

**CANADIAN HUMAN RIGHTS TRIBUNAL**

BETWEEN:

**FIRST NATIONS CHILD AND FAMILY CARING SOCIETY OF CANADA and  
ASSEMBLY OF FIRST NATIONS**

Complainants

-and-

**CANADIAN HUMAN RIGHTS COMMISSION**

Commission

-and-

**ATTORNEY GENERAL OF CANADA**

(representing the Minister of Indigenous Services Canada)

Respondent

-and-

**CHIEFS OF ONTARIO and  
AMNESTY INTERNATIONAL CANADA and  
NISHNAWBE-ASKI NATION**

Interested Parties

-and-

**TAYKWA TAGAMOU NATION and  
CHIPPEWAS OF GEORGINA ISLAND**

Moving Parties

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**MOTION RECORD**

of the Proposed Interested Parties, Taykwa Tagamou Nation and Chippewas of Georgina Island for involvement specific to the joint motion filed by Chiefs of Ontario and Nishnawbe Aski Nation on March 7, 2025

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**ORIGINAL TO: Canadian Human  
Rights Tribunal**

**CANADIAN HUMAN RIGHTS TRIBUNAL**

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**MOTION RECORD OF TAYKWA TAGAMOU NATION AND CHIPPEWAS OF  
GEORGINA ISLAND**

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<b>2.</b>	Written Submissions of the Proposed Interested Parties, Taykwa Tagamou Nation and Chippewas of Georgina Island

**CANADIAN HUMAN RIGHTS TRIBUNAL**

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**THE CHIEFS OF ONTARIO and  
AMNESTY INTERNATIONAL CANADA and  
THE NISHNAWBE ASKI NATION**

Interested Parties

-and-

**TAYKWA TAGAMOU NATION and  
CHIPPEWAS OF GEORGINA ISLAND**

Moving Parties

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**JOINT NOTICE OF MOTION OF TAYKWA TAGAMOU NATION AND CHIPPEWAS  
OF GEORGINA ISLAND**

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**NOTICE OF MOTION**

**TAKE NOTICE THAT** Taykwa Tagamou Nation and the Chippewas of Georgina Island make this motion jointly to the Canadian Human Rights Tribunal (“Tribunal”) located at 240 Sparks Street, 6th Floor West, Ottawa, Ontario.

**THE MOTION IS FOR:**

1. An order jointly granting Taykwa Tagamou Nation and Chippewas of Georgina Island leave to intervene to become an interested party in this proceeding on the following terms, or such further or other terms as the Tribunal deems just and appropriate:
  - a. Taykwa Tagamou Nation and Chippewas of Georgina Island shall be specifically limited to participation in the motion filed by the Interested Parties Chiefs of Ontario (“COO”) and Nishnawbe Aski Nation (“NAN”) on March 7, 2025 (“Joint Motion”);
  - b. Taykwa Tagamou Nation and Chippewas of Georgina Island shall be permitted to make joint oral and written arguments regarding the Joint Motion, subject to length restrictions and timelines as determined by the Tribunal;
  - c. Taykwa Tagamou Nation and Chippewas of Georgina Island shall be permitted to adduce affidavit evidence, subject to length restrictions and timelines as determined by the Tribunal; and
  - d. The participation of Taykwa Tagamou Nation and Chippewas of Georgina Island shall be on a without-costs basis.
2. Any further or other order that the Tribunal may deem appropriate.

**THE GROUNDS FOR THE MOTION ARE:**

1. Taykwa Tagamou Nation and Chippewas of Georgina Island have expertise and knowledge that will be of assistance to the Tribunals in determining the Joint Motion;

2. Taykwa Tagamou Nation and Chippewas of Georgina Island will bring a unique perspective;
3. The involvement of Taykwa Tagamou Nation and Chippewas of Georgina Island will add to the legal positions of the parties with respect to the Joint Motion; and
4. The interests of Taykwa Tagamou Nation and Chippewas of Georgina Island are engaged by the issues in the Motions.

