

CANADIAN HUMAN RIGHTS TRIBUNAL

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, AMNESTY INTERNATIONAL CANADA and
NISHNAWBE ASKI NATION**

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PART I - STATEMENT OF FACTS.....	1
A. Overview.....	1
B. Background.....	2
i. The originating complaint and finding of discrimination by the Tribunal.....	2
ii. The bifurcation of Jordan’s Principle and FNCFS Program long-term reform	2
iii. The status of long-term reform.....	3
iv. Interested party motions to date	4
v. Status of Jordan’s Principle long-term reform	4
PART II - ISSUES.....	5
PART III - SUBMISSIONS	5
A. The test for interested party status	6
B. The NCCC should not be added to the remedial proceedings	7
i. The NCCC’s interest is aligned with the AFN’s and the Caring Society’s	7
i. The NCCC cannot provide assistance to the Tribunal	9
ii. The NCCC’s addition would delay long-term reform of the FNCFS Program	12
PART IV - ORDER SOUGHT	13
PART V - LIST OF AUTHORITIES.....	15

PART I - STATEMENT OF FACTS

A. Overview

1. The newly formed National Children's Chiefs Commission (the "NCCC") seeks to be added as an interested party to the remedies stage of this proceeding, including Jordan's Principle and the long-term reform of the First Nations Child and Family Services Program (the "FNCFS Program") outside of Ontario (together, the "remedial proceedings"). The NCCC does not meet the test for interested party status and should not be admitted into the remedial proceedings.
2. Chiefs of Ontario ("COO") and Nishnawbe Aski Nation ("NAN") have a strong interest in the timely and orderly conclusion of the remedial proceedings. In the event the *Final Agreement on Long-Term Reform of the First Nations Child and Family Services Program in Ontario* (the "OFA") is not approved, COO and NAN may be required to re-engage in the national FNCFS Program reform process and would be directly affected by how the proceedings are structured and who is involved. COO and NAN remain a part of all remedial processes regarding Jordan's Principle.
3. The NCCC's interest in long-term reform is aligned with the Assembly of First Nations' (the "AFN") and the NCCC can be represented by the AFN before the Canadian Human Rights Tribunal (the "Tribunal"). Both the NCCC and the AFN take their mandates from and represent the First Nations-in-Assembly. There is no reason to have two bodies before the Tribunal representing the same interest or to allow two "seats at the table" to what amounts to one entity.
4. The NCCC has no expertise in these proceedings. The NCCC is not a service provider and has no expertise in the delivery of child and family services or Jordan's Principle. The NCCC will not add to the legal positions of the parties or bring a unique perspective: as a representative body for the First Nations-in-Assembly, the NCCC's expertise and interest overlap with the AFN's.
5. The addition of any interested parties at this late stage of the remedial proceedings risks further delaying long-term reform, contrary to the Tribunal's responsibility to conduct

proceedings as informally and expeditiously as the requirements of natural justice and the rules of procedure allow.

6. First Nations children, youth, families, and communities have waited too long for reform. The Tribunal has said that it “is far better for children to complete the long-term remedial phase shortly rather than wait for long periods of time”.¹ It is not in the best interests of First Nations children to make them wait any longer. Reform of the FNCFS Program and Jordan’s Principle must be allowed to proceed without delay.

B. Background

i. The complaint and finding of discrimination by the Tribunal

7. The history of these proceedings is well-known. On January 26, 2016 – nine years after the AFN and the First Nations Child and Family Caring Society of Canada (the “Caring Society”) filed this complaint – the Tribunal ordered Canada to cease its discriminatory practices and reform the FNCFS Program and the *Memorandum of Agreement Respecting Welfare Programs for Indians* (also known as the 1965 Agreement), and to immediately implement the full meaning and scope of Jordan's principle.²

ii. The bifurcation of Jordan’s Principle and FNCFS Program long-term reform

8. On December 31, 2021, COO, NAN the AFN, the Caring Society, and Canada signed an Agreement-in-Principle (the “AIP”).³ After the AIP was signed, the long-term reform of the FNCFS Program and Jordan’s Principle were bifurcated.⁴ In 2025 CHRT 80, the Tribunal found it more efficient to complete the long-term reform of the FNCFS Program

¹ Affidavit of Summer Dulai, affirmed 2 February 2026, Exhibit A, Letter from the Canadian Human Rights Tribunal dated 10 February 2025, Bates p 007 [Dulai Affidavit].

