

## Framework for the Payment of Compensation under 2019 CHRT 39

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## Framework for the Payment of Compensation under 2019 CHRT 39

### 1.0 Purpose of the Framework

1.1 This document has been prepared in accordance with the Canadian Human Rights Tribunal (“**Tribunal**”) decision dated September 6, 2019, 2019 CHRT 39 (“the **Compensation Entitlement Order**”), with particular attention to the directions at paragraphs 258-270. The Tribunal directed the Attorney General of Canada (“**Canada**”) to enter into discussions with the complainants Assembly of First Nations (“**AFN**”) and the First Nations Child and Family Caring Society of Canada (“**Caring Society**”), to propose ways of distributing the compensation to the beneficiaries described in the Compensation Entitlement Order (“the **Compensation Process**”). Several experts were retained to inform the Compensation Process, and input was invited from the Canadian Human Rights Commission (“**CHRC**”) and the interested parties Chiefs of Ontario (“**COO**”) and Nishnawbe Aski Nation (“**NAN**”).

1.2 The Framework is intended to be consistent with the Tribunal’s Compensation Entitlement Order. Where there are discrepancies between this Framework and the Compensation Entitlement Order, or such further orders from the Tribunal as may be applicable, those Orders will prevail and remain binding.

1.3 The Framework is intended to facilitate and expedite the payment of compensation to the beneficiaries described in the Compensation Entitlement Order, as expanded by the Tribunal’s decision in 2020 CHRT 7.

1.4 Throughout this document, the word “**Parties**” is used to refer collectively to the complainants, the AFN and the Caring Society, and the respondent Canada.

### 2.0 Guiding Principles

The following principles shall guide the application of this Framework:

- 2.1 The compensation distribution process will be managed by a **Central Administrator** that is agreed to by the Parties and is outside of the public service.
- 2.2 The compensation distribution process will take all reasonable measures to safeguard the best interests of child beneficiaries.
- 2.3 Beneficiaries will be located and treated in a culturally safe manner and the administrative burden on beneficiaries will be minimized.
- 2.4 The compensation distribution process shall be applied and administered pursuant to the principles of procedural fairness and natural justice with due attention to the privacy rights of beneficiaries.
- 2.5 The Parties shall develop an implementation and distribution guide (the “**Guide**”) that shall govern the Central Administrator’s process of distribution. The Guide shall include, but is not limited to, the following requirements to be followed by the Central Administrator:
- a. required training for the Central Administrator;
  - b. claim forms, document retention and any other documents to be completed by potential beneficiaries;
  - c. standards related to verification of claims and any necessary evidence or documents required to support a claim; and
  - d. any other requirements agreed to by the Parties.
- 2.6 Processes adopted to facilitate payments to beneficiaries will be as simple as possible and will include information that is easy to understand, having regard to the beneficiary’s age and any disability or special/distinct needs of that individual.

2.7 Beneficiaries can opt out of the Compensation Process as outlined in section 3.0.

### **3.0 Acceptance of Compensation**

3.1 Beneficiaries under the Compensation Entitlement Order shall be presumed to opt in to the Compensation Process.

3.2 Potential beneficiaries under the Compensation Entitlement Order can opt out of the Compensation Process and are not required to accept compensation. This Framework will not apply to those potential beneficiaries who choose not to accept it by opting out. Those individuals remain free to pursue other legal remedies.<sup>1</sup>

3.3 The Parties and the Central Administrator shall develop an opt-out process that is easy to understand and ensures potential beneficiaries are duly notified of the Compensation Process and their right to opt out.

### **4.0 Definitions of Beneficiaries**

4.1 A “beneficiary” of compensation is a person, living or deceased<sup>2</sup>, described at paras. 245-257 of the Compensation Entitlement Order<sup>3</sup>, as expanded by the Tribunal’s decision in 2020 CHRT 7.<sup>4</sup> Further descriptions are provided in Schedule “A”. Schedule “A” is intended to summarize the Compensation Entitlement Order’s descriptions of beneficiaries in order to inform persons or organizations charged with processing compensation requests under this Framework.

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<sup>1</sup> See 2019 CHRT 39, at para. 201.

<sup>2</sup> “Deceased” will be further defined when the Tribunal releases its reasons pertaining to the inclusion of deceased individuals.

<sup>3</sup> “beneficiary” includes “potential beneficiaries” for the purpose of applying for compensation.

<sup>4</sup> 2020 CHRT 7 at paras 125-129.

4.2 For greater certainty, the following definitions apply for the purpose of identifying beneficiaries:

**“Necessary/Unnecessary Removal”** includes:

- a) children removed from their families and placed in alternative care pursuant to provincial/territorial child and family services legislation, including, but not limited to, kinship and various custody agreements entered into between authorized child and family services officials and the parent(s) or caregiving grandparent(s);<sup>5</sup>
- b) children removed due to substantiated maltreatment and substantiated risks for maltreatment; and
- c) children removed prior to January 1, 2006, but who were in care as of that date.

**“Essential service”** means...

**“Service gap”** means ...

**“Unreasonable delay”** means...

## **5.0 Locating Beneficiaries**

5.1 A Notice Plan to Potential Beneficiaries (the **“Notice Plan”**) is set out at Schedule “B” to this Framework. The Notice Plan describes the intended process for informing children, youth and their families, legal guardians and persons exercising legal authority over the affairs of any persons who have been deemed incapable of making decisions regarding their finances or

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<sup>5</sup> The scope of eligible caregivers is before the Tribunal. If the Tribunal determines eligibility beyond parents and grandparents, the references in this Framework, including the Schedules and their annexes and other related documents, would need to be updated accordingly.

property under applicable provincial and territorial laws, as well those exercising legal authority over the Estates of deceased persons , that they may come within the classes of individual entitled to receive compensation under the Compensation Entitlement Order. The Notice Plan has been designed by the Parties to satisfy the Tribunal’s requirement that beneficiaries be identified in a culturally relevant and safe manner. This Notice Plan is necessary, as Canada’s records concerning the names and addresses of the children, parents and grandparents affected by discrimination by the First Nations Child and Family Services Program (“**FNCFS Program**”), the 1965 Agreement, and by Canada’s implementation of Jordan’s Principle, cannot identify all victims. A proactive, highly publicized approach that is based on beneficiaries’ circumstances and is sensitive to their experience of discrimination will be required to inform beneficiaries of their eligibility for compensation and to support them in filing a claim. Measures taken to identify beneficiaries should reflect any challenges particular to the area where the beneficiary resides. Special measures may be necessary to inform beneficiaries with special/distinct needs (i.e. persons with disabilities, those located in rural or remote communities, incarcerated persons, homeless persons, or persons in domestic violence shelters). Canada will work with First Nations to address the needs of beneficiaries in their communities.

5.2 As described in the Notice Plan, Indigenous Services Canada (“**ISC**”) and the Central Administrator will post notice products about products the Compensation Entitlement Order and Compensation Process on a dedicated website (the “**Compensation Website**”) and distribute them through print and broadcast media and social media mechanisms. Where appropriate, communications will be adapted to the particular cultural, historical and geographical (including rural and remote communities) circumstances of the communities in question.

5.3 In addition to providing this general notification, ISC will call upon professionals and service providers it has relationships with to help identify beneficiaries.

5.4 Given the significant demands on the network of professionals and service providers referred to in section 5.3, additional resources will be required in order to ensure there is no impact to the important work of the professional(s) or groups in the categories noted below:

- a) First Nations Child and Family Service Agencies (“**FNCFS Agencies**”); and,
- b) Health, early childhood, education and social service providers in First Nations communities;

In order to ensure that the Compensation Process proceeds without delay, these resources will be provided by ISC on the condition that these resources be dedicated to the Compensation Process.

5.5. Other service providers will be approached for their collaboration in identifying beneficiaries, including:

- a) ISC-employed nurses in community health centres and nursing stations;
- b) over 30,000 registered service providers under the Non-Insured Health Benefits Program (the “**NIHB Program**”);
- c) provincial/territorial government ministries and agencies.

ISC also has a partnership agreement with Correctional Services Canada that will be leveraged to identify potential beneficiaries within the federal correctional system.

5.6 The report entitled “Canadian Human Rights Tribunal (CHRT) Ruling 2019 CHRT 39: Taxonomy of compensation categories for First Nations children, youth and families” dated November 2019 and authored by Marina Sistovaris, PhD, Professor Barbara Fallon, PhD, Marie Saint Girons, MSW and Meghan Sangster,

Med, MSW of the Policy Bench: Fraser Mustard Institute for Human Development will assist in the identification of potential beneficiaries (the “**Taxonomy**”). The Taxonomy is attached as Schedule “C”.

a) The Taxonomy was designed for child and family services providers to assist in the process of identifying and locating potential beneficiaries; however, a feasibility investigation is underway to determine if, and how, it can assist other service providers to identify beneficiaries.

b) Canada will fund any adaptations required to apply this Taxonomy to meet the needs of specific service provider communities, as determined by the independent experts who drafted the taxonomy in Schedule “C”.

c) Identifying children who were necessarily and unnecessarily removed will likely require assistance from child and family service agencies across the country. The Taxonomy is intended to guide their review of individual records in their possession so as to expedite the process of identifying and locating potential beneficiaries and ultimately the paying of compensation.

5.7 As requested by the Caring Society and the AFN, Canada will write to all provincial and territorial Deputy Ministers responsible for child and family services, health and education to encourage them to meet with the Parties and initiate collaboration on:

a) ways in which provincial/territorial data systems can assist in identifying and locating beneficiaries;

b) how to provide supports in the Compensation Process, including exemption of any compensation payments from taxation and social assistance payments or benefit “claw backs” (see 6.5 below); and

c) how to leverage processes, if any, that provinces/territories have established for the receipt of compensation for children in care.

Canada will also write to provincial and territorial Assistant Deputy Ministers responsible for correctional facilities and community facilities to solicit their cooperation.

5.8 Collaboration with provinces and territories, as well as with self-governing First Nations governments, may be required to locate potential beneficiaries.

## **6.0 Support to Beneficiaries Throughout the Compensation Process**

6.1 In order to minimize the risk of traumatizing or unduly inconveniencing potential beneficiaries of the Compensation Entitlement Order, Canada will fund the following supports:

**a) A toll-free phone line** (and/or other toll-free means of communication)

Line Operators will provide information on the Compensation Process in addition to suggesting mental health, cultural and other services that beneficiaries may require arising from the Compensation Process. Operators of the toll-free phone line and/or other toll-free means of communication will be sensitive to child and youth development, as well as the cultural and contextual diversity of beneficiaries. The line should also be accessible in some First Nations languages to reflect the linguistic diversity of beneficiaries.

**b) Navigators**

Navigators will promote communications under the Notice Plan, support beneficiaries in the Compensation Process, and provide referrals to mental health, cultural, or other services beneficiaries

may require arising from the Compensation Process. Navigators' duties will vary across the country based on decisions by First Nations on how navigation services can be best provided.

Where the duties of a Navigator are taken up by a First Nation or First Nations organization, Canada will ensure that the First Nation or First Nation organization providing navigation consents to providing supports to beneficiaries of compensation, and that sufficient resources are provided to those Navigators so as not to impede the quality or range of services already provided by these existing mechanisms. Canada will also ensure that the new resources are dedicated to the Compensation Process.

**c) Mental health and cultural supports**

Where possible, these supports will be provided through First Nations organizations that have established expertise and trust in communities through their support of other survivors of trauma. This may include those who provided support through processes relating to the Truth and Reconciliation Commission, the Indian Residential Schools Settlement Agreement, the Sixties Scoop class action and the National Inquiry into Missing and Murdered Indigenous Women and Girls.

In particular, the parties have recognized the need for greater access to child and youth mental health supports within, but not limited to, NIHB Program service providers and existing mental health teams. Canada will ensure that mental wellness teams have the capacity to accommodate the Compensation Process. In order to accomplish this goal, Canada may accept service providers who are not currently registered under the NIHB Program but are capable of providing mental health services in a manner that responds to the specific developmental needs of children and young people.

Mental health supports will be provided throughout the Compensation Process in a way that is responsive to beneficiaries' needs (e.g.: private counselling, at events, in a family setting, or in group sessions, tele-health), at no charge to beneficiaries.

6.3 First Nations will require adequate resources to provide support to beneficiaries. Canada will assist First Nations where requested by providing reasonable financial or other supports.

## **7.0 Timeline for the Claims Process**

7.1 Once the Tribunal's order implementing this Framework is final<sup>6</sup> the Parties will meet within 15 business days to set an "**Implementation Date**" for the Compensation Process. The Parties agree to work towards the earliest Implementation Date possible.

7.2 Claims for compensation may be received up to, and including, the "**Initial Claims Deadline**", which will be twenty-four (24) months from the date that the Notice to beneficiaries is posted on the Compensation Website, social media platforms and in at least four national media sources agreed to by the Parties.

7.3 Claims for compensation may be received after the Initial Claims Deadline if received by the "**First Extended Claims Deadline**", which will be twelve (12) months from the date of the Initial Claims Deadline. The First Extended Claims Deadline shall be available as follows:

In any community in which the following occurs:

- a.** There was a delay implementing the Notice Plan to all, or a portion of the beneficiaries;

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<sup>6</sup> "Final" means no longer subject to judicial review or appeal.

- b.** There is a consensus among service providers and professionals that more time is required to identify potential beneficiaries in the community;
- c.** Child and family service providers do not respond, or are delayed in responding to request(s) to apply the Taxonomy as adapted from Schedule “C” to assist in identifying beneficiaries;
- d.** There was a delay in implementing navigation services in the community;
- e.** There were disruptions in the Compensation Process related to unforeseen circumstances such as epidemics, pandemics, natural disasters, community-based emergencies or service disruptions at a national, regional or community level; and/or
- f.** Such other reasons in respect of which the Parties may agree.

In the circumstances for an individual where:

- a.** A beneficiary is unable to complete the process due to medical or mental health reasons documented by a relevant professional;
- b.** A beneficiary was a minor at the time of the expiration of the Initial Claims Deadline and no claim was made on their behalf;
- c.** Canada failed to respond in a timely way to a beneficiary’s reasonable request for information the beneficiary required in order to submit their claim and/or
- d.** Such other reasons in respect of which the Parties may agree.

7.4 Claims for compensation may be received following the First Extended Claims Deadline if received by the “**Second Extended Claims Deadline**”, which will be six (6) months from the date of the First Extended Claims Deadline. Claims shall be considered pursuant to the Second Extended Claims Deadline in any community or for any individual in which any of the events noted in clause 7.3 have not yet resolved before the First Extended Claims Deadline.

7.5 Canada acknowledges that once the Central Administrator has completed its work, there may still be some beneficiaries who were unable to make a claim due to their age, or where their guardian failed to make a claim on their behalf. In order to guide Canada in dealing with such claims, the Parties and the Central Administrator shall develop a guide (the “**Post Claim Period Guide**”) to ensure that the administration of these claims by Canada reflects the experience and best practices of the Central Administrator. The Post Claim Period Guide must be completed before the Central Administrator winds up its operations.

## **8.0 Validation of Compensation Claims**

8.1 ISC shall preserve and manage all of its records, documents, electronic data and any other relevant information in relation to potential beneficiaries for a period not less than twenty (20) years. ISC shall make all necessary information available to potential beneficiaries and the Central Administrator without delay and with due regard for the privacy of record holders.<sup>7</sup> Where there are concerns that the provision of the requested information contravenes legislation or court order, ISC shall notify the beneficiary of the reason for the delay and undertake to provide all records in whole or part that may be disclosed.

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<sup>7</sup> The information necessary to validate claims may be information covered by the *Privacy Act*. The authority of Canada to share such information with the Central Administrator is s. 8(2)(m)(ii), because the information would “clearly benefit the individual to whom the information relates.” Because the AFN is also a party to this agreement, s. 8(2)(k) would also permit the sharing of information.

8.2 All records developed or produced by the beneficiaries are the property of each individual beneficiary and shall be destroyed five years after the payment of their compensation or the final decision on compensation. Further details concerning the final disposition of records shall be dealt with in the Guide.

8.3 As ISC and FNCFS Agencies, First Nations, provincial/territorial government ministries and agencies and the professionals and service providers with whom ISC has relationships work to identify beneficiaries as outlined in sections 5.3-5.8, they will record the names of beneficiaries who, based on a file review, meet the requirements of the Taxonomy as adapted pursuant to section 5.6, on a “**Compensation List**” to be provided to the Central Administrator. The Compensation List shall consist of persons for whom there is agreement between ISC and another knowledgeable professional or group identified above that the person should be a beneficiary.

8.4 The entities noted in section 8.3 will also, based on the judgment of the social worker at the time of the removal as recorded in the file, list parents or caregiving grandparents who sexually, physically or psychologically abused their children on an “**Exclusion List**”. Generally, both parents or grandparents will be denied compensation in these circumstances. However, where a non-offending parent or grandparent did not know the abuse was occurring, or was incapable of stopping it, they may be entitled to compensation where:

- a non-offending parent or grandparent was also a victim of abuse by the other parent;
- a non-offending parent or grandparent was absent from the home for extended periods for unavoidable reasons (e.g. military service);
- a non-offending parent or grandparent suffers from a disability that either prevented them from intervening or of being aware of the abuse.

While the list above is not intended to be exhaustive, these will be exceptional cases.

8.5 Where an individual is excluded from compensation due to sexual, physical or psychological abuse of their child(ren) or grandchild(ren), and upon their request, the Central Administrator may refer the individual to existing services that might ameliorate trauma or behaviours related to child maltreatment.

8.6 When claims are submitted, they shall be deemed valid if a beneficiary's name appears on the Compensation List.

8.7 If a beneficiary's name does not appear on the Compensation List, the Central Administrator shall consider the claim pursuant to the Guide noted in section 2.5.

## **9.0 Processing of Compensation Claims**

9.1 All claims will be sent to a Central Administrator identified in the notice products developed under the Notice Plan and on the Compensation Website. The two-level claims process outlined below will be conducted by the Central Administrator.

9.2 The Central Administrator will be agreed to by the Parties and funded by Canada.

9.3 All claims will be initially reviewed by a trained and duly qualified first-level reviewer according to service standards agreed to by the Parties and approved by the Tribunal.

- a) First-level reviewers will have authority to
  - i) to ensure the information is complete, and to assist the beneficiary if it is not;
  - ii) to screen in potential beneficiaries; and

iii) approve claims and refer claims for expeditious payment.

b) First-level reviewers will have no authority to reject claims.

c) First level reviewers must understand the Tribunal's compensation decisions. All relevant training will be funded by Canada to ensure that first-level reviewers can competently fulfill their responsibilities.

d) Quality assurance of the first-level review process will be supported by random case audits and calibration of the review process.

e) An expedited process will be put in place to prioritize urgent requests for beneficiaries who are terminally ill or in palliative care, or who have been accepted into a high school completion program, post-secondary program or job skills training program.

9.4 Any completed claim that is not approved by a first-level reviewer will be referred to a second-level committee composed of at least three First Nations experts, with demonstrated knowledge of, and experience in, First Nations child and family services and Jordan's Principle, selected and approved by the Parties, and hosted by the Central Administrator. The second-level committee will reply on standards (including time frames) and processes approved by the Parties, including the following:

a) The second-level committee may engage independent experts with expertise relevant to the particular circumstances of specific cases when needed, with proper authorization from the beneficiary or the beneficiary's guardian, or in the case of a

deceased beneficiary, the deceased beneficiary's authorized representative<sup>8</sup>.

- b) The second-level committee shall be composed of persons who do not hold any political office, and have not held any political office in the past four (4) years and are independent of the federal public service.

9.5 Where the committee denies a claim, it shall provide written and specific reasons for its decision in simple language, as well as information on appeal processes and supports to understand and/or appeal the decision.

9.6 Potential beneficiaries denied compensation can request the second-level review committee to reconsider the decision if new information that is relevant to the decision is provided, or appeal to an appeals body composed of individuals agreed to by the Parties and hosted by the Central Administrator. The appeals body will be non-political and independent of the federal public service. The Parties agree that decisions of the appeals body may be subject to further review by the Tribunal.

## **10.0 Supports for Beneficiaries Relating to the Payment of Compensation**

10.1 Where the beneficiary has the legal capacity to manage their own financial affairs, the compensation shall be paid directly to the beneficiary.

10.2 Where the beneficiary is deceased and is represented by a person exercising legal authority over the beneficiary's Estate, the compensation shall be paid directly to beneficiary's Estate.

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<sup>8</sup> It is the Parties' intention that no parent or grandparent on the Exclusion List should receive compensation.

10.3 Where the beneficiary does not have the legal capacity to manage their own financial affairs, the compensation shall be held in trust for the beneficiary.

10.4 The Parties will select up to three (3) business entities that specialize in holding, administering and distributing funds held in trust for the benefit of the beneficiaries who do not have the legal capacity to manage their own financial affairs (the “**Appointed Trustees**”). The administration fees charged by the Appointed Trustees shall be paid for by Canada and shall not encroach on the beneficiaries’ entitlement. **[Still under discussion with Canada]**

10.5 The Appointed Trustees shall hold the funds in trust pursuant to a trust agreement agreed to by the Parties (the “**Trust Agreement**”). The Trust Agreement shall outline the following requirements:

- a. The powers, responsibilities and requirements of the trustee to hold and manage the funds for the benefit of the beneficiaries;
- b. The distribution provisions for income and capital;
- c. The criteria for encroachment on capital;
- d. The removal and replacement of trustees;
- e. The accounting and report requirements; and
- f. Any other appropriate related provisions.

10.6 Upon being identified as an eligible recipient for compensation, ISC will ensure that the Central Administrator provides the beneficiary with financial literacy information in a form and content agreed to by the Parties, and at no cost to the beneficiary. To the extent possible, these supports will be adapted to reflect beneficiaries’ cultural, historical, geographical (including rural and remote communities) needs and circumstances. In addition to information in writing, workshops, presentations or other meetings may be used to provide financial literacy information with the goal of supporting beneficiaries to:

- a) receive the compensation;

- b) manage the compensation payment;
- c) plan and save for the future; and
- d) prevent financial exploitation, fraud and financial abuse.

10.7 Financial literacy supports will include resources and information on how to access personal financial advice when requested by the beneficiary. The beneficiary is under no obligation to use the financial literacy resources.

10.8 Every compensation payment shall be accompanied by notification of the toll-free communication options, financial information, and information on how to access other supports. These supports will be provided at no cost to the beneficiary and with no obligation to use any particular service provider or institution. This information will also be provided on the Compensation Website in English, French, ASL/LSQ and First Nations languages identified in the Notice Plan.

10.9 The Canada Revenue Agency (“CRA”) has advised that compensation received will not be treated as “income” for income tax assessment purposes.

10.10 ISC, in collaboration with other federal government departments, will take positive measures to obtain the agreement of the provinces, territories and self-governing First Nations that the receipt of any payments pursuant to the Tribunal’s Compensation Entitlement Order will not adversely affect the quantity, nature or duration of any post-majority care services, post-secondary education assistance, social benefits, social assistance benefits, federal benefits related to the COVID-19 pandemic or employment insurance benefits payable to a beneficiary.

10.11 Canada will take positive measures to obtain the agreement of the relevant Departments of the Government of Canada that the receipt of any payments pursuant to the Tribunal’s Compensation Entitlement Order will not affect the

quantity, nature or duration of any social benefits or social assistance benefits payable to a beneficiary. Such payments include those made under any Canadian social benefit programs such as Old Age Security, Canada Pension Plan or the Canada Child Benefit and those benefits provided by Canada related to the COVID-19 pandemic.

## **11.0 Non-assignment of Benefits**

11.1 No amount payable under this Framework can be assigned and any such assignment is null and void.

## **12.0 Monitoring of the Framework**

12.1 The Parties recognize that despite the trauma mitigation measures identified above, the process is likely to have a significant emotional impact on many beneficiaries. Where unanticipated needs of beneficiaries arise, mechanisms and processes will be adapted or established to address those needs.

12.2 The Parties will continue to work collaboratively to develop criteria to identify and expedite the processing of potentially complex claims (for example, a child removed multiple times, with removals involving different parents and grandparents). The Parties have agreed to develop further guidance on this issue, which would weigh factors such as: (a) who the biological parent(s) are; and (b) legal guardianship of the child and other relevant matters.

12.3 The Parties will meet with the Central Administrator every three (3) months to monitor the implementation of the Compensation Process and to consider adjustments to this Framework as are necessary to ensure that it is achieving the objectives of facilitating and expediting the payment of compensation to beneficiaries in ways that minimize the risk of traumatizing or unduly inconveniencing beneficiaries. The Parties will have particular regard for populations and/or groups of beneficiaries whose distinct needs require adjustment to the Compensation Process not contemplated in this Framework.

### **13.0 Further Development of the Framework**

13.1 The Framework is intended to provide general guidance to facilitate the Compensation Process. As noted above, the Parties will continue to work on tools that may provide more precision to guide the implementation of the Framework. Processes can and should be amended where the Parties agree amendment is necessary. Such amendments do not require the approval of the Tribunal. Where the Parties disagree on the necessity for amendment, or the wording of any amendment, the Tribunal shall determine the issue on motion from the party requesting the amendment.

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## Schedule A

Not provided- will await the rulings of the Tribunal to finalize.

# Canadian Human Rights Tribunal (CHRT) Ruling 2019 CHRT 39 — Taxonomy of Compensation Categories for First Nations Children, Youth and Families —

**Briefing Note**  
November 2019



UNIVERSITY OF  
**TORONTO**

**POLICY BENCH**

Fraser Mustard Institute for  
Human Development



# Policy Bench

Fraser Mustard Institute for Human Development

## **Policy Bench Co-Leads:**

Barbara Fallon, Ph.D.  
Professor  
Factor-Inwentash Faculty of  
Social Work  
University of Toronto

Steven Miller, M.D.  
Head of Neurology  
Division of Neurology  
The Hospital for Sick Children

## **Policy Bench Advisory Committee:**

Catherine Birken, M.D.  
Staff Pediatrician  
Pediatric Medicine  
The Hospital for Sick Children

Steven Miller, M.D.  
Head of Neurology  
The Hospital for Sick Children

Avram Denburg, M.D.  
Staff Oncologist and Clinical  
Scientist  
The Hospital for Sick Kids

Faye Mishna, Ph.D.  
Professor  
Factor-Inwentash Faculty of Social  
Work  
University of Toronto

Barbara Fallon, Ph.D.  
Professor  
Factor-Inwentash Faculty of  
Social Work  
University of Toronto

Marla Sokolowski, Ph.D.  
Professor  
Department of Cell and Systems  
Biology  
University of Toronto

Jennifer Jenkins, Ph.D.  
Professor  
Department of Applied  
Psychology and Human  
Development  
University of Toronto

Suzanne Stewart, Ph.D.  
Professor  
Ontario Institute for Studies in  
Education  
University of Toronto

Joel Levine, Ph.D.  
Professor  
Department of Biology  
University of Toronto

## **Principal Researcher:**

Marina Sistovaris, Ph.D.  
Research Associate  
Factor-Inwentash Faculty of  
Social Work  
University of Toronto

## **Contributors:**

Marie Saint Girons, MSW  
Research Assistant  
Centre for Research on Children  
and Families  
McGill University

Meghan Sangster, MEd, MSW  
Research Assistant  
Centre for Research on Children  
and Families  
McGill University

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# List of Acronyms

AFN	Assembly of First Nations
CANLII	Canadian Legal Information Institute
CFS	Child and Family Services
CHRA	Canadian Human Rights Act
CHRT	Canadian Human Rights Tribunal
FC	Federal Court
FN	First Nations
FNFCS	First Nations Family Caring Society
OHRC	Ontario Human Rights Commission
PEI	Prince Edward Island

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# Canadian Human Rights Tribunal (CHRT) Ruling 2019 CHRT 39

## —Taxonomy of Compensation Categories for First Nations Children, Youth and Families —

### 1.0 Purpose

The purpose of this briefing note is to: (1) develop a taxonomy of compensation categories; and (2) frame questions that will help guide individuals appointed by the Canadian Human Rights Tribunal (CHRT) to carry out the process of identifying individuals eligible to receive compensation according to the conditions set out by 2019 CHRT 39. The development of compensation categories and framing of questions involved:

- a) a content review of the 2019 CHRT 39 ruling;
- b) mapping out the compensation categories, identifying common themes and defining key terms and concepts;
- c) reviewing provincial and territorial child welfare legislation, identifying and defining key terms and concepts;
- d) analyzing and synthesizing information concerning the 2019 CHRT 39 ruling and child welfare legislation in Canada; and
- e) framing questions corresponding to the compensation categories.

### 2.0 Background

On September 6, 2019, the CHRT issued the eighth non-compliance order—2019 CHRT 39—concerning compensation for First Nations children, youth and families negatively impacted by Canada’s child welfare system. The CHRT found that Canada’s “willful and reckless conduct” and discriminatory child welfare practices have contributed to the ongoing pain and suffering of First Nations children, families and communities. According to the Tribunal’s ruling, the Government of Canada is required to pay First Nations children, youth and families the maximum amount of compensation permitted under the *1985 Canadian Human Rights Act (CHRA)* who were: unnecessarily placed in care since January 1, 2006; necessarily placed in care but outside of their extended families since January 1, 2006 or denied or delayed receiving services between December 12, 2007 and November 2, 2017 as a result of the Government of Canada’s discriminatory application of Jordan’s Principle.

Data from the *2011 Canadian National Household Survey* reveal that Aboriginal children continue to be overrepresented in foster care relative to Canada’s non-Aboriginal child population. Statistics show that Aboriginal children between the ages of 0 and 15 represent only seven

percent of Canada's total child population, but account for 49 percent of the total foster child population (Wray and Sinha, 2015, p. 1). First Nations children accounted for the greatest share of children—approximately 40 percent—between the ages of 0 and 15 in foster care, followed by children identifying as Métis (approximately six percent) and Inuit (approximately two percent) (Wray and Sinha, 2015, p. 3).<sup>1</sup> The disparity between Aboriginal and non-Aboriginal children in care is even more pronounced when examining rates of Aboriginal children in foster care with those of non-Aboriginal foster children. The *2011 Canadian National Household Survey* found that at the national level, the rates of Aboriginal children in foster care according to the various aboriginal identity categories were between six and 15 times higher than the rate of non-Aboriginal foster children (3 per 1,000 children) (Wray and Sinha, 2015, p. 1). The rate of First Nations children in foster care was the highest, with an overall population rate of 45 per 1,000 children followed by children identifying as Inuit (28 per 1,000 children) and Métis (17 per 1,000 children) (Wray and Sinha, 2015, pp. 1, 4).

In 2008, neglect was identified as the primary category of substantiated child maltreatment investigations involving First Nations children, with approximately 46 percent (or 28 per 1,000 First Nation children) of all cases involving some form of neglect (Vandna, Trocmé, Fallon et al., 2011, p. xix).<sup>2</sup> This included: failure to supervise (physical harm); physical neglect; educational neglect; abandonment; medical neglect; failure to supervise (sexual abuse); permitting criminal behaviour; and failure to provide physiological treatment (Vandna, Trocmé, Fallon et al., 2011, p. 95). The data suggests the overrepresentation of First Nations children in care is driven by child maltreatment cases involving neglect which is closely associated with “household/family structural factors and caregiver risk concerns like those identified in a large proportion of First Nations investigations; factors such as poverty, caregiver substance abuse, social isolation and domestic violence can impede caregiver’s abilities to meet children’s basic physical and psychosocial needs” (Vandna, Trocmé, Fallon et al., 2011, p. xix).<sup>3</sup>

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<sup>1</sup> The percentage of Indigenous children in care can reach 100 percent in some provinces and territories (Ontario Human Rights Commission, 2018).

<sup>2</sup> Exposure to intimate partner violence accounted for 33 percent (or 20 per 1,000 First Nations children) of substantiated maltreatment investigations involving First Nations children followed by physical abuse and emotional maltreatment each accounting for nine percent (or 6 per 1,000 First Nations children) and finally, sexual abuse for two percent (or 1 per 1,000 First Nations children)” (Vandna, Trocmé, Fallon et al., 2011, p. xix).

<sup>3</sup> On April 12, 2018, the Ontario Human Rights Commission (OHRC) released, *Interrupted Childhoods: Over-Representation of Indigenous and Black Children in Ontario Child Welfare*. The report outlines the findings of the OHRC’s inquiry into the over-representation of Indigenous and Black children in Ontario’s child welfare system. The OHRC’s (2018, p. 2) inquiry found that the overrepresentation of Indigenous children in Canada’s foster care system can be attributed to a number of “complex and multi-faceted” issues stemming largely from the intergenerational effects of colonialism and associated child welfare practices.

The Assembly of First Nations (AFN) (2019, n.p.) estimates up to 54,000 children may be eligible for compensation. According to estimates by a Government of Canada official, compensation under the terms of the 2019 CHRT 39 ruling could reach \$6 billion if compensation is distributed to eligible victims by 2020 and an estimated \$8 billion if delays in the compensation process extend implementation into 2025/2026 (Perron Affidavit, 2019, para. 39).

### 3.0 Status

The CHRT has ordered the Government of Canada and the complainants in the proceedings—First Nations Family Caring Society (FNFCs) and the AFN—to devise a plan of action identifying who qualifies for compensation and the best method for the distribution of compensation covered by the CHRT’s decision. The CHRT has given the parties until December 10, 2019 to submit their proposals for review.<sup>4</sup> On October 4, 2019—three days before the October 7, 2019 deadline to appeal—the Government of Canada filed an application to the Federal Court for a judicial review and a stay of the CHRT’s compensation ruling. In its application, the Government of Canada claims awarding compensation to those eligible under the terms of the Tribunal’s decision is “inconsistent with the nature of the complaint, the evidence, past jurisprudence and the [CHRA].”<sup>5</sup> On October 11, 2019, the Federal Court appointed Justice Paul Favel as Case Management Judge to manage the parties involved in the case.<sup>6</sup> Hearings on Canada’s stay application will be held in Federal Court on November 25 and 26, 2019.

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<sup>4</sup> *First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada*, 2019 CHRT 39 at para. 269.

<sup>5</sup> See *Attorney General of Canada v First Nations Child and Family Caring Society of Canada, Assembly of First Nations, Canadian Human Rights Commission, Chiefs of Ontario, Amnesty International, Nishnawbe Aski Nation*, 2019 CHRT 39, Notice of Application for Judicial Review to FC.

<sup>6</sup> See *Attorney General of Canada and First Nations Child and Family Caring Society of Canada, Assembly of First Nations, Canadian Human Rights Commission, Chiefs of Ontario, Amnesty International and Nishnawbe Aski Nation*. Order.

## 4.0 Compensation Categories

**Three central compensation categories are extrapolated from the 2019 CHRT 39 ruling:**

**Category 1:** Compensation for First Nations Children and their Parents or Grandparents in Cases of Unnecessary Removal of a Child in the Child Welfare System;

**Category 2:** Compensation for First Nations Children in Cases of Necessary Removal of a Child in the Child Welfare System

**Category 3:** First Nations Children and their Parents or Grandparents in Cases of Unnecessary Removal of a Child to Obtain Essential Services and/or Experienced Gaps, Delays and Denials of Services that Would Have Been Available under Jordan's Principle.

These have been further divided into subcategories, for which the eligibility requirements are explained below.

## 4.1 Compensation Category 1 – Compensation for First Nations Children and their Parents or Grandparents in Cases of Unnecessary Removal of a Child in the Child Welfare System

**Table 1: Compensation Category 1**

**Compensation Category 1 — First Nations children and their parents or grandparents in cases of unnecessary removal of a child in the child welfare system**

**Time Period:** *January 1, 2006 (date following last WEN DE report)<sup>7</sup> until earliest of - either (1) Panel decides that unnecessary removal of First Nations children has ceased; (2) Parties agreed on a settlement agreement for long-term relief; or (3) Panel ceases to retain jurisdiction and amends the order.*

**Eligibility Requirements:**

**1A) First Nations children living on reserve and in the Yukon Territory who**

- Were **unnecessarily apprehended** *due to* substantiated neglect *driven by*
  - poverty,
  - no housing *OR* deemed inappropriate housing,
  - *AND/OR* substance abuse
- *AND* **placed in care** outside of their homes, families, *or* communities
- *AND* especially in regards to substance abuse, **did not benefit from prevention services** in the form of least disruptive measures or other prevention services permitting them to keep their child safely in their homes, families and communities<sup>8</sup>
- *EVEN IF* they were **reunited with the immediate and extended family** at a later date
- *EXCEPT IF* qualify for compensation under CHRT 39, para. 250 (see Categories 3A, 3B)

*Source: First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada, 2019 CHRT 39 at paras. 245-246.*

**Compensation:** \$20,000 (para. 246) + \$20,000 (paras. 253-254) = \$40,000

(Continued on Next Page)

<sup>7</sup> See First Nations Caring Society (2005).

