



First Nations Child and Family Services Long-Term Reform

Regional Engagement Summary



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Introduction

The Assembly of First Nations (AFN) hosted a series of regional engagement sessions focused on the Draft Agreement on long-term reform of the First Nations Child and Family Services (FNCFS) Program throughout July and August 2024. The objective of this document is to present the outcomes of those regional engagement sessions, providing individuals with a clear understanding of the perspectives of First Nations leadership towards the Draft Agreement, as well as recommendations for revisions based on what was heard.

These sessions provided an opportunity for First Nations leadership, including Chiefs and Proxies, Elders, Knowledge Keepers, youth, those with lived experience in care, technicians, parents and other experts to learn about the Draft Agreement, discuss the proposed reform elements and provide meaningful feedback to the AFN on the Draft Agreement.

This regional engagement summary begins with an overview of the regional engagements that were hosted under this process, including the date, location, and participants of each engagement. The report then outlines what was heard at the engagements, including the strengths, concerns and recommendations for the Draft Agreement. The report continues with a summary of each region's perspectives on the Draft Agreement, as shared in the engagement sessions. The report concludes with a summary of the recommendations that the AFN will advocate for on behalf of First Nations.

Background

In 2016, the Canadian Human Rights Tribunal (CHRT) found the Government of Canada was discriminating against First Nations children and families in its underfunding of the FNCFS Program and narrow implementation of Jordan's Principle. In what is now known as the "Merits Decision" (2016 CHRT 2), the CHRT ordered Canada to immediately cease its discriminatory practices and overhaul the FNCFS Program. In further orders, including 2016 CHRT 10, the CHRT Panel encouraged the Parties to collaborate on a solution to this discrimination. In 2021, the AFN and other Parties entered into intensive negotiations, which resulted in the Agreement-in-Principle on Long-Term Reform.

Using the Agreement-in-Principle as a framework to negotiate the reforms, the AFN and other Parties re-entered negotiations to reach a final agreement. The Draft Agreement is a negotiated settlement arrived at by the Government of Canada, the AFN, the Chiefs of Ontario (COO) and Nishnawbe Aski Nation (NAN), as a result of extensive negotiations that were informed by expert recommendations. These recommendations include those provided to the AFN by technical advisory tables, legal experts, research conducted by the Institute of Fiscal Studies and Democracy (IFSD), and historical reports such as the Wen:de Reports and Royal Commission on Aboriginal Peoples (RCAP).

Pursuant to AFN Resolutions 40/2022 and 86/2023, entitled *To Ensure Quality of Life to the First Nations Child and Family Services Program and Jordan's Principle*, the AFN undertook a series of regional engagements to support information sharing and knowledge translation, and to provide First Nations leadership in each region with sufficient information to make an informed decision on supporting the Draft Agreement.



What We Heard: Summary of Strengths, Concerns and Recommendations

Strengths of the Draft Agreement

The regional engagements highlighted several strengths and positive reflections on the Draft Agreement and the proposed reform measures. Participants in the regional engagements all agreed too many First Nations children are currently in care, and that the child and family services system for First Nations requires significant reforms, on which the Draft Agreement makes substantial progress. Chiefs, technicians and other participants provided the following reflections:

Funding: The vast majority of participants were extremely pleased the AFN and other Parties were able to successfully negotiate for \$47.8 billion over 10 years for progressive reforms to FNCFS, noting this is a substantial figure that will allow for meaningful change.

Prevention: Participants expressed that the focus on prevention in the Draft Agreement was a positive step toward keeping families together. With many First Nations families exposed to child and family services for reasons of poverty, it is positive that the Draft Agreement sets out mechanisms to support families and prevent children from entering care.

Housing: Participants expressed that while more funding was needed to address the housing crisis in First Nations, the \$2 billion allocated for housing represents a significant and positive investment to address the housing needs of children and families.

Post-Majority Services: Participants expressed that the funding dedicated to post-majority supports for youth who are aging out, or who have already aged out of care, is a significant, positive step to supporting youth, who often face substantial barriers in their young adult years. The provision of post-majority supports will be life changing for those who previously had no supports once they reached the age of majority.