² *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](#) at para [481](#).

³ Affidavit of Grand Chief Joel Abram affirmed 6 March 2025, filed within the motion brought on 7 March 2025 by COO, NAN and Canada in support of the approval of the *Final Agreement on Long-Term Reform of the First Nations Child and Family Services Program in Ontario* at para 63 [Grand Chief Abram Affidavit, 6 Mar 2025].

⁴ Affidavit of Amber Potts, affirmed 3 March 2025, filed within the motion for relief brought on 14 January 2025 by the Caring Society at para 22; Grand Chief Abram Affidavit, 6 Mar 2025 at paras 69-70.

in the short-term and deal with the long-term reform of Jordan's Principle afterward, rather than attempting both together and risking long delays for each.⁵

iii. The status of long-term reform of the FNCFS Program

9. In or around December 2023, the Caring Society withdrew from negotiations on long-term reform of the FNCFS Program.⁶ On July 11, 2024, COO, NAN, the AFN, and Canada announced a national final settlement agreement on the long-term reform of the FNCFS Program.⁷ On October 17, 2024, the First Nations-in-Assembly rejected the national agreement at an AFN Special Chiefs Assembly and created the NCCC.⁸ Neither COO nor NAN are or have been involved with the NCCC and the Ontario seat on the NCCC is vacant.⁹
10. Having opted to move ahead with a negotiated agreement for long-term reform of the FNCFS program in Ontario, the NAN Chiefs-in-Assembly and the Ontario Chiefs-in-Assembly ratified the OFA at their assemblies on February 25 and 26, 2025, respectively.¹⁰ On March 7, 2025, COO and NAN jointly brought a motion before the Tribunal seeking approval of the OFA. On August 11, 2025, Canada joined the motion as a moving party. The Caring Society is opposing the OFA as are Chippewas of Georgina Island First Nation and Taykwa Tagamou Nation.¹¹ The OFA approval motion is scheduled to be heard February 26 and 27, 2026.
11. In 2025 CHRT 80, the Tribunal ordered the Caring Society and the AFN to consult with the NCCC to develop an evidence-based, comprehensive national FNCFS long-term reform plan and requested remedies outside Ontario, and to file it with the Tribunal by

⁵ *First Nations Child & Family Caring Society of Canada et al v Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, [2025 CHRT 80](#) at para [89](#).

⁶ Grand Chief Abram Affidavit, 6 Mar 2025 at para 73.

⁷ Grand Chief Abram Affidavit, 6 Mar 2025 at para 76.

⁸ Grand Chief Abram Affidavit, 6 Mar 2025 at para 92.

⁹ Affidavit of Chief Pauline Frost, affirmed 20 March 2025 at para 29 [Chief Frost Affidavit].

¹⁰ Grand Chief Abram Affidavit, 6 Mar 2025 at para 106; Amended Affidavit of Grand Chief Alvin Fiddler, affirmed 7 March 2025, filed within the motion brought on 7 March 2025 by COO, NAN and Canada in support of the approval of the *Final Agreement on Long-Term Reform of the First Nations Child and Family Services Program in Ontario* at paras 72-73.

¹¹ Dulai Affidavit, Exhibit C, Letter from the Caring Society to the Tribunal dated 25 September 2025, Bates p 014; Dulai Affidavit, Exhibit D, Letter from Chippewas of Georgina Island First Nation and Taykwa Tagamou Nation to the Tribunal dated 25 September 2025, Bates p 018.

December 22, 2025.¹² The Tribunal ordered that a joint national FNCFS long-term reform plan should be filed on consent of the Caring Society, the AFN, and Canada, if possible.¹³ No joint national plan was developed. The Caring Society consulted with the NCCC and together with the AFN filed the Loving Justice Plan with the Tribunal on December 22, 2025. The NCCC consulted and collaborated closely with the AFN and the Caring Society in creating the Loving Justice Plan and publicly supports its content.¹⁴ Canada filed its own plan with the Tribunal on December 22, 2025.

iv. Interested party motions in the OFA approval motion and long-term reform

12. The Tribunal received 13 motions for interested party status in the OFA approval motion. Of those 13 motions, the First Nations of Quebec and Labrador Health and Social Services Commission, acting through the Assembly of First Nations Quebec-Labrador (together, the “AFNQL parties”); the Our Children Our Way Society; the Assembly of Manitoba Chiefs; and the Southern Chiefs’ Organization Inc. also sought to be added as interested parties to the remedial proceedings, and the Federation of Sovereign Indigenous Nations and the Council of Yukon First Nations reserved their rights to seek to be added as interested parties to the remedial proceedings at a later date.

