Canadian Human Rights Tribunal

Tribunal canadien des droits de la personne

Citation: 2025 CHRT 85
Date: September 2, 2025
File No.: T1340/7008

Between:

First Nations Child and Family Caring Society of Canada

- and -

Assembly of First Nations

Complainants

- and -

Canadian Human Rights Commission

Commission

- and -

Attorney General of Canada
(Representing the Minister of Indigenous and Northern Affairs Canada)

Respondent

- and -

Chiefs of Ontario

- and -

Nishnawbe Aski Nation

- and -

Amnesty International

Interested parties

- and -

Chippewas of Georgina Island
Taykwa Tagamou Nation

Potential Interested parties

Ruling

Members: Sophie Marchildon
Edward P. Lustig

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I. Context

[1] In 2016, the Tribunal issued its decision in *First Nations Child and Family Caring Society of Canada et al.* v. Attorney General of Canada (*for the Minister of Indian and Northern Affairs Canada*), 2016 CHRT 2 [Merit Decision], concluding that the case centers on children and the ways in which both past and current child welfare practices in First Nations communities on reserves across Canada have affected, and continue to affect, First Nations children, their families, and their communities. The Tribunal determined that Canada engaged in systemic racial discrimination against First Nations children living on reserves and in the Yukon — not only by underfunding the FNCFS Program but also through the way it was designed, managed, and controlled.

[2] One of the most significant harms identified was that the structure of the FNCFS Program created financial incentives to remove First Nations children from their homes, families, and communities. Another major harm was that no cases were approved under Jordan's Principle, due to Canada's narrow interpretation and restrictive eligibility criteria. The Tribunal concluded that beyond simply addressing funding issues, there is a need to realign the program's policies to uphold human rights principles and sound social work practices that prioritize the best interests of children.

[3] As a result, the Tribunal ordered Canada to cease its discriminatory practices, implement measures to remedy the harm, prevent recurrence, and reform both the FNCFS Program and the 1965 Agreement in Ontario to reflect the findings of the Merit Decision. The Tribunal also determined that implementation would occur in phases — immediate, mid-term, and long-term relief — allowing for urgent changes first, followed by adjustments, and ultimately sustainable long-term solutions. These solutions would be guided by data collection, new studies, best practices identified by First Nations experts, the specific needs of First Nations communities and agencies, the National Advisory Committee on child and family services reform, and input from all parties involved.

[4] The Tribunal made final general orders to cease the systemic discrimination found and series of rulings addressing immediate and mid-term relief and final orders on compensation and retained jurisdiction to ensure that it would make long-term sustainable

orders once the data collection and new studies would be completed. This was a request from First Nations that argued that they did not have all the necessary information to request long-term.

[5] In 2018 CHRT 4, the Tribunal found that it had now entered the long-term remedy phase.

[6] In 2022 CHRT 8, the Tribunal made important long-term orders on prevention services and funding.

[7] In 2023 CHRT 44, The Tribunal made final orders approving one of the largest settlement agreements on compensation in Canadian history for harms committed against First Nations children and families by Canada.

[8] On July 11, 2024, the Chiefs of Ontario (COO), the Nishnawbe Aski Nation (NAN), the Assembly of First Nations (AFN), and Canada announced a draft Final Agreement (the "national agreement").

[9] On October 9 and 10, 2024, respectively, the NAN Chiefs-in-Assembly and the Ontario Chiefs-in-Assembly ratified the national agreement at their Special Chiefs Assemblies.

[10] On October 17, 2024, at an AFN Special Chiefs Assembly held in Calgary, the national agreement was put to a vote by the First Nations-in-Assembly and was rejected.

[11] In November 2024, at the COO's Annual General Assembly, the Ontario Chiefs-in-Assembly mandated the COO to pursue an Ontario-specific agreement.

[12] On February 10, 2025, after five weeks of negotiations, the COO, the NAN, and Canada reached a provisional OFA and a provisional Trilateral Agreement.

[13] On February 25 and 26, 2025, the provisional OFA and the provisional Trilateral Agreement were ratified by the NAN Chiefs-in-Assembly and the Ontario Chiefs-in-Assembly, respectively.

[14] On February 26, 2025, the Ontario Chiefs-in-Assembly passed Resolution #25/02S affirming that the Chiefs-in-Assembly had expressed their will to move ahead with reforms outlined in the OFA and the Trilateral Agreement. Resolution #25/02S also called on the other parties in the Tribunal proceedings to refrain from interfering with the approval or implementation of the OFA.

