

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

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

**Canada's National First Nations Child and Family Services
Long-Term Reform Plan and Requested Remedies Outside Ontario**

Caveat: This plan is filed by the Attorney General of Canada, representing the Minister of Indigenous Services Canada, in compliance with this Tribunal's orders in 2025 CHRT 80, but is expressly provided with prejudice to the outcome of Canada's related judicial review application in *Attorney General of Canada v. First Nations Child and Family Caring Society of Canada et al*, Federal Court File No. T-3594-25.

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Finalizing Long-Term Reform of the First Nations Child and Family Services Program

Outside Ontario

Caveat: This plan is filed by the Attorney General of Canada, representing the Minister of Indigenous Services Canada, in compliance with this Tribunal's orders in 2025 CHRT 80, but is expressly provided with prejudice to the outcome of Canada's related judicial review application in *Attorney General of Canada v. First Nations Child and Family Caring Society of Canada et al*, Federal Court File No. T-3594-25.

Introduction

As required by the Canadian Human Rights Tribunal's ruling in 2025 CHRT 80, this plan outlines Canada's approach to finalizing long-term reform of the First Nations Child and Family Services (FNCFS) Program outside Ontario by negotiating regional agreements on Program reform within a national programmatic and funding framework (the National Framework) for the FNCFS Program, which would be implemented nationally (outside Ontario) on April 1, 2027.

Canada's plan is based on sound policy and on Canada's intention to move forward in a manner that respects the rights, perspectives and decision-making processes of First Nations rights holders and that accounts for regional differences.

Some regional First Nations leadership have advised Canada that they wish to negotiate FNCFS Program reform directly with Canada on a regional basis. Canada views direct negotiations with regional representatives of rights holders as the best way forward. Pursuing a negotiated regional approach to FNCFS Program reform, based on the National Framework, will allow regional differences in cultures and circumstances to come to the fore.

Canada's negotiations with regional First Nations entities would seek to regionalize implementation of the National Framework for the FNCFS Program. The National Framework envisions an evidence-informed, culturally appropriate Program that addresses key drivers of over-apprehension of First Nations children. It is informed by thorough research and discussion with First Nations partners and service providers, including research by the Institute for Fiscal Studies and Democracy (IFSD), the work of the Nishnawbe Aski Nation-Canada Remoteness Quotient Table, and the negotiations with the AFN, the Chiefs of Ontario (COO) and Nishnawbe Aski Nation (NAN). The National Framework both responds to and goes beyond this Tribunal's orders. It includes a robust remoteness index to better reflect the realities of remote First Nations communities, national funding for First Nation representative services, post majority supports to the age of 26, funding for housing in First Nations, and investments for household supports, information technology, results and data, and emergency services. In addition, the National Framework includes a provision for service provider funding adjustments should an agency or First Nation face exceptional circumstances that require additional funding.

The National Framework's stable, predictable funding would empower First Nations to make their own decisions on how to address the needs of their children and families. First Nations would also benefit from a flexible funding approach that would empower them to redirect funding among the funding components of the Program according to their distinct circumstances and priorities. Such stability and autonomy would support First Nations in building their capacity and position them to consider the exercise of child and family services jurisdiction under *An Act respecting First Nations, Inuit and Métis children, youth and families*, SC 2019, c 24.

Regional negotiations within the context of the National Framework would allow First Nations an opportunity to create their own regional reporting, planning, and governance frameworks to help shape implementation of the FNCFS Program according to their distinct needs and circumstances. Regional governance structures would also inform region-specific FNCFS Program assessments and recommendations for adjustments moving forward.

Remedies sought

With a view to:

- eliminating the discrimination found by the Tribunal and preventing its recurrence;
- improving the wellbeing of First Nations children and families; and
- co-developing regional FNCFS Program long-term reform agreements; and

in support of reconciliation between First Nations and the Government of Canada;

in compliance with this Tribunal's ruling in 2025 CHRT 80 and its statement that "The Tribunal believes it is now time to proceed towards completion on FNCFS long-term reform";¹ and

in consideration of the proportionality principle expressed in s. 48.9(1) of the *Canadian Human Rights Act*;

Canada respectfully requests the following orders from the Tribunal:

1. an order that Canada's proposed National Framework for long-term FNCFS Program reform, as reflected in this plan and corresponding affidavit evidence, and as further co-developed, modified or supplemented through any regional long-term FNCFS Program reform agreements negotiated with regional First Nations partners:
 - a) is approved by the Tribunal, without condition, for the purpose of implementation outside Ontario on April 1, 2027;
 - b) satisfies, supersedes and replaces all orders of the Tribunal related to the discrimination found by the Tribunal concerning all elements of the Complaint relating to the FNCFS Program outside Ontario; and

¹ 2025 CHRT 80, para 97.

