



Assembly of First Nations (AFN)

**Summary Chart of Amendments to the
Draft Agreement on Long-Term Reform
of the First Nations Child and Family
Services (FNCFS) Program**

Introduction

The following chart summarizes the substantive amendments accepted by the Parties (Nishnawbe Aski Nation, Chiefs of Ontario, and the Government of Canada) to the Draft Agreement on Long-Term Reform of the First Nations Child and Family Services (FNCFS) Program.


These amendments result from national and regional engagement sessions conducted by the AFN from July to October 2024. During these sessions, First Nations—including Chiefs, proxies, elders, knowledge keepers, youth, individuals with lived experience in care, technicians, parents, and other experts—discussed the proposed reforms in the Draft Agreement and provided meaningful feedback.

The AFN used this feedback to propose amendments and revisions to the Draft Agreement and its implementation process, which were brought to the Parties. After careful consideration, the Parties agreed to the proposed amendments, as detailed in this document, which are a result of the collaborative efforts of First Nations to reach the best possible agreement for First Nations children and families.

Note: *The paragraphs referenced below may refer to the Agreement as a “Final Settlement Agreement”. However, the Agreement is currently draft and will not be considered final until the First Nations-in-Assembly endorse the Agreement, and it is then agreed to by all negotiating Parties.*

Section and Paragraph	Original Text	Proposed Amendments	Rationale
Preamble, Part III – Definitions			
(ff)	“First Nation” means a “band” as defined in subsection 2(1) of the <i>Indian Act</i> , RSC, 1985, C I-5, as amended.	“First Nation” means a “band” as defined in subsection 2(1) of the <i>Indian Act</i> , RSC, 1985, C I-5, as amended, and which is delivering services and receives funding under the reformed FNCFS Program.	These amendments, agreed upon by the Parties based on feedback provided through the regional and national engagement sessions, clarify the distinction between a First Nation and a FNCFS Service Provider for the purposes of the Draft Agreement.
(oo)	“FNCFS Service Provider” means a First Nation, an FNCFS Agency, or an entity authorized by a First Nation to deliver services and to receive funding under the Reformed FNCFS Program. For clarity, provincial and Yukon governments are not FNCFS Service Providers.	“FNCFS Service Provider” means an FNCFS Agency, or an entity authorized by a First Nation to deliver services and to receive funding under the Reformed FNCFS Program. For clarity, provincial and Yukon governments are not FNCFS Service Providers.	Subsequent amendments proposed throughout the Draft Agreement and its appendices are to distinguish between a First Nation and an FNCFS Service Provider and reference both as distinct entities, where appropriate.

Section and Paragraph	Original Text	Proposed Amendments	Rationale
Part V – The Reformed FNCFS Funding Approach: Initial Five-Year Funding Period			
Para 42(e)	<p>Prior to September 1, 2024, the Parties shall develop an implementation plan for this capital funding that leverages existing or new community capital planning processes. Indigenous Services Canada (ISC), with the advice of the Reform Implementation Committee, shall also develop guidance documents to support FNCFS Service Providers in seeking capital funding.</p>	<p><i>(i) ISC shall administer the capital funding committed in this Final Settlement Agreement to support the delivery of the Reformed FNCFS Program’s funded services and activities based on proposals for projects.</i></p> <p><i>First Nations and FNCFS Service Providers will be eligible to seek capital funding for projects. Such projects will be identified in a First Nation Infrastructure Investment Plan (FNIIP), an FNCFS Agency’s child and community well-being plan as set out at paragraph 134, or another planning document specified by ISC.</i></p> <p><i>(ii) ISC will assess, rank, and fund proposals based on such factors as the link between the proposed project and the Reformed FNCFS Program’s funded services and activities and the availability of existing ISC-funded capital assets for use by the First Nation or FNCFS Service Provider.</i></p> <p><i>(iii) ISC shall also administer the capital funding committed in this Final Settlement Agreement to fund First Nations and FNCFS Service Providers for ongoing FNCFS capital projects which have been approved under the 2021 CHRT 41 process and for the operation and maintenance of ISC-funded capital assets that support the delivery of the Reformed FNCFS Program’s funded services and activities. ISC shall provide operation and maintenance funding for the Initial Five-Year Funding Period and according to a formula that considers the number of FNCFS capital assets to be maintained, the types of those assets, and differences in costs to maintain capital assets due to geographic location. ISC shall fund 100% of the operation and maintenance costs produced by the formula.</i></p> <p><i>(i)(iv) ISC, with the advice of the Reform Implementation Committee, shall develop guidance documents to support First Nations and FNCFS Service Providers in seeking capital funding.</i></p>	<p>This amendment, agreed to by the Parties, reflects substantial collaborative work among the negotiating Parties to reach a methodology for the provision of capital-related funding to First Nations and FNCFS Agencies.</p> <p>This amendment sets out the planning methodology for capital projects and assessment factors involved in the context of the approval of capital projects. An important component of this amendment is to enable regional representative members of the Reform Implementation Committee (RIC) to inform the related guidance documentation.</p> <p>It affirms that projects approved under 2021 CHRT 41 will continue to be funded through the new capital processes and guarantees operation and maintenance funding.</p>