[15] On March 7, 2025, the COO and the NAN brought a joint motion for approval of the Final Agreement on Long-Term Reform of the First Nations Child and Family Services Program in Ontario (the "OFA") and Trilateral Agreement in Respect of Reforming the *1965 Agreement* (the "Trilateral Agreement") (the "OFA joint motion"). The COO and the NAN submit that the OFA and the Trilateral Agreement are the collective expression of the self-governance and self-determination rights of the 133 First Nations in Ontario through the COO and the NAN. If approved, both of these agreements would only apply to First Nations and FNCFS Agencies within Ontario and would impact First Nations children, youth, and their families in Ontario.

[16] The Tribunal was receiving multiple notifications from First Nations and First Nations Organizations who have indicated their interest to file motions seeking interested party status in the OFA joint motion proceedings and requesting this Tribunal to direct the manner and timing to file their motions.

[17] In exercising its authority as master of its own proceedings and to ensure the timely progression of the matter, the Tribunal fixed April 15, 2025, as the deadline for any moving party wishing to obtain interested party status in the OFA joint motion process.

[18] On August 11, 2025, Canada filed an amended joint motion including Canada as a co-moving party.

[19] On April 15, 2025, the Tribunal received the Taykwa Tagamou Nation (TTN) and the Chippewas of Georgina Island (CGI)'s motions seeking interested party status in the OFA joint motion proceedings.

II. Summary of the Parties' submissions

A. The Taykwa Tagamou Nation (TTN) and the Chippewas of Georgina Island (CGI)

[20] The Taykwa Tagamou Nation (TTN) and the Chippewas of Georgina Island (CGI) seek interested party status limited to the OFA joint motion. They seek to provide affidavit evidence, make joint written and oral submissions on the motion, all subject to length or time limit restrictions set by the Panel.

[21] Both First Nations oppose the Final Settlement Agreement (FSA) and the OFA joint motion.

[22] The Taykwa Tagamou Nation is an Ojibwe and Cree Nation with traditional territory situated in northern Ontario along the Abitibi River. The name Taquahtagama (Taykwa Tagamou Nation), meaning "water on high ground," reflects the spirit and landscape of their territory within the Moose River Basin. Taykwa Tagamou Nation is a signatory to Treaty 9 and is a member of the Muskegowuk Council, the NAN, the COO, and the Assembly of First Nations.

[23] The Taykwa Tagamou Nation (TTN) enacted its own Child Wellbeing Law and has initiated a request to enter into a coordination agreement. They are a founding member of Kunuwanimano Child and Family Services.

[24] The Chippewas of Georgina Island are an Anishinaabe Nation whose traditional territory lies within the Lake Simcoe region. They are descendants of the broader group historically known as the Chippewas of Lakes Huron and Simcoe. The Chippewas of Georgina Island are signatories to the Collins Treaty, the Coldwater Narrows Treaty, and the Williams Treaty. They are also members of the Chippewa Tri-Council, the Ogemawahj Tribal Council, the COO, and AFN.

[25] The Chippewas of Georgina Island's Child Welfare Program deliver services to the community through First Nations Representative Services, Post Majority Support Services and prevention. Chippewas of Georgina Island called for, supported and ultimately implemented a plan that resulted in the delegation of Dnaagdawenmag Binnoojiiyag Child

& Family Services, which now serves as the First Nation's child welfare agency. Chippewas of Georgina Island (CGI) called for the inquest into the life and death of Devon Freeman, which resulted in Devon's Principle, requiring all child and family services agencies to ensure that First Nations children in care always have a chance to put their own feet on their own territory.

[26] The TTN and CGI submit that the Tribunal may grant interested party status when 1) the proposed intervenor's expertise will assist the Tribunal, 2) its participation will contribute to the legal positions advanced by the parties, and 3) the outcome of the proceeding will affect the party's interests. The Tribunal applies a flexible and holistic approach, considering the specific context and potential contributions of the proposed interested party.

[27] Both First Nations assert their expertise comes from direct experience delivering child and family services under the Tribunal's existing orders. They are well placed to identify impacts the proposed changes would have on delivery and funding of child and family services in individual First Nations.