<sup>8</sup> 2016 CHRT 2 ruling found that First Nations children living on-reserve were discriminated against by the Canadian government in part because they did not receive adequate prevention services. This finding was not the subject of a judicial review by the Canadian Government and has therefore been assumed to be true throughout the Briefing Note.

## 4.1 Compensation Category 1 – First Nations Children and their Parents or Grandparents in Cases of Unnecessary Removal of a Child in the Child Welfare System

**Table 1: Compensation Category 1**

**Compensation Category 1: First Nations children and their parents or grandparents in cases of unnecessary removal of a child in the child welfare system**

**Time Period:** *January 1, 2006 (date following last WEN DE report)<sup>9</sup> until earliest of - either (1) Panel decides that unnecessary removal of FN children has ceased; (2) Parties agreed on a settlement agreement for long-term relief; or (3) Panel ceases to retain jurisdiction and amends the order.*

**Eligibility Requirements:**

**1B) First Nations parents *or* grandparents living on reserve and in the Yukon Territory who**

- Had their child **unnecessarily apprehended** *due to* substantiated neglect *driven by*:
  - poverty,
  - no housing *OR* deemed inappropriate housing,
  - *AND/OR* substance abuse
- **AND placed in care** outside of their homes, families, *or* communities
- **AND** especially in regards to substance abuse, **did not benefit from prevention services** in the form of least disruptive measures or other prevention services permitting them to keep their child safely in their homes, families and communities<sup>10</sup>
- **EXCEPT IF**
  - the parents *or* grandparents **sexually, physically, OR psychologically abused** their children
  - *OR* qualify for compensation under CHRT 39, para. 251 (see Categories 3C, 3D)

Source: *First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada*, 2019 CHRT 39 at paras. 247 and 255.

Compensation: \$20,000 each child (para. 248) + \$20,000 (paras. 253-254) = \$40,000

<sup>9</sup>See First Nations Caring Society (2005).

<sup>10</sup> 2016 CHRT 2 ruling found that First Nations children living on-reserve were discriminated against by the Canadian government in part because they did not receive adequate prevention services. This finding was not the subject of a judicial review by the Canadian Government and has therefore been assumed to be true throughout the Briefing Note.

## 4.2 Compensation Category 2 – Compensation for First Nations Children in Cases of Necessary Removal of a Child in the Child Welfare System

**Table 2: Compensation Category 2**

**Compensation Category 2: First Nations children in cases of necessary removal of a child in the child welfare system.**

**Time Period:** *January 1, 2006 until earliest of - either (1) Panel decides that unnecessary removal of First Nations children has ceased; (2) Parties agreed on a settlement agreement for long-term relief; or (3) Panel ceases to retain jurisdiction and amends the order.*

**Eligibility Requirements:**

**2) First Nations children living on reserve and in the Yukon territory who**

- Were **necessarily apprehended** from their homes
- *BUT* placed in care **outside of their extended families and communities**, and therefore did not benefit from prevention services
- *EXCEPT IF* qualify for compensation under CHRT 39, para. 250 (see Categories 3A, 3B)

*Source: First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada, 2019 CHRT 39 at para. 249.*

Compensation: \$20,000 (para. 249) + \$20,000 (paras. 253-254) = \$40,000

### 4.3 Compensation Category 3 – Compensation for First Nations Children and their Parents or Grandparents in Cases of Unnecessary Removal of a Child to Obtain Essential Services and/or Experienced Gaps, Delays and Denials of Supports, Services, and/or Products that Would Have Been Available under *Jordan's Principle*

**Table 3: Compensation Category 3**

**Compensation Category 3: Compensation for First Nations children and their parents or grandparents in cases of unnecessary removal of a child to obtain essential supports, services, and/or products and/or experienced gaps, delays and denials of supports, services, and/or products that would have been available under Jordan's Principle**  
**Jordan's Principle applies to children, parents, or grandparents living on or off reserve. Substantive equality is a legal requirement in Jordan's Principle and applies to Compensation Category 3.**

**Time Period:** *Between December 12, 2007 (date of adoption in the House of Commons of the Jordan's Principle motion)<sup>11</sup> and November 2, 2017 (date of Tribunal's CHRT 35 ruling on Jordan's Principle).<sup>12</sup>*

**Eligibility Requirements:**

- 3A) First Nations children, living on or off reserve, who**
- Were **deprived of essential services as a result of:**
    - a gap, delay *AND/OR* denial of services
  - **AND placed in care** outside of their homes, families, or communities **in order to receive those services**

*Source: First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada, 2019 CHRT 39 at para. 250.*

**Compensation:** \$20,000 (para. 250) + \$20,000 (paras. 253-254) = \$40,000

- 3B) First Nations children, living on or off reserve, who**
- **WITHOUT being placed in out-of-home care**
  - **DID NOT benefit from services** covered by Jordan's Principle as defined in 2017 CHRT 14 and 35,
    - *OR* who **received such services after an unreasonable delay**
    - *OR* **upon reconsideration ordered by the Tribunal**

*Source: First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada, 2019 CHRT 39 at para. 250.*

**Compensation:** \$20,000 (para. 250) + \$20,000 (paras. 253-254) = \$40,000

(Continued on Next Page)

<sup>11</sup> See Canada. Parliament, House of Commons, Journals, 39<sup>th</sup> Parliament, 2<sup>nd</sup> sess., 2007 December 12, Number 036.

<sup>12</sup> See *First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (Representing the Minister of Indigenous and Northern Affairs Canada)*, 2019 CHRT 35.

### 4.3 Compensation Category 3 – First Nations Children and their Parents or Grandparents in Cases of Unnecessary Removal of a Child to Obtain Essential Services and/or Experienced Gaps, Delays and Denials of Supports, Services, and/or Products That Would Have Been Available Under *Jordan's Principle*

**Table 3: Compensation Category 3**

**Compensation Category 3: Compensation for First Nations children and their parents or grandparents in cases of unnecessary removal of a child to obtain essential supports, services, and/or products and/or experienced gaps, delays and denials of services that would have been available under *Jordan's Principle*.**

**Jordan's Principle applies to children, parents, or grandparents living on or off reserve. Substantive equality is a legal requirement in Jordan's Principle and applies to Compensation Category 3.**

**Time Period:** *Between December 12, 2007 (date of adoption in the House of Commons of the Jordan's Principle ruling)<sup>13</sup> and November 2, 2017 (date of Tribunal's CHRT 35 ruling on Jordan's Principle).<sup>14</sup>*

**Eligibility Requirements:**

**3C) First Nations parents *or* grandparents, living on or off reserve, who**

- Were **deprived of essential services** for their child *as a result of*:
  - a gap, delay *AND/OR* denial of services
- *AND* had their **child placed in care** outside of their homes, families, *or* communities **in order to receive these services** *and therefore*, did not benefit from services covered under Jordan's Principle as per 2017 CHRT 14 and 35
- *EXCEPT IF* the parents *or* grandparents **sexually, physically, OR psychologically abused** their children

*Source: First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada, 2019 CHRT 39 at paras. 251 & 255.*

**Compensation:** \$20,000 (para. 251) + \$20,000 (paras. 253-254) = \$40,000

**3D) First Nations parents *or* grandparents, living on or off reserve,**

- Whose child was **not removed from the home**
- *BUT* was **denied services**
  - *OR* **received services after an unreasonable delay**
  - *OR* **upon reconsideration ordered by the Tribunal**
- *EXCEPT IF* the parents *or* grandparents **sexually, physically, OR psychologically abused** their children

*Source: First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada, 2019 CHRT 39 at paras. 251 & 255.*

**Compensation:** \$20,000 (para. 251) + \$20,000 (paras. 253-254) = \$40,000

<sup>13</sup> See Canada. Parliament, House of Commons, Journals, 39<sup>th</sup> Parliament, 2<sup>nd</sup> sess., 2007 December 12, Number 036.

<sup>14</sup> See *First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (Representing the Minister of Indigenous and Northern Affairs Canada)*, 2019 CHRT 35.

## 5.0 Glossary of Terms

### 5.1 Emotional Maltreatment

**Emotional Maltreatment:**<sup>15</sup> “The child has suffered, or is at substantial risk of suffering, emotional harm at the hands of the person looking after the child” (Sinha, Trocmé, Fallon, et al., 2011, p. 154). It includes: terrorizing or threat of violence; verbal abuse or belittling; isolation or confinement; inadequate nurturing or affection; and exploiting or corrupting behaviour” (Sinha, Trocmé, Fallon, et al., 2011, p. 154). “Witnessing or exposure to domestic violence is considered a form of emotional maltreatment under some legislation” (Child Welfare Research Portal, n.d., *Emotional Maltreatment*).

### 5.2 Extended Family

**Extended Family:** “[I]ncludes a person whom a child considers to be a close relative or whom the Indigenous group, community or people to which the child belongs considers, in accordance with the customs, traditions or customary adoption practices of that Indigenous group, community or people, to be a close relative of the child” (*An Act respecting First Nations, Inuit and Métis children, youth and families*, S.C. 2019, c. 24).

### 5.3 First Nations<sup>16</sup>

**First Nations:** “The term “First Nations” refers to one of three distinct groups recognized as “Aboriginal” in the *Constitution Act* of 1982. The other two distinct groups characterized as “Aboriginal” are the Métis and the Inuit” (Assembly of First Nations, n.d.). There is no legal definition of First Nations, but the “term ‘First Nations (people)’ generally applies to both Status and Non-Status Indians” (Government of Canada, 2015) – that is, people who are registered for Indian status and those who are eligible to register for status pursuant to the *Indian Act, 1985*, s 6 (see **Appendix A: Measures/Terminology Used at a National Level**)<sup>17</sup>. The “term is to be preferred over “Indian” except in certain cases” (Government of Canada, 2015).

<sup>15</sup> The term “emotional maltreatment” is not consistently used and defined in all provincial and territorial statutes and interchangeable concepts such as ‘psychological ill-treatment’ and ‘psychological abuse’ have been used to refer to the same concept. Refer to **Appendix K: Provincial and Territorial Terminology for Emotional Maltreatment** for a full list of these interchangeable terms and definitions of “emotional maltreatment” according to the respective provincial and territorial jurisdictions.

<sup>16</sup> The term “First Nations” is neither used nor consistently defined in all provincial and territorial statutes. Refer to **Appendix E: Provincial and Territorial Definitions of First Nations and Associated Concepts** for a full list of these interchangeable terms and associated terminology according to the respective provincial and territorial jurisdictions.

<sup>17</sup> Please note that individuals who are recognized as members or citizens of their respective First Nation community might be added subject to future Tribunal orders.

## 5.4 Jordan's Principle

Jordan's Principle is a legal requirement in Canada guiding the provision of services and products to First Nations children per *2016 CHRT 2* and subsequent Canadian Human Rights Tribunal orders as well as the 2013 Federal Court Decision, *Pictou Landing Band Council and Maurina Beadle v. Attorney General of Canada* in 2013 FC 342 (2013 FC 342). Pursuant to *2017 CHRT 35 para. 135*:

- A. "As of the date of this ruling, Canada shall cease relying upon and perpetuating definitions of Jordan's Principle that are not in compliance with the Panel's orders in 2016 CHRT 2, 2016 CHRT 10, 2016 CHRT 16 and in this ruling."
- B. "As of the date of this ruling, Canada's definition and application of Jordan's Principle shall be based on the following key principles:
  - i. Jordan's Principle is a child-first principle that applies equally to all First Nations children, whether resident on or off reserve. It is not limited to First Nations children with disabilities, or those with discrete short-term issues creating critical needs for health and social supports or affecting their activities of daily living.
  - ii. Jordan's Principle addresses the needs of First Nations children by ensuring there are no gaps in government services to them. It can address, for example, but is not limited to, gaps in such services as mental health, special education, dental, physical therapy, speech therapy, medical equipment and physiotherapy.
  - iii. When a government service, **including a service assessment**, is available to all other children, the government department of first contact will pay for the service to a First Nations child, without engaging in **administrative case conferring** conferencing, policy review, service navigation or any other similar administrative procedure before **the recommended service is approved** and funding is provided. **Canada may only engage in clinical case conferencing with professionals with relevant competence and training before the recommended service is approved and funding is provided to the extent that such consultations are reasonably necessary to determine the requestor's clinical needs. Where professionals with relevant competence and training are already involved in a First Nations child's case, Canada will consult those professionals and will only involve other professionals to the extent that those professionals already involved cannot provide the necessary clinical information. Canada may also consult with the family, First Nation community or service providers to fund services within the timeframes specified in paragraphs 135(2)(A)(ii) and 135(2)(A)(ii.1) where the service is available, and will make every reasonable effort to ensure funding is provided as close to those timeframes where the service is not available. ~~One~~ After the recommended service is approved and funding is provided, the government department of first contact can seek reimbursement from another department/government;**

- iv. When a government service, **including a service assessment**, is not necessarily available to all other children or is beyond the normative standard of care, the government department of first contact will still evaluate the individual needs of the child to determine if the requested service should be provided to ensure substantive equality in the provision of services to the child, to ensure culturally appropriate services to the child and/or to safeguard the best interests of the child. Where such services are to be provided, the government department of first contact will pay for the provision of the services to the First Nations child, without engaging in **administrative case conferencing**, policy review, service navigation or any other similar administrative procedure before **the recommended service is approved and funding is provided. Clinical case conferencing may be undertaken only for the purpose described in paragraph 135(1)(B)(iii). Canada may also consult with the family, First Nation community or service providers to fund services within the timeframes specified in paragraphs 135(2)(A)(ii) and 135(2)(A)(ii.1) where the service is available, and will make every reasonable effort to ensure funding is provided as close to those timeframes where the service is not available.** ~~Once~~ After the recommended service is provided, the government department of first contact can seek reimbursement from another department/government.
  - v. While Jordan's Principle can apply to jurisdictional disputes between governments (i.e., between federal, provincial or territorial governments) and to jurisdictional disputes between departments within the same government, a dispute amongst government departments or between governments is not a necessary requirement for the application of Jordan's Principle.
- C. Canada shall not use or distribute a definition of Jordan's Principle that in any way restricts or narrows the principles enunciated in order 1(b)."

Note: Canada has chosen not to apply Jordan's Principle to non-status First Nations children recognized by their communities and resident off reserve. The Caring Society disputed Canada's limited definition before the Tribunal. In January of 2019, the Tribunal issued an interim order requiring Canada to apply Jordan's Principle to non-status First Nations children living off reserve who are recognized by their communities and are facing urgent situations. The Tribunal has taken the decision under reserve as to whether all First Nations children living off reserve who are recognized by their communities regardless of urgent situation (2019 CHRT 7).

## 5.5 Least Disruptive Measures

**Least Disruptive Measures:**<sup>18</sup> “[D]ecision making process to determine the most appropriate level of service needed by a family whose children are at risk of being abused. Child removal also known as apprehension should only be used as a last resort after having explored all other options. In deciding whether or not a child should remain in their home, [First Nations and child and family services agencies] must consider the degree of risk, the level of family cooperation, degree of social supports and the availability of appropriate services to redress identified risk factors. Service response times and intensity levels also play in the safety assessment process” (Shangreaux, 2004, p. 30).

Please refer to the definition of “**maltreatment prevention services**” (Section 5.7) for an explanation of services that fall under least disruptive measures.

## 5.6 Levels of Substantiation

Proof of maltreatment can occur at three levels:

1. **“Substantiated:** An allegation of maltreatment is considered substantiated if the balance of evidence indicates that abuse or neglect has occurred.
2. **Suspected:** An allegation of maltreatment is suspected when there is insufficient evidence to substantiate maltreatment, but enough evidence that maltreatment cannot be ruled out.
3. **Unfounded:** An allegation of maltreatment is unfounded if the balance of evidence indicates that abuse or neglect did not occur.” (Tonmyr et al., 2019, p. 79).

## 5.7 Maltreatment Prevention Services

**Maltreatment prevention services** can occur at three levels (Indigenous and Northern Affairs Canada, n.d.; MacMillan et al., 2009, p. 250; Shangreaux, 2004, p. 24):

1. **Primary prevention services:** try to prevent the occurrence of maltreatment before it occurs for all families/communities (universal)
2. **Secondary prevention services:** try to prevent the occurrence of maltreatment in families that are at higher risk for maltreatment
3. **Tertiary prevention services:** try to prevent the recurrence of maltreatment or adverse outcomes of maltreatment in families already affected by maltreatment. This includes the provision of services to remediate maltreatment risk whilst the child is in care to promote family reunification

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<sup>18</sup> The term “least disruptive measures” is not consistently used in all provincial/territorial statutes. Please refer to **Appendix M: Provincial and Territorial Treatment of Least Disruptive Measures** for measures according to the respective provincial and territorial jurisdictions.

These interventions can “both reduce **risk factors** and promote **protective factors**<sup>19</sup> to ensure the wellbeing of children and families” (Child Welfare Information Gateway, n.d., *What Is Prevention and Why is it Important?*).

Examples of prevention services include<sup>20</sup>:

- a) Parent Education or Support Services:** Services that offer support or education to parents (e.g., parenting instruction course, home-visiting program, Parents Anonymous, Parent Support Association) (Sinha, Trocmé, Fallon et al., 2011, p. 149).
- b) Family or Parent Counselling:** Family or parent counselling (e.g., couples or family therapy) (Sinha, Trocmé, Fallon et al., 2011, p. 149).
- c) Drug/Alcohol Counselling or Treatment:** “Addiction program (any substance) for caregiver(s) or children” (Sinha, Trocmé, Fallon et al., 2011, p. 149).
- d) Psychiatric/Mental Health Services:** “Child or caregiver referral to mental health or psychiatric services (e.g., trauma, high-risk behaviour or intervention)” (Sinha, Trocmé, Fallon et al., 2011, p. 149).
- e) Intimate Partner Violence Services:** Services/counselling “regarding [intimate partner violence], abusive relationships, or the effects of witnessing violence” (Sinha, Trocmé, Fallon et al., 2011, p. 149).
- f) Cultural services:** Services to help children and families to learn, maintain, and preserve the “fundamental values of their histories and cultures” (p. 553) in a way that is embedded in their community’s “ways of knowing and being” (Greenwood, 2005, p. 554). Amongst other things, this can include Indigenous people’s “relationship to the land and the universe, spirituality, and expansive concepts of time that recognize obligations to ancestors and future generations” (Pan American Health Organization, 2019, p. 71)
- g) Other possible services include:** Respite care, Services for improving the family’s financial situation; Services for improving the family’s housing; Mediation of disputes; Services to assist the family to deal with the illness of a child or a family member; and Other services agreed to by the agency and the person who has lawful custody of the child (Shangreaux, 2004, p. 31) such as products that the child or family require to support the child’s needs (Government of Canada, 2019a).

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<sup>19</sup> Note: A definition of the terms “risk factors” and “protective factors” is provided in **5.0 Glossary of Terms**.

<sup>20</sup> Note: This list is non-exhaustive.

## 5.8 Neglect

**Neglect:**<sup>21</sup> “The child has suffered harm or the child’s safety or development has been endangered as a result of a failure to provide for or protect the child” (Sinha, Trocmé, Fallon, et al., 2011, p. 153). This includes:

- a) **“Failure to Supervise: Physical Harm:** The child suffered physical harm or is at risk of suffering physical harm because of the caregiver’s failure to supervise or protect the child adequately. Failure to supervise includes situations where a child is harmed or endangered as a result of a caregiver’s actions (e.g., drunk driving with a child or engaging in dangerous criminal activities with a child).
- b) **Failure to Supervise: Sexual Abuse:** The child has been or is at substantial risk of being sexually molested or sexually exploited, and the caregiver knows or should have known of the possibility of sexual molestation and failed to protect the child adequately.
- c) **Permitting Criminal Behaviour:** A child has committed a criminal offence (e.g., theft, vandalism, or assault) because of the caregiver’s failure or inability to supervise the child adequately.
- d) **Physical Neglect:** The child has suffered or is at substantial risk of suffering physical harm caused by the caregiver’s failure to care and provide for the child adequately. This includes inadequate nutrition/clothing and unhygienic, dangerous living conditions. There must be evidence or suspicion that the caregiver is at least partially responsible for the situation.
- e) **Medical Neglect (Includes Dental):** The child requires medical treatment to cure, prevent, or alleviate physical harm or suffering and the child’s caregiver does not provide, or refuses, or is unavailable or unable to consent to the treatment. This includes dental services when funding is available.
- f) **Failure to Provide Psychological Treatment:** The child is suffering from either emotional harm demonstrated by severe anxiety, depression, withdrawal, or self-destructive or aggressive behaviour, or a mental, emotional, or developmental condition that could seriously impair the child’s development, and the child’s caregiver does not provide, refuses to provide, or is unavailable or unable to consent to treatment to remedy or alleviate the harm. This category includes failing to provide treatment for school-related problems such as learning and behaviour problems, as well as treatment for infant development problems such as non-organic failure to thrive. A parent awaiting service should not be included in this category.

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<sup>21</sup> The term ‘neglect’ is not used in all provincial and territorial statutes, but interchangeable concepts include ‘failure to care and provide for or supervise and protect,’ ‘does not provide,’ ‘refuses or is unavailable or unable to consent to treatment’ are often used. Please refer to **Appendix G: Provincial and Territorial Terminology for Neglect** for a full list of these interchangeable terms according to the respective provincial and territorial jurisdictions.

- g) *Abandonment:*** The child’s parent has died or is unable to exercise custodial rights and has not made adequate provisions for care and custody, or the child is in a placement and parent refuses/is unable to take custody.
- h) *Educational Neglect:*** Caregivers knowingly permit chronic truancy (5+ days a month), fail to enroll the child, or repeatedly keep the child at home.” (Sinha et al., 2011, p. 153)

## 5.9 Out-of-Home Care/Placement

***Out-of-Home Care/Placement:*** “[E]ncompasses the placements and services provided to children and families when children are removed from their home due to abuse and/or neglect” (Child Welfare Information Gateway, n.d.: *Overview Out-of-Home Care*). Placement outcomes include:

- a) *Kinship Out of Care:*** An informal placement has been arranged within the family support network; the child welfare authority does not have temporary custody.
- b) *Customary Care:*** [A] model of Indigenous child welfare service that is culturally relevant and incorporates the unique traditions and customs of each First Nation.
- c) *Kinship in Care:*** A formal placement has been arranged within the family support network; the child welfare authority has temporary or full custody and is paying for the placement.
- d) *Foster Care (Non-Kinship):*** Include any family-based care, including foster homes, specialized treatment foster homes, and assessment homes.
- e) *Group Home:*** Out-of-home placement required in a structured group living setting.
- f) *Residential/Secure Treatment:*** Placement required in a therapeutic residential treatment centre to address the needs of the child.” (Fallon et al., 2015, p. 105).

Out-of-home placement can sometimes lead to **reunification, adoption, or legal guardianship:**

***Reunification:*** “[T]he return of children to their family following placement in out-of-home care” (Canadian Child Welfare Research Portal, n.d., *Reunification*).

***Adoption:*** “The social, emotional, and legal process through which children who will not be raised by their birth parents become full and permanent legal members of another family while maintaining genetic and psychological connections to their birth family” (Child Welfare Information Gateway, n.d., *Glossary*).

***Legal guardianship:*** “Guardianship is most frequently used when relative caregivers wish to provide a permanent home for the child and maintain the child’s relationships with extended family members without a termination of parental rights. Caregivers can assume legal guardianship of a child in out-of-home care without termination of parental rights, as is required for an adoption.” (Child Welfare Information Gateway, n.d., *Guardianship*).

## 5.10 Physical Abuse

**Physical Abuse:**<sup>22</sup> “The child [is] physically harmed or could [suffer] physical harm as a result of the behavior of the person looking after the child” (Sinha, Trocmé, Fallon, et al., 2011: 152). It “includes any non-accidental action that causes, or could cause physical harm to a child such as hitting, shaking, or the unreasonable use of force to restrain a child” (Child Welfare Research Portal, n.d.: *Physical Abuse*).

## 5.11 Primary Caregiver

**Primary Caregiver:** “[T]he person primarily responsible for the care and upbringing of a child” (Employment and Social Development Canada, 2018, n.p.).

## 5.12 Protective Factors

**Protective Factors:** “[C]haracteristics associated with a lower likelihood of negative outcomes or that reduce a risk factor’s impact. Protective factors may be seen as positive countering events” (Substance Abuse and Mental Health Services Administration, n.d., p. 1).

## 5.13 Risk Factors

**Risk Factors:** “[C]haracteristics at the biological, psychological, family, community or cultural level that precede and are associated with a higher likelihood of negative outcomes” (Substance Abuse and Mental Health Services Administration, n.d, p. 1).

## 5.14 Sexual Abuse

**Sexual Abuse:**<sup>23</sup> “The child has been sexually molested or sexually exploited. This includes oral, vaginal or anal sexual activity; attempted sexual activity; sexual touching or fondling; exposure; voyeurism; involvement in prostitution or pornography; and verbal sexual harassment” (Sinha, Trocmé, Fallon, et al., 2011, p. 153).

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<sup>22</sup> The term “physical abuse” is not consistently defined in all provincial and territorial statutes. Please refer to

**Appendix I: Provincial and Territorial Definitions of Physical Abuse** for definitions of “physical abuse” according to the respective provincial and territorial jurisdictions.

<sup>23</sup> The term “sexual abuse” is not consistently defined in all provincial and territorial statutes. Please refer to **Appendix J: Provincial and Territorial Definitions of Sexual Abuse** for definitions of “sexual abuse” according to the respective provincial and territorial jurisdictions.

## 5.15 Key Terms and Concepts for Jordan's Principle

***Unreasonable Delay (Received services after a):*** Unreasonable delays to accessing health, social, and educational services and supports occur when a First Nations child is unable to receive services and/or products responsive to their needs and circumstances within a similar timeframe that would be normally available to a non-Indigenous child (First Nations Child and Family Caring Society, 2005, p. 51). 2017 CHRT 35 para 135 specifies timelines for decisions on individual and group requests, the timeframe for case conferencing is also specified:

- Urgent individual requests: Reasonable efforts must be taken to provide crisis intervention supports immediately. Evaluation and determination of the request will be made in 12 hours of initial contact for a service request.
- Non-urgent individual requests: Must be evaluated and provided with a determination in 48 hours of initial contact for a service request. If information is lacking the Government of Canada must work with the requestor to obtain the necessary information and make a determination as close to the 48-hour timeframe as possible.
- Urgent group requests: Where irredeemable harm is reasonably foreseeable Canada must take all reasonable efforts to provide immediate crisis interventions supports until an extended response can be developed and implemented. In all other urgent group cases, the evaluation and determination of the request shall be made within 48 hours.
- Group requests: The evaluation and determination of group requests must occur within 1 week of the initial contact for a service request.

Any service delays which occur due to a lack of information on clinical needs must be tracked and reported to the Canadian Human Rights Tribunal. Canada cannot delay services due to “administrative case conferencing, policy review, service navigation or any other similar administrative procedure before the recommended service is approved and funding is provided” (2017, CHRT 35, para 135. 2.A.iii).

***Gap:*** 2017 CHRT 35 specifies, “Jordan’s Principle addresses the needs of First Nations children by ensuring there are no gaps in government services to them. It can address, for example, but is not limited to, gaps in such services as mental health, special education, dental, physical therapy, speech therapy, medical equipment and physiotherapy.” (2017 CHRT 35 para 135.B.ii)

***Delay (Received services or products after a):*** Any Jordan’s Principle request which are not provided a decision within the timeframes detailed in 2017 CHRT 35 para 10 ii, ii1, and iii is considered delayed. The 2017 CHRT 35 has detailed the required timelines and the role of case conferencing for the provision of Jordan’s Principle services, outside of which a delay to accessing Jordan’s Principle occurs. Despite this specificity, delays have occurred when federal focal point workers seek “all necessary information” in advance of submitting a Jordan’s Principle request. Delays in reimbursement after approval have also delayed access to Jordan’s Principle services for First Nations children. (Source: Sinha, Vives and Gerlach, 2018, pp. 68-69;

Sangster, Vivies, Chadwick, Gerlach, and Sinha, 2019, pp. 69-71). Delays can be caused by but are not limited to the following factors: funding models and funding gaps, jurisdictional disputes, disputes between departments within the same government, and/or being ordinarily a resident on a reserve (The Jordan's Principle Working Group, 2015, pp. 25-27).

**Denial:** When services or products are not provided to First Nations children. (First Nations Child and Family Caring Society, 2005, p. 179)

**Substantive Equality:** Substantive equality considers the social, political, and legal context of discrimination. For First Nations people in Canada this includes but is not limited to “a legacy of stereotyping and prejudice through colonialism, displacement and residential schools”. (2016 CHRT 2, para 402). The federal government of Canada provides the following definition of substantive equality within Jordan's Principle:

“Substantive equality is a legal principle that refers to the achievement of true equality in outcomes. It is achieved through equal access, equal opportunity, and, most importantly, the provision of services and benefits in a manner and according to standards that meet any unique needs and circumstances, such as cultural, social, economic and historical disadvantage. Pursuant to the CHRT May 26, 2017 decision as amended, the Government of Canada is to ensure substantive equality in the provision of services to the child, to ensure culturally appropriate services and to safeguard the best interests of the child. This requires Canada to provide all First Nations children, on and off reserve, with publicly funded benefits, supports, programs, goods and services in a manner and according to a standard that meets their particular needs and circumstances.” (Government of Canada, 2019b)

## 6.0 Compensation Questions

### 6.1 Compensation Category 1 Questions – Compensation for First Nations Children and their Parents or Grandparents in Cases of Unnecessary Removal of a Child in the Child Welfare System

#### 6.1.1 Compensation Category 1A Questions

**Table 4: Eligibility Requirements – Compensation Category 1A Questions**

**Time Period:** *January 1, 2006 (date following last WEN DE report)<sup>24</sup> until earliest of - either (1) Panel decides that unnecessary removal of First Nations children has ceased; (2) Parties agreed on a settlement agreement for long-term relief; or (3) Panel ceases to retain jurisdiction and amends the order.*

**Eligibility Requirements:**

**1A)** First Nations children living on reserve and in the Yukon Territory who

- Were unnecessarily apprehended *due to* substantiated neglect *driven by*
  - poverty,
  - no housing *OR* deemed inappropriate housing,
  - *AND/OR* substance abuse
- *AND* placed in care outside of their homes, families, *or* communities
- *AND* especially in regards to substance abuse, did not benefit from prevention services in the form of least disruptive measures or other prevention services permitting them to keep their child safely in their homes, families and communities<sup>25</sup>
- *EVEN IF* they were reunited with the immediate and extended family at a later date
- *EXCEPT IF* qualify for compensation under CHRT 39, para. 250 (see Categories 3A, 3B)

Source: *First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada*, 2019 CHRT 39 at paras. 245-246.

Compensation: \$20,000 (para. 246) + \$20,000 (paras. 253-254) = \$40,000

<sup>24</sup> See First Nations Caring Society (2005).

<sup>25</sup> 2016 CHRT 2 ruling found that First Nations children living on-reserve were discriminated against by the Canadian government in part because they did not receive adequate prevention services. This finding was not the subject of a judicial review by the Canadian Government and has therefore been assumed to be true throughout the Briefing Note.

*For concepts in bold, please refer to 5.0 **Glossary of Terms**. For concepts that are underlined, you can refer to appendices that provide the corresponding provincial, territorial, or national definitions.*

1. Was the child placed in care outside of their homes, families, or communities between January 1<sup>st</sup>, 2006 and the current date – even if he/she was eventually **reunited** with their family?  
 Yes                       No (not eligible for compensation under category 1A)
2. At the time of placement – was this child a **First Nations** child with Indian Status or eligible for Indian status?  
 Yes                       No (not eligible for compensation under category 1A)
3. At the time of placement – did the child ordinarily live on reserve or in the Yukon Territory?  
 Yes                       No (not eligible for compensation under category 1A)
4. Was the child placed in care due to a **substantiation** of neglect?  
 Yes                       No (not eligible for compensation under category 1A)
5. Was the neglect substantiation driven by one or more of the following **risk factors**: poverty, no housing/deemed inappropriate housing, and/or substance abuse?  
 Yes                       No (not eligible for compensation under category 1A)
6. Does the child meet the criteria for compensation under compensation category 3A or 3B?  
 No                       Yes (not eligible for compensation under category 1A)

*If the child is not eligible for compensation under category 1A. They might still be eligible for compensation under categories 2, 3A, and 3B. Please refer to questions within those sections to determine their eligibility.*

## 6.1.2 Compensation Category 1B Questions

**Table 5: Eligibility Requirements — Compensation Category 1B Questions**

**Time Period:** *January 1, 2006 (date following last WEN DE report)<sup>26</sup> until earliest of - either (1) Panel decides that unnecessary removal of FN children has ceased; (2) Parties agreed on a settlement agreement for long-term relief; or (3) Panel ceases to retain jurisdiction and amends the order.*

**Eligibility Requirements:**

**1B)** First Nations parents *or* grandparents living on reserve and in the Yukon Territory who

- Had their child unnecessarily apprehended *due to* substantiated neglect *driven by*
  - poverty,
  - no housing *OR* deemed inappropriate housing,
  - *AND/OR* substance abuse
- *AND* placed in care outside of their homes, families, *or* communities
- *AND* especially in regards to substance abuse, did not benefit from prevention services in the form of least disruptive measures or other prevention services permitting them to keep their child safely in their homes, families and communities<sup>27</sup>
- *EXCEPT IF*
  - the parents *or* grandparents sexually, physically, *OR* psychologically abused their children
  - *OR* qualify for compensation under CHRT 39, para. 251 (see Categories 3C, 3D)

Source: *First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada*, 2019 CHRT 39 at paras. 247 and 255.

Compensation: \$20,000 each child (para. 248) + \$20,000 (paras. 253-254) = \$40,000

*For concepts in bold, please refer to 5.0 Glossary of Terms. For concepts that are underlined, you can refer to appendices that provide the corresponding provincial, territorial, or national definitions.*

<sup>26</sup> See First Nations Caring Society (2005).

<sup>27</sup> 2016 CHRT 2 ruling found that First Nations children living on-reserve were discriminated against by the Canadian government in part because they did not receive adequate prevention services. This finding was not the subject of a judicial review by the Canadian Government and has therefore been assumed to be true throughout the Briefing Note.

1. Was the parent or grandparent's **child placed in care** outside of their homes, families, or communities between January 1<sup>st</sup>, 2006 and the current date – even if the child was eventually **reunited** with their family?  
 Yes             No (not eligible for compensation under category 1B)
2. Was the parent or grandparent the **primary caregiver** of the child at the time of placement?  
 Yes             No (not eligible for compensation under category 1B)
3. At the time of placement of their child or grandchild – was the parent or grandparent **First Nations** with Indian Status or eligible for status?  
 Yes             No (not eligible for compensation under category 1B)
4. At the time of placement of their child or grandchild – did the parent or grandparent ordinarily live on reserve or in the Yukon Territory?  
 Yes             No (not eligible for compensation under category 1B)
5. Was their child or grandchild placed in care due to a **substantiation of neglect**?  
 Yes             No (not eligible for compensation under category 1B)
6. Was the neglect substantiation driven by one of the following **risk factors**: poverty, no housing/deemed inappropriate housing, and/or substance abuse?  
 Yes             No (not eligible for compensation under category 1B)
7. Did the parent or grandparent **sexually abuse, physically abuse, or psychologically abuse** the child placed in care?  
 No             Yes (not eligible for compensation under category 1B)
8. Does the parent/grandparent who was the primary caregiver for the child at the time of the removal meet the criteria for compensation under compensation category 3C or 3D?  
 No             Yes (not eligible for compensation under category 1B)

*Please answer these questions for each primary caregiver who had primary responsibility of the child between January 1<sup>st</sup> 2006 and the current date at the time the child was placed in care. Multiple placements can occur in this timeframe.*

*If the parent or grandparent is not eligible for compensation under category 1B. They might still be eligible for compensation under categories 3C, and 3D. Please refer to questions within those sections to determine their eligibility.*

## 6.2 Compensation Questions: Category 2 – Compensation for First Nations Children in Cases of Necessary Removal of a Child in the Child Welfare System

### 6.2.1 Compensation Category 2 Questions

**Table 6: Eligibility Requirements — Compensation Category 2 Questions**

**Time Period:** *January 1, 2006 until earliest of - either (1) Panel decides that unnecessary removal of First Nations children has ceased; (2) Parties agreed on a settlement agreement for long-term relief; or (3) Panel ceases to retain jurisdiction and amends the order.*

**Eligibility Requirements:**

- 2) First Nations children living on reserve and in the Yukon territory who
- Were necessarily apprehended from their homes
  - *BUT* placed in care outside of their extended families and communities, *and therefore* did not benefit from prevention services
  - *EXCEPT IF* qualify for compensation under CHRT 39, para. 250 (see Categories 3A, 3B)

Source: *First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada*, 2019 CHRT 39 at para. 249.

