Canadian Human Rights Tribunal

Tribunal canadien des droits de la personne

Citation: 2026 CHRT 56
Date: June 4, 2026
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

- and -

Assembly of Manitoba Chiefs

- and -

Southern Chiefs' Organization Inc.

- and -

Our Children, Our Way Society

- and -

First Nations of Quebec and Labrador Health and Social Services Commission

- and -

Assembly of First Nations Quebec Labrador

- and -

National Children's Chiefs Commission

Interested parties

Ruling

Members: Sophie Marchildon
Edward P. Lustig

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I. Context

[1] This ruling addresses a motion by the National Children's Chiefs Commission (the NCCC) to participate generally in these proceedings as an interested party. The NCCC was established in 2024 by a resolution of the First Nations-in-Assembly to negotiate long-term reform with the Attorney General of Canada representing Indigenous Services Canada ("Canada") following their rejection of the initial long-term reform proposal.

[2] In 2016, the Canadian Human Rights Tribunal (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 (the "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 adversely impacted, and continue to impact, 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 Yukon, not only by underfunding the First Nations Child and Family Services Program (the "FNCFS Program") but also in the way that Canada designed, managed, and controlled the FNCFS Program.

[3] 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.

[4] 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. The Tribunal has since clarified that the best interests of children must be viewed through an Indigenous lens.

[5] As a result, the Tribunal ordered Canada to cease its discriminatory practices, to implement measures to remedy the harm, to prevent recurrence, and to reform both the FNCFS Program and the 1965 Agreement in Ontario to reflect the findings of the Merit Decision.

[6] 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.

[7] In the Merit Decision, the Tribunal issued final, injunction-like general orders to cease the systemic racial discrimination it found and to prevent its reoccurrence. These important orders could not subsequently be abrogated, modified, or replaced. The Tribunal also issued a series of rulings providing immediate and mid-term relief, as well as final orders concerning compensation. It retained jurisdiction to ensure that it could make long-term, sustainable orders once data collection and new studies were completed. This approach was requested by First Nations, who argued that updated information was necessary to inform long-term relief requests in accordance with best practices benefiting First Nations children at the time of the Merit Decision.

[8] 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),* 2018 CHRT 4 ("2018 CHRT 4"), the Tribunal found that it had now entered the long-term remedy phase.

[9] 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),* 2022 CHRT 8, the Tribunal, on consent of the parties, issued significant long-term orders regarding prevention services and funding, effectively aimed at reversing the mass removal of First Nations children from their homes, families, and communities.

[10] As part of their consent order requests, the parties advised the Tribunal that the outstanding requests for final orders would be presented in March 2023.

[11] 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),* 2023 CHRT 44, the Tribunal issued final orders approving one of the largest compensation settlement

agreements in Canadian history, as characterized by the parties, addressing harms committed by Canada against First Nations children and families.

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

[13] 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.

[14] 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.

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

[16] On February 10, 2025, after five weeks of negotiations, the COO, the NAN, and Canada reached a provisional Final Agreement on Long-Term Reform of the First Nations Child and Family Services Program in Ontario (the OFA) and a provisional Trilateral Agreement in Respect of Reforming the 1965 Agreement (the "Trilateral Agreement").

[17] 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.

[18] 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.

[19] On March 7, 2025, the COO and the NAN brought a joint motion for approval of the OFA and Trilateral Agreement (the "OFA joint motion"). According to the COO and the NAN, 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.

[20] The Tribunal received multiple notifications from First Nations and First Nations organizations indicating an intention:

1) to seek leave to file motions for interested party status in the OFA joint motion proceedings;

2) to seek interested party status both in the OFA joint motion proceedings and in the proceedings more generally; or

3) to seek participation in the proceedings more generally.

[21] In each instance, the notifying parties requested direction from the Tribunal on the manner and timing for filing such motions.

[22] 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.

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

[24] On April 15, 2025, the Tribunal received motions seeking interested party status in the OFA joint motion proceedings from:

- the Neqotkuk (Tobique) First Nation of the Wolastoqey Nation;
- Ugpi’ganjig (Eel River Bar) First Nation;
- Mi’gmaq Child and Family Services of New Brunswick Inc.;
- the Federation of Sovereign Indigenous Nations (the FSIN);
- the Assembly of Manitoba Chiefs (the AMC);

- the Council of Yukon First Nations (the CYFN);
- Our Children, Our Way Society (the OCOWS);
- the Confederacy of Treaty Six First Nations;
- the Treaty 7 First Nations Chiefs Association; and
- the Treaty 8 First Nations of Alberta.

[25] The Tribunal denied some motions in full and some in part 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)*, 2025 CHRT 86.

[26] Moreover, three other motions seeking interested party status in the OFA joint motion proceeding were also received and those three motions were dealt with separately (see *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)*, 2025 CHRT 85; and *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)*, 2025 CHRT 87).

[27] The Tribunal ruled 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)*, 2025 CHRT 80 (“2025 CHRT 80”) that it 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 para 98, decided to proceed with the OFA joint motion without delaying the national FNCFS long-term reform until the OFA joint motion had been determined. The Tribunal determined that the OFA will not apply to other regions, and it will not rely on the OFA to determine a national FNCFS long-term reform remedy.

[28] Furthermore, the Tribunal has consistently stated that long-term reform must reflect the specific and unique needs of diverse and distinct First Nations and must avoid a one-size-fits-all approach. Further, the Ontario region is distinct from other regions, as it operates under the 1965 Agreement, which is easily distinguishable from how the FNCFS Program operates in other regions. This is the principal reason why the Tribunal does not view the

OFA as a readily transferable model for long-term reform of the FNCFS Program outside Ontario, given that other regions do not operate under either the 1965 Agreement or the Trilateral Agreement.

[29] The Tribunal's approach was, in part, adopted to address concerns raised by multiple moving parties outside Ontario seeking participation in the OFA joint motion proceedings, including apprehensions that Canada might rely on the OFA to implement national reforms to the FNCFS Program.

[30] Subsequently, Canada sought judicial review of 2025 CHRT 80, and currently, the process is at its early stages at the Federal Court.

[31] The Tribunal sought additional submissions from the parties and the moving parties seeking participation in the proceedings more generally on recent Tribunal rulings, including 2025 CHRT 80 and a decision addressing the principle of proportionality (see *Liu (on behalf of IPCO)* v. *Public Safety Canada,* 2025 CHRT 90 [*Liu*]). The NCCC intervention motion at issue in this ruling was filed after this request for additional submissions so it was open to the NCCC and responding parties to address proportionality in their submissions.

[32] The Tribunal had received motions from the AMC, the OCOWS, the Southern Chiefs Organization Inc. (the SCO), a joint motion from the First Nations of Quebec and Labrador Health and Social Services Commission (the FNQLHSSC) and the Assembly of First Nations Quebec-Labrador (the AFNQL) (the "FNQLHSSC-AFNQL's joint motion"), and, more recently, in November 2025, the NCCC. To avoid any further delay in determining the motions above, this motion from the NCCC was dealt with separately.

[33] Furthermore, the Tribunal, as master of its own procedure, determined that it would address the FNQLHSSC-AFNQL's joint motion separately, given the additional legal questions it raises concerning linguistic issues (see 2026 CHRT 50).

However, in considering the NCCC motion, the Tribunal determined that it would not adjudicate the motion as initially filed. The Tribunal noted that the materials submitted were excessively voluminous and included extensive affidavit evidence. Counsel for the NCCC proposed a hearing involving cross-examination on the affidavits, raising fairness concerns.

The Tribunal found that this proposed process would be lengthy, time-consuming, and unnecessary.

[34] Accordingly, on February 23, 2026, exercising its discretion as master of its own procedure and signalling clearly that, as multiple new interested parties join the proceedings, the Tribunal's time and resources must be managed judiciously, the Tribunal directed the NCCC to refile its motion subject to a 15-page limit. The parties were allotted 15 pages for responding submissions, with a further ten pages permitted for the NCCC's reply. The Tribunal explicitly stated that it would not consider any materials previously filed by the NCCC or the parties. The NCCC promptly refiled its motion on March 3, 2026.