[28] The TTN and the CGI indicate that their experience as First Nations delivering child and family services in Ontario provides them a distinct perspective. They intend to raise concerns that the OFA does not represent lasting reform, that commitments under the OFA are time-limited, that the OFA was not developed through meaningful engagement, that the agreement may not be in line with evidence on how to address discrimination in child and family services and that the approach to remoteness does not recognize the access challenges of the Chippewas of Georgina Island. They intend to raise further concerns that the Trilateral Agreement fails to implement the Tribunal's direction to reform the *1965 Agreement* and provides only temporary funding to children and families living off-reserve.

[29] As Ontario-based First Nations, the TTN and the CGI will be directly affected by any determination in relation to the Ontario Final Settlement Agreement and the Trilateral Agreement.

B. First Nations Child and Family Caring Society of Canada (Caring Society)

[30] The Caring Society supports the interested party joint request from the Taykwa Tagamou Nation and the Chippewas of Georgina Island. The Caring Society notes that the Panel has previously indicated that the existing case law addressing interested parties earlier in this case is most applicable given that it arose from the same context. It identifies the importance of the prospective interest parties' expertise, the prospective interested parties adding to the legal positions of the existing parties, and the proceeding's impact on the prospective interested parties' interests. The Caring Society also notes the importance of the proposed interested parties' commitment to proceeding expeditiously.

[31] The Caring Society argues that the Taykwa Tagamou Nation and the Chippewas of Georgina Island have unique and critical expertise in child and family services. The proposed interested parties intend to support their submissions with expertise and evidence on the impacts of the OFA on First Nations and their children, youth and families. These proposed intervenors will allow the Tribunal to fulfil its often-stated practice of making findings and orders based on evidence, how the OFA relates to the Tribunal's existing orders, and whether the OFA offers sustainable reform in the best interests of First Nations children and families.

[32] The Caring Society believes that, as rights holders, the Taykwa Tagamou Nation and the Chippewas of Georgina Island will bring a different perspective and that no other party can speak for them. Similarly, the Caring Society notes that these proposed interested parties will be directly and immediately impacted by the OFA and the Caring Society argues this weighs strongly in favour of granting their request to participate.

[33] Finally, the Caring Society believes that the large number of interested party status motions reflects a commitment from First Nations to ending the discrimination in this case. This eclipses any procedural concerns, and concerns related to delay can be addressed through counsel's cooperation and limits on the extent and nature of participation. The Caring Society also proposes that the Taykwa Tagamou Nation and the Chippewas of Georgina Island be provided sufficient time to file their evidence before the existing parties, as this would help the Caring Society determine its position on the OFA.

C. The Chiefs of Ontario (COO)

[34] The COO takes no position on the request by the Taykwa Tagamou Nation and the Chippewas of Georgina Island to participate as interested parties, though it recognizes that the proposed interveners have an interest in the proceeding. However, the COO submits that the proposed interveners should not be permitted to make submissions on the merits of the proceeding, delay the hearing of the OFA joint motion, or duplicate the submissions of other parties. The COO further submits that appropriate page and time limits should be imposed on the proposed interveners' submissions, and that the COO should be granted additional pages to respond to any new submissions.

D. The Nishnawbe Aski Nation (NAN)

[35] The NAN takes no position on the request for interested party status made by the Taykwa Tagamou Nation and the Chippewas of Georgina Island, although the NAN acknowledges that the proposed intervenors have an interest in these proceedings. However, the NAN respectfully submits that the Taykwa Tagamou Nation and the Chippewas of Georgina Island should not be permitted to delay the proceedings, reiterate arguments advanced by other parties, or introduce evidence relating to the merits of the proceeding beyond the scope of the OFA joint motion. Furthermore, the NAN requests a distinct and separate opportunity to reply to any submissions that the interested parties may file.

E. Attorney General of Canada (AGC)

[36] The AGC takes no position on the Taykwa Tagamou Nation and the Chippewas of Georgina Island request for interested party status but indicates that these First Nations should have reasonable limits placed on the extent of their participation and that they should not be permitted to introduce evidence.

[37] The AGC indicates that the test for interested party status needs to be applied holistically and may involve a consideration of 1) whether the prospective parties' expertise will be of assistance to the Tribunal; 2) whether the prospective interested parties

involvement will significantly add to the legal positions of the existing parties, particularly those representing a similar viewpoint; and 3) whether the proceeding will have an impact on the proposed interested parties' interests.

