

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, AMNESTY INTERNATIONAL CANADA and
NISHNAWBE ASKI NATION**

Interested Parties

**WRITTEN SUBMISSIONS OF THE ATTORNEY GENERAL OF CANADA
IN RESPONSE TO MOTIONS FOR
INTERESTED PARTY STATUS IN FULL PROCEEDINGS
by First Nations and Labrador Health and Social Services Commission and
the Assembly of First Nations Quebec-Labrador, Indigenous Child & Family Services
Directors Our Children Our Way and Assembly of Manitoba Chiefs**

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OVERVIEW

1. More than sixteen years since these proceedings began and nine years after the Canadian Human Rights Tribunal's (Tribunal) Merit Decision,¹ four new organizations seek interested party status in the proceedings generally: First Nations and Labrador Health and Social Services Commission and the Assembly of First Nations Quebec-Labrador (collectively, AFNQL), Indigenous Child & Family Services Directors Our Children Our Way Society (Our Children Our Way), and Assembly of Manitoba Chiefs (AMC) (together, the External Groups). These External Groups do not meet the criteria for interested party status and their intervention is neither necessary nor in the interests of justice. Canada opposes all three motions.

2. Allowing these groups broad participatory rights at this late stage will expand and complicate the issues before the Tribunal, resulting in a significant delay to the proceedings. Moreover, the External Groups' proposed contributions will not assist this Panel in determining the remedial issues before it, nor do the groups offer a perspective that cannot be represented by the Assembly of First Nations (AFN) or the First Nations Child and Family Caring Society of Canada (Caring Society). This Tribunal has recognized that each First Nation community or organization could seek to intervene in the proceedings, but allowing all to participate would halt the Tribunal's work.²

¹ [*First Nations Child and Family Caring Society of Canada et al. v Attorney General of Canada \(for the Minister of Indian and Northern Affairs Canada\)*](#), 2016 CHRT 2 [**2016 CHRT 2**].

² [*First Nations Child and Family Caring Society of Canada et al. v Attorney General of Canada \(for the Minister of Indian and Northern Affairs Canada\)*](#), 2016 CHRT 11 at para 14 [**2016 CHRT 11**]; [*First Nations Child and Family Caring Society of Canada et al. v Attorney General of Canada \(for the Minister of Indian and Northern Affairs Canada\)*](#), 2022 CHRT 26 at paras 41–42 [**2022 CHRT 26**].

3. At this late stage of these proceedings, it is vital that the parties and the Tribunal remain focused on the remedial issues before them. Adding new interested parties at the eleventh hour, who bring new issues and overlapping, speculative and potentially conflicting perspectives, is unnecessary and undermines the Tribunal's ability to efficiently and effectively move forward with the remedial phase of the proceedings. Moreover, none of the groups have adequately explained why they did not seek interested party status sooner if their interests were truly impacted.

4. In the alternative, the External Groups should have reasonable limits placed on their participatory rights and should not be permitted to add to the evidentiary record nor bring additional motions.

5. Finally, the Tribunal should refuse the Federation of Sovereign Indigenous Nations' (FSIN) and Council of Yukon First Nations' (CYFN) without prejudice requests to reserve their right to seek interested party status as they are contrary to an expeditious resolution of the proceedings.

PART I – STATEMENT OF FACTS

6. In 2007, the Caring Society and the AFN, brought a complaint asserting that Indigenous Services Canada (Aboriginal Affairs and Northern Development Canada (AANDC) at the time), discriminated in providing child and family services to First Nations on reserve and in the Yukon, based on race and/or national or ethnic origin, by providing inequitable and insufficient funding for those services.³

³ [2016 CHRT 2](#) at paras [5–6](#).

7. The Canadian Human Rights Commission (CHRC) referred the complaint to the Tribunal in October 2008.⁴ In September 2009, the Tribunal granted interested party status to the Chiefs of Ontario (COO) and Amnesty International.⁵

8. In January 2016, the Tribunal issued its Merit Decision, finding the complaint substantiated.⁶ The parties then entered the remedial phase of the proceedings as the Tribunal's Decision included an order that AANDC cease its discriminatory practices and reform the First Nations Child and Family Services (FNCFS) Program and the *Memorandum of Agreement Respecting Welfare Programs for Indians* applicable in Ontario (*1965 Agreement*).⁷ It also ordered AANDC to cease applying its narrow definition of Jordan's Principle and to take measures to immediately implement the full meaning and scope of Jordan's Principle.⁸

9. Later that year, the Tribunal granted Nishnawbe Aski Nation (NAN) leave to intervene as an interested party at the remedies stage of the proceedings.⁹ In granting leave, the Tribunal noted that adding another party to the proceeding at a late stage is not only rare but also adds to the challenge of effectively managing the case.¹⁰

10. Nine years later in March 2025, the AFNQL filed a motion for interested party status in the proceedings.¹¹

⁴ [2016 CHRT 2](#) at paras [5–6](#).

⁵ [2022 CHRT 26](#) at para [7](#).