[35] On February 23, 2026, the Tribunal allowed the AMC, the SCO, and the OCOWS's motions in part, subject to certain conditions and limitations (see *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)*, 2026 CHRT 14 ("2026 CHRT 14")).

[36] Similarly, on March 23, 2026, the Tribunal allowed the FNQLHSSC-AFNQL's joint motion to intervene in part, subject to certain conditions and limitations with reasons to follow.

[37] The Tribunal issued a letter decision on March 23, 2026, granting the NCCC's motion in part, subject to certain conditions and limitations. These are the reasons for that ruling.

[38] Moreover, as part of these conditions and limitations, the OFA joint motion was not affected by the addition of any new interested parties participating in these Tribunal proceedings on long-term reforms of the FNCFS Program outside Ontario and Jordan's Principle.

[39] The OFA joint motion cross-examinations hearing took place on December 10–12, 2025, and December 15–16, 2025.

[40] Furthermore, the Tribunal heard final arguments on the OFA joint motion on February 26 and 27, 2026. The Tribunal issued a letter decision with reasons to follow on March 30, 2026.

[41] The Tribunal allows the NCCC motion in part subject to certain conditions and limitations set out below.

II. Summary of the moving parties' submissions

A. The NCCC's submission

[42] The NCCC submits that it emerged from this proceeding and seeks to bring it to a just conclusion for First Nations children and families. It submits that its participation would provide the Tribunal with a clear and complete understanding of the efforts undertaken to resolve the systemic discrimination at issue in this case.

[43] The NCCC states that, after the First Nations-in-Assembly rejected the National Agreement, they mandated a new negotiating strategy to be led by the NCCC rather than the AFN. Therefore, the NCCC submits that it has been mandated to negotiate with Canada to resolve this matter and has attempted to do so, although Canada has not agreed to meet. It further notes that it worked collaboratively with the First Nations Child and Family Caring Society of Canada (the "Caring Society") to draft the Loving Justice Plan.

[44] The NCCC argues that it should be granted interested party status as it meets the following three relevant criteria, when they are applied flexibly and proportionately:

(i) the proceeding will impact its interests;

(ii) it will add to the legal positions of the parties; and

(iii) its expertise will assist the Tribunal.

[45] With respect to its interests being directly affected, the NCCC argues that the honour of the Crown requires that the designated representative of the First Nations-in-Assembly be respected, including by the Tribunal. The NCCC submits that it has been directed by the First Nations-in-Assembly to provide direction and oversight in this proceeding. It further argues that it is essential to respect the First Nations-in-Assembly, as they will ultimately be required to approve any future agreement. The NCCC also requests an opportunity to

address the Tribunal directly in response to the Panel's request for evidence-based solutions reflecting the NCCC's position.

[46] In terms of providing expertise, the NCCC maintains that it can assist the Tribunal because it has the trust of the First Nations-in-Assembly. It highlights the extensive experience of its commissioners, technicians, and negotiators. It emphasizes that the Loving Justice Plan is a product of its expertise, including its extensive consultations. The NCCC's structure provides a means of bringing forward different First Nations' perspectives from across Canada in a manner that the recently admitted regionally based interested parties cannot.

[47] The NCCC contends that its participation will not cause delay. It states that it is prepared to engage immediately, to comply with all timelines, to refrain from introducing new issues that fall within its broader mandate but are not before the Tribunal, and to cooperate with the parties to avoid duplication.

[48] In reply, the NCCC addresses four points. First, it submits that the interpretation of the AFN Charter is not at issue, notwithstanding the references to it in the AFN and Canada's submissions. The NCCC argues that the Tribunal should avoid becoming involved in First Nations governance matters and should instead focus on the NCCC's mandate and the AFN's own interpretation of its Charter. It further submits that this dispute demonstrates that, unlike the AFN, the NCCC is prepared to adopt positions that may oppose member First Nations. The NCCC cautions the Tribunal against addressing such governance issues in the absence of evidence.

[49] Second, the NCCC rejects Canada's position that its mandate would broaden the proceedings. It submits that every participant's mandate necessarily extends beyond the specific issues before the Tribunal.

[50] Third, the NCCC objects to Canada's submission that Canada's refusal to negotiate with it should weigh against granting the motion. The NCCC argues that Canada should not benefit from its refusal to negotiate with the NCCC. It further disputes Canada's assertion that settlement privilege would automatically apply to all negotiations, while acknowledging

that privilege may attach to certain aspects of negotiations. The NCCC states that it only sought participation in the proceedings after Canada refused to negotiate.

[51] Finally, the NCCC argues that it is well positioned to present coherent regional representation despite the COO and the NAN's submissions to the contrary. The NCCC contends that it has represented the perspectives of First Nations outside Ontario cohesively since its inception, as demonstrated through its collaboration with the Caring Society and the AFN in developing the Loving Justice Plan. It further points to its terms of reference that require it to consider regional perspectives.

B. The Caring Society's submissions

[52] The Caring Society consents to the requests of the NCCC. The Caring Society agrees that the NCCC's interests are directly impacted in light of the First Nations-in-Assembly's resolutions. The Caring Society contends that the NCCC's participation in its own name will lead to more orderly proceedings as participating through the AFN is not viable given Canada's questions to the AFN about the NCCC's status.

[53] The Caring Society submits that the successful cooperation between itself, the AFN, and the NCCC in creating the Loving Justice Plan demonstrates that it will be able to continue to cooperate without duplication.

[54] The Caring Society argues that this Tribunal has previously stated that these proceedings must remain focused and cannot expand to encompass all First Nations in Canada. The Caring Society argues that the NCCC is not merely duplicative of the positions of existing parties because it is established pursuant to the First Nations-in-Assembly and is mandated to advance the collective perspectives of First Nations leadership. It is well situated to connecting proposed remedies to the lived governance, service delivery, and implementation realities of First Nations across Canada.

C. The AFN's submissions

[55] The AFN submits that the NCCC should be granted interested party status.

[56] The AFN is made up of principal organs that together are governed by its Charter. The principal organs include the First Nations-in-Assembly, the Executive Committee, the Secretariat, and various Councils. The Secretariat is also known as the National Indian Brotherhood, which is a federally registered not-for-profit organization. All organs of the AFN must abide by the AFN Charter in its current state. Any proposed changes to the Charter must be brought to the First Nations-in-Assembly to vote on under a Charter-specific resolutions process.

[57] The NCCC's mandate is derived from the First Nations-in-Assembly, a principal organ of the AFN. Although the NCCC acts independently from the AFN Executive Committee and the Secretariat, it must comply with the principles and rules set out in the AFN's Charter, including supporting the advancement of First Nations' self-determination.

[58] The AFN is of the view that the NCCC is well-positioned to support the Tribunal to make final orders by offering perspectives and recommendations based on its existing mandates during this final-remedy stage of these proceedings. However, the AFN must be clear that it cannot support any party to enter into litigation or otherwise that seeks to oppose any AFN member regions or First Nations who are charting their own self-determined pathway to the reform of the FNCFS Program.

[59] At this time, the AFN clarifies that, in alignment with its core mandate to uphold First Nations' right to self-determination, the AFN Executive Committee also passed a motion on December 19, 2025, stating its support for a region-by-region approach to long-term reform of the FNCFS Program, in tandem with its support for the Caring Society's filing of a national plan, in principle.

[60] While the AFN states that it continues to rely on its submissions in response to the original version of the NCCC's motion, the Tribunal's February 23, 2026, direction explicitly stated that it would not consider those earlier submissions.

D. The Canadian Human Rights Commission's submissions

[61] The Canadian Human Rights Commission (the "Commission") takes no position on the motion.

E. Amnesty International's submissions

[62] Amnesty International did not participate in the motion.

F. The COO and the NAN's submissions

[63] The COO and the NAN present joint submissions opposing the NCCC's participation on the basis that it does not meet the test for interested party status. Further, they highlight that they have a strong interest in the timely and orderly conclusion of the remedial proceedings, and that First Nations children, youth, families, and communities have waited too long for reform. They argue that, as the NCCC and the AFN both take their mandates from the First Nations-in-Assembly, there is no need to have two organisations representing the same interests. They submit that the NCCC neither has expertise in this proceeding, nor is it a service provider.

