

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 and Northern Affairs Canada)

Respondent

-and-

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

Interested Parties

-and-

NEQOTKUK (TOBIQUE) FIRST NATION OF THE WOLASTOQEY NATION and
UGPI'GANJIG (EEL RIVER BAR) FIRST NATION and MI'GMAQ CHILD AND FAMILY
SERVICES OF NEW BRUNSWICK INC. and FEDERATION OF SOVEREIGN
INDIGENOUS NATIONS and ASSEMBLY OF MANITOBA CHIEFS and COUNCIL OF
YUON FIRST NATIONS and OUR CHILDREN OUR WAY SOCIETY and CONFEDERACY
OF TREATY SIX FIRST NATIONS and TREATY 7 FIRST NATIONS CHIEFS'
ASSOCIATION and TREATY 8 FIRST NATIONS OF ALBERTA

Prospective Interested Parties

**REPLY SUBMISSIONS OF NEQOTKUK (TOBIQUE) FIRST NATION OF THE
WOLASTOQEY NATION**

May 22, 2025

Neqotkuk Chief Ross Perley
per se

ORIGINAL TO:

CANADIAN HUMAN RIGHTS TRIBUNAL
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AND TO:

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I. INTRODUCTION

1. Neqotkuk (Tobique) First Nation of the Wolastoqey Nation ("Neqotkuk") files this Reply in response to the submissions filed by Canada, Chiefs of Ontario ("COO") and Nishnawbe Aski Nation ("NAN") with the Canadian Human Rights Tribunal on May 15, 2025. These submissions oppose Neqotkuk's motion to be granted interested party status in the joint motion brought by COO and NAN ("Ontario Motion") dated March 7, 2025 (amended May 7, 2025), seeking approval of the Ontario Final Agreement ("OFA").
2. Neqotkuk seeks to participate as an interested party, with the same rights as COO and NAN. The Ontario Motion has national implications for First Nations children and families, including those of the Wolastoqey Nation at Neqotkuk.

II. ISSUE

3. The issue before the Tribunal is whether Neqotkuk should be granted interested party status to participate in the Ontario Motion, and if so, on what terms.

III. NEQOTKUK MEETS THE TEST FOR INTERESTED PARTY STATUS

4. Neqotkuk brings a distinct perspective that will not duplicate existing perspectives and is incorrectly claimed by Canada, COO and NAN as being already adequately represented. Neqotkuk is a Wolastoqey First Nation in New Brunswick and a party to the Waponahkiyik Treaties of Peace and Friendship with the Imperial Crown that has been operating a child and family services program and agency for over 40 years. Neqotkuk has enacted its own prevention-based child and family well-being law, *Neqotkuk Wasis Naka Siwiyik Wolankeyotikon 'Tpaskuwakon*, NWT 2022 aimed at addressing the structural drivers of child protection in Neqotkuk, as an exercise of its inherent and Treaty vested rights and responsibilities and has been engaged in coordination and related funding agreement negotiations with Canada and New Brunswick since December 2022.
5. Neqotkuk will make its submissions strictly on the issues within the scope of the Ontario Motion and does not seek to broaden the issues before the Tribunal, but to provide its relevant and material perspective evidence to assist the Tribunal ensure long term reform eliminates Canada's discrimination against First Nations children and families advancing their substantive equality and cultural continuity.

6. While Neqotkuk is a member of the Assembly of First Nations (“AFN”), the AFN does not currently represent Neqotkuk’s interests on the draft Final Settlement Agreement or on agreements based on it, such as the OFA. Neqotkuk’s position is distinct from, and in fact contrary to, AFN’s approach to the now-rejected draft FSA. In a letter to the Tribunal dated March 24, 2025, the AFN expressed its view that the draft FSA would have satisfied the Tribunal’s orders¹. Neqotkuk leadership voted to reject the draft FSA when it was presented to First Nations-in-Assembly in October 2024 and was vocal in its opposition leading up to the October and December 2024 Special Chiefs Assemblies.
7. Neqotkuk’s position is that the draft FSA had significant flaws in funding durability, security and ensuring non-discrimination which fall short of the structural reform necessary for Canada to eliminate and prevent the recurrence of the systemic discrimination found by the Tribunal. First Nations-in-Assembly provided the AFN with new mandates in AFN Resolutions 60/2024, 61/2024, 88/2024, 89/2024, and 90/2024 (“AFN Resolutions”) reflecting this rejection and calling for a reset of negotiations led for First Nations by the National Children’s Chiefs Commission (“NCCC”). The OFA carries these same risks of perpetuating inadequate, non-needs-based, formulaic funding approaches which fail to adequately address the structural drivers of child protection issues like poverty, poor housing, racism, substance misuse/abuse, loss of language and culture, and intergenerational traumas.
8. Neqotkuk’s Chief, Ross Perley, is the alternate representative for New Brunswick on the NCCC, and Neqotkuk’s lead negotiator for its child and family well-being law, Neil Perley, is part of the NCCC’s negotiation team.
9. Despite sustained efforts by the NCCC to advance national long-term reform negotiations, the AFN has largely failed to give effect to the AFN Resolutions. For instance, Resolution 90/2024, seconded by Neqotkuk, expressly requires AFN to “[f]ully and publicly support the British Columbia First Nations Leadership Counsel participation... as well as any request from other regions to seek interested party status in this Canadian Human Rights Tribunal Case”. However, in its May 8, 2025, letter to the Tribunal on the interested party status motions, the AFN takes no position. When the NCCC inquired why the AFN refused to support these motions, the AFN’s