- c) satisfies the Tribunal's order in 2016 CHRT 2 that Canada cease its discrimination relating to the FNCFS Program outside Ontario, and satisfies, supersedes and replaces all other remedial orders related to the discrimination found by the Tribunal in relation to the FNCFS Program outside Ontario;
2. an order that, effective April 1, 2027 or sooner if ordered by this Tribunal, the Tribunal ends its jurisdiction over all the elements of the Complaint and all associated remedial proceedings outside Ontario, save for jurisdiction over those aspects of the Complaint and associated proceedings related to the interpretation and implementation of Jordan's Principle; and
3. such further and other orders as Canada may request in support of finalizing long-term FNCFS Program reform outside Ontario in accordance with Canada's proposed National Framework for long-term FNCFS Program reform, as reflected in this plan and corresponding affidavit evidence, and as further co-developed, modified or supplemented through any regional long-term FNCFS Program reform agreements negotiated with regional First Nations partners.

Part 1: Regionalization of the National Framework

1.1. Canada's Proposed Approach to Finalizing long-term reform of the FNCFS Program

Canada's proposed approach is outlined in this Part of Canada's Plan, with further details provided in Canada's corresponding affidavit evidence.

Canada will seek to negotiate regional FNCFS Program reform agreements with regional First Nations partners, within the National Framework. This will include a seven-year funding commitment and a targeted enhancement beyond what was contained in the *Final Agreement on Long-Term Reform of the FNCFS Program* (Final Agreement), to provide First Nations Representative Services funding at a level comparable to that of the *Final Agreement on Long-Term Reform of the FNCFS Program in Ontario* (Ontario Final Agreement) in all regions.

Canada will aim to negotiate one agreement per province and one agreement in the Yukon. Canada would consider agreements covering a region smaller than a province or an agreement that crosses provincial boundaries upon request where relationships among or views held by First Nations would make it difficult to secure a province- or territory-wide agreement and where First Nations were organized, along treaty lines or otherwise, into large subregional groups.

For regions in which agreements are not reached, Canada intends to implement the elements of the National Framework as described in the sections below on April 1, 2027.

Term and Funding Commitment

Canada's National Framework for long-term reform of the FNCFS Program outside Ontario represents a seven-year funding commitment of \$27 billion from April 1, 2027 to March 31, 2034. This term matches the approach to funding in the Ontario Final Agreement. Additionally, starting April 1, 2034, Canada has committed \$4.4 billion per year for the FNCFS Program on an ongoing basis to provide sustainable funding for future generations.

The National Framework's funding would be adjusted for inflation and population change in 2027-28 and 2028-29. In each of 2029-30 to 2033-34, Canada would provide at a minimum the same amount of funding as that provided in 2028-29. Program assessments would inform any changes to the FNCFS Program's programmatic and funding framework after 2028-29.

The funding commitment in all regions would be proportional to the region's estimated share of the total funding of the National Framework, based on the region's population, degree of remoteness, past expenditures at actual costs and other factors. All regional agreements would have the same end date.

Funding required to continue implementing the FNCFS Program beyond March 31, 2034 would be informed by the set of second program assessments to be conducted in 2033-34 through regional governance bodies. At minimum, Canada has committed \$4.4 billion per year for the FNCFS Program on an ongoing basis starting in 2034-35.

Timeline for implementation of long-term regional FNCFS Program reform agreements

i. Negotiations

In January 2026, Canada intends to begin negotiations with regional First Nations entities. Canada would invite regional First Nations entities to submit funding proposals to support them in covering costs associated with negotiating regional agreements. As part of negotiations, ISC would discuss with regional First Nations entities the time required for them to engage with their members on the proposed agreements. Canada will aim to conclude all agreements by September 30, 2026.

ii. Updates

Canada intends to file with the Tribunal, by October 5, 2026, a written update on the status of regional negotiations, any necessary supplemental affidavit evidence and an updated proposed National Framework for long-term FNCFS Program reform, as reflected in this plan and corresponding affidavit evidence, and as further co-developed, modified or supplemented through any regional long-term FNCFS Program reform agreements negotiated with regional First Nations partners before September 30, 2026.

iii. Implementation

Subject to Tribunal approval and the granting of the remedies requested above, Canada would implement the National Framework for long-term FNCFS Program reform, as reflected in this plan and corresponding affidavit evidence, and as further co-developed, modified or supplemented through any regional long-term FNCFS Program reform agreements negotiated with regional First Nations partners, on April 1, 2027.

Canada would continue to fund protection, capital and post-majority support services in accordance with the Tribunal's interim orders until March 31, 2027.