[64] The COO and the NAN argue that the NCCC's interests are aligned with the AFN and the Caring Society and that it therefore does not bring a unique perspective that will demonstrably add to the Tribunal's deliberations. The NCCC, like the AFN, is responsible and accountable to the First Nations-in-Assembly. The COO and the NAN rely on cases where courts have held that a proposed interested party should not be admitted where its interests are identical to those of an existing party. They contend that the NCCC only offers mere speculation that its position may diverge from the AFN where necessary. As the AFN and the NCCC have worked together in the past, there is no evidence that the interests of the First Nations-in-Assembly cannot continue to be represented through the AFN. This applies for both reform of the FNCFS Program and Jordan's Principle.

[65] Secondly, the COO and the NAN submit that the NCCC cannot assist the Tribunal because it has not demonstrated how its expertise or legal positions are distinct from those of the AFN or the Caring Society. They argue that the NCCC has not established how its claimed expertise in relation to a nationally representative structure capable of bringing forward diverse First Nations perspectives from across Canada is distinct from, or additive to, the expertise already available through the Caring Society or the AFN. The COO and the NAN note that the Tribunal has consistently relied on the AFN to provide the perspectives

of First Nations across Canada, given its mandate. They further submit that the AFN has more established expertise in coordinating national perspectives in this litigation, having played a longstanding role in these proceedings.

[66] Finally, the COO and the NAN advance the position that the addition of the NCCC will delay reform. They highlight that this request comes twenty years after the proceedings started and ten years into the remedial phase. Adding another party risks causing further complications, making it harder to find agreement, and risking reopening settled issues. There are already new interested parties that represent regional interests. There is significant value in parties whose interests are aligned consolidating their efforts. The NCCC's interests are already being recognized in this process, as noted in 2025 CHRT 80 and 2026 CHRT 14. The COO and the NAN contend that any benefits of the NCCC's participation as a litigant are outweighed by the costs of potential delay.

[67] The COO and the NAN's primary position is that the NCCC motion should be dismissed. However, in the alternative, they submit that the NCCC's participation rights as an interested party should be limited and along the lines of those granted to the recently admitted regionally representative interested parties.

G. Canada's submissions

[68] Canada opposes the NCCC's motion.

[69] Canada maintains that it is unnecessary to add a third body tasked with representing the First Nations-in-Assembly to this proceeding and that doing so will result in duplication, disorder, and delay. Proportionality considerations support dismissing this motion.

[70] Canada reviews the relationship between the AFN and the NCCC, noting that the NCCC's status is not entirely clear and that the AFN indicated that the NCCC's role is to support the complainants. Further, Canada submits that the AFN, the NCCC, and the Caring Society have all been directed to lead this litigation on behalf of the First Nations-in-Assembly. In addition, Canada argues that the NCCC has been directed to ensure that all future submissions to the Tribunal are supportive of its mandate, which includes a broader

reform of the FNCFS Program as it includes funding for families and children living off-reserve and in the Northwest Territories.

[71] In addressing the legal test for interested parties, Canada highlights that the Tribunal considers proportionality.

[72] Canada maintains that the NCCC is not directly impacted by this proceeding for three reasons. First, the NCCC is the third entity mandated to represent the First Nations-in-Assembly in this proceeding. While First Nations children and families are directly impacted by this proceeding, they are already represented through the AFN and the Caring Society who continue to have a mandate to represent the First Nations-in-Assembly. The NCCC itself is not directly impacted by the proceedings beyond the AFN and the Caring Society. As the NCCC's involvement is not necessary, its involvement is not proportionate.

[73] Second, Canada submits that the NCCC's perspectives are already represented by the Caring Society and the AFN. The Tribunal relies on the AFN to provide the broader perspectives and represent the views of individual First Nations. The proceedings were never designed to act as a forum for consultation. The Tribunal has previously noted that it cannot allow all First Nations or groups representing First Nations to participate as that would paralyze the proceedings. Allowing the NCCC to participate as another representative of the First Nations-in-Assembly would similarly hinder the process.

[74] Third, Canada contends that the AFN continues to play an active role as a co-complainant. The AFN has stated that it will continue to serve a central role in the case. The AFN and the Caring Society have incorporated the NCCC's views into their evidence and submissions, in particular as demonstrated with the Loving Justice Plan.

[75] Turning to whether the proposed intervenor will add to the legal position of the parties, Canada asserts that the NCCC will not. In taking this position, Canada again highlights how the NCCC is the third litigant to represent the First Nations-in-Assembly. As the First Nations-in-Assembly takes positions based on the collaborative decisions of its members, the NCCC, the AFN, or the Caring Society do not represent the distinct perspectives of individual First Nations. There is no evidence that they would take distinct positions. If they were to do so, the Tribunal would be faced with reconciling inconsistent positions advanced

on behalf of the First Nations-in-Assembly. This will add delay and increase the complexity of these proceedings such that the motion should be dismissed. Even if there were active negotiations between Canada and the NCCC, that would not justify the NCCC's participation as the negotiations would occur outside the Tribunal's process and be subject to settlement privilege until an agreement is reached and presented to the Tribunal for approval.

[76] In terms of the NCCC's expertise, Canada presents three reasons it will not assist the Tribunal. First, Canada suggests that the NCCC will raise new issues. Canada notes that the First Nations-in-Assembly's resolutions and the NCCC's terms of reference require the NCCC to pursue FNCFS Program funding for families and children living off-reserve. While the NCCC indicates that it does not seek to address that issue right now, it notes this as the only issue where its position is not reflected in the Loving Justice Plan submitted to the Tribunal. Canada contends that the NCCC has not been clear on how this portion of its mandate will affect its proposed participation in this proceeding. Relatedly, the NCCC has not explained how its position will differ from the AFN's, nor how its mandate can differ other than its ability to take a position against its own member First Nations.

[77] Second, Canada argues that broad participatory rights will impede the litigation. The NCCC seeks to participate as a full party. Granting such broad participation will disproportionately expand the time required in the case and prevent it from reaching an expeditious resolution. Even limited participatory rights will burden the Tribunal and the parties' resources. Canada highlights how, in *Liu*, the Tribunal declined to admit duplicative expert witnesses on a similar basis.

[78] Third, Canada submits that the lateness of the motion is prejudicial. It highlights that the Tribunal has denied motions to intervene where the timing would prejudice the parties, including because late intervenors lack context and background information to avoid creating confusion. Canada highlights that the NCCC was established in 2024 and its counsel attended case management conference calls (CMCCs) in 2025 but has not explained why it did not meet the Tribunal's deadlines for interested party motions. The delay and complication in adding a party at this late stage are particularly salient in light of the Tribunal's concern with the delay in the long-term reform and desire to complete the remedial stage.

[79] While Canada's primary position is that the NCCC's motion should be dismissed, it maintains that, in the alternative, its participation should be limited so that it does not become a co-complainant.

III. Applicable Law

[80] The *Canadian Human Rights Act*, R.S.C., 1985, c. H-6 (the CHRA) contemplates interested parties in sections 48.9(2)(b) and 50(1) and accordingly confirms the Tribunal's authority to grant a request to become an interested party.

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

[82] The procedure for adding interested parties is set out in Rules 3 and 8(1) of the Old Rules of Procedure.

[83] Consequently, the Tribunal has the jurisdiction to allow any interested party to intervene before it regarding a complaint. As the Tribunal stated: "The onus is on the applicant to demonstrate how its expertise will be of assistance in the determination of the issues" (see *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, whether:

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.

[84] However, while the criteria listed above and developed in *Walden et al.* v. *Attorney General of Canada (representing the Treasury Board of Canada and Human Resources and Skills Development Canada)*, 2011 CHRT 19 [*Walden*] are still helpful in similar contexts, 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 11

("2016 CHRT 11"), the Tribunal held that what is required is a holistic approach on a case-by-case basis.

[85] This approach was also applied in *Attaran* v. *Citizenship and Immigration Canada*, 2018 CHRT 6 [*Attaran*] and in *Letnes* v. *RCMP et al.,* 2021 CHRT 30 [*Letnes*] 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. 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).

