Court File No.: T1340/7008

CANADIAN HUMAN RIGHTS TRIBUNAL

B E T W E E N :

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 -

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 YUKON 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

RESPONDING FACTUM OF THE INTERESTED PARTY, CHIEFS OF ONTARIO

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PART I - STATEMENT OF FACTS

A. Overview

1. Nearly 20 years after the commencement of these proceedings and nine years into the remedial phase, the Assembly of Manitoba Chiefs ("AMC") and the Our Children Our Way Society ("OCOW") bring motions seeking to be added as interested parties to the proceedings in their entirety, which Chiefs of Ontario ("COO") understands to include Jordan's Principle reform. AMC and OCOW should not be granted interested party status at this late stage.[1]

2. AMC and OCOW should not be granted interested party status in the proceedings, as concerning Jordan's Principle. The addition of any interested parties at this stage risks further delaying Jordan's Principle reform, contrary to the Canadian Human Rights Tribunal's (the "Tribunal") responsibility to conduct proceedings as informally and expeditiously as the requirements of natural justice and the rules of procedure allow.

3. The Tribunal must consider the risk of a significant number of prospective interested parties seeking to insert themselves into the proceedings should AMC and/or OCOW be successful in their motions. While each of these prospective parties may have an interest and expertise in Jordan's Principle, the addition of every interested First Nation community or organization would make these proceedings impossible to manage and bring them to a halt. This would not be in the best interests of First Nations children, and would leave First Nations children, families, and communities without the benefit of critical Jordan's Principle reforms.

4. COO has no position on the addition of AMC and/or OCOW to the proceedings concerning national long-term reform of the First Nations Child and Family Services Program (the "FNCFS Program").

[1] Federation of Sovereign Indigenous Nations and Council of Yukon First Nations have reserved their rights to seek to be added as interested parties to the proceedings beyond the OFA approval motion, but their motion materials do not indicate that they are seeking to be added as interested parties to the proceedings generally. COO has not addressed that request, as it has not been made explicitly, but reserves a right to make submissions if that request is raised.

5. First Nations children and their families in Ontario have waited too long for the long-term reform of Jordan's Principle. It is not in the best interests of these children to make them wait any longer. The proceedings must proceed without delay.

B. Background

6. COO relies on the background as described in its Consolidated Responding Factum regarding the motions for interested party status in the OFA approval motion.[2]

i. Status of Jordan's Principle long-term reform

7. On December 31, 2021, the *Agreement-in-Principle on Long-Term Reform of the FNCFS Program and Jordan's Principle* (the "AIP") was reached between Canada, the Assembly of First Nations (the "AFN"), the First Nations Child and Family Caring Society of Canada (the "Caring Society"), COO, and Nishnawbe Aski Nation ("NAN"). In the AIP, the parties committed to improving compliance with and reforming Jordan's Principle by March 31, 2023.[3]

8. In March 2023, the AFN and Caring Society advised of a new proposal, called the Path Forward, which proposed bifurcating the long-term reform of Jordan's Principle and the long-term reform of the FNCFS Program and negotiating the long-term of the FNCFS Program first.[4] On or around October 24, 2023, Canada announced to the parties it had received a mandate to continue long-term reform negotiations based on the Path Forward.[5]

9. In 2025 CHRT 6, the Tribunal ordered Canada to consult the parties on several issues to remedy the backlog of Jordan's Principle requests across the country.[6] The parties are currently in Tribunal-assisted mediation pursuant to this decision.

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[2] Chiefs of Ontario, "Consolidated Responding Factum of the Interested Party, Chiefs of Ontario" dated 15 May 2025 at paras 9-19 [COO Consolidated Responding Factum re OFA approval motion, 15 May 2025].
[3] *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 8 at para 24(25).
[4] Affidavit of Amber Potts, affirmed 3 March 2025 at para 22.
[5] Affidavit of Grand Chief Joel Abram, affirmed 6 March 2025 at para 70.
[6] *First Nations Child & Family Caring Society of Canada and Assembly of First Nations v Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2025 CHRT 6 at paras 552-566, 571-572, 577-580, 585 [2025 CHRT 6].

ii. Interested party motions in proceedings generally

10. On April 15, 2025, OCOW and AMC sought to be added as interested parties to these proceedings in their entirety.[7] Federation of Sovereign Indigenous Nations ("FSIN") and Council of Yukon First Nations ("CYFN") reserved their rights to seek to be added as interested parties to the proceedings beyond the OFA approval motion.[8]

PART II - ISSUES

11. The issues in this motion are whether AMC and/or OCOW should be added as interested parties:

    (a) To the proceedings concerning Jordan's Principle; and/or

    (b) To long-term reform of the FNCFS Program outside of Ontario.