Compensation: \$20,000 (para. 249) + \$20,000 (paras. 253-254) = \$40,000

*For concepts in bold, please refer to 5.0 Glossary of Terms. For concepts that are underlined, you can refer to appendices that provide the corresponding provincial, territorial, or national definitions.*

1. Was the child **placed in care** outside of their **extended families**, and communities between January 1<sup>st</sup>, 2006 and the current date?
 

Yes                       No (not eligible for compensation under category 2)
2. At the time of placement – was this child a **First Nations** child with Indian Status or eligible for Indian status?
 

Yes                       No (not eligible for compensation under category 2)
3. At the time of placement – did the child ordinarily live on reserve or in the Yukon Territory?
 

Yes                       No (not eligible for compensation under category 2)
4. Will the child be receiving compensation under compensation category 3A or 3B?
 

No                       Yes (not eligible for compensation under category 2)

*If the child is not eligible for compensation under category 2. They might still be eligible for compensation under categories 1A, 3A, and 3B. Please refer to questions within those sections to determine their eligibility.*

### 6.3 Compensation Questions: Category 3 – Compensation for First Nations Children and their Parents or Grandparents in Cases of Unnecessary Removal of a Child to Obtain Essential Services and/or Experienced Gaps, Delays and Denials of Services that Would Have Been Available Under Jordan's Principle.

#### 6.3.1 Compensation Category 3A Questions

**Table 7: Eligibility Requirements — Compensation Category 3A Questions**

**Time Period:** *Between December 12, 2007 (date of adoption in the House of Commons of the Jordan's Principle ruling) and November 2, 2017 (date of Tribunal's CHRT 35 ruling on Jordan's principle).*

**Eligibility Requirements:**

**3A)** First Nations children, living on or off reserve, who

- Were deprived of essential services, supports, and/or products *as a result of*:
  - a gap, delay *AND/OR* denial of services
- *AND* placed in care outside of their homes, families, or communities in order to receive those services

Source: *First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada*, 2019 CHRT 39 at para. 250.

Compensation: \$20,000 (para. 250) + \$20,000 (paras. 253-254) = \$40,000

*For concepts in bold, please refer to 5.0 Glossary of Terms. For concepts that are underlined, you can refer to appendices that provide the corresponding provincial, territorial, or national definitions.*

1. Was the child deprived of **essential services, supports, and/or products** due to a **gap, denial, and/or delay** of services between December 12, 2007 and November 2, 2017?
 

Yes                       No (not eligible for compensation under category 3A)
2. Was the child **placed in care** outside of their home, family, or community between December 12, 2007 and November 2, 2017?
 

Yes                       No (not eligible for compensation under category 3A)
3. At the time of placement - was the child a **First Nations** child with Indian Status or eligible for Indian Status (living on OR off reserve)?
 

Yes                       No (not eligible for compensation under category 3A)

4. Did the placement occur in order to receive the **essential services, supports, and/or products** the **child** was deprived of due to a **gap, denial, and/or delay**?

Yes  No (not eligible for compensation under category 3A)

*If the child is not eligible for compensation under category 3A. They might still be eligible for compensation under categories 1A, 2, and 3B. Please refer to questions within those sections to determine their eligibility.*

### 6.3.2 Compensation Category 3B Questions

**Table 8: Eligibility Requirements — Compensation Category 3B Questions**

**Time Period:** *Between December 12, 2007 (date of adoption in the House of Commons of the Jordan's Principle ruling) and November 2, 2017 (date of Tribunal's CHRT 35 ruling on Jordan's principle).*

**Eligibility Requirements:**

**3B)** First Nations children, living on or off reserve, who

- *WITHOUT* being placed in out of home care
- *DID NOT* benefit from services covered by Jordan's Principle as defined in 2017 CHRT 17 and 35, *OR* who received such services after an unreasonable delay *OR* upon reconsideration ordered by the Tribunal

Source: *First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada*, 2019 CHRT 39 at para. 250.

Compensation: \$20,000 (para. 250) + \$20,000 (paras. 253-254) = \$40,000

*For concepts in bold, please refer to 5.0 **Glossary of Terms**. For concepts that are underlined, you can refer to appendices that provide the corresponding provincial, territorial, or national definitions.*

1. Was the child *NOT* placed in **out-of-home care** between December 12, 2007 and November 2, 2017?

Yes  No (not eligible for compensation under category 3B)

2. Was the child a **First Nations** child with Indian Status or eligible for Indian Status (living on or off reserve)?

Yes  No (not eligible for compensation under category 3B)

*If question #1, #2 and any one or multiple of question #3 are answered with a yes, the child qualifies for compensation:*

3. A) Did the child *not* receive adequate services, supports, and/or products covered by **Jordan's Principle**? This includes children who were unable to apply for Jordan's Principle.

Yes

No (please continue to following questions if yes or no)

B) Did the child receive **Jordan's Principle** services, supports, and/or products after an **unreasonable delay**?

Yes

No (please continue to following questions if yes or no)

*If the child is not eligible for compensation under category 3B. They might still be eligible for compensation under categories 1A, 2, and 3A. Please refer to questions within those sections to determine their eligibility.*

## 6.3.3 Compensation Category 3C Questions

**Table 9: Eligibility Requirements — Compensation Category 3C Questions**

**Time Period:** *Between December 12, 2007 (date of adoption in the House of Commons of the Jordan's Principle ruling) and November 2, 2017 (date of Tribunal's CHRT 35 ruling on Jordan's principle).*

**Eligibility Requirements:**

**3C)** First Nations parents *or* grandparents, living on or off reserve, who

- Were deprived of essential services, supports, and/or products for their child *as a result of*:
  - a gap, delay *AND/OR* denial of services, supports, and/or products
- *AND* had their child placed in care outside of their homes, families, *or* communities in order to receive these services, supports, and/or products *and therefore*, did not benefit from services covered under Jordan's Principle as per 2017 CHRT 17 and 35
- *EXCEPT IF* the parents *or* grandparents sexually, physically, *OR* psychologically abused their children

*Source: First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada, 2019 CHRT 39 at paras. 251 & 255.*

Compensation: \$20,000 (para. 251) + \$20,000 (paras. 253-254) = \$40,000

*For concepts in bold, please refer to 5.0 Glossary of Terms. For concepts that are underlined, you can refer to appendices that provide the corresponding provincial, territorial, or national definitions.*

1. Was the parent or grandparent's child deprived of **essential services, supports, and/or products** due to a **gap, denial, and/or delay** or services at any time between December 12, 2007 and November 2, 2017?

Yes                       No (not eligible for compensation under category 3C)

2. Was their child placed in care outside of their home, family, or community between December 12, 2007 and November 2, 2017 in order to receive the **essential services, supports, and/or products** the child was deprived of due to a **gap, denial, and/or delay**?

Yes                       No (not eligible for compensation under category 3C)

3. Was the parent or grandparent the **primary caregiver** of the child at the time of placement?

Yes                       No (not eligible for compensation under category 3C)

4. Was the parent or grandparent **First Nations** (living on or off reserve) at the time of placement?

- Yes                       No (not eligible for compensation under category 3C)

5. Did the parent or grandparent **sexually abuse**, **physically abuse**, or **psychologically abuse** the child?

- No                               Yes (not eligible for compensation under category 3C)

*Please answer these questions for each primary caregiver who had primary responsibility of the child between December 12, 2007 and November 2, 2017 at the time the child was placed in care. Multiple placements can occur in this timeframe.*

*If the parent or grandparent is not eligible for compensation under category 3C. They might still be eligible for compensation under categories 1B or 3D. Please refer to questions within those sections to determine their eligibility.*

### 6.3.4 Compensation Category 3D Questions

**Table 10: Eligibility Requirements — Compensation Category 3D Questions**

**Time Period:** *Between December 12, 2007 (date of adoption in the House of Commons of the Jordan’s Principle ruling) and November 2, 2017 (date of Tribunal’s CHRT 35 ruling on Jordan’s principle).*

**Eligibility Requirements:**

- 3D)** First Nations parents *or* grandparents, living on or off reserve,
- Whose child was not removed from the home
  - *BUT* was denied services, supports and/or products *OR* received services, supports, and/or products after an unreasonable delay *OR* upon reconsideration ordered by the Tribunal
  - *EXCEPT IF* the parents *or* grandparents sexually, physically, *OR* psychologically abused their children

Source: *First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada*, 2019 CHRT 39 at paras. 251 & 255.

Compensation: \$20,000 (para. 251) + \$20,000 (paras. 253-254) = \$40,000

*For concepts in bold, please refer to 5.0 Glossary of Terms. For concepts that are underlined, you can refer to appendices that provide the corresponding provincial, territorial, or national definitions.*

1. A) Was the parent or grandparent’s child **denied services, supports, and/or products** covered by **Jordan’s Principle** between December 12, 2007 and November 2, 2017? Substantive equality is a legal requirement within Jordan’s Principle and therefore applies to this question.

Yes       No (please continue to following questions if yes or no)

- B) Did the child receive **Jordan’s Principle services, supports, or products** after an **unreasonable delay** between December 12, 2007 and November 2, 2017?

Yes       No (please continue to following questions if yes or no)

*If 1 A or B have a response of YES please complete the next set of questions. If both 1 A and B have a response of NO, the parent or grandparent is not eligible for compensation under category 3D.*

2. At the time of the **denial or delay of services, supports, and/or products**, was the parent or grandparent the **primary caregiver** of the child?

Yes       No (not eligible for compensation under category 3D)

3. Was the parent or grandparent **First Nations** (living on or off reserve) at the time of the placement?

Yes       No (not eligible for compensation under category 3D)

4. Was the child **NOT** placed in **out of home care**?

Yes       No (not eligible for compensation under category 3D)

5. Did the parent or grandparent **sexually abuse**, **physically abuse**, or **psychologically abuse** the child?

No       Yes (not eligible for compensation under category 3D)

*Please answer these questions for each primary caregiver who had primary responsibility of the child between December 12, 2007 and November 2, 2017 when a delay or denial of services, supports, and/or products occurred. Multiple delays or denials can occur within this timeframe.*

*If the parent or grandparent is not eligible for compensation under category 3D. They might still be eligible for compensation under categories 1B or 3C. Please refer to questions within those sections to determine their eligibility.*

## Appendix A: Measures/Terminology Used at a National Level

*Please note:* These are not universally agreed-upon measures of these concepts. They are included here **for reference only**.

**Table 11: Measure/Terminology Used at a National\* Level**

Measure/ Terminology	Description/Definition
Band	As defined by the <i>Indian Act, 1985</i> , s 2 (1) "band means a body of Indians (a) for whose use and benefit in common, lands, the legal title to which is vested in Her Majesty, have been set apart before, on or after September 4, 1951, (b) for whose use and benefit in common, moneys are held by Her Majesty, or (c) declared by the Governor in Council to be a band for the purposes of this Act"
Housing	<ul style="list-style-type: none"> <li>• Type of housing, overcrowding, number of moves in the past year; housing safety (accessible weapons, drugs or drug paraphernalia, drug production or trafficking in home, chemicals or solvents used in production, other home injury hazards, other home health hazards) (Sinha, Trocmé, Fallon et al., 2011, p. 148).</li> <li>• Type of housing; dwelling in need of major repairs; housing suitability (whether housing has enough bedrooms for size and composition of household) (Statistics Canada, 2017).</li> </ul>
Indian	As defined by the <i>Indian Act, 1985</i> , s 2 (1), "Indian means a person who pursuant to this Act is registered as an Indian or is entitled to be registered as an Indian"

\*Note: These measures are also used at the provincial level; however, variations may exist across jurisdictions with respect to the operationalization of each measure/term.

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**Table 11: Measures/Terminology Used at a National\* Level**

Measure/ Terminology	Description/Definition
Indian	<p>Persons entitled to be registered:</p> <p>s. 6 (1) Subject to section 7, a person is entitled to be registered if</p> <ul style="list-style-type: none"> <li>• (a) that person was registered or entitled to be registered immediately before April 17, 1985;</li> <li>• (a.1) the name of that person was omitted or deleted from the Indian Register, or from a band list before September 4, 1951, under subparagraph 12(1)(a)(iv), paragraph 12(1)(b) or subsection 12(2) or under subparagraph 12(1)(a)(iii) pursuant to an order made under subsection 109(2), as each provision read immediately before April 17, 1985, or under any former provision of this Act relating to the same subject matter as any of those provisions;</li> <li>• (a.2) that person meets the following conditions: <ul style="list-style-type: none"> <li>▪ (i) they were born female during the period beginning on September 4, 1951 and ending on April 16, 1985 and their parents were not married to each other at the time of the birth,</li> <li>▪ (ii) their father was at the time of that person's birth entitled to be registered or, if he was no longer living at that time, was at the time of death entitled to be registered, and</li> <li>▪ (iii) their mother was not at the time of that person's birth entitled to be registered;</li> </ul> </li> <li>• (a.3) that person is a direct descendant of a person who is, was or would have been entitled to be registered under paragraph (a.1) or (a.2) and <ul style="list-style-type: none"> <li>▪ (i) they were born before April 17, 1985, whether or not their parents were married to each other at the time of the birth, or</li> <li>▪ (ii) they were born after April 16, 1985 and their parents were married to each other at any time before April 17, 1985;</li> </ul> </li> <li>• (b) that person is a member of a body of persons that has been declared by the Governor in Council on or after April 17, 1985 to be a band for the purposes of this Act;</li> <li>• (c) (c.01-c.02), (c.1-c.6) Repealed, 2017</li> </ul>
<p>*Note: These measures are also used at the provincial level; however, variations may exist across jurisdictions with respect to the operationalization of each measure/term.</p>	

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**Table 11: Measures/Terminology Used at a National\* Level**

Measure/ Terminology	Description/Definition
Indian	<p>Persons entitled to be registered:</p> <ul style="list-style-type: none"> <li>• (d) the name of that person was omitted or deleted from the Indian Register, or from a band list prior to September 4, 1951, under subparagraph 12(1)(a)(iii) pursuant to an order made under subsection 109(1), as each provision read immediately prior to April 17, 1985, or under any former provision of this Act relating to the same subject-matter as any of those provisions;</li> <li>• (e) the name of that person was omitted or deleted from the Indian Register, or from a band list prior to September 4, 1951, <ul style="list-style-type: none"> <li>▪ (i) under section 13, as it read immediately prior to September 4, 1951, or under any former provision of this Act relating to the same subject-matter as that section, or</li> <li>▪ (ii) under section 111, as it read immediately prior to July 1, 1920, or under any former provision of this Act relating to the same subject-matter as that section; or</li> </ul> </li> <li>• (f) both parents of that person are entitled to be registered under this section or, if the parents are no longer living, were so entitled at the time of death.</li> </ul> <p>s. 6 (2) Subject to section 7, a person is entitled to be registered if one of their parents is entitled to be registered under subsection (1) or, if that parent is no longer living, was so entitled at the time of death.</p> <p>s. 6 (2.1) A person who is entitled to be registered under both paragraph (1)(f) and any other paragraph of subsection (1) is considered to be entitled to be registered under that other paragraph only, and a person who is entitled to be registered under both subsection (2) and any paragraph of subsection (1) is considered to be entitled to be registered under that paragraph only.</p>
<p>*Note: These measures are also used at the provincial level; however, variations may exist across jurisdictions with respect to the operationalization of each measure/term.</p>	

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**Table 11: Measures/Terminology Used at a National\* Level**

Measure/ Terminology	Description/Definition
Indian	<p>Persons entitled to be registered:</p> <p>s. 6 (3) For the purposes of paragraphs (1)(a.3) and (f) and subsection (2),</p> <ul style="list-style-type: none"> <li>• a person who was no longer living immediately prior to April 17, 1985 but who was at the time of death entitled to be registered shall be deemed to be entitled to be registered under paragraph (1)(a);</li> <li>• (b) a person who is described in paragraph (1)(a.1), (d), (e) or (f) or subsection (2) and who was no longer living on April 17, 1985 is deemed to be entitled to be registered under that paragraph or subsection; and</li> <li>• (c) [Repealed, 2017, c. 25, s. 2.1]</li> <li>• (d) a person who is described in paragraph (1)(a.2) or (a.3) and who was no longer living on the day on which that paragraph came into force is deemed to be entitled to be registered under that paragraph.</li> <li>• R.S., 1985, c. I-5, s. 6</li> <li>• R.S., 1985, c. 32 (1st Supp.), s. 4, c. 43 (4th Supp.), s. 1</li> <li>• 2010, c. 18, s. 2</li> <li>• 2017, c. 25, s. 2</li> <li>• 2017, c. 25, s. 2.1</li> </ul> <p>s. 7 (1) The following persons are not entitled to be registered:</p> <ul style="list-style-type: none"> <li>• (a) a person who was registered under paragraph 11(1)(f), as it read immediately prior to April 17, 1985, or under any former provision of this Act relating to the same subject-matter as that paragraph, and whose name was subsequently omitted or deleted from the Indian Register under this Act; or</li> <li>• (b) a person who is the child of a person who was registered or entitled to be registered under paragraph 11(1)(f), as it read immediately prior to April 17, 1985, or under any former provision of this Act relating to the same subject-matter as that paragraph, and is also the child of a person who is not entitled to be registered.</li> </ul>

\*Note: These measures are also used at the provincial level; however, variations may exist across jurisdictions with respect to the operationalization of each measure/term.

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**Table 11: Measures/Terminology Used at a National\* Level**

Measure/ Terminology	Description/Definition
Indian	<p>Persons not entitled to be registered:</p> <p>s. 7 (2) Paragraph (1)(a) does not apply in respect of a female person who was, at any time prior to being registered under paragraph 11(1)(f), entitled to be registered under any other provision of this Act.</p> <p>s. 7 (3) Paragraph (1)(b) does not apply in respect of the child of a female person who was, at any time prior to being registered under paragraph 11(1)(f), entitled to be registered under any other provision of this Act.</p> <p>R.S., 1985, c. I-5, s. 7 R.S., 1985, c. 32 (1st Supp.), s. 4</p>
Poverty	<ul style="list-style-type: none"> <li>• Household regularly runs out of money for basic necessities (e.g. food, housing, utilities, telephone/cell phone, transportation, medical care including dental and mental health); source of primary income (e.g. social assistance/ employment insurance/other benefits). (Sinha, Trocmé, Fallon et al., 2011, pp. 146, 148)</li> <li>• Market Basket Measure: family lives in poverty if it does not have enough income to purchase a specific basket of goods and services in its community (Statistics Canada, 2019)</li> <li>• Low-Income Measure: individuals live in low income if their household after-tax income falls below half of the median after-tax income (Statistics Canada, 2019)</li> <li>• Low Income Cut-Off: family lives in poverty if they spend 20% or more of their income than the average family on basic necessities of food shelter and clothing (Statistics Canada, 2015).</li> </ul>
Reserve	<p>As defined by the <i>Indian Act, 1985</i>, s 2 (1), “reserve (a) means a tract of land, the legal title to which is vested in Her Majesty, that has been set apart by Her Majesty for the use and benefit of a band, and (b) except in subsection 18(2), sections 20 to 25, 28, 37, 38, 42, 44, 46, 48 to 51 and 58 to 60 and the regulations made under any of those provisions, includes designated lands”</p>
<p>*Note: These measures are also used at the provincial level; however, variations may exist across jurisdictions with respect to the operationalization of each measure/term.</p>	

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**Table 11: Measures/Terminology Used at a National\* Level**

<b>Measure/ Terminology</b>	<b>Description/Definition</b>
Substance Abuse	<ul style="list-style-type: none"> <li>• “Problematic consumption” of alcohol, prescription drugs, illegal drugs, or solvents. (Sinha, Trocmé, Fallon et al., 2011, p. 151)</li> <li>• In DSM-V (APA 2013) ‘substance use disorder’ is operationalized according to the following criteria (2-3 mild; 4-5 moderate; 6 or more severe): <ul style="list-style-type: none"> <li>▪ taking the substance in larger amounts or for longer than you're meant to;</li> <li>▪ wanting to cut down or stop using the substance but not managing to;</li> </ul> </li> <li>• spending a lot of time getting, using, or recovering from use of the substance;</li> <li>• cravings and urges to use the substance;</li> <li>• not managing to do what you should at work, home, or school because of substance use;</li> <li>• continuing to use, even when it causes problems in relationships;</li> <li>• giving up important social, occupational, or recreational activities because of substance use;</li> <li>• using substances again and again, even when it puts you in danger;</li> <li>• continuing to use, even when you know you have a physical or psychological problem that could have been caused or made worse by the substance;</li> <li>• needing more of the substance to get the effect you want (tolerance); and development of withdrawal symptoms, which can be relieved by taking more of the substance.</li> </ul>
<p>*Note: These measures are also used at the provincial level; however, variations may exist across jurisdictions with respect to the operationalization of each measure/term.</p>	

## Appendix B: National Legislation Relating to Child Welfare

Table 12 identifies national legislation governing the provision of child protection services and Indigenous Peoples of Canada.

**Table 12: National Legislation Relating to Child Welfare and Indigenous Peoples of Canada**

Indian Act, 1985
Youth Criminal Justice Act, 2002
Criminal Code, 1985
An Act Respecting First Nations, Inuit and Métis Children, Youth and Families (Received Royal Assent on June 21, 2019; Scheduled to come into force on January 1, 2020)

## Appendix C: An Act Respecting First Nations, Inuit and Métis Children, Youth and Families

*An Act Respecting First Nations, Inuit and Métis Children, Youth and Families*, which comes into force on January 1, 2020, empowers “Indigenous communities [to] recover, develop, and enforce their own laws about child and family services. They can then choose to exercise partial or full jurisdiction over child and family services, or to work towards exercising full jurisdiction over a period of time” (Hensel Barristers, 2019, n.p.). “When an Indigenous community enforces its own laws over child and family services, the Indigenous community’s law will prevail over both federal and provincial laws. When a law “prevails” it means that when there is conflict between the Indigenous community’s law and a federal or provincial law, the Indigenous law applies and the other law doesn’t apply” (Hensel Barristers, 2019, n.p.). However, “[t]he Indigenous law still has to comply with the [*Canadian Charter of Rights and Freedoms, 1982*], the *Canadian Human Rights Act, 1985* and the national [standards] set out in the...*Act* that apply to providing child and family services to Indigenous children” (Hensel Barristers, 2019, n.p.). Table 13 identifies the national standards set by the *Act*.

**Table 13: National Standards, Act Respecting First Nations, Inuit and Métis Children, Youth and Families**

National Standard	Definition
Purpose and Principles	<p><b>Purpose:</b> S (8) “The purpose of this Act is to</p> <ul style="list-style-type: none"> <li>(a) affirm the inherent right of self-government, which includes jurisdiction in relation to child and family services;</li> <li>(b) set out principles applicable, on a national level, to the provision of child and family services in relation to Indigenous children; and</li> <li>(c) contribute to the implementation of the United Nations Declaration on the Rights of Indigenous Peoples.”</li> </ul> <p><b>Principle—Best Interests of Child:</b> S 9 (1) “This Act is to be interpreted and administered in accordance with the principle of the best interests of the child.”</p>

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**Table 13: National Standards, Act Respecting First Nations, Inuit and Métis Children, Youth and Families**

National Standard	Definition
Purpose and Principles	<p><b>Principle—Cultural Continuity:</b> S 9 (2) “This Act is to be interpreted and administered in accordance with the principle of cultural continuity as reflected in the following concepts:</p> <p>(a) cultural continuity is essential to the well-being of a child, a family and an Indigenous group, community or people;</p> <p>(b) the transmission of the languages, cultures, practices, customs, traditions, ceremonies and knowledge of Indigenous peoples is integral to cultural continuity;</p> <p>(c) a child’s best interests are often promoted when the child resides with members of his or her family and the culture of the Indigenous group, community or people to which he or she belongs is respected;</p> <p>(d) child and family services provided in relation to an Indigenous child are to be provided in a manner that does not contribute to the assimilation of the Indigenous group, community or people to which the child belongs or to the destruction of the culture of that Indigenous group, community or people; and</p> <p>(e) the characteristics and challenges of the region in which a child, a family or an Indigenous group, community or people is located are to be considered.”</p>

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**Table 13: National Standards, Act Respecting First Nations, Inuit and Métis Children, Youth and Families**

National Standard	Definition
Purpose and Principles	<p><b>Principle—Substantive Equality:</b> S 9 (3) “This Act is to be interpreted and administered in accordance with the principle of substantive equality as reflected in the following concepts:</p> <p>(a) the rights and distinct needs of a child with a disability are to be considered in order to promote the child’s participation, to the same extent as other children, in the activities of his or her family or the Indigenous group, community or people to which he or she belongs;</p> <p>(b) a child must be able to exercise his or her rights under this Act, including the right to have his or her views and preferences considered in decisions that affect him or her, and he or she must be able to do so without discrimination, including discrimination based on sex or gender identity or expression;</p> <p>(c) a child’s family member must be able to exercise his or her rights under this Act, including the right to have his or her views and preferences considered in decisions that affect him or her, and he or she must be able to do so without discrimination, including discrimination based on sex or gender identity or expression;</p> <p>(d) the Indigenous governing body acting on behalf of the Indigenous group, community or people to which a child belongs must be able to exercise without discrimination the rights of the Indigenous group, community or people under this Act, including the right to have the views and preferences of the Indigenous group, community or people considered in decisions that affect that Indigenous group, community or people; and</p> <p>(e) in order to promote substantive equality between Indigenous children and other children, a jurisdictional dispute must not result in a gap in the child and family services that are provided in relation to Indigenous children.”</p>
Best Interests of Indigenous Child	<p><b>Best Interests of Indigenous Child:</b> S 10 (1) “The best interests of the child must be a primary consideration in the making of decisions or the taking of actions in the context of the provision of child and family services in relation to an Indigenous child and, in the case of decisions or actions related to child apprehension, the best interests of the child must be the paramount consideration.”</p>

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**Table 13: National Standards, Act Respecting First Nations, Inuit and Métis Children, Youth and Families**

National Standard	Definition
Best Interests of Indigenous Child	<p><b>Primary consideration:</b> S 10 (2) “When the factors referred to in subsection (3) are being considered, primary consideration must be given to the child’s physical, emotional and psychological safety, security and well-being, as well as to the importance, for that child, of having an ongoing relationship with his or her family and with the Indigenous group, community or people to which he or she belongs and of preserving the child’s connections to his or her culture.”</p> <p><b>Factors to Be Considered:</b> S 10 (3) “To determine the best interests of an Indigenous child, all factors related to the circumstances of the child must be considered, including</p> <ul style="list-style-type: none"> <li>(a) the child’s cultural, linguistic, religious and spiritual upbringing and heritage;</li> <li>(b) the child’s needs, given the child’s age and stage of development, such as the child’s need for stability;</li> <li>(c) the nature and strength of the child’s relationship with his or her parent, the care provider and any member of his or her family who plays an important role in his or her life;</li> <li>(d) the importance to the child of preserving the child’s cultural identity and connections to the language and territory of the Indigenous group, community or people to which the child belongs;</li> <li>(e) the child’s views and preferences, giving due weight to the child’s age and maturity, unless they cannot be ascertained;</li> <li>(f) any plans for the child’s care, including care in accordance with the customs or traditions of the Indigenous group, community or people to which the child belongs;</li> <li>(g) any family violence and its impact on the child, including whether the child is directly or indirectly exposed to the family violence as well as the physical, emotional and psychological harm or risk of harm to the child; and</li> <li>(h) any civil or criminal proceeding, order, condition, or measure that is relevant to the safety, security and well-being of the child.</li> </ul> <p><b>Consistency:</b> S 10 (4) “Subsections (1) to (3) are to be construed in relation to an Indigenous child, to the extent that it is possible to do so, in a manner that is consistent with a provision of a law of the Indigenous group, community or people to which the child belongs.”</p>

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**Table 13: National Standards, Act Respecting First Nations, Inuit and Métis Children, Youth and Families**

National Standard	Definition
Provision of Child and Family Services	<p><b>Effect of Services:</b> S 11 “Child and family services provided in relation to an Indigenous child are to be provided in a manner that</p> <ul style="list-style-type: none"> <li>(a) takes into account the child’s needs, including with respect to his or her physical, emotional and psychological safety, security and well-being;</li> <li>(b) takes into account the child’s culture;</li> <li>(c) allows the child to know his or her family origins; and</li> <li>(d) promotes substantive equality between the child and other children.</li> </ul> <p><b>Notice:</b> S 12(1) “In the context of providing child and family services in relation to an Indigenous child, to the extent that doing so is consistent with the best interests of the child, before taking any significant measure in relation to the child, the service provider must provide notice of the measure to the child’s parent and the care provider, as well as to the Indigenous governing body that acts on behalf of the Indigenous group, community or people to which the child belongs and that has informed the service provider that they are acting on behalf of that Indigenous group, community or people.”</p> <p><b>Personal information:</b> S 12 (2) “The service provider must ensure that the notice provided to an Indigenous governing body under subsection (1) does not contain personal information about the child, a member of the child’s family or the care provider, other than information that is necessary to explain the proposed significant measure or that is required by the Indigenous governing body’s coordination agreement.”</p> <p><b>Representations and Party Status:</b> S 13 “In the context of a civil proceeding in respect of the provision of child and family services in relation to an Indigenous child,</p> <ul style="list-style-type: none"> <li>(a) the child’s parent and the care provider have the right to make representations and to have party status; and</li> <li>(b) the Indigenous governing body acting on behalf of the Indigenous group, community or people to which the child belongs has the right to make representations.”</li> </ul>

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**Table 13: National Standards, Act Respecting First Nations, Inuit and Métis Children, Youth and Families**

National Standard	Definition
Placement of Indigenous Child	<p><b>Priority to Preventive Care:</b> S 14 (1) “In the context of providing child and family services in relation to an Indigenous child, to the extent that providing a service that promotes preventive care to support the child’s family is consistent with the best interests of the child, the provision of that service is to be given priority over other services.”</p> <p><b>Prenatal Care:</b> S 14 (2) “To the extent that providing a prenatal service that promotes preventive care is consistent with what will likely be in the best interests of an Indigenous child after he or she is born, the provision of that service is to be given priority over other services in order to prevent the apprehension of the child at the time of the child’s birth.”</p> <p><b>Socio-economic Conditions:</b> S 15 “In the context of providing child and family services in relation to an Indigenous child, to the extent that it is consistent with the best interests of the child, the child must not be apprehended solely on the basis of his or her socio-economic conditions, including poverty, lack of adequate housing or infrastructure or the state of health of his or her parent or the care provider.”</p> <p><b>Reasonable Efforts:</b> S 15 (1) “In the context of providing child and family services in relation to an Indigenous child, unless immediate apprehension is consistent with the best interests of the child, before apprehending a child who resides with one of the child’s parents or another adult member of the child’s family, the service provider must demonstrate that he or she made reasonable efforts to have the child continue to reside with that person.”</p> <p><b>Priority:</b> S 16 (1) “The placement of an Indigenous child in the context of providing child and family services in relation to the child, to the extent that it is consistent with the best interests of the child, is to occur in the following order of priority:</p> <ul style="list-style-type: none"> <li>(a) with one of the child’s parents;</li> <li>(b) with another adult member of the child’s family;</li> <li>(c) with an adult who belongs to the same Indigenous group, community or people as the child;</li> <li>(d) with an adult who belongs to an Indigenous group, community or people other than the one to which the child belongs; or</li> <li>(e) with any other adult.”</li> </ul>

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**Table 13: National Standards, Act Respecting First Nations, Inuit and Métis Children, Youth and Families**

National Standard	Definition
Placement of Indigenous Child	<p><b>Placement With or Near Other Children:</b> S 16 (2) “When the order of priority set out in subsection (1) is being applied, the possibility of placing the child with or near children who have the same parent as the child, or who are otherwise members of the child’s family, must be considered in the determination of whether a placement would be consistent with the best interests of the child.”</p> <p><b>Customs and Traditions:</b> S 16 (2.1) “The placement of a child under subsection (1) must take into account the customs and traditions of Indigenous peoples such as with regards to customary adoption.”</p> <p><b>Family Unity:</b> S 16 (3) “In the context of providing child and family services in relation to an Indigenous child, there must be a reassessment, conducted on a ongoing basis, of whether it would be appropriate to place the child with  (a) a person referred to in paragraph (1)(a), if the child does not reside with such a person; or  (b) a person referred to in paragraph (1)(b), if the child does not reside with such a person and unless the child resides with a person referred to in paragraph (1)(a).”</p> <p><b>Attachment and Emotional Ties:</b> S 17 “In the context of providing child and family services in relation to an Indigenous child, if the child is not placed with a member of his or her family in accordance with paragraph 16(1)(a) or (b), to the extent that doing so is consistent with the best interests of the child, the child’s attachment and emotional ties to each such member of his or her family are to be promoted.”</p>

## Appendix D: Provincial and Territorial Child Welfare Legislation

Table 14 identifies provincial and territorial child welfare legislation governing the provision of child protection services. On January 1, 2020, *An Act Respecting First Nations, Inuit and Métis Children, Youth and Families* will come into force. The *Act* empowers Indigenous communities to develop and enforce their own laws concerning Indigenous child and family services. Under provisions of the *Act*, laws affecting child and family services passed by Indigenous communities prevail over both federal and provincial laws; however, they must adhere to provisions of the 1982 *Canadian Charter of Rights and Freedoms*, the 1985 *Canadian Human Rights Act* and the national standards set for the provision of child and family services to Indigenous children by the *Act*. See **Appendix C: An Act Respecting First Nations, Inuit and Métis Children, Youth and Families** for a brief overview of the *Act* and a list of key national standards.

**Table 14: Provincial and Territorial Child Welfare Legislation**

Province/ Territory	Primary Child Welfare Legislation	Associated Child Welfare Legislation
Alberta	Child, Youth and Family Enhancement Act, 2000	<ul style="list-style-type: none"> <li>• Drug Endangered Children Act, 2006</li> <li>• Adoption Regulation, 2004</li> <li>• Child, Youth and Family Enhancement Regulation, 2004</li> <li>• Court Rules and Forms Regulation, 2002</li> <li>• Publication Ban (Court Applications and Orders) Regulation, 2004</li> <li>• Protection Against Family Violence Act, 2000</li> </ul>
British Columbia	Child Family and Community Service Act, 1996	<ul style="list-style-type: none"> <li>• Adoption Act, 1996</li> <li>• Infants Act, 1996</li> <li>• Representative For Children And Youth Act, 2006</li> <li>• Child, Family and Community Service Regulation, 1995</li> </ul>
Manitoba	Child and Family Services Act, 1985	<ul style="list-style-type: none"> <li>• Adoption Act, 1997</li> <li>• The Intercountry Adoption(Haugue Convention) Act, 1995</li> <li>• The Child and Family Services Authorities Act, 2003</li> </ul>
New Brunswick	Family Services Act, 1980	<ul style="list-style-type: none"> <li>• Intercountry Adoption Act, 1996</li> </ul>

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**Table 14: Provincial/Territorial Child Welfare Legislation**

<b>Province/ Territory</b>	<b>Primary Child Welfare Legislation</b>	<b>Associated Child Welfare Legislation</b>
Newfoundland and Labrador	Children, Youth and Families Act, 2018	<ul style="list-style-type: none"> <li>• Adoption Act, 2013</li> </ul>
Northwest Territories	Child and Family Services Act, 1997	<ul style="list-style-type: none"> <li>• Child and Family Services Regulations, 1998</li> </ul>
Nova Scotia	Children and Family Services Act, 1990	<ul style="list-style-type: none"> <li>• Children and Family Services Regulations, 2016</li> <li>• Adoption Information Act, 1996</li> </ul>
Nunavut	Child and Family Services Act, 1997	N/A
Ontario	Child, Youth and Family Services Act, 2017	<ul style="list-style-type: none"> <li>• Children's Law Reform Act, 1990</li> <li>• Family Law Act, 1990</li> </ul>
Prince Edward Island	Child Protection Act, 1988	<ul style="list-style-type: none"> <li>• Adoption Act, 1988</li> </ul>
Quebec	Youth Protection Act, 1984	N/A
Saskatchewan	Child and Family Services Act, 1989-1990	<ul style="list-style-type: none"> <li>• Adoption Act, 1998</li> <li>• Emergency Protection for Victims of Child Sexual Abuse and Exploitation Regulations, 2002</li> </ul>
Yukon	Child and Family Services Act, 2008	<ul style="list-style-type: none"> <li>• Child and Youth Advocate Act, 2009</li> <li>• Children's Act, 2002</li> </ul>

## Appendix E: Provincial and Territorial Definitions of First Nations and Associated Concepts

The term ‘First Nations Child’ is neither used nor consistently defined in all provincial and territorial statutes. Table 15 identifies key terms and associated definitions of First Nations Child according to the relevant jurisdiction. Please refer to *Appendix N: Key Legislative Amendments and Non-Legislative Changes to the Provision of Child Welfare Services, 2006-2019* for legislative amendments and/or regulatory changes that came into force from 2006 through 2019 (if applicable).