[86] As noted, the Panel addressed the test for granting interested party status in 2016 CHRT 11 when it granted interested party status to the NAN. In that ruling, the Tribunal outlined the considerations on granting interested party status, at para 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* at paras 22–23).

[87] Subsequently, in 2020 CHRT 31 at para 28, 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.
>
> (2016 CHRT 11 at para 14).

[88] 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),* 2022 CHRT 26 ("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: "[A]bsent 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.

[89] Furthermore, in 2022 CHRT 26, the Tribunal determined that its approach to rulings on interested party status in these proceedings is the most relevant and authoritative to motions seeking interested party status, given that they arise from the same case and historical context. These findings remain unchallenged. In fact, the parties have agreed with the Tribunal on this point.

[90] In 2022 CHRT 26, 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.

[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.

[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.

> [41] Moreover, in this wide-ranging case, impacting First Nations communities in Canada, the Tribunal has to consider that every First Nation community 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.

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

[92] The foregoing sets out the factors that the Tribunal considers when determining motions seeking interested party status in these proceedings, particularly at this late stage, just over ten years after the Tribunal's Merit Decision.

IV. Analysis

A. Proportionality principle and the history, nature, and impact of these proceedings

[93] In *Liu*, the Tribunal emphasized that its work must be guided by proportionality, given its limited public resources and its mandate to provide expeditious, informal, fair, and efficient adjudication rather than conduct broad public inquiries. It cannot abdicate its responsibility to manage proceedings and must set reasonable limits to ensure matters remain focused and workable. Even in complex systemic discrimination cases, the Tribunal must impose reasonable limits on scope, time frame, and evidence to ensure fair and

efficient proceedings. While the CHRA offers an important avenue to address systemic discrimination, the Tribunal remains an administrative decision-maker expected to resolve matters promptly and accessibly, and parties share responsibility for advancing their cases in a balanced and proportionate manner.

[94] While the Tribunal's comments in *Liu* were not provided in the context of a motion seeking interested party status, this Tribunal agrees with the COO, the NAN, and Canada that the principle of proportionality may inform its analysis in determining motions seeking interested party status at this very late stage in the proceedings.

[95] The Tribunal generally agrees with the proportionality principles explained in *Liu*, bearing in mind that it conducts a case-by-case analysis and must work with the factual and procedural matrix in each given case.

[96] The Tribunal is faced with an exceptional procedural posture—the present motions for interested party status were filed nearly a decade after this Tribunal rendered the Merit Decision, and more than fourteen years after this complaint was remitted to it and scheduled to proceed on its merits. This case has long been a matter of significant public record. It has been the subject of two National Film Board documentaries, was raised during the Missing and Murdered Indigenous Women and Girls (MMIWG) National Inquiry and before the Public Inquiry Commission on relations between Indigenous Peoples and certain public services in Québec: listening, reconciliation, and progress (Viens Commission), and has been reflected in reports and recommendations issued by United Nations committees to Canada, as well as in numerous public forums over the past decade. In light of this extensive and sustained public exposure, First Nations organizations cannot credibly assert that they were unaware of these proceedings or that they lacked an earlier opportunity to seek interested party status.

[97] A brief reminder of the origins of the complaint and the history of the proceedings assists the reader in understanding the Tribunal's approach and how it aligns with access to justice and reconciliation and ensuring that human rights protections have full meaning. A finding of systemic racial discrimination is meaningless if it does not lead to the cessation

of that discrimination. This principle is widely recognized and has been extensively discussed in the Tribunal's numerous rulings.

[98] This single Tribunal case significantly advanced access to justice for tens of thousands of First Nations children and families. The parties' assistance and expertise informed the Tribunal's work and contributed to major outcomes, including substantial compensation for harms, a reduction in the mass removal of children from their communities, and a shift toward community-based prevention services, among many other important reforms.

[99] Reliance on section 57 of the CHRA alone to enforce the Tribunal's earlier decisions, absent the retention of jurisdiction to issue further orders, would have created a profound injustice for First Nations children across Canada, especially in light of the parties' acknowledgment, including Canada's, of the lack of data, studies, and resources required to inform long-term reform. Therefore, the Tribunal ordered those studies and retained jurisdiction with the goal of considering this evidence once available and making long-term reform orders for generations to come. This is an exceptional approach for an exceptional nation-wide case. Not only is this matter nation-wide, but it also involves 634 First Nations, more than 100 First Nations agencies, and spans ten provinces and Yukon, all of which operate under different legislation and systems.

[100] The Tribunal found that residential schools were transformed into child welfare institutions, continuing the mass removal of First Nations children at a rate three times higher than at the height of residential schools. This is what this case is about, and the Tribunal could not simply have issued orders and disengaged. This case presents an exceptional situation and must be distinguished. The fundamental rights of First Nations children must prevail over narrow legal interpretations that are ill-suited to the human rights tribunal context, particularly considering the important findings made in this case.

[101] First Nations children and families are entitled to a fundamentally reformed approach, grounded in the most informed, up-to-date, and best practices that are First Nations-led, designed, and recommended. This is particularly important given the profound positive impacts that long-term reform can have on future generations and in ensuring that children

can safely spend their childhoods within their families, communities, and Nations, provided such reform is implemented in accordance with the best recommended, culturally appropriate approaches for First Nations children, families, communities, and Nations. This is a core aspect of this case and of the Tribunal's findings and is intrinsically connected to reversing colonial practices that have contributed to the loss of connection to First Nations identity, culture, and community, as well as to other human rights harms, including impacts on the inherent right of First Nations to self-determination, as recognized by this Tribunal. The Tribunal is not attempting to resolve all social inequities through this case. Rather, it is adjudicating the complaint referred to it by the Commission, a complaint that is immense in scope. Now that the studies, national long-term reform plans, and regional agreements are progressing, the Tribunal seeks to finalize long-term reform in the near future.

[102] The complaint was filed with the Commission in 2007. The Commission chose not to investigate and instead referred the matter directly to the Tribunal.

[103] The complaint spans ten provinces and Yukon, effectively affecting 634 First Nations. It is a national complaint. While the Tribunal Panel agreed to add Dr. Cindy Blackstock's retaliation allegations to the complaint, it did not choose the scope of the complaint referred to it.

[104] The Tribunal subsequently rendered its 2015 decision on the issue of retaliation, substantiating some of those allegations.

[105] The systemic racial discrimination found is of critical importance because it relates to the **mass removal** of First Nations children from their families, extended families, communities, and Nations, an issue that previous Ministers have described as a national crisis. This has been ongoing for decades and through successive governments who were proven resistant to change. This forms part of the Tribunal's evidentiary record and findings.

[106] The Tribunal faced that resistance during these proceedings with over 90,000 relevant documents that were undisclosed by Canada and Canada's narrow interpretation of some of the Tribunal's orders.

[107] The best interests of children is a principle recognized by the Supreme Court of Canada and in international law. Given the importance of the issue, the magnitude of the task, and the diversity of the 634 First Nations and 11 regions, long-term reform orders needed to be informed by First Nations themselves, through their own institutions and rigorous studies, to guide reform and identify best long-term practices in the best interests of First Nations children.

[108] The Tribunal made findings in previous rulings concerning the MMIWG reports. The MMIWG reports found that First Nations children involved in the child welfare system face heightened risks of entering prostitution, human trafficking, mental health issues, incarceration, as well as homelessness and a wide range of other social problems. The Truth and Reconciliation Commission's first five Calls to Action focus on child welfare. The MMIWG interim and final reports called on Canada to fully implement this Tribunal's Merit Decision and its Jordan's Principle decisions (see *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)*, 2017 CHRT 14; and *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)*, 2017 CHRT 35). Further, the United Nations Economic and Social Council recommended that Canada fully comply with this Tribunal's Merit Decision: "The United Nations Economic and Social Council recommends that the State party (Canada) fully comply with the decision of the Canadian Human Rights Tribunal of January 2016" (see E/C.12/CAN/CO/6 at para 36).

[109] The United Nations' Committee on the Elimination of Racial Discrimination (the CERD) recommended the full implementation of all Tribunal rulings and orders in the First Nations children child welfare case (see Discrimination against Indigenous children, CERD/C/CAN/CO/21-23 at paras 27 and 28).

