



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



## 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 10 years starting April 1, 2025, to implement a reformed FNCFS Program. The FNCFS Program will continue after the 10-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.



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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 10-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.



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- 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.



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## 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.



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## 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.



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## 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.



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