***Unless otherwise indicated, all definitions are extracted from corresponding provincial or territorial primary child welfare legislation.***

**Table 15: Provincial and Territorial Definitions of First Nations Child and Associated Concepts**

Province/ Territory	Term	Definition
Alberta	Band	“means band within the meaning of the <i>Indian Act</i> (Canada)” Source: <i>Child, Youth and Family Enhancement Act</i> , RSA 2000, c C-12, ss 1(1) (a.4)
	Council of the Band	“means council of the band within the meaning of the <i>Indian Act</i> (Canada)” Source: <i>Child, Youth and Family Enhancement Act</i> , RSA 2000, c C-12, ss 1(1) (g)
	First Nation Individual	“means an Indian as defined in the <i>Indian Act</i> (Canada)” Source: <i>Child, Youth and Family Enhancement Act</i> , RSA 2000, c C-12, ss 1(1) (j.3)
	Indigenous	“includes First Nations, Metis and Inuit” Source: <i>Child, Youth and Family Enhancement Act</i> , RSA 2000, c C-12, ss 1(1) (m.01)  “child is a First Nation Individual or a member of a band” Source: <i>Child, Youth and Family Enhancement Act</i> , RSA 2000, c C-12, ss 53 (1) (1.1) (1)  “[child is] a resident of a reserve” Source: <i>Child, Youth and Family Enhancement Act</i> , RSA 2000, c C-12, ss 107 1(a) (i)
	Reserve	“means reserve within the meaning of the <i>Indian Act</i> (Canada)” Source: <i>Child, Youth and Family Enhancement Act</i> , RSA 2000, c C-12, ss 1(1) (t) (t.1)

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**Table 15: Provincial and Territorial Definitions of First Nations Child and Associated Concepts**

Province/ Territory	Term	Definition
British Columbia	First Nation	“means any of the following: (a) a band as defined in the <i>Indian Act</i> (Canada); (b) an Indigenous legal entity prescribed by regulation” Source: <i>Child, Family and Community Service Act</i> [RSBC 1996] Chapter 46, ss 1(1)
	First Nation child	"a child who is a member or is entitled to be a member of a First Nation" Source: <i>Child, Family and Community Service Act</i> [RSBC 1996] Chapter 46, ss 1(1)
	Indigenous child	“a child (a) who is a First Nation child, (b) who is a Nisga'a child, (c) who is a Treaty First Nation child, (d) who is under 12 years of age and has a biological parent who (i) is of Indigenous ancestry, including Métis and Inuit, and(ii) considers himself or herself to be Indigenous, or (e) who is 12 years of age or over, of Indigenous ancestry, including Métis and Inuit, and considers himself or herself to be Indigenous” Source: <i>Child, Family and Community Service Act</i> [RSBC 1996] Chapter 46, ss 1(1a-1e)
	Treaty First Nation	“in relation to a Treaty First Nation child, means the Treaty First Nation of which the child is a Treaty First Nation child” Source: <i>Child, Family and Community Service Act</i> [RSBC 1996] Chapter 46, ss 1(1)

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**Table 15: Provincial and Territorial Definitions of First Nations Child and Associated Concepts**

Province/ Territory	Term	Definition
Manitoba	Indian Child	<p>“child is registered or is entitled to be registered as an Indian under the <i>Indian Act</i> (Canada)” Source: <i>The Child and Family Services Act</i>, C.C.S.M. c. C8, ss 30 (1)e</p> <p>“child is registered or is entitled to be registered as an Indian under the <i>Indian Act</i> (Canada)” Source: <i>The Child and Family Services Act</i>, C.C.S.M. c. C8, ss 77 (2) (c.2)</p>
New Brunswick	N/A	<p>No relevant terminology found as the Act is 40 years old and is currently being rewritten. New Brunswick is guided by Operational Protocols between the New Brunswick’s Department of Social Development and First Nation Child and Family Service Agencies (Savoury, 2018, p. 16). Ten key areas covered by the Operational Protocols are as follows: (1) child protection; (2) resources for placement facilities; (3) emergency social services; (4) legal administrative support services; (5) requests for assistance involving child welfare services; (6) the sharing of all information relating to child welfare legislation, regulations, standards, policies, rates, and procedures; (7) training of individuals as it relates to child welfare work; (8) child death review committee; (9) adoption; and (10) consultations involving disputes regarding the Operational Protocols (New Brunswick Department of Social Development and First Nation Child and Family Service Agencies, n.d., pp. 1-9).</p>

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**Table 15: Provincial and Territorial Definitions of First Nations Child and Associated Concepts**

Province/ Territory	Term	Definition
Newfoundland and Labrador	Indigenous Child	"Indigenous child" means: an Inuit child; a Métis child, an Innu, Mi'kmaq or other First Nations child, a child who has a parent who considers the child to be Indigenous, or a person who is at least 12 years of age but under the age of 16 and who considers himself or herself to be Indigenous" Source: <i>Children, Youth and Families Act</i> , SNL2018 Chapter C-12.3, s 2 (1) n (i-iv)
	Indigenous Youth	"Indigenous youth" means: an Inuit youth, a Métis youth, an Innu, Mi'kmaq or other First Nations youth, or a youth who considers himself or herself to be Indigenous" Source: <i>Children, Youth and Families Act</i> , SNL2018 Chapter C-12.3, s 2 (1) q (i-iv)
	Labrador Inuit rights	"This Act and regulations made under this Act shall be read and applied in conjunction with the <i>Labrador Inuit Land Claims Agreement Act</i> and, where a provision of this Act or regulations made under this Act is inconsistent or conflicts with a provision, term or condition of the <i>Labrador Inuit Land Claims Agreement Act</i> , the provision, term or condition of the <i>Labrador Inuit Land Claims Agreement Act</i> shall have precedence over the provision of this Act or a regulation made under this Act." Source: <i>Children, Youth and Families Act</i> , SNL2018 Chapter C-12.3, s 3

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**Table 15: Provincial and Territorial Definitions of First Nations Child and Associated Concepts**

Province/ Territory	Term	Definition
Newfoundland and Labrador	Cultural Connection Plan	“a description of the arrangements made or being made to foster an Indigenous child's or Indigenous youth's connection with his or her culture, heritage, traditions, community, language and spirituality to preserve the Indigenous child's or Indigenous youth's cultural identity” Source: <i>Children, Youth and Families Act</i> , SNL2018 Chapter C-12.3, s 2 (1) f
Northwest Territories	Best Interests of the Child	“Where there is a reference in this Act to the best interests of a child, all relevant factors must be taken into consideration in determining the best interests of a child including the following factors, with a recognition that differing cultural values and practices must be respected in making that determination: (c) the child's cultural, linguistic and spiritual or religious upbringing and ties” Source: <i>Child and Family Services Act</i> , SNWT 1997, c.13, s3 and ss 3(c)
Nova Scotia	Aboriginal Child	“a child who is registered under the <i>Indian Act</i> (Canada) and includes a Mi'kmaq child” Source: <i>Children and Family Services Act</i> , 1990 s 3(1) (a)
	Band	“a band as defined in the <i>Indian Act</i> (Canada) within the Province of Nova Scotia” Source: <i>Children and Family Services Act</i> , 1990 s 3(1) (b)

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**Table 15: Provincial and Territorial Definitions of First Nations Child and Associated Concepts**

Province/ Territory	Term	Definition
Nunavut	Best Interests of the Child	<p>“Where there is a reference in this Act to the best interests of a child, all relevant factors must be taken into consideration in determining the best interests of a child including the following factors, with a recognition that differing cultural values and practices must be respected in making that determination:</p> <p>(c) the child's cultural, linguistic and spiritual or religious upbringing and ties”</p> <p>Source: <i>Child and Family Services Act, SNWT (Nu) 1997</i>, c.13, s3 and ss 3(c)</p>
Ontario	Band	<p>“has the same meaning as in the <i>Indian Act (Canada)</i>”</p> <p>Source: <i>Child, Youth and Family Services Act, 2017</i>, SO 2017, c 14, Sch 1, s 2(1)</p>
	Extended Family	<p>“persons to whom a child is related, including through a spousal relationship or adoption and, in the case of a First Nations, Inuk or Métis child, includes any member of,</p> <p>(a) a band of which the child is a member,</p> <p>(b) a band with which the child identifies,</p> <p>(c) a First Nations, Inuit or Métis community of which the child is a member, and</p> <p>(d) a First Nations, Inuit or Métis community with which the child identifies”</p> <p>Source: <i>Child, Youth and Family Services Act, 2017</i>, SO 2017, c 14, Sch 1, s 2(1)</p>
	First Nations, Inuit or Métis Community	<p>“a community listed by the Minister in a regulation made under section 28 [of the Act]”</p> <p>Source: <i>Child, Youth and Family Services Act, 2017</i>, SO 2017, c 14, Sch 1, s 2(1)</p>
	Regulations Listing First Nations, Inuit and Métis communities	<p>“The Minister may make regulations establishing lists of First Nations, Inuit and Métis communities for the purposes of this Act.”</p> <p>Source: <i>Child, Youth and Family Services Act, 2017</i>, SO 2017, c 14, Sch 1, s 68 (1)</p>

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**Table 15: Provincial and Territorial Definitions of First Nations Child and Associated Concepts**

Province/ Territory	Term	Definition
Ontario	Child's/Young Person's Bands	<p>"a reference to a child's or young person's bands and First Nations, Inuit or Métis communities includes all of the following:</p> <ol style="list-style-type: none"> <li>1. Any band of which the child or young person is a member.</li> <li>2. Any band with which the child or young person identifies.</li> <li>3. Any First Nations, Inuit or Métis community of which the child or young person is a member.</li> <li>4. Any First Nations, Inuit or Métis community with which the child or young person identifies" <p>Source: <i>Child, Youth and Family Services Act, 2017, SO 2017, c 14, Sch 1, s 2 (4)</i></p> </li></ol>
	Designation Of Child And Family Service Authority	<p>"A band or First Nations, Inuit or Métis community may designate a body as a First Nations, Inuit or Métis child and family service authority."</p> <p>Source: <i>Child, Youth and Family Services Act, 2017, SO 2017, c 14, Sch 1, s 70 (1)</i></p>
Prince Edward Island	Aboriginal Child	<p>"a child who</p> <ol style="list-style-type: none"> <li>(i) is registered in accordance with the <i>Indian Act</i> (Canada),</li> <li>(ii) has a biological parent who is registered in accordance with the <i>Indian Act</i> (Canada),</li> <li>(iii) is under 12 years old and has a biological parent who               <ol style="list-style-type: none"> <li>(A) is a descendant from an aboriginal person, and</li> <li>(B) considers himself or herself to be aboriginal, or</li> </ol> </li> <li>(iv) is 12 years old or more, a descendant of an aboriginal person and considers himself or herself to be aboriginal" <p>Source: <i>Child Protection Act, RSPEI 1988, c C-5.1, s 1 (a)</i></p> </li></ol>
	Band	<p>"a body of Indians as defined by the <i>Indian Act</i> (Canada)"</p> <p>Source: <i>Child Protection Act, RSPEI 1988, c C-5.1, s 1(e)</i></p>
	Band Council	<p>"band council" means the governing body for a band, as defined by the <i>Indian Act</i> (Canada)"</p> <p><i>Child Protection Act, RSPEI 1988, c C-5.1, s 1(f)</i></p>
	Designated Representative	<p>"a person designated by the band council to represent the band respecting an aboriginal child"</p> <p><i>Child Protection Act, RSPEI 1988, c C-5.1, s 1(n)</i></p>

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**Table 15: Provincial and Territorial Definitions of First Nations Child and Associated Concepts**

Province/ Territory	Term	Definition
Quebec		No relevant terminology identified.
Saskatchewan	Band	“a band as defined in the <i>Indian Act</i> (Canada) and includes the council of a band” Source: <i>The Child and Family Services Act</i> , SS 1989-90, c C-7.2, s 2 (1) (a.1)
	Band list	“a band list as defined in the <i>Indian Act</i> (Canada)” Source: <i>The Child and Family Services Act</i> , SS 1989-90, c C-7.2, s 2 (1) (b)
	Status Indian	“a person who is: (i) registered as an Indian; or (ii) entitled to be registered as an Indian; pursuant to the.”  “child is a status Indian: (i) whose name is included in a Band List; or (ii) who is entitled to have his or her name included in a Band List”  Source: <i>The Child and Family Services Act</i> , SS 1989-90, c C-7.2, s 2 (1) (s)
Yukon	First Nation	“means one of the following: (a) Carcross/Tagish First Nation; (b) Champagne and Aishihik First Nations; (c) Kluane First Nation; (d) Kwanlin Dun First Nation; (e) Liard First Nation; (f) Little Salmon/Carmacks First Nation; (g) First Nation of Nacho Nyak Dun; (h) Ross River Dena Council; (i) Selkirk First Nation; (j) Ta’an Kwach’an Council; (k) Teslin Tlingit Council; (l) Tr’ondëk Hwëch’in; (m) Vuntut Gwitchin First Nation; or (n) White River First Nation” Source: <i>Child and Family Services Act</i> , SY 2008, c 1, s 1 (a) – 1 (n).

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**Table 15: Provincial and Territorial Definitions of First Nations Child and Associated Concepts**

Province/ Territory	Term	Definition
Yukon	First Nations Service Authority	“means an authority designated under section 169 [of the <i>Child and Family Services Act</i> , SY 2008, c 1]” Source: <i>Child and Family Services Act</i> , SY 2008, c 1, s (1)
	Member of a First Nation	“means: (a) when used in respect of a First Nation that has a final agreement, a person enrolled or eligible to be enrolled under the final agreement, and (b) when used in respect of a First Nation that is a band under the provisions of the <i>Indian Act</i> (Canada) a person who is a member of the band under that Act” Source: <i>Child and Family Services Act</i> , SY 2008, c 1, s (1)

## Appendix F: Provincial and Territorial Age of Protection and Definitions of Child and/or Youth

Age of protection “refers to the age of the identified ‘child’ engaged in the child welfare process. Each province and territory has its own legislation in regards to mandated age of service. Consequently, the identified age depending on legislation is the maximum age that may be serviced by child welfare organizations. Ages range from anywhere between 16 to 19 years as the top age that may be serviced” (Sturtridge, 2013: 1-2). Table 16 identifies the age of protection for each province and territory along with corresponding definitions of child and/or youth. Please refer to **Appendix N: Key Legislative Amendments and Non-Legislative Changes to the Provision of Child Welfare Services, 2006-2019** for legislative amendments and/or regulatory changes that came into force from 2006 through 2019 (if applicable).

***Unless otherwise indicated, all definitions are extracted from corresponding provincial or territorial primary child welfare legislation.***

**Table 16: Provincial and Territorial Ages of Protection and Corresponding Definitions of Child and/or Youth**

Province/ Territory	Age of Protection	Definition of “Child”	Definition of “Youth”
Alberta	under 18	“a person under the age of 18 years and includes a youth unless specifically stated otherwise” Source: <i>Child, Youth and Family Enhancement Act</i> , RSA 2000, c C-12, s 1 (d)	“a child who is 16 years of age or older” Source: <i>Child, Youth and Family Enhancement Act</i> , RSA 2000, c C-12, s 1 (z) (cc)
British Columbia	under 19	“a person under 19 years of age and includes a youth” Source: <i>Child, Family and Community Service Act</i> [RSBC 1996] Chapter 46, s 1 (1)	“a person who is 16 years of age or over but is under 19 years of age” Source: <i>Child, Family and Community Service Act</i> [RSBC 1996] Chapter 46, s 1 (1)

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**Table 16: Provincial and Territorial Ages of Protection and Corresponding Definitions of Child and/or Youth**

Province/ Territory	Age of Protection	Definition of “Child”	Definition of “Youth”
Manitoba	under 18	<p>“a person under the age of majority”  Source: <i>The Child and Family Services Act</i>, C.C.S.M. c. C8, ss 77 (2) (c.2)  *age of majority in Manitoba is 18</p>	no definition
New Brunswick	<p>under 19  “aged 19 and over for mentally incompetent people categorized as “neglected adults” (Public Health Agency of Canada, 2019, p. 13).</p>	<p>“a person actually or apparently under the age of majority*, unless otherwise specified or prescribed in [the] Act or the regulations, and includes: (a) an unborn child; (b) a stillborn child; (c) a child whose parents are not married to one another; (d) a child to whom a person stands in loco parentis, if that person’s spouse is a parent of the child; and (e) when used in reference to the relationship between an adopted person and the person adopting or the relationship between a person and his birth mother or birth father, a person who has attained the age of majority*”  Source: <i>Family Services Act</i>, SNB 1980, c F-2.2, s 1  *age of majority in New Brunswick is 19</p>	no definition

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**Table 16: Provincial and Territorial Ages of Protection and Corresponding Definitions of Child and/or Youth**

Province/ Territory	Age of Protection	Definition of “Child”	Definition of “Youth”
New Brunswick		<p>“Current provisions ...provide for protective services for neglected or abused adults and provide that a child in care who reaches adulthood, who is mentally incompetent and who does not have an adult who could assume responsibility for the child’s care can be treated as a neglected adult by the court. The Act permits the Minister to continue to provide care and support for a child who has been in care under a guardianship order who has reached the age of majority.* The eligibility for continued care and support is set out in the Child in Care Program Practice Standards” (Public Health Agency of Canada, 2019, p. 13).”</p> <p>*age of majority in New Brunswick is 19</p>	
Newfoundland and Labrador	<p>under 16</p> <p>between 16 and 18 if child has limited mental capacity</p> <p><i>Source: Children, Youth and Families Act, SNL2018 Chapter C-12.3, s 21 (1) c</i></p>	<p>“a person actually or apparently under the age of 16 years”</p> <p><i>Source: Children, Youth and Families Act, SNL2018 Chapter C-12.3, s 2(1) d</i></p>	<p>“a person who is at least 16 years of age but under 18 years of age”</p> <p><i>Source: Children, Youth and Families Act, SNL2018 Chapter C-12.3, s 2(1) ff</i></p>

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**Table 16: Provincial and Territorial Ages of Protection and Corresponding Definitions of Child and/or Youth**

Province/ Territory	Age of Protection	Definition of “Child”	Definition of “Youth”
Northwest Territories	under 19  separate protection scheme for youth between 16 and 19 Source: <i>Child and Family Services Act</i> , SNWT 1997, c.13, s 29	“a person who is or, in the absence of evidence to the contrary, appears to be under 16 years of age” Source: <i>Child and Family Services Act</i> , SNWT 1997, c.13, s 1	“a person who has attained the age of 16 years but has not attained the age of majority*” Source: <i>Child and Family Services Act</i> , SNWT 1997, c.13, s 1 *age of majority is 19 in the Northwest Territories
Nova Scotia	under 19 “Children older than 16 and younger than 19 who are in need of protective services may enter into agreements with an agency for placement or services. A court can order a care and custody order to extend past the child’s 19 <sup>th</sup> birthday if the child is under a disability, in which case the order can extend to the child’s 21 <sup>st</sup> birthday” (Public Health Agency of Canada, 2019, p. 13).” See also <i>Children and Family Services Act</i> , 1990 s 19	“a person under nineteen years of age” Source: <i>Children and Family Services Act</i> , 1990 s 3 (1) (e)	no definition

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**Table 16: Provincial and Territorial Ages of Protection and Corresponding Definitions of Child and/or Youth**

<b>Province/ Territory</b>	<b>Age of Protection</b>	<b>Definition of “Child”</b>	<b>Definition of “Youth”</b>
Nunavut	under 19	"child" means a person who is or, in the absence of evidence to the contrary, appears to be under the age of 16 years, and a person in respect of whom an order has been made under subsection 47(3) or 48(2)" Source: <i>Child and Family Services Act</i> , SNWT (Nu) 1997, c 13, s (1)	"a person who has attained the age of 16 years but has not attained the age of majority."  *age of majority is 19 in Nunavut Source: <i>Child and Family Services Act</i> , SNWT (Nu) 1997, c 13, s (1)
Ontario	under 18	"a person younger than 18" Source: <i>Child, Youth and Family Services Act</i> , 2017, SO 2017, c 14, Sch 1, s 2(1)	no definition
Prince Edward Island	under 18	" a person under the age of 18 years" Source: <i>Child Protection Act</i> , RSPEI 1988, c C-5.1, s 1(h)	"a person over 12 and under 18" Source: <i>Child Protection Act</i> , RSPEI 1988, c C-5.1, s 1(y)
Quebec	under 18	"a person under the age of 18 years" Source: <i>Youth Protection Act</i> , CQLR c P-34.1, s 1(c)	no definition

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**Table 16: Provincial and Territorial Ages of Protection and Corresponding Definitions of Child and/or Youth**

Province/ Territory	Age of Protection	Definition of “Child”	Definition of “Youth”
Saskatchewan	under 16 age 16 and 17 in “circumstances of an exceptional nature” <i>Source: The Child and Family Services Act, SS 1989-90, c C-7.2, s 18 (1)</i>	<p>“except where a contrary intention is expressed, an unmarried person actually or apparently under 16 years of age” <i>Source: The Child and Family Services Act, SS 1989-90, c C-7.2, s 2 (1) (d)</i></p> <p>“a person who is 16 or 17 years of age is in need of care and supervision and: (a) there is no parent willing to assume the responsibility for the person; or (b) the person cannot be re-established with his or her family; the director may, by agreement with the person, provide residential services, financial assistance or both to that person” <i>Source: Source: The Child and Family Services Act, SS 1989-90, c C-7.2, s 10 (1)</i></p>	no definition
Yukon	under 19	<p>“a person under 19 years of age” <i>Source: Child and Family Services Act, SY 2008, c 1, s1</i></p>	<p>“a person who is 16 years of age or over but is under 19 years of age” <i>Source: Child and Family Services Act, SY 2008, c 1, s1</i></p>

## Appendix G: Provincial and Territorial Terminology for Neglect

The term ‘neglect’ is not consistently defined in all provincial and territorial statutes, but interchangeable concepts include ‘failure to care and provide for or supervise and protect,’ ‘does not provide,’ ‘refuses or is unavailable or unable to consent to treatment.’ Table 17 identifies terms and/or concepts for neglect according to the respective provincial and territorial jurisdictions. For detailed definitions of neglect according to province and territory, see *Appendix H: Provincial and Territorial Definitions of Neglect*.

**Table 17: Provincial and Territorial Terminology for Neglect**

Province/ Territory	Provincial and Territorial Terminology for Neglect
Alberta	<ul style="list-style-type: none"> <li>• abandoned</li> <li>• neglect</li> <li>• cruel and unusual treatment or punishment</li> </ul> Source: Public Health Agency of Canada (2019, p. 18)
British Columbia	<ul style="list-style-type: none"> <li>• deprivation</li> <li>• abandonment</li> </ul> Source: Public Health Agency of Canada (2019, pp. 18-19)
Manitoba	<ul style="list-style-type: none"> <li>• act or omission</li> <li>• lack of adequate care, supervision or control</li> <li>• failure or refusal to provide</li> </ul> Source: Public Health Agency of Canada (2019, p. 18)
New Brunswick	<ul style="list-style-type: none"> <li>• lack of adequate care, supervision or control</li> <li>• unfit or improper circumstances</li> <li>• failure or refusal to provide or obtain</li> <li>• neglects or refuses to ensure</li> </ul> Source: Public Health Agency of Canada (2019, pp. 19-20).
Newfoundland and Labrador	<ul style="list-style-type: none"> <li>• failure or refusal to obtain or permit</li> <li>• abandonment</li> <li>• left without adequate supervision</li> </ul> Source: Public Health Agency of Canada (2019, pp. 19-20)
Northwest Territories	<ul style="list-style-type: none"> <li>• failure to provide or consent to treatment</li> <li>• failure to obtain services or treatment</li> <li>• abandoned</li> <li>• failure to provide or consent to provision of services</li> </ul> Source: Public Health Agency of Canada (2019, pp. 19-20).

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**Table 17: Provincial and Territorial Terminology for Neglect**

Province/ Territory	Provincial and Territorial Terminology for Neglect
Nova Scotia	<ul style="list-style-type: none"> <li>• neglect</li> <li>• substantial risk of neglect</li> </ul> Source: Public Health Agency of Canada (2019, p. 21)
Nunavut	<ul style="list-style-type: none"> <li>• failure to provide or consent</li> <li>• failure to provide or consent to treatment</li> <li>• unavailable, unable or unwilling to properly care for the child</li> <li>• malnutrition</li> <li>• abandonment</li> </ul> Source: Public Health Agency of Canada (2019, pp. 21-22)
Ontario	<ul style="list-style-type: none"> <li>• failure to provide or consent to treatment</li> <li>• unable to care for child</li> </ul> Source: Public Health Agency of Canada (2019, p. 21)
Prince Edward Island	<ul style="list-style-type: none"> <li>• neglect</li> <li>• inadequate supervision or protection</li> <li>• failure to obtain or consent</li> <li>• abandonment</li> <li>• fails to obtain or consent to treatment</li> </ul> Source: Public Health Agency of Canada (2019, pp. 23-24)
Quebec	<ul style="list-style-type: none"> <li>• abandoned</li> <li>• neglected,</li> <li>• psychological ill-treatment</li> <li>• do not exercise stable supervision</li> </ul> Source: Public Health Agency of Canada (2019, p. 23)
Saskatchewan	<ul style="list-style-type: none"> <li>• need of protection</li> <li>• failure to provide</li> <li>• failure to remedy</li> </ul> Source: Public Health Agency of Canada (2019, pp. 23-24)
Yukon	<ul style="list-style-type: none"> <li>• protective intervention</li> <li>• deprivation</li> <li>• prevent imminent serious physical or mental harm</li> <li>• alleviate severe pain</li> <li>• abandonment</li> <li>• failure to provide or consent to services</li> </ul> Source: Public Health Agency of Canada (2019, p. 24)

## Appendix H: Provincial and Territorial Definitions of Neglect

Each province and territory has unique legislation defining and describing responses to neglect. Table 18 provides provincial and territorial definitions of neglect. Please refer to **Appendix N: Key Legislative Amendments and Non-Legislative Changes to the Provision of Child Welfare Services, 2006-2019** for legislative amendments and/or regulatory changes that came into force from 2006 through 2019 (if applicable).

***Unless otherwise indicated, all definitions are extracted from primary provincial or territorial child welfare legislation.***

**Table 18: Provincial and Territorial Definitions of Neglect**

Province/ Territory	Definition of Neglect
Alberta	<p>“A child is neglected if the guardian (a) is unable or unwilling to provide the child with the necessities of life, (b) is unable or unwilling to obtain for the child, or to permit the child to receive, essential medical, surgical or other remedial treatment that is necessary for the health or well-being of the child, or (c) is unable or unwilling to provide the child with adequate care or supervision”</p> <p>Source: <i>Child, Youth and Family Enhancement Act</i>, RSA 2000, c C-12, s 2 (2.1)</p>
British Columbia	<p>“Neglect is failure to provide for a child’s or youth’s basic needs. It involves an act of omission by the parent or guardian, resulting in (or likely to result in) harm to the child or youth. Neglect may include failure to provide food, shelter, basic health care, supervision or protection from risks, to the extent that the child’s or youth’s physical health, development or safety is, or is likely to be, harmed”</p> <p>Source: Government of British Columbia (2017, p. 25)</p> <p>“Physical Indicators [of neglect include:] [i]njuries where medical care has been unusually delayed or avoided; [i]njuries resulting from a lack of supervision; [m]edical or dental needs that are consistently unattended to; [f]ailure to thrive” in a child where no medical reason has been found; [c]lothing consistently inadequate for weather conditions; [p]ersistent hunger; [p]oor or inadequate nutrition; or [p]oor personal hygiene”</p> <p>Source: Government of British Columbia (2017, p. 28)</p>

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**Table 18: Provincial and Territorial Definitions of Neglect**

Province/ Territory	Definition of Neglect
British Columbia	<p>“Behavioural [i]ndicators [of neglect include:] [f]orages for, hoards or steals food; [d]evelopmental delay or setbacks related to a lack of stimulation; [p]oor school attendance; [i]nappropriately takes on a caregiver role for a parent or siblings; [t]ired or unable to concentrate at school; [a]ppears sad or has flat affect; [r]eluctant to go home; speaks of being or appears to be left alone at home a lot, unsupervised; [i]s involved in behaviours such as misuse of drugs or alcohol, stealing, fire-setting; or [d]oes not respond to affection or stimulation” Source: Government of British Columbia (2017, p. 29)</p>
Manitoba	<p>“a child is in need of protection where the life, health or emotional well-being of the child is endangered by the act or omission of a person” Source: <i>The Child and Family Services Act</i>, C.C.S.M. c. C8, s 71 (1)</p>
New Brunswick	<p>“<i>Physical [n]eglect</i> [occurs w]hen parents or caregivers fail to provide a child's basic needs. Physical neglect might include failing to provide children with proper food, clothing, or shelter. It may also involve lack of attention to, or refusal to provide, proper healthcare treatment. Neglect also happens when a person caring for a child does not, or cannot, control and supervise the child. This includes failing to make the child go to school, or stopping the child from harming himself or others” Source: Public Legal Education and Information Service of New Brunswick (2007, p. 2)</p> <p>“Emotional maltreatment [r]efers to both emotional abuse and <i>emotional neglect</i>. This might include repeated attacks on a child's sense of self-worth, insults, isolation, rejection, unrealistic expectations or constant criticism. It might also involve terrorizing a child such as threatening to kill the family pet” Source: Public Legal Education and Information Service of New Brunswick (2007, p. 2)</p>

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**Table 18: Provincial and Territorial Definitions of Neglect**

Province/ Territory	Definition of Neglect
Newfoundland and Labrador	<p>“A child is in need of protective intervention where the child:</p> <p>(a) is being, or is at risk of being, physically harmed by the action or <i>lack of appropriate action by the child’s parent</i>;</p> <p>(c) is being, or is at risk of being, emotionally harmed by the parent’s conduct and there are reasonable grounds to believe that the emotional harm suffered by the child, or that may be suffered by the child, results from the actions, <i>failure to act or pattern of neglect</i> on the part of the child’s parent;</p> <p>(e) is being, or is at risk of being, sexually abused or exploited by a person and the child’s <i>parent does not protect the child</i>;</p> <p>(f) is being, or is at risk of being, emotionally harmed by a person and the child’s <i>parent does not protect the child</i>;</p> <p>(g) is in the custody of a parent who <i>refuses or fails to obtain or permit essential medical, psychiatric, surgical or remedial care or treatment</i> to be given to the child when recommended by a qualified health practitioner;</p> <p>(h) is <i>abandoned</i>;</p> <p>(i) has no living parent and <i>no adequate provision</i> has been made for the child’s care;</p> <p>(j) has no parent available to care for the child and the <i>parent has not made adequate provision</i> for the child’s care;</p> <p>(k) has <i>no parent able or willing to care for the child</i>;</p> <p>(o) has been left <i>without adequate supervision appropriate to the child’s developmental level</i>; or</p> <p>(p) is actually or apparently under 12 years of age and has</p> <p>(i) allegedly killed or seriously injured another person or has caused serious damage to another person’s property, or</p> <p>(ii) on more than one occasion caused injury to another person or other living thing or threatened, either with or without weapons, to cause injury to another person or other living thing, either with the parent’s encouragement or because the <i>parent does not respond adequately to the situation</i>.</p> <p>Source: <i>Children, Youth and Families Act</i>, SNL2018 Chapter C-12.3, s 10 (1) (a-p)</p>

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**Table 18: Provincial and Territorial Definitions of Neglect**

Province/ Territory	Definition of Neglect
Northwest Territories	<p>“A child needs protection where</p> <p>(a) the child has suffered physical harm inflicted by the child's parent or caused by the <i>parent's unwillingness or inability to care and provide for or supervise and protect the child adequately</i>;</p> <p>(b) there is a substantial risk that the child will suffer physical harm inflicted by the child's parent or caused by the <i>parent's unwillingness or inability to care and provide for or supervise and protect the child adequately</i>;</p> <p>(c) the child has been sexually molested or sexually exploited by the child's parent or by another person where the child's parent knew or should have known of the possibility of sexual molestation or sexual exploitation and was <i>unwilling or unable to protect the child</i>;</p> <p>(d) there is a substantial risk that the child will be sexually molested or sexually exploited by the child's parent or by another person where the child's parent knows or should know of the possibility of sexual molestation or sexual exploitation and is <i>unwilling or unable to protect the child</i>;</p> <p>(e) the child has demonstrated severe anxiety, depression, withdrawal, self-destructive behaviour, or aggressive behaviour towards others, or any other severe behaviour that is consistent with the child having suffered emotional harm, and the child's <i>parent does not provide, or refuses or is unavailable or unable to consent to the provision of, services, treatment or healing processes to remedy or alleviate the harm</i>;</p> <p>(f) there is a substantial risk that the child will suffer emotional harm of the kind described in paragraph (e) and the child's <i>parent does not provide, or refuses or is unavailable or unable to consent to the provision of, services, treatment or healing processes to prevent the harm</i>;</p> <p>(g) the child suffers from a mental, emotional or developmental condition that, if not remedied, could seriously impair the child's development and the child's <i>parent does not provide, or refuses or is unavailable or unable to consent to the provision of, services, treatment or healing processes to remedy or alleviate the condition</i>;</p> <p>(h) the child's health or emotional or mental well-being has been harmed by the child's use of alcohol, drugs, solvents or similar substances and the child's <i>parent is unavailable, unable or unwilling to properly care for the child</i>;</p>

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**Table 18: Provincial and Territorial Definitions of Neglect**

Province/ Territory	Definition of Neglect
Northwest Territories	<p>(i) there is a substantial risk that the child's health or emotional or mental well-being will be harmed by the child's use of alcohol, drugs, solvents or similar substances and the child's <i>parent is unavailable, unable or unwilling to properly care for the child</i>;</p> <p>(j) the child requires medical treatment to cure, prevent or alleviate serious physical harm or serious physical suffering and the child's"</p> <p>Source: <i>Child and Family Services Act</i>, SNWT 1997, c.13, s 7 (3)</p>
Nova Scotia	<p>"[N]eglect" means the chronic and serious failure to provide to the child (i) adequate food, clothing or shelter, (ii) adequate supervision, (iii) affection or cognitive stimulation, or (iv) any other similar failure to provide"</p> <p>Source: <i>Children and Family Services Act</i>, 1990, s 3 (1) (p)</p>
Nunavut	<p>"A child needs protection where (a) the child has suffered physical harm inflicted by the child's parent or caused by the <i>parent's unwillingness or inability to care and provide for or supervise and protect the child adequately</i>;</p> <p>(b) there is a substantial risk that the child will suffer physical harm inflicted by the child's parent or caused by the <i>parent's unwillingness or inability to care and provide for or supervise and protect the child adequately</i>;</p> <p>(c) the child has been sexually molested or sexually exploited by the child's parent or by another person where the child's parent knew or should have known of the possibility of sexual molestation or sexual exploitation and was <i>unwilling or unable to protect the child</i>;</p> <p>(d) there is a substantial risk that the child will be sexually molested or sexually exploited by the child's parent or by another person where the child's parent knows or should know of the possibility of sexual molestation or sexual exploitation and is <i>unwilling or unable to protect the child</i>;</p> <p>(e) the child has demonstrated severe anxiety, depression, withdrawal, self-destructive behaviour, or aggressive behaviour towards others, or any other severe behaviour that is consistent with the child having suffered emotional harm, and the child's <i>parent does not provide, or refuses or is unavailable or unable to consent to the provision of, services, treatment or healing processes to remedy or alleviate the harm</i>;</p> <p>(f) there is a substantial risk that the child will suffer emotional harm of the kind described in paragraph (e) and the child's <i>parent does not provide, or refuses or is unavailable or unable to consent to the provision of, services, treatment or healing processes to prevent the harm</i>;</p>

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**Table 18: Provincial and Territorial Definitions of Neglect**

Province/ Territory	Definition of Neglect
Nunavut	<p>(g) the child suffers from a mental, emotional or developmental condition that, if not remedied, could seriously impair the child's development and the child's parent <i>does not provide, or refuses or is unavailable or unable to consent to the provision of, services, treatment or healing processes to remedy or alleviate the condition;</i></p> <p>(h) the child's health or emotional or mental well-being has been harmed by the child's use of alcohol, drugs, solvents or similar substances and the child's <i>parent is unavailable, unable or unwilling to properly care for the child;</i></p> <p>(i) there is a substantial risk that the child's health or emotional or mental well-being will be harmed by the child's use of alcohol, drugs, solvents or similar substances and the child's <i>parent is unavailable, unable or unwilling to properly care for the child;</i></p> <p>(j) the child requires medical treatment to cure, prevent or alleviate serious physical harm or serious physical suffering and the child's"</p> <p>Source: <i>Child and Family Services Act, SNWT (Nu) 1997, c.13, s 7 (3)</i></p>
Ontario	<p>"failure to adequately care for, provide for, supervise or protect the child, or pattern of neglect in caring for, providing for, supervising or protecting the child"</p> <p>Source: <i>Child, Youth and Family Services Act, 2017, SO 2017, c 14, Sch 1, s 2 (a)</i></p> <p>(i)</p>
Prince Edward Island	<p>"[F]ailure to provide a child with adequate care and guidance, or other acts of omission by a parent respecting a child, that are inappropriate for the child or likely to be harmful to the child"</p> <p>Source: <i>Child Protection Act, RSPEI 1988, c C-5.1, s 1 (r)</i></p>
Quebec	<p>"[R]efers to (1) a situation in which the child's parents or the person having custody of the child do not meet the child's basic needs, i. failing to meet the child's basic physical needs with respect to food, clothing, hygiene or lodging, taking into account their resources; ii. failing to give the child the care required for the child's physical or mental health, or not allowing the child to receive such care; or iii. failing to provide the child with the appropriate supervision or support, or failing to take the necessary steps to ensure that the child receives a proper education and, if applicable, that he attends school as required under the <i>Education Act</i> (chapter I-13.3) or any other applicable legislation; or (2) a situation in which there is a serious risk that a child's parents or the person having custody of the child are not providing for the child's basic needs in the manner referred to in subparagraph 1"</p> <p>Source: <i>Youth Protection Act, CQLR c P-34.1, s 38 (b) (1)</i></p>

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**Table 18: Provincial and Territorial Definitions of Neglect**

Province/ Territory	Definition of Neglect
Saskatchewan	<p>“Neglect [refers to] failing to provide a child with enough food, proper clothing, shelter, health care, or supervision” (Government of Saskatchewan, n.d., p. 1). Physical indicators of neglect include: “abandonment; unattended medical or dental needs; lack of supervision; hunger; inappropriate dress; poor hygiene; persistent health conditions (e.g., scabies, head lice, diaper rash or other skin disorder); and developmental delays (e.g., language, weight)” (Government of Saskatchewan, n.d., p. 3). Child behavioural indicators of neglect include: “displays fatigue or listlessness, falls asleep in class; steals food; reports that no caregiver is at home; and frequently absent or late for school” (Government of Saskatchewan, n.d., p. 3).</p> <p>“A child is in need of protection if: (a) <i>as a result of action or omission by the child’s parent:…(iv) medical, surgical or other recognized remedial care or treatment that is considered essential by a duly qualified medical practitioner has not been or is not likely to be provided to the child; (v) the child’s development is likely to be seriously impaired by failure to remedy a mental, emotional or developmental condition; … (b) there is no adult person who is able and willing to provide for the child’s needs, and physical or emotional harm to the child has occurred or is likely to occur; or (c) the child is less than 12 years of age and: … (ii) the child’s parent is unable or unwilling to provide for the child’s needs”</i> Source: <i>The Child and Family Services Act</i>, SS 1989-90, c C-7.2, s 11</p>
Yukon	<p>“Neglect [is defined as] failing to provide for a child’s basic needs, including essential food, appropriate clothing, shelter, health care or supervision” Source: Yukon Health and Social Services (2017, p. i)</p> <p>Possible physical indicators of neglect include: “abandonment; unattended medical or dental needs; consistent lack of supervision; consistent hunger, inappropriate dress for weather conditions and poor hygiene; persistent and untreated conditions (e.g., scabies, head lice, diaper rash or other skin disorder); and developmental delays (e.g., language, weight)” Source: Yukon Health and Social Services (2017, p. 9)</p> <p>Possible behavioral indicators of neglect include: regularly displays fatigue or listlessness or falls asleep in class; steals food, begs from classmates; reports that no caretaker is at home; frequently absent or late; self-destructive; school drop-outs (adolescents); lack of parental participation; misuse of alcohol or drugs; [and/or] lack of trust in others” Source: Yukon Health and Social Services (2017, p. 9)</p>

## Appendix I: Provincial and Territorial Definitions of Physical Abuse

Each province and territory has unique legislation defining and describing responses to physical abuse. Table 19 provides provincial and territorial definitions of physical abuse. Please refer to **Appendix N: Key Legislative Amendments and Non-Legislative Changes to the Provision of Child Welfare Services, 2006-2019** for legislative amendments and/or regulatory changes that came into force from 2006 through 2019 (if applicable).