Overview of the FNCFS Program long-term reform National Framework

The funding elements which Canada has included in the National Framework, and to which Canada would commit in regional long-term FNCFS Program reform agreements, are informed by the 2021 *Agreement-in-Principle on Long-Term Reform of the FNCFS Program and Jordan's Principle* (Agreement-in-Principle), which was negotiated with the AFN, Caring Society, COO and NAN. In all regions, the reformed FNCFS Program would include the following elements:

- Baseline funding for FNCFS agencies to deliver protection services, including least disruptive measures;
- Prevention funding based on a formula that multiplies \$2,762.90 by the registered First Nations population on-reserve and on Crown land;
- Post-majority support services funding to provide supports to youth aging out of care and young adults formerly in care up to their 26th birthday;
- First Nations Representative Services funding to support First Nation Representatives as advocates for First Nations in child welfare matters;
- Funding for information technology, results and emergencies;
- Funding for household supports to meet basic needs, particularly where those needs, if left unmet, could lead to children being taken into care;
- Funding adjustments to account for inflation, population changes and the increased cost of delivering child and family services in remote communities; and
- Funding for capital to support the delivery of the FNCFS Program.

These funding elements and the total funding committed for each would not be the subject of regional agreement negotiations and would be implemented nationally on April 1, 2027. These funding elements were co-developed through an evidence-informed process, including years of research and negotiation.

Negotiations would focus on implementation adjustments to better reflect each region's unique context, including potential adjustments to:

- the allocation of funding among First Nations and FNCFS agencies;
- planning requirements;
- the framework for FNCFS agency accountability to First Nations;
- The scope and timing of regional program assessments and the resulting recommendations to Indigenous Services Canada (ISC) on changes to the FNCFS Program; and
- regional governance of the FNCFS Program to advise ISC on implementation of the reformed FNCFS Program in each region.

Negotiations would also inform the development of the FNCFS Program's national terms and conditions, which will be adapted to support regional implementation.

1.2. National Framework for Regional Agreements

Principles

The following set of principles would guide the reformed FNCFS Program and underpin the National Framework. These principles would be included at a minimum in all regional agreements to ensure cohesiveness in the interpretation of those agreements consistently across all regions. These principles include:

- a) the cultural safety and well-being of First Nations children, youth, young adults, and families;
- b) substantive equality;
- c) addressing the needs of First Nations children, youth, young adults, and families;
- d) the best interests of children;
- e) prioritizing keeping children in the home;
- f) holistic and culturally-informed programming, having regard for the current realities of distinct First Nations, including historical and contemporary disadvantage and contextual differences, including remoteness;
- g) recognition of Indigenous legal traditions and principles, if applicable;
- h) addressing the structural drivers that place First Nations children, youth, and families at higher risk of involvement with the child welfare system;
- i) respect for the inherent right of self-government, which is recognized and affirmed by section 35 of the *Constitution Act, 1982*, and which includes jurisdiction, in relation to child and family services;
- j) respect for the right to self-determination of Indigenous peoples, which is a right recognized and affirmed in the *United Nations Declaration on the Rights of Indigenous Peoples* (the "*Declaration*");
- k) that the *United Nations Declaration on the Rights of Indigenous Peoples Act* affirms the *Declaration* as a universal international human rights instrument with application in

Canadian law and also provides a framework for the Government of Canada's implementation of the Declaration;

- l) the rights in the *Declaration*, including the rights of children and youth, and the *United Nations Convention on the Rights of the Child*, including the right to be free from discrimination;
- m) accountability of FNCFS service providers and provincial and Yukon governments to the First Nation governments they serve; and
- n) guidance from First Nations-led and/or endorsed evidence.

As part of regional negotiations, Canada would discuss with regional First Nations partners the inclusion of additional region-specific principles.

Baseline funding

Baseline funding supports maintenance and care of children in out-of-home or alternate care arrangements, the delivery of least disruptive measures and the operation of FNCFS agencies.

Least disruptive measures seek to prevent the separation of children from their families and reunify children with their families. They are measures that flow from a child maltreatment assessment or investigation and are critical to safety planning for children and families involved with child and family services.

Under the National Framework, starting April 1, 2027, baseline funding would be provided to FNCFS agencies based on 2022-23 funding for operations and maintenance, including approved claims for intake and investigations, legal fees, building repairs, and child service purchase (adjusted for inflation and population growth between March 31, 2023 and March 31, 2027). This funding would be adjusted annually to account for inflation and population growth and will not be reduced.

Canada would fund claims submitted by FNCFS agencies for the actual costs of operations and maintenance up to March 31, 2027.

Should an FNCFS agency's baseline funding be insufficient, for reasons beyond its reasonable control, to deliver least disruptive measures to children or to carry out statutory obligations, the FNCFS agency could submit a Service Provider Funding Adjustment Request (explained further below) to seek additional funding.

Prevention funding

On April 1, 2022, as per the Tribunal's consent orders in 2022 CHRT 8, Canada began to fund prevention to First Nations and FNCFS agencies at a per capita amount of \$2,500 per registered First Nations person resident on-reserve or in the Yukon, adjusted annually for inflation.

Under the National Framework, starting April 1, 2027, funding for prevention would be calculated by multiplying the per capita amount of \$2,762.90 by a First Nation's population (the approach to counting population is described further below). A First Nation would be provided a minimum of \$75,000 in cases where the calculated amount by population would otherwise be less. The prevention funding allocation would be adjusted annually for inflation and to account for the increased costs of delivering services in remote First Nations.

