
Assembly of First Nations

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Assemblée des Premières Nations

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SPECIAL CHIEFS ASSEMBLY

December 5,6,7, 2023, Ottawa, ON

Resolution no.86/2023

TITLE: To Ensure Quality of Life to the First Nations Child and Family Services Program and Jordan's Principle

SUBJECT: Child and Family Services

MOVED BY: Chief Brian Perrault, Couchiching First Nation, ON

SECONDED BY: Chief Mark McCoy, Ojibways of Batchewana First Nation, ON

DECISION Carried by Consensus

WHEREAS:

- A. The First Nations Child and Family Caring Society (Caring Society) and the Assembly of First Nations (AFN) filed a discrimination claim in 2007 alleging Canada's inequitable provision of First Nations Child and Family Services (FNCFS) and its choice not to implement Jordan's Principle were discriminatory which resulted in harms including the removal of children from their families and communities and those delayed and denied in receiving services.
- B. The Canadian Human Rights Tribunal (CHRT) substantiated the discrimination claim in 2016 CHRT 2 and ordered Canada to immediately cease its discriminatory conduct towards First Nations children and families.
- C. The CHRT ruling established that First Nations children and families are legally entitled to receive prevention services and the least disruptive measures.
- D. Between 2016 and 2021, the First Nations parties were required to hold Canada accountable and return to the Tribunal on multiple occasions, resulting in 21 non-compliance orders.
- E. In the wake of First Nations and public pressure regarding the children in unmarked graves near Residential Schools and the Federal Court's dismissal of two of Canada's appeals of rulings from the CHRT, the federal government finally agreed to negotiate a resolution.

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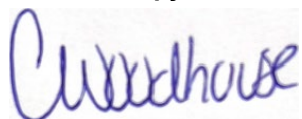
CINDY WOODHOUSE, NATIONAL CHIEF

- F. In Fall 2021, the complainants (the Caring Society and AFN), the interested parties (Chiefs of Ontario & Nishawbe Aski Nation) and Canada entered into negotiations to resolve outstanding discrimination pursuant to the CHRT orders.
- G. The CHRT issued an order (2022 CHRT 8) by consent of the parties providing funding for prevention, post-majority services, and other measures. This funding, combined with an order on capital (2021 CHRT 41) and other previous CHRT orders, amounts to over 75% of the \$19.807 billion over five years announced as part of the Agreement-in-Principle (AIP).
- H. The Institute of Fiscal Studies and Democracy's research to inform long-term funding solutions for FNCFS for First Nations with and without agencies is not due to be completed until March 2024, and Jordan's Principle in December of 2024.
- I. Community-driven research to inform long-term funding solutions for FNCFS for First Nations with and without agencies is not due to be completed until the Fall of 2023 and Jordan's Principle in the spring of 2024.
- J. Under the reformed FNCFS funding model, Canada has proposed that a 2% inflation adjustment be provided, which mirrors the discriminatory funding cap imposed on First Nations' budgets for nearly two decades. The 2% inflation adjustment does not reflect the higher costs of living nor the impact of inflation on First Nations, nor the record-high rates of inflation being observed in Canada.
- K. Canada has also imposed using the Indian Registry to identify the number of people in a First Nation for the purposes of calculating prevention. This excludes many citizens who are eligible for registration but aren't currently registered, and particularly disadvantages communities in remote areas.
- L. Canada has been imposing an unnecessarily heavy burden on First Nations and First Nations child and family service providers and Jordan's Principle service providers to access the capital funding that Canada is legally compelled to provide pursuant to Canadian Human Rights Tribunal Order 2021 CHRT 41.
- M. The Final Settlement Agreement will have a direct impact of unprecedented magnitude on the lives of First Nations children, their families, and their communities.

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

1. Support regional-specific, independent, First Nations-led secretariats to support First Nations in implementing and transitioning to a reformed First Nations Child and Family Services (FNCFS) approach, including data, best practices, tools, and research.
2. Call upon the Assembly of First Nations (AFN) to consult with the National Advisory Committee on FNCFS Program Reform to provide expert advice on long-term reform of FNCFS.
3. Call upon the AFN to provide an update to First Nations leadership on the implementation of AFN-Resolution 40/2022, *To Ensure Quality of Life to the First Nations Child and Family Services Program and Jordan's Principle*.
4. Call upon the AFN to ensure the establishment of an Alternative Dispute Resolution process under long-term reform that is apolitical, independent, properly resourced, culturally sensitive, trauma-informed, and accessible to safeguard the rights of First Nations children, youth, and families are respected and upheld.

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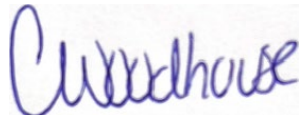


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5. Call upon the AFN to work with regional First Nations leadership and FNCFS experts to strengthen the role of regional experts within the FNCFS and Jordan's Principle negotiations.
6. Call upon Canada to ensure that the population count used to calculate FNCFS services reflect the actual number of people who are the residents and citizens of a First Nation.
7. Call upon Canada to provide its negotiating mandates and any relevant information in a timely manner to facilitate good faith negotiations.
8. Call upon the AFN to advocate for the use of the Consumer Price Index, with a minimum of 2% per annum adjusted upwards if the Consumer Price Index exceeds 2% for any given year, to account for inflation in the reformed FNCFS funding model and the provision of funding respecting Jordan's Principle.
9. Call on the AFN to conduct and support regional engagement on the Final Settlement Agreement on long-term reform to ensure that First Nations leadership has an adequate opportunity to discuss and approve the Final Settlement Agreement.

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