v. Status of Jordan’s Principle reform

13. Since the bifurcation of negotiations on the long-term reform of the FNCFS Program and Jordan’s Principle, discussions on the reform of Jordan’s Principle have not resumed.
14. On December 12, 2023, the Caring Society brought a motion to the Tribunal alleging that Canada had failed to comply with multiple Tribunal orders on the implementation of Jordan’s Principle and sought measures to ensure the effectiveness of those orders.¹⁵

¹² [2025 CHRT 80](#) at para [120](#).

¹³ [2025 CHRT 80](#) at para [125](#).

¹⁴ Chief Frost Affidavit at para 79; Dulai Affidavit, Exhibit I, Press Release of the National Children’s Chiefs Commission dated 22 December 2025, Bates pp 051-052; Dulai Affidavit, Exhibit E, Caring Society 2025 CHRT 80 report to the Tribunal dated 22 September 2025, Bates pp 021-022; Dulai Affidavit, Exhibit F, Caring Society 2025 CHRT 80 report to the Tribunal dated 16 October 2025, Bates pp 027-028, 031; Dulai Affidavit, Exhibit G, Caring Society 2025 CHRT 80 report to the Tribunal dated 21 November 2025; Dulai Affidavit, Exhibit H, Letter from the AFN to the Tribunal dated 22 December 2025, Bates pp 041-042.

¹⁵ The Caring Society, “Notice of Motion for Relief of the Complainant First Nations Child and Family Caring Society of Canada”, 12 December 2023 at paras 17-22, 23-24.

15. In 2025 CHRT 6, the Tribunal ordered Canada to consult with the parties to resolve the issues raised in the motion.¹⁶
16. In January 2025, the parties began Tribunal-assisted mediation on several interim issues related to Jordan's Principle as directed by the Tribunal in 2025 CHRT 6. After approximately six months, no consensus had been reached on the issues that were being mediated. The Tribunal withdrew mediation services on August 13, 2025. The parties then explored private mediation, which proceeded in September but stalled after mid-October 2025. The issues that were the subject of mediation do not constitute long-term reform of Jordan's Principle; these were immediate issues requiring interim solutions.¹⁷
17. At present, the consultation process ordered by the Tribunal in 2025 CHRT 6 has effectively ground to a halt, with no plan currently in place for its resumption, leaving the underlying issues unresolved and the next steps unclear.

PART II - ISSUES

18. The issues in this motion are whether the NCCC should be added as an interested party to:
 - a) the proceedings concerning the long-term reform of the FNCFS Program outside of Ontario; and
 - b) the proceedings concerning the interim and long-term reform of Jordan's Principle.

PART III - SUBMISSIONS

19. The NCCC should not be granted interested party status in the remedial proceedings. The NCCC's interest is identical to the AFN's and can be represented by the AFN before the Tribunal. The NCCC's interest also aligns with the Caring Society's. The addition of the NCCC provides no new perspective. Moreover, it effectively affords one entity two "seats at the table". The addition of any new interested party risks delaying and complicating the

¹⁶ *First Nations Child & Family Caring Society of Canada and Assembly of First Nations v Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, [2025 CHRT 6](#) at paras [552-566](#), [571-572](#), [577-580](#), [585](#).

¹⁷ [2025 CHRT 6](#) at para [27](#).

remedial proceedings, contrary to the Tribunal's responsibility to conduct proceedings as informally and expeditiously as the requirements of natural justice and the rules of procedure allow.¹⁸

A. The test for interested party status

20. The Tribunal's evaluation of whether to grant interested party status requires a "flexible and holistic approach" on a case-by-case basis, in light of the specific circumstances of the proceedings and the issues being considered.¹⁹ The prospective interested party has the onus of demonstrating that its respective expertise will be of assistance in the determination of the issues.²⁰
21. In determining the request for interested party status, the Tribunal may consider, among other factors, if:
- a) the proceeding will have an impact on the prospective interested party's interest; and
 - b) the prospective interested party can provide assistance to the Tribunal in determining the issues before it.²¹
22. In evaluating whether the prospective interested party can provide assistance to the Tribunal, the Tribunal will consider the prospective interested party's expertise and whether its involvement will add to the legal positions of the parties.²² The interested party should add a different perspective than the positions taken by the parties and assist the Tribunal's determination of the matter.²³ A potential interested party must "demonstrably add to the deliberations of the Tribunal".²⁴

¹⁸ *First Nations Child & Family Caring Society of Canada et al v Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, [2022 CHRT 26](#) at para [32](#), citing *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](#) at para [3](#) and *Canadian Human Rights Act*, [RSC 1985, c H-6](#) at s. [48.9\(1\)](#) [CHRA].