As part of regional negotiations, Canada would discuss with regional First Nations partners the manner in which to allocate the prevention funding attributable to each First Nation's population, including who the default recipient(s) of prevention funding should be. First Nations that are not served by a FNCFS agency would receive all prevention funding attributable to that First Nation's population.

For regions in which Program reform agreements are not reached, starting April 1, 2027, prevention funding would be divided between First Nations and FNCFS agencies in the same manner as in 2026-27. However, a First Nation would be able to decide to receive all of the prevention funding attributable to its population or to divide that funding in a different way.

Should a First Nation have insufficient funding to provide adequate prevention services in response to a need created by an unforeseen event, beyond its reasonable control, the First Nation could submit a Service Provider Funding Adjustment Request (explained further below) to seek additional funding.

Post-Majority Support Services funding

Post-majority support services support First Nations youth in care approaching the age of majority and young adults who have transitioned out of care at the age of majority up to their 26th birthday or to the age as defined in provincial legislation (whichever is greater) who are ordinarily resident on reserve or in the Yukon, including those who were in care off-reserve at the time of removal and are now ordinarily resident (normally living) on-reserve or in the Yukon.

Under the National Framework, each region would receive its estimated share of the reformed FNCFS Program's total funding for post-majority support services. This amount is based on the estimated cost of direct services to youth and young adults and an assumed intake rate of 75% of each region's forecasted number of youth and young adults eligible for post-majority support services, as well as the estimated cost for indirect services (such as staff salaries). Post-majority support services funding would be adjusted to account for the increased costs of delivering services in remote First Nations.

Canada would fund claims for the actual costs of post-majority support services up to March 31, 2027.

As part of regional negotiations, Canada would discuss with regional First Nations partners the manner in which post-majority support services funding would be allocated among the region's First Nations (and possibly FNCFS agencies).

For regions in which Program reform agreements are not reached, starting April 1, 2027, post-majority support services funding would be allocated to First Nations according to the youth and young adult population of those First Nations. However, a First Nation would be able to decide to have its affiliated FNCFS agency receive some or all of its post-majority support services funding.

First Nation Representative Services funding

On April 1, 2022, Canada began to fund First Nation Representative Services to First Nations in all provinces (outside Ontario) and in Yukon based on a per capita allocation. Under the National Framework, starting April 1, 2027, First Nation Representative Services funding outside Ontario would be calculated based on FNRS funding provided to First Nations in Ontario. This enhancement to the Final Agreement's reform framework represents an additional investment of \$406 million beyond the Final Agreement, from 2027-28 to 2033-34.

All First Nations would be provided a \$75,000 minimum. First Nation Representative Services funding would be adjusted annually for inflation and to account for the increased costs of delivering services in remote First Nations.

Funding for information technology, results and emergency

Under the National Framework, funding for information technology (IT), results and emergency would be implemented on April 1, 2027.

Funding for IT would support IT needs to implement and deliver services and eligible Program activities. More specifically, this funding would support the purchase, installation, and maintenance of IT hardware, software or subscriptions.

Funding for results would support, among other things, implementation of region-specific performance measurement frameworks to be discussed as part of regional negotiations through the collection and analysis of data.

Emergency funding would support First Nations and FNCFS service providers in responding to unanticipated circumstances or situations affecting activities funded by the FNCFS Program. This funding would support First Nations and FNCFS service providers in responding to unexpected situations (such as the introduction into care of a few children with very high needs).

Funding for IT, results and emergency would be equivalent to 13% of an FNCFS agency's baseline funding. This funding would be adjusted to account for the increased costs of delivering services in remote First Nations. As part of regional negotiations, ISC would be open to discussing the breakdown of this funding amongst each of the three elements to address each region's specific needs and the allocation of the funding among First Nations and FNCFS agencies

For regions in which Program reform agreements are not reached, starting April 1, 2027, IT and results funding would be allocated to First Nations, and emergency funding would be split equally between First Nations and FNCFS agencies. However, a First Nation might decide to have its affiliated FNCFS agency or a FNCFS service provider receive some or all of IT and results funding. Funding for IT would be equivalent to 6% of baseline funding; funding for results would be equivalent to 5% of baseline funding; and emergency funding would be equivalent to 2% of baseline funding.

Funding for household supports

Funding for household supports would support First Nations in meeting the basic needs of families, particularly those needs that, if left unmet, could lead to children being placed in care, may result in a family being involved in the child welfare system or that may prevent a family from reuniting. This funding would aim to enhance prevention activities by helping to mitigate challenges that may lead to involvement of a child in the child welfare system.

Under the National Framework, each region's total funding for household supports would be calculated using the middle of the range recommended by IFSD's Phase 2 report, which recommended a national range of \$14 million to \$34 million. This funding would be adjusted annually for inflation.

