 27*
2025-26 to 2028-29 Funding: \$1.2b



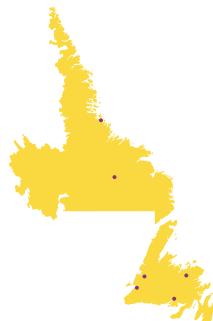
45% INCREASE



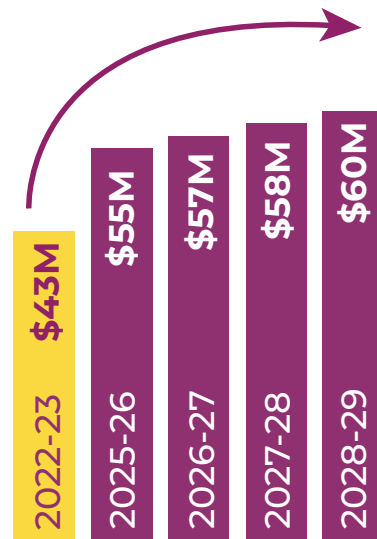
*27 of the 40 First Nations in Québec are served by FNCFS Programs.

Newfoundland and Labrador

Population: 3,732
Number of First Nations: 6
2025-26 to 2028-29 Funding: \$230m



39% INCREASE



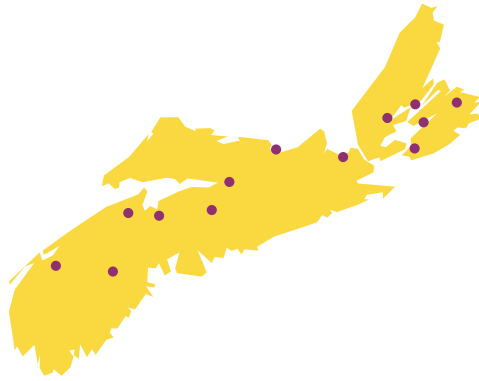
How much will each region receive?

PRE-AGREEMENT

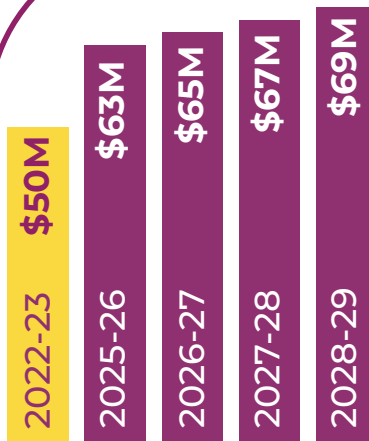
WITH AGREEMENT

Nova Scotia

Population: 11,523
Number of First Nations: 13
2025-26 to 2028-29 Funding: \$264m

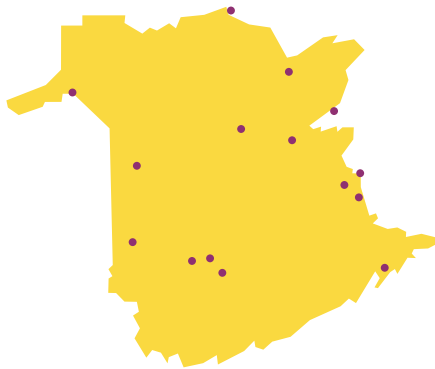


38% INCREASE

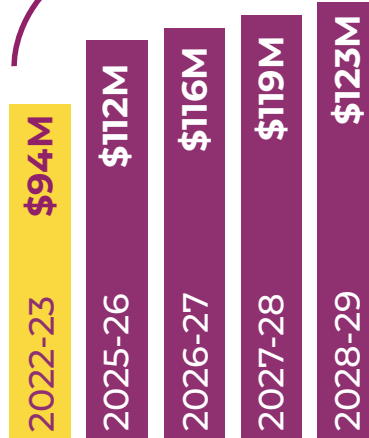


New Brunswick

Population: 10,098
Number of First Nations: 15
2025-26 to 2028-29 Funding: \$469m



30% INCREASE



How much will each region receive?