[38] The AGC submits that, if interested party status is granted, the extent of participation should be limited. The AGC submits that the interested parties should be limited to written submissions of 15 pages on the OFA joint motion, and that those submissions should not be duplicative of the submissions of any other party. The interested parties should not be allowed to present evidence or participate in the proceedings beyond the OFA joint motion. They should not cause any delay to the proceedings, nor participate in case management unless directed to by the Panel. The AGC requests a meaningful opportunity to respond to the submissions of the interested parties.

F. The Assembly of First Nations (AFN) and the Canadian Human Rights Commission (Commission)

[39] The AFN and the Commission, in separate submissions, take no position on the Taykwa Tagamou Nation and the Chippewas of Georgina Island request to intervene.

III. Applicable Law

[40] The *CHRA* contemplates interested parties in s. 50(1) and 48.9(2)(b) and accordingly confirms the Tribunal's authority to grant a request to become an interested party.

[41] The Old Rules of procedure have recently been revised in Canadian Human Rights Tribunal Rules of Procedure, 2021, SOR/2021-137 (the "New Rules"). Given that this case is ongoing and was initiated under the Old Rules, the Old Rules of procedure (03-05-04) will continue to govern this motion.

[42] The procedure for adding interested parties is set out in Rules 3 and 8(1) of the Tribunal's Old Rules of procedure (03-05-04).

[43] Consequently, the Tribunal has the jurisdiction to allow any interested party to intervene before this Tribunal regarding a complaint. "The onus is on the applicant to

demonstrate how its expertise will be of assistance in the determination of the issues" (*Canadian Association of Elizabeth Fry Societies and Renee Acoby v. Correctional Service of Canada*, 2019 CHRT 30 at para. 34). In determining the request for interested party status, the Tribunal may consider amongst other factors if:

A. the prospective interested party's expertise will be of assistance to the Tribunal;

B. its involvement will add to the legal positions of the parties; and

C. the proceeding will have an impact on the moving party's interests.

[44] However, while the criteria listed above and developed in Walden are still helpful in similar contexts, "in *Attaran v. Citizenship and Immigration Canada*, 2018 CHRT 6 (Attaran), the Tribunal held that what is required is a holistic approach on a case-by-case basis. It cited with approval *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada* (*for the Minister of Indian and Northern Affairs Canada*), 2016 CHRT 11 (NAN)." *Letnes v. RCMP and al*, 2021 CHRT 30 at para. 14. Therefore, the Tribunal case law shows that the analysis must be performed not strictly and automatically, but rather on a case-by-case basis, applying a flexible and holistic approach.

[45] Interested party status will not be granted if it does not add significantly to the legal positions of the parties representing a similar viewpoint. See, for example, *Attaran* at para. 10.

[46] As noted, the Panel addressed the test for granting interested party status in 2016 CHRT 11 when the Panel granted interested party status to the Nishnawbe Aski Nation (NAN). In that ruling, the Tribunal outlined the considerations on granting interested party status, at paragraph 3, as follows:

> An application for interested party status is determined on a case-by-case basis, in light of the specific circumstances of the proceedings and the issues being considered. A person or organization may be granted interested party status if they are impacted by the proceedings and can provide assistance to the Tribunal in determining the issues before it. That assistance should add a different perspective to the positions taken by the other parties and further the Tribunal's determination of the matter. Furthermore, pursuant to section 48.9(1) of the *CHRA*, the extent of an interested party's participation must take into account the Tribunal's responsibility to conduct proceedings as informally

> and expeditiously as the requirements of natural justice and the rules of procedure allow (see *Nkwazi v. Correctional Service Canada*, 2000 CanLII 28883 (CHRT) at paras. 22-23; *Schnell v. Machiavelli and Associates Emprize Inc.*, 2001 CanLII 25862 (CHRT) at para. 6; *Warman v. Lemire*, 2008 CHRT 17 at paras. 6-8; and *Walden et al. v. Attorney General of Canada* (*representing the Treasury Board of Canada and Human Resources and Skills Development Canada*), 2011 CHRT 19 at paras. 22-23).