[110] Further, the self-determination of First Nations is a complex issue. This complexity is amplified here, given that the case involves the entire country rather than a single region or a limited number of First Nations.

[111] The Tribunal had the AFN representing the First Nations, the Caring Society representing First Nations agencies and First Nations children, and the Commission which had carriage of the file at the AFN's request since its funding had been cut by the government following the filing of the complaint. The COO participated not solely to represent the Ontario region but precisely because the Ontario region operates under the 1965 Agreement while other regions in Canada do not.

[112] Notably, no other region requested interested party status to advance its interests by joining the proceedings generally before 2016, and over the years, a few sought to participate for specific motions only.

[113] The Tribunal received an unprecedented number of motions for interested party status in 2025, following the rejection by the First Nations-in-Assembly of the National Agreement with Canada concerning this complaint.

[114] Canada indicated that it only wanted to move forward with negotiations with the Ontario First Nations organizations, which ultimately resulted in the OFA, and that the Tribunal's decision may inform reform on a national scale, which worried some First Nations organizations.

[115] Given that this lasted for months without any movement and that the parties had committed to submit a final long-term reform agreement to the Tribunal by March 2023, in and that we were now in 2025, the Tribunal requested submissions from the parties on the best way to achieve final long-term reform expeditiously in the best interests of First Nations children. Following receipt of those submissions, the Tribunal adopted an approach to move the proceedings forward toward finality for long-term reform and to avoid procedural burdens associated with allowing multiple interested parties in the proceedings.

[116] Furthermore, it was always understood by the parties and the Tribunal that the 634 rights-holder First Nations could not appear individually before the Tribunal without fundamentally transforming it into a commission of inquiry, an outcome that would be unproductive given that this is not the Tribunal's mandate and could paralyze the proceedings. In its rulings, the Tribunal found that resolutions from the First Nations-in-Assembly would assist it in understanding their expressed views on the issues before it. The

Tribunal also repeatedly emphasized the need for the parties to incorporate the specific needs of children, First Nations communities, and Nations in their final agreement and/or requested long-term reform orders. It is not reasonable to conclude that the Tribunal anticipated that all First Nations and First Nations organizations would need to join the proceedings in order for their perspectives to be considered. With this in mind, the Tribunal denied multiple motions seeking interested party status in the OFA joint motion and ordered the co-complainants to consult them to bring their distinct perspectives into their national long-term reform plan outside Ontario (2025 CHRT 80).

[117] Over the last decade, the Tribunal consistently emphasized the need to move away from a one-size-fits-all solution and to consider the specific needs of every First Nations child, community, and Nation. This necessarily required the parties to bring their diverse and distinct perspectives to the Tribunal.

[118] Following the release of 2025 CHRT 80, Canada immediately wrote to the Tribunal asking it to clarify why it was ordering the complainants to consult non-parties, with or without Canada, while opposing the addition of other First Nations organizations to these proceedings and despite having indicated that it no longer wished to negotiate with the complainants and was only willing to negotiate with Ontario First Nations organizations. Canada later disagreed with the Tribunal's approach in 2025 CHRT 80 and sought judicial review of that ruling. It was only on December 22, 2025, when Canada filed its national long-term reform plan as ordered by this Tribunal in 2025 CHRT 80, that Canada provided its long-term approach outside Ontario, indicating that it will be seeking regional agreements on long-term reform.

[119] Canada has indicated to the Tribunal that its relationship with the Caring Society had deteriorated, which has become evident in 2025. Moreover, since the rejection of the National Agreement by the First Nations-in-Assembly, as expressed in their 2025 resolutions, Canada and the AFN appear to have a different relationship.

[120] The dialogic approach between the parties in this case is no longer yielding the positive results it once produced. For example, the parties were unable to resolve issues relating to interim Jordan's Principle consultation orders through Tribunal-assisted

mediation. The proceedings have become inherently adversarial, with little collaboration, creating delays as parties adopt more contentious positions and procedural issues multiply.

[121] While the Tribunal agrees that it must be guided by fairness and natural justice, creative means can be used to avoid unnecessary delays. The Tribunal had no difficulty determining this shorter motion and was able to rule expeditiously, which impacted the proceedings as the timetable for long-term reform was recently determined. All parties must govern themselves with First Nations children and families in mind. The majority of parties have large teams and have the capacity to bring all sorts of issues before the Tribunal. The Tribunal will remain focused on completion of long-term reforms and interim aspects of Jordan's Principle.

[122] The context described above impacts these proceedings and the final resolution of such a large and complex complaint.

[123] Canada reiterated, in its recent submissions on proportionality and 2025 CHRT 80, that the Tribunal should rely on the AFN and the Caring Society who can incorporate the moving parties' specific views through affidavits or submissions without their intervention. Canada also submits that in 2025 CHRT 80, the Tribunal has already recognized that the complainants can consult and incorporate relevant local and regional perspectives in national long-term reform.

[124] Canada now desires to proceed with long-term reform consultations region by region to hopefully come to some regional agreements, and proposes to do so by April 2027. Canada has also proposed a hearing schedule ending in January 2027. The co-complainants, who have filed a national long-term reform plan including regional perspectives, desire to complete long-term reform as soon as possible and have proposed a schedule ending with a hearing in November 2026. The NCCC requests that the multiplicity of diverse perspectives within it be considered and disagree with having the co-complainants bring them forward.

[125] As noted above, and consistent with its prior rulings, the Tribunal considers additional factors beyond the *Walden* approach. The factors that follow arise from the Tribunal's analysis in 2022 CHRT 26:

> 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**[...]
>
> (emphasis added).

[126] Long-term reform negotiations regarding Jordan's Principle have been bifurcated from the long-term reform of the FNCFS Program by the parties. The Tribunal issued interim orders, and the parties participated in 16 mediation sessions with an experienced Tribunal member. However, the issues remained unresolved. The Tribunal Chair ultimately ended the mediation, as it was not yielding any progress. This remains an outstanding matter. The relationship dynamics must undergo transformation. As Ontario-based interested parties, the COO and the NAN are confined to their regional context and to their roles as interested parties before the Tribunal. They cannot advance national long-term reform agreements or final long-term order requests, nor pursue regional agreements or long-term orders outside Ontario. This leaves the co-complainants and Canada to assist the Tribunal in determining the long-term reforms within the unfortunate context discussed above.

[127] This was not what the Tribunal had anticipated. However, insisting on maintaining the same original approach at the risk of further delay will not assist the parties or the Tribunal.

[128] In this case, which involves a large, systemic national complaint affecting 634 First Nations and spanning multiple territorial and regional agreements across Canada, the portion of the test that analyzes the impacts on the moving party's interests cannot, on its own, determine a motion for interested party status, even where it is shown that the proceedings may affect the moving parties' interests. Concluding otherwise could invite participation from all 634 First Nations and hundreds of First Nations child and family services agencies that may be affected by this case, potentially bringing the Tribunal's determination to a standstill. Such a result would hinder, rather than assist, the Tribunal in

carrying out its mandate. The Tribunal is now in the final stages of these proceedings and must be able to resolve the matter in the near future, in the best interests of First Nations children and families.

[129] In 2016 CHRT 11, the Tribunal, in granting interested party status to the NAN, stated that it was rare to grant interested party status at the remedial stage. It is now 2026, a decade later. This context is unprecedented. Accordingly, a mechanical application of general principles and tests for interested party status would not result in an appropriate outcome.

[130] The Tribunal, as master of its own procedure, has the discretion to establish mechanisms to manage its process, including appropriate limitations to ensure the orderly progression of the proceedings.

[131] The Tribunal was fully aware that the AFN's structure, which includes regional Chiefs from every region and rights-holder Chiefs entitled to vote at First Nations-in-Assembly meetings, enabled it to obtain regional perspectives to inform long-term reform.

[132] Moreover, long-term reform needs to allow individual First Nations, as rights holders, to have a voice and to have their self-governance and self-determination respected. However, the process in these proceedings is not designed for First Nations to appear before the Tribunal one by one to present their views. This is not due to a lack of interest or respect for their positions, but because there is no viable way for all 634 First Nations to be included individually or in small groups in these proceedings.

[133] As early as 2016, and even more clearly in 2018, the Tribunal emphasized that long-term reform must be informed by First Nations and should not adopt a one-size-fits-all approach.