***Unless otherwise indicated, all definitions are extracted from primary provincial or territorial child welfare legislation.***

**Table 19: Provincial and Territorial Definitions of Physical Abuse**

Province/Territory	Definition of Physical Abuse
Alberta	<p>“[A] a child is <i>physically injured</i> if there is substantial and observable injury to any part of the child’s body as a result of the non-accidental application of force or an agent to the child’s body that is evidenced by a laceration, a contusion, an abrasion, a scar, a fracture or other bony injury, a dislocation, a sprain, hemorrhaging, the rupture of viscus, a burn, a scald, frostbite, the loss or alteration of consciousness or physiological functioning or the loss of hair or teeth”</p> <p>Source: <i>Child, Youth and Family Enhancement Act</i>, RSA 2000, c C-12, s 3 (b)</p>
British Columbia	<p>“Physical abuse is a deliberate physical assault or action by a person that results in, or is likely to result in, physical harm to a child or youth. It includes the use of unreasonable force to discipline a child or youth or prevent a child or youth from harming him/herself or others. The injuries sustained by the child or youth may vary in severity and range from minor bruising, burns, welts or bite marks to major fractures of the bones or skull to, in the most extreme situations, death. The likelihood of physical harm to a child or youth increases when the child or youth is living in a situation where there is domestic violence by or towards a person with whom the child or youth resides. Domestic violence is a pattern of intentionally coercive and violent behaviour toward an individual with whom there is or has been an intimate relationship. It includes physical abuse such as hitting, slapping, pushing, choking, assault with a weapon, locking out of the house or the threat of physical abuse”</p> <p>Source: Government of British Columbia (2017, p. 23)</p>

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**Table 19: Provincial and Territorial Definitions of Physical Abuse**

Province/Territory	Definition of Physical Abuse
Manitoba	<p>“Physical abuse can be a single incident or repeated pattern including: the intentional use of force or pain on any part of a child's body; [and/or] any contact or action that causes physical injuries. Some <i>behavioural signs of physical abuse</i> could include but are not limited to: inconsistent explanation for injuries or cannot remember; wary of adults; flinch if touched unexpectedly; extremely aggressive or extremely withdrawn; feels deserving of punishment; apprehensive when others cry; frightened of parents afraid to go home. Some <i>physical signs of physical abuse</i> could include but are not limited to: injuries not consistent with explanation; numerous injuries in varying stages of recovery or healing; presence of injuries over an extended period of time; facial injuries; and injuries inconsistent with the child's age and developmental phase”</p> <p>Source: Manitoba Child and Family Services (n.d., <i>Physical Abuse</i>)</p>
New Brunswick	<p>“Physical abuse [refers to t]he use of unreasonable force against a child. What is considered reasonable will depend on the age of the child, the severity of the actions and its lack of healthy corrective purpose regarding the child's behaviour. This might include, for example, hitting, slapping, shaking, choking, kicking or burning a child. It also includes any conduct by a caregiver that might put the child's life, health or well-being at risk”</p> <p>Source: Public Legal Education and Information Service of New Brunswick (2007, p. 2)</p> <p>“Signs of [p]hysical [a]buse [include the following:] child has welts, bite marks, unexplained bruises, scars, burns, fractures or head injuries; child runs away from home or will not go home; [and/or] child has repetitive injuries or unattended injuries”</p> <p>Source: Public Legal Education and Information Service of New Brunswick (2007, p. 3)</p>
Newfoundland and Labrador	<p>“action on the part of the parent in which a child/youth sustained or is likely to sustain a physical injury. Injury to the child/youth may be current or may have occurred in the past”</p> <p>Source: Newfoundland and Labrador, Department of Children, Seniors and Social Development (n.d., <i>How Do You Define</i>)</p>

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**Table 19: Provincial and Territorial Definitions of Physical Abuse**

Province/Territory	Definition of Physical Abuse
Northwest Territories	<p>“A child needs protection where;</p> <p>(a) the child has suffered physical harm inflicted by the child's parent or caused by the parent's unwillingness or inability to care and provide for or supervise and protect the child adequately;</p> <p>(b) there is a substantial risk that the child will suffer physical harm inflicted by the child's parent or caused by the parent's unwillingness or inability to care and provide for or supervise and protect the child adequately”</p> <p>Source: <i>Child and Family Services Act</i>, SNWT 1997, c.13, s 7.3 (a-b)</p> <p>“any physical injury of a child which is not accidental”</p> <p>Source: Northwest Territories (2012, p. 7)</p>
Nova Scotia	<p>“the intentional use of force on any part of a child's body that results in injury”</p> <p>Source: Government of Nova Scotia (n.d., <i>Physical Abuse</i>)</p>
Nunavut	<p>“A child needs protection where;</p> <p>(a) the child has suffered physical harm inflicted by the child's parent or caused by the parent's unwillingness or inability to care and provide for or supervise and protect the child adequately;</p> <p>(b) there is a substantial risk that the child will suffer physical harm inflicted by the child's parent or caused by the parent's unwillingness or inability to care and provide for or supervise and protect the child adequately”</p> <p>Source: <i>Child and Family Services Act</i>, SNWT (Nu) 1997, c.13, s 7.3 (a-b)</p>

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**Table 19: Provincial and Territorial Definitions of Physical Abuse**

Province/ Territory	Definition of Physical Abuse
Ontario	<p>“any deliberate physical force or action, by a parent or caregiver, which results, or could result, in injury to a child. It can include bruising, cuts, punching, slapping, beating, shaking, burning, biting or throwing a child. Using belts, sticks or other objects to punish a child can cause serious harm and is also considered abuse”</p> <p>Source: Ontario Association of Children’s Aid Societies (n.d., <i>Physical Abuse</i>)</p>
Prince Edward Island	No definition identified.
Quebec	<p>“[R]efers to (1) a situation in which the child is the victim of bodily injury or is subjected to unreasonable methods of upbringing by his parents or another person, and the child’s parents fail to take the necessary steps to put an end to the situation; or (2) a situation in which the child runs a serious risk of becoming the victim of bodily injury or being subjected to unreasonable methods of upbringing by his parents or another person, and the child’s parents fail to take the necessary steps to put an end to the situation”</p> <p>Source: <i>Youth Protection Act</i>, CQLR c P-34.1, s 38 (e)</p>
Saskatchewan	<p>“Physical abuse [refers to] any action, including discipline, causing injury to the child’s body” (Government of Saskatchewan, n.d., p. 1). Physical indicators include: injuries (bruises, cuts, burns, bite marks, fractures, etc.) that are not consistent with explanation offered; the presence of several injuries over a period of time; any bruising on an infant; facial injuries in preschool children (e.g., cuts, bruises, sores, etc.); and injuries inconsistent with the child’s age and development” Source: Government of Saskatchewan (n.d., p. 3)</p> <p>Behavioural indicators include: “cannot recall how injuries occurred, or offers an inconsistent explanation; reluctant to go home; frequent absences from school; fear of adults; may cringe or flinch if touched unexpectedly; may display a vacant stare or frozen watchfulness; extremely aggressive or withdrawn; [and] extremely compliant and/or eager to please</p> <p>Source: Government of Saskatchewan (n.d, p. 3)</p>

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**Table 19: Provincial and Territorial Definitions of Physical Abuse**

Province/Territory	Definition of Physical Abuse
Yukon	<p>“Physical abuse [refers to] any deliberate, non-accidental assault or use of force against a child that results in physical harm. This can include excessive or inappropriate discipline that causes injury to the child’s body” Source: Yukon Health and Social Services (2017, p. i)</p> <p>Possible <i>physical indicators of physical abuse</i> include: “injuries (bruises, cuts, burns, bite marks, fractures, etc.) that are not consistent with explanation offered (e.g., extensive bruising to one area); the presence of several injuries over a period of time; any bruising on an infant; facial injuries in preschool children (e.g., cuts, bruises, sores, etc.); injuries inconsistent with the child’s age and development; [and/or] injuries that form a shape or pattern that resemble the object used to make the injury (e.g., buckle, hand, teeth, cigarette burns)” Source: Yukon Health and Social Services (2017, p. 6)</p> <p>Possible child <i>behavioural indicators of physical abuse</i> include: “cannot recall how injuries occurred, or offers an inconsistent explanation; wary of adults or reluctant to go home, absences from school; may cringe or flinch if touched unexpectedly; may display a vacant stare or frozen watchfulness; extremely aggressive or extremely withdrawn; wears long sleeves to hide injury; extremely compliant and/or eager to please; sad, cries frequently; and describes self as bad and deserving to be punished” Source: Yukon Health and Social Services (2017, p. 6)</p>

## Appendix J: Provincial and Territorial Definitions of Sexual Abuse

Each province and territory has unique legislation defining and describing responses to sexual abuse. Table 20 provides provincial and territorial definitions of sexual abuse. Please refer to *Appendix N: Key Legislative Amendments and Non-Legislative Changes to the Provision of Child Welfare Services, 2006-2019* for legislative amendments and/or regulatory changes that came into force from 2006 through 2019 (if applicable).

***Unless otherwise indicated, all definitions are extracted from primary provincial or territorial child welfare legislation.***

**Table 20: Provincial and Territorial Definitions of Sexual Abuse**

Province/Territory	Definition of Sexual Abuse
Alberta	<p>“[A] child is sexually abused if the child is inappropriately exposed or subjected to sexual contact, activity or behaviour including prostitution related activities.”</p> <p>Source: <i>Child, Youth and Family Enhancement Act</i>, RSA 2000, c C-12, s 1(3) (c)</p>
British Columbia	<p>“Sexual abuse is when a child or youth is used (or likely to be used) for the sexual gratification of another person. It includes: [t]ouching or invitation to touch for sexual purposes; [i]ntercourse (vaginal, oral or anal); [m]enacing or threatening sexual acts, obscene gestures, obscene communications or stalking; [s]exual references to the child’s or youth’s body/behaviour by words/gestures; [r]equests that the child or youth expose their body for sexual purposes; [d]eliberate exposure of the child or youth to sexual activity or material; and [s]exual aspects of organized or ritual abuse”</p> <p>Source: Government of British Columbia (2017, p. 24)</p> <p>“Sexual exploitation is a form of sexual abuse that occurs when a child or youth engages in a sexual activity, usually through manipulation or coercion, in exchange for money, drugs, food, shelter or other considerations. Sexual activity includes: [p]erforming sexual acts; [s]exually explicit activity for entertainment; [i]nvolvement with escort or massage parlour services; and [a]ppearing in pornographic images. Children and youth living on the street are particularly vulnerable to exploitation”</p> <p>Source: Government of British Columbia (2017, pp. 24-25).</p>

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**Table 20: Provincial and Territorial Definitions of Sexual Abuse**

Province/Territory	Definition of Sexual Abuse
British Columbia	<p>“[A] child has been or is likely to be sexually abused or sexually exploited if the child has been, or is likely to be, (a) encouraged or helped to engage in prostitution, or (b) coerced or inveigled into engaging in prostitution.”</p> <p>Source: <i>Child, Family and Community Service Act</i> [RSBC 1996] Chapter 46, s 13 (1) (1.1)</p>
Manitoba	<p>“Sexual abuse is exposing a child to sexual contact, activity or behaviour, including: any sexual touching; [and/or] intercourse, exploitation or exposure. Some behavioural signs of sexual abuse could include but are not limited to: sexual knowledge or play inappropriate to age; sophisticated or unusual sexual knowledge; prostitution; poor peer relationships; delinquent or runaway; reports sexual assault by caretaker; change in performance in school; sleeping disorders; aggressive behavior; and self-harm (ex. cutting, suicide attempts). Some physical signs of sexual abuse could include but are not limited to: unusual or excessive itching in the genital or anal area; stained or bloody underwear; pregnancy; injuries to the vaginal or anal areas; sexually transmitted infections; difficult walking or sitting; pain when peeing; vaginal/penile discharge; excessive masturbation; [and] urinary tract infections”</p> <p>Source: Manitoba Child and Family Services (n.d., <i>Sexual Abuse</i>)</p>
Newfoundland and Labrador	<p>“Sexual Abuse: includes any sexual contact between an individual and a child/youth regardless of whether the sexual contact occurs by force, coercion, duress, and deception or whether the child/youth understands the sexual nature of the activity. Sexual contact includes sexual penetration, touching, harassment, invitation to sexual touching, sexual acts such as exposure, voyeurism, or sexually exploiting the child/youth by involving the child/youth in the sex trade or pornography.”</p> <p>Source: Newfoundland and Labrador, Department of Children, Seniors and Social Development (n.d., <i>How Do You Define</i>)</p>

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**Table 20: Provincial and Territorial Definitions of Sexual Abuse**

Province/Territory	Definition of Sexual Abuse
Northwest Territories	<p>“involving a child in sexual touching or any form of sexual activity. Sexual abuse may also include forcing or allowing a child to watch or look at sexual activity, pornographic materials, or books, magazines or videos containing sexual material that is inappropriate or unsuitable for a child”</p> <p>Source: Northwest Territories (2012, p. 7)</p> <p>“A child needs protection where: (c) the child has been sexually molested or sexually exploited by the child’s parent or by another person in circumstances where the child’s parent knew or should have known of the possibility of sexual molestation or sexual exploitation and was unwilling or unable to protect the child; (d) there is a substantial risk that the child will be sexually molested or sexually exploited by the child’s parent or by another person in circumstances where the child’s parent knows or should know of the possibility of sexual molestation or sexual exploitation and is unwilling or unable to protect the child.”</p> <p>Source: <i>Child and Family Services Act</i>, SNWT 1997, c.13, s 7.3 (c-d)</p>
Nova Scotia	<p>“[S]exual abuse” means (i) the employment, use, persuasion, inducement, enticement, or coercion of a child to engage in, or assist any other person to engage in, any sexually explicit conduct or simulation of such conduct, or (ii) the use of a child in, or exposure to, prostitution, pornography or any unlawful sexual practice.”</p> <p>Source: <i>Children and Family Services Act</i>, 1990, s 3 (1) (v)</p>
Nunavut	<p>“A child needs protection where: (c) the child has been sexually molested or sexually exploited by the child’s parent or by another person in circumstances where the child’s parent knew or should have known of the possibility of sexual molestation or sexual exploitation and was unwilling or unable to protect the child; (d) there is a substantial risk that the child will be sexually molested or sexually exploited by the child’s parent or by another person in circumstances where the child’s parent knows or should know of the possibility of sexual molestation or sexual exploitation and is unwilling or unable to protect the child.”</p> <p>Source: <i>Child and Family Services Act</i>, SNWT (Nu) 1997, c.13, s 7.3 (c-d)</p>

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**Table 20: Provincial and Territorial Definitions of Sexual Abuse**

Province/Territory	Definition of Sexual Abuse
Ontario	<p>“Sexual abuse occurs when a child is used for the sexual gratification of an adult or an older child. The child may co-operate because he or she wants to please the adult or out of fear. It includes sexual intercourse, exposing a child’s private areas, indecent phone calls, fondling for sexual purposes, watching a child undress for sexual pleasure, and allowing/forcing a child to look at or perform in pornographic pictures or videos, or engage in prostitution.”</p> <p>Source: Ontario Association of Children’s Aid Societies (n.d.: <i>Physical Abuse</i>)</p>
Prince Edward Island	<p>“(g) the child has been harmed as a result of being sexually exploited for the purpose of prostitution and the parent has failed or been unable to protect the child; (h) the child is at substantial risk of being sexually exploited for the purpose of prostitution and the parent has failed or been unable to protect the child”</p> <p>Source: <i>Child Protection Act</i>, RSPEI 1988, c C-5.1, s 9 (g-h)</p>
Quebec	<p>“[S]exual abuse” refers to (1) a situation in which the child is subjected to gestures of a sexual nature by the child’s parents or another person, with or without physical contact, including any form of sexual exploitation, and the child’s parents fail to take the necessary steps to put an end to the situation; or (2) a situation in which the child runs a serious risk of being subjected to gestures of a sexual nature by the child’s parents or another person, with or without physical contact, including a serious risk of sexual exploitation, and the child’s parents fail to take the necessary steps to put an end to the situation”</p> <p>Source: <i>Youth Protection Act</i>, CQLR c P-34.1, s 38 (d) (1-2)</p>

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**Table 20: Provincial and Territorial Definitions of Sexual Abuse**

Province/Territory	Definition of Sexual Abuse
Saskatchewan	<p>“Sexual abuse [refers to] any action involving a child in sexual exploitation or sexual activity including touching, exposure, using a child in the making of/or viewing pornography” Source: Government of Saskatchewan (n.d., p. 3)</p> <p>“Physical indicators of sexual abuse include: “unusual or excessive itching in the genital or anal area; pregnancy or sexually transmitted infection; [and] injuries to the genital or anal areas (e.g., bruising, swelling or infection)” Source: Government of Saskatchewan (n.d., p. 3)</p> <p>“Behavioural indicators of sexual abuse include: age-inappropriate sexual play with toys, self, others (e.g., replication of explicit sexual acts); age-inappropriate, sexually explicit drawings and/or descriptions; bizarre, sophisticated or unusual sexual knowledge; involvement in sexual exploitation; cruelty to animals; fear of home, excessive fear of adults; [and] depression or other mental health challenges)” Source: Government of Saskatchewan (n.d., p. 3)</p>
Yukon	<p>“[A] child has been or is likely to be sexually abused or exploited if the child has been or is likely to be (a) inappropriately exposed or subjected to sexual contact, activity or behaviour; including prostitution related activities; or (b) encouraged or counselled to engage in prostitution” Source: Child and Family Services Act, SY 2008, c 1, 21 (2) (a-b)</p>

## Appendix K: Provincial and Territorial Terminology for Emotional Maltreatment

Each province and territory has unique legislation defining and describing responses to emotional maltreatment, also referred to as: emotional abuse; psychological abuse; emotional harm; emotionally injured; psychological ill treatment; or psychological abuse. Table 21 identifies terminology for emotional maltreatment used by provinces and territories. For detailed provincial and territorial definitions, see *Appendix L: Provincial and Territorial Definitions for Emotional Maltreatment*.

**Table 21: Provincial and Territorial Terminology for Emotional Maltreatment**

Province/ Territory	Provincial and Territorial Terminology for Emotional Maltreatment
Alberta	<ul style="list-style-type: none"> <li>• emotional injury</li> </ul> Source: Public Health Agency of Canada (2019, p. 18)
British Columbia	<ul style="list-style-type: none"> <li>• emotional harm</li> </ul> Source: Public Health Agency of Canada (2019, pp. 18-19)
Manitoba	<ul style="list-style-type: none"> <li>• well-being of the child</li> </ul> Source: Public Health Agency of Canada (2019, p. 18)
New Brunswick	<ul style="list-style-type: none"> <li>• emotional well-being of the child</li> </ul> Source: Public Health Agency of Canada (2019, pp. 19-20)
Newfoundland and Labrador	<ul style="list-style-type: none"> <li>• emotional harm</li> </ul> Source: Public Health Agency of Canada (2019, p. 19-20)
Northwest Territories	<ul style="list-style-type: none"> <li>• emotional harm</li> <li>• mental, emotional or developmental condition</li> </ul> Source: Public Health Agency of Canada (2019, pp. 19-20)
Nova Scotia	<ul style="list-style-type: none"> <li>• emotional abuse</li> <li>• mental, emotional or developmental condition</li> </ul> Source: Public Health Agency of Canada (2019, p. 21)
Nunavut	<ul style="list-style-type: none"> <li>• emotional harm</li> <li>• mental, emotional or developmental condition</li> <li>• emotional or mental well-being</li> </ul> Source: Public Health Agency of Canada (2019, pp. 21-22)
Ontario	<ul style="list-style-type: none"> <li>• emotional harm</li> <li>• mental, emotional or developmental condition</li> </ul> Source: Public Health Agency of Canada (2019, p. 21)

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**Table 21: Provincial and Territorial Terminology for Emotional Maltreatment**

Province/ Territory	Provincial and Territorial Terminology for Emotional Maltreatment
Prince Edward Island	<ul style="list-style-type: none"> <li>• emotional harm</li> <li>• emotional condition or harm suffered</li> </ul> Source: Public Health Agency of Canada (2019, pp. 23-24)
Quebec	<ul style="list-style-type: none"> <li>• psychological ill-treatment</li> </ul> Source: Public Health Agency of Canada (2019, p. 23)
Saskatchewan	<ul style="list-style-type: none"> <li>• serious impairment of mental or emotional functioning</li> <li>• emotional harm</li> </ul> Source: Public Health Agency of Canada (2019, pp. 23-24)
Yukon	<ul style="list-style-type: none"> <li>• emotional harm</li> <li>• mental harm</li> </ul> Source: Public Health Agency of Canada (2019, p. 24)

## Appendix L: Provincial and Territorial Definitions for Emotional Maltreatment

Each province and territory has unique legislation defining and describing emotional maltreatment. Table 22 provides provincial and territorial definitions of emotional maltreatment. Please refer to *Appendix N: Key Legislative Amendments and Non-Legislative Changes to the Provision of Child Welfare Services, 2006-2019* for legislative amendments and/or regulatory changes that came into force from 2006 through 2019 (if applicable).

***Unless otherwise indicated, all definitions are extracted from primary provincial or territorial child welfare legislation.***

**Table 22: Provincial and Territorial Definitions for Emotional Maltreatment or Psychological Abuse**

Province/ Territory	Definitions of Emotional Maltreatment or Psychological Abuse
Alberta	<p>“[A] child is emotionally injured (i) if there is impairment of the child’s mental or emotional functioning or development, and (ii) if there are reasonable and probable grounds to believe that the emotional injury is the result of (A) rejection, (A.1) emotional, social, cognitive or physiological neglect, (B) deprivation of affection or cognitive stimulation, (C) exposure to family violence or severe domestic disharmony, (D) inappropriate criticism, threats, humiliation, accusations or expectations of or toward the child, (E) the mental or emotional condition of the guardian of the child or of anyone living in the same residence as the child; (F) chronic alcohol or drug abuse by the guardian or by anyone living in the same residence as the child”</p> <p>Source: <i>Child, Youth and Family Enhancement Act</i>, RSA 2000, c C-12, s 1(1) (3a)</p>
British Columbia	<p>“[A] child is emotionally harmed if the child demonstrates severe (a) anxiety, (b) depression, (c) withdrawal, or (d) self-destructive or aggressive behaviour.”</p> <p>Source: <i>Child, Family and Community Service Act</i> [RSBC 1996] Chapter 46, s 13 (2)</p> <p>“Reason to believe that a child or youth needs protection from being emotionally harmed may arise due to emotional abuse from a parent. This may range from the parent ignoring to habitually humiliating the child or youth to withholding life-sustaining nurturing. Emotional abuse may occur separately from, or along with, other forms of abuse and neglect. Emotional abuse can include a pattern of: [s]capegoating; [r]ejection; [v]erbal attacks on the child; [t]hreats; [i]nsults; or humiliation. Emotional harm may also be caused by the child or youth living in a situation where there is domestic violence by or towards a person with whom the child or youth resides. Domestic violence may involve physical abuse, threats, verbal insults or psychological abuse such as stalking”</p> <p>Source: Government of British Columbia (2017, p. 4)</p>

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**Table 22: Provincial and Territorial Definitions of Emotional Maltreatment or Psychological Abuse**

Province/Territory	Definitions of Emotional Maltreatment or Psychological Abuse
British Columbia (Continued)	<p>“Physical Indicators [of emotional maltreatment include:] [b]ed wetting and/or frequent diarrhea; or [f]requent psychosomatic complaints, headaches, nausea, abdominal pains. Behavioural indicators [of emotional maltreatment include:] [m]ental or emotional development lags; [i]solated and has no friends or complains of social isolation; [b]ehaviours inappropriate for age; [f]ear of failure, overly high standards, reluctant to play; [f]ears consequences of actions, often leading to lying; [e]xtreme withdrawal or aggressiveness, mood swings; [o]verly compliant, too well-mannered; [e]xcessive neatness and cleanliness; [e]xtreme attention-seeking behaviours; [p]oor peer relationships; [s]evere depression, may be suicidal; [r]unaway attempts; [v]iolence is a subject for art or writing; [f]orbidden contact with other children; [s]hows little anxiety towards strangers; or [u]nusual severe anxiety or worries”</p> <p>Source: Government of British Columbia (2017, p. 28)</p>
Manitoba	<p>“Emotional abuse is usually a repeated pattern that includes: repeated exposure to alcohol or drug abuse; repeated verbal attacks, humiliation or rejection; repeated exposure to violence or fighting; forced isolation, restraint or causing fear”</p> <p>Source: Manitoba Child and Family Services (n.d.: <i>Emotional Abuse</i>)</p> <p>“Some behavioural signs of emotional abuse could include but are not limited to: depression; withdrawal or aggressive behavior; overly compliant; too neat and clean; habit disorders (sucking, biting, rocking, etc.); learning disorders; sleep disorders; unusual fearfulness; obsessive compulsive behavior; phobias; harming themselves; extreme behavior; suicide attempts; developmental delays”</p> <p>Source: Manitoba Child and Family Services (n.d.: <i>Emotional Abuse</i>)</p> <p>“Some physical signs of emotional abuse could include but are not limited to: bed-wetting; headaches; nausea; speech disorders; lags in physical development; [and] disruptive behavior”</p> <p>Source: Manitoba Child and Family Services (n.d.: <i>Emotional Abuse</i>)</p>

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**Table 22: Provincial and Territorial Definitions of Emotional Maltreatment or Psychological Abuse**

Province/Territory	Definitions of Emotional Maltreatment or Psychological Abuse
New Brunswick	<p>“Emotional maltreatment [r]efers to both emotional abuse and emotional neglect. This might include repeated attacks on a child's sense of self-worth, insults, isolation, rejection, unrealistic expectations or constant criticism. It might also involve terrorizing a child such as threatening to kill the family pet. The law also considers children at risk of emotional abuse if they live in situations of family violence” Source: Public Legal Education and Information Service of New Brunswick (2007, p. 2)</p> <p>“Signs of emotional abuse [include]: child is often alone (at home and around the school); child is passive or acts out aggressively; child has low self-esteem; [and] child is depressed or talks of suicide” Source: Public Legal Education and Information Service of New Brunswick (2007, p. 2)</p>
Newfoundland and Labrador	<p>“the indicators of emotional harm exhibited or demonstrated by a child may include: depression; significant anxiety; significant withdrawal; self-destructive behaviour; aggressive behaviour; or delayed development” Source: <i>Children, Youth and Families Act</i>, SNL2018 Chapter C-12.3, s 10 (2) (a-f)</p> <p>“parental conduct or living situations that may lead to emotional harm or risk of emotional harm to the child may include: rejection; social deprivation; deprivation of affection; deprivation of cognitive stimulation; subjecting the child to inappropriate criticism, threats, humiliation, accusations or expectations; living in a situation where the mental or emotional health of a parent is negatively affecting the child; living in a situation where a parent is an abuser of alcohol or drugs; or living in a situation where there is violence” Source: <i>Children, Youth and Families Act</i>, SNL2018 Chapter C-12.3, s 10 (3) (a-h)</p>

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**Table 22: Provincial and Territorial Definitions of Emotional Maltreatment or Psychological Abuse**

Province/ Territory	Definitions of Emotional Maltreatment or Psychological Abuse
Northwest Territories	<p>“emotional neglect [refers to] the child's deeper needs for love and affection, a sense of belonging, guidance and stability are not being met” Source: Northwest Territories (2012, p. 7)</p> <p>“emotional abuse [refers to] anything that seriously hurts a child mentally or emotionally. This could include being exposed to constant 'put-downs' and verbal attacks, repeated rejection, or violence in the home” Source: Northwest Territories (2012, p. 7)</p> <p>“(e) the child has demonstrated severe anxiety, depression, withdrawal, self destructive behaviour, or aggressive behaviour towards others, or any other severe behaviour that is consistent with the child having suffered emotional harm and the child’s parent does not provide, or refuses or is unavailable or unable to consent to the provision of, services, treatment or healing processes to remedy or alleviate the harm; (f) there is a substantial risk that the child will suffer emotional harm of the kind described in paragraph (e), and the child’s parent does not provide, or refuses or is unavailable or unable to consent to the provision of, services, treatment or healing processes to prevent the harm; (g) the child suffers from a mental, emotional or developmental condition that, if not remedied, could seriously impair the child’s development, and the child’s parent does not provide, or refuses or is unavailable or unable to consent to the provision of, services, treatment or healing processes to remedy or alleviate the condition; (h) the child has been subject to a pattern of neglect that has resulted in physical or emotional harm to the child; (i) the child has been subject to a pattern of neglect and there is a substantial risk that the pattern of neglect will result in physical or emotional harm to the child; (j) the child has been exposed to domestic violence by or towards a parent of the child, the child has suffered physical or emotional harm from that exposure and the child’s parent fails or refuses to obtain services, treatment or healing processes to remedy or alleviate the harm; (k) the child has been exposed to domestic violence by or towards a parent of the child and there is a substantial risk that the exposure will result in physical or emotional harm to the child and the child’s parent fails or refuses to obtain services, treatment or healing processes to prevent the harm;</p>

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**Table 22: Provincial and Territorial Definitions of Emotional Maltreatment or Psychological Abuse**

Province/ Territory	Definitions of Emotional Maltreatment or Psychological Abuse
Northwest Territories	(l) the child's health or emotional or mental well-being has been harmed by the child's use of alcohol, drugs, solvents or similar substances, and the child's parent does not provide, or refuses or is unavailable or unable to consent to the provision of, services, treatment or healing processes to remedy or alleviate the harm; (m) there is a substantial risk that the child's health or emotional or mental well-being will be harmed by the child's use of alcohol, drugs, solvents or similar substances, and the child's parent does not provide, or refuses or is unavailable or unable to consent to the provision of, services, treatment or healing processes to prevent the harm" Source: <i>Child and Family Services Act</i> , SNWT 1997, c.13, s3 and s 3 (e-m)
Nova Scotia	"[E]motional abuse" means acts that seriously interfere with a child's healthy development, emotional functioning and attachment to others such as (i) rejection, (ii) isolation, including depriving the child from normal social interactions, (iii) deprivation of affection or cognitive stimulation, (iv) inappropriate criticism, humiliation or expectations of or threats or accusations toward the child, or (v) any other similar acts;" Source: <i>Children and Family Services Act</i> , 1990 s 3(1) (la) (i-v)
Nunavut	(e) the child has demonstrated severe anxiety, depression, withdrawal, self-destructive behaviour, or aggressive behaviour towards others, or any other severe behaviour that is consistent with the child having suffered emotional harm, and the child's parent does not provide, or refuses or is unavailable or unable to consent to the provision of, services, treatment or healing processes to remedy or alleviate the harm; (f) there is a substantial risk that the child will suffer emotional harm of the kind described in paragraph (e) and the child's parent does not provide, or refuses or is unavailable or unable to consent to the provision of, services, treatment or healing processes to prevent the harm; (g) the child suffers from a mental, emotional or developmental condition that, if not remedied, could seriously impair the child's development and the child's parent does not provide, or refuses or is unavailable or unable to consent to the provision of, services, treatment or healing processes to remedy or alleviate the condition;"

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**Table 22: Provincial and Territorial Definitions of Emotional Maltreatment or Psychological Abuse**

Province/Territory	Definitions of Emotional Maltreatment or Psychological Abuse
Nunavut	<p>(h) the child's health or emotional or mental well-being has been harmed by the child's use of alcohol, drugs, solvents or similar substances and the child's parent is unavailable, unable or unwilling to properly care for the child; (i) there is a substantial risk that the child's health or emotional or mental well-being will be harmed by the child's use of alcohol, drugs, solvents or similar substances and the child's parent is unavailable, unable or unwilling to properly care for the child"</p> <p>Source: <i>Child and Family Services Act, SNWT (Nu) 1997, c.13, s 7(3) (e-i)</i></p>
Ontario	<p>"Emotional abuse is a pattern of behaviour that attacks a child's emotional development and sense of self-worth. It includes excessive, aggressive or unreasonable demands that place expectations on a child beyond his or her capacity. Emotional abuse includes constantly criticizing, teasing, belittling, insulting, rejecting, ignoring or isolating the child. It may also include exposure to domestic violence."</p> <p>Source: Ontario Association of Children's Aid Societies (n.d.: <i>Physical Abuse</i>)</p>
Prince Edward Island	<p>"(k) the child has suffered emotional harm inflicted by a parent, or by another person, where the parent knew or ought to have known that the other person was emotionally abusing the child and the parent failed to protect the child; (l) the child is at substantial risk of suffering emotional harm caused by a parent, or by another person, where the parent knew or ought to have known, that the other person was emotionally abusing the child and the parent failed to protect the child; (m) the child has suffered physical or emotional harm caused by being exposed to domestic violence by or towards a parent; (n) the child is at substantial risk of suffering physical or emotional harm caused by being exposed to domestic violence by or towards a parent; (o) the child requires specific medical, psychological or psychiatric treatment to cure, prevent or ameliorate the effects of a physical or emotional condition or harm suffered, and the parent does not, or refuses to, obtain treatment or is unavailable or unable to consent to treatment; (p) the child suffers from a mental, emotional or developmental condition that, if not addressed, could seriously harm the child and the parent does not or refuses to obtain treatment or is unavailable or unable to consent to services or treatment to remedy or ameliorate the effects of the condition"</p> <p>Source: <i>Child Protection Act, RSPEI 1988, c C-5.1, s 9 (k-p)</i></p>

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**Table 22: Provincial and Territorial Definitions of Emotional Maltreatment or Psychological Abuse**

Province/Territory	Definitions of Emotional Maltreatment or Psychological Abuse
Quebec	<p>“[P]sychological ill-treatment” refers to a situation in which a child is seriously or repeatedly subjected to behaviour on the part of the child’s parents or another person that could cause harm to the child, and the child’s parents fail to take the necessary steps to put an end to the situation. Such behaviour includes in particular indifference, denigration, emotional rejection, excessive control, isolation, threats, exploitation, particularly if the child is forced to do work disproportionate to the child’s capacity, and exposure to conjugal or domestic violence;”</p> <p>Source: <i>Youth Protection Act</i>, CQLR c P-34.1, s 38 (2) (c)</p>
Saskatchewan	<p>“(ii) the child has suffered or is likely to suffer a serious impairment of mental or emotional functioning; (v) the child’s development is likely to be seriously impaired by failure to remedy a mental, emotional or developmental condition; or (vi) the child has been exposed to interpersonal violence or severe domestic disharmony that is likely to result in physical or emotional harm to the child”</p> <p>Source: <i>The Child and Family Services Act</i>, SS 1989-90, c C-7.2, s 11 (a) (ii, v, vi)</p>
Yukon	<p>“[A] child has been, or is likely to be, emotionally harmed by the conduct of a parent or other person if the parent or other person demonstrates a pattern of behaviour that is detrimental to the child’s emotional or psychological well-being.”</p> <p>Source: <i>Child and Family Services Act</i>, SY 2008, c 1, s 21 (3)</p>

## Appendix M: Provincial and Territorial Treatment of Least Disruptive Measures

Table 23 provides a summary of “whether or not [provincial and territorial CFS agencies may offer, should offer, or must consider, or must offer family support services as a least disruptive measure prior to the removal of a child from their family” (Shangreau, 2004, pp. 30-31). Please refer to **Appendix N: Key Legislative Amendments and Non-Legislative Changes to the Provision of Child Welfare Services, 2006-2019** for legislative amendments and/or regulatory changes that came into force from 2006 through 2019 (if applicable).