PART III - SUBMISSIONS

12. AMC and OCOW should not be granted interested party status in the proceedings concerning Jordan's Principle. The addition of any interested parties risks further delaying Jordan's Principle reform, contrary to the Tribunal's responsibility to conduct proceedings as informally and expeditiously as the requirements of natural justice and the rules of procedure allow.[9]

13. COO has no position on the addition of AMC and OCOW to the long-term reform of the FNCFS Program at the national level.

14. In the alternative, if the Tribunal grants AMC and/or OCOW interested party status, it should do so on a limited basis subject to the conditions laid out at paragraph 31(b).

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[7] Assembly of Manitoba Chiefs, "Interested Party Motion" dated 15 April 2025 at paras 1-2; Our Children Our Way Society, "20250415 Notice of Motion of Interested Party_Our Children Our Way" dated 15 April 2025 at para 1.
[8] Federation of Sovereign Indigenous Nations, "Notice of Motion" dated 15 April 2025 at para 1(f); Council of Yukon First Nations, "Notice of Motion of Council of Yukon First Nations" dated 15 Apr 2025 at para 1(d).
[9] *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 para 32 [2022 CHRT 26], citing *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 3 [2016 CHRT 11] and *Canadian Human Rights Act*, RSC 1985, c H-6, s 48.9(1) [*CHRA*].

A. The Test for Interested Party Status

15. COO relies on the interested party status test as stated in its Consolidated Responding Factum regarding the motions for interested party status in the OFA approval motion.[10]

16. The Tribunal's determination of whether to grant interested party status requires a "flexible and holistic approach" on a case-by-case basis, in light of the specific circumstances of the proceedings and the issues being considered.[11] The extent of an interested party's participation must take into account the Tribunal's responsibility pursuant to s. 48.9(1) of the *Canadian Human Rights Act* to conduct proceedings as informally and expeditiously as the requirements of natural justice and the rules of procedure allow.[12]

B. AMC and OCOW should not be added to the proceedings

17. AMC and OCOW should not be granted interested party status in the proceedings concerning Jordan's Principle. The addition of any interested parties risks further delaying Jordan's Principle reform, contrary to the Tribunal's responsibility to conduct proceedings as informally and expeditiously as the requirements of natural justice and the rules of procedure allow.[13]

i. AMC and OCOW have a direct interest and relevant expertise

18. COO concedes that AMC and OCOW have an interest in Jordan's Principle reform and relevant expertise in the administration of Jordan's Principle in Manitoba and British Columbia, respectively. Nevertheless, the "proper analysis is a case-by-case holistic approach rather than a strict application of the factors".[14] Applying that analysis, neither AMC nor OCOW should be granted interested party status in the Jordan's Principle proceedings.

ii. The addition of AMC and OCOW will delay Jordan's Principle reform

19. Granting interested party status to AMC and/or OCOW would cause significant delay to the proceedings that outweigh the benefit of their unique regional perspectives. The

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[10] COO Consolidated Responding Factum re OFA approval motion, 15 May 2025 at paras 23-27.
[11] 2022 CHRT 26 at paras 31-32, citing 2016 CHRT 11 at para 3.
[12] 2022 CHRT 26 at para 32, citing 2016 CHRT 11 at para 3 and *CHRA*, s 48.9(1).
[13] 2022 CHRT 26 at para 32, citing 2016 CHRT 11 at para 3 and *CHRA*, s 48.9(1).
[14] 2022 CHRT 26 at para 35.

addition of any new interested party at this late stage in the proceedings, when the parties are already well into the remedial phase, risks delaying urgently needed reform of Jordan's Principle. Such reform is essential to ensuring that First Nations children and their families do not wait any longer for the child-focused and rights-based supports to which they are entitled.

20. AMC's and OCOW's motions for interested party status come at a late stage: nearly 20 years after the commencement of proceedings and nine years into the remedial phase. In 2016, in determining whether to grant NAN interested party status, the Tribunal held that adding interested parties at the remedial stage of proceedings is "not only rare, but adds to the challenge of effectively managing this case".[15] In 2025, the remedial stage is nine years further advanced, and the addition of further interested parties should be even more rare.

