

# Canadian Human Rights Tribunal Ruling on National First Nations Child and Family Services Long-Term Reform

## 2025 CHRT 80



## Overview

On August 20, 2025, the Canadian Human Rights Tribunal (Tribunal) issued [2025 CHRT 80](#), ordering Canada, along with the co-complainants in First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada, to move forward on national First Nations Child and Family Services (FNCFS) long-term reform without further delay. The order requires the parties to submit their remedies for national long-term reform, created either separately or together, within four months of this ruling. This shall happen concurrently and separately from the Ontario long-term Final Agreement (OFA).

This order repeats the Tribunal's assertion that its landmark 2016 decision ([2016 CHRT 2](#)) is a permanent order against Canada to immediately cease the discrimination against First Nations children and ensure that it does not recur. In 2025 CHRT 80, the Tribunal reminds Canada that this case is about children, and that beyond providing adequate funding, there is a need to refocus the policy of the program to respect human rights principles in the best interests of First Nations children and in accordance with section 48.9(1) of the Canadian Human Rights Act. The Tribunal also reiterates that its orders for Canada to cease its discriminatory conduct are the same as an injunction and are intended to protect multiple generations of First Nations children. These are final orders that cannot be subsequently modified by the current Panel or by future members.

## Details

In 2025 CHRT 80, the Tribunal rejects Canada's submission to put aside consultation between Canada, the Assembly of First Nations (AFN), and the Caring Society on the national long-term reform of the FNCFS Program until the Tribunal's analysis of the OFA, which is conditional on Tribunal approval. The Tribunal argues that delaying the national FNCFS long-term reform proceedings until the OFA has been decided is unreasonable and not in the best interests of First Nations children and families

outside Ontario. The Tribunal also notes their disagreement with Canada's submission that, if approved, the OFA could serve as a precedent for the National long-term reform agreement.

The Tribunal makes clear that they value all expert viewpoints of First Nations, but states that there are limits to the number of First Nations, experts, agencies, and organizations it can hear from. Thus, the Tribunal is relying on the Caring Society, the AFN, and the National Children's Chiefs Commission (NCCC) to carry out the required consultation and bring solutions forward that accommodate regional and First Nations interests within the scope of the Tribunal's jurisdiction and direction.

In order to avoid the possibility of an imposed final solution, the Tribunal urges Canada to return to the negotiation table, listen to the NCCC and the co-complainants, and consider the research, experts, and evidence-informed long-term solutions prepared by the Caring Society and the AFN. If Canada refuses to return to the table, the Tribunal will hear the Caring Society and AFN's evidence-based solutions (which represent the NCCC and multiple First Nations' viewpoints) and Canada's plans separately, and then choose between the two long-term reform order requests.

The Tribunal set out a non-exhaustive list of parameters that will guide the Tribunal's decision-making regarding long-term reform remedies proposed by the parties. These remedies shall, the Tribunal states:

1. Have lasting effects, be adequately resourced, and remain sustainable for present and future generations;
2. Be flexible and improve upon the Tribunal's previous orders;
3. Incorporate regional and local First Nations perspectives;
4. Be evidence-based, relying on the best currently available research and studies, without delay for additional studies;
5. Align with the spirit of the Tribunal's findings and

rulings in a non-rigid manner;

6. Be First Nations-centered and respectful of their distinct needs and perspectives;
7. Be culturally appropriate, respect substantive equality, reflect the best interests of the child through an Indigenous lens, and respect the specific needs of First Nations children and families;
8. Comply with domestic and international human rights, especially the Convention on the Rights of the Child, the United Nations Declaration on the Rights of Indigenous Peoples, and the United Nations Declaration on the Rights of Indigenous Peoples Act; and
9. Strive for excellence rather than perfection, without narrowing the Tribunal's findings and orders.

The National FNCFS long-term reform plan and requested remedies shall also include detailed deadlines and clear, measurable targets based on most recent studies, evidence, and diverse viewpoints of First Nations and other experts and shall demonstrate how its implementation will clearly and effectively cease the systemic racial discrimination identified in the Tribunal's findings and prevent its recurrence for multiple generations.

## Orders

By August 29, 2025, Canada shall inform the Tribunal about whether it agrees to meet with the NCCC to discuss National FNCFS long-term reform outside of Ontario or whether it will reconsider meeting with the AFN and the Caring Society, on a voluntary basis, for the same purpose;

Within four months of this ruling, the Caring Society and the AFN shall consult with the NCCC, First Nations Chiefs, and other experts, including First Nations and First Nations organizations outside of Ontario, and those who have filed interested party motions, to develop an evidence-based, comprehensive National FNCFS long-term reform plan and requested remedies outside of Ontario. The plan with supporting evidence and material shall be filed with the Tribunal for consideration;

Consultations must ensure that French speaking First

Nations will have the opportunity to communicate and read material in French;

The determination of the OFA motion shall not be contingent upon the Tribunal's conclusion of its consideration of the National FNCFS long-term reform plan and requested remedies outside of Ontario. Nor shall the determination of the National FNCFS long-term reform plan and requested remedies outside of Ontario be contingent upon the Tribunal's conclusion of its consideration of the OFA motion for Ontario;

The Caring Society, the AFN, and Canada shall provide monthly updates to the Tribunal;

If Canada agrees to participate in consultations with the Caring Society and the AFN, it shall do so in accordance with the parameters set out above and the orders in this ruling. Where possible, a National FNCFS long-term reform plan and requested remedies outside Ontario, agreed to on consent by the Caring Society, the AFN, and Canada, together with supporting affidavit evidence and materials, shall be filed with the Tribunal at the conclusion of the consultations and within four months of this ruling;

If a National FNCFS long-term reform plan and requested remedies outside Ontario cannot be reached on consent, or if Canada declines to participate in the consultations with the other parties, Canada shall, within four months, file with the Tribunal its evidence-based National plan, supported by affidavit evidence and materials, for the Tribunal's consideration;

The Ontario region and the OFA will have its separate hearing, and parties in favour or opposing will have an opportunity to be heard. The Tribunal expects to hold a hearing on the OFA in 2025, in the absence of unforeseen circumstances.

The orders above do not include Jordan's Principle long-term reform.

The Tribunal Panel retains jurisdiction on the Orders contained in this ruling and all its previous orders (except its compensation orders) until a complete and final agreement on long-term relief, on consent or otherwise, is reached.

## Background

In 2016, the Tribunal ruled that the Canadian government is racially discriminating against 165,000 First Nations children in its provision of the FNCFS Program and in its flawed, narrow implementation of Jordan's Principle ([2016 CHRT 2](#)). The Tribunal has repeatedly ruled that this landmark order is a permanent order against Canada to immediately cease the discrimination against First Nations children, take measures to redress and prevent it from reoccurring, and reform the FNCFS Program and the 1965 Agreement in Ontario to reflect the Merit Decision.