Canada would discuss in each region the manner in which household supports funding would be allocated among the region's First Nations.

For regions in which Program reform agreements are not reached, starting April 1, 2027, a First Nation's household supports funding would be calculated by determining the First Nation's population below Statistics Canada's Low-income measure after tax (LIM-AT), and then by dividing that population by the total population of the region's First Nations below the LIM-AT. ISC would multiply that percentage by the region's total amount available for household supports in a given year.

Service Provider Funding Adjustment Request

The Service Provider Funding Adjustment Request mechanism provided under the National Framework is an additional layer of protection aimed at ensuring that: (1) FNCFS service providers have the funding they require to deliver services required by law (including protection and least disruptive measures); and (2) that First Nations have sufficient funding to adequately respond to prevention needs created by unforeseen events.

Canada would determine Service Provider Funding Adjustment Requests within the following timelines:

- Within fifteen (15) days of ISC's receipt of a Service Provider Funding Adjustment Request, ISC would meet with the First Nation or FNCFS service provider regarding the request.
- Within thirty (30) days of ISC meeting with the First Nation or FNCFS service provider and obtaining supporting documentation, ISC would make a determination with respect to the Service Provider Funding Adjustment Request.

If the FNCFS service provider or First Nation disagreed with Canada's determination, it would be able to bring that disagreement to the national dispute resolution process (described further below).

Capital funding

The National Framework's funding for capital was established using the Colliers Lifecycle Cost Model, which calculates all asset-related costs such as size, type, condition, and location factors. Using data from 37,500 ISC-funded assets, the model was tailored for FNCFS capital projects to estimate regional totals for CFS buildings, operations and maintenance costs, and vehicles for First Nations and FNCFS service providers.

Capital funding would support service delivery for the reformed FNCFS Program, including needs assessments and feasibility studies, the purchase and construction of capital assets, the repair and renovation of existing buildings, and the lifecycle costs of owned assets.

Under the National Framework, capital funding for each region would be equivalent to that region's estimated share of the National Framework's total funding for capital. Starting April 1, 2027, funding would be allocated to First Nations and FNCFS service providers through an annual proposal-based intake process. This process would align with well-established Capital Facilities and Maintenance Program processes through which capital project proposals are assessed, ranked, and prioritized based on needs.

First Nations and FNCFS Service Providers would be able to submit capital requests under the 2021 CHRT 41 process until March 31, 2027. Where a capital request was submitted before April 1, 2027, ISC would apply the 2021 CHRT 41 approval process to determine if the request was approved. The 2021 CHRT 41 approval process would apply to that request until ISC approved

the request or otherwise made a final determination, even if such determination was made after April 1, 2027.

Remoteness adjustment

Remoteness adjustment funding reflects the increased costs of delivering child and family services in remote First Nations and aims to ensure that First Nations are able to deliver a similar level of service as their non-remote counterparts.

The Remoteness Quotient Adjustment Factor (RQAF) is based on extensive research conducted by NAN and ISC and exceeds the IFSD's recommendations. Under the National Framework, this approach would be applied to calculate the remoteness adjustment for prevention, First Nation Representative Services, post-majority support services, household supports, information technology, results and emergency.

A First Nation's funding would be adjusted where its 2021 Index of Remoteness score was 0.40 or greater. Each First Nation's adjustment would depend on the First Nation's 2021 Index of Remoteness score and whether the First Nation was connected by road to the main road network.

Inflation adjustment

In line with IFSD's recommendations, the funding elements of the National Framework would be adjusted for inflation annually, in accordance with the Consumer Price Index. In no event would any such adjustment be less than zero.

Population

Under the National Framework, the population of a First Nation would be determined based on the registered population on reserve, on Crown land or in the Yukon. Population figures would be drawn from the Indian Registration System (IRS) as of September 30th of the year preceding the year in respect to which the population adjustment will apply. For example, ISC would use the IRS population on September 30, 2026, to calculate or adjust funding for the 2027-28 fiscal year. For an FNCFS agency or First Nation Service Provider, population would be the sum of the populations of the First Nations to which it was affiliated.

The approach to calculating population described above might vary where a First Nation had a self-government agreement or a modern treaty. Canada would continue to consider on-reserve membership / citizen population count for self-governing or modern treaty First Nations that receive funding under the FNCFS Program.

Alternative methods to count population could be discussed as part of the National Framework's program assessments.

Flexible funding mechanism

Funding under the reformed FNCFS Program would be distributed to First Nations and FNCFS service providers using a highly flexible funding mechanism. The funding mechanism would generally empower First Nations and FNCFS service providers to redirect their own funding between uses – between, for example, FNRS and prevention – and would allow the transfer of funding between a First Nation and its affiliated FNCFS agency. First Nations and FNCFS service providers would be able to retain unexpended funding at year end to continue to deliver FNCFS Program activities in the following year(s). ISC would work with First Nations and FNCFS service providers to develop unexpended funding plans to ensure that unexpended funds would support activities eligible for funding under the FNCFS Program.