[47] Subsequently, in 2020 CHRT 31 the Panel noted:

> [28] The Tribunal in granting interested party status within the context of this specific case, recognized the challenge in determining which potential organisations or First Nations governments should be granted interested party status when the nature of the issues means that a large number of First Nations communities are directly affected by this case: The Panel's role at this stage of the proceedings is to craft an order that addresses the particular circumstances of the case and the findings already made in the [Merit] Decision. The Tribunal's remedial clarification and implementation process is not to be confused with a commission of inquiry or a forum for consultation with any and all interested parties. If that were the case, every First Nation community or organization could seek to intervene in these proceedings to share their unique knowledge, experience, culture and history. Processing those applications, let alone admitting further parties into these proceedings, would significantly hinder the Panel's ability to finalize its order.

[48] In 2022 CHRT 26, the Tribunal reiterated that the proper analysis is a case-by-case holistic approach rather than a strict application of the factors from Walden. The interested party has to bring expertise and add a different perspective to the positions including the legal positions taken by the other parties and further the Tribunal's determination of the matter. Further, *Walden and Letnes* are distinguishable for another reason. In both cases, the interested party was a bargaining agent and the complainants were members of the bargaining agent. As noted in *Letnes* at para. 19, "absent exceptional circumstances, a union will automatically be granted intervention status in proceedings dealing with human rights in the workplace when one of its members is the complainant." That is very different from the current context where many organizations represent different First Nations.

[49] Furthermore, in 2022 CHRT 26, the Tribunal made important findings that no party has challenged. On the contrary, the parties have confirmed that the Tribunal's previous rulings on the issue of interested party status motions are more authoritative in these proceedings than other Tribunal rulings on the same issue.

[50] The Tribunal discussed these proceedings in detail and stated the following:

> [37] In analyzing the expression "further the Tribunal's determination of the matter" the Tribunal considers the legal and factual questions it must determine, the adequacy of the evidence and perspectives before it, the procedural history of the case, the impact on the proceedings as well as the impact on the parties and who they represent. The Panel also considers the nature of the issue and the timing in which an interested party status seeks to intervene. Moreover, if adding another interested party will positively or negatively impact the Tribunal's role to appropriately determine the matter. Finally, the Tribunal will consider the public interest in the matter.
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> [38] The Panel stresses the importance of considering the context and specific facts of the case in all proceedings before the Tribunal including interested parties' status. Otherwise, it may lead to legalistic, technical and unjust outcomes. Furthermore, the Parties cannot ignore the previous interested party rulings in this case. The approach taken in those rulings is the most relevant and authoritative to this motion given that this is the same case with the same historical context.
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> [39] At the time of this motion, the Panel has been on this case for a decade and heard the merits of the case including compensation and has released its substantive decisions. The Panel remains seized of this case to supervise adequate implementation of its previous orders and to issue new orders if necessary to eliminate systemic discrimination and prevent it from reoccurring. Over the years, the Panel added 5 interested parties at various times and for various reasons. Two before the hearing on the merits, one at the beginning of the remedies phase and two others for specific motions and for specific reasons summarized above. The Panel ruled on the issue of compensation and on the compensation process (compensation decisions) on a time frame of over a year considering a large evidentiary record, complex and numerous legal and factual questions assisted by the parties especially First Nations complainants. Moreover, the Federal Court affirmed the compensation decisions. Therefore, the Panel is acutely aware of what may assist or hinder its consideration of the matter. This analysis cannot be overlooked. The Panel has consistently identified the need to take a contextual and holistic approach. This approach refined and developed the approach from *Walden. Attaran and Letnes similarly* added to the jurisprudence. The Tribunal cannot now ignore these subsequent cases. Of note, both *Attaran* and *Letnes* rely on this Panel's earlier ruling. The request must be considered in a holistic manner, case-by-case approach taking into consideration if it furthers the Tribunal's determination of the matter. The Panel clarifies that the Tribunal's determination of the matter is informed by the list of criteria mentioned above.