[134] In 2018 CHRT 4, the Tribunal foresaw that First Nations rights holders could negotiate a self-government agreement or a Nation-to-Nation agreement with Canada and included this in its findings and orders. The Tribunal is in a very difficult position now that the parties are having difficulty working together. While the AFN, as co-complainant and the organization recognised by the Tribunal as representing First Nations by way of the First Nations-in-Assembly, took no position on the regional parties' intervention motions and

supports the NCCC's motion, the Caring Society has welcomed them all. While the NCCC was formed more recently and with an explicit mandate to be involved in FNCFS, it did not immediately seek to be involved in these proceedings and did not bring its motion within the timelines set by the Panel. This inevitably prompts the question of what promoted this intervention at this time.

[135] What developments took place beyond the breakdown in relationships? Canada recently signaled a preference to engage with regional organizations rather than the complainants. This appears to have followed the rejection, by a majority of First Nations-in-Assembly, of the National Agreement. At the request of the COO and the NAN, Canada subsequently focused its negotiations with Ontario First Nations, where the OFA received majority support from the Chiefs-in-Assembly for the COO and the NAN.

[136] The NCCC takes the position that it sought to intervene in light of Canada's refusal to negotiate with the AFN on a national basis.

[137] During those years, the Tribunal expected an outside process of broad consultation with First Nations rights holders, regional organizations, and national organizations to avoid a top-down, one-size-fits-all approach to reform. Everyone involved in these proceedings, including this Tribunal Panel, agrees that First Nations ought to be able to decide for themselves and are best placed to decide how to care for their children. Truly empowering this will embody reconciliation. The Tribunal always envisioned long-term reform as respecting these principles and as involving consultations outside of it. The Tribunal also never envisioned that long-term reform would be determined by a small group of leaders and subsequently presented to others for acceptance as final. This is the type of top-down approach that the Tribunal has not favoured. This is not to say that it has occurred in this case. However, the dramatic change in dynamics is raising questions.

[138] In 2025 CHRT 80, the Tribunal opted for an expeditious way to move forward and receive multiple perspectives. Consistent with 2025 CHRT 6 at paragraph [24], the Tribunal ordered the complainants to consult multiple experts, organizations, and First Nations even if they were not part of these proceedings. This is an efficient way to obtain a multitude of

viewpoints to improve services in the best interest of children without slowing down the proceedings.

[139] This provides some context and some reasons why the Tribunal originally did not want to include more actors at this late stage. Another major reason is the need to protect these proceedings from an overflow of requests that would paralyze the process and not help the children. The Tribunal agrees with Canada, the COO, and the NAN that there is a real risk of opening the floodgates that it must consider and evaluate every time a motion seeking interested party status is brought to it. The Tribunal must also be able to close the door when its proceedings are at risk and will do so if necessary. There is a limit to the moving parties' argument that effective case management and limitations will prevent any negative impact on the proceedings.

[140] Adding the NCCC as an interested party in a limited manner will transform the relationship dynamics and assist the Tribunal in determining the matters toward finality, while ensuring that the proceedings are not paralyzed or that the parties are unduly burdened. The orders are carefully crafted to reflect this.

[141] The specific context and reasons set out above inform the Tribunal's analysis and guide its determination of the motion.

[142] The Tribunal emphasizes that the complaint was filed by the Caring Society and the AFN at the request of the First Nations-in-Assembly. Without their involvement, we would not be where we are today. Many thousands of children's lives have been transformed, and over ten million services and products have been approved under Jordan's Principle. The parties have worked tirelessly to stop the mass removal of First Nations children from their communities and Nations, and to ensure that the lives of First Nations children are free from racial and systemic discrimination. This is transformative justice. In accepting new organizations, the Tribunal is in no way diminishing, discounting, or ceasing to rely on their expertise and assistance.

[143] The Tribunal also recognizes the other parties' invaluable expertise and significant efforts to bring transformative change to First Nations communities in Ontario and across Canada. In recently approving the OFA, the Tribunal recognized the leadership role of

Ontario First Nations in advancing peace and reconciliation. Similarly, the Tribunal will continue to rely on their expertise and assistance.

[144] More work remains to be done, and these proceedings must move forward toward finality in the foreseeable future.

B. The prospective interested party's expertise will be of assistance to the Tribunal in determining long-term reforms

[145] The Tribunal finds that the NCCC will assist it in determining long-term reforms. As previously stated in other rulings, this criterion is paramount in the decision to grant interested party status in these complex proceedings. This is especially true at such a late stage.

[146] The orders set out below achieve this objective while permitting the proceedings to advance without undue delay.

[147] This Tribunal's August 20, 2025, decision in 2025 CHRT 80 recognized the NCCC's role. The Tribunal ordered that:

(i) by August 29, 2025: "Canada shall inform the Tribunal … whether it agrees to meet with the [NCCC]" (para 119); and

(ii) by December 22, 2025: "the Caring Society and the AFN shall consult … with the [NCCC and others] … to develop an evidence-based, comprehensive … long-term reform plan and requested remedies" (para 120).

[148] The Tribunal reaffirmed the NCCC's role in its orders in 2025 CHRT 80, finding that the NCCC "can aptly consult and gather relevant … perspectives … and incorporate them in their National long-term reform plan" (para 110), which became the Loving Justice Plan filed on December 22, 2025.

[149] The NCCC led regional engagements and worked closely with the Caring Society to prepare the Loving Justice Plan. Now that "the Tribunal will hear the … evidence-based

solutions representing the NCCC … viewpoints" (para 107), the NCCC asks to speak for itself.

[150] The Tribunal finds the NCCC's expertise to be undeniable and that it will be of great assistance to it. The NCCC is composed of commissioners who are also First Nations Chiefs from nearly every region in Canada. These commissioners, who already possess expertise in their roles as Chiefs and leaders, also bring extensive additional expertise that could greatly assist the Tribunal in determining long-term reforms and consolidated evidence of regional positions across Canada.

[151] The NCCC also includes numerous expert technicians and negotiators. It notes that its technicians worked to edit, re-draft, and contribute new material based on their own expertise and on the input gathered through the regional engagements. These contributions are valuable. The Loving Justice Plan is a product of this expertise.

[152] The NCCC's Chiefs and a summary of their expertise is reproduced below:

> **Chief P. Frost (YT) (Chair)**
>
> Vuntut Gwitchin Chief. Former YT Minister of Health, Social Services, and Environment. Negotiated Strategic Alliance Agreement on health delivery and Indigenous Child Welfare. 30+ years of experience in strategic planning and financial oversight for complex organizations.
>
> **Chief D. Monias (MB)**
>
> Pimicikamak Okimawin Cree Nation Chief. Master's degree with professional training in leadership and management. Served in senior management roles within FNCFS throughout his career.
>
> **Chief A. Levasseur (MB) (Alternate)**
>
> Nisichawayasihk Cree Nation Chief elected 2022. JD; BA; Bachelor of Education; Post-Baccalaureate Diploma in Education. 20+ years in education field. Project coordinator in Missing and Murdered Indigenous Women and Girls Liaison Unit of Manitoba Keewatinowi Okimakanak.
>
> **Chief E. Beaudin (SK**)
>
> Cowessess First Nation Chief, first to enact rights-based child and family well-being law. Expertise in urban service delivery and structural drivers.

Chief C. Okemow (SK) (Alternate)

Lucky Man Cree Nation Chief. Served Nation in Health Administration and water monitoring capacities for 20+ years. 3+ years on board of Lucky Man Cree Nation Child and Family and Health Centers.

Chief K. Jacko (AB)

Cold Lake First Nations Chief and Sixties Scoop survivor. Heightened awareness of logistical barriers facing remote communities and accounting for children in care during disasters.

Chief D. G. Bull (AB) (Alternate)

Louis Bull Tribe Chief, one of initial First Nations to conclude a child and family services coordination agreement under An Act respecting First Nations, Inuit and Métis children, youth and families (the “FNIMCYF Act”).

Chief R. Knockwood (NB)

Amlamgog First Nation Chief and Co-Chair of Mi’kmaq Child and Family Services of New Brunswick. Serves on Advisory Board for Violence Against Aboriginal Women.