Capital and Infrastructure: Participants highlighted the capital and infrastructure provisions in the Draft Agreement, which provide new opportunities for First Nations to have the proper buildings for service delivery. FNCFS often operates from spaces that are inadequate, not child-friendly, are not culturally appropriate, and lack privacy for families.

Accountability: Participants shared positive reflections on the improved accountability between Agencies and First Nations, and the enhanced relationship that will result from the proposed reforms.

Concerns with the Draft Agreement

The regional engagements provided an opportunity for Chiefs, technicians and other participants to share their perspectives and concerns about the Draft Agreement and the process. In many of the sessions, the AFN addressed concerns from Chiefs, technicians, Agency representatives and others that were grounded in misinformation that had been circulating about the Draft Agreement. This included misconceptions that the Draft Agreement would impact First Nations' Aboriginal and Treaty Rights, would create new powers for Canada over First Nations or Agencies, and result in unfair funding allocation across regions. Very few participants were outright opposed to the Draft Agreement, but instead wanted to address their concerns through amendments to the Draft Agreement. These concerns included:



Stability: Some participants raised concerns about the continuity of the Draft Agreement and the associated funding if there is a change in government. These concerns were acknowledged, and participants were informed that, once signed, the Agreement will be a contract binding the Government of Canada to these commitments. Concern about the continuity of funding past year 10 of the Agreement were also raised by participants. It was clarified that, using the mechanisms to assess the funding sufficiency and model at the mid and end points of the Agreement, funding for reform will continue after the 10-year term of the Agreement.

Governance: Participants across most regions raised concerns about the composition of the governance structure, particularly the need for regional representation on the Reform Implementation Committee (RIC). Some participants also expressed concerns about ending the CHRT's oversight over FNCFS. However, it was clarified that the Draft Agreement proposes a new oversight mechanism, known as Dispute Resolution, which is a more accessible and streamlined approach for handling disputes and issues with the implementation of reforms.

Funding: Participants expressed concerns that the \$47.8 billion commitment over 10 years would not be sufficient to address the needs First Nations are experiencing. Some participants also expressed concerns that the baseline funding amount was based on 2022-23 fiscal year data. It was clarified that this was the most recent complete fiscal year of data to retrieve baseline information from. Additionally, there were concerns with using the Indian Registration System as the source of population data.

Capacity: Participants raised concerns about the capacity of First Nations to deliver services, and the need to support this capacity in the agreement. This concern emerged with specific reference to delivery of prevention services, which in many regions have been delegated to a FNCFS Agency for decades. It was clarified that funds within the Draft Agreement could be used to bolster and build capacity to deliver services, where required. The AFN also informed participants that First Nations can choose to have their allocated funds re-directed to their agencies, if they so choose.

Role of Provinces and Territories: Some participants expressed concerns that the Draft Agreement did not go far enough to support First Nations jurisdiction and self-determination over child and family services. Participants also expressed frustration that provinces and territories would receive funds from the Draft Agreement. The AFN clarified that provinces and territories have a legal obligation to provide protection services in their jurisdiction and the federal government is responsible for funding those services, and that the provinces and territories are limited to the baseline funding, excluding emergency and capital. In such cases, the First Nation will receive the funding that they are entitled to under the Draft Agreement, including 100% of the emergency funds. The AFN also clarified that the Draft Agreement responds to the findings of the CHRT that the federal program on-reserve is discriminatory. Concerns were raised about a limit on how much funding First Nations pursuing jurisdiction over Child and Family Services could receive in the Draft Agreement. The AFN clarified that the funding under the Draft Agreement is the minimum standard for those First Nations exercising jurisdiction under *An Act respecting First Nations, Inuit and Metis children, youth and families*, meaning that First Nations exercising jurisdiction are guaranteed no less than what they would have received had they remained with the FNCFS program.