> [40] Further, the *Letnes* ruling was made at the early stages of the complaint before the Tribunal yet the Tribunal still limited the interested party's participation.
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> [41] Moreover, in this wide-ranging case, impacting First Nations communities in Canada, the Tribunal has to consider that every First Nation community or organization could seek to intervene in these proceedings to share their unique knowledge, experience, culture and history. Would they have expertise to offer? Absolutely. However, it is impossible for all of the First Nations to join this case without halting the work of the Tribunal. The Tribunal is informed by three large organizations representing First Nations (AFN, COO, NAN) and an organization with expertise in child welfare and other services offered to First Nations children regardless of where they reside (Caring Society) to consult with First Nations by different means and bring their perspectives to these proceedings.
>
> [42] Moreover, the Panel recognizes that the rights holders are First Nations people and First Nations communities and governments. While it is ideal to seek every Nations' perspective again, these proceedings are not a commission of inquiry, a truth and reconciliation commission or a forum for consultation. The Panel relies on the evidence, the parties in this case and the work that they do at the different committees such as the National Advisory Committee on Child Welfare (NAC), tables, forums and community consultations to inform its mid and long-term findings.

[51] Finally, the Tribunal continues to rely on all its previous rulings on interested party status including those that impose limitations on the interested party's participation.

[52] The foregoing sets out the factors the Tribunal considers when determining motions seeking interested party status in these proceedings, particularly at this late stage, nearly ten years after the Tribunal's decision on the merits in 2016 CHRT 2.

IV. Analysis

[53] The Tribunal has received multiple motions seeking interested party status to participate in the OFA proceedings for the Ontario region. The Taykwa Tagamou Nation and the Chippewas of Georgina Island are the only moving parties from Ontario. Therefore, the Tribunal has decided to determine their joint motion separately in this ruling.

[54] The Tribunal recognizes that First Nations children are central to the interests and priorities of every First Nation. However, as mentioned above, it is impossible to hear directly

from every First Nation without paralyzing the proceedings and negatively impacting the very First Nations children at the heart of these proceedings.

[55] Moreover, making submissions on this motion while disregarding the Tribunal's previous rulings, or selectively referencing them, does not alter what the Tribunal has already determined nor the factors it will consider when deciding such motions.

[56] The Tribunal recently ruled in 2025 CHRT 80, that the Tribunal is moving forward without further delay into the long-term phase of remedies both for Ontario and the National FNCFS long-term reform concurrently but separately. Moreover, the Tribunal, at paragraph 98 decided to proceed with the OFA without delaying the National FNCFS long-term reform until the OFA motion has been determined. The Tribunal determined that the OFA will not apply to other regions, and the Tribunal will not rely on the OFA to determine a National FNCFS long-term reform remedy.

[57] At the end stage of these proceedings and with the significant delays that have already occurred for multiple reasons, the Tribunal is adopting a stricter approach to motions to limit additional delays that will negatively impact the final resolution of these proceedings and more importantly, the rights of First Nations children and families.

[58] With the principles enunciated above and upon consideration of the parties' submissions, the Panel finds that while the Taykwa Tagamou Nation and the Chippewas of Georgina Island undeniably have experience, expertise and valuable points of view, their intervention at this stage should only be permitted in a limited manner within the OFA proceedings.

[59] The Tribunal grants the Taykwa Tagamou Nation and the Chippewas of Georgina Island's joint motion seeking interested party status but with limitations. The reasons and the limitations will be detailed below.

The prospective interested parties' expertise will be of assistance to the Tribunal and their involvement will add to the legal positions of the parties

[60] There is no doubt that the TTN and the CGI possess significant expertise in the areas of child and family services. Notably, their expertise comes from direct experience delivering child and family services in Ontario under the Tribunal's existing orders.

[61] The TTN and the CGI have experience and expertise as First Nations delivering child and family services in Ontario. The Tribunal agrees that they are well placed to identify impacts that the proposed changes would have on delivery and funding of child and family services in individual First Nations.

[62] The TTN enacted its own Child Wellbeing Law and the CGI has called for the inquest into the life and death of Devon Freeman, which resulted in Devon's Principle, requiring all child and family services agencies to ensure that First Nations children in care always have a chance to put their own feet on their own territory.

[63] The TTN and the CGI intend to raise concerns that the OFA does not represent lasting reform, that commitments under the OFA are time-limited, that the OFA was not developed through meaningful engagement, that the agreement may not be in line with evidence on how to address discrimination in child and family services and that the approach to remoteness does not recognize the access challenges of the Chippewas of Georgina Island. The TTN and the CGI intend to raise further concerns that the Trilateral Agreement fails to implement the Tribunal's direction to reform the *1965 Agreement* and provides only temporary funding to children and families living off-reserve.