21. The Tribunal noted in its letter dated February 10, 2025, that it "is far better for children to complete the long-term remedial phase shortly rather than wait for long periods of time".[16] COO agrees. Jordan's Principle reform has already been much delayed. More than two years have passed since the AIP commitment to reform Jordan's Principle by March 2023,[17] and reform is currently stalled and far from complete. Adding an interested party who is not familiar with the extensive evidence, the interim reforms, nor Canada's implementation of Jordan's Principle to date would delay reform even further.

22. In taking a holistic approach to AMC's and OCOW's motions, the Tribunal should consider the risk of unusually high numbers of prospective interested parties who may also seek to be added to the proceedings if AMC and OCOW are granted interested party status.

23. Every First Nation community, First Nation organization, child and family services agency, or agency organization could advance the same arguments as AMC and OCOW: that they are impacted by the Jordan's Principle proceedings and that they have unique expertise in the delivery of Jordan's Principle services in their region. The addition of AMC and/or OCOW to the Jordan's Principle proceedings risks setting a precedent that could open the

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[15] 2016 CHRT 11 at para 13.
[16] Letter from Canadian Human Rights Tribunal to Parties dated 10 Feb 2025 at page 2 [CHRT Letter, 10 Feb 2025].
[17] CHRT Letter, 10 Feb 2025 at page 1.

floodgates to many more prospective interested parties seeking to be added to the proceedings to represent their interests before the Tribunal, which would make the proceedings "impossible to manage".[18]

24. This Tribunal has had to balance the value of unique regional perspectives of First Nations and their organizations with the Tribunal's limited resources and its interest in resolving the matter expeditiously in its prior decisions on the inclusion of interested parties.

25. In determining whether to admit FSIN as an interested party to the approval motion for the *Final Settlement Agreement on Compensation for First Nations Children and Families*, the Tribunal noted that having every First Nation bring its expertise and specific view forward 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".[19] Even though every First Nations community or organization may have expertise to offer, "these proceedings are not a commission of inquiry, a truth and reconciliation commission or a forum of consultation".[20] This is why the Tribunal is informed by the AFN, COO, NAN and the Caring Society.[21] As a result, the Tribunal found that an argument based on "bringing a regional perspective is not the most compelling argument" given the risk the Tribunal would face if every First Nation sought to participate.[22]

26. AMC's and OCOW's interests can reasonably be represented by the AFN and the Caring Society, through their own mandates and their historical positions and role as complainants in these proceedings. Throughout these proceedings, 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".[23] Additionally, the Tribunal has relied on the Caring Society to represent the interests of First Nations children, youth, and families, along with the agencies that serve them.[24] AMC's and OCOW's position that

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[18] 2022 CHRT 26 at para 47.
[19] 2022 CHRT 26 at para 47.
[20] 2022 CHRT 26 at para 42.
[21] 2022 CHRT 26 at para 41.
[22] 2022 CHRT 26 at para 47.
[23] 2022 CHRT 26 at para 48 and 2016 CHRT 11 at para 16.
[24] 2016 CHRT 11 at para 16.

the AFN's and Caring Society's representation is inadequate because the AFN is not fully aware of the realities in Manitoba or British Columbia is true of every First Nations community or organization in Canada, and allowing all prospective interested parties to join the proceedings would result in Jordan's Principle reform grinding to a halt.[25]

27. It is COO's position that at this stage, unique regional perspectives may be sought and advanced by the current parties using their existing internal mechanisms for seeking and representing those perspectives, as they have been doing for the entirety of this proceeding. This is the only practical way forward.