Accountability: The AFN also heard concerns about whether the provinces and territories will be compelled to provide services and the same level of accountability as the delegated Agencies. It was clarified that the Draft Agreement includes provisions to put the onus on Canada to re-negotiate the funding agreements with provinces and territories to assure their service delivery and accountability aligns with Reform. Canada is the only Party to have the jurisdiction to work with the provinces and territories on reforming their funding agreements.

Engagement: Several Regional Chiefs, leadership, technicians and other participants expressed a need for more time to review the Draft Agreement before providing their approval, including additional time for engagement. Others also expressed concerns that regional and technical experts were left out of the negotiations. However, as noted previously in this report, the AFN relied heavily on recommendations made by regional technical experts, along with other subject-matter experts and decades of research completed with the participation of FNCFS agencies and First Nations exercising jurisdiction.

Recommendations

Drawing from the input gathered during regional engagements, recommendations for revisions to the Draft Agreement and the implementation process have been proposed. These included:

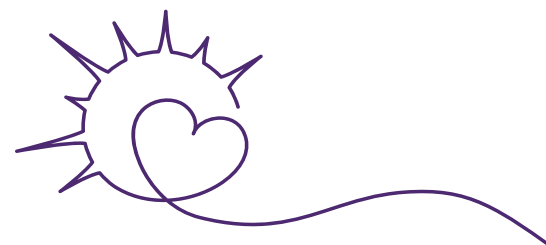
Reform Implementation Committee: Participants recommended that the Reform Implementation Committee be reflective of regional variations in priorities and needs by including regional representation from all regions, expanding from the current composition of the AFN, Chiefs of Ontario, Nishnawbe Aski Nation and Canada.

Alternative Dispute Resolution: Participants requested that the President of the Dispute Resolution Tribunal be a First Nations person.

Extended Engagement Period: Leadership requested more time to review the proposed suite of reforms and engage with their technicians.

Communications: Participants in several regions noted that the Draft Agreement is legalistic and not “user friendly,” and recommendations to create a user-friendly version were noted.

Population: Participants recommended moving away from using the Indian Registration System as the basis of the population data in the funding model due to issues with low or late registration in several regions. Participants also recommended including the off-reserve population, as many First Nations provide services to families living in urban areas.





What We're Doing: Conclusion and Recommendations

The regional engagements hosted from July to August 2024 provided meaningful input and feedback on the Draft Agreement on long-term reform of FNCFS. The engagements highlighted the strengths of the Draft Agreement and some areas of concern, resulting in recommendations for important revisions to address the concerns raised by First Nations. As a result of the feedback from these engagements, the AFN is recommending the following:

1. Advocate for the Reform Implementation Committee to include regional representation to ensure regional variation in priorities and challenges are reflected in the governance structure.
2. Advocate for the President of the Dispute Resolution Tribunal to be a First Nations person, who speaks both English and French.
3. Advocate for reconsideration of the population data to include off-reserve members, and to consider an alternative population source to move away from the Indian Registration System.

The AFN has also taken the following preliminary steps to address recommendations regarding engagement and implementation of the Draft Agreement:

1. The AFN postponed the Special Chiefs Assembly, originally scheduled for September 2024, to October 16-18, 2024, to allow more time for Chiefs and technicians to review and make an informed decision on the Draft Agreement.
2. The AFN will host a virtual information and dialogue session on September 18, 2024 in place of the original Special Chiefs Assembly. This session is meant to encourage facilitated discussion on the Draft Agreement and information sharing between Chiefs and leadership.
3. The AFN has provided several communications tools to bolster Chiefs' and technicians' understanding of key elements of the Draft Agreement. The AFN also hosted a series of webinars to provide more information about the Draft Agreement, focused on an overview of the Draft Agreement, protection, prevention, and governance and accountability.
4. The AFN will develop communications materials specific to First Nations exercising jurisdiction under *An Act respecting First Nations, Inuit and Metis children, youth and families*.



Appendix

Regional Engagements

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

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



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

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



Regional Engagement Summary

Alberta

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

British Columbia

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

Manitoba

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

New Brunswick

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

Newfoundland

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



Nova Scotia

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

Ontario

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

Prince Edward Island

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

Québec

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



Saskatchewan

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

Yukon

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





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