PRE-AGREEMENT

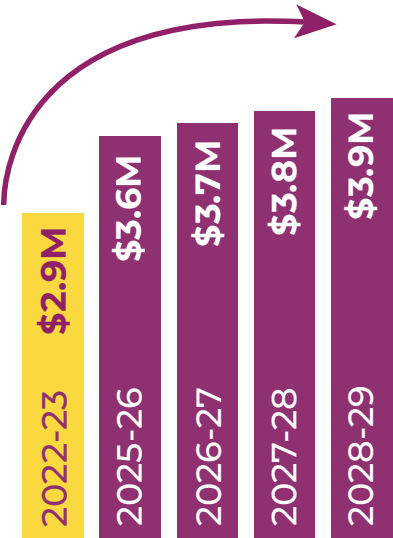
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Prince Edward Island

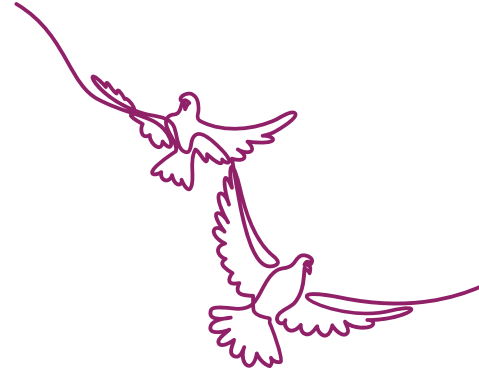
Population: 654
Number of First Nations: 2
2025-26 to 2028-29 Funding: \$15m



36% INCREASE







Making Change Happen: A History for First Nations Children and Families



The time for change is now. We are at a historic turning point following decades of discrimination in the child and family services system. Beginning with the Sixties Scoop when many First Nations children were removed from their homes without consent, this timeline outlines the key events that led to the \$47.8 billion Draft Agreement for the Long-Term Reform of the First Nations Child and Family Services (FNCFS) Program. It reflects the critical milestones, decades of advocacy, and collective decision-making by the First Nations-in-Assembly that have culminated in this Draft Agreement.

1960s-1980s

The Sixties Scoop

During the Sixties Scoop, many First Nations children were forcibly removed from their families by child welfare services and placed in non-Indigenous homes.

November 1996

Release of the Report of the Royal Commission on Aboriginal Peoples (RCAP)

The Royal Commission on Aboriginal Peoples (RCAP) report, released in November 1996, highlighted the overrepresentation of First Nations children in the child welfare system and Canada's failure to respect First Nations cultures. The report recommended recognizing First Nations authority over child welfare services to better serve their children.

2005

Wen:De Reports

In 2005, a series of reports, known as the Wen:De Reports, made recommendations regarding reform to the First Nations Child and Family Services Program. These recommendations were not implemented by the federal government, further continuing the discrimination faced by First Nations children and families.

Also in 2005, the First Nations Component of the Canadian Incidence Study of Reported Child Abuse and Neglect (FNCIS) began reporting on the incidence of child maltreatment investigations involving First Nations children. Data collected from 2005 to 2018 consistently showed a significant overrepresentation of First Nations children in the investigation stage of child and family services. These reports have become the most reliable source for data on this continued overrepresentation and shed light on the underlying causes of overrepresentation.

1989

Establishment of the First Nations Child and Family Services (FNCFS) Program

The Government of Canada established the First Nations Child and Family Services (FNCFS) Program in 1989 to provide child welfare services to First Nations children living on-reserve. The program was criticized for inadequate funding, which resulted in significant gaps in the quality of services provided to First Nations children compared to those offered to non-Indigenous children.

2000

Joint National Policy Review

The Joint National Policy Review (JNPR) of First Nations Child and Family Services was completed by the Assembly of First Nations (AFN), in partnership with First Nations Child and Family Services Agency Representatives and the Department of Indian Affairs and Northern Development. The JNPR made a series of recommendations to reform child and family services for First Nations, many of which the federal government failed to act on, continuing the discrimination against First Nations children and families.

December 2007

Jordan's Principle

Jordan's Principle was adopted by the House of Commons in 2007, supporting a child-first principle regarding jurisdictional disputes pertaining to First Nations children. Jordan's Principle is named in honour of Jordan River Anderson, a young boy from Norway House Cree Nation, who died in hospital though he could have been supported with in-home care with his family, while Canada and Manitoba argued over payment for his at-home care. Jordan's Principle is meant to prevent First Nations children from being denied essential services or experiencing delays in receiving them.

LEGEND

EVENT/MILESTONE

COMPENSATION

February 2007

Filing of the Human Rights Complaint

In February 2007, the AFN and the First Nations Child and Family Caring Society (Caring Society) filed a human rights complaint with the Canadian Human Rights Tribunal (CHRT). The complaint alleged that the Government of Canada was racially discriminating against First Nations children by underfunding child welfare services on-reserves compared to services available to non-Indigenous children, and by failing to implement the full scope of Jordan's Principle.

December 2015

Truth and Reconciliation Commission (TRC) Final Report and Calls to Action

In December 2015, the Truth and Reconciliation Commission (TRC) published its Final Report, which included specific Calls to Action aimed at reforming child welfare and implementing Jordan's Principle. The Final Report highlighted the ongoing impacts of residential schools and the need for systemic changes in child welfare to better serve First Nations children.