**THE FOLLOWING DOCUMENTS** will be referred to in support of this motion:

- a) The written argument of the moving parties, Taykwa Tagamou Nation and Chippewas of Georgina Island.

DATED April 15, 2025



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**Per: Karey Brooks**

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**CHIEFS OF ONTARIO,**

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**TAYKWA TAGAMOU NATION and  
CHIPPEWAS OF GEORGINA ISLAND**

Moving Parties

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**WRITTEN SUBMISSIONS OF TAYKWA TAGAMOU NATION AND CHIPPEWAS OF  
GEORGINA ISLAND  
on their motion for interested party status**

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## I. INTRODUCTION

1. Taykwa Tagamou Nation and Chippewas of Georgina Island make this Motion jointly for interested party status in the joint motion by the Chiefs of Ontario (“**COO**”) and Nishnawbe Aski Nation (“**NAN**”) before the Tribunal, dated March 7, 2025 (“**Joint Motion**”). Taykwa Tagamou Nation and Chippewas of Georgina Island make this motion in accordance with the Tribunal’s directions on April 2, 2025.
2. Taykwa Tagamou Nation is an Ojibwe and Cree Nation with traditional territory situated in northern Ontario along the Abitibi River. The name Taquahtagama (Taykwa Tagamou Nation), meaning “water on high ground,” reflects the spirit and landscape of their territory within the Moose River Basin. Taykwa Tagamou Nation is a signatory to Treaty 9 and is a member of the Muskegowuk Council, NAN, COO, and the Assembly of First Nations (“**AFN**”).
3. In 2022, Taykwa Tagamou Nation enacted its own Child Wellbeing Law, asserting its inherent jurisdiction over child and family services. As of September 30, 2024, the Nation has formally provided notice of its intention to exercise legislative authority and has initiated a request to enter into a coordination agreement. Taykwa Tagamou Nation is a founding member of Kunuwanimano Child and Family Services.
4. The Chippewas of Georgina Island are an Anishinaabe Nation whose traditional territory lies within the Lake Simcoe region. They are descendants of the broader group historically known as the Chippewas of Lakes Huron and Simcoe. The Chippewas of Georgina Island are signatories to the Collins Treaty, the Coldwater-Narrows Treaty, and the Williams Treaty. They are also members of the Chippewa Tri-Council, Ogemawahj Tribal Council, COO, and AFN.
5. The Chippewas of Georgina Island’s Child Welfare Program (“**CWP**”) deliver services to the community through First Nations Representative Services (“**FNRS**”), Post Majority Support Services and prevention. The goal of the CWP is to ensure that Georgina Island children and families receive culturally appropriate services, are offered least disruptive measures whenever possible, and ensure that child and

family services agencies find and explore family and kin placement options if children are in need protection. Chippewas of Georgina Island is one of the central First Nations that called for, supported and ultimately implemented a plan that resulted in the delegation of Dnaagdawenmag Binnoojiiyag Child & Family Services (“**DBCFS**”), which now serves as the First Nation’s child welfare agency.

Chippewas of Georgina Island was also instrumental in calling for the inquest into the life and death of Devon Freeman, which resulted in Devon’s Principle, requiring all child and family services agencies to ensure that First Nations children in care always have a chance to put their own feet on their own territory. Both Taykwa Tagamou Nation and Chippewas of Georgina Island have been and continue to be on the frontlines of child and family service supports through their First Nation Representative Services, Post-Majority and Prevention programs. The Tribunal’s existing orders, including but not limited to 2018 CHRT 4, 2021 CHRT 41 and 2022 CHRT 8 have resulted in both First Nations building capacity and delivering supports in line with their commitment to substantive equality. But more time is needed as the barriers and structural drivers of child welfare continue to disproportionately impact their children and families. The Ontario FSA raises critical questions about how capacity can and should continue to be supported.

6. Deep intergenerational impacts of colonialism, residential schools, the sixties scoop and the discrimination found in 2016 CHRT 2 continue to impact their children and families. Equitable, and culturally appropriate services are essential to the wellbeing of their communities.