Results and performance measurement

A new performance measurement framework and logic model for the FNCFS Program was developed and implemented nationally by ISC in 2025-26. The national performance measurement approach would contribute to Canada's reporting and accountability, including to First Nations, Parliament and all Canadians, on the outcomes of the reformed FNCFS Program. Measuring the performance and results consistently across regions will be key to tracking the efficacy of the reformed FNCFS Program under regional agreements.

As part of regional negotiations, Canada would work with each region to co-develop a region-specific results framework, which would supplement the FNCFS Program's national performance measurement framework. In addition to the national indicators in that framework, Canada would discuss with regional First Nations entities region-specific indicators on which First Nations or FNCFS agencies might report to regional bodies (to, for example, a regional FNCFS data secretariat). The region-specific results framework would inform the regional agreement's program assessments and would help to assess the extent to which Canada's investments have advanced the outcomes of the FNCFS Program.

Planning requirements and FNCFS agency accountability to First Nations

First Nations would provide ISC with a multi-year plan that includes specific initiatives, activities and planned expenditures for each Program funding element. FNCFS agencies would provide ISC with a multi-year child and community wellbeing plan co-developed with their affiliated First Nations. Finally, if applicable, First Nations and FNCFS service providers would provide ISC with an unexpended funding plan describing use of unexpended FNCFS Program funding on Program activities.

Accountability of FNCFS agencies to the First Nations they serve is a central tenet of a reformed FNCFS Program. As part of regional negotiations, Canada would discuss with regional First Nations entities the ways in which FNCFS agencies would be accountable to their affiliated First

Nations and the data that First Nations would want those agencies to collect and report to them and to regional secretariats.

Regional differences in culture, context, and priorities may require variations in the planning and accountability tools. Canada would discuss in the regional negotiations such variations, including regionally-developed planning templates for use by First Nations and FNCFS agencies. Accountability measures could include a requirement for FNCFS agencies to engage with their affiliated First Nations to discuss the use of unexpended funds.

Regional secretariat support

Regional secretariats could serve an important function in supporting First Nations and FNCFS service providers with the collection and analysis of data, the development and dissemination of best practices, or communication with the regional governance body. As part of regional agreement discussions, First Nations would discuss with Canada the development of a regional secretariat with a structure and function that meets their needs.

Regional Governance of the reformed FNCFS Program

Canada would discuss with regional First Nations entities a regional approach to governance of the reformed FNCFS Program to address regional needs, including how the implementation of regional FNCFS Program reform agreements would be overseen and monitored by regional governance bodies. Governance structures would consider the reviews and processes established by the regional agreement to inform recommendations to Canada with respect to changes to the Program.

Program Assessments

For regions in which a regional governance body is established under the reformed FNCFS Program, program assessments would be conducted at the regional level. A first program assessment would take place at a time to be discussed in regional negotiations. Recommendations for any additional funding would be determined following independent program assessments of the reformed FNCFS Program's implementation in each region. Second program assessments would take place toward the end of the seven-year term of the National Framework's funding commitment.

The scope of the program assessments will be defined by regional agreements. Generally, the assessments would review and document the reformed FNCFS Program's progress in each region toward the elimination of discrimination and prevention of its recurrence, as well as improvements to the well-being and advancement of the best interests of First Nations children, youth, young adults, and families. Assessment reports will contain recommendations for each regional governance body to consider and bring forward to Canada.

For regions in which Program reform agreements are not reached, ISC would select an expert to conduct independent evaluations of the FNCFS Program for these regions.

Part 2: Other Reform Elements

2.1. Housing Funding

While not part of the reformed FNCFS Program and beyond the recommendations of IFSD, Budget 2022 included \$2 billion over five years nationally, including in Ontario, for First Nations to purchase, construct and renovate and repair housing units in their communities for the purposes of preventing First Nations children from being taken into care and of supporting reunification where housing is a barrier. Canada started allocating this funding in 2023-24 and will continue to do so until 2027-28.

The total amount of housing funding to which an individual First Nation is entitled annually is determined by a formula that combines the First Nation's on-reserve and in Yukon population count (from the Indian Registration System), the First Nation's 2021 Index of Remoteness score, the Census 2021 percentage of the First Nation's population living in overcrowded dwellings, and a \$250,000 base amount.

Canada would entrench in regional agreements each region's 2027-28 share of the housing funding, which would be the final year of the \$2 billion housing funding.

2.1. National Dispute Resolution Tribunal

As part of the National Framework, Canada would establish a national dispute resolution tribunal outside of regional agreements. The tribunal would hear disputes from all regions except Ontario. The intent of the tribunal would be to allow First Nations, FNCFS service providers and signatories to regional Program reform agreements to have their disagreements heard and resolved in a way that is accessible, fair and culturally-appropriate, by a body specialized in issues of First Nations child and family services and independent of government.