¹⁹ [2022 CHRT 26](#) at para [31](#); [2016 CHRT 11](#) at para [3](#).

²⁰ [2022 CHRT 26](#) at para [29](#).

²¹ [2022 CHRT 26](#) at paras [30](#), [32](#).

²² [2022 CHRT 26](#) at para [30](#).

²³ [2016 CHRT 11](#) at para [3](#).

²⁴ *Attaran v Immigration*, [2017 CHRT 16](#) at para [16](#), citing [2016 CHRT 11](#) at paras [3-4](#), [10-11](#).

23. In evaluating whether a prospective interested party will assist 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".²⁵ The Tribunal also considers "the nature of the issue and the timing in which an interested party status seeks to intervene".²⁶
24. The extent of an interested party's participation must also 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.²⁷

B. The NCCC should not be added to the remedial proceedings

25. The NCCC should not be granted interested party status in the remedial proceedings. The NCCC's interest is aligned with the AFN's and the Caring Society's, it has no unique perspective to put before the Tribunal that will demonstrably add to the Tribunal's deliberations, and the addition of any interested party risks further delay.

i. The NCCC's interest is aligned with the AFN's and the Caring Society's

26. The NCCC does not bring a distinct or independent interest to the remedial proceedings. The NCCC and the AFN are representative bodies that are accountable to, and derive their mandates from, the same constituency: the First Nations-in-Assembly. Both purport to represent the same collective interest of the First Nations-in-Assembly.²⁸
27. Courts have previously held that a prospective interested party with an interest identical to that of an existing party should not be admitted because the submissions of the proposed interested party will be duplicative of the existing party's.²⁹ The NCCC has not shown that its interest differs from the AFN, beyond mere speculation that it will take differing positions "where necessary".³⁰ Bald assertions that interests may diverge in the future are

²⁵ [2022 CHRT 26](#) at para [37](#).

²⁶ [2022 CHRT 26](#) at para [37](#).

²⁷ [2022 CHRT 26](#) at para [32](#), citing [2016 CHRT 11](#) at para [3](#) and [CHRA](#) at s. [48.9\(1\)](#).

²⁸ Chief Frost Affidavit at para 28.

²⁹ *2505243 Ontario Limited (By Peter and Paul.com) v Princes Gates Hotel Limited Partnership*, [2022 ONCA 700](#) at paras [13](#), [21-22](#); *Errol Massiah v Justices of the Peace Review Council*, [2020 ONSC 3644](#) at paras [20](#), [27](#), [34](#).

³⁰ The National Children's Chiefs Commission, "Written Submissions of the National Children's Chief's Commission", submitted 19 December 2025 at para 40 [NCCC Written Submissions].

insufficient. The evidence shows that the NCCC and the AFN represent the same interest and have worked together in the past, and there is no evidence to suggest the AFN cannot continue to represent the First Nations-in-Assembly before the Tribunal.³¹

28. Many of the organizations seeking interested party status in the proceedings have asserted that they should be admitted as interested parties because their regional perspective is not currently represented before the Tribunal.³² As a national body, the NCCC represents the same national interest as the AFN and does not have the regional expertise professed by the prior proposed interested parties. This demonstrates that the NCCC's participation would not address the demand for direct, regional representation.
29. In its prior decisions on the inclusion of interested parties, this Tribunal balanced the value of unique regional perspectives of First Nations and their organizations with the Tribunal's limited resources and its interest in resolving the matter expeditiously. Even though every First Nation community or organization may have expertise to offer, "these proceedings are not a commission of inquiry, a truth and reconciliation commission or a forum of consultation".³³ This is why the Tribunal is informed by COO, NAN, the AFN, and the Caring Society.³⁴ The NCCC's interest can be advanced by the AFN using its internal mechanisms for seeking and representing those perspectives.