**Table 23: Provincial and Territorial Provisions of Family Support Services as a Least Disruptive Measure**

Province/ Territory	“May Offer” Family Support Services	“Should Offer” Family Support Services	“Must Consider” Family Support Services	“Must or Shall Offer” Family Support Services
Alberta	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
British Columbia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Manitoba	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
New Brunswick	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Newfoundland and Labrador	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Northwest Territories	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Nova Scotia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Nunavut	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ontario	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Prince Edward Island	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Quebec	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Saskatchewan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Yukon	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Source: Shangreaux (2004, pp. 30-31)

There is lack of consistency across legislation in the specification of the types of family support services that a CFS agency “*may, should, must consider, must or shall offer* as a least disruptive measure” (Shangreaux, 2004, p. 31). Various least disruptive measures and/or family support services that are identified in provincial and territorial CFS legislation include: “family

counseling, guidance and assessment; in-home support, parent aides; child care, respite care; parenting programs; services for improving the family's financial situation; services for improving the family's housing; drug or alcohol treatment and rehabilitation; mediation of disputes; services to assist the family to deal with the illness of a child or a family member; and other services agreed to by the agency and the person who has lawful custody of the child" (Shangreaux, 2004, p. 31).

**Table 24: Alberta—Requirements for a Least Disruptive Measures Approach to Intervention and Child Protection Services**

Category	Description
Family	"The family as the basic unit of society and its well-being should be supported and preserved; further, the family has the right to the least invasion of its privacy and interference with its freedom."
Provision of Services and Family Preservation	"If it is not inconsistent with the protection of a child who may be in need of protective services, the child's family should be referred to community resources for services that would support and preserve the family and prevent the need for any other intervention under this Act...Agencies may enter into support agreement with families to prevent the removal of a child."
Least Disruptive Alternatives and Family Preservation	"If protective services are necessary to assist the family in providing for the care of a child, those services should be supplied to the family insofar as it is reasonably practicable to do so in order to support the family unit and to prevent the need to remove the child from the family."
Least Disruptive Alternatives and Removal of Child	"A child should be removed from the family only when other less intrusive measures are not sufficient to protect the survival, security or development of the child."
Note: Categories were developed using four guiding statements developed by Shangreaux's (2004, pp. 30-31) analysis of provincial and legislative provisions regarding a least disruptive measures approach to intervention and child protection services.	

Source: Shangreaux (2004, pp. 30-31).

**Table 25: British Columbia—Requirements for a Least Disruptive Measures Approach to Intervention and Child Protection Services**

Category	Description
Family	“A family is the preferred environment for the care and upbringing of children and the responsibility for the protection of children rests primarily with the parents.”
Provision of Services and Family Preservation	“Agencies have a responsibility to integrate the planning and delivery of preventative and support services to families and children. “
Least Disruptive Alternatives and Family Preservation	“If a child needs protection, after the assessment, the director may offer support services to the child and family...The plan of care developed by means of a family conference must include the director’s consent and may include provision for services to support and assist the family and to make the family safe for the child.”
Least Disruptive Alternatives and Removal of Child	“At a presentation hearing relating to the removal of a child under section 30, the director must present to the court a written report that includes information about any less disruptive measures considered by the director before removing the child.”
Note: Categories were developed using four guiding statements developed by Shangreaux’s (2004, pp. 30-31) analysis of provincial and legislative provisions regarding a least disruptive measures approach to intervention and child protection services.	

Source: Shangreaux (2004, pp. 32-33).

**Table 26: Manitoba—Requirements for a Least Disruptive Measures Approach to Intervention and Child Protection Services**

Category	Description
Family	The family is the basic unit of society and its well-being should be supported and preserved. Families and children have the right to the least interference with their affairs to the extent compatible with the best interests of children and the responsibility of society.
Provision of Services and Family Preservation	Families are entitled to receive preventive and supportive services directed to preserving the family unit...every agency shall: provide family counseling, guidance and other services to families for the prevention of circumstances requiring the placement of children in protective care or in treatment programs.
Least Disruptive Alternatives and Family Preservation	Child protective services must consider the child's best interests, including the child's sense of continuity and need for permanency with the least possible disruption.
Least Disruptive Alternatives and Removal of Child	N/A
Note: Categories were developed using four guiding statements developed by Shangreaux's (2004, pp. 30-31) analysis of provincial and legislative provisions regarding a least disruptive measures approach to intervention and child protection services.	

Source: Shangreaux (2004, p. 33).

**Table 27: New Brunswick—Requirements for a Least Disruptive Measures Approach to Intervention and Child Protection Services**

Category	Description
Family	“Whereas it is recognized that the basic rights and fundamental freedoms of children and their families include a right to the least invasion of privacy and interference with freedom.”
Provision of Services and Family Preservation	“The Minister may enter into an agreement with the parent of the child that specifies what is and what is not to be done to ensure that the security or development of the child is adequately protected.”
Least Disruptive Alternatives and Family Preservation	“Where the Minister places a child under protective care he shall make adequate provision for his care, and he may leave the child in his own home and may provide social services when the provision of social services is adequate to ensure his proper care...Legislation also allows for orders of supervision.”
Least Disruptive Alternatives and Removal of Child	N/A
Note: Categories were developed using four guiding statements developed by Shangreaux’s (2004, pp. 30-31) analysis of provincial and legislative provisions regarding a least disruptive	

Source: Shangreaux (2004, p. 33).

**Table 28: Newfoundland and Labrador—Requirements for a Least Disruptive Measures Approach to Intervention and Child Protection Services**

Category	Description
Family	“The family is the basic unit of society, health and wellbeing of the child; services shall be provided using the least intrusive means of intervention.”
Provision of Services and Family Preservation	“Prevention activities are integral to the promotion of the safety, health and well-being of a child; families shall be provided, to the extent possible, with services which support the safety, health and well-being of their children.”
Least Disruptive Alternatives and Family Preservation	“Where a child is in need of protective intervention; the director or social worker must take into consideration whether or not the child’s safety could be assured without removing the child with the provision of protective intervention services. “
Least Disruptive Alternatives and Removal of Child	“Prior to the removal of a child, the director or social worker must believe that a less intrusive course of action is not available.”
Note: Categories were developed using four guiding statements developed by Shangreaux’s (2004, pp. 30-31) analysis of provincial and legislative provisions regarding a least disruptive	

Source: Shangreaux (2004, pp. 30-31).

**Table 29: Northwest Territories and Nunavut—Requirements for a Least Disruptive Measures Approach to Intervention and Child Protection Services**

Category	Description
Family	“Whereas the family is the basic unit of society and its well-being should be supported and promoted.”
Provision of Services and Family Preservation	“Children should be supported within the context of their family and extended family to the greatest extent possible by the Director providing services or assisting others in providing services on a voluntary basis to support and assist the family. The Director may enter into a written agreement ... to support and assist that person’s family to care for the child.”
Least Disruptive Alternatives and Family Preservation	“The application of best interests guidelines include the consideration of: the risk that the child may suffer harm through being removed from, kept away from, returned to, or allowed to remain in, the care of a parent. A plan of care for a child may include provision for support services to make the child’s home safe for the child.”
Least Disruptive Alternatives and Removal of Child	N/A
Note: Categories were developed using four guiding statements developed by Shangreux’s (2004, pp. 30-31) analysis of provincial and legislative provisions regarding a least disruptive	

Source: Shangreux (2004, pp. 30-31).

**Table 30: Nova Scotia—Requirements for a Least Disruptive Measures Approach to Intervention and Child Protection Services**

Category	Description
Family	“The family exists as the basic unit of society, and its well-being is inseparable from the common well-being. The basic rights and fundamental freedoms of children and their families include a right to the least invasion of privacy and interference with freedom that is compatible with their own interests and of society’s interest in protecting children from abuse and neglect...and whereas parents or guardians have responsibility for the care and supervision of their children and children should only be removed from that supervision, either partly or entirely, when all other measures are inappropriate. “
Provision of Services and Family Preservation	“Among other functions, an agency is to: (a) work with other community and social services to prevent, alleviate and remedy the personal, social and economic conditions that might place children and families at risk; (b) provide guidance, counselling and other services to families for the prevention of circumstances that might require intervention by an agency; and (c) develop and provide services to families to promote the integrity of families, before and after intervention pursuant to this Act.”
Least Disruptive Alternatives and Family Preservation	“The Minister and the agency shall take reasonable measures to provide services to families and children that promote the integrity of the family...using the least intrusive means of intervention and, in particular, to enable a child to remain with the child’s parent or guardian or be returned to the care of the child’s parent or guardian.”
Least Disruptive Alternatives and Removal of Child	“An agency shall not enter into a temporary-care agreement unless the agency...is satisfied that no less restrictive course of action, such as care in the child’s own home, is appropriate for the child in the circumstances...The court shall not make an order removing the child from the care of a parent or guardian unless the court is satisfied that less intrusive alternatives, including services to promote the integrity of the family...[have failed, are refused or are inadequate to protect the child].”

Note: Categories were developed using four guiding statements developed by Shangreaux’s (2004, pp. 30-31) analysis of provincial and legislative provisions regarding a least disruptive

Source: Shangreaux (2004, pp. 34-35).

**Table 31: Ontario—Requirements for a Least Disruptive Measures Approach to Intervention and Child Protection Services**

Category	Description
Family	“To recognize that while parents may need help in caring for their children, that help should give support to the autonomy and integrity of the family unit and, wherever possible, be provided on the basis of mutual consent...To recognize that the least disruptive course of action that is available and is appropriate in a particular case to help a child should be considered.”
Provision of Services and Family Preservation	“The functions of a children’s aid society include a duty to provide guidance, counseling and other services to families for protecting children or the prevention of circumstances requiring the protection of children. “
Least Disruptive Alternatives and Family Preservation	“A society shall not make a temporary care agreement unless the society is satisfied that no less disruptive course of action, such as care in the child’s own home, is appropriate for the child in the circumstances.”
Least Disruptive Alternatives and Removal of Child	“Least disruptive alternatives preferred: The court shall not make an order removing the child from care of the person who had charge of him or her immediately before intervention under this Part unless the court is satisfied that alternatives that are less disruptive to the child, including non-residential services and the assistance referred to in subsection (2), would be inadequate to protect the child.”
Note: Categories were developed using four guiding statements developed by Shangreaux’s (2004, pp. 30-31) analysis of provincial and legislative provisions regarding a least disruptive	

Source: Shangreaux (2004, pp. 35-36).

**Table 32: Prince Edward Island—Requirements for a Least Disruptive Measures Approach to Intervention and Child Protection Services**

Category	Description
Family	“Parents have the right and responsibility for the care and supervision of their children, and children should only be removed from that care and supervision when other measures have failed or are inappropriate. The rights of children, families and individuals are guaranteed by the rule of law, intervention into the affairs of individuals and families should be governed by law so as to protect those rights and preserve the autonomy and integrity of the family wherever possible.”
Provision of Services and Family Preservation	“Where the Director concludes, after an investigation, that a child is in need of protection, the Director may offer child welfare services to the parent.”
Least Disruptive Alternatives and Family Preservation	“The Director may apprehend a child, where there are reasonable grounds to believe that...a less intrusive course of action will not adequately protect the health or safety of the child. “
Least Disruptive Alternatives and Removal of Child	“The Court requires that the Director provide evidence that...a less intrusive course of action will not adequately protect the health or safety of the child.”
Note: Categories one through four were developed using four guiding statements developed by Shangreaux’s (2004, pp. 30-31) analysis of provincial and legislative provisions regarding a least disruptive	

Source: Shangreaux (2004, pp. 30-31).

**Table 33: Quebec—Requirements for a Least Disruptive Measures Approach to Intervention and Child Protection Services**

Category	Description
Family	“The primary responsibility for the care, maintenance and education of a child and for ensuring his supervision rests with his parents...every decision made under this Act must contemplate the child’s remaining with his family. “
Provision of Services and Family Preservation	“The director may propose as voluntary measures that may be included in an agreement (a) that the child remain with his family and that the child’s parents report periodically to the director on the measures they apply in their own regard or in their child’s regard to put an end to the situation in which the security or development of the child is in danger; (b) that the child and the child’s parents undertake to take an active part in the application of the measures designed to put an end to the situation in which the security or development of the child is in danger; (f) that a person working for an institution or body provide aid, counseling or assistance to the child and the child’s family. “
Least Disruptive Alternatives and Family Preservation	“The director shall periodically review the case of every child whose situation he has taken in charge. He shall, where applicable, satisfy himself that every measure designed to ensure the child’s return to his parents is taken, if such a return is in his interest, or ensure that the child has living conditions appropriate to his needs and his age.”
Least Disruptive Alternatives and Removal of Child	N/A
Note: Categories were developed using four guiding statements developed by Shangreaux’s (2004, pp. 30-31) analysis of provincial and legislative provisions regarding a least disruptive	

Source: Shangreaux (2004, pp. 36-37).

**Table 34: Saskatchewan—Requirements for a Least Disruptive Measures Approach to Intervention and Child Protection Services**

Category	Description
Family	“The purpose of this Act is to promote the well-being of children in need of protection by offering, wherever appropriate, services that are designed to maintain, support and preserve the family in the least disruptive manner.”
Provision of Services and Family Preservation	“The Minister may provide family services to, or for, the benefit of a parent or a child where the minister considers them essential to enable the parent to care for the child; a director may enter into an agreement with the parent for the provision of family services. “
Least Disruptive Alternatives and Family Preservation	“Where, on investigation, an officer concludes that a child is in need of protection, the officer shall take all reasonable steps that he or she considers necessary to provide for the safety of the child, including, the offer of family services where practicable.”
Least Disruptive Alternatives and Removal of Child	N/A

Note: Categories were developed using four guiding statements developed by Shangreaux’s (2004, pp. 30-31) analysis of provincial and legislative provisions regarding a least disruptive

Source: Shangreaux (2004, pp. 30-31).

**Table 35: Yukon—Requirements for a Least Disruptive Measures Approach to Intervention and Child Protection Services**

It is the policy of the Minister and the director to supply services as far as is reasonably practicable to promote family units and to diminish the need to take children into care or to keep them in care.

Source: Shangreaux (2004, pp. 30-31).

## Appendix N: Key Legislative Amendments and Non-Legislative Changes to the Provision of Child Welfare Services, 2006-2019

Please note that the following is not an exhaustive list of amendments and non-legislative changes to provincial and territorial child welfare legislation and regulatory provisions for the period from 2006 through 2019. Individuals are advised to consult the respective provincial and territorial statutes and regulatory provisions for a complete and up to date list of amendments and non-legislative changes affecting the provision of child welfare services.

**Table 36: Alberta—Key Legislative Amendments and Non-Legislative Changes to the Provision of Child Welfare Services, 2006-2019**

Date	Description of Amendment/Regulatory Change
2018	<ul style="list-style-type: none"> <li>• added “First Nation Individual” which means an Indian as defined in the <i>Indian Act</i> (Canada)”</li> <li>• added “Indigenous [which] includes First Nations, Metis and Inuit”</li> <li>• “domestic violence” substituted with “family violence”</li> </ul> Source: <i>Child, Youth and Family Enhancement Act</i> , RSA 2000, c C-12, s 1(1.1) (m)
2013-2018	<ul style="list-style-type: none"> <li>• “[amendments to]provisions regarding the rights of previous caregivers who seek to become guardians of a child</li> <li>• changes to the quality assurance provisions of the <i>Act</i></li> <li>• [amendments to]provisions permitting children of any age to appeal court decisions made under the <i>Act</i> (previously, only children over the age of 12 had a right of appeal)</li> <li>• changes to the appeals panel hearing appeals of decisions of directors</li> <li>• [amendments to] provisions regarding publication bans where a child is deceased</li> <li>• removal of the requirement of “willfulness” in the offence of causing a child to be in need of protection”</li> </ul> Source: Public Health Agency of Canada (2019, p. 4)

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**Table 36: Alberta—Key Legislative Amendments and Non-Legislative Changes to the Provision of Child Welfare Services, 2006-2019**

Date	Description of Amendment/Regulatory Change
2013-2018	<ul style="list-style-type: none"> <li>• Implementation of the Child Intervention Practice Framework</li> <li>• “The Framework outlines principle-based practice for child intervention. Practice Strategies supporting this Framework were implemented in 2014. These strategies guide decision-making for caseworkers from initial contact with the family, and support the “slowing down” of the Intake and Investigation to better service the needs of families. The Strategies require caseworkers to focus on kinship as priority to reduce trauma, loss and grief for the child, to involve extended family and cultural connections early in the process to build sustainable safety plans, and to ensure children in care maintain connections to family, community and culture”</li> </ul> <p>Source: Public Health Agency of Canada (2019, p. 8)</p> <ul style="list-style-type: none"> <li>• Adoption of Collaborative Service Delivery</li> <li>• “This province-wide initiative focuses on improved assessment, collaboration, and engagement with service providers and families, with a focus on prioritizing improved outcomes for at-risk children, youth and families. It supports the implementation of the Casework Practice Model and compliments the core principles of Signs of Safety.”</li> </ul> <p>Source: Public Health Agency of Canada (2019, p. 8)</p>
2006	<ul style="list-style-type: none"> <li>• Drug Endangered Children Act, 2006: “[S]tates that children under 18 who are exposed to drug manufacture and trafficking are victims of abuse and require protection.”</li> </ul> <p>Source: Gough (2006, p. 2)</p>

**Table 37: British Columbia—Key Legislative Amendments and Non-Legislative Changes to the Provision of Child Welfare Services, 2006-2019**

Date	Description
2013-2018	<ul style="list-style-type: none"> <li>• “[A]mendments to p]rovisions allowing the director to make an agreement with prospective adoptive parents to care for a child;</li> <li>• [amendments to p]rovisions permitting agreements for services to children over 19 years of age</li> <li>• [c]hanges to the grounds for protection to include emotional harm caused by living in a situation where there is domestic violence, and to clarify that the presence of domestic violence increases the risk of physical harm to a child</li> <li>• [ch]anges to the possible responses to a report that a child needs protection, in order to allow for services to be provided without a determination that the child is in need of protection</li> <li>• [c]hanges to the provisions regarding restraining orders</li> <li>• [c]hanges to allow for children to be placed in the permanent custody of someone other than their parent”</li> </ul> <p>Source: Public Health Agency of Canada (2019, p. 4)</p>
2018	<ul style="list-style-type: none"> <li>• Child, Family, and Community Service Amendment Act, 2018 <ul style="list-style-type: none"> <li>• Consists of a number of amendments designed to “reduce the over-representation of Indigenous children in the child-welfare system by increasing the involvement of Indigenous communities in child welfare decisions.”</li> <li>• Includes changes to the definitions, principles and rights section of the <i>Act</i> [which] clarify and recognize: the shared responsibility of Indigenous families and Indigenous communities in caring for their children (Guiding principles, Section 2); the impact of residential schools (Service delivery principles, Section 3); and the definition of the “best interest of a child test” to include the importance of a child belonging to, learning about and practicing their Indigenous traditions, customs and language.”</li> </ul> </li> </ul> <p>Source: Federation of Community Social Services of British Columbia. (2018, n.p)</p>

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**Table 37: British Columbia—Key Legislative Amendments and Non-Legislative Changes to the Provision of Child Welfare Services, 2006-2019**

Date	Description
2015	<p>“In May 2015, the province imposed a moratorium on the use of hair-strand drug and alcohol testing in child protection cases, following the discovery of concerns regarding the reliability of testing conducted at the Motherisk Lab at the Hospital for Sick Children in Toronto.”</p> <p>Source: Public Health Agency of Canada (2019, p. 8)</p>
2006	<ul style="list-style-type: none"> <li>• Representative For Children And Youth Act, 2006               <ul style="list-style-type: none"> <li>• “The <i>RCY Act</i> was enacted to improve services for children, youth and families receiving services in three areas...found to be deficient following the 2001-2002 core services review: advocacy for children and youth; the monitoring of government’s performance in protecting and providing services; for children and youth; and the system for reviewing child deaths, including how these reviews are addressed within the [Ministry of Child and Family Services].”</li> </ul> </li> </ul> <p>Source: British Columbia. Representative for Children and Youth. (n.d, <i>Backgrounder</i>).</p>

**Table 38: Manitoba—Key Legislative Amendments and Non-Legislative Changes to the Provision of Child Welfare Services, 2006-2019**

Date	Description
2019	<ul style="list-style-type: none"> <li>• Announce in 2017, the Government of Manitoba is in the process of reviewing the province’s system child welfare. Four key areas of reform are: <ul style="list-style-type: none"> <li>• [the development of] a community-based prevention model through the implementation of four demonstration sites;</li> <li>• [the creation of] opportunities for lifelong connections for children by introducing innovative and evidence-based reunification and permanence strategies (including customary care and subsidized adoption);</li> <li>• [the implementation of] block funding pilots to provide child and family services agencies to have much more flexibility in using funds to support families and prevent children from coming into care; and</li> <li>• a comprehensive review of Manitoba’s legislative framework including the <i>Child and Family Services Act</i> and the <i>Child and Family Services Authorities Act</i>.</li> </ul> </li> </ul> <p>Source: Public Health Agency of Canada (2019, p. 50)</p>
2013-2018	<p>No significant amendments to either statute during this period Source: Public Health Agency of Canada (2019, p. 4)</p>

**Table 39: New Brunswick—Key Legislative Amendments and Non-Legislative Changes to the Provision of Child Welfare Services, 2006-2019**

Date	Description
2016-2018	<p>“[A number of amendments] relating to the release of confidential information, particularly concerning adoptions”  Source: Public Health Agency of Canada (2019, p. 5)</p>
2016	<p>“In March 2016, New Brunswick ended the use of hair-strand tests for drug and alcohol in child protection cases. The province cited concerns about the overall reliability of such tests, following the discovery of serious problems with the testing performed by the Motherisk Lab at the Hospital for Sick Children in Toronto.”  Source: Public Health Agency of Canada (2019, p. 9)</p>

**Table 40: Newfoundland and Labrador—Key Legislative Amendments and Non-Legislative Changes to the Provision of Child Welfare Services, 2006-2019**

Date	Description
2019	<p>On June 28, 2019 the <i>Children, Youth and Families Act</i>, SNL2018 Chapter C-12.3 came into force.</p> <ul style="list-style-type: none"> <li>• “The new <i>Children, Youth and Families Act</i> which replaces the <i>Children and Youth Care and Protection Act</i>, is child and youth-centred, family-focused and culturally responsive. The new <i>Act</i> enhances the focus on maintaining children and youth within families where it is safe to do so and expands opportunities to create permanency for children and youth who are declared in need of protective intervention.”</li> <li>• “[The <i>Act</i>] contains significant updates aimed at strengthening service delivery to Indigenous children, youth and their families by recognizing the importance of preserving an Indigenous child or youth’s cultural identity, and providing for the involvement of Indigenous governments and organizations in decisions that will keep children safe, and where possible, at home with their families and culture.”</li> <li>• “[E]xpands the identification and support of youth in need of protection by increasing the scope of the duty to report to include youth aged 16-17, and removing restrictions so that all youth under a voluntary Youth Services Agreement can receive services until their 21<sup>st</sup> birthday.”</li> </ul> <p>Source: Newfoundland and Labrador. Ministry of Children, Seniors and Social Development. (2019, n.p)</p>
2013	<p>“In 2013, the province implemented a mandatory decision-making framework for child protection, the Risk Management Decision Making Model. In 2016, a plan was put in place to transition from the Risk Management Decision Making Model to the Structured Decision Making Model, which was adapted for use in Newfoundland and Labrador.”</p> <p>Source: Public Health Agency of Canada (2019, p. 13)</p>

**Table 41: Northwest Territories—Key Legislative Amendments and Non-Legislative Changes to the Provision of Child Welfare Services, 2006-2019**

Date	Description
2016-2017	<p>“The province implemented the Structured Decision-Making System for Child Protection, which was adapted to serve the people and context of the NWT. Four of the six SDM tools were implemented between January 2016 and March 2017.”</p> <p>Source: Public Health Agency of Canada (2019, p. 9)</p>
2016	<ul style="list-style-type: none"> <li>• Revisions which came into force in 2016 included: <ul style="list-style-type: none"> <li>• “[a] new definition of youth and protections and services available to youth;</li> <li>• [a] new provision requiring the Director to notify a child and the child’s parents of the right to be represented by legal counsel;</li> <li>• [a] new provision providing for mediation and other alternative dispute mechanisms;</li> <li>• [t]he extension of services to age 23 for permanent custody youth to support independent living;</li> <li>• [a]mended criteria for determining when a child or youth needs protection as it relates to domestic violence and prostitution;</li> <li>• [a] new provision requiring notification of Aboriginal organizations of orders relating to Aboriginal children, and permitting the organizations’ participation in hearings;</li> <li>• [t]ime limits for temporary custody, depending on the child’s age; [and a]</li> <li>• new provision requiring a review of the Child and Family Services Act every five years.”</li> </ul> </li> </ul> <p>Source: Public Health Agency of Canada (2019, p. 5)</p> <ul style="list-style-type: none"> <li>• “Amendments in 2016 provided that exposure to domestic violence no longer has to be “repeated”; prostitution and prostitution-related acts are now set out in the grounds for intervention.”</li> </ul> <p>Source: Public Health Agency of Canada (2019, p. 20)</p>
2014	<p>“The Building Stronger Families Action Plan was implemented by the Department of Health and Social Services in 2014 to improve and enhance the child and family services system in the NWT. This Action Plan has led to the establishment of a new accountability framework, manual revisions, and information system replacement. The 2016 changes to the legislation were also part of this Action Plan.”</p> <p>Source: Public Health Agency of Canada (2019, p. 9)</p>

**Table 42: Nova Scotia—Key Legislative Amendments and Non-Legislative Changes to the Provision of Child Welfare Services, 2006-2019**

Date	Description
2013-2018	<ul style="list-style-type: none"> <li>• “The grounds of intervention have expanded in the last five years. Some of the specificity of the subsections was changed to allow a broader interpretation of the statute. For example, the previous subsection on domestic violence was revised to remove the requirements that the abuse be repeated, that it have occurred in the home, and that there be demonstrated harm as a result. “</li> </ul> <p>Source: Public Health Agency of Canada (2019, p. 22)</p>
2017	<ul style="list-style-type: none"> <li>• “[Amendments that came into effect in 2017] include:               <ul style="list-style-type: none"> <li>• [e]xpansion of the definition of a child in need of protective services, to allow services to be provided in more cases;</li> <li>• [p]rovisions to encourage permanency for children in care;</li> <li>• [p]rovisions to allow voluntary services to be provided to children between 16 and 18 years old;</li> <li>• [p]rovisions defining the duty to report;</li> <li>• [p]rovisions allowing social workers to interview a child without parental consent; and</li> <li>• [p]rovisions emphasizing the importance of a child’s culture.”</li> </ul> </li> </ul> <p>Source: Public Health Agency of Canada (2019, p. 6)</p>
2016	<p>“In May 2016, Nova Scotia suspended use of hair-strand drug and alcohol tests in child protection cases. This came in response to the discovery of serious flaws in hair-strand tests conducted by the Motherisk Lab at the Hospital for Sick Children. Nova Scotia hair samples had been tested at labs in Toronto, including the Motherisk Lab, prior to the suspension of testing by the government. “</p> <p>Source: Public Health Agency of Canada (2019, p. 9)</p>

**Table 43: Nunavut—Key Legislative Amendments and Non-Legislative Changes to the Provision of Child Welfare Services, 2006-2019**

Date	Description
2013-2018	<ul style="list-style-type: none"> <li>• “[S]ubstantive revisions to the Act [which] came into force in 2014...include: <ul style="list-style-type: none"> <li>• [n]ew provisions which require the Act to be administered and interpreted so as to reflect specific Inuit societal values;</li> <li>• [n]ew provisions setting limits for the amount of time in which children can be in temporary care;</li> <li>• [a]mendments extending the age at which a youth can no longer receive voluntary services from 18 to 26;</li> <li>• [a] prohibition on maliciously making a false report claiming a child needs or may need protection;</li> <li>• [t]he addition of new grounds for a finding that a child is in need of protection: exposure to or involvement in child pornography, repeated exposure to family violence, and significant contact with a person who possesses child pornography;</li> <li>• [a] requirement that the Director respond within 60 days to recommendations of coroner’s inquests following deaths of children in care; and</li> <li>• a requirement that the Minister table the Director’s annual report before the Legislative Assembly.”</li> </ul> </li> </ul> <p>Source: Public Health Agency of Canada (2019, p. 6)</p> <ul style="list-style-type: none"> <li>• “New grounds of intervention were added: exposure to or involvement in child pornography; repeated exposure to family violence; and significant contact with a person who possesses child pornography. “</li> </ul> <p>Source: Public Health Agency of Canada (2019, p. 22)</p>

**Table 44: Ontario—Key Legislative Amendments and Non-Legislative Changes to the Provision of Child Welfare Services, 2006-2019**

Date	Description
2018	<ul style="list-style-type: none"> <li>• A number of changes came into force in 2018, impacting four key areas: “prevention and protection, quality improvement, governance and accountability, and relationships with First Nations, Inuit and Métis peoples.” Source: Ontario Ministry of Children, Community and Social Services (n.d.: <i>Legislation</i>)</li> <li>• Revisions included: <ul style="list-style-type: none"> <li>• “[a] new Preamble, new purposes of the legislation, and changes to the best interests test;</li> <li>• [r]ecognition of Jordan’s Principle and the UN Declaration on the Rights of Indigenous Peoples;</li> <li>• [p]rovisions requiring agencies to pursue plans for customary care for First Nations, Inuk or Métis children;</li> <li>• [r]aising the age of protection from 16 to 18;</li> <li>• [p]rovisions permitting the apprehension and return of children subject to interprovincial child protection proceedings;</li> <li>• [i]mproved oversight of service providers; [and u]pdated language, including “extended society care” in place of “Crown wardship</li> </ul> </li> </ul> <p>Source: Public Health Agency of Canada (2019, p. 6)</p> <ul style="list-style-type: none"> <li>• “The new legislation removed “abandonment” as a ground for intervention, and added the ground for children aged 16 and 17 (“the child is 16 or 17 and a prescribed circumstance or condition exists”). Source: Public Health Agency of Canada (2019, p. 6)</li> <li>• “Part X is a new section of the <i>Child, Youth and Family Services Act</i>. It sets out a legislative privacy framework for Ontario’s child and youth sector. Once it comes into effect on January 1, 2020, it will establish new rules for the collection, use, and disclosure of, and access to, personal information held by ministry-funded and licensed service providers.” Source: Ontario Ministry of Children, Community and Social Services (n.d., <i>Part X: Personal Information</i>)</li> </ul>
2016	<p>“In 2016, Ontario implemented new Child Protection Standards governing the work of child protection workers. It also revised the province’s Eligibility Spectrum, which is designed to assist children’s aid society staff in making consistent and accurate decisions about eligibility for service at the time of referral.” Source: Source: Public Health Agency of Canada (2019, p. 9)</p>

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**Table 44: Ontario—Key Legislative Amendments and Non-Legislative Changes to the Provision of Child Welfare Services, 2006-2019**

Date	Description
2015	“In April 2015, the Ontario government issued a policy directive to all children’s aid societies, requiring them to cease using or relying on hair-strand drug and alcohol testing in child protection services. This was in response to the discovery of serious problems with the reliability of hair-strand tests conducted by the Motherisk Lab at the Hospital for Sick Children.” Source: Public Health Agency of Canada (2019, p. 9)

**Table 45: Prince Edward Island—Key Legislative Amendments and Non-Legislative Changes to the Provision of Child Welfare Services, 2006-2019**

Date	Description
2017	<ul style="list-style-type: none"> <li>“In 2017, the Act was amended to allow a court to admit certain forms of hearsay, including hearsay evidence of the child who is the subject of the hearing.”</li> </ul> Source: Public Health Agency of Canada (2019, p. 7)
2016	<ul style="list-style-type: none"> <li>“In 2016, the province implanted a “HUB” model for dealing with high-risk cases. Representatives from key government and community groups that work with families in crisis come together at what is called a “situation table”. Cases involving multiple risk factors cutting across disciplines and departments are brought to this situation table to determine the required level of risk response. The group connects the individuals and families to services and coordinated collaborative interventions. This model is intended to prevent apprehensions or calls to police through information-sharing and collaborative responses.”</li> </ul> Source: Public Health Agency of Canada (2019, p. 10)
2016	<p>“In November 2016, the advisory committee made sixty-six recommendations based on what Islanders had to say about protecting children in PEI that fall into the two broad categories: service delivery and public policy. The government stated that it will act on the recommendations beginning with six priority areas to improve accountability and further enhance front-line service delivery. They identified six priority areas: 1) Strengthen the voices of children. 2) Increase supports for grandparents as primary caregivers. 3) Improve data collection, analysis and reporting processes related to outcomes for children. 4) Address legislative changes required to better protect the interest of the child. 5) Implement an evidence-based decision-making model to support the delivery of consistent and thorough child protection services. 6) Develop a social policy framework for better accountability and integrated collaboration.”</p> Sources: Public Health Agency of Canada (2019, p. 52); Prince Edward Island Family and Human Services (2016, n.p.)
2015	<p>“In November 2015, the Minister of Family and Human Services appointed an advisory committee to carry out a review of the Child Protection Act.”</p> Source: Public Health Agency of Canada (2019, p. 52)

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**Table 45: Prince Edward Island—Key Legislative Amendments and Non-Legislative Changes to the Provision of Child Welfare Services, 2006-2019**

Date	Description
2013	<ul style="list-style-type: none"> <li data-bbox="513 384 1515 527">• “In 2013, the Act was amended to permit the Director of Child Protection to disclose information required for an investigation or inquest under the Coroner’s Act.” Source: Public Health Agency of Canada (2019, p. 7)</li> <li data-bbox="513 569 1515 896">• “In December 2013, a formalized protocol was developed between the province’s Child Protective Services and the Mi’kmaq Confederacy of PEI. This protocol provides clarity on roles, responsibilities and procedures in the delivery of child protection services involving PEI First Nation children and families. The goal of the protocol is to ensure child protection services are provided to PEI First Nation children and families in a manner that preserves and promotes the Aboriginal cultural identity of children and families.” Source: Public Health Agency of Canada (2019, p. 10)</li> </ul>

**Table 46: Quebec—Key Legislative Amendments and Non-Legislative Changes to the Provision of Child Welfare Services, 2006-2019**

Date	Description
2013-2018	<ul style="list-style-type: none"> <li>• “The definition of “psychological ill-treatment” was amended to include situations in which a child is subjected to “excessive control.”</li> </ul> Source: Public Health Agency of Canada (2019, p. 23)
2017	<ul style="list-style-type: none"> <li>• “Amendments that came into force in 2017 include:               <ul style="list-style-type: none"> <li>• [t]he inclusion of cultural identity as a best interests factor;</li> <li>• [r]equirements that placements for Indigenous children attempt to preserve their cultural identity; and</li> <li>• [p]rovisions requiring child protection services to inform Indigenous communities when a child is removed, and to seek the communities’ cooperation.”</li> </ul> </li> </ul> Source: Public Health Agency of Canada (2019, p. 7)

**Table 47: Saskatchewan—Key Legislative Amendments and Non-Legislative Changes to the Provision of Child Welfare Services, 2006-2019**

Date	Description
2013-2018	<ul style="list-style-type: none"> <li>• “An explicit reference to sexual exploitation was added, and “domestic violence” was changed to “interpersonal violence”.</li> </ul> Source: Public Health Agency of Canada (2019, p. 24)
2017	<ul style="list-style-type: none"> <li>• Amendments to the <i>Act</i> in 2017 included:               <ul style="list-style-type: none"> <li>• “[p]rovisions establishing the criteria for the disclosure of personal information;[and]</li> <li>• provisions clarifying the requirements for agreements delegating the Minister’s powers to provide child protection services to Aboriginal bands and organizations.”</li> </ul> </li> </ul> Source: Public Health Agency of Canada (2019, p. 7)
2014	<p>“In 2014, changes were made to the Saskatchewan Child Abuse Protocol in order to enhance the province’s coordinated and integrated approach to child abuse investigations, while clarifying responsibilities for protecting children. The duty to report suspected child abuse was clarified, and the protocol was shortened and made more user-friendly.”</p> Source: Public Health Agency of Canada (2019, p. 10)
2013	<p>“Effective October 2013, the Ministry began a pilot for a Flexible Response program. The model allows for different responses to reports of child abuse and neglect depending on the level of urgency and severity. The pilot is being expanded to the south service area before it is rolled out province-wide.”</p> Source: Public Health Agency of Canada (2019, p. 10)
2012	<p>“The new Structured Decision Making (SDM) Model was implemented across the province and in two First Nation child and family services agencies in June 2012. “</p> Source: Public Health Agency of Canada (2019, p. 10)
2011	<p>“The first HUB program in Canada, where child welfare agencies work with other social service agencies and police to identify and intervene with families at risk, was started in Prince Albert in 2011. This model has expanded throughout Saskatchewan since [2011].”</p> Source: Public Health Agency of Canada (2019, p. 10)

**Table 48: Yukon—Key Legislative Amendments and Non-Legislative Changes to the Provision of Child Welfare Services, 2006-2019**

Date	Description
2013-2018	<p>“Non-legislative changes in recent years include increased use of family group conferencing; Integrated Supports for Yukon Youth, a pilot project providing one-stop after-hours access to a variety of government services, including child protective services; and expansion of Family Support Services and preventative programming.”</p> <p>Source: Public Health Agency of Canada (2019, p. 11)</p>
2008	<p>“There have been no significant [legislate] amendments since [the Act] came into force.”</p> <p>Source: Public Health Agency of Canada (2019, p. 7)</p>

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**Compensation Process for Discrimination in  
Federally-funded Child and Family Services and under  
Jordan's Principle**

**Draft Notice Plan**

**DRAFT**

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## **Introduction**

This Notice Plan is designed to notify First Nations children youth and their families, who were harmed by Canada’s discriminatory provision of First Nations child and family services or failure to properly implement Jordan’s Principle, of compensation awarded by the Canadian Human Rights Tribunal’s (the “Tribunal”) decision in *First Nations Child and Family Caring Society of Canada v Canada*, 2019 CHRT 39 (the “Compensation Entitlement Order”), as further described in 2020 CHRT 7. This Notice Plan will highlight the nature of the compensation, the Notice Plan methodology and phases, and the options for First Nations children, youth and their families eligible for compensation, as well as their guardians or personal representatives, if applicable, by virtue of the Compensation Entitlement Order (individually a “beneficiary”, collectively “beneficiaries”), as further described at paras. 245-257 of the Compensation Entitlement Order and the Tribunal’s decision in 2020 CHRT 7, to participate in the process established by the Tribunal for the distribution of compensation (the “Compensation Process”).