[64] The OFA joint motion does not identify such challenges. Therefore, the Tribunal finds the allegations sufficiently serious and important to justify considering the TTN and the CGI's positions as part of the OFA joint motion proceedings.

[65] Moreover, the Tribunal finds that the TTN and the CGI possess significant expertise in the delivery of child and family services in Ontario, derived from their direct experience operating under the Tribunal's existing orders. The Tribunal is satisfied that this expertise will assist the Tribunal in determining the OFA joint motion.

[66] The Tribunal finds that the TTN and the CGI have successfully demonstrated that their participation will assist in furthering the Tribunal's determination of the matter, specifically with respect to the OFA joint motion, and that this is consistent with the legal requirements set out above. The Tribunal finds that the TTN and the CGI have successfully demonstrated that their participation will assist in advancing the Tribunal's determination of the matter, specifically with respect to the OFA joint motion, and that this is consistent with the legal requirements set out above. The extent to which their participation furthers the Tribunal's determination of the matter constitutes a central consideration for the Tribunal.

[67] While not determinative, none of the parties oppose the TTN and the CGI's participation in the OFA proceedings rather, only the OFA moving parties oppose the filing of the TTN and the CGI's proposed evidence.

[68] The Tribunal has consistently emphasized the search for truth and the need to ensure that its orders are effective in eliminating the systemic racial discrimination identified and in preventing its recurrence. Furthermore, given that granting the OFA joint motion would terminate the Tribunal's jurisdiction in Ontario—except with respect to matters concerning Jordan's Principle—the impacts are significant, and the Tribunal requires the best possible evidence, information, and assistance to render a fully informed decision.

[69] The TTN and the CGI have respected the Tribunal's deadline of April 15, 2025, and the page limits and schedule. This is positive and gives the Tribunal hope that the TTN and the CGI will respect the Tribunal's directions in the OFA joint motion proceedings. At this last stage of these proceedings, this aspect is an important consideration for this Tribunal.

[70] The Tribunal finds that the TTN and the CGI's legal positions detailed above will significantly add to the legal positions of the parties.

The proceeding will have an impact on the moving parties' interests

[71] In this case, unlike others that do not involve a large, systemic national complaint affecting 634 First Nations and encompassing multiple territorial and regional agreements across Canada, this part of the test—if it is successfully demonstrated that the proceeding will have an impact on the moving parties' interests—cannot, on its own, determine a motion

for interested party status. To conclude otherwise could open the door to participation by all 634 First Nations and hundreds of First Nations child and family services agencies, all of whom may be impacted by this case, effectively bringing the Tribunal's determination of the matter to a standstill. Such an outcome would hinder, rather than assist, the Tribunal in fulfilling its mandate. The Tribunal is now in the final stages of this complaint and must be able to resolve the matter in the near future in the best interests of First Nations children and families.

[72] The Tribunal finds that the OFA joint motion proceeding will have an impact on the TTN and the CGI's interests. As Ontario-based First Nations, the TTN and the CGI will be directly affected by any determination in relation to the Ontario Final Settlement Agreement and the Trilateral Agreement.

[73] Finally, The Tribunal is satisfied that the test for interested party status applied by this Tribunal including in the Tribunal's past rulings on interested party status in these proceedings has been met. The Tribunal finds that the TTN and the CGI will be of assistance to this Tribunal in determining the OFA joint motion, will bring its unique perspective, will add to the legal positions of the parties and the OFA joint motion proceedings will have an impact on the TTN and the CGI's interests.

V. Order

FOR THESE REASONS, THE CANADIAN HUMAN RIGHTS TRIBUNAL

[74] GRANTS the joint motion of the Taykwa Tagamou Nation and the Chippewas of Georgina Island with the following limitations:

i. The Tribunal grants the Taykwa Tagamou Nation and the Chippewas of Georgina Island a limited interested party status with the following conditions:

ii. The Taykwa Tagamou Nation and the Chippewas of Georgina Island shall only participate in the OFA joint motion proceeding until the hearing of the motion is completed and the matter is decided by this Tribunal. The Taykwa Tagamou Nation

and the Chippewas of Georgina Island shall not participate in mediation, negotiation or other dispute resolution or administrative processes further to this case or after the hearing.

iii. The Taykwa Tagamou Nation and the Chippewas of Georgina Island shall not participate in case management unless specifically directed by this Tribunal.