July 2016

AFN Resolution 62/2016

In July 2016, the First Nations-in-Assembly passed AFN Resolution 62/2016, *Full and Proper Implementation of the historic Canadian Human Rights Tribunal decisions in the provision of child welfare services and Jordan's Principle*, which called on the Government of Canada to fully implement the CHRT's orders on child and family services and Jordan's Principle to remedy the discrimination found by the CHRT.

February 2013

Canadian Human Rights Tribunal (CHRT) Hearings Begin

After years of legal battles and procedural delays, the CHRT hearings officially began in 2013. The CHRT was tasked with determining whether the Government of Canada had violated the Canadian Human Rights Act by providing inequitable funding to First Nations child welfare services and the narrow application of Jordan's Principle. The proceedings involved testimony from various experts, First Nations leaders, and families.

January 26, 2016

Canadian Human Rights Tribunal Ruling

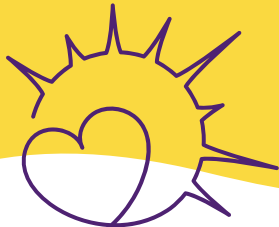
On January 26, 2016, the CHRT ruled that the Government of Canada had racially discriminated against First Nations children by underfunding the FNCFS Program and narrowly applying Jordan's Principle. It ordered Government of Canada to work with the parties to the CHRT complaint, which are the AFN, the Caring Society, Nishnawbe Aski Nation (NAN), and Chiefs of Ontario (COO), to immediately reform the FNCFS Program, and to adopt an approach to Jordan's Principle that honours the full meaning and scope of the principle.

July 2017

AFN Resolution 40/2017

In July 2017, the First Nations-in-Assembly passed AFN Resolution 40/2017, *Call on Canada to Comply with the 2016 Canadian Human Rights Tribunal Orders*, which again called on Canada to comply with the CHRT's orders, and to remove its appeal of orders on Jordan's Principle.





December 2018

Institute of Fiscal Studies and Democracy (IFSD) Phase 1 Report

In December 2018, the Institute of Fiscal Studies and Democracy (IFSD) released their Phase 1 research report, *Enabling First Nations Children to Thrive*, which analyzed the current funding approach to the FNCFS Program and made recommendations to shift FNCFS to address discrimination found by the CHRT.

January 2020

An Act respecting First Nations, Inuit, and Métis Children, Youth and Families

On January 1, 2020, *An Act respecting First Nations, Inuit and Metis children, youth and families* came into force. The AFN co-developed the Act, which affirms the rights of First Nations sovereignty and jurisdiction over their children and families.

Fall 2021

Intensive Negotiations Commence

In Fall 2021, the AFN, Government of Canada, and other parties entered into intensive negotiations to settle the matters of long-term reform and compensation. These negotiations continued through December 2021, resulting in the Agreement-in-Principle on Long-Term Reform and Compensation. Throughout this process, the AFN Executive Committee provided direction to the AFN, and the AFN's position was further informed by expert advice based on research conducted by the IFSD.

June 2019

UN Declaration on the Rights of Indigenous Peoples (UNDRIP)

In 2019, the Government of Canada passed legislation to implement the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which includes provisions on the rights of First Nations children.

July 2020

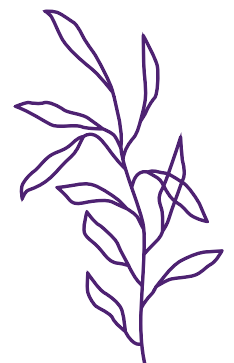
Institute of Fiscal Studies and Democracy (IFSD) Phase 2 Report

In July 2020, the IFSD completed their Phase 2 report, *Funding First Nations Child and Family Services (FNCFS): A Performance Budget Approach to Well-Being*, which outlined a funding approach and performance measurement framework for First Nations Child and Family Services.

December 2021

Agreement-in-Principle on Long-Term Reform of the FNCFS Program

The AFN, the Caring Society, COO, NAN, and the Government of Canada signed an Agreement-in-Principle (AIP) on the Long-Term Reform of the FNCFS Program and Jordan's Principle.



LEGEND

EVENT/MILESTONE

COMPENSATION

DRAFT AGREEMENT TIMELINE

March 2022

Immediate Measures Order 2022 CHRT 8

In March 2022, the CHRT issued a Consent Order, which is a legally binding directive approved by the court, regarding immediate measures that were included in the Agreement-in-Principle. Several of the proposed reforms could be implemented before a settlement agreement was finalized. The Consent Order required Canada to begin funding for prevention services, post-majority services, capital purchases, and other important reforms to the FNCFS Program and in the application to Jordan's Principle.

