

# Assembly of First Nations

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# Assemblée des Premières Nations

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**ANNUAL GENERAL ASSEMBLY**  
**July 14-15-16, 2026, Ottawa, ON**

**Resolution no. 26/2026**

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**TITLE:** Long-Term Reform of the First Nations Child and Family Services Program:  
Inclusion of First Nations Members Living Off-Reserve

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**SUBJECT:** Child and Family Services Long-Term Reform; Inherent Rights and Jurisdiction

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**MOVED BY:** Chief Jenny Brake, Qalipu Mi'kmaq First Nation, NL

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**SECONDED BY:** Chief Betsy Kennedy, War Lake First Nation, MB

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**DECISION** Carried by consensus.

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## WHEREAS:

A. The *United Nations Declaration on the Rights of Indigenous Peoples* ("UN Declaration") states:

- i. Article 3: Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development;
- ii. Article 4: Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions;
- iii. Article 18: Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions;
- iv. Article 19: States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them; and
- v. Article 23: Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be

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**CINDY WOODHOUSE NEPINAK, NATIONAL CHIEF**

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actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.

- B. First Nations possess an inherent right of self-government and inherent jurisdiction over child and family services as an aspect of self-determination, exercised in relation to their children, youth, families and citizens regardless of residence on or off reserve, as affirmed by section 35 of the *Constitution Act, 1982*, and as recognized and affirmed by *An Act respecting First Nations, Inuit and Métis children, youth and families*, SC 2019, c 24 (the “Act”).
- C. Recognizing the sacredness of First Nations children, youth and families and Jordan’s Principle, a child-first legal principle ensuring substantively equal and culturally appropriate access to products, services and supports for First Nations children, and that the government entity of first contact pays for the support without delay.
- D. The First Nations Child and Family Caring Society (Caring Society) and the Assembly of First Nations (AFN) filed a *Canadian Human Rights Act* complaint in 2007 alleging that Canada’s inequitable provision of First Nations Child and Family Services (FNCFS) and its choice not to implement Jordan’s Principle were discriminatory, resulting in serious and irremediable harms.
- E. The Canadian Human Rights Tribunal (CHRT) substantiated the discrimination claim in 2016 CHRT 2 and ordered Canada to cease its discriminatory conduct; that finding addressed the federal FNCFS Program as it applies to First Nations children and families ordinarily resident on reserve and in the Yukon.
- F. In 2017 CHRT 14, the Tribunal confirmed that Jordan’s Principle is a child-first principle that applies equally to all First Nations children, whether resident on or off reserve, and is not limited to children with disabilities.
- G. On July 11, 2024, the AFN, the Chiefs of Ontario (COO), Nishnawbe Aski Nation (NAN) and Canada reached a tentative \$47.8 billion draft Final Settlement Agreement on the long-term reform of the FNCFS Program, which the First Nations-in-Assembly rejected on October 18, 2024 in Resolutions 60/2024 and 61/2024, directing a new, First Nations-led negotiation process and establishing the Children’s Chiefs Commission (also referred to as the National Children’s Chiefs Commission) (the “Commission”) to provide strategic direction and oversight of the negotiations.
- H. Following the rejection, Canada advised the AFN in January 2025 that it did not have a mandate for further national-level negotiations and would proceed with an Ontario-specific agreement; on February 26, 2025, the COO, NAN and Canada signed an \$8.5 billion Ontario Final Agreement (OFA), described by Canada as an Ontario-specific version of the rejected national agreement.
- I. In 2025 CHRT 80, the Tribunal directed Canada, the Caring Society and the AFN to move forward on national long-term reform of the FNCFS Program concurrently with, and separately from, the OFA, and to submit reform plans to the CHRT; the CHRT approved the OFA on an urgent basis in March 2026, and implementation of the OFA, including prevention funding flowing to First Nations in Ontario, began in or about May 2026.

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- J. As a result, First Nations in Ontario are now advancing reform and prevention funding under a regional agreement, while First Nations in Manitoba and other regions outside Ontario have not obtained regional remedies, leaving comparably situated children and families without the benefit of long-term reform.
- K. The federal FNCFS Program and the remedies obtained to date are structured primarily around children and families ordinarily resident on reserve and in the Yukon, with services for First Nations members living off-reserve generally delivered through provincial systems, creating practical service gaps for off-reserve First Nations children and families and risking outcomes inconsistent with substantive equality, Jordan's Principle, principles of First Nations self-determination, and the honour of the Crown.
- L. The exercise of First Nations' inherent jurisdiction over child and family services under the Act is not limited by a member's place of residence; First Nations have jurisdiction concerning all of their citizens, including those living off-reserve, and any long-term reform that excludes off-reserve members is inconsistent with First Nations self-determination, with Jordan's Principle, and with the substantive equality the CHRT proceedings were intended to secure.

**THEREFORE BE IT RESOLVED that the First Nations-in-Assembly:**

- 1. Affirm that First Nations hold an inherent right of self-determination and inherent jurisdiction over child and family services in relation to all of their children, youth, families and citizens, regardless of whether they reside on or off reserve, as recognized and affirmed by section 35 of the *Constitution Act, 1982*, the Act, and the UN Declaration, and that the long-term reform of the FNCFS Program must give effect to that jurisdiction without distinction based on residence.
- 2. Call on Canada to ensure that the national long-term reform of the FNCFS Program and Jordan's Principle (the "LTR Agreements"), including all plans submitted or to be submitted to the CHRT, expressly include First Nations members living off-reserve and provide for substantively equal, culturally appropriate FNCFS services for First Nations children and families regardless of residence.
- 3. Call upon Canada to obtain and confirm a negotiation