## **KEY MESSAGES**

The key messages of the Notice Plan are to ensure that the beneficiaries as described in the Compensation Entitlement Order, as well as their guardians or personal representatives, if applicable, are: (1) fully informed of the beneficiaries entitlements to receive compensation; and (2) advised they may access compensation by submitting a request or may opt-out of the compensation scheme by submitting a X form by (Date).

## **Background**

The Tribunal awarded compensation to First Nations children living on reserve and in the Yukon, who were removed from their families and who were subject to Canada’s First Nations child and family services program. The Tribunal determined compensation would include:

- \$40,000 to each First Nations child unnecessarily removed after January 1, 2006.

- \$40,000 to each child removed from their home and taken into care for compensable reasons prior to January 1, 2006, but who remained in care as of this date.
- \$40,000 to each First Nations parent or grandparent of a child unnecessarily removed after January 1, 2006.
- \$40,000 to each First Nation child necessarily removed but placed outside of their families and/or communities after January 1, 2006.

With respect to a First Nations child living on or off reserve, the Tribunal also determined that compensation would include:

- \$40,000 to each First Nations child that was unnecessarily removed to obtain essential services, or wasn't removed from their family but experienced gaps or delays of services that would have been available under Jordan's Principle between December 12, 2007, and November 2, 2017.
- \$40,000 to each First Nations parent or grandparent who had their child removed and placed in care to access services, or wasn't removed from their family but experienced gaps or delays of services that would have been available under Jordan's Principle between December 12, 2007, and November 2, 2017.

Compensation remains available to the Estate of deceased individuals who qualify as a beneficiary. Individuals who are eligible for compensation can opt out of this compensation scheme for any reason. Further, a trust will be established to hold and administer payments to be made to children and youth who are below the age of majority, in the places they reside, until they reach the age of majority. A trust will also be available for those who lack legal capacity.

### **NOTICE PLAN SUMMARY**

#### **Objective:**

The objective of the Notice Plan is to advise all of the beneficiaries as described in the Compensation Entitlement Order and their guardians or personal representatives, if applicable, of the Compensation Process established by the Tribunal. Eligible beneficiaries have the legal right to opt out of the Compensation Process. The Parties will meet as and when required to ensure that any measures taken under the Notice Plan are likely to reach the intended beneficiaries and carried out according to industry standards. The Parties may choose to retain a

communications firm to design and implement the Notice Plan. If the Parties choose to hire a communications firm, the cost will be assumed by Canada.

### **Notice Plan Phases:**

The Notice Plan is divided into two main phases: (a) the Preparation Phase; and (b) the Distribution Phase.

#### ***a) Preparation Phase - Finalizing Notices and Training***

In preparation for implementation of the Tribunal's Compensation Entitlement Order, the Parties developed a series of notice products to make potential beneficiaries, as well as their guardians or personal representatives, if applicable, aware that they may be entitled to compensation. These products will include a claim form, easily understandable in French and English by persons with various literacy levels, and will accommodate persons with disabilities, children and youth and those located in rural or remote communities. These products may be distributed by some or all of the following means: social media; a multi-media campaign; pamphlets; posters; postcards; and videos. Each method used will contain information about the Compensation Process in both French and English and as many First Nations languages as possible.

Canada will retain a Central Administrator to process compensation requests. Individuals tasked by the Central Administrator with the processing of applications and the provision of Notice Plan-related services, such as phone line-operators and Navigators, must receive culturally appropriate training to ensure beneficiaries are not revictimized by the Compensation Process. The training will convey the particular sensitivities associated with youth and child development. The training will entail a detailed review of the Notice Plan information, including the Tribunal-approved Claim Form. Scripted training products will also be provided to all employees tasked with interacting with potential beneficiaries and providing information or other support services. This will help ensure consistent information messaging. This will also help ensure that all employees of the Central Administrator have an accurate and clear understanding of the information, including the details of the Claim Form. Staff must be able to advise claimants where to go to seek further information about the compensation process and other related supports. All Central Administrator employees must be clearly advised that it is not their role to provide legal advice.

A 24-hour toll-free Compensation Process and Support phone line is available where Line Operators will provide information on the Notice Plan materials and the Compensation Process, in addition to suggesting mental health, cultural and other services that potential beneficiaries may require arising from the Compensation Process. As noted, these Line Operators will be trained to ensure that they are sensitive to child and youth development, as well as the cultural and contextual diversity of beneficiaries. The line is available in some First Nations languages to reflect the linguistic diversity of beneficiaries.

Throughout the Compensation Process, including the Preparation Phase, Canada will provide and fund mental health supports for beneficiaries, including the provision of mental health support workers, who will be made available to beneficiaries in a manner that is responsive to the beneficiaries' needs (e.g.: private counselling, at events, in a family setting, group sessions, 24 hour tele-health or by way of the Compensation Process and Support Line).

Where possible, mental health supports and workers will be provided through First Nations organizations that have established expertise and built trust in First Nations communities. Training for mental health support workers will be conducted at a series of meetings<sup>1</sup>. It is expected that each training session will take approximately one-half day (4 to 5 hours).

The training will focus on educating mental health support workers on the notice materials and process to enable them to provide emotional and traditional support and provide neutral information to beneficiaries and their families. Efforts will be made to ensure that support workers are trained in child and youth mental health and, where such professionals are not available in particular communities, that the mental health workers are aware of professionals trained in child and youth mental health. The support workers will either staff the Compensation Process and Support Line or be located in or visit First Nations communities and/or organizations, to provide support services and answer questions from beneficiaries, most times in the First Nations language of the community.

The Assembly of First Nations and Caring Society will also collaborate with Aboriginal Financial Officers Association (AFOA) Canada and the Royal Bank of Canada to prepare financial literacy

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<sup>1</sup> The identity of the trainers and the content will be determined at a later date by the Parties.

materials to support recipients prior to and upon receipt of compensation funds. This will include resources and information on how to access personal financial advice, both of which will also address the particular cultural, historical and geographical circumstances of different First Nations communities.

The Assembly of First Nations will develop and operate an independent and neutral Information Line, to be staffed by Information Line Liaison(s) (described further below). A framework will be established in consultation with the Parties to ensure consistent and clear messaging to beneficiaries, including comparable training to the Central Administrator's Line Operators associated with the Compensation Process and Support Line, as well as its Navigators. The Line Operators, Navigators, mental health support workers, and Information Line Liaison(s) will not provide any legal advice.

**b) Distribution Phase – Disseminating Information**

After the notice Preparation Phase, the Distribution Phase will begin where information will be disseminated to the beneficiaries. The Distribution Phase is further broken down into four sub-phases, as detailed below. Phases 1 to 3 will be conducted within the first six months of the Implementation Date set out in the Framework. Phase 4 will be carried out over two years.

Compensation is also being sought in two cases underway but not completed in the Federal Court: *Moushoom et al v Canada (Attorney General)*, Federal Court Registry No. T-402-19, and *The Assembly of First Nations et al v Her Majesty the Queen*, Federal Court Registry No. T-141-20. An individual's right to receive compensation may be affected by those cases, or any others that may be filed.

**Phase 1 – Multi-media Campaign:** Notice Plan information will be distributed through various print, television, radio or social media, depending on what is likely to be most effective in different parts of the country. Accommodations will be made for persons with unique needs (i.e. persons with disabilities, those located in rural or remote communities, incarcerated persons, homeless persons, or persons in domestic violence shelters), persons who speak First Nations languages and persons with various literacy levels in French and English. Indigenous Services Canada ("ISC") and the Central Administrator will launch and post the Notice Plan materials on a dedicated website ([www.FNChildCompensation.ca](http://www.FNChildCompensation.ca)), and establish the toll-free Compensation Process and

Support phone line that will be in service throughout the Compensation Process, including Phases 1-4. The Information Line will also be in service to provide support to the beneficiaries, as administered by its Information Line Liaison(s).

**Phase 2 – Distribution of Posters and Information Packages:** Information packages, posters, social media posts, and postcards will be sent to First Nations communities, First Nations child and family service agencies and other children’s service providers, First Nations Organizations, Friendship Centres, Correctional Centres, Tribal Councils, and other partners/stakeholders. Further mail-outs may occur throughout the Distribution Phase. To protect beneficiaries’ confidentiality, these will be provided in bulk in a general-distribution approach. The Parties will agree to a distribution list.

**Phase 3 – Community Notices:** Canada will work with the AFN and the Caring Society and will partner with First Nations communities across Canada to provide notice on local radio stations, local newsletters and online. Wherever possible these notices will be in the language(s) of the respective community.

**Phase 4 – Ongoing Information for the Duration of the Claim Period:** The dedicated compensation website and Compensation Process and Support Line will be maintained throughout the Claim Period starting on the Implementation Date in order to provide information to beneficiaries.

**Geographical Scope:**

Beneficiaries and their families reside in urban, rural, northern and remote/isolated communities across Canada. Some beneficiaries may reside in health care facilities, domestic violence shelters, or may be homeless, or incarcerated. The Notice Plan is designed to reach all beneficiaries in Canada, regardless of geographic location.

Some beneficiaries may reside outside of Canada, and consequently may not be exposed to or be able to access the Notice Plan information via Canadian media or First Nations organizations in Canada. Accordingly, Canada will make reasonable efforts to provide the Notice Plan information to those beneficiaries who reside outside of Canada and request the information.

**Language:**

Notice Plan materials will be created in a variety of languages appropriate to the media source and location. All elements of the mailing packages (described below), including the Claim Form, will be produced in English and French and American Sign Language (ASL)/Langue des signes du Québec (LSQ). The dedicated compensation website will appear in English ([www.FNChildWelfareCompensation.ca](http://www.FNChildWelfareCompensation.ca)) and French ([www.PNProtectionLenfance.ca](http://www.PNProtectionLenfance.ca)). Additionally, the beneficiaries will be able to access English and French Compensation Process and Support Line Operators, as well as have access to the Navigators and mental health support workers who have the capacity to provide information in various First Nations languages and in a manner suitable for persons with limited literacy.

**Delivery:**

The Notice Plan will focus on ensuring beneficiaries understand why compensation is available and how the application process works. The messaging must be culturally sensitive, attempt to limit any trauma to beneficiaries, and address concerns that beneficiaries may have. Care will be taken throughout the Notice Plan to respect the privacy and confidentiality of beneficiaries.

On-going support and information will be available for beneficiaries throughout the first three phases of the Distribution Phase from Navigators, mental health support workers, the Compensation Process and Support Line Operators, and the Information Line Liaison(s).

All products designed for beneficiaries must be easy to read and understand. The products will contain consistent messaging, be presented in plain and concise language, with an identifiable look, headline, and graphic. The various types of products – and the Notice Plan in its entirety – are intended to ensure that beneficiaries understand who is eligible for compensation and how the process works, if they chose to seek compensation pursuant to the Compensation Process.

If during the course of the Notice Plan it is determined that other products need to be developed to meet evolving needs or address specific issues, said products and/or materials will be prepared and agreed to by the Parties in a manner consistent with the Tribunal-approved Claim Form.

**Responding to Inquiries:**

During the claim period, Canada will provide resources to the AFN and the Caring Society in order to facilitate the dissemination of Notice Plan materials and associated information to beneficiaries. This will include funding Information Line Liaisons, whose role will be to respond to questions

about the Notice Plan and facilitate the dissemination of Notice Plan materials in a culturally appropriate and sensitive manner. Canada will also fund mental health supports and mental health workers, who will provide information, assistance and support. Finally, Canada will fund third parties to provide financial literacy materials and experts, who will conduct workshops, presentations or other meetings in order to support beneficiaries, having regard to their particular cultural, linguistic and geographical needs and circumstances.

## **NOTICE SCHEDULE**

### **Preparation Phase Schedule:**

Below is a schedule that outlines the expected timeframe for activities that must be completed prior to the launch of the Distribution Phase. Due to the sensitivity and potential impacts of the Notice Plan, the launch of the Distribution Phase will commence on the Implementation Date.

<b>ACTIVITY</b>	<b>TIMEFRAME</b>
Draft, design and finalize products	One month from date Compensation Entitlement Order is final
Translate products	Two months from date Compensation Entitlement Order is final
Produce videos (including ASL and LSQ)	Two months from date Compensation Entitlement Order is final
Produce social media posts	Two months from date Compensation Entitlement Order is final
Print products and create packages	Two months from date Compensation Entitlement Order is final
Training Sessions for Mental Health Support Workers	Two months from date Compensation Entitlement Order is final
Launch Distribution Phase	On Implementation Date

### **Distribution Phase Schedule:**

Below is a timeline for Distribution Phase. Details for each phase follow.

<b>PHASE</b>	<b>TIMEFRAME</b>
Phase 1 – Multi-media Campaign	Commence on Implementation Date and run for at least 12 months

Phase 2 – Mailouts of Packages	Commence on Implementation Date and run for at least 12 months
Phase 3 – Local Community Notices	Commence on Implementation Date and run for at least 12 months
Phase 4 – On-going Notice	January 1, 2021 – date determined by the Tribunal

**Phase 1 – Multi-Media Campaign (DATES):**

The timing of the individual notices and media placements may vary within the notice period. Phase 1 will commence on the Implementation Date for at least a 12-month period. Below is a detailed breakdown of appearance.

**a) First Nations Television Notice**

During the 12-month period, approximately 750 Television Notices may be broadcast throughout Canada on First Nations television networks. Contingent on network agreement, notices will run on Aboriginal Peoples Television Network (“APTN”). Notices will also appear on Canadian Broadcasting Corporation (“CBC”) North.

Television Notices will appear in a wide variety of programs and time slots, from early morning to late at night. The schedule should include many of the most popular programs on APTN and CBC North.

A total of four Television Notices will be created and appear in three different languages: English, French, and a First Nations language to be agreed to by the parties. These will be 30-second informational announcements in English and 60-seconds in French (longer length due to translation) on APTN and CBC North. First Nations language spots will also appear in 30- or 60-second formats, depending on the language being spoken.

In addition to the paid television broadcasts, First Nations version(s) of the English television spot will be sent to CBC television for national broadcast as public service announcements (“PSA”). The English television spots for regional broadcast in the Northwest Territories will be sent to CBC.

**b) Radio Notice**

The Radio Notice will be produced and broadcast in 17 languages/dialects, including English, French, Quebec Cree, Déné, Ojibway, North Slavey, South Slavey, Denesuline, Tlicho, Gwich'n, South Tutchone, Tlingit, Innu, Atikamekw, Oji-Cree, Mi'kmaq, and Cree. The Radio Notice will air on each network/station, in accordance with the language(s) of their programming and/or the predominant language(s) used by their listeners. Networks with multiple language programming will receive a higher number of spots, to ensure effective exposure of each version of the Notice. The radio spots will air over a four-week period.

Spots will be broadcast on radio stations with First Nations communications organizations and radio networks, such as:

<b>Organization/Network</b>	<b>Languages</b>
Aboriginal Multi Media Society of Alberta	English, Cree
James Bay Cree Communications Society Network	English, Québec Cree
Missinipi Broadcasting Corp. Network Radio (MBC)	English, Cree, Dene
Native Communications Inc. (NCI-FM)	English, Ojibway, Cree
Native Communications Society of the Western NW	English, Tlicho, North Slavey,
Northern Native Broadcasting Terrace (CFNR-FM)	English
Northern Native Broadcasting Yukon (CHON-FM)	English, Gwitch'n, Southern
Société de Communications Atikamekw-Montagnais	Innu, Atikamekw, French
Wawatay Radio Network (WRN)	English, Oji-Cree, Cree

**c) Radio PSAs**

The Radio Notice will be packaged and distributed to mainstream radio stations as a PSA. The PSA package will include an audio recording of the Radio Notice (both English and French) as well as a message to the Public Service Director explaining the importance of the Notice and requesting the station air the message. PSAs provide an easy and simple way to more widely distribute the Notice.

**d) Print Publication Notices**

Notices will also be placed in mainstream newspapers and local newsletters in order to increase the reach of the Notice Plan, particularly for urban residents. Notices will appear once in at least seven different mainstream newspapers across Canada. The Notice should be approximately five inches by ten inches. Notices should appear in a prominent place in the newspaper in a manner accessible to non-paying readers, primarily in the Main News section.

The Notice may appear in the following mainstream newspapers:

<b>Newspaper</b>	<b>City/Area</b>	<b>Province</b>
<i>Chronicle Herald</i>	Halifax	Nova Scotia
<i>Edmonton Sun</i>	Edmonton	Alberta
<i>Saskatoon Star Phoenix</i>	Saskatoon	Saskatchewan
<i>The Globe and Mail</i>	Toronto	National
<i>The National Post</i>	Toronto	National
<i>The Toronto Star</i>	Toronto	Ontario
<i>Winnipeg Sun</i>	Winnipeg	Manitoba
<i>Whitehorse Daily Star</i>	Whitehorse	Yukon
<i>Vancouver Sun</i>	Vancouver	British Columbia

Notices will also appear, as a full-page unit, in 32 highly targeted First Nations publications. First Nations publications provide local and regional news to a large portion of First Nations communities. In bilingual publications, multiple Notices will appear, once in English or French, and again in the primary First Nations language(s) of the publication.

The Notice may appear in the following First Nations publications:

<b>Publication</b>	<b>Coverage</b>	<b>Ad Language</b>
<i>Alberta Native News</i>	Alberta	English
<i>Anishinabek News</i>	Ontario	English
<i>Eagle Feather News</i>	Saskatchewan	English
<i>Eastern Door</i>	Québec	English
<i>Elsipogtogeoei</i>	New Brunswick	English
<i>First Nations Drum</i>	National	English
<i>First Nations Voice</i>	National	English
<i>Grassroots News</i>	Manitoba	English
<i>Ha-Shilth-Sa</i>	British Columbia	English
<i>Inuvik Drum</i>	Northwest Territories	English
<i>L'Action</i>	Ontario	French
<i>L'Aquilon</i>	Northwest Territories	French
<i>Le Journal Innuvelle</i>	Québec	French
<i>Le Metropolitain</i>	Ontario	French
<i>Le Regional</i>	Ontario	French
<i>Le Rempart</i>	Ontario	French
<i>L'horizon</i>	Ontario	English
<i>Mi'kmaq-Maliseet Nations News</i>	Nova Scotia	English
<i>Native Journal</i>	National	English

<i>Nunatsiaq News</i>	Northwest Territories	English
<i>NWT News/North</i>	Northwest Territories	English
<i>Prince Albert Grand Council Tribune</i>	Saskatchewan	English
<i>Secwepemc News</i>	British Columbia	English
<i>The Chief</i>	British Columbia	English
<i>The Hay River Hub</i>	Northwest Territories	English
<i>The Nation</i>	Québec/Ontario	English
<i>Turtle Island News</i>	Ontario	English
<i>Tusaayaksat</i>	Northwest Territories	English
<i>Tusaayaksat</i>	Northwest Territories	Siglit
<i>Wawatay News</i>	Ontario	English
<i>Wawatay News</i>	Ontario	Oji-Cree
<i>Yellowknifer</i>	Northwest Territories	English

**e) Online Notice**

The online portion of the Notice Plan includes banner advertisements, which will run for a 30-day period, or longer as required. Notices will be formatted to accommodate mobile devices.

The banner advertisements will run on a rotating basis on website such as the following:

- [FirstNationsVoice.com](http://FirstNationsVoice.com)
- [FirstNationsDrum.com](http://FirstNationsDrum.com)
- [WawatayNews.ca](http://WawatayNews.ca)
- [WindSpeaker.com](http://WindSpeaker.com)
- [AlbertaNativeNews.com](http://AlbertaNativeNews.com)
- [AnishinabekNews.ca](http://AnishinabekNews.ca)
- [NORJ.ca](http://NORJ.ca)
- [Grassrootsnewsmb.ca](http://Grassrootsnewsmb.ca)

The banner will appear in English or French on the selected websites, unless the website permits it to appear in both English or French and a First Nations language.

Banner ads may also appear on Facebook.com targeting individuals in Canada whose interests include “Indigenous”, “First Nations” and “First Nations children”.

Social media channels including Twitter, Facebook, TikTok and Instagram will also be used to share information about the Notice Plan. Notices will direct beneficiaries, family members and

others to the dedicated website, or other on-line locations where they can find relevant information.

**f) Videos**

One video will be made to provide a range of information on the Compensation Process. The use of this video will provide flexibility to viewers enabling them to obtain information on the nature of the Claim Process. The video will be included in the information packages (described below) on USB keys, will be made available in DVD format, and will also be accessible on You Tube with a link on the dedicated website.

The video will be called “Overview of the Compensation Process for Federally-funded First Nations Child and Family Services and Jordan’s Principle,” and provide beneficiaries with information on the Compensation Process, including general information about filing a claim.

**g) “Earned Media” Activities**

Earned media activities are means of obtaining coverage in credible news sources that do not involve the purchase of paid advertising. These would include the use of news releases, media advisories, personal contact with reporters, and other activities designed to encourage stories to be written about the Notice Plan. As part of this process, an Information news release conforming to the Tribunal-approved Claim Form will be issued to provide a fair and neutral statement of the Notice Plan and encourage media interest.

**Phase 2 – Mail-outs of Information Packages**

Phase 2 of the Distribution Phase will coincide with Phase 1. After the initial mail-outs are complete, on-going mail-outs will continue throughout the Distribution Phase. Success in building awareness among all audience segments will be determined by the Parties’ ability to put information directly in front of the audience through media that are highly visible, have “stopping power”, and afford the opportunity to deliver a number of key messages in clear and simple language. Success will also be determined by the Parties’ ability to leverage one of their key communications opportunities – the direct link to their audience that is provided by the respective network of First Nations Band Offices, First Nations child and family service agencies, and Friendship, Youth and Women’s Centres across Canada. A key focus of the Parties’ effort in marketing to public segments should be in the development and production of Compensation

displays that can be distributed to and placed in Centres, in essence serving as billboards that deliver key messaging, require little effort to maintain, and frankly, would be difficult for visitors to the Centres to ignore.



Information packages will be mailed to over 1,200 organizations including First Nations communities, First Nations Organizations that work with beneficiaries, Friendship Centres, Youth in Care Canada, Federal and Provincial Correctional Centres, Tribal Councils, and other partners and stakeholders. These packages will also include a USB key with videos and with printable notice products such as posters, pamphlets, post cards, and forms. The material will be available in English, French, and other First Nations languages.

Organizations can also provide links on their websites to the dedicated website for those beneficiaries wanting more information. Under no circumstances shall an organization charge a fee to beneficiaries for accessing information.

### **Phase 3 – Community Radio Stations, Local Newsletters and Websites**

The Parties will reach out and partner with First Nations communities across Canada to provide notice on local radio stations, local newsletters and links on their websites. These notices will be in the language of the community media type.

A major consideration is that a significant proportion of the target audience cannot access written materials. This, obviously, poses a significant challenge to disseminating the Compensation Process message out to the target audience. The solution to this challenge is to provide prepared audio materials to broadcast media, including both radio and television. These materials could spur interest in the Compensation Process with outlets unfamiliar with the process, subsequently resulting in additional coverage that may not have resulted from the news release and follow-up approach.

These audio news releases will consist of a prepared radio spot lasting about 30 or 40 seconds that could be broadcast in its entirety, along with pre-recorded messages that could be used by the broadcast outlet in its preparation of its own report.

A Q&A will be included in the media information kit. The information will be directed at potential beneficiaries and will provide basic information on the Notice Plan, the Compensation Process, how to make a claim for compensation, as well the available resources that are available to potential beneficiaries and beneficiaries in need of support.

Relevant information could be formatted into fact sheets covering topics such as CHRT rulings, more in-depth information about when and how to access compensation, as well as a summary of the Compensation Process. Inclusion of facts sheets and/or a short general information sheet would provide a quick reference for the casual reader who may not take the time to read all relevant information in its entirety.

#### **Phase 4 – Ongoing Information for the Duration of the Claim Period**

The dedicated compensation website and Compensation Process and Support Line will be maintained throughout the Claim Period.

#### **Additional**

The Parties shall take steps to address any misinformation, fraudulent advertisements, etc. that are intended to scam or phish for information.

## **ANNEX A**

### **BACKGROUND**

More First Nations children have been removed from their families and are in foster care today than were in residential schools at the height of the operation of that system. First Nations children are 12 times more likely to be placed in care due to neglect driven by poverty, poor housing, parental substance misuse, and domestic violence. The Government of Canada's ("Canada") provision of inequitable child and family services and other public services via Jordan's Principle made it more difficult for families to address risk factors and thus more First Nations children were placed in care and stayed there.

Canada requires child and family services on reserve to be delivered in accordance with provincial child and family services laws as a condition of federal funding. Off reserve, provincial funding and child and family service laws apply. First Nations child and family service agencies began operating in the 1970's with over 100 being established by 2005. These agencies were serving a higher needs population owing to the legacies of residential schools and colonialism and received less funding than provincial agencies received for other children off reserve. The most serious area of shortfall was in services intended to prevent child maltreatment or to mitigate risks to prevent the removals of children from their families whenever possible.

As the Tribunal noted, this chronic under-funding has persisted for many years despite available solutions. The Auditor General of Canada found Canada's provision of the First Nations Child and Family Services Program to be inequitable in 2008 and again in 2011. A 2005 report commissioned by the Assembly of First Nations and Canada and authored by the First Nations Child and Family Caring Society of Canada (Caring Society) found that funding for child and family and health services for First Nations children in Canada fell 30% below what was needed without accounting for the higher risks for First Nations children arising from residential schools and other colonial harms. Further, a 2000 study commissioned by Canada and authored by the Assembly of First Nations revealed that 22 percent less funding was available on a per child basis for First Nations children living on reserve than was provided to children living off reserve in the average province.

In addition to shortfalls in child and family services funding on reserve, First Nations children and families were being deprived of access to other public services they needed due to Canada's

failure to properly implement Jordan's Principle. Jordan's Principle is named in memory of Jordan River Anderson of Norway House Cree Nation in Manitoba. Born in 1999, Jordan remained in hospital for medical reasons for two years until his condition reached a point where he could be discharged to a medically trained foster home near the hospital with a longer-term plan of reuniting Jordan with his family in Norway House. If Jordan had been a non-First Nations child, he would have been discharged. However, Manitoba refused to pay for the service because Jordan was a registered Indian and his family lived on reserve. Canada's Departments of Health and Indian Affairs also argued over which department was supposed to pay for Jordan's services and in the end Jordan was forced to remain in the hospital while the various levels of government argued over the fiscal responsibility for his services. Jordan remained in hospital for another two years unnecessarily before he slipped into a coma and tragically died at age 5. In 2005, the Caring Society study found 393 other children were being denied services due to these types of payment disputes. Jordan's Principle was developed with the support of Jordan's family and adopted by Parliament in 2007. It allows for First Nations children to receive the public services they need when they need them, compelling the government to fund the requisite services and argue about responsibility for providing said services after the fact. Unfortunately, Canada failed to implement Jordan's Principle and, until the Canadian Human Rights Tribunal ruled in 2016, took the position that there were no Jordan's Principle cases.

These inequalities have continued to perpetuate many of the generational problems fostered by the *Indian Act* and the residential school system, and the insufficient resources and supports in place has been found to result directly in elevated rates of abuse and even death in care.

In February 2007, the First Nations Child and Family Caring Society of Canada and the Assembly of First Nations filed a complaint under the *Canadian Human Rights Act* alleging that Canada's inequitable provision of child and family services services to 163,000 First Nations children, along with its flawed implementation of Jordan's Principle, was discriminatory on the prohibited grounds of race and national ethnic origin. Canada made eight unsuccessful attempts to get the case dismissed on technical grounds.

On 26 January 2016, the Canadian Human Rights Tribunal substantiated the complaint and ordered Canada to cease its discriminatory conduct. The Tribunal found that the First Nations Child and Family Services (FNCFS) Program denied services to many First Nations children and families living on-reserve and resulted in adverse impacts for them because it was based on

flawed assumptions about First Nations communities that did not reflect the actual needs of those communities. The Tribunal also found that the FNCFS Program's three main funding mechanisms for First Nations child and family services incentivized removing First Nations children from their families.

The Tribunal further found that Canada's narrow interpretation and implementation of Jordan's Principle resulted in service gaps, delays or denials, and overall adverse impacts on First Nations children and families on reserve. Jordan's Principle is a child-first principle that provides that First Nations children ought to receive the public services they need when they need them, further to the principles of substantive equality and the best interests of the child. Canada was ordered to cease applying the discriminatory definition and approach in its application of Jordan's Principle.

Since the original ruling, the Tribunal has issued nine non-compliance orders in an attempt to force Canada to comply with its original ruling. On September 6, 2019, the Tribunal ordered Canada to provide compensation per the Compensation Entitlement Order.

The *Canadian Human Rights Act* (CHRA) allows the Tribunal to award up to \$20,000 for pain and suffering to a victim of a discriminatory practice (s. 53.2(e)). It also allows the Tribunal to award up to an additional \$20,000 per victim if the discrimination was willful and reckless (s. 53(3)). The total compensation under these sections of the *CHRA* cannot exceed \$40,000 per discriminatory practice. Any reference to the Tribunal awarding \$40,000 to a victim in this case includes both pain and suffering (\$20,000) and special compensation for discrimination that was willful and reckless (\$20,000).

## **ANNEX B**

### **METHODOLOGY FOR THE DEVELOPMENT OF THE NOTICE PROGRAM**

In the Compensation Entitlement Order, the Tribunal ordered the Government of Canada (“Canada”) to work with the Caring Society and Assembly of First Nations to develop a compensation process to distribute the compensation the Tribunal ordered Canada to pay. For several months the Assembly of First Nations and Caring Society worked apart from Canada as Canada did not appoint representatives for the compensation discussion until January 2020. This process involved seeking input and advice from a variety of sources including First Nations youth in care or formerly in care. The Assembly of First Nations, developed a draft Notice Plan, as it has participated in the design of a number of notice programs comparable in scope and complexity. In developing the draft Notice Plan, the Assembly of First Nations collaborated with the Caring Society. Further, a number of All-Party meetings addressed the messaging and approach of the Notice Plan. Participants provided a wide range of helpful albeit sometimes competing ideas and suggestions, which were considered by the Parties and influenced the development of the Notice Plan and related Notice products.

# **FIRST NATIONS CHILD SERVICES COMPENSATION PROCESS: BENEFICIARY CLAIM FORM**

**Advisory:** Filling out this Beneficiary Claim Form may be emotionally difficult or traumatic for some people, including being mindful of the possible impacts on children and youth, or those caring for children and youth.

If you are experiencing emotional distress and want to talk, free counselling and crisis intervention services are available from the Hope for Wellness Help Line at 1-855-242-3310 or online at [www.hopeforwellness.ca](http://www.hopeforwellness.ca).

The toll-free number and website are available 24 hours a day, 7 days a week.

Free assistance to complete the Beneficiary Claims Form is available from the Child Services Compensation Support Line at 1-800-XXX-XXXX.

# BENEFICIARY CLAIM FORM

## FIRST NATIONS CHILD SERVICES COMPENSATION

Compensation has been made available to some First Nations children who were removed from their homes at a time when their parents lived on reserve or in the Yukon and were served under Canada's First Nations Child and Family Services program. In some circumstances, parents and grandparents who had a child removed and were resident on reserve or in the Yukon at the time of the removal are eligible for compensation too.

Compensation has also been made available to some First Nations children living on or off reserve who were removed from their families to obtain essential services that should have been available under Jordan's Principle. Children and youth and families who did not experience a child removal, but instead experienced denials, gaps or unreasonable delays in essential services (like X) or products (like wheelchairs, percussion vests, learning technology) that would have been available under Jordan's Principle are eligible for compensation too.

## BENEFICIARY CLAIM DUE BY: [DATE]

### **Assistance and advice:**

Potential beneficiaries can seek advice about their eligibility and the Compensation Process by calling the Child Services Compensation Support Line at 1-800-XXX-XXXX, or by emailing compensation@EMAIL.ca.

Potential beneficiaries can also reach out to the First Nations Compensation Help Desk, accessible by calling 1-800-XXX-XXXX or by emailing [helpdesk@afn.ca](mailto:helpdesk@afn.ca)

You can also get more information by visiting the Child Welfare Compensation Process Website, accessible at <http://childservicescompensation.ca>

### **Important Information Regarding Beneficiary Eligibility:**

On January 26, 2016, the Canadian Human Rights Tribunal (the “Tribunal”) found that Canada was discriminating against First Nations children in the child welfare system and by failing to implement Jordan’s Principle.