July 2022

Assembly of First Nations (AFN) Resolution 04/2022

In July 2022, AFN Resolution 04/2022, *First Nations Determination of the Reforms to the First Nations Child and Family Services Program and Jordan's Principle Ordered through the 2022 Canadian Human Rights Tribunal Ruling 8*, was passed by the First Nations-in-Assembly. The resolution called on Canada to recognize First Nations' inherent rights to care for their children and families. It also called on Canada to ensure that First Nations exercising jurisdiction over child and family services receive equitable funding to those under the reformed FNCFS Program.

July 2023

Assembly of First Nations (AFN) Resolution 86/2023

In July 2023, AFN Resolution 86/2023, *To Ensure Quality of Life to the First Nations Child and Family Services Program and Jordan's Principle*, was passed by the First Nations-in-Assembly. This resolution expanded the AFN's mandate to secure a draft agreement and seek approval from the First Nations-in-Assembly.

Summer 2022

Regional-led Engagements

During Summer and Fall 2022, the AFN Regional Offices held engagement sessions to identify regional priorities for the long-term reform of the FNCFS Program. The recommendations from these sessions formed the basis of the AFN's negotiating positions for long-term reform.

July 2022

Assembly of First Nations (AFN) Resolution 40/2022

In July 2022, AFN Resolution 40/2022, *To Ensure Quality of Life to the First Nations Child and Family Services Program and Jordan's Principle*, passed by the First Nations-in-Assembly. This resolution mandated the AFN to negotiate the Draft Agreement on the Long-Term Reform of the First Nations Child and Family Services Program.

July 2023

Joint Path Forward and Separation of Jordan's Principle

Following AFN Resolution 40/2022, negotiations on long-term reform of Jordan's Principle were separated from the negotiations on FNCFS reform. This separation, outlined in the *Joint Path Forward* proposal, developed by AFN and Caring Society, would ensure that each area received the focus necessary to address its unique challenges effectively.

LEGEND

EVENT/MILESTONE

COMPENSATION

DRAFT AGREEMENT TIMELINE

July 2023

CHRT Approval on Final Settlement Agreement on Compensation

On July 26, 2023, the CHRT issued a Letter of Decision approving the revised Final Settlement Agreement on Compensation. This landmark agreement will compensate more than 300,000 First Nations children and families.

February 2024

Supreme Court Ruling on An Act respecting First Nations, Inuit, and Métis Children, Youth and Families

In 2022, the Government of Quebec challenged the constitutionality of *An Act respecting First Nations, Inuit, and Métis Children, Youth and Families*, arguing it exceeds Canada's constitutional authority. In February 2024, the Supreme Court of Canada upheld the constitutionality of the Act, affirming the inherent right and jurisdiction of First Nations to self-govern child and family services.

July 2024

Draft Agreement on Long-Term Reform of the FNCFS Program

The AFN, COO, NAN, and the Government of Canada reached a draft agreement, which included \$47.8 billion for long-term reform of the FNCFS Program. This agreement was the culmination of years of advocacy and legal action and is historic in scope and impact.

October 2023

Final Settlement Agreement on Compensation

In October 2023, the Federal Court of Canada approved the Final Settlement Agreement on Compensation, which included \$23.34 billion in compensation for First Nations children and families who were harmed by discriminatory underfunding of the FNCFS Program and the narrow application of Jordan's Principle.

March 2024

IFSD Phase 3 Report

The IFSD completed testing reformed funding and performance measurement frameworks with First Nation and Agency collaborators. While the AFN and other parties to the CHRT had always relied on IFSD reports and recommendations to develop an evidence-based approach to funding reform and performance measurement, this allowed for additional assurances and fine-tuning before finalizing the draft agreement.

July-August 2024

AFN Engagement with First Nations

The AFN met with First Nations, both in person and virtually, to share information, answer questions, hear concerns, and gather feedback on the Draft Agreement. Based on these sessions, the AFN will advocate for changes to ensure that First Nations' feedback and concerns are reflected in the Draft Agreement.