## **II. STATEMENT OF FACTS**

7. In 2007, the First Nations Child and Family Caring Society and AFN filed the complaint alleging discrimination against First Nations children and giving rise to the underlying proceedings. In 2016, the Tribunal determined that the discrimination complaint was substantiated.<sup>1</sup>

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<sup>1</sup> *First Nations Child and Family Caring Society of Canada et al v Attorney General of Canada*, [2016 CHRT 2](#).

8. In 2024, the AFN, COO, NAN, and Canada signed a draft national Final Agreement on Long-Term Reform of the First Nations Child and Family Services Program (“**FSA**”). It was ratified by the respective COO and NAN Chiefs-in-Assembly but rejected at the AFN Special Chiefs Assembly.
9. In February 2025, COO, NAN, and Canada reached a provisional Ontario-specific Final Agreement on Long-Term Reform of the First Nations Child and Family Services Program in Ontario (“**Ontario Final Agreement**”) based on the draft national FSA.
10. Taykwa Tagamou Nation and Chippewas of Georgina Island voted in opposition to the FSA and the Ontario Final Agreement when the respective agreements were tabled.
11. COO and NAN brought forward the Joint Motion on March 7, 2025 which, among other orders, asked the Tribunal for orders:
  - a. Approving the Ontario Final Agreement; and
  - b. Finding that the Ontario Final Agreement and the Trilateral Agreement Respecting Reform of the 1965 Agreement (“**Trilateral Agreement**”) satisfy, supersede, and replace all orders of the Tribunal related to the discrimination found by the Tribunal concerning all elements of the Complaint in Ontario relating to the First Nations Child and Family Services Program in Ontario and the Memorandum of Agreement Respecting Welfare Programs for Indians (“**1965 Agreement**”).
12. In March 2025, Taykwa Tagamou Nation and Chippewas of Georgina Island indicated to the Tribunal that they would jointly seek interested party status with respect to the Joint Motion only.
13. On April 2, 2025, the Tribunal issued a direction for Taykwa Tagamou Nation and Chippewas of Georgina Island to file any notice of motion and submissions (limited

to 10 pages maximum) by April 15, 2025. The Tribunal directed that no affidavit would be filed.

### III. ISSUES

14. The issues for determination in this Motion are:

- a. Whether Taykwa Tagamou Nation and Chippewas of Georgina Island should be granted interested party status to participate in the Joint Motion; and
- b. If so, the terms of participation.

### IV. LAW & ARGUMENT

#### Legal Framework

1. Taykwa Tagamou Nation and the Chippewas of Georgina Island respectfully seek interested party status pursuant to the Tribunal's authority under section 50 of the *Canadian Human Rights Act*<sup>2</sup> and section 27 of the *Canadian Human Rights Tribunal Rules of Procedure, 2021*.<sup>3</sup>
2. The Tribunal may grant interested party status where the following criteria are met:
  - a. The proposed interested party possesses expertise that will assist the Tribunal;
  - b. Its participation will contribute to the legal positions advanced by the parties; and
  - c. The outcome of the proceeding will affect the proposed interested party's interests.<sup>4</sup>

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<sup>2</sup> *Canadian Human Rights Act*, [RSC, 1985, c H-6](#).

<sup>3</sup> *Canadian Human Rights Tribunal Rules of Procedure, 2021*, [SOR/2021-137](#).

<sup>4</sup> *Walden et al v Attorney General of Canada (representing the Treasury Board of Canada and Human Resources and Skills Development Canada)*, [2011 CHRT 19](#) at para [23](#).