On September 6, 2019, the Tribunal ordered that the victims of Canada’s discrimination are entitled to compensation (the “Compensation Entitlement Order”).

There are two broad categories for eligible beneficiaries:

- 1. Canada’s First Nations Child and Family Services Program**
- 2. Jordan’s Principle**

#### ***Canada’s First Nations Child and Family Services Program***

The Compensation Entitlement Order provides compensation of **\$40,000** for First Nations children and their families who lived on reserve or in the Yukon and who were subjected to removal from their homes by Canada’s First Nation Child and Family Services program. Those entitled to this compensation include:

- a First Nations child removed from their homes, families and communities before January 1, 2006 and who was still in care on that date;
- a First Nations child removed from their homes, families and communities on or after January 1, 2006;
- a parent, or a grandparent who was the primary caregiver for a First Nations child who was removed from their homes, families and communities before January 1, 2006 for reasons other than physical, sexual or emotional abuse whose child was still in care on that date; and
- a parent, or a grandparent who was the primary caregiver for a First Nations child who was removed from their homes, families and communities on or after January 1, 2006 for reasons other than physical, sexual or emotional abuse.

Note that any parent who engaged in physical, sexual or emotional abuse of a child is not eligible for compensation.

Indigenous Services Canada and First Nations Child and Family Services Agencies have made a Compensation List based on their records. If your name is on that list, your Claim will be approved. If your name is not on that list, your

Claim will still be reviewed to see if you are eligible to receive compensation. If the reviewers have questions, they may contact you for more information.

***Jordan's Principle***

Compensation in the amount of **\$40,000** has also been made available to First Nations children and their families living on or off reserve in the following circumstances:

- a First Nations child who was unnecessarily removed to obtain essential services, between December 12, 2007 and November 2, 2017 (cannot be combined with First Nations Child and Family Services compensation);
- a First Nations child who was not removed from their family but experienced a denial, gap or unreasonable delay in the delivery of essential services that would have been available under Jordan's Principle between December 12, 2007, and November 2, 2017;
- a parent, or a grandparent who was the primary caregiver for a First Nations child who was removed and placed in care to obtain essential services, between December 12, 2007 and November 2, 2017 (cannot be combined with First Nations Child and Family Services compensation); and
- a parent, or a grandparent who was the primary caregiver for a First Nations child who was not removed from their family, but experienced a denial, gap or unreasonable delay in the delivery of essential services that would have been available under Jordan's Principle between December 12, 2007, and November 2, 2017.

The Compensation Order, 2019 CHRT 39, describes the compensation at paragraphs 245-257. You can find it here:

<https://decisions.chrt-tcdp.gc.ca/chrt-tcdp/decisions/en/item/453537/index.do>

<b>Part 1: Beneficiary Information</b>			
<b>Beneficiary's Name and Last Name (required)</b>			
First Name:			
Middle Name (if any)			
Last Name:			
Other name(s) (if any) <i>Examples: name at time you were removed from home, maiden name, adopted name or nickname</i>			
Beneficiary's Date of Birth (required)	If Beneficiary has died, Date of Death	Beneficiary's Indian Status Card Number	
___/___/___ DD/MM/YY	___/___/___ DD/MM/YY		
<b>Details re claims based on child's experiences (if beneficiary is a parent/grandparent)</b>			
Child's Name	Child's Date of Birth	Child's Indian Status Card Number	Type of claim (Child Welfare or Jordan's Principle)
	___/___/___ DD /MM/YY		
	___/___/___ DD /MM/YY		
	___/___/___ DD /MM/YY		
<b>Beneficiary Contact Details (required)</b>			
Street Number and Name	Apartment number (if applicable)		
Box number, Rural route, Station Number			
City/Town/Municipality			
Province/Territory	Postal Code	Country	
Home Telephone Number	Cell Phone Number		
Email Address (if available)			
<b>Beneficiary's current Home Community or Communities (if applicable)</b>			
Examples: Name of First Nation, Town, Hamlet, or Settlement			

**Part 2: Are you applying as a Representative of a Beneficiary?**

If you are filling this Claim form out for yourself, please go to Part 3.

Fill this part out if you are filling this form out for a Beneficiary who cannot complete this claim form on their own because they are not able to manage their own affairs (for example because they are a child, they are sick, or they are lack legal capacity ) or are deceased.

You cannot receive payment or compensation from a Beneficiary specifically for filling out this Claim Form for them.

If applicable, a Personal Representative must be either:

Appointed by law to manage or make reasonable judgments or decisions in respect of the affairs of the person under disability.

OR

The Estate Executor or Administrator, appointed by a Court or Indigenous Services Canada (ISC) on behalf of a Claimant who is deceased.

To become appointed as a Personal Representative for a deceased Claimant that lived on reserve, please contact ISC at **1-800-567-9604**.

All other appointments are managed by the local Province or Territory. Contact the Child Services Compensation Support Line at **1-800-XXX-XXXX** if you are not sure what documents you need to prove that you can be a Representative.

If you are applying as a Representative, on behalf of a Beneficiary, check this box.

Yes

**If you selected Yes, the Representative must provide the details on the next page.**

**You will also have to attach documents confirming your legal status as a representative.**

<b>REPRESENTATIVE CONTACT INFORMATION</b>	
Representative Full Name - First, Last	
Representative Address: Street Name and Number; Unit Number	
City/Town/Community	
Province/Territory	Postal Code Country
Telephone Number	Email Address (if available)
<b>Relationship to Beneficiary:</b>	
<b>Documentation Required-</b> please attach a photocopy of the following:	
<b>Powers of Attorney</b>	<b>Executors/Administrators</b>
<ul style="list-style-type: none"> <li>• Court Order;</li> <li>• Documentation that shows you have Power of Attorney over the Beneficiary's finances; or</li> <li>• Birth Certificate, affidavit or other legal document confirming you are the parent of a Beneficiary who has not yet reached the provincial/territorial age of majority.</li> </ul>	<ul style="list-style-type: none"> <li>• Death Certificate and a Will (if available);</li> <li>• Revenue Quebec Estate Form; or</li> <li>• Order or Grant of Administration from a Court; or</li> <li>• Letter of Administration from ISC</li> </ul>

### Part 3: Beneficiary Claim Information

Go to **Part 3A** on the next page if you are asking for compensation because, while you lived on-reserve, you were removed from your home, family and community as a child, or because your child was removed from your home, family or community for reasons other than physical, sexual or emotional abuse.

Go to **Part 3B** on page X if you are asking for compensation because, while you lived on-reserve or off-reserve, you were removed from your home to access essential services, or because your child was removed from your home, family and community to access essential services.

Go to **Part 3C** on page X if you are asking for compensation because you experienced a denial, gap or unreasonable delay in the delivery of essential services that would have been available under Jordan's Principle.

### Part 3A: Canada's First Nations Child and Family Services Program

3 (A) - Beneficiary Eligibility – FNCFS Program	
<p>I confirm that I am seeking compensation under the Compensation Order.</p> <p>In terms of my evaluating my eligibility as a beneficiary of the Compensation Order, I confirm the following details surrounding my experience:</p>	
<p>I lived on reserve or in the Yukon and I believe I am:</p> <ul style="list-style-type: none"> <li>A) a First Nations child removed from my home and placed outside of my family or community before January 1, 2006 and was still in care on January 1, 2006.</li> <li>B) a First Nations child removed from my home and placed outside of my family and community on or after January 1, 2006.</li> <li>C) a parent, or a grandparent who was the primary caregiver for a First Nation child removed from my home before January 1, 2006 for reasons other than physical, sexual or emotional abuse and placed outside of my child's family or our community, and whose child was still in care on January 1, 2006.</li> <li>D) a parent, or a grandparent who the primary caregiver for a First Nations child who was removed from my home on or after January 1, 2006 for reasons other than physical, sexual or emotional abuse and placed outside of my child's family or our community.</li> </ul>	<p>Please check one:</p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>
<p><b>Unsure about your background? Check the boxes that apply to you</b></p> <p>I was a First Nations child who was removed from their home, family and community and was in care as of January 1, 2006 or was removed after that but don't know:</p> <ul style="list-style-type: none"> <li>a) If I got services from the FNCFS program</li> <li>b) I was removed but don't know if my placement counts as a family or community placement.</li> </ul>	<p>Check the Boxes that apply</p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>

**3 (A) - Beneficiary Eligibility – FNCFS Program (cont'd)**

<p><b>Unsure about some of your information background? Check the boxes that apply to you</b></p> <p>I am a parent or grandparent who was caring for my child at the time of their removal AND I lived on reserve or in the Yukon AND my child was in care as of January 1, 2006 or sometime after that but I don't know (check all that apply):</p> <ul style="list-style-type: none"><li>a) If I got services from the FNCFS Program</li><li>b) The reasons why my child/grandchild was removed</li><li>c) Whether my child's placement counts as a family or community placement.</li></ul>	<p>Check the Boxes that apply</p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>
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<b>3 (A) - Beneficiary Eligibility – FNCFS Program (cont'd)</b>	
<b>Claim Particulars (child)</b>	
I confirm that I was removed from my family by Canada's First Nations Child and Family Services Program on DD_____MM_____YY_____.	
Reserve, Location or Community	
Province or Territory	
<b>Claim Particulars (Parent or grandparent, include any further children on extra pages)</b>	
Name of my child or grandchild- <i>include any additional names, including name when removed from home, maiden name, adopted name or nickname</i>	
Child/ grandchild's Date of Birth	Day_____Month_____Year_____
Child/ grandchild's Date of Death (if applicable)	Day_____Month_____Year_____
My child's/grandchild's Indian Status Card number	
I confirm that my child/grandchild was removed from my family by Canada's First Nations Child and Family Services Program on DD_____MM_____YY_____.	
Reserve, Location or Community	
Province or Territory	

**Part 3B: Jordan’s Principle – Removals to access services**

<b>3(B) - Beneficiary Eligibility – Jordan’s Principle Removal</b>	
<p>I confirm that I am seeking compensation under the Compensation Order. I confirm that I am not seeking compensation for a removal under the FNCFS Program (3A).</p> <p>In terms of my evaluating my eligibility as a beneficiary of the Compensation Order, I confirm the following details surrounding my experience with a removal for service access:</p>	
<p>I lived on or off reserve and I believe I am:</p> <p>A) a First Nations child who was removed from my home, family and community to obtain essential services that would have been available under Jordan’s Principle.</p> <p>B) a parent or grandparent caring for a First Nations child whose child was removed from my home and placed in care outside my child’s family or our community in order to access essential services that would have been available under Jordan’s Principle.</p> <p>I confirm the removal occurred on or between December 12, 2007, and November 2, 2017.</p>	<p>Please check one:</p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>

<p><b>Unsure about some of your information background? Check the boxes that apply to you</b></p> <p>I don’t know (Check all that apply):</p> <p>a) if that service/product would have been covered by Jordan’s Principle;</p> <p>b) my child/grandchild’s need for the service/product was the reason I was removed</p> <p>c) whether my child/grandchild received the service/product once removed.</p>	<p>Check the Boxes that apply</p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>
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<b>3 (B) - Beneficiary Eligibility – Jordan’s Principle Removal (cont’d)</b>	
<b>Claim Particulars (child)</b>	
I confirm that I was removed from my family to access essential services on DD_____MM_____YY_____.	
Reserve, Location or Community	
Province or Territory	
<b>Claim Particulars (Parent or grandparent, include any further children on extra pages)</b>	
Name of my child or grandchild- <i>include any additional names, including name when removed from home, maiden name, adopted name or nickname</i>	
Child/ grandchild’s Date of Birth	Day_____Month_____Year_____
Child/ grandchild’s Date of Death (if applicable)	Day_____Month_____Year_____
My child’s/grandchild’s Indian Status Card number	
I confirm that my child/grandchild was removed from my to access essential services on DD_____MM_____YY_____.	
Reserve, Location or Community	
Province or Territory	

**3(C) - Beneficiary Eligibility – Jordan’s Principle Service Denial/Gap/Delay**

I confirm that I am seeking compensation under the Compensation Order. I confirm that I am not seeking compensation for a removal to obtain essential services (3B).

In terms of my evaluating my eligibility as a beneficiary of the Compensation Order, I confirm the following details surrounding my experience with accessing essential services:

I lived on or off reserve and I believe I am:

- A) a First Nations child who was not removed from my family and experienced a denial, gap or unreasonable delay in the delivery of essential services or products that would have been available under Jordan’s Principle.
- B) a parent or grandparent caring for a First Nations child who was not removed from my home but who experienced a denial, gap or unreasonable delay in the delivery of essential services that would have been available under Jordan’s Principle.

I confirm the removal or gap/delay in services occurred on or between December 12, 2007, and November 2, 2017.

Please check one:

**Unsure about some of your information background? Check the boxes that apply to you**

I am not sure if:

- a) If that service or product would have been covered by Jordan’s Principle.
- b) I/my child/my grandchild got the service or product professionals said I needed.
- c) I/my child/my grandchild got the product/services they needed but we had to wait and I am not sure if that counts as an unreasonable delay.

Check the Boxes that apply

**3 (C) - Beneficiary Eligibility – Jordan’s Principle Service Denial/Gap/Delay (cont’d)**

**Claim Particulars (child)**

I confirm that I requested the following essential service from Canada, **OR** a professional recommended that I required the following essential service:

Name of professional who recommended the service:

Date of service request or professional recommendation:

Date of Denial (if any):

Date service was received (if any):

**Claim Particulars (Parent or grandparent, include any further children on extra pages)**

Name of my child or grandchild-  
*include any additional names, including name when removed from home, maiden name, adopted name or nickname*

Child/ grandchild’s Date of Birth Day\_\_\_\_\_Month\_\_\_\_\_Year\_\_\_\_\_

Child/ grandchild’s Date of Death (if applicable) Day\_\_\_\_\_Month\_\_\_\_\_Year\_\_\_\_\_

My child’s/grandchild’s Indian Status Card number

I confirm that I requested the following essential service from Canada, **OR** a professional recommended that I required the following essential service:

Name of professional who recommended the service:

Date of service request or professional recommendation:

Date of Denial (if any):

Date service was received (if any):

**3 (D) – Beneficiary Identification**

Please ensure that you attach a photocopy of a piece of government issued identification. Acceptable forms include Indian Status Card, Driver's license, Provincial/Territorial ID card, birth certificate, etc.

Should you not have any identification, a Sworn Declaration/Solemn Affirmation will be required in the form attached at 3(F). The person who witnesses your signature does not need to read the rest of your Claim Form.

### Part 4: Beneficiary and Witness Signature

**Central Administrator:** I recognize that the Central Administrator and its employees tasked with the review of claims do not:

- represent Canada;
- act as an agent or legal counsel for any party, and do not offer legal advice; and,
- have any duty to identify or protect legal rights of any party, or to raise an issue not raised by any party.

**Privacy:** I understand that it may be necessary:

- for the Central Administrator to disclose information provided in this Claim for verification to: Canada, the First-level Reviewers, Second-level Committee or the Appeals Body;
- for Canada to disclose information in its possession to: the Central Administrator, the First-level reviewers, Second level Committee (if applicable) and the Appeals Body.

**Information in Beneficiary Claim Form:** I confirm that all of the information provided in this Beneficiary Claim Form is true to the best of my knowledge and belief. Where someone helped me complete this Claim Form, that person has read to me everything they wrote and included with this Claim Form.

**Consent:** *I understand that by signing this Beneficiary Claim Form and submitting it to the Central Administrator, I am consenting to the above, and to the disclosure of my personal information to be used and disclosed in accordance with the direction of the Canadian Human Rights Tribunal and the Compensation Order.*

Signature of Beneficiary (required)	Date DD____MM____YY____
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The **Witness** must only see the Beneficiary sign **this page**. They are **not required** to read the Claim nor to verify the accuracy of the information herein.

Signature of Witness (required)	Date DD____MM____YY____
---------------------------------	----------------------------

Witness Full Name – First, Last

Witness Address: Street Name and Number; Unit Number

City/Town/Community

Province/Territory

Postal Code

Country

Witness Telephone Number

Witness Email Address (if available)

**4(A) Sworn Declaration/Solemn Affirmation  
(only complete if you do not have government ID)**

A sworn declaration/solemn affirmation is a statement signed by the Beneficiary and any one of the following Guarantors with the following Titles- Notary Public or Commissioner of Oaths, an Elected Official or Community Leader (e.g. Chief or Councilor) or another Professional (e.g. Lawyer, Doctor/Physician, Accountant (CPA), Police Officer)

Sworn Declaration or Solemn Affirmation of the Beneficiary Claimant

I solemnly swear/affirm that the information I have provided is true to the best of my knowledge

\_\_\_\_\_ Date:  
Signature of Beneficiary DD \_\_\_\_ MM \_\_\_\_ YY \_\_\_\_

This Declaration Must be witnessed by a Guarantor. **The guarantor only needs to see the Beneficiary sign this page.** As Guarantor, you are **not required** to read the Form or verify the accuracy of the events described in this Form.

The Guarantor must complete the following fields. The Guarantor can also witness the claimant signature in Part 4.

Guarantor Name	Position	Organization

Guarantor Address: Street Name and Number; Unit Number (if applicable)

City/Town/Municipality

Province/Territory	Postal Code	Country

Telephone Number	Email Address (if available)

Signature of Guarantor

\_\_\_\_\_ Date:  
Guarantor DD \_\_\_\_ MM \_\_\_\_ YY \_\_\_\_

**Part 5: Retention of Claim Form and Documents**

You can choose to have your Beneficiary Claim Form and supporting documents attached to the form:

Please check one:

A) Securely Destroyed;

Destroy

B) Returned to you;

Return

If you do not make a choice, your records will be destroyed five years after compensation is paid to you, or five years after your claim is finally decided.

## Submission Process

**CLAIM DUE BY: [DATE]**

Before sending, please make sure your Claim Form package includes the following:

<input type="checkbox"/>	Beneficiary name and contact information in Part 1.
<input type="checkbox"/>	For Representatives. Complete Part 2 only if you are a representative submitting the claim on behalf of the Beneficiary. Ensure you attach a photocopy of the required documentation.
<input type="checkbox"/>	Attached a photocopy of government issued piece of identification (e.g. Indian Status Card, Driver's license, etc.) <b>or</b> if unavailable, had a guarantor sign the claim form (page X) in Part 3(F).
<input type="checkbox"/>	Provided all claim particulars as well as any additional information or supporting documents.
<input type="checkbox"/>	Signatures of Beneficiary and Witness in Part 4.

### PLEASE SEND YOUR CLAIM PACKAGE

To: Child Services Compensation Central Administrator, c/o

By Mail:

By Fax:

By Email:

**Please make a copy of your Beneficiary Claim Form and any attached documents for your personal records.**

**Original photographs or records are not required.**

For questions or to report a change of address, please contact the Compensation Process and Support Line at **1-800-XXX-XXXX.**

**TV (PSA) Notice Template - First Nations Child and Family Services Compensation Process**

**Concept:** To provide potential beneficiaries with notice of the Compensation Process and information on the resources available to assist potential beneficiaries in pursuing a claim for compensation.

**Runtime:** ~30 secs

**Audio**

Music: peaceful music playing lightly in the background.

Narrator Script:

- You may be a beneficiary of a decision of the Canadian Human Rights Tribunal and entitled to compensation if you are a First Nation child, or the parent or grandparent (where acting as the primary caregiver) to a First Nations child, who was removed from their home on reserve or in the Yukon on or after January 1, 2006 or experienced a gap in child and family services and/or products, a delay or denial in child services and/or products that should have been available under Jordan's Principle between December 12, 2007 and November 2, 2017.
- Some First Nations children and their parent or grandparent acting as their primary caregiver who were in care on reserve and in the Yukon as of January 1, 2006 but removed before that date are also eligible.
- Parents or grandparents who had a child removed due to physical, sexual or emotional abuse are not eligible for compensation.
- Compensation remains available to the Estate of beneficiaries who are deceased.
- A Compensation Process has been established for eligible beneficiaries, as well as their guardians or personal representatives, as applicable, wishing to claim compensation.
- The deadline to submit a beneficiary claim is \_\_\_\_\_.

**Visual:**

- Appropriate and sensitive video footage (of some sort) with narrator's script on-screen.

- For more information please visit the dedicated Child and Family Services Compensation Website at [www.](http://www.) or contact the toll-free Compensation Process and Support line at: 1-800-000-0000.

## **Radio (PSA) Notice Template - First Nations Child and Family Services Compensation Process**

**Concept:** To provide potential beneficiaries with notice of the Compensation Process and information on the resources available to assist potential beneficiaries in pursuing a claim for compensation.

**Runtime:** ~30 secs

### **Audio**

Music: peaceful music playing lightly in the background.

Narrator Script:

- You may receive compensation because of a Canadian Human Rights Tribunal decision if you are a First Nation child, who was removed from their home on reserve or in the Yukon on or after January 1, 2006.
- or you were denied, or experienced an unreasonable delay in accessing child health, education or social services and products that should have been provided under Jordan's Principle between December 12, 2007 and November 2, 2017.
- Some First Nations children and their caregivers who were in care as of January 1, 2006 but removed on reserve or in the Yukon before that date are also eligible.
- Parents or grandparents acting as the primary caregiver to a First Nations child may be eligible too, but parents or grandparents who had a child removed due to physical, sexual or emotional abuse are not eligible for compensation.
- Compensation remains available to the Estate of a beneficiary who is deceased.
- A Compensation Process has been established for eligible beneficiaries, as well as their guardians or personal representatives, as applicable, wishing to claim compensation.
- The deadline to submit a beneficiary claim is \_\_\_\_\_.
- For more information please visit the dedicated Child and Family Services Compensation Website at [www.-----](http://www.-----) or contact the toll-free Compensation Process and Support line at: 1-800-000-0000.

## First Nations Child and Family Services Compensation Template - News Article – Ads

### First Nations Child and Family Services Compensation Process

**THE DEADLINE TO SUBMIT A BENEFICIARY CLAIM IS \_\_\_\_\_.**

#### *Why is this compensation available?*

A complaint was filed in 2007 under the *Canadian Human Rights Act* alleging that the Government of Canada (“Canada”) was discriminating in its delivery of child and family services to First Nations children and in its implementation of Jordan’s Principle. In 2016, the Tribunal agreed that Canada’s conduct was discriminatory and released a decision on September 6, 2019, ordering Canada to provide compensation to the victims of its discrimination (2019 CHRT 39, the “Compensation Entitlement Order”).

The Tribunal has ordered a Compensation Process for how Canada is to pay compensation to the beneficiaries according to the Compensation Entitlement Order. A Notice Plan is currently in effect to make sure that people who may be eligible, as well as their guardians or personal representatives, if applicable, know about the Compensation Process and the supports which are available to help them with their claim.

#### *Are you an eligible beneficiary?*

The Compensation Entitlement Order provides compensation in the amount of **\$40,000** to First Nations children and their families who lived on reserve or in the Yukon and who experienced Canada’s discrimination. Those entitled to compensation as a beneficiary include:

- a First Nations child removed on or after January 1, 2006 or alternatively, who was removed prior to January 1, 2006, but remained in care as of that date;
- a First Nations parent or grandparent acting as the primary caregiver to a First Nations child of a child removed after on or January 1, 2006, or alternatively, who was removed prior to January 1, 2006, but remained in care as of that date. Parents or grandparents who had a child removed due to physical, sexual or emotional abuse are not eligible.
- a First Nations child necessarily removed but placed outside of their families or community on or after January 1, 2006, or alternatively, who was removed prior to January 1, 2006, but remained in care as of that date.

Compensation in the amount of **\$40,000** has also been made available to First Nations children and their families living on or off reserve<sup>1</sup>, and includes:

- a First Nations child that was unnecessarily removed to obtain essential services, or was not removed from their family but experienced gaps or delays in the delivery of services and/or products that would have been available under Jordan’s Principle between December 12, 2007, and November 2, 2017; and

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<sup>1</sup> The Parties should note that this language is subject to clarification from the Tribunal in a judgment under reserve.

- a First Nations parent or grandparent acting as the primary caregiver to a First Nations child who had their child removed and placed in care to access service and/or products, or was not removed from their family but experienced gaps or delays in the delivery of services and/or products that would have been available under Jordan's Principle between December 12, 2007 and November 2, 2017.

Compensation is available for the estate of eligible beneficiaries who are deceased.

The Compensation Entitlement Order, 2019 CHRT 39, outlines the terms of compensation at paragraphs 245-257. You can read it here:

<https://www.canlii.org/en/ca/chrt/doc/2019/2019chrt39/2019chrt39.html?resultIndex=1>

### *Where can I find more information about submitting a claim?*

If you think you, a minor for whom you act as guardian, or an estate which you are administering should receive compensation you can find out about eligibility and learn more about the Compensation Process by contacting the Compensation Process and Support Line at 1-800-000-0000, or by email at [supportlineemail@canada.ca](mailto:supportlineemail@canada.ca).

Alternatively, potential beneficiaries, as well as their guardians or personal representatives, as applicable, can also reach out to the Compensation Process Help Desk, accessible by phone at 1-800-000-0000 or by email at \_\_\_\_\_.

Further information can also be accessed by visiting the Child and Family Services Compensation Process Website, accessible at [www](http://www).

## How do I apply for compensation?

You can ask for compensation by completing the Beneficiary Claim Form and sending it to the Central Administrator \_\_\_\_\_.

The deadline to apply for compensation is (Date). Copies of the Beneficiary Claims Form are available at (www.\_\_\_\_\_).

You do not need a lawyer to complete the form. If you ask a lawyer for assistance, you may be required to pay for that service.

(Add documentation needed for application)

## How will payments be calculated?

The Central Administrator is responsible for reviewing your Beneficiary Claim Form in accordance with a review process as directed by the Tribunal to determine whether you qualify for compensation. If your claim is approved, the Central Administrator will provide you with confirmation that your claim has been accepted. Payment will either accompany the confirmation or be provided shortly thereafter.

If compensation is denied, you will be provided with reasons for the decision and information on processes and supports to ensure you understand the decision, as well as how to appeal the decision. If a beneficiary is not satisfied with the outcome of their application for compensation and has new relevant information, they will have an opportunity to have their application reviewed and reconsidered by the Central Administrator. Alternatively, an appeal process will be available.

## Applying for reconsideration

If compensation is denied, you will be provided with the reasons why. You will also be given help to make sure you understand the decision, and how you can appeal. If you are not satisfied with the outcome of their application for compensation and have new information that could make a difference to the result, you will have an opportunity to have your application reviewed and reconsidered by the Central Administrator's appeal body.

Ultimately, if you are still unsatisfied, you can raise your concern with the Tribunal.

## Further Support

A 24-hour toll-free Compensation Process and Support phone line is available to provide information on the Compensation Process, in addition to providing access to mental health, cultural and other services for beneficiaries.

Mental health support workers are available to help beneficiaries throughout the Child and Family Services Compensation Process. Their job is to give mental health support in a manner that is appropriate to your situation (e.g. private counselling, family setting, group sessions, tele-health or the Compensation Process and Support Line).

You can contact health support workers at the following:

(Mental Health Support Workers Information)

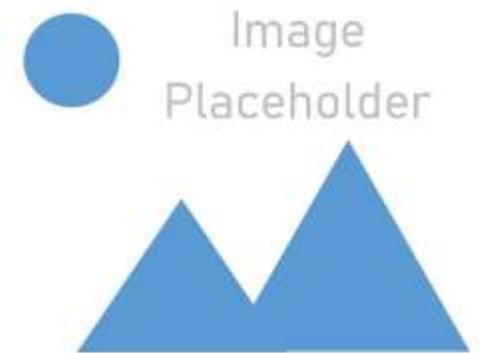
## For more information

For more information about the Compensation Process, or for help with forms, please contact the Compensation Process and Support phone line or access the dedicated First Nations Child and Family Services Compensation Website at the following:

**Toll-Free Phone:** \_\_\_\_\_

**Online:** [www.](#)

# First Nations Child and Family Services Compensation Process



You may be entitled to compensation under the Canadian Human Rights Tribunal orders if: 1) you are a First Nations child, or the parent or grandparent acting as the primary caregiver of a First Nations child who was in care as of January 1, 2006 or brought into care after that date and you were served by the federally funded child and family services system or 2) you experienced a gap, a delay or the denial of services and/or products that would have been available under Jordan's Principle between December 12, 2007 and November 2, 2017.

## WHAT IS THE FIRST NATIONS CHILD SERVICES COMPENSATION PROCESS?

- In February 2007, the First Nations Child and Family Caring Society of Canada and the Assembly of First Nations filed a *Canadian Human Rights Act* complaint. The complaint said the federal government was discriminating against First Nations children and families because its child and family services did not meet First Nations' needs **on-reserve and in the Yukon**. The complaint also said the federal government was not doing enough to implement Jordan's Principle, so First Nations children were not getting important services and products they needed.
- On 26 January 2016, the Canadian Human Rights Tribunal agreed and ordered the Canadian Government to stop its discriminatory conduct.
- Compensation is now available for First Nations children, as well as the parents or grandparents (where acting as the primary caregiver) to First Nations children, who were victims of this discrimination. A Compensation Process has been established so that people who qualify for this compensation can claim it.

### What is Jordan's Principle?

Named in memory of Jordan River Anderson of Norway House Cree Nation, Jordan's Principle ensures First Nations children receive services or products they need when they need them. Jordan's Principle ensures First Nations children do not experience service denials, delays, or disruptions related to their First Nations status.

### What is the First Nations Child and Family Services Program?

The federal government funds child and family services on reserve and in the Yukon. In some cases, they funded First Nations child and family service agencies and in other cases they funded provinces and territories to provide child and family services. Federal funding levels fell far below what First Nations children and families needed and this was found to be discriminatory. Children who were removed and placed outside of their families and communities are entitled to compensation. In some cases, their primary caregiver (parent or grandparent) is also entitled to compensation. The parties remain eligible for

compensation whether living or deceased.

### Who can apply for compensation?

Compensation is available for each First Nations child and their parents (or grandparents if the primary caregiver) who have been harmed by the child and family services system on-reserve or in the Yukon, whether living or deceased.

If you are a **First Nation child who was removed through the First Nations child and family services system and you were in care on or after January 1, 2006 or were denied or delayed the receipt of a health or service under Jordan's Principle between December 12, 2007 and November 2, 2007** you, along with your parents or grandparents (if the primary caregiver) may be entitled to compensation.

The amount of compensation per beneficiary (\$40,000) consists of both pain and suffering (\$20,000) and special compensation for discrimination that was willful and reckless (\$20,000). Each category of compensation is as follows:

#### **For a First Nations child on reserve or in the Yukon who was removed from their family and was served by the First Nations Child and Family Services Program:**

- \$40,000 to each First Nations child removed on or after January 1, 2006, or removed before January 1, 2006 but who remained in care as of this date, and placed outside of their family and community.

\$40,000 to each First Nations parent (where acting as the primary caregiver) to a First Nations child removed for reasons other than physical, sexual or emotional abuse on or after January 1, 2006, or removed before January 1, 2006, but who remained in care as of this date, and placed outside of the child's family and community. For a First Nations child living on or off reserve:

- \$40,000 to each First Nations child removed from their families to obtain essential services and/or products;
- \$40,000 for each First Nations child who was not removed from their family but experienced gaps or delays of services that would have been available under Jordan's Principle between December 12, 2007, and November 2, 2017.
- \$40,000 to each First Nations parent or grandparent (where

- acting as the primary caregiver) to a First Nations child who was removed and placed in care to access services,
- \$40,000 to each First Nations parent or grandparent (where acting as the primary caregiver) to a First Nations child who had a child who wasn't removed from their family but experienced gaps or delays of services that would have been available under Jordan's Principle between December 12, 2007, and November 2, 2017

Why doesn't the compensation period go back farther?

The dates associated with a claim for compensation have been fixed by the Canadian Human Rights Tribunal, in accordance with the provisions of the *Canadian Human Rights Act*.

### Do I need to take the compensation?

It is your decision to either take the compensation or not. If you file a Beneficiary Claim form you are assumed to accept the compensation. If you need help making this decision then contact a lawyer (who you may have to pay) or you can get non-legal information for free at (insert).

### What if I am a minor?

If you are younger than your province's age of majority, compensation paid will be secured in a trust fund and held for your benefit. Further, a Beneficiary Claim Form will need to be submitted by your legal guardian.

### What if the beneficiary is deceased?

Personal representatives can seek compensation on behalf of a deceased beneficiary by submitting a Beneficiary Claim Form accompanied by documentation reflecting their status as the Estate's legal representative.



# FIRST NATIONS CHILD AND FAMILY SERVICES COMPENSATION PROCESS

**TO LEARN MORE  
ABOUT THE  
COMPENSATION  
PROCESS, CONTACT:**

**First Nations Child and  
Family Services  
Compensation Process  
and Support Line  
Toll-Free: 1888-888-8888**

**First Nations Child and  
Family Services  
Compensation Process  
dedicated website  
[www.](#)**

**Compensation Liaisons  
Phone:  
Email:**

You may be a beneficiary and entitled to compensation per the Canadian Human Rights Tribunal orders if: 1) you are a First Nations child, or the parent or grandparent acting as the primary caregiver of a First Nations child, who was in care as of January 1, 2006 or brought into care after that date and you were served by the federally funded child and family services system or 2) you experienced a gap, a delay or the denial of services and/or products that would have been available under Jordan's Principle between December 12, 2007 and November 2, 2017. Compensation is also available to the Estate of beneficiaries who are deceased.

- Beneficiary Claim Forms are available at (insert website).
- The deadline to submit a claim form is \_\_\_\_\_.

**Overview of the First Nations Child and Family Services Compensation Process**

**Concept:** To provide potential beneficiaries with notice of the Compensation Process and information on the resources available to assist potential beneficiaries in pursuing a claim for compensation.

**Runtime:** ~2 min

Audio	Visual	
<ul style="list-style-type: none"> <li>▪ Music – peaceful music playing lightly in the background.</li> </ul> <p>Narrator will read the on-screen text.</p>	<p>Background - two options:</p> <ul style="list-style-type: none"> <li>▪ solid colour – with text below on screen.</li> <li>▪ Appropriate and sensitive video footage of some sort with text below.</li> </ul> <p>First Nations Child and Family Services Program</p> <p><u><i>Why is this compensation available?</i></u>            In 2016, the Canadian Human Rights Tribunal found that Canada discriminated against First Nations children and their families in its provision of child and family services on-reserve and in the Yukon, as well as in its implementation of Jordan’s Principle. In September of 2019, the Tribunal ordered Canada to pay \$40,000 to each eligible person who suffered from Canada’s discriminatory conduct.</p>	
<ul style="list-style-type: none"> <li>▪</li> </ul>	<p>On-screen text:</p> <p>On-screen text will fade and new text will emerge that states:</p> <ul style="list-style-type: none"> <li>• You may entitled to compensation if you are a First Nation child, or the parent or grandparent acting as the primary caregiver to a First Nations child, who was</li> </ul>	<p><b>1</b></p> <p>Time – ~30 secs</p>

	<p>removed from their home on reserve or in the Yukon on or after January 1, 2006. You may also be eligible if you or your child experienced an unreasonable delay in accessing child health, education or social services and products that should have been provided under Jordan's Principle between December 12, 2007 and November 2, 2017. Parents or grandparents who had a child removed due to physical, sexual or emotional abuse will not receive compensation.</p> <ul style="list-style-type: none"> <li>• Some First Nations children and their parent or grandparent acting as their primary caregiver who were removed from their homes on reserve and in the Yukon before January 1, 2006 but were still in care on that date that date are also eligible.</li> <li>• Compensation remains available to the Estate of beneficiaries who are deceased.</li> </ul> <ul style="list-style-type: none"> <li>▪ A Tribunal directed Notice Plan is currently in effect to ensure all potential beneficiaries know about the Compensation Process and the help that is available to beneficiaries submitting a claim.</li> </ul>	
		<p style="text-align: center;"><b>2</b></p> <p style="text-align: center;">Time – ~1 min</p>
<p>Narrator will read on-screen text.</p>	<p>The second set of on-screen text will fade and a third set of text will emerge that states:</p> <p>A Compensation Process has been established for eligible beneficiaries, their guardians or their personal</p>	<p style="text-align: center;"><b>3</b></p> <p style="text-align: center;">Time – ~30 secs</p>

	<p>representatives, as applicable, wishing to claim compensation.</p> <p><i>Where can I find more information and submit a claim?</i></p> <ul style="list-style-type: none"><li>▪ The deadline to submit a beneficiary claim is _____.</li><li>▪ For more information please visit the dedicated Child and Family Services Compensation Website at <a href="#">www.</a> or contact the toll-free Compensation Process and Support line at: 1-800-000-0000.</li></ul>	
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