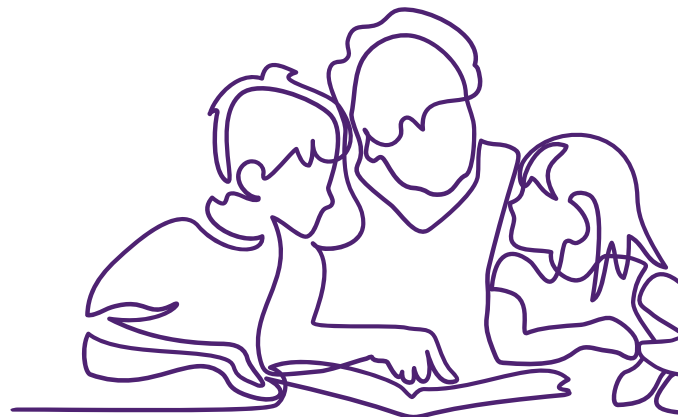
NEXT STEPS

- 

1 A Special Chiefs Assembly will take place in October 2024, where First Nations-in-Assembly will discuss, deliberate, and vote whether to approve the Draft Agreement.
- 

2 If approved by the First Nations-in-Assembly, the Draft Agreement will be brought to the Canadian Human Rights Tribunal for review and approval.
- 

3 If the Draft Agreement is approved by the CHRT, the Parties will work with the Government of Canada and Indigenous Services Canada to implement the reforms in 2025.







MYTHS AND FACTS: Long-Term Reform Draft Agreement

The Assembly of First Nations, alongside the Chiefs of Ontario, Nishnawbe Aski Nation and the Government of Canada, have negotiated \$47.8 billion in a Draft Agreement to reform First Nations Child and Family Services (FNCFS). **There's a lot of discussion surrounding the Draft Agreement. Here are some of the facts you should know.**



MYTH

The Draft Agreement doesn't commit enough money to implement all the reforms that are needed to the FNCFS Program.



FACT

This Draft Agreement relied on the research conducted by the Institute of Fiscal Studies and Democracy (IFSD) at the direction of the AFN to identify the cost of the reforms required by the Canadian Human Rights Tribunal (CHRT).

- First Nations and agencies collaborated with the IFSD and identified further child and family service gaps, such as post-majority support services and funding for information technology.
- These additional reforms were costed out by the experts at the IFSD shared with the parties. This research was foundation of the intensive negotiations focused to the best interests of First Nations children.
- The \$47.8 billion committed in the Draft Agreement fundamentally changes the way that FNCFS is funded by enabling First Nations to direct FNCFS funds in a way that makes sense for their communities, and to target the root causes of children going into care.
- The Draft Agreement represents a historic and transformative approach that will benefit current and future generations.



MYTH

Agencies will lose funding if the Draft Agreement is implemented.



FACT

The Draft Agreement allocates significant funding to FNCFS Agencies to continue their specialized work, including those services mandated by provincial or territorial services provided by qualified child and family specialists.

- Approximately one third of the Draft Agreement's total funding is designated for FNCFS agencies.
- First Nations can choose to allocate the funds they receive under this agreement to their Agency.



MYTH

The Draft Agreement dictates how First Nations should spend this funding and doesn't support First Nations' rights to self-determination and jurisdiction.



FACT

The Draft Agreement allocates funding directly to First Nations, with flexibility to allocate resources across various categories, while also allowing First Nations to move resources to other priorities within the FNCFS Program as needs change over time.

- For instance, one community may need more funding to support their parenting programs under prevention, but others may need more funding to ensure safe and adequate housing for children in their community.
- Under the Draft Agreement, First Nations and FNCFS Providers will receive stable and predictable funding that is flexible to address the needs of their children and families.
- Additionally, Agencies will be accountable to the First Nations they provide services through the development of a collaborative approach to a Child and Community Wellness Plan and required reporting about Agency services and outcomes to the First Nation.



MYTH

The Draft Agreement fails to protect future generations after its ten-year term.



FACT

The Draft Agreement ensures that the FNCFS program and associated funding best meets the needs of future generations through mandatory reviews at the five and ten-year marks.

- Funding will continue after the ten-year term of the agreement; however, these evaluations will make recommendations on the funding amounts and mechanisms to meet the changing needs of First Nations.
- The inclusion of program evaluation is rooted in best practices for child and family services and the Draft Agreement contains provisions to extend, support and update strategies based on the findings of the program evaluation, securing continuous improvements and long-term benefits.



MYTH

First Nations exercising their jurisdiction under An Act respecting First Nations, Inuit, and Métis children, youth and families (the Act) will not benefit from this Draft Agreement.



FACT

First Nations exercising their jurisdiction are not subject to the agreement and the self-jurisdiction approach affirmed by the Act is a wholly separate process.

- However, the Draft Agreement does provide First Nations in the process of exercising jurisdiction a framework to build up from if they choose.
- The Draft Agreement commits Canada to ensuring that First Nations exercising jurisdiction under the Act will not receive less funding than they would under the FNCFS Program.



MYTH

The Canadian Human Rights Tribunal (CHRT) orders and process provide more protection for First Nations than the Draft Agreement.