The dispute resolution process would be available for: (1) parties' disputes, which are disputes of a party signatory to the various regional agreements regarding the implementation of those regional agreements; and, (2) claimant disputes, which are disputes of a First Nation or FNCFS service provider regarding the allocation and administration of their reformed FNCFS Program funding. The national dispute resolution process will be based on the process co-developed by Canada, the AFN, COO, and NAN in the Final Agreement. It would be available to the parties to regional agreements and to all First Nations and FNCFS service providers outside Ontario (even if the First Nation or FNCFS service provider was in a region without a regional agreement).

Canada would make best efforts to establish the national dispute resolution tribunal through legislation. Recognizing, however, that this will take time and the will of Parliament, Canada would implement a two-phased process.

Phase 1: The dispute resolution process would be established by a President appointed through an Order-in-Council. The President would select and maintain a roster of adjudicators to carry out the adjudicatory functions of the dispute resolution process. The national dispute resolution process would come into effect when the President determined that it was operational. In the interim, the existing appeals process under the FNCFS Program would continue to apply to complaints from First Nations or FNCFS service providers.

While the national dispute resolution process would not be addressed in regional Program reform agreements, Canada would use the opportunity of regional negotiations to consult with regional First Nations entities on a potential role that they could play in the establishment of the dispute resolution tribunal, such as providing views to the Minister related to a selection process for a potential appointee to the tribunal .

Phase 2: Canada would make best efforts to establish the national dispute resolution tribunal responsible for the dispute resolution process through legislation. This would more robustly enshrine an independent dispute resolution process and would include the necessary supports for claimants, including cultural officers and navigators. The dispute resolution process of Phase 1 would cease and the process of Phase 2 would be in effect once such legislation had been passed by Parliament and had come into effect.

2.2. Reform of Federal-Provincial and Federal-Yukon Agreements

Canada has funding agreements with some provinces for the reimbursement of child and family services provided to First Nations children and families ordinarily resident on reserve but not served by delegated FNCFS agencies. ISC also has a funding agreement with the Yukon to reimburse services provided to all First Nations children and families resident in the territory.

Canada has agreements in place with Newfoundland and Labrador, Ontario, Alberta, British Columbia, Yukon.

To further support the delivery of services to First Nations not served by a delegated FNCFS agency in a manner that is consistent with the reformed FNCFS Program, ISC would continue to engage with relevant provincial and Yukon governments to reform existing funding and other service level agreements as needed. ISC would make best efforts to ensure that the reformed federal-provincial and federal-Yukon agreements adhered to the principles of the reformed FNCFS Program outlined in the National Framework and in relevant regional agreements, as well as applicable federal, provincial, or Yukon legislation.

ISC would work with First Nations not served by an FNCFS agency to create opportunities for those First Nations to be actively involved in discussions with respect to possible reforms of federal-provincial and federal-Yukon agreements. These discussions could support and inform the negotiation and implementation of such agreements, and ISC could provide quarterly reports on

these discussions to relevant regional governance bodies established under regional Program reform agreements.

ISC would make best efforts to work collaboratively with First Nations not served by a delegated FNCFS agency and provincial and Yukon governments in seeking to co-develop governance and accountability provisions within the federal-provincial and federal-Yukon agreements. Such accountability provisions would include audits, annual reporting, and funding reviews. ISC would also make best efforts to include provisions relating to performance data collection, analysis, and reporting methodology to which the provincial or Yukon government would adhere, as well as provisions to publicly disclose the amount of funding provided under these agreements and the services and activities for which funding was provided.

In the event that Canada failed to reach agreement with a province or Yukon, ISC would refer the matter to the relevant governance body for discussion with respect to possible solutions.

Canada's efforts to reform the federal-provincial and federal-Yukon agreements would support the reform of the FNCFS Program and would not be intended to impede First Nations seeking to exercise jurisdiction in relation to child and family services on a nation-to-nation basis.

2.4. Reform of Indigenous Services Canada

Expert Advisory Committee

In the 2021 Agreement-in-Principle, Canada committed to reforming ISC to address systemic discrimination and the “old mindset” identified by the Tribunal. The Agreement-in-Principle's commitment centred on a third-party evaluation of ISC that would make recommendations on a range of departmental practices. That evaluation was to be supported by an expert advisory committee.

2022 CHRT 8 ordered, on consent, the creation of an Expert Advisory Committee (EAC) to develop and oversee the implementation of an evidence-informed work plan to prevent the recurrence of discrimination. While the EAC has been established, progress on the third-party evaluation and the development of a workplan has stalled as a result of disagreement between ISC, the AFN, and the Caring Society on the EAC's independence and the scope of its mandate.