Long-term reform of the FNCFS Program

30. The NCCC's interest in the long-term reform of the FNCFS Program is fully aligned with the positions already advanced by the AFN and the Caring Society.
31. The NCCC's mandate to assist in long-term reform of the FNCFS Program does not necessitate its participation in these proceedings as an interested party because its views can be advanced by the complainants. This approach has already proven effective. In 2025 CHRT 80, the Tribunal ordered the Caring Society and the AFN to consult with the NCCC

³¹ *Baffinland Iron Mines v Tower-EBC*, [2021 ONSC 5639](#) at para 39.

³² AFNQL Parties, "Amended Notice of Motion", dated 6 March 2025 at para 27; Our Children Our Way Society, "Notice of Motion", dated 15 April 2025 at paras 8-13, 15, 18; Assembly of Manitoba Chiefs, "Written Submissions", dated 15 April 2025 at paras 22-27, 30; Southern Chiefs' Organization Inc., "Notice of Motion", dated 24 July 2025 at para 5.

³³ [2022 CHRT 26](#) at para 42.

³⁴ [2022 CHRT 26](#) at para 41.

and others.³⁵ The Caring Society successfully consulted with the NCCC and together with the AFN developed and filed the Loving Justice Plan with the Tribunal on December 22, 2025.³⁶ The NCCC publicly supports its content.³⁷ The Caring Society, the AFN and the NCCC have also collaborated in analyzing Canada's 2025 CHRT 80 National Plan to align on limiting potential issues for litigation.³⁸ These processes demonstrate that the AFN, the Caring Society, and the NCCC are able to work together on substantive reform initiatives without requiring the NCCC's formal participation in the proceedings as an interested party.

Reform of Jordan's Principle

32. The NCCC's interest in the proceedings concerning the reform of Jordan's Principle is identical to the AFN's. The NCCC has been unable to articulate how its interest differs from the AFN's, beyond speculative assertions that their positions may diverge in the future. Such speculation is insufficient to justify interested party status.
33. The NCCC has professed no unique expertise in Jordan's Principle whatsoever.
34. Moreover, the record demonstrates that the NCCC's views can be, and have been, represented by the AFN. The AFN and the Caring Society's collaboration in the development of the Loving Justice Plan demonstrates that the NCCC's perspectives can be taken into account in these proceedings without the need to add the NCCC as an interested party.

ii. The NCCC cannot provide assistance to the Tribunal

35. The NCCC has not discharged its onus of demonstrating that it will assist the Tribunal: it has no expertise that is distinct from that of the parties before the Tribunal and it has not

³⁵ [2025 CHRT 80](#) at para [120](#).

³⁶ Chief Frost Affidavit at para 79; Dulai Affidavit, Exhibit E, Caring Society 2025 CHRT 80 report to the Tribunal dated 22 September 2025, Bates pp 021-022; Dulai Affidavit, Exhibit F, Caring Society 2025 CHRT 80 report to the Tribunal dated 16 October 2025, Bates pp 027-028, 031; Dulai Affidavit, Exhibit G, Caring Society 2025 CHRT 80 report to the Tribunal dated 21 November 2025; Dulai Affidavit, Exhibit H, Letter from the AFN to the Tribunal dated 22 December 2025, Bates pp 041-042.

³⁷ Dulai Affidavit, Exhibit I, Press Release of the National Children's Chiefs Commission dated 22 December 2025, Bates pp 051-052.

³⁸ Dulai Affidavit, Exhibit J, Caring Society 2025 CHRT 80 report to the Tribunal dated 29 January 202, Bates p 059.

identified a single legal position that has not already been advanced by the AFN or the Caring Society.³⁹

36. The NCCC claims that its expertise will be of assistance to the Tribunal because its “nationally representative structure provides a coordinated mechanism to bring forward the diverse perspectives of First Nations across Canada”.⁴⁰ The NCCC, however, has not demonstrated that this claimed expertise is distinct from, or adds to, the expertise already before the Tribunal through the AFN or the Caring Society.
37. Throughout these proceedings, “the Tribunal has relied on the AFN for a broader First Nations perspective across Canada given its mandate and structure representing the views of over 600 First Nations in Canada”.⁴¹ To the extent that the NCCC asserts expertise in coordinating and presenting diverse perspectives of First Nations at a national level, that role falls squarely within the AFN’s mandate and its longstanding role as complainant in these proceedings. Notably, the NCCC lacks the expertise that the existing parties have gained from being involved in the proceedings over the last 20 years.
38. The Tribunal must also be satisfied that a proposed interested party will add “significantly” to the legal positions of the existing parties advancing a similar viewpoint.⁴² On this point, the NCCC relies only on its “unique mandate...to conduct negotiations on behalf of First Nations-in-Assembly”.⁴³ However, the NCCC’s reliance on its mandate does not explain how the NCCC will add significantly to the legal positions of the existing parties.
39. The NCCC’s position that the AFN has, with few exceptions, opted to take no substantive positions before the Tribunal since the passing of Resolution No. 60/2024 is misleading.⁴⁴ While the AFN has taken no positions on the proceedings related to the OFA, it has remained substantively engaged in the remedial proceedings. The AFN filed evidence and took a position on the January 14, 2025 consultation motion brought by the Caring