FACT

The Draft Agreement establishes a First Nations-led Dispute Resolution Tribunal that is accessible to First Nations and Agencies to ensure accountability from Canada for their implementation.

- Dispute Resolution Tribunal members will be chosen in partnership with the Parties and established by a process that provides the Tribunal with the ability to make binding orders on Canada. The Dispute Resolution Tribunal is paid for by Canada but will be independent from the Government, just like the Canadian Human Rights Tribunal.
- Unlike the CHRT, any First Nation or Agency may access the dispute resolution process set out in the Draft Agreement without having to hire and pay for legal counsel and associated legal fees, making this process more accessible.
- The Dispute Resolution Tribunal is not the mandatory avenue for disputes, and the CHRT remains open for cases that qualify to be heard under the CHRT's mandate, however the establishment of the Dispute Resolution Tribunal ensures a dispute resolution process that is led by First Nations, respects First Nations cultural protocols, and is focused on issues of First Nations child and family services.



MYTH

This Draft Agreement does not respect Jordan's Principle.



FACT

The \$20 billion Agreement-in-Principle concluded in December 2021 included a path towards reforming Jordan's Principle.

- A decision was made by the Parties to pause negotiations towards a final agreement on Jordan's Principle to allow adequate time for important First Nations-informed research on Jordan's Principle to be completed.



MYTH

The reforms in the Draft Agreement are part of the compensation settlement.



FACT

Compensation for past harms under the FNCFS Program and narrow application of Jordan's Principle is part of a separate settlement agreement with the Government of Canada, valued at \$23 billion which was approved in October 2023.

- The Draft Agreement on FNCFS allocates \$47.8 billion over ten years for reforms aimed at improving services and preventing future discrimination in First Nations child and family services, which is funded separately from the compensation amount.
- The compensation addresses past harm, while the Draft Agreement focuses on long-term improvements and ending discrimination.



MYTH

First Nations were excluded from the negotiations process.



FACT

The AFN, Chiefs of Ontario and Nishnawbe Aski Nation were the three First Nations parties negotiating the Draft Agreement and are the First Nations-representative Parties associated to the Canadian Human Rights complaint.

- The CHRT ordered Canada to work with the Parties to the CHRT to negotiate reform in its 2016 landmark ruling that found Canada discriminated against First Nations through chronic underfunding of FNCFS.
- The AFN was mandated by First Nations-in-Assembly Resolution 40/2022 to enter negotiations with Canada and the other parties to complete a draft agreement. This is the Draft Agreement released on July 11, 2024.
- Legal rules surrounding the negotiations process, sometimes referred to as “settlement privilege,” means that information discussed at negotiations could not be disclosed outside of the involved parties.
- However, the AFN Executive Committee, consisting of Regional Chiefs, was regularly updated and provided additional guidance to the AFN on negotiations. Although the Draft Agreement could not be shared during the negotiations, it was made publicly available immediately once negotiations concluded.



MYTH

The Draft Agreement was not informed by First Nations experts or research.



FACT

The reforms in the Draft Agreement are based on more than two decades of research conducted and led by First Nations and the AFN.

- These include the Wen:de Reports, the National Advisory Committee on FNCFS Program Reform, AFN regional reports, expert research conducted with First Nations by the Institute of Fiscal Studies and Democracy, alongside input and advice from First Nations leadership at the AFN Executive Committee.
- The Draft Agreement also aligns with mandates provided to the AFN by the First Nations-in-Assembly, including by Resolutions 40/2022 and 86/2023, To Ensure Quality of Life to the First Nations Child and Family Services Program and Jordan’s Principle, which mandated the AFN to negotiate the Draft Agreement, engage regionally, and seek approval of the Draft Agreement from the First Nations-in-Assembly.



MYTH

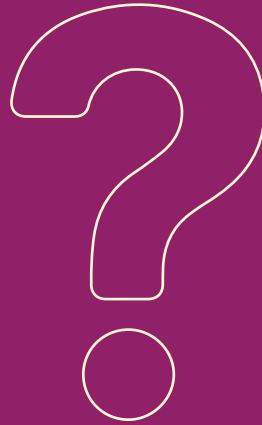
The Draft Agreement provides Canada with new powers over First Nations and Agencies.



FACT

The Draft Agreement does not provide Canada with any powers over the internal decision-making of First Nations or alter the eligibility for FNCFS.

- The Draft Agreement puts more decision-making authority for service approaches and funding allocation in the hands of First Nations.
- The Draft Agreement also reduces the role of Indigenous Services Canada in these decision-making processes, ensuring that the accountability of agencies is directed toward the First Nations they serve.