Despite challenges with the EAC, ISC remains committed to departmental reform to prevent the recurrence of discrimination. ISC is of the view that the EAC members have expertise that is important to this reform effort and, to that end, has continued its efforts to collaborate with the AFN, Caring Society, and EAC members to achieve the objective set out in the Agreement-in-Principle and to comply with the Tribunal's order in 2022 CHRT 8. However, if EAC discussions remain deadlocked, ISC would be open to a reformulation of the EAC's membership, including co-chairs, to allow it to make progress on its important function. ISC would also consider the input of regional First Nations partners during the course of negotiations to inform its views on any necessary changes to the EAC.

ISC plans to move ahead with the third-party evaluation of the department in collaboration with the EAC and its co-chairs as defined in an evaluation framework that was developed with advice from the EAC between 2022 and 2024. The framework states the “evaluation will culminate in a comprehensive set of actionable recommendations arising from an evidence-informed understanding” of areas related to the reform of internal departmental processes, procedures, and practices that contributed to the discrimination found by the Tribunal, as well as the elimination of the “old mindset” it identified and the prevention of its recurrence.

In 2024, the EAC provided advice on a statement of work, assessment criteria to contract an evaluation team, and a timeline for the evaluation. The evaluation work, which is close to being ready to tender to seek an independent evaluation team to undertake the evaluation, would be completed two years following the commencement of the evaluation contract. It is expected that upon finalisation of the evaluation work plan and methodology report, data collection and analysis would take approximately 13 months to complete, and a public evaluation report would be drafted within 8 months.

Evaluation Timeline	
<u>Planning Phase</u> <ul style="list-style-type: none"> • Finalize Work Plan and Methodology Report 	3 months
<u>Implementation Phase</u> <ul style="list-style-type: none"> • Data Collection • Data Analysis 	13 months
<u>Reporting Phase</u> <ul style="list-style-type: none"> • Draft Evaluation Report • Final Evaluation Report *beginning of workplan development 	8 months
Duration	24 months

The evaluation will include, but will not be limited to, the following:

- a) Policy and decision-making structures and processes;
- b) Cultural norms and attitudes, including response to external critique;
- c) Human resource policies, procedures and agreements, including values and ethics, training (including regarding anti-racism, cultural competency and the impact of child and family services discrimination on First Nations families and communities), executive and staff performance commitments, and guidance documents;
- d) Development of organizational competency and capacity to comprehend and respond to evidence-informed evaluations;
- e) Internal accountability mechanisms; and
- f) Consideration of proposals for external accountability measures.

The workplan for departmental reform would be developed by the EAC based on the evaluation's recommendations and would also be made public. That workplan would be delivered to ISC and to regional governance bodies established under regional agreements and under the National Framework. The EAC's mandate would at that point be considered fulfilled. The governance bodies would consider the workplan and make recommendations to Canada on the reform of ISC, as informed by the workplan and distinct regional perspectives.

Cultural Competency

Consistent with its mandatory *Indigenous Cultural Competency Learning Policy*, which has been in effect since September 2020, ISC would continue to require mandatory cultural humility training for all ISC employees of at least fifteen (15) hours annually. ISC would also require up to thirty (30) hours annually for those occupying management and executive level positions or those whose responsibilities require regular interactions with First Nations and their citizens. ISC would track mandatory training for all employees and include training commitments in the performance management agreements of all employees.

ISC would also make best efforts to encourage similar training for the employees of other Government of Canada entities that are engaged in or intersect with the implementation of the Reformed FNCFS Program.

To support implementation of this policy, ISC would develop and implement a trauma-informed and appropriate cultural humility training program for employees that included, but was not limited to, the following topics:

- a) Truth-telling component on how Canada's past and contemporary actions impact First Nations children, youth, and families;
- b) The *United Nations Declaration on the Rights of Indigenous Peoples*;
- c) The reports of the Truth and Reconciliation Commission of Canada;
- d) The United Nations Convention on the Rights of the Child;
- e) First Nations' culture, worldview, and history;
- f) actors causing over-representation of First Nations children in the child welfare system, including the intergenerational impacts of the Indian Residential School system, the Indian Day Schools, and the Sixties Scoop;
- g) The findings of the Missing and Murdered Indigenous Women, Girls, and Two Spirit Inquiry, including impacts on First Nation families;
- h) Social movements such as Idle No More and Families of Sisters in Spirit;
- i) The history of the FNCFS Program, including the reviews and evaluations conducted from 2000 to 2011 and the Tribunal findings in the *First Nations Child & Family Caring Society*

of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada) proceedings; and

- j) The historical and contemporary social and economic conditions of remote First Nations.

Cultural humility training made available to ISC employees may include experiential learning, such as:

- a) Elders' teachings and ceremonies;
- b) First Nations-led workshops, such as the Touchstones of Hope dialogue sessions;
- c) First Nations research seminars;
- d) Elders gatherings and First Nations assemblies; and
- e) Visiting communities, including learning about the lived realities of remote communities.

ISC would work with relevant regional governance bodies established through regional agreements and the National Framework to tailor the training program for regional differences. ISC employees would be required to take the training course that was specific to the region in which they were working to implement the reformed FNCFS Program.