Chief R. Perley (NB) (Alternate)

Neqotkuk First Nation Chief. Initial First Nation in Atlantic Canada to finalize a child and family well-being law and to provide coordination agreement notice to Canada under the FNIMCYF Act.

Kukpi7 H. Henderson (BC)

Tsq’éscen’ First Nation Chief and fluent in Secwepemctsin. Led development of T'k̓wenm7íple7tens re Kíkwe (child well-being law).

D. Foxcroft (BC) (Alternate) (CoChair)

Tseshaht First Nation member. Order of BC recipient. 30+ years of First Nations health and family wellness advocacy. Past leadership roles at Nuu-chah-nulth Tribal Council, Usma Nuu-chah-nulth Child and Family Services, Caring for First Nations Children Society, BC Aboriginal Child Care Society, and National Indian Child Welfare Association Board. Former ADM, Ministry of Children & Family Development.

Chief V. Chief (QC)

Timiskaming First Nation Chief. Expert advocate for self-determination and sustainable, needs-based fiscal agreements for First Nations.

Chief L. Denny (NS)

Eskasoni First Nation Chief and child/family portfolio-holder for Assembly of Mi'kmaq Chiefs in NS. Expertise in sectoral self government and Mi'kmaw education.

S. Kakfwi (NT)

Former Premier of NT and President of Dene Nation. Residential school survivor. 16 years of cabinet-level governance experience.

[153] The Tribunal finds that the NCCC's direct participation is an efficient way for it to receive consolidated evidence of regional positions across Canada.

[154] Furthermore, this Tribunal recognized the NCCC's capacity to collect a diversity of views on long-term reform. This Tribunal already acknowledged the NCCC's synthesizing role, it can consult First Nations, and the parties can bring their perspectives to the Tribunal.

[155] In a recent letter decision, in which the Tribunal granted the OFA joint motion, the Tribunal emphasized the importance of respecting the human rights and inherent right of self-determination of First Nations and their decisions, including those expressed through their own institutions and resolutions.

[156] Consistent with the above, the Tribunal also respects the decisions of the First Nations-in-Assembly as expressed through their resolutions.

[157] As set out in Res. No. 60/2024, the NCCC is composed of a commissioner "appointed by every region (including regions not represented by the AFN) that will work openly and transparently to provide strategic direction and oversight of the … negotiations, reporting back to the First Nations-in-Assembly."

[158] The NCCC's accountability is further reinforced by the requirement that the negotiation team's terms of reference (the TORs) and anticipated negotiation timelines be approved by the First Nations-in-Assembly.

[159] The NCCC's TORs specify that it "provides oversight and strategic direction" related to these proceedings.

[160] Res. No. 60/2024 requires the NCCC to:

(i) develop an "amendment process for the First Nations-in-Assembly to … make changes to the [draft agreements] before being put to a vote";

(ii) "provide a detailed report to the First Nations-in-Assembly on all suggested amendments, the decisions made on each amendment, and the outcomes of negotiations, before the First Nations-in-Assembly proceed with any decision-making"; and

(iii) (iii) "take positive and effective measures throughout the … negotiations, review, and approval processes … to seek out and incorporate the expertise of" First Nations, Youth, and Elders.

[161] On December 5, 2024, through Res. No. 89/2024, the First Nations-in-Assembly approved the draft TOR in principle and directed the NCCC to "immediately commence its work."

[162] The NCCC began meeting in December 2024. Its inaugural in-person meeting was held in January 2025 on unceded Squamish territory. Vuntut Gwitchin Chief Pauline Frost was selected as Chair by consensus. The AFN and the Caring Society participate, and the NCCC and the AFN also meet regularly to coordinate their approach to negotiations with Canada.

[163] The NCCC worked to restart negotiations with Canada following Canada's January 6, 2025, letter confirming that it "is not currently in a position to engage in any negotiations beyond" Ontario. To ensure alignment between the NCCC and the AFN in engaging with Canada, AFN Regional Chiefs wrote to AFN National Chief Woodhouse on January 15, 2025, explaining:

> The resolutions passed by the [First Nations-in-Assembly] … mandate collaboration with the regions to establish the [NCCC] and a new negotiations team. … It is critical that the AFN leadership respects this mandate and works alongside the NCCC to secure a meaningful pathway forward for [LTR] of FNCFS.

[164] On March 4, 2025, AFN National Chief Woodhouse wrote to Minister Hajdu:

> "[T]he First Nations-in-Assembly … direct[ed] a new process for pursuing reform … [T]he AFN supports the [NCCC] in its work … in relation to negotiating Final Agreements on [LTR] … We therefore also call on Canada to … take the necessary measures to facilitate the NCCC's critical role in [LTR] …"

[165] The NCCC led regional engagements and worked collaboratively with the Caring Society to draft the Loving Justice Plan. On December 22, 2025, Chair Frost wrote to the Caring Society to endorse the Loving Justice Plan and summarized the NCCC's role in its preparation:

> [W]e launched the regional engagements on October 1 and concluded them on November 14. … [T]he Commission's technical team supported in-person and virtual engagement sessions with First Nations leaders and Rights Holders and with FNCFS experts in Prince Edward Island, New Brunswick, Quebec, Manitoba, Saskatchewan, Alberta, British Columbia [("BC")], the Yukon, and the Northwest Territories. We also welcomed … a total of 105 submissions, 64 of which were group submissions representing input from up to 90 leaders, Rights Holders and experts. … [Y]ou shared drafts of the Plan with the Commission's technical team.
>
> Our team worked closely with you … to edit, re-draft, and contribute new material based on their own expertise and on the input gathered through the regional engagements.

[166] Canada opposed negotiating with the NCCC and objected to this Tribunal ordering consultation with it outside these proceedings, despite similar consultation processes having occurred for years within these proceedings. The Tribunal respected Canada's position as expressed in its submissions and did not order it to consult with the NCCC, instead directing only the complainants to do so. Nevertheless, Canada filed an application for judicial review of that ruling.

[167] In its submissions opposing the NCCC's motion, Canada now relies on the same 2025 CHRT 80 ruling to argue that it is sufficient for it to be consulted through the complainants. This position is untenable. The Tribunal needs to hear the NCCC's voice, a voice that the First Nations-in-Assembly clearly directed should be heard and should lead long-term reforms.

[168] Moreover, the NCCC's expertise, authority, and representative role have been clearly advanced and established in both its own submissions and those of the AFN and the Caring Society.

[169] The Tribunal finds the NCCC's composition, expertise, and mandate to be a considerable asset in assisting it in determining long-term reforms.

C. The long-term reforms proceedings will have an impact on the moving party's interests

[170] As already mentioned in previous rulings, this aspect of the test cannot, in these particular proceedings, be determinative on its own. Arguably, every one of the 634 First Nations is impacted by these proceedings. The Tribunal cannot hear directly from every individual First Nation or every First Nations organization without halting these proceedings and transforming them into a Royal commission or a commission of inquiry, which is not the Tribunal's mandate under the CHRA.

[171] However, the Tribunal finds that these proceedings will have an impact on the NCCC's interests and the interests of those it represents.

[172] The First Nations-in-Assembly decided to mandate the NCCC to:

(i) "provide strategic direction and oversight of the long-term reform agreements negotiations, reporting back to the First Nations-in-Assembly": and

(ii) establish a negotiation team responsible for carrying out the negotiations for the long-term reform agreements under the direction of, and reporting to, the NCCC.

[173] The Tribunal is currently advancing long-term reform in these proceedings, and the NCCC's mandate focuses on long-term reforms, which are the same matters being adjudicated by this Tribunal.

[174] This Tribunal has always made clear that First Nations children, families, and Nations are central to this case. The NCCC is mandated to represent them and report back to the AFN through the First Nations-in-Assembly. The NCCC's role in reporting to the First

Nations-in-Assembly reinforces the notion that its interests, and those of the First Nations it represents, may be impacted by these proceedings.

D. The moving party's involvement will add to the legal positions of the parties

[175] The Tribunal finds that the NCCC will add to the legal positions of the parties. This is clear from its mandate and as expressed in the AFN's resolutions.