Frequently Asked Questions



The Assembly of First Nations, alongside the Chiefs of Ontario, Nishnawbe Aski Nation, and the Government of Canada, have negotiated \$47.8 billion in a Draft Agreement to reform the First Nations Child and Family Services (FNCFS) Program. **Here are some key questions and answers regarding this Draft Agreement.**

What are the key features of this Draft Agreement?

The Draft Agreement provides \$47.8 billion over ten years to ensure stable, predictable and flexible funding to address the needs of First Nations children and families. Key areas of funding include prevention, First Nations representative services, post-majority support services, operations, protection, maintenance and care, and capital. Approximately two-thirds of the funding outlined in the Draft Agreement will be provided directly to First Nations, with flexibility to allocate these resources to address the highest areas of need.

Will FNCFS Agencies lose funding once the Draft Agreement is implemented?

The draft agreement provides funds to First Nations and agencies to provide services. Some funding will be directed to First Nations governments to provide services directly to their citizens. The Draft Agreement allocates approximately \$16 billion, representing one third of the total funding, specifically for FNCFS Agencies to continue their specialized and legislated intervention supports, including services provided by qualified child and family services persons. The Draft Agreement addresses the chronic underfunding found to be discriminatory by the Canadian Human Rights Tribunal (CHRT) in their landmark 2016 ruling. Funding for Agencies in the Draft Agreement are equivalent to the actual expenditures reported by Agencies in fiscal year 2022-23, adjusted for inflation and population and is based on the principles of stability, predictability, and stability.

How is the funding allocated among different services like prevention, housing, and legal fees?

The Draft Agreement provides funding to First Nations and FNCFS Agencies in a funding model that is based on the principles of flexibility, predictability and stability, allowing First Nations and FNCFS Agencies to allocate funds across various activities proactively and to carry forward unused funds to the next fiscal year. This allows for First Nations and Agencies to address areas where more resources are required as needs change over time.

How does the Draft Agreement align with expert recommendations?

The reforms outlined in the Draft Agreement were developed based on over two decades of First Nations-led research and engagement with First Nations and other partners to reflect best practices and expert recommendations, including the recent reports from the Institute of Fiscal Studies and Democracy, ensuring it aligns with the best interests and needs of First Nations children, youth, and families.



How will the Draft Agreement impact Modern Treaty and Self-Governing First Nations?

Reforms under the Draft Agreement will apply to Modern Treaty and Self-Governing First Nations that receive services under the FNCFS Program.

How will the Draft Agreement impact First Nations who are exercising jurisdiction under An Act respecting First Nations, Inuit and Métis children, youth and families (the Act)?

The draft agreement will not impact those First Nations who drafted legislation pursuant to their inherent rights. The Draft Agreement ensures that First Nations exercising jurisdiction under the framework of the Act will not receive less funding than what they would be entitled to under the FNCFS Program for comparable services.

How will the Draft Agreement impact proceedings on Jordan's Principle?

The \$20 billion Agreement-in-Principle reached in December 2021 included a framework to reform Jordan's Principle and ensure its full and proper implementation. However, in October 2023, a decision was made by the parties to the negotiations with the support of the First Nations-in-Assembly to pause the negotiations regarding Jordan's Principle to ensure sufficient time for First Nations-informed research on Jordan's Principle to be completed by the Institute of Fiscal Studies and Democracy. A separate agreement on Jordan's Principle will be negotiated in the coming months.

Is this the most money the AFN could have negotiated for?

The Government of Canada initially committed \$19.8 billion for reform through the 2021 Agreement-in-Principle. The current offer of \$47.8 billion significantly exceeds that initial commitment, marking this commitment historic in scope and impact.

Was the AFN mandated to negotiate the Draft Agreement, and were First Nations involved in the process?

Yes, under AFN Resolutions 40/2022 and 86/2023, *To Ensure Quality of Life to the First Nations Child and Family Services Program and Jordan's Principle*, the AFN was mandated to negotiate the Draft Agreement and seek approval of the Draft Agreement from the First Nations-in-Assembly. As mandated, the AFN advocated for greater First Nations oversight of the services provided by Agencies and funding for prevention services in accordance with these Resolutions alongside the First Nations Parties (Chiefs of Ontario and Nishnawbe Aski Nation) and ensured that the negotiations for long-term reform were informed by years of research and advice from First Nations and experts. First Nations leadership were provided regular updates at AFN Assemblies by the AFN and its research partners.

First Nations were also funded to provide regional input through their own processes to the AFN on the proposals outlined in the Agreement-in-Principle, which were consulted throughout the negotiation process.



What mechanisms are in place to monitor the use of funds and the outcomes of the reformed services?