Section and Paragraph	Original Text	Proposed Amendments	Rationale
Para 42(f)(i)	<p>Save for the funding noted in subparagraph 42(f)(ii), ISC shall allocate all post-majority support services funding to First Nations. Prior to September 1, 2024, the Parties shall codevelop the approach by which ISC shall allocate post-majority support services funding among First Nations. That approach shall align with the principles of needs-based funding and recognition of the distinct realities of First Nations.</p>	<p><i>ISC shall allocate all funding for post-majority support services to First Nations, save for the funding noted in subparagraph 42(f)(ii). ISC shall calculate the amount of a specific First Nation's funding by taking the following steps:</i></p> <p><i>(a) Multiply 80% by the post-majority segment of the First Nation's population, determined as set out in paragraph 35. The post-majority segment is the segment between the age at which a youth can voluntarily exit care and the age at which a young adult's eligibility for post-majority support services ends;</i></p> <p><i>(b) Estimate the number of individuals eligible for post-majority support services for the First Nation and nationally, and divide the First Nation's estimate by the national estimate. The estimates are projections based on children in care data recorded in ISC's Information Management System / Data Management System;</i></p> <p><i>(c) Multiply (a) by 1 + (b);</i></p> <p><i>(d) Divide (c) by the sum of (c) for all First Nations eligible to receive funding under the Reformed FNCFS Program;</i></p> <p><i>(e) Multiply \$75,000, adjusted for inflation, by the number of First Nations eligible to receive funding under the Reformed FNCFS Program, and subtract that amount from the total annual funding available for post-majority support services;</i></p> <p><i>(f) Multiply (d) by (e);</i></p> <p><i>(g) Add \$75,000, adjusted for inflation, to (f).</i></p>	<p>This amendment, agreed to by the Parties, reflects the substantial collaborative work among the negotiating Parties to reach an allocation methodology for Post-Majority Support Services funding to First Nations. This amendment sets out how funding for Post-Majority Support Services is calculated under the Draft Agreement.</p>

Section and Paragraph	Original Text	Proposed Amendments	Rationale
Para 51	Any transfer of funding by a FNCFS Service Provider pursuant to paragraph 48 of this section shall be subject to approval by ISC.	Any transfer of funding by a First Nation or FNCFS Service Provider pursuant to paragraph 50 of this section shall be subject to such First Nation or FNCFS Service Provider notifying ISC in writing and in advance of the intended transfer.	<p>Significant concerns about ISC's approval of transfers were raised during regional and national engagements on the Draft Agreement.</p> <p>By way of this amendment, the Parties have clarified that the applicable paragraph is actually paragraph 50, which addresses transfers of funding between FNCFS Agencies and First Nations, and confirmed that such transfers will only require <u>written notification to ISC rather than ISC approval</u>. This means that internal re-allocations of funding across components of the Reformed FNCFS Program are <u>not</u> subject to approval by ISC. However, a restriction remains that an FNCFS Agency cannot transfer funding from prevention to protection, except to fund least disruptive measures.</p>



Section and Paragraph	Original Text	Proposed Amendments	Rationale
Part VII – The Reformed FNCFS Funding Approach: Following the Expiry of the Term of this Final Settlement Agreement			
Para 97	In considering the Reform Implementation Committee's Second Program Assessment Opinion, Canada shall consider the viability of embedding the Reformed FNCFS Funding Approach, and any recommended changes thereto, in legislation.	In considering the Reform Implementation Committee's Second Program Assessment Opinion, Canada shall consider the viability of embedding the Reformed FNCFS Funding Approach, and any recommended changes thereto, in legislation (i.e. Canada shall consider the viability of statutory funding).	<p>Throughout the regional and national engagements, First Nations emphasized the need for statutory funding to ensure the continuity of reforms in FNCFS in the long-term.</p> <p>The Parties have agreed to this amendment, which provides greater clarity regarding the consideration of statutory funding following the Program Assessment in year 10 of the Agreement, at which point conclusive data may support the development of legislation that includes statutory funding.</p>