³⁹ [2022 CHRT 26](#) at para [29](#).

⁴⁰ NCCC Written Submissions at para 11.

⁴¹ [2022 CHRT 26](#) at para [48](#); see also [2016 CHRT 11](#) at para [16](#).

⁴² *First Nations Child & Family Caring Society of Canada et al v Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, [2024 CHRT 95](#) at para [31](#).

⁴³ NCCC Written Submissions at paras 33, 35.

⁴⁴ NCCC Written Submissions at para 40.

Society,⁴⁵ and it supported the Caring Society's recent filing of the Loving Justice Plan on December 22, 2025.⁴⁶ The AFN participated in mediation on Jordan's Principle. In correspondence accompanying that filing, the AFN expressly confirmed its continuing central role in these proceedings, proposed next steps and took various positions, demonstrating its commitment to advancing the remedial proceedings.⁴⁷

40. The NCCC fails to demonstrate that it would bring a unique perspective or unique assistance to the Tribunal.

Long-term reform of the FNCFS Program

41. The NCCC fails to identify a single legal position on long-term reform of the FNCFS Program that has not already been advanced by the AFN or the Caring Society through the Loving Justice Plan. The Loving Justice Plan has already been developed in collaboration with the NCCC and filed by the complainants. The NCCC also fails to demonstrate any unique expertise on the long-term reform of the FNCFS Program.

Reform of Jordan's Principle

42. The NCCC fails to explain how it would add "significantly" to the legal positions of the existing parties in the remedial phase of these proceedings concerning Jordan's Principle.⁴⁸ Its reliance on a general mandate to conduct negotiations on behalf of the First Nations-in-Assembly does not translate into any demonstrated expertise in Jordan's Principle, a highly technical regime shaped by detailed evidentiary findings and ongoing Tribunal oversight.⁴⁹ The NCCC has not identified any expertise relevant to Jordan's Principle and is not familiar with the extensive evidentiary record or the mediation efforts already undertaken.
43. The NCCC is also not a service provider or otherwise involved in the administration of Jordan's Principle and therefore lacks expertise in how Jordan's Principle services function on the ground or at Indigenous Services Canada. Critically, the NCCC does not claim to

⁴⁵ Dulai Affidavit, Exhibit B, Letter from the AFN to the Tribunal dated 24 April 2025, Bates p 012.

⁴⁶ Dulai Affidavit, Exhibit H, Letter from the AFN to the Tribunal dated 22 December 2025, Bates p 042.

⁴⁷ Dulai Affidavit, Exhibit H, Letter from the AFN to the Tribunal dated 22 December 2025, Bates p 043-044.

⁴⁸ [2024 CHRT 95](#) at para 31.

⁴⁹ NCCC Written Submissions at paras 33, 41.

have conducted consultations specific to Jordan's Principle or to possess any specialized knowledge regarding its administration, challenges, or impacts. In these circumstances, the NCCC's participation would be duplicative and would not assist the Tribunal in resolving the complex remedial issues before it concerning Jordan's Principle.

