

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 and Northern Affairs Canada)**

Respondent

-and-

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

Interested Parties

NOTICE OF MOTION

TAKE NOTICE that National Children's Chiefs Commission ("NCCC") will make this motion in writing to the Canadian Human Rights Tribunal ("**Tribunal**") located at 240 Sparks Street, 6th Floor West, Ottawa, Ontario.

THE MOTION IS FOR:

1. An Order pursuant to Rule 8 of the *Canadian Human Rights Tribunal Rules of Procedure* (03-05-04), granting the NCCC leave to intervene in the remedies stage of this proceeding as an interested party on the following terms:

- a. the NCCC will be permitted to participate in all hearings, appearances, motions, case conferences, mediations, or other processes in this proceeding;

- b. the NCCC will be permitted to adduce evidence, conduct examinations-in-chief, and cross-examinations;
- c. the NCCC will be permitted to file written submissions and to make oral submissions;
- d. the NCCC will not be entitled to costs and no costs will be awarded against it; and
- e. such other relief as counsel may advise and this Tribunal may permit.

THE GROUNDS FOR THE MOTION ARE:

A. The NCCC and Its Exclusive Mandate to Re-Start Negotiations with Canada

2. In October 2024, the First Nations-in-Assembly—the body comprised of the member First Nations of the Assembly of First Nations (“AFN”) that meets twice a year to pass resolutions which set the mandates of the AFN—definitively rejected the draft Final Settlement Agreement on Long-Term Reform of First Nations Child and Family Services (“FNCFS”), dated June 11, 2024. To not repeat the mistakes of the past, and ensure a new process that would increase the likelihood of successful negotiations, the First Nations-in-Assembly decided to act to change the *status quo*.

3. In Resolution No. 60/2024, the First Nations-in-Assembly resolved to, and did, establish the National Children’s Chiefs Commission (“NCCC”) to: (i) “provide strategic direction and oversight of the [long-term reform] [a]greements negotiations, reporting back to the First Nations-in-Assembly;” and (ii) “establish a negotiation team ... responsible for carrying out the negotiations for the [long-term reform agreements] under the direction of, and reporting to, the [NCCC].” In short, the First Nations-in-Assembly shifted exclusive responsibility for conducting long-term reform negotiations with Canada from the AFN to the NCCC.

4. Since its inception, the NCCC has engaged in efforts to re-start negotiations with Canada. Canada has refused to re-start negotiations in relation to a long-term agreement on FNCFS or to meaningfully engage with the NCCC in relation to any related matters.

5. On August 20, 2025, this proceeding advanced further into the long-term remedies phase. Out of respect for “[t]he First Nations-in-Assembly resolutions [that] set out clear direction for FNCFS reform, guided by the NCCC,” this Tribunal placed the NCCC in the centre of that process. This Tribunal “urge[d] Canada to return to the table of negotiations to listen to the NCCC and the co-complainants” and made orders about how the parties are to engage with the NCCC:

- a. “Canada shall inform the Tribunal, by August 29, 2025, whether it agrees to meet with the [NCCC] to discuss National FNCFS long-term reform outside Ontario;”
- b. By December 22, 2025, “the Caring Society, the AFN and the NCCC, can aptly consult and gather relevant Nations specific, local and regional perspectives, other First Nations experts and First Nations organization’s perspectives and incorporate them in their National long-term reform plan and requested orders for the Tribunal’s consideration;” and
- c. “[T]he Tribunal will hear the co-complainants’ evidence-based solutions representing the NCCC and multiple First Nations’ viewpoints and Canada’s and then choose between the long-term reform order requests”

6. The NCCC is now engaging to collect those perspectives, including because of this Tribunal’s directions and orders of August 20, 2025. When the parties return to this Tribunal to present long-term FNCFS reform solutions and beyond, the NCCC asks to speak for itself, as an interested party.

B. The NCCC Meets the Flexible Test for Interested Party Status

7. This proceeding is governed by the “old” *Canadian Human Rights Tribunal Rules of Procedure* (03-05-04). Rule 8 empowers this Tribunal to grant interested party status to a non-party and specify the extent of the interested party’s participation.

8. The onus is on the proposed interested party to show: (i) the proceeding will have an impact on the moving party’s interests; (ii) its involvement will add to the legal positions of the parties; and (iii) the prospective interested party’s expertise will be of assistance to the Tribunal.

9. In relation to item (i), the interests of the NCCC are impacted by—and intimately intertwined with—this proceeding. The First Nations-in-Assembly have decided the NCCC is now the vehicle through which it would like to pursue renewed negotiations with Canada.

10. In relation to item (ii), the NCCC plays a distinct and unique role in bringing this proceeding to a just conclusion. While it does not possess the authorization to supplant or replace the AFN or the Caring Society as co-complainants, the NCCC alone possesses the mandate to conduct negotiations on behalf of First Nations-in-Assembly. That unique mandate has been recognized by the AFN, the Caring Society, and this Tribunal. The NCCC’s perspectives are best advanced by the NCCC directly in this proceeding, and not through others.

11. In relation to item (iii), the NCCC’s nationally representative structure provides a coordinated mechanism to bring forward the diverse perspectives of First Nations across Canada. With the support of the AFN and the Caring Society, and in accordance with this Tribunal’s directions, the NCCC is now undertaking engagement and on-track to meet this Tribunal’s December 22, 2025 deadline. As the only body mandated by the First Nations-in-Assembly—the

body which will need to ratify any future agreement—the NCCC’s assistance to this Tribunal will increase the likelihood of success.

C. The NCCC Will Not Delay or Prejudice the Swift Resolution of this Proceeding

12. The NCCC is prepared to engage immediately, adhere to all timelines, and actively coordinate with the parties and the interested parties to ensure its participation causes no prejudice. Nor will the NCCC re-open closed issues or introduce new ones, or duplicate evidence or examinations.

13. The NCCC relies on:

- a. Sections 48.9(2) and 50(1) and of the *Canadian Human Rights Act*, R.S.C. 1985, c H-6;
- b. Rules 3 and 8(1) of the *Canadian Human Rights Tribunal Rules of Procedure* (03-05-04); and
- c. such further and other grounds as counsel may advise.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

14. The Affidavit of Chief Pauline Frost, affirmed November 20, 2025; and

15. Such other materials as counsel may advise and this Tribunal may Permit.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 21st day of November, 2025.

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