28. Adding AMC and OCOW at this point in the proceedings will overburden the Tribunal who is tasked with effectively managing its own limited resources while facilitating a fair and expeditious process. Further delay would bring the administration of justice into disrepute and cause significant prejudice to the victims of discrimination. A flexible and holistic approach to AMC's and OCOW's motions requires a cost-benefit analysis that considers both the risk of significant numbers of prospective interested parties coming forward and further delay for First Nations children and families. The analysis leads to a clear conclusion: the costs of adding these parties far exceed any potential benefits.

iii. AMC should not be added to address its Jordan's Principle concerns

29. AMC raises three concerns in its materials with Jordan's Principle, none of which justify it being granted interested party status:

(a) "Recent changes by Canada to the Jordan's Principle program have created issues for First Nations in Manitoba":[26] These recent changes are not currently before the Tribunal or the subject of any ongoing proceedings. As stated in paragraphs 22-28 above, the addition of AMC to the Jordan's Principle proceedings risks setting a precedent that would open the

[25] Assembly of Manitoba Chiefs, "Reply of Assembly of Manitoba Chiefs" dated 22 May 2025; Our Children Our Way Society, "20250415 Factum of Interested Party_Our Children Our Way" dated 15 April 2025 at para 22.
[26] Assembly of Manitoba Chiefs, "AMC Written Submissions - Interested Party Status" dated 15 April 2025 at paras 16-17, 28 [AMC, Written Submissions].

floodgates to many more prospective interested parties seeking to be added to the Jordan's Principle proceedings.[27]

(b) Funding shortfalls by Canada in relation to Jordan's Principle:[28] The alleged funding shortfalls are not currently before the Tribunal and are not the subject of any ongoing proceedings. As stated in paragraphs 22-28 above, the addition of AMC to the Jordan's Principle proceedings risks setting a precedent that would open the floodgates to many more prospective interested parties seeking to be added to the Jordan's Principle proceedings.[29]

(c) Delays and backlogs by Canada in relation to Jordan's Principle:[30] these delays and backlogs are the subject of the Tribunal's decision in 2025 CHRT 6, and interim operational solutions are currently being discussed by parties in the Tribunal-assisted mediation.[31] The Tribunal ordered that First Nations Leadership Council—which had been granted interested party status in the motion at issue in 2025 CHRT 6—could could only participate in the mediation "on the consent of all parties".[32] It would run against this precedent to allow AMC to participate in the mediation, especially since the mediation has already been ongoing for months.

C. No position on the addition of AMC and OCOW to national FNCFS reform

30. COO has no position on the addition of AMC and/or OCOW to long-term reform of the FNCFS Program on a national level.

PART IV - ORDER SOUGHT

31. COO respectfully requests that this Tribunal:

(a) Dismiss AMC's and OCOW's motions for interested party status in the Jordan's Principle proceedings; or

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[27] 2022 CHRT 26 at para 47.
[28] AMC, Written Submissions at para 16.
[29] 2022 CHRT 26 at para 47.
[30] AMC, Written Submissions at paras 16-17.
[31] 2025 CHRT 6.
[32] 2025 CHRT 6 at para 552; *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.

(b) In the alternative, should the Tribunal grant interested party status to AMC and/or OCOW, grant interested party status subject to the following conditions:

a. The interested party will not participate in case management or case conferences.

b. The interested party will not be permitted to participate in any mediation, negotiations, settlement discussions, dispute resolution, or administrative processes.

c. The interested party will not be permitted to seek orders.

d. The interested party will not be permitted to adduce any further evidence, raise new issues, or otherwise supplement the record of the parties. The interested party will not be permitted to cross-examine on the evidence. The interested party must take the evidentiary record as it is.

e. The interested party will not be permitted to make oral submissions on any future motions.

f. The interested party may file written submissions of not more than 10 pages on particular issues or motions as they arise, addressing the unique perspective of the interested party, and must not repeat the positions of other parties. The interested party must work collaboratively with any other additional interested parties added as a result of this motion, as a result of CSSSPNQL-AFNQL's motion, or as a result of any subsequent motion for interested party status in advance of filing their submissions to avoid duplication of submissions. These submissions should not re-open matters already determined.

g. The interested party must abide by the timelines set out by the Tribunal and will not delay the proceedings, including because of party or counsel availability. Any delay will be deemed a renunciation by the interested party to participate in the proceedings.

h. The parties will be provided an opportunity to respond to the interested party's submissions.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 16th day of June, 2025.

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Counsel for the Interested Party, Chiefs of Ontario

PART V - LIST OF AUTHORITIES

STATUTES	
1.	*Canadian Human Rights Act*, RSC 1985, c H-6
CASE LAW	
2.	*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 8
3.	*First Nations Child & Family Caring Society of Canada and Assembly of First Nations v Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2025 CHRT 6
4.	*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
5.	*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
6.	*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
OTHER SOURCES	
7.	Letter from Canadian Human Rights Tribunal to Parties dated 10 Feb 2025