Section and Paragraph	Original Text	Proposed Amendments	Rationale
Part XIV – Governance of the Reformed FNCFS Program			
Para 148	148. The Reform Implementation Committee shall consist of twelve (12) members. Each Party shall appoint three (3) members to the Reform Implementation Committee.	<p>148. The Reform Implementation Committee shall consist of <i>fifteen (15)</i> members <i>who shall be appointed and may serve up to a period ending March 31, 2029. With respect to the composition of the Reform Implementation Committee, each Party shall appoint one (1) member; NARC shall be entitled to appoint one (1) member; and, except for Ontario and the Northwest Territories, each region (Newfoundland, Prince Edward Island, Nova Scotia, New Brunswick, Quebec, Manitoba, Saskatchewan, Alberta, British Columbia, and Yukon) shall be entitled to appoint one (1) member having due regard for the following criteria:</i></p> <p><i>(a) Each appointee shall be a First Nations individual who is either a chief, council member, or other such elected leader (elected at the time of their appointment), a First Nations child and family services technician employed by a First Nation, or a child and family services technician employed by a FNCFS Agency.</i></p> <p><i>(b) Aspirationally, the membership of the Reform Implementation Committee will include both leadership and technical expertise and achieve diversity.</i></p> <p><i>(c) Each of the Parties, the NARC, and the regions shall confirm the appointment of their member within thirty (30) days following the approval of the Final Settlement Agreement by the Tribunal or, as necessary, the Federal Court or further Appellate Court. The failure to confirm the appointment of a member within this time frame shall not impede the operation of the Reform Implementation Committee.</i></p>	<p>During the regional and national engagements, First Nations Chiefs and technicians recommended that the Reform Implementation Committee (RIC) reflect regional variations in priorities and needs by including regional representation from all regions, expanding beyond the current composition of the AFN, Chiefs of Ontario, Nishnawbe Aski Nation, and Canada, and ensuring such appointments reflect the need for diversity.</p> <p>This amendment, agreed to by the Parties, sets out a regionally-balanced governance structure on the RIC, ensuring each region will have a member selected through their own regional processes. The composition will reflect leadership, technicians, and agency representation while striving to achieve diversity.</p> <p>The Northwest Territories is excluded because the FNCFS Program does not operate in the region.</p> <p>Complementary amendments to reflect the revised governance structure can also be found in Appendix 8, "Reform Implementation Committee Terms of Reference."</p> <p>Effectively, governance of the Draft Agreement now reflects regional stewardship, with the Parties taking on a minority role in the context of the oversight of implementation, having reduced their seats to one each from three.</p>



Section and Paragraph	Original Text	Proposed Amendments	Rationale
Part XIX – Dispute Resolution Process			
Para 266	266. The President shall be appointed by the Governor in Council, on the recommendation of the Minister of ISC following consultation with the Parties. The President may be appointed for a second term.	The President shall be a <i>First Nations individual with judicial or adjudication experience</i> , appointed by the Governor in Council, on the recommendation of the Minister of ISC following consultation with the Parties. The President may be appointed for a second term.	<p>During the regional and national engagements, First Nations were clear that the President of the Dispute Resolution Tribunal established under the Draft Agreement must be a First Nations person.</p> <p>The Parties have agreed to this amendment and the Draft Agreement now affirms that the President of the Dispute Resolution Process shall be a First Nations person.</p>
Part XXVII – General Provisions			
Para 389	(N/A)	<i>This Final Settlement Agreement will not be construed as an assumption by First Nations of any liability associated with the delivery of services referenced within this Final Settlement Agreement, for any period recommended prior to the point where they have actually assumed the provision of any such service, further to the terms of this Final Settlement Agreement, unless the First Nation has specifically assumed the provision of such services prior to the approval and application of this Final Settlement Agreement.</i>	<p>Throughout the regional and national engagements, some First Nations expressed concerns about the liabilities assumed by their Nations when taking on service delivery.</p> <p>This amendment, accepted by the Parties, ensures that First Nations assume aspects of FNCFS service delivery under the Draft Agreement cannot be held liable for past wrongdoing under the original FNCFS Program.</p>
Appendix 10: First Nations Child and Family Services Terms and Conditions			
Appendix 10	(N/A)	<i>Please see the Draft Agreement for the proposed Terms and Conditions for the Reformed FNCFS Program.</i>	This appendix was under development and has been inserted following the completion of the Terms and Conditions.



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