The Draft Agreement includes the responsibility of the Agency to collect data on the wellness of children in care for reporting to the First Nation. The First Nation can use this information to identify wellness areas to prioritize resources to. The Agency will also be required to collect data to provide to ISC for parliamentary and public reporting. The Reform Implementation Committee will also have an oversight role to ensure that Indigenous Services Canada are implementing the reform as detailed in the Agreement.

What happens after the 10-year commitment in the Draft Agreement ends?

The FNCFS Program and funding will continue after the ten-year mark. Funding will be adjusted based on the outcomes and recommendations of two program assessments scheduled at the five-year and ten-year marks. These assessments will ensure that the reforms continue to be effective and are adaptable and responsive should the data and evidence collected reflect the need for change. The Draft Agreement also acknowledges that Canada's obligation to provide non-discriminatory services to First Nations children will also continue to exist after the expiry of the Draft Agreement.

What mechanisms are available if First Nations have concerns or disputes with the implementation of the reforms?

A dispute resolution process is outlined in the Draft Agreement, including the establishment of a Dispute Resolution Tribunal to handle disputes. The tribunal is mandated to adjudicate and resolve any concerns or disputes that may arise during the implementation of the reforms. This is different than the Canadian Human Rights Tribunal, which is currently only accessible to those who are a party to the 2007 Human Rights Complaint (the AFN, Caring Society, Chiefs of Ontario, Nishnawbe Aski Nation, Amnesty International, or Canadian Human Rights Commission), or if a First Nation or individual pursues an independent complaint, which can take years to adjudicate and can be prohibitively expensive for First Nations parties.

The dispute resolution process envisioned in the Draft Agreement was designed by First Nations legal experts, including those with experience in First Nations-led dispute resolution processes. The dispute resolution process in the Draft Agreement is entirely dedicated to FNCFS reform, making it more efficient and accessible to First Nations and Agencies. The dispute resolution process will be paid for by Canada, including the legal fees for First Nations and Agencies. It will also be more culturally appropriate and may be conducted in First Nations languages at the request of the Parties. While the dispute resolution process has been crafted to be accessible and culturally appropriate, it does not displace First Nations or Agencies rights to pursue claims at the Canadian Human Rights Tribunal or by way of the courts.



How does the Draft Agreement address the unique challenges faced by remote and Northern First Nations?

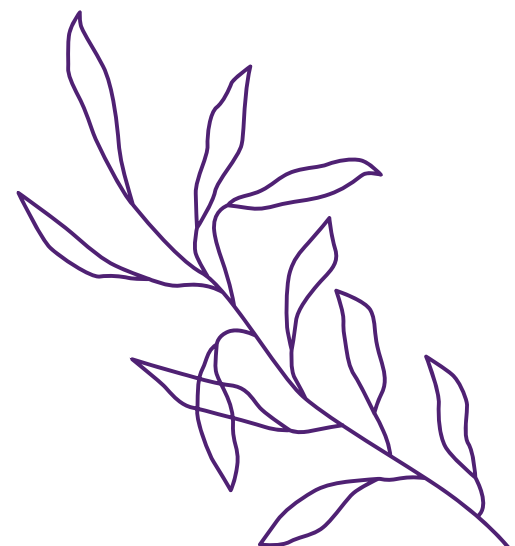
The funding model includes Remoteness Adjustment Funding to address the higher costs associated with service delivery in remote areas.

What are the next steps in the process, pending approval of the Draft Agreement from First Nations-in-Assembly at the Special Chiefs Assembly?

The Draft Agreement, subject to any agreed upon changes derived from the regional engagements, will be brought to the Special Chiefs Assembly for approval by the First Nations-in-Assembly by way of a resolution. If the Draft Agreement is approved at the Special Chiefs Assembly, Canada, the AFN, and the First Nations Parties will execute the Final Agreement and submit a motion to the Canadian Human Rights Tribunal to endorse the Final Agreement and end its oversight of the FNCFS Program. Should the Tribunal approve the Final Agreement, the implementation of the reforms will begin on April 1, 2025.

What happens if the First Nations-in-Assembly reject the Draft Agreement at the Special Chiefs Assembly?

If the Draft Agreement is rejected at the Special Chiefs Assembly, the AFN will follow the direction given by the First Nations-in-Assembly. If the Parties to the negotiations are willing, the negotiation process may be adjusted and revisited according to the direction and mandates provided by the First Nations-in-Assembly. The AFN cannot guarantee that negotiation will still remain a viable option. However, as the AFN is the only party bound to resolutions by the First Nations-in-Assembly, any future negotiations would remain subject to the other parties' mandates, which could be influenced by factors like changes in government and could result in a return to protracted litigation before the Canadian Human Rights Tribunal and possibly the courts.





Notes



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