3. In assessing such requests, the Tribunal applies a flexible and holistic approach, taking into account the specific context and potential contributions of the proposed interested party.<sup>5</sup>

### **Procedural Fairness**

4. In accordance with the Tribunal's direction on April 7, 2025, Taykwa Tagamou Nation and Chippewas of Georgina Island are not filing affidavit evidence, which impacts the nature of the written submissions that can be made. If the Tribunal is of the view that evidence is necessary to meet the test for granting interested party status, we respectfully seek leave to file affidavit evidence before the Tribunal.
5. If the Tribunal grants leave to intervene as an interested party, Taykwa Tagamou Nation and Chippewas of Georgina will seek leave to file affidavit evidence to support its submissions identified below. The affidavit evidence will demonstrate the impacts of the Ontario Final Agreement on their capacity to deliver supports and services effectively and in keeping with substantive equality.

### **Expertise Will Be of Assistance to the Tribunal**

6. Taykwa Tagamou Nation and the Chippewas of Georgina Island possess knowledge and expertise that will assist the Tribunal in its consideration of the issues raised in the Motion. Both Nations have direct, practical experience in delivering child and family services and supports under the existing Tribunal orders, and have engaged with systemic challenges related to substantively inequitable funding and discrimination. They work with children and families everyday; they support customary care placements; and they work directly with their agencies on all matters impacting their families. They can offer valuable insights into the anticipated impacts of the Ontario Final Agreement and the Trilateral Agreement on the delivery and funding of child and family services within individual First Nations.

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<sup>5</sup> *First Nations Child & Family Caring Society of Canada et al v Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, [2022 CHRT 26](#) at paras [30-31](#).

## **Involvement Will Add to the Legal Positions of the Parties**

7. As two First Nations located in Ontario, Taykwa Tagamou Nation and the Chippewas of Georgina Island bring diverse and grounded perspectives on the sufficiency and impact of the Ontario Final Agreement and the Trilateral Agreement:
  - a. Both Nations independently deliver frontline supports and services within their First Nation Representative, Post-Majority and Prevention programs.
  - b. Taykwa Tagamou Nation and the Chippewas of Georgina Island are two separate and self-governing Nations who have chosen to jointly participate in this Motion due to shared concerns and aligned views regarding the impact of the Ontario Final Agreement on their children and families.
8. Taykwa Tagamou Nation and the Chippewas of Georgina Island intend to present submissions distinct from those of the other parties in this proceeding. Their submissions will be grounded in the direct experience of Nations that independently provide services and supports in line with the Tribunal's orders—a perspective not represented by parties such as the First Nations Child and Family Caring Society of Canada or the AFN.
9. Taykwa Tagamou Nation and the Chippewas of Georgina Island intend to raise the following concerns regarding the Ontario Final Agreement that reflect its unique perspective:
  - a. That the Agreement does not represent meaningful or lasting reform for their communities. The Agreement lacks the durability to support children for generations to come and lacks systemic and structural changes necessary to address the discrimination and prevent its recurrence identified by the Tribunal. The funding structure has a significant to potential replicate the existing discrimination and inequity found by the Tribunal in 2016 CHRT 2, rather than empowering First Nations through long-term, sustainable, and self-determined models of care and capacity-building.

- b. That commitments under the Agreement appear time-limited and uncertain, raising serious concerns about long-term stability and funding adequacy for First Nations exercising jurisdiction over child and family services for the current and future generations.
- c. That the Agreement has not been developed through meaningful engagement and excluded necessary voices at the table. Engagement was also focused on providing information, rather than engaging with the concerns of impacted First Nations and their service delivery experts. As a result, it does not adequately reflect or respond to the priorities and lived realities of Nations such as Taykwa Tagamou Nation and the Chippewas of Georgina Island.
- d. That the Agreement may not be in line with existing evidence regarding how the discrimination identified by the Tribunal can be redressed and how such discrimination can be prevented in the future.
- e. Particularly for Chippewas of Georgina Island, the Ontario FSA's approach to remoteness fails entirely to recognize the realities and lived experiences of children and families living on the island. Chippewas of Georgina Island is only accessible by boat in the summer months and through a variety of dangerous modes of transportation in the winter is not considered "remote" under the Ontario FSA. This oversight is evidence of a lack of understanding of the unique circumstances of island First Nations and other First Nations that face similar transportation inequity.

10. With respect to the Trilateral Agreement, Taykwa Tagamou Nation and the Chippewas of Georgina Island raise the following concerns:

- a. That the Agreement fails to implement the Tribunal's directive to reform the 1965 Agreement. Instead of effecting meaningful change, it defers any substantive renegotiation of the 1965 Agreement to an unspecified future date, thereby delaying long-overdue structural reform.



- b. That the Agreement includes only temporary and time-limited funding commitments for FNRS provided to children and families residing off-reserve, with current funding commitments ending in 2027. Between 2018 and 2023, Indigenous Services Canada fully reimbursed FNRS funding requests for both First Nations but began bifurcating requests into on- or off-reserve in 2023. The lack of long-term assurance for children and families forced off reserve for a number of discriminatory disparities for children and families undermines service continuity and planning.

### **Impact on the Interests of Taykwa Tagamou Nation and Chippewas of Georgina Island**

11. Taykwa Tagamou Nation and the Chippewas of Georgina Island are Ontario-based First Nations that will be directly affected by any determination of the Tribunal approving the Ontario Final Agreement, or by any finding that the Ontario Final Agreement and the Trilateral Agreement satisfy, supersede, or replace the Tribunal's existing orders concerning discrimination in Ontario.
12. Both Taykwa Tagamou Nation and the Chippewas of Georgina Island currently deliver services and supports to their members and will continue to do so under any approved Ontario Final Agreement. They also both receive requests from neighbouring communities to help provide support or services to children and families when those First Nations do not have the capacity to provide the services themselves. As service providers, their operations, funding structures, and experiences of discrimination are directly impacted by the outcome of this Joint Motion and the Tribunal's findings in relation to these agreements. Their ability to meet the needs of their children, and children connected to their community, is greatly impacted by the Ontario Final Agreement.
13. For Chippewas of Georgina Island, their ability to implement the 75 recommendations from the inquest into the death of Devon Freeman will be significantly impacted by funding structure of the Ontario Final Agreement.

**V. ORDER SOUGHT**

14. Taykwa Tagamou Nation and Chippewas of Georgina Island seek an order granting them leave to intervene as an interested in this proceeding on the following terms or on such terms as the Tribunal deems just and appropriate:

- a. Taykwa Tagamou Nation and Chippewas of Georgina Island shall be specifically limited to participation in the Joint Motion by the COO and NAN;
- b. Taykwa Tagamou Nation and Chippewas of Georgina Island shall be permitted to make joint oral and written arguments regarding the Joint Motion, subject to length restrictions and timelines as determined by the Tribunal;
- c. Taykwa Tagamou Nation and Chippewas of Georgina Island shall be permitted to adduce affidavit evidence, subject to length restrictions and timelines as determined by the Tribunal; and
- d. The participation of Taykwa Tagamou Nation and Chippewas of Georgina Island shall be on a without-costs basis.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 15<sup>th</sup> day of April, 2025.



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## VI. TABLE OF AUTHORITIES

#	Authority	Paragraph
<b>Case Law</b>		
1.	<i>First Nations Child and Family Caring Society of Canada et al v Attorney General of Canada</i> , <a href="#">2016 CHRT 2</a> .	
2.	<i>First Nations Child &amp; Family Caring Society of Canada et al v Attorney General of Canada</i> , <a href="#">2022 CHRT 26</a> .	<a href="#">30–31</a>
3.	<i>Walden et al v Attorney General of Canada</i> , <a href="#">2011 CHRT 19</a> .	<a href="#">23</a>
<b>Legislation</b>		
4.	<i>Canadian Human Rights Act</i> , <a href="#">RSC 1985</a> , c H-6.	ss. <a href="#">48.9(1)</a> ; <a href="#">50</a>
5.	<i>Canadian Human Rights Tribunal Rules of Procedure, 2021</i> , <a href="#">SOR/2021-137</a> .	s <a href="#">27</a>