iii. The NCCC's addition will delay reform

44. The delay associated with granting the NCCC interested party status outweighs any limited benefit its participation might offer in these time-sensitive proceedings.
45. The NCCC's motion for interested party status comes at a late stage of the proceedings: twenty years after the commencement of proceedings and ten years into the remedial phase. In 2016, in determining whether to grant NAN interested party status, the Tribunal held that adding interested parties at the remedial stage of proceedings is "not only rare, but adds to the challenge of effectively managing this case".⁵⁰ In 2026, the remedial stage is now ten years further advanced, such that the addition of additional interested parties should be approached with even greater caution. Since the NCCC has not participated in the proceedings to date, its intervention at this late stage would risk reopening settled issues or revisiting matters already negotiated or litigated by the parties, thereby further delaying proceedings that are already protracted. These proceedings are complex and the parties are already struggling to find consensus. Adding a new party will further complicate matters.
46. In taking a flexible and holistic approach to the NCCC's motion, the Tribunal should consider the risk that granting the NCCC interested party status could encourage unusually high numbers of additional organizations to seek participation in these proceedings. There are already four outstanding applications for interested party status in the remedial proceedings from the AFNQL parties, the Our Children Our Way Society, the Assembly of Manitoba Chiefs, and the Southern Chiefs' Organization Inc., and two other organizations, the Federation of Sovereign Indigenous Nations and the Council of Yukon First Nations, have reserved their rights to seek interested party status at a later date. Granting the NCCC's motion would risk setting a precedent that could open the floodgates

⁵⁰ [2016 CHRT 11](#) at para [13](#).

to even more interested party motions. This risks making the proceedings “impossible to manage” and “halting the proceedings for months or possibly years”.⁵¹

47. Adding the NCCC now would overburden the Tribunal and would inevitably result in further delay. Such delay risks bringing the administration of justice into disrepute and would cause significant prejudice to the victims of the discrimination at issue. A flexible and holistic assessment of the NCCC’s motion therefore requires a cost-benefit analysis that accounts for both the likelihood of additional delay and the prospect of encouraging further interested party motions. That analysis leads to a clear conclusion: the costs far outweigh any potential benefit of adding the NCCC as an interested party to the remedial proceedings.

Long-term reform of the FNCFS Program

48. Long-term reform of the FNCFS Program must proceed. The best interests of First Nations children and families must no longer be compromised by inaction.

Reform of Jordan’s Principle

49. The long-term reform of Jordan’s Principle has not progressed since March 2023. Tribunal ordered mediation on interim solutions to the serious problems with Jordan’s Principle implementation has ground to a halt. Urgent progress is needed.

PART IV - ORDER SOUGHT

50. COO and NAN respectfully request that the Tribunal dismiss the motion for the NCCC to be granted interested party status in:
- a) the proceedings concerning the long-term reform of the FNCFS Program outside of Ontario; and
 - b) the proceedings concerning reform of Jordan’s Principle.

⁵¹ [2022 CHRT 26](#) at para [47](#).

51. In the alternative, if the NCCC is granted interested party status, it should be on the conditions that the NCCC:

- c) must abide by the timelines set out by the Tribunal and must not delay the proceedings, including because of party or counsel availability. Any delay proposed or occasioned by the NCCC should be deemed a renunciation by the NCCC to participate in the proceedings;
- d) must collaborate with the AFN and the Caring Society to avoid duplication in submissions;
- e) is not permitted to participate in case management nor to be involved in the setting of dates for steps in the remedial proceedings; and
- f) must abide by page and time limits and other such limits as ordered by the Tribunal. Whether the NCCC is allowed to make written or oral submissions should be considered on a case-by-case basis depending on its role in the proceeding.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 4th day of February, 2026.



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PART V - LIST OF AUTHORITIES

CASE LAW	
1.	<i>2505243 Ontario Limited (ByPeterandPaul.com) v Princes Gates Hotel Limited Partnership</i> , 2022 ONCA 700
2.	<i>Attaran v Immigration</i> , 2017 CHRT 16
3.	<i>Baffinland Iron Mines v Tower-EBC</i> , 2021 ONSC 5639
4.	<i>Errol Massiah v Justices of the Peace Review Council</i> , 2020 ONSC 3644
5.	<i>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)</i> , 2016 CHRT 2
6.	<i>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)</i> , 2016 CHRT 11
7.	<i>First Nations Child & Family Caring Society of Canada et al v Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)</i> , 2018 CHRT 4
8.	<i>First Nations Child & Family Caring Society of Canada et al v Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)</i> , 2022 CHRT 26
9.	<i>First Nations Child & Family Caring Society of Canada et al v Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)</i> , 2024 CHRT 95
10.	<i>First Nations Child & Family Caring Society of Canada and Assembly of First Nations v Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)</i> , 2025 CHRT 6
11.	<i>First Nations Child & Family Caring Society of Canada et al v Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)</i> , 2025 CHRT 80
STATUTES	
12.	<i>Canadian Human Rights Act</i> , RSC 1985, c H-6