

June 4, 2025

*Sent by E-mail*

Dr. Cindy Blackstock  
Executive Director  
First Nations Child & Family Caring Society  
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Ottawa, ON K1R 7S8  
E-mail: cblackst@fncaringsociety.com

Dear Dr. Blackstock,

**RE: *First Nations Child and Family Caring Society et al. v. Attorney General of Canada*, Tribunal File: T1340/07008**

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I write on behalf of the National Children's Chiefs Commission ("**NCCC**") in response to the Canadian Human Rights Tribunal's ("**CHRT**" or "**Tribunal**") May 14, 2025 request for the parties in the above-noted matter to provide submissions to the Tribunal on the following paragraph in the Chiefs of Ontario ("**COO**") and Nishnawbe Aski Nation's ("**NAN**") Amended Joint Motion dated May 7, 2025:

**5. If COO's and NAN's status as interested parties restricts them from filing this motion to partially settle the Complaint as it relates to Ontario as described in paragraph 2, COO and NAN request that the Tribunal make an order granting COO and NAN additional participation rights for the purposes of bringing this motion or whatever relief the Tribunal deems just pursuant to its responsibility under s.48.9(1) of the *Canadian Human Rights Act* to ensure proceedings are conducted as informally and expeditiously as the requirements of natural justice and the rules of procedure allow.**

The Tribunal's request is a procedural question on whether COO and NAN, as interested parties, should be granted additional participatory rights. If the Tribunal finds that COO and NAN do not have sufficient participatory rights to file their motion and the Tribunal is unable or unwilling to grant them such rights, Canada has stated that it will, as a party, bring this motion to the Tribunal.

The NCCC understands that the Caring Society will be taking the following positions in relation to the Tribunal's request: (i) COO and NAN, as interested parties, do not have the participatory rights to bring their motion; and (ii) the Tribunal should deny COO and NAN's request for the Tribunal to make an order granting them such participatory rights.

The purpose of this letter is to confirm the NCCC's support for the Caring Society's position in this matter.

Canada has the positive duty to eliminate its systemic discrimination against First Nations children and families nationally and ensure it does not reoccur. First Nations continue to

speak with one voice. The First Nations-in-Assembly established the NCCC and mandated it to provide oversight and strategic direction of national long-term reform of First Nations child and family services (“**FNCFS**”) and Jordan’s Principle.

The role of an “interested party” is governed by Rule 8 of the Tribunal’s “Old Rules.” Under that Rule, a non-party to a proceeding may bring a motion to the Tribunal seeking formal status as an “interested party.” While the Rules do not expressly set out limitations on the role of an interested party, the Tribunal “controls its own process” and it is for the “CHRT to craft those restrictions” that may apply to an interested party’s participation (*A.B. v C.D.*, 2022 FC 1500 at para 38). “Pursuant to section 48.9(1) of the CHRA, the extent of an interested person’s participation must take into account the Tribunal’s responsibility to conduct proceedings as informally and expeditiously as the requirements of natural justice and the Rules of Procedure allow” (*K.L. v Canada Post Corporation*, 2025 CHRT 28 at para 78; *FNCFS v Canada*, 2022 CHRT 26 at para 14).

While the Tribunal has broad jurisdiction and discretion to control its own process, it does not have the power to grant COO and NAN the participatory rights they are seeking.

Canada recognizes, in its May 28, 2025, letter to the Tribunal on this issue, that the additional participatory rights that COO and NAN are seeking are exceptional. The NCCC agrees that the circumstances are exceptional, but disagrees that the Tribunal can grant participatory rights to interested parties to seek substantive relief and effectively settle portions of the claim.

There are currently 4 interested parties in the proceeding, and an additional 11 prospective interested parties are currently seeking leave from the Tribunal to participate as interested parties in the proceeding. Given the number of potential interested parties that could be admitted to this proceeding, granting interested parties the right to seek substantive relief similar to the relief being sought by COO and NAN would make the proceeding unruly, undermine it, and, in any event, would undermine the clear relief the Tribunal has ordered in the Merits Decision (2016 CHRT 2) for Canada to eliminate the systemic discrimination within FNCFS and Jordan’s Principle. Contrary to Canada’s submissions, this would undermine reconciliation and the efforts to negotiate national long-term reform agreements to ensure Canada’s systemic discrimination ends and never occurs again.

COO and NAN have an interest in the long-term reform of First Nations Child & Family Services and Jordan’s Principle and the Commission supports their right to design effective remedies in the best interests of their own children and families. However, settling portions of the claim at the urging of the interested parties could undermine the national relief the Tribunal granted and could prejudice the NCCC’s ability to fulfill its mandate – to negotiate a national settlement agreement for long-term reform of First Nations Child and Family Services and Jordan’s principle.

The NCCC has consistently urged Canada to return to negotiations with a strong mandate to end its systemic discrimination.

For these reasons, the NCCC supports the Caring Society's position on this matter for the reasons outlined above. Please feel free to bring this letter to the Tribunal's attention.

Sincerely,

A handwritten signature in black ink, appearing to read 'Pauline Frost', with a stylized, cursive script.

Chief Pauline Frost  
Chair, NCCC

c: NCCC

Scott A. Smith and Liam Smith, Co-Counsel, NCCC