[176] The AFN, the Caring Society, and this Tribunal have all acknowledged the NCCC's unique role in negotiations aimed at implementing this Tribunal's decade-old orders. Res. Nos. 60/2024, 61/2024, and 89/2024 confirm that the NCCC does not have a mandate to replace the co-complainants. Rather, its role is distinct, as are the perspectives it would bring before this Tribunal. Neither the AFN nor the Caring Society possess an identical mandate conferred by the First Nations-in-Assembly.

[177] The AFN has supported the First Nations-in-Assembly resolutions establishing the NCCC. AFN Regional Chiefs wrote to the National Chief advising that "[i]t is critical that the AFN leadership … works alongside the NCCC to secure a meaningful pathway forward for (long term reform) of FNCFS." AFN National Chief Woodhouse further stated that she "entirely agree[s] … the NCCC should be a leader" in negotiations. Mr. Bisson's January 29, 2025, letter to Indigenous Services Canada confirmed that the First Nations-in-Assembly "established [the NCCC] … to provide strategic direction and oversight of … negotiations." AFN National Chief Woodhouse's March 4, 2025, letter to Minister Hajdu similarly confirmed that "the AFN supports the [NCCC] in its work … negotiating … on long term reform."

[178] This Tribunal has likewise acknowledged that "[t]he First Nations-in-Assembly resolutions set out clear direction for FNCFS reform, guided by the NCCC." The Tribunal also held that, if Canada refused to negotiate, "the Tribunal will hear the co-complainants' evidence-based solutions representing the NCCC and multiple First Nations' viewpoints" (see 2025 CHRT 80 at para 107). This recognition is also reflected in the positions advanced by the AFN and the Caring Society before this Tribunal. For example, on December 9, 2024,

the AFN wrote to the Tribunal advising that the First Nations-in-Assembly had "call[ed] for the creation of an entirely new entity, with a new negotiation and new legal team."

[179] The AFN is prohibited by its Charter from taking positions adverse to its member First Nations or regions. Therefore, the AFN's neutrality meant that some perspectives of First Nations outside Ontario were not fully represented before the Tribunal at certain stages of the proceedings.

[180] In contrast, the NCCC is not subject to the same limitations, and is therefore uniquely positioned to advance distinct positions that the AFN cannot. The NCCC can, and where necessary, will advance positions that differ from those of the AFN to further long-term reform of FNCFS and Jordan's Principle. This does not mean that the NCCC and AFN will take internally inconsistent or conflicting positions. Rather, it reflects the unique role bestowed upon the NCCC by the First Nations-in-Assembly to address concerns regarding the AFN's limitations in responding to matters arising in these proceedings. It also reflects the reality that the First Nations-in-Assembly encompasses a diversity of perspectives. As this Tribunal has recognized, "the Indigenous community in Canada is not a monolith and … its diversity produces a complex and nuanced body of experience, knowledge, and expertise" (see 2022 CHRT 26 at para 55).

[181] Finally on this point, the multiplicity of diverse perspectives within the NCCC, and among those with whom it consults, will add to the legal positions of the parties.

V. Order

[182] FOR THESE REASONS, THE CANADIAN HUMAN RIGHTS TRIBUNAL:

Grants the NCCC's motion in part;

[183] The NCCC (new interested party) is granted limited interested party status with the following conditions:

a) The new interested party shall not participate in or bring interim motions. The new interested parties shall not bring any motions, whether procedural or substantive, before the Tribunal.

b) The new interested party shall abide by all Tribunal directions.
c) The new interested party may participate in the national long-term reform plan hearing process and the long-term reform of Jordan's Principle but shall not participate in interim motions.
d) The new interested party shall not be permitted to participate in mediation, other dispute resolution, or administrative processes unless specifically directed by the Tribunal. The new interested party may participate in case management conferences at the invitation of the Tribunal.
e) The new interested party shall accept the proceedings and the official record as it finds them and shall not seek to reopen matters, add or raise new issues, expand the scope of the complaint, revisit the evidence, or challenge previous orders or decisions. It shall assist the Tribunal, through its expertise, in determining the future final long-term reform of the FNCFS Program and Jordan's Principle.
f) The new interested party shall not duplicate the submissions of other parties and may adopt the submissions of parties with whom it is aligned.
g) The Caring Society, the AFN, and the NCCC shall coordinate their submissions to avoid duplication.
h) The new interested party shall provide submissions limited to its expertise in child and family services for on-reserve First Nations children, and in Yukon and on Jordan's Principle.
i) The new interested party shall not seek adjournments, postponements, or other modifications to Tribunal deadlines and shall comply with all Tribunal timelines. Missed deadlines will be considered a renunciation of participation in the motion, round of submissions, or other procedural or substantive matter for which it is late.
j) The new interested party shall make itself available in accordance with the Tribunal's schedule.
k) The new interested party shall seek permission from the Tribunal before filing affidavits or exhibits and shall comply with any page limits imposed where such filings are permitted. Should the Tribunal permit the new party to present evidence related to potential future long-term orders, that evidence shall assist the Tribunal, avoid duplicating that of the other parties or generating unnecessary procedural issues, and be relevant, useful, and focused.
l) The new interested party shall not cross-examine witnesses unless otherwise permitted by the Tribunal.
m) The Tribunal reserves the right to determine the time allocated to the new interested party for oral submissions. The Tribunal will establish time limits, and the new interested party shall comply with those limits.

n) All parties shall be provided with a meaningful opportunity to respond to any written and oral submissions from the new interested party, where such submissions are permitted by the Tribunal.
o) The new interested party shall familiarize itself with the procedures of administrative tribunals and govern itself accordingly. The Tribunal reserves the right to add to or modify the above conditions, depending on the evolution of the case and as required by the circumstances, particularly if the proceedings risk being slowed or halted.
p) The Tribunal will not delay motions, hearings, or established schedules to accommodate new groups seeking to join these proceedings at this late stage, except in extraordinary circumstances or where a long-term reform agreement is reached with Canada and Canada seeks the Tribunal's approval of that agreement. This is not an invitation to bring forward regional long-term agreements one at a time, year after year, as occurred with the OFA. Rather, it reflects Canada's proposed approach as set out in its national long-term reform plan. The Tribunal is not deciding the merits of Canada's national long-term reform plan here. This is for procedural planning purposes only.

[184] The Tribunal remains focused on final long-term reform orders relating to the FNCFS Program and Jordan's Principle and, aside from Jordan's Principle interim orders, will not prioritize adjudicating other matters before addressing these important long-term issues. At any given time, the Tribunal may pause or limit the number of interventions and/or matters before it to ensure that the proceedings are not halted and continue to move forward effectively toward a final resolution.

A. Conclusion

[185] The Tribunal reminds the parties and their counsel that this is an administrative human rights tribunal, not a court, and that its mandate is to adjudicate matters involving fundamental rights. The Tribunal is concerned by the recent and unnecessary level of contention over minor matters. All participants are encouraged to reflect on how their conduct may contribute to delays and on the impact such delays may have on the children. The Tribunal is undertaking the same reflection. Moving forward, parties and interested parties should prioritize finality by advancing final order requests and/or reaching agreements as promptly as possible, without allowing the process to extend unnecessarily

over multiple years. The Tribunal, upon consultation of the parties, has now established an appropriate timeframe for long-term reform of the FNCFS Program.

VI. Retention of jurisdiction

[186] The Panel retains jurisdiction over all of its prior orders, with the exception of its compensation orders and the FNCFS Program in Ontario. The Panel will revisit the issue of retained jurisdiction once the national long-term reform plan proceedings have concluded, or as it considers appropriate in light of the future evolution of this matter.

Signed by

Sophie Marchildon
Panel Chair

Edward P. Lustig
Tribunal Member

Ottawa, Ontario
June 4, 2026

Canadian Human Rights Tribunal

Parties of Record

Tribunal File: T1340/7008

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

Ruling of the Tribunal Dated: February 23, 2026

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

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

Carly Fox and Jasen Erbeznik, counsel for Assembly of Manitoba Chiefs

Harold Cochrane and Alyssa Cloutier, counsel for Southern Chiefs' Organization Inc.

Alexandra Heine and Dan Goudge, counsel for Our Children Our Way