⁶ [2016 CHRT 2](#) at para [456](#).

⁷ [2016 CHRT 2](#) at para [481](#).

⁸ [2016 CHRT 2](#) at para [481](#).

⁹ [2016 CHRT 11](#) at para [1](#).

¹⁰ [2016 CHRT 11](#) at para [13](#).

¹¹ First Nations and Labrador Health and Social Services Commission and the Assembly of First Nations Quebec-Labrador (AFNQL) Amended Notice of Motion, dated March 6, 2025.

11. One month after the AFNQL motion, the AMC and Our Children Our Way sought interested party status in the proceedings generally as well as in COO and NAN's joint motion to approve the Ontario Final Agreement¹²

12. These motions come more than sixteen years after Tribunal proceedings commenced, nine years into the remedial phase of the complaints and after dozens of interim relief orders and an Agreement-in-Principle. Since these Tribunal proceedings began, only three groups have been granted interested party status in the underlying proceedings. A small number of other groups have been granted limited interested party status on discrete motions.¹³

PART II – POINTS IN ISSUE

13. The only point in issue is whether the Tribunal should grant interested party status to all or any of the External Groups, and, if such an order is granted, the scope and limits of their participation.

¹² Assembly of Manitoba Chiefs (AMC) Notice of Motion, dated April 15, 2025; Indigenous Child & Family Services Directors Our Children Our Way Society (Our Children Our Way) Notice of Motion, dated April 15, 2025.

¹³ Including Chiefs of Ontario (COO), Amnesty International, Nishnawbe Aski Nation (NAN); See also [2022 CHRT 26](#) at paras [6–17](#), [61](#); [*First Nations Child & Family Caring Society of Canada et al. v Attorney General of Canada \(representing the Minister of Indigenous and Northern Affairs Canada\)*](#), 2024 CHRT 95 at para [43](#) [**2024 CHRT 95**].

PART III – SUBMISSIONS

A. Factors this Panel Should Consider in these Motions

14. The Tribunal may look at factors utilized in prior cases, applying them in a holistic and flexible manner to determine whether it will grant a motion for interested party status.¹⁴ When considering on a case-by-case basis whether a party should be granted interested party status, and taking into account the Tribunal’s responsibility to conduct proceedings expeditiously, the Panel may consider:

- a. whether the moving party’s expertise will be of assistance to the Tribunal;
- b. whether the moving party’s involvement will significantly add to the legal positions of the parties, particularly those representing a similar viewpoint; and
- c. whether the proceeding will have an impact on the moving party’s interests.¹⁵

15. As noted by this Panel, a person or organization may be granted interested party status if they are impacted by the proceedings and “can provide assistance to the Tribunal in determining

¹⁴ [2024 CHRT 95](#) at para [32](#). See also [First Nations Child & Family Caring Society of Canada et al. v Attorney General of Canada \(representing the Minister of Indigenous and Northern Affairs Canada\)](#), 2020 CHRT 31 at para [27](#) [**2020 CHRT 31**].

¹⁵ [2024 CHRT 95](#) at para [33](#). See also [2020 CHRT 31](#) at para [26](#), citing [Walden et al. v Attorney General of Canada \(representing the Treasury Board of Canada and Human Resources and Skills Development Canada\)](#), 2011 CHRT 19 [**Walden**]; In [KL v Canada Post Corporation](#), 2025 CHRT 28 [**KL**], the Tribunal commented that in some cases the criteria for interested party status may be enunciated as a) the usefulness of the prospective interested party’s participation in assisting the Tribunal to determine the issues before it, including whether the proposed interested person will add to the positions of the existing parties; b) whether the interested person has a genuine interest; and c) the interests of justice (paras [52](#), [67–70](#)); regardless of which criteria are applied, the motions should not be granted for the reasons set out within these written submissions.

the issues before it.”¹⁶ This assistance should also add significantly to the legal positions of the parties representing a similar viewpoint.¹⁷

16. The extent of an interested party’s participation is impacted by the requirement for the Tribunal’s proceedings to be conducted as informally and expeditiously as the requirements of natural justice and the rules of procedure allow.¹⁸ The onus is on the applicant to demonstrate how its expertise will be of assistance to the Tribunal.¹⁹

B. External Groups’ Expertise will not assist the Tribunal

17. The External Groups’ expertise will not assist the Tribunal as their participation will jeopardize an efficient and effective resolution of the proceedings. This is evident from the External Groups’ request for broad participatory rights and intervention in the proceeding when their perspectives can be represented by other groups, notably the AFN and the Caring Society, and from their significant delay in bringing these motions.²⁰

¹⁶ [2024 CHRT 95](#) at paras [31–34](#); [Walden](#) at para [23](#), cited in [2020 CHRT 31](#) at para [26](#) and [2016 CHRT 11](#) at para [3](#). Note also that although the previous rules of procedure (03-05-04) apply to this proceeding, for the purposes of this type of motion, this Panel has confirmed that there is no difference between the previous rules and the current rules, and the previous jurisprudence on this issue continues to apply: [2024 CHRT 95](#) at para [26](#).