iv. The Taykwa Tagamou Nation and the Chippewas of Georgina Island shall not request postponements or changes to the schedule and hearing dates established by the Tribunal and accepted by the other parties.

v. The Taykwa Tagamou Nation and the Chippewas of Georgina Island shall not be authorized to file affidavit evidence and exhibits other than the affidavit evidence and exhibits supporting their allegations that: the Ontario Final Settlement Agreement (OFA) does not represent lasting reform, that commitments under the OFA are time-limited, that the OFA was not developed through meaningful engagement, that the agreement may not be in line with evidence on how to address discrimination in child and family services and that the approach to remoteness does not recognize the access challenges of the Chippewas of Georgina Island, that the Trilateral Agreement fails to implement the Tribunal's direction to reform the 1965 Agreement and provides only temporary funding to children and families living off-reserve. The Taykwa Tagamou Nation and the Chippewas of Georgina Island must take the rest of the evidentiary record as it is. The joint filing of affidavits and exhibits must not exceed 75 pages in total.

vi. The Taykwa Tagamou Nation and the Chippewas of Georgina Island shall not have the right to cross-examine the affiants.

vii. The Taykwa Tagamou Nation and the Chippewas of Georgina Island are permitted to file joint written submissions of no more than 30 pages, limited to issues arising from the OFA joint motion. They must not repeat the positions of other parties but may indicate where they adopt an existing position. Their participation is intended

to provide a distinct perspective and to contribute additional legal arguments. They shall not participate in any other issues currently before the Tribunal in this matter.

viii. The Taykwa Tagamou Nation and the Chippewas of Georgina Island shall not delay the proceedings and must file their joint submissions as directed by this Tribunal. Given the short timeframe before the hearing of the OFA joint motion, any delay will be deemed a renunciation by Taykwa Tagamou Nation and the Chippewas of Georgina Island to participate in the proceedings.

ix. The Taykwa Tagamou Nation and the Chippewas of Georgina Island are allowed to make joint oral submissions if any, only on the dates directed by this Tribunal of and no longer than 45 minutes. This right to oral arguments can be reduced, limited or denied by this Panel if the written submissions are deemed repetitive of the other parties' submissions and/or not adding to the legal positions of the parties and not bringing a different perspective than that of the other parties. In that case, the Panel will consider the Taykwa Tagamou Nation and the Chippewas of Georgina Island's written submissions as part of its deliberations alongside the submissions and oral arguments of the other parties.

x. All parties will have an opportunity to file reply affidavit evidence and exhibits and submissions following the Taykwa Tagamou Nation and the Chippewas of Georgina Island's affidavit evidence and exhibits and submissions.

Retention of jurisdiction

[75] The Panel retains jurisdiction over the Orders contained in this ruling and all of its previous orders, except its compensation orders. The Panel will revisit its retention of jurisdiction for the Ontario region once the OFA joint motion proceeding has been completed, or as the Panel deems appropriate in light of the future evolution of this case.

[76] The Tribunal will establish the OFA joint motion schedule after consideration of the parties' submissions on this point.

Signed by

Sophie Marchildon
Panel Chairperson

Edward P. Lustig
Tribunal Member

Ottawa, Ontario
September 2, 2025

Canadian Human Rights Tribunal

Parties of Record

Tribunal File: T1340/7008

Style of Cause: First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)

Ruling of the Tribunal Dated: September 2, 2025

Motion dealt with in writing without appearance of parties

Written representations by:

David P. Taylor, Sarah Clarke, Kiana Saint-Macary and Robin McLeod, counsel for the First Nations Child and Family Caring Society of Canada, the Complainant

Anshumala Juyal and Khizer Pervez, counsel for the Canadian Human Rights Commission

Paul Vickery, Sarah-Dawn Norris, Meg Jones, Dayna Anderson, Kevin Staska, Sarah Bird, Jon Khan, Alicia Dueck-Read and Aman Owais, counsel for the Attorney General of Canada, the Respondent

Maggie Wente, Jessie Stirling, Ashley Ash and Katelyn Johnstone, counsel for the Chiefs of Ontario, Interested Party

Julian Falconer, Asha James, Shelby Percival and Meaghan Daniel, counsel for the Nishnawbe Aski Nation, Interested Party

Karey Brooks, K.C. and Jade Dumoulin, counsel for Taykwa Tagamou Nation and Chippewas of Georgina Island, Interested Parties