¹ On March 31, 2025, AFN Regional Chief for New Brunswick wrote to the Tribunal to retract AFN’s letter to the Tribunal dated March 24, 2025. It is unclear if Tribunal agreed to strike it from the record of the proceeding.

response was that doing so could risk offending COO and NAN and disrupting the OFA. This position is an example of how AFN has been acting inconsistently with the AFN Resolutions and illustrates the impact of Canada's dishonorable use of coercive divide and conquer tactics.

10. Canada, COO and NAN incorrectly assert that the Ontario Motion and the OFA are confined to Ontario. The Tribunal's decision regarding the OFA will anchor the funding models nationally, serving as a template for other regional or province-specific agreements. This directly contravenes the Resolutions of First Nations-in-Assembly, which rejected the draft FSA upon which the OFA is based. This is not speculative. Canada has explicitly advised Neqotkuk that its funding approach for Neqotkuk's child and family well-being law is being predicated on the funding approach being negotiated for long term reform at this Tribunal. Since no national negotiations are ongoing, it follows that the OFA is the funding approach to which Canada is referring. If the Tribunal approves the OFA as a replacement for the Tribunal's orders in Ontario it risks institutionalizing flawed models nationwide, setting First Nations up to fail and perpetuating discrimination. The interests of Neqotkuk children and families are to be directly impacted by this potential precedent.
11. Canada's current funding approaches, including those mirrored in the OFA, entrench and perpetuate the systemic discrimination this Tribunal has repeatedly ordered Canada to eliminate. These approaches are not based on actual need. Instead, they rely on flawed assumptions and per capita calculations, Indian Registry System data, and arbitrary residency-based (on or off reserve) formulas that fail to reflect the actual service needs of First Nations children and families. These funding approaches are troublingly similar to Canada's past discriminatory funding practices and do not provide the substantive equality required. Needs-based funding is paramount.
12. Canada's approach, particularly its reliance on Indian Act definitions, per capita models, and prevention caps, directly controls and limits the ability of First Nations Governments to effectively deliver services under their own child and family well-being laws. Both the OFA and the failed draft FSA fall short of the comprehensive structural reform required. Neqotkuk participated in the Institute of Fiscal Studies and Democracy's ("IFSD") research aimed at informing new funding models. Canada's proposed approach selectively adopts components of the IFSD models, despite these models being designed to function as integrated wholes. This cherry-picking risks setting First Nations up to fail the children and families they serve, thereby perpetuating systemic

discrimination. Neqotkuk's participation will assist the Tribunal by providing direct evidence on these critical funding inadequacies and their discriminatory impacts.

13. The onus remains solely on Canada to eliminate its systemic discrimination against First Nations children and families. The NCCC developed a Table of Outstanding Issues on what would be required for a national long term reform agreement and provided it to Canada on February 21, 2025². The Table of Outstanding Issues clearly indicates that most of the outstanding issues are likely solvable with minimal discussion and only a few would require elevated levels of discussion. The main obstacle to national long-term reform is Canada's intransigence, refusal to continue consultations and negotiations to meaningfully engage in a dialogic approach for developing a national agreement that allows for variation for distinct regional circumstances.

IV. PROCEDURAL FAIRNESS

14. COO and NAN are interested parties. As such, the Tribunal should not permit them to file a motion seeking to supersede the Tribunal's orders and terminate its jurisdiction. This expansion of the interested parties participatory rights would prejudice the co-complainants as well as other prospective interested parties, including Neqotkuk, by allowing Canada to conclude agreements with interested parties that nullify CHRT orders through an agreement that Canada could implement without vacating the Tribunal's orders. Canada has the burden of eliminating discrimination. It is fundamentally unfair and dishonorable for Canada to entice Ontario First Nations with promises of increased funding on the condition that they seek the Tribunal's approval of the OFA unconditionally as satisfying the Tribunal's orders as they relate to Ontario.

V. ORDER SOUGHT

15. Neqotkuk respectfully requests that the Tribunal grant its motion for interested party status in the Ontario Motion with participation rights as outlined in its original motion.



Chief Ross Perley (May 22, 2025 17:22 ADT)

CHIEF ROSS PERLEY

On behalf of the Moving Party,

Neqotkuk (Tobique) First Nation of the Wolastoqey Nation

² The Table of Outstanding Issues can be found at Tab 10 of Regional Chief Bernard letter to the Tribunal dated March 31, 2025, which is also enclosed in AFN's letter to the Tribunal dated April 24, 2025.