¹⁷ [Canadian Association of Elizabeth Fry Societies and Acoby v Correctional Service of Canada](#), 2019 CHRT 30 at para [34](#) [[Elizabeth Fry](#)]; [2024 CHRT 95](#) at paras [31–34](#); [Walden](#) at para [23](#), cited in [2020 CHRT 31](#) at para [26](#) and [2016 CHRT 11](#) at para [3](#).

¹⁸ [2020 CHRT 31](#) at para [27](#), citing [First Nations Child & Family Caring Society of Canada et al. v Attorney General of Canada \(representing the Minister of Indigenous and Northern Affairs Canada\)](#), 2019 CHRT 11 at para [3](#). This requirement stems from [Canadian Human Rights Act](#), RSC, 1985 c H-6, s [48.9\(1\)](#) [[CHRA](#)].

¹⁹ [2024 CHRT 95](#) at para [31](#), citing [Elizabeth Fry](#) at para [34](#).

²⁰ [2022 CHRT 26](#) at para [41](#).

External Groups seek broad participation which will be disruptive

18. The External Groups seek broad participation in the proceedings which will be disruptive to the Tribunal's expeditious resolution of this matter. For instance, the AMC and Our Children Our Way, citing their regional interests, seek the ability to make oral and written submissions, adduce evidence, conduct examinations and be involved in all hearings, mediations, case conferences, negotiations or other dispute or administrative processes.²¹ Their interest in negotiations and dispute resolution processes raises questions as to whether they would also rely on the consultation protocol, negotiated and ordered prior to their involvement.

19. Likewise, the AFNQL, relying on their regional interests and translation concerns during consultation with First Nations in Quebec, seeks the ability to seek orders, adduce evidence, conduct cross-examinations, participate in communications between the parties and Tribunal, and attend hearings.²² Canada will work to facilitate reasonable concerns regarding translation. They also seek the ability generally to participate in communications between the parties and Tribunal, and to make written submissions of up to 25 pages with regards to the negotiation of an agreement on FNCFS or Jordan's Principle.²³

20. The External Groups' broad participation will prevent, rather than assist, the Tribunal in coming to an expeditious resolution. Such participation will only further complicate already encumbered proceedings with further procedural steps, evidence and submissions. For instance, adding the External Groups to any potential negotiations will hinder the possibility of resolution, since it becomes harder to come to an agreement that satisfies everyone's expectations when there are more parties involved. It is also unnecessary to allow the External Groups broad participation

²¹ AMC Written Submissions at para 31; Our Children Our Way Notice of Motion at paras 2–3.

²² AFNQL Written Submissions at paras 15–16.

²³ AFNQL Written Submission at paras 15–16.

in all procedural steps, such as conducting examinations and adducing evidence, when their proposed assistance or expertise is not required in every aspect of the proceedings.

External Groups' interests and expertise can be addressed by the AFN or Caring Society

21. The External Groups' proposed expertise will not be of assistance to the Tribunal on the remedial issues before it, as the panel has already concluded that regional interests are generally represented by the AFN and the Caring Society. This Panel has previously found that it is not practical to add all parties who may have a regional perspective as interested parties, highlighting the role of the AFN within the proceedings:

[47] The Panel agrees that the Compensation Agreement will have a significant impact on First Nations families, children and communities in Saskatchewan. This is also true for the other First Nations in the other provinces, the Yukon territory and most if not all First Nations in Canada. **Therefore, FSIN's argument on bringing a regional perspective is not the most compelling argument given the risk the Tribunal may face if every First Nations' desire to participate in this case to bring their expertise and specific view on the Compensation Agreement. This would not only be impossible to manage for this Tribunal but it would also have the detrimental effect of halting the proceedings for months or possibly years. This would not be in the best interest of First Nations children and families.**

[48] Furthermore, the Tribunal already has the COO and the NAN bringing regional perspectives including the important question of remoteness. **While the Tribunal understands that First Nations in Saskatchewan and in Ontario may have different perspectives, the Tribunal has relied on the AFN for a broader First Nations perspective across Canada given its mandate and structure representing the views of over 600 First Nations in Canada. For example, the Panel relied on the AFN's resolutions in 2020 CHRT 20.**²⁴ (emphasis added)

²⁴ [2022 CHRT 26](#) at paras 47–48; [First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada \(representing the Minister of Indigenous and Northern Affairs Canada\)](#), 2020 CHRT 20 [2020 CHRT 20].

22. The Panel is also informed by the Caring Society, which has expertise in child welfare and other services offered to First Nations children, and who consult with First Nations and bring their perspectives to the proceedings.²⁵ As noted by this Panel, the “remedial clarification and implementation process is not to be confused with a commission of inquiry or a forum for consultation with any and all interested parties.”

