

Assembly of First Nations

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ANNUAL GENERAL ASSEMBLY
September 3-4-5, 2025, Winnipeg, MB

Resolution no. 03/2025

TITLE: Approving Terms of Reference for FNCFS and Jordan's Principle Tables

SUBJECT: Children and Families; Governance

MOVED BY: Chief Pauline Frost, Vuntut Gwitchin First Nation, YT

SECONDED BY: Chief Vicky Chief, Timiskaming First Nation, QC

DECISION Carried; 28 Opposition; 5 Abstention

WHEREAS:

- A. The *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration) and the *United Nations Declaration Act* recognize the right of Indigenous families and communities to retain shared responsibility for the upbringing, training, education and well-being of their children, consistent with the rights of the child.
- B. The UN Declaration states:
- i. Article 7(2): Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.
 - ii. Article 18: Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own Indigenous decision-making institutions.
 - iii. Article 19: States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior, and informed consent before adopting and implementing legislative or administrative measures that may affect them.
 - iv. Article 21(2): States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall

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be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.

- v. Article 22(2): States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.
 - vi. Article 37: Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements, and other constructive arrangements.
- C. The First Nations Child and Family Caring Society (Caring Society) and the Assembly of First Nations (AFN) filed a Canadian Human Rights complaint in 2007 alleging Canada's inequitable provision of First Nations child and family services (FNCFS) and its choice not to correctly implement Jordan's Principle were discriminatory resulting in serious and irremediable harms.
- D. The Canadian Human Rights Tribunal (CHRT or "Tribunal") substantiated the human rights complaint in 2016 and ordered Canada to cease its discriminatory practices, reform the FNCFS program and immediately implement the full scope of Jordan's Principle.
- E. Shortly after the January 26, 2016, decision of the CHRT, the AFN and the Caring Society initiated discussions with INAC (now known as Indigenous Services Canada, "ISC") to re-establish the National Advisory Committee (NAC) to oversee recommendations for medium and long-term relief related to the CHRT decision and to provide general advice on program reform. By way of 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*, the First Nations-in-Assembly supported the re-establishment of the NAC.
- F. The NAC is an AFN-convened committee, and co-facilitated by the AFN and the Caring Society, and includes regional representatives, representatives from ISC, and a Youth and an Elder representative. The regional, Youth, and Elder representatives are appointed by the AFN Regional Chiefs in accordance with regional processes.
- G. In 2022 CHRT 8, the CHRT ordered the Parties to establish an Expert Advisory Committee (EAC) to develop and oversee the implementation of an evidence-informed work plan to prevent the recurrence of Canada's systemic discrimination. This includes an independent evaluation of ISC to identify systemic barriers that have led to the discrimination related to First Nations children and youth, as well as a training program for staff working within the FNCFS Program to address the "old mindset" that has contributed to the discrimination found by the CHRT.
- H. The EAC is co-chaired by the AFN, Caring Society and ISC. Members of the EAC were appointed by the ISC Deputy Minister in consultation with the Parties to the CHRT Complaint, and also include representatives from the Parties to the CHRT. Appointed members have a variety of expertise, including FNCFS, trauma, public finance, Indigenous law, history, and Indigenous research and evaluation.

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- I. By way of Resolutions 60/2024, *Addressing Long-Term Reform of the First Nations Child and Family Services Program and Jordan's Principle*, and 61/2024, *Meaningful Consultation on Long-Term Reform of First Nations Child and Family Services*, the First Nations-in-Assembly established the National Children's Chiefs Commission (NCCC) to oversee and provide strategic direction in relation to Long-Term Reform.
- J. By way of Resolution 60/2024, the First Nations-in-Assembly directed the NCCC to establish a negotiation team (NCCC Negotiation Team) with regional representation that will be responsible for carrying out the negotiations for Long-Term Reform.
- K. The NCCC and NCCC Negotiation Team have all developed Terms of Reference, which are appended to this resolution.

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

- 1. Direct the National Children's Chiefs Commission (NCCC) to consult with the title and rights holders, First Nations caucus of the National Advisory Committee (NAC) and with the Expert Advisory Committee (EAC) to solicit input on Long-Term Reform.
- 2. Provide approval of the Terms of Reference (TOR) for the NCCC and its negotiating team as provided to the First Nations-in-Assembly.
- 3. Direct the Assembly of First Nations (AFN) to implement the rights holders' approval of the TOR for the NCCC and its negotiating team.
- 4. Direct the AFN Secretariat and AFN Executive Committee to allocate or re-allocate \$1,000,000 from AFN's budget in accordance with AFN's finance policy to support the NCCC to fulfill its mandate and implement 2025 CHRT 80 in a manner consistent with all necessary fiscal safeguards, reporting, and accountability measures.

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