23. The External Groups’ assumptions that their regional interests will be unrepresented in any future negotiations or agreements are speculative. In fact, the AFNQL, and the Quebec First Nations they represent, are actively engaging with AFN’s internal processes by submitting recommendations to the AFN,²⁶ working with the AFN,²⁷ actively voting on and supporting the negotiation mandate set out by the AFN Chiefs-in-Assembly,²⁸ and participating in discussions within the AFN and the National Children’s Chiefs Commission.²⁹ Any future translation concerns can be addressed within a multi-party negotiation process.³⁰

24. Furthermore, Our Children Our Way confirms that the Caring Society “may advance a similar position” on long-term reforms to child and family services.³¹ While Our Children Our Way argues that the Caring Society is unable to provide a regional perspective on day-to-day operations

²⁵ [2025 CHRT 6](#) at para [466](#); [2022 CHRT 26](#) at para [41](#).

²⁶ AFNQL Written Submissions at para 15.

²⁷ AFNQL Written Submissions at para 50

²⁸ AFNQL Written Submissions at paras 44, 50, 56; Affidavit of Ghislain Picard (affirmed 29 January 2025), paras 6–9; 33–35, 42 [**Picard Affidavit**]; Affidavit of Richard Gray (affirmed 30 January 2025), paras 49–50.

²⁹ AFNQL Written Submissions at paras 45, 50.

³⁰ Affidavit of Marc Boivin (affirmed 15 April 2025), paras 7–13; Picard Affidavit, paras 63, 65, 73–75.

³¹ Our Children Our Way Written Submissions at para 22.

in British Columbia,³² they do not explain why Our Children Our Way is unable to raise their regional perspective with and through the Caring Society.

25. Ultimately, allowing all First Nations or groups representing First Nations to intervene “would significantly hinder the Panel’s ability to finalize its order.”³³ The Tribunal’s orders are crafted with a needs-based approach which recognizes regional differences and the inherent self-determination and self-governance rights of First Nations.³⁴ As such, First Nations’ “unique perspectives are accounted for in the orders”³⁵ or can be addressed by the AFN or Caring Society.

The lateness of the interested party status motions is prejudicial to an expeditious resolution

26. The External Groups’ intervention will not help the Tribunal as their requests are late and will further hinder the expeditious resolution to the proceeding. Timing of a request to intervene is a relevant factor.³⁶ The motions have been filed nine years after the Merit Decision and far into the remedial stage of the complaint. The Tribunal has denied requests to intervene where the timing of the request would prejudice the parties,³⁷ because late arriving proposed intervenors, such as the External Groups, lack the context and background information necessary to avoid creating confusion.³⁸

27. This Panel noted that adding a party at a late stage is rare and also complicates the effective management of a case when considering NAN’s interested party status motion in 2016.³⁹ Such

³² Our Children Our Way Written Submissions at para 22.

³³ [2016 CHRT 11](#) at para 14.

³⁴ [First Nations Child and Family Caring Society of Canada et al. v Attorney General of Canada \(for the Minister of Indian and Northern Affairs Canada\)](#), 2025 CHRT 6 at paras 465–66, 470.

³⁵ [2025 CHRT 6](#) at para 470.

³⁶ [2022 CHRT 26](#) at para 53; [Woodgate et al. v. RCMP](#), 2022 CHRT 3 at paras 75–77.

³⁷ [Saldanha v Statistics Canada](#), 2024 CHRT 109 at para 29.

³⁸ [2022 CHRT 26](#) at para 53.

³⁹ [2016 CHRT 11](#) at para 13.

complications are particularly salient given the Tribunal’s recent concern with the delay in long-term reform and desire to complete the remedial stage.⁴⁰

28. Over the past seven years, the parties have been working to achieve a resolution of this complaint. Admitting the External Groups has the potential to derail these significant efforts.⁴¹

C. External Groups raise issues not in dispute and will not add to the position of other parties

29. The External Groups seek to raise issues unrelated to the inquiry before the Tribunal and to advocate for matters already addressed by the Tribunal. It is not in the public interest to continually expand the scope of the complaint beyond its bounds, especially at the remedial phase. As noted recently by the Tribunal, “[i]nterested party status should not be conferred to give a third party a platform on which to make policy statement unrelated to the inquiry before the Tribunal.”⁴² To do so “purportedly in the name of refinement, clarification or context” undermines the legislative framework, sidesteps the Commission process, and is at odds with proceeding “expeditiously and fairly”.⁴³ Raising new issues now impacts not only the parties to this dispute, but also others waiting for the complaints to be heard.⁴⁴

30. The External Groups raise issues that, while complex and important to their communities, are new and issues unrelated to the inquiry would distract the Panel from the remedial issues before them. They include the following:

⁴⁰ Letter from Canadian Human Rights Tribunal to the Parties, dated February 10, 2025.

⁴¹ [2016 CHRT 11](#) at para [14](#).

⁴² [KL](#) at para [28](#), citing [Attaran v Citizenship and Immigration Canada](#), 2018 CHRT 6.

⁴³ [Richards v Correctional Service Canada](#), 2025 CHRT 5 at para [16](#). It is of note that this matter was at the statement of particulars stage only, yet the Tribunal still stressed the importance of respecting the bounds of the complaint.

⁴⁴ [2022 CHRT 26](#) at para [47](#).

- a. Our Children Our Way's submissions on the impact of the opioid crises since 2017 on First Nations children in British Columbia.⁴⁵
- b. The AMC's submissions concerning the unique child rearing practices of First Nations in Manitoba.⁴⁶
- c. The AFNQL's submissions on the *Declaration of the Rights of First Nations Children*,⁴⁷ which includes broad-ranging topics including employee leave for volunteerism, pre-natal care, education, community safety, and children off-reserve.⁴⁸
- d. The AFNQL's submissions related to a 2019 tripartite memorandum of understanding on health and social services program delivery for First Nations in Quebec.⁴⁹
- e. The AFNQL's submissions on language-related issues, Canada's compliance with their fiduciary duty to the Indigenous population, Honour of the Crown and the *United Nations Declaration on the Rights of Indigenous Peoples*, during the consultation process.⁵⁰

⁴⁵ Our Children Our Way Written Submissions at para 23f.

⁴⁶ AMC Written Submissions at para 27.

⁴⁷ AFNQL Written Submissions at paras 10, 73; Assembly of First Nations Quebec-Labrador, *Declaration of the Rights of First Nations Children*, 10 June 2015, online: <fncaringsociety.com/sites/default/files/English%20-%20Declaration%20of%20the%20Rights%20of%20FN%20Children%20AFNQL.pdf> [Declaration].

⁴⁸ *Declaration*, arts 1, 7–8, 10–14, 16.

⁴⁹ Affidavit of Marjolaine Sioui (affirmed 30 January 2025), paras 66, 68, 76 and Exhibit MS-15; AFNQL Written Submissions at paras 70, 72c.

⁵⁰ AFNQL Written Submissions at paras 8–13.

31. Considering these new issues at the remedial phase would be inappropriate as remedies must flow from the complaint.⁵¹ Indeed, the Panel has refused to consider issues untethered to the complaint, including First Nations children off-reserve who have lost connection to their First Nations communities for reasons other than the discrimination in the complaint.⁵²

32. The External Groups also raise issues that the Tribunal has already considered and addressed. For example, the External Groups intend to make submissions on why the Tribunal's remedies should reflect regional differences, as well as the diversity and sovereignty of First Nations.⁵³ These principles are not in dispute. The Tribunal has already affirmed its commitment to craft remedial orders in line with First Nations' right to self-determination and accounting for the unique needs of First Nations and service providers.⁵⁴ It is unnecessary and inappropriate to "re-open matters already determined".⁵⁵

D. External Groups have not established that the current impact of the proceedings warrant their intervention

33. The External Groups have not established that they are impacted by the current stage of proceedings. Many of the Tribunal's previous orders applied nationally and had regional impacts. If the External Groups had concerns with the impact of those orders on them, or their language rights, they should have applied earlier for interested party status, and certainly before this late remedial stage. Yet, the External Groups have not sufficiently explained why they did not seek interested party status earlier. This delay undermines their claims that they are significantly

⁵¹ *Chopra v Canada (Attorney General)*, 2007 FCA 268 at para 37; *Grant v Manitoba Telecom Services Inc.*, 2012 CHRT 20 at para 6.

⁵² *2020 CHRT 20* at para 280.

⁵³ AMC Written Submissions at para 22; Our Children Our Way Written Submissions at para 22; AFNQL Written Submissions at para 10.

⁵⁴ *2025 CHRT 6* at paras 465–70; *2016 CHRT 2* at paras 33, 71, 77, 388–89,

⁵⁵ *2016 CHRT 11* at para 14.

impacted by the proceedings. Nor have the External Groups sufficiently explained why the AFN or the Caring Society are unable to address any potential impacts.

E. Reasonable Limits on Participation

34. In the event the Tribunal grants interested party status to any of the External Groups, their participation should be subject to reasonable limits in keeping with this Panel's recent orders.⁵⁶ The External Groups:

- a. should be limited solely to making representations on remedies based on their expertise on Jordan's Principle or child and family services in their region, without repeating the positions of any other party, re-opening matters or raising new issues and written submissions, if permitted, should be limited to 10 pages;
- b. should not be permitted to adduce any further evidence, cross-examine affiants, or otherwise supplement the record of the parties;
- c. should not be permitted to request postponements. Any delay should be deemed a renunciation to participate in the proceedings;
- d. should not be permitted to participate in case management, motions, mediation and other dispute resolution or administrative processes unless specifically directed by the Tribunal and consistent with their limited participation as set out by the Tribunal; and
- e. should not be permitted to bring motions on procedural or substantive issues.

⁵⁶ [2024 CHRT 95](#); [2022 CHRT 26](#).

35. In addition, all parties must be provided a meaningful opportunity to respond to the new interested parties' written submissions, if permitted.

F. Indefinite reservation of right to seek interested party status should not be allowed

36. In addition, FSIN's and CYFN's without prejudice requests to reserve their right to seek interested party status is contrary to the expeditious resolution of these proceedings. No justification is provided for FSIN's and CYFN's delay in seeking interested party status. This Panel should refuse that request, which, in essence, seeks an indefinite extension to bring a potential interested party motion to intervene.

PART IV – ORDERS SOUGHT

37. The Respondent requests an order dismissing the External Groups' motions for interested party status. In the alternative, the Respondent seeks an order setting out the participatory parameters for the External Groups as outlined above.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

DATED at the City of Winnipeg, in the Province of Manitoba, this 16th day of June, 2025.



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PART V – LIST OF AUTHORITIES

	Statutes and Regulations
1.	<i>Canadian Human Rights Act</i> , R.S.C., 1985 c H-6
2.	<i>Declaration of the Rights of First Nations Children</i> , 10 June 2015
	Case Law
3.	<i>Attaran v Citizenship and Immigration Canada</i> , 2018 CHRT 6
4.	<i>Canadian Association of Elizabeth Fry Societies and Acoby v. Correctional Service of Canada</i> , 2019 CHRT 30
5.	<i>Chopra v Canada (Attorney General)</i> , 2007 FCA 268
6.	<i>First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)</i> , 2016 CHRT 2
7.	<i>First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)</i> , 2016 CHRT 11
8.	<i>First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)</i> , 2019 CHRT 11
9.	<i>First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)</i> , 2020 CHRT 20
10.	<i>First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)</i> , 2020 CHRT 31
11.	<i>First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)</i> , 2022 CHRT 26
12.	<i>First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)</i> , 2024 CHRT 95
13.	<i>First Nations Child and Family Caring Society of Canada et al. v Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)</i> , 2025 CHRT 6
14.	<i>Grant v Manitoba Telecom Services Inc.</i> , 2012 CHRT 20

15.	<i>KL v Canada Post Corporation</i> , 2025 CHRT 28
16.	<i>Richards v. Correctional Service Canada</i> , 2025 CHRT 5
17.	<i>Saldanha v Statistics Canada</i> , 2024 CHRT 109
18.	<i>Walden et al. v. Attorney General of Canada (representing the Treasury Board of Canada and Human Resources and Skills Development Canada)</i> , 2011 CHRT 19
19.	<i>Woodgate et al. v RCMP</i> , 2022 CHRT 3

Canadian Human
Rights Tribunal



Tribunal canadien
des droits de la personne

Ottawa, Canada, K1A 1J4

February 10, 2025

By e-mail

(See Distribution List)

Dear Parties,

Re: First Nations Child and Family Caring Society et al. v. Attorney General of Canada
Tribunal File: T1340/7008

The Panel wishes to convey the following to the parties:

The Panel deliberated after the last CMCC and still has outstanding questions for the parties that go beyond the Caring Society's motion for consultation.

The Tribunal signaled in 2018 CHRT 4 that it had entered the long-term remedial phase. The Tribunal ordered studies to inform the long-term remedies.

The Panel reminds Canada that it can end the process at any time with a settlement on compensation, immediate relief and long-term relief that will address the discrimination identified and explained at length in the Decision. Otherwise, the Panel considers this ruling to close the immediate relief phase unless its orders are not implemented. The Panel can now move on to the issue of compensation and long-term relief. (see 2018 CHRT 4 at, para. 385).

In 2022, the parties came back to this Tribunal asking for what it described as approximately 80% of the long-term remedial consent orders and that they would have a full reformed program by **March 2023**. This Tribunal issued its orders on consent of the parties in March 2022, **nearly 3 years ago** and has waited since and is still waiting.
2022 CHRT 8:

25. On December 31, 2021, the Parties announced that they had reached an Agreement-in-Principle on long-term reform. As part of that Agreement-in-Principle, the Parties committed to reforming the FNCFS Program by March 31, 2023, as well as improving compliance with and reforming Jordan's Principle. Also, in the Agreement-in-Principle, the parties have agreed that the Reformed CFS Funding Approach will accommodate First Nations and FNCFS service providers experiencing exceptional circumstances, to be defined in the Final Settlement Agreement, which may require a longer transition to the Reformed CFS.

26. In addition, the terms of the consent order sought in this consent motion (see paras 1-9 under “orders sought”) were annexed to the Agreement-in-Principle. Following the execution of the Agreement-in-Principle, the Caring Society, the AFN, and Canada agreed to seek this order as soon as possible.

VIII. Retention of Jurisdiction

[175] Pending a complete and final agreement on long term relief on consent or otherwise and consistent with the approach to remedies taken in this case and referred to above, the Panel retains jurisdiction on the Consent Orders contained in this ruling. The Panel will revisit its retention of jurisdiction once the parties have filed a final and complete agreement on long-term relief or as the Panel sees fit considering the upcoming evolution of this case.

The Tribunal has been flexible and patient, however, is seriously considering options to move forward with the long-term remedial phase in accordance with its mandate under the *CHRA*, its rulings and in the best interest of First Nations children. The dialogic approach was adopted to move things forward in this case with an emphasis on consultation and reconciliation; however, the dialogic approach is not meant to be waiting for years and years of delay without finality. The Tribunal as master of its own house, has the power to control its own process and not idly wait for parties to unilaterally decide when and how to come back to the Tribunal and how many years to wait before the Tribunal can close the long-term remedial phase chapter.

It is far better for children to complete the long-term remedial phase shortly rather than wait for long periods of time. Reform may take longer but can be projected with the assistance of the studies. The Panel gave guidance on long-term remedy on multiple occasions and recently in 2025 CHRT 6. The Panel continues to rely on this rationale.

The Panel is giving an opportunity for the parties to share their views on the above for the Panel's consideration before it decides next steps. This question does not include Jordan's Principle for the time being. The parties will respond by:

Caring Society, AFN, COO and NAN by **February 24, 2025**

Commission by **March 3, 2025**

Canada by **March 17, 2025**

The Panel is also setting a schedule for the Caring Society's motion while reserving the right to place it on abeyance if the Tribunal deems it necessary. The same principle may apply for any other motion in these proceedings. The Panel does not believe that a hearing is required. The Panel accepts the 30 pages limit. There will be a limit of 50 pages total for all attachments for all affidavits from each party. If the Caring Society's affidavit exceeds this limit, they will refile a revised affidavit within a business week of this letter. The schedule below does not change if a revised affidavit is filed. Parties will also include in their factum submissions, their views on the duty to consult, the honor of the crown and the recent Supreme Court and Federal Court decisions for the Panel's consideration: *Quebec (Attorney General) v. Pekuakamiulnuatsh Takuhikan*, 2024 SCC 39; 2023 FC 916 (CanLII).

January 14, 2025:	Caring Society Notice of Motion and Affidavit
February 17, 2025:	Caring Society's revised affidavit, if any.
March 3, 2025:	Responding Affidavits from the AFN and Interested Parties
March 10, 2025:	Responding Affidavits from the Commission, if any.
March 13, 2025:	Responding Affidavits from the AGC.
March 17, 2025:	Caring Society Factum
March 31, 2025:	AFN, COO and NAN Factums
April 7, 2025:	Commission Factum
April 14, 2025:	Canada Factum
April 21, 2025:	Caring Society Reply Factum

Should you have any questions, please do not hesitate to contact the Registry Office by e-mail at registry.office@chrt-tcdp.gc.ca by telephone at 613-878-8802 or by fax at 613-995-3484.

Yours truly,

Judy Dubois
Registry Officer

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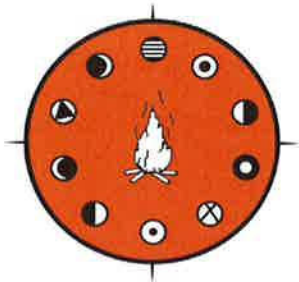
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DECLARATION OF THE RIGHTS OF FIRST NATIONS CHILDREN

WHEREAS the First Nations of the Great Circle of Our First Nations have the inherent right to self-determination and self-government;

WHEREAS our Nations have endured colonial and subsequent dispossession of our lands and resources, denial of our rights and the imposition of federal and provincial laws and policies, all with grave negative effects on our children and families;

WHEREAS as a result, our languages, cultures and social structures have suffered and we experience economic and social conditions that compromise the health, safety, well-being, fundamental rights and future of our children and families;

WHEREAS protection of family relations, care for children, identity, culture and language lie at the heart of the rights of self-determination and self-government of our Nations;

WHEREAS these rights and the rights of our children are protected as Aboriginal and treaty rights recognized and affirmed under Section 35 of the *Constitution Act, 1982*;

WHEREAS First Nations care for, cherish and love children in a balanced and holistic way which is deeply rooted in Indigenous traditions;

WHEREAS the *United Nations Declaration of the Rights of Indigenous Peoples* and the *United Nations Convention on the Rights of the Child*, as well as other international instruments, address certain aspects of the rights of families and children, focussing on the responsibilities of States;

WHEREAS Jordan's Principle has been adopted by the House of Commons in 2007, but has never been fully implemented by Federal and Quebec governments;

WHEREAS there is the need to make specific, appropriate and complementary provision for the rights of the children of our Nations, grounded in the empowerment of children and parents and in a communal, collective approach;

WHEREAS the Chiefs in Assembly of the Great Circle of Our First Nations adopt and proclaim the Declaration of the Rights of First Nations Children, with the goal of preparing our children to assume creative, productive and honourable roles in our First Nations and in the wider society, always with a view to the ultimate future of our peoples;

WHEREAS this Declaration of the Rights of First Nations Children will notably serve the purposes of:

- declaring the rights of First Nations children,
- clarifying responsibilities of parents and community members toward the children,
- setting out the roles and responsibilities of the administrations and leadership of our communities and Nations and of the Chiefs in Assembly,
- providing guidance for interactions with the federal and provincial governments as regards the rights of First Nations children;

WHEREAS this Declaration does not and cannot be interpreted to imply acceptance of the application of federal and provincial laws that infringe the rights and jurisdiction of our Nations and the rights and of our families and children;

WHEREAS this Declaration is made in the exercise of and without prejudice to the rights and jurisdiction of our Nations;

THEREFORE, the Chiefs in Assembly of the Great Circle of Our First Nations (AFNQL) adopt and proclaim the Declaration of the Rights of First Nations Children, in order to ensure that all children of our First Nations who are under the age of eighteen years of age are provided with adequate food, clothing, shelter and health care; that they are protected and supervised to ensure their safety and health; that they receive nurturing, appropriate cultural teachings, transmission of their indigenous language and adequate education – all of which are their inherent and basic rights as children.

More particularly, the children of our Nations have the following rights, and their parents and extended family, as well as community members and First Nation administrations and leadership have the following responsibilities to ensure that the rights of the children are respected:

1. All children are created with the inherent right to be safe, to be loved and nurtured, to be heard and believed, to engage in play and recreational activities, and to have adequate health care, nutrition, shelter and education in line with their culture and traditions.
2. Every child has the right to be free of physical and emotional abuse, to be protected from sexual abuse and exploitation, and to be free from neglect, racism, discrimination and the demeaning or destructive acts of others.
3. Our children have the right to a name and their identity, the right to stay with and not to be separated from their birth parents and to know their extended family, community and Nation, all of which are important to their sense of belonging and to allowing them to thrive as a contributing members, and to the survival of our peoples, Nations and cultures.
4. Our children have the right to learn about and benefit from our history, culture, indigenous language, spiritual traditions and philosophy and to have positive adult role models in their lives.
5. Our children have the right to be free from domestic violence, alcohol and other substance abuse, lack of supervision, inadequate medical care and physical or emotional neglect, all of which may have deep and traumatizing effects on a child's physical and emotional growth and development.
6. Children who have suffered maltreatment, neglect, parentlessness and trauma need and have the right to special care, treatment and support in a way that promotes their healing and safety, as well as their dignity, value and future well-being.

7. Parents have the primary responsibility for providing their children with proper prenatal care, ongoing age-appropriate physical and emotional care, and emotional nurturing, adequate food, shelter, education and health care.
8. In order to encourage and sustain adult involvement to assist our children, youth and families and to support organizations pursuing such work, our Nations and communities, as well as other employers, shall provide paid release time when appropriate to employees while they volunteer for children and youth at schools and in the communities.
9. Parents have a fundamental responsibility to provide their children with a safe and healthy home and child care environments, to teach their children safety skills, and to provide appropriate supervision.
10. Our communities, Nations, governments and leaders also have the responsibility to ensure that our children benefit from a standard of health, nutrition, safety, education and nurturing necessary to promote healthy values and behaviours, which will in turn help them mature into healthy and productive members of our communities and Nations.
11. The treatment of children and their welfare in accordance with the rights set out in this Declaration is the responsibility of the entire community and Nation, and the responsibility extends to all children who reside in our communities, regardless of their membership or their length of residence, as well as to all of our members, wherever they may be.
12. In commitment to our youth and our communities, and in the desire to keep children safe, all First Nation members have the duty to report any child abuse to the appropriate authorities, always provided that for our Nations, the interest of the child and respecting the child's needs and rights includes the interest of the family, of the community and of the Nation, and particularly emphasizes the protection of identity, culture, traditional activities and language.
13. The Chiefs in Assembly shall advocate for and promote the safety, dignity and well-being of our children in accordance with this Declaration, throughout Quebec, including with respect to all federal and provincial government, business, social service and educational legislation, policy, services and activities, and in all of the institutions of our Nations and communities.
14. The Chiefs in Assembly shall undertake such other efforts as may be deemed necessary to assure the on-going safety and protection of our children in accordance with this Declaration, including, but not limited to, monitoring the well-being of the children, encouraging parents to participate in services to remedy behaviours that place children at risk, and ensuring the placement of children with relatives or other community members by utilizing customary care or adoption when necessary for the health and welfare of the children.
15. The Chiefs in Assembly support Jordan's Principle and urge for its full implementation by the federal and provincial governments to ensure access to culturally adapted services for each First Nations child without hindrance or delay by reason of jurisdictional conflict and funding disputes.
16. Our children and families, and the Nations and communities that serve them, have the right to adequately funded, community and Nation controlled, institutions and services, including those providing health care, education, recreation and social services.

Signed this 10th day of June, 2015 at Essipit Innu Nation
Inspired by the Wikwemikong Band Council - Children's Bill of Rights

Mal L. Al

ruke rufi

Michael

Anne Archambault

U. Am.

B - Kital

Dorel

Dorel

Carl

Har

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Simon

K - L

B. Chitard

Serge Simon

Jean-Charles Picot

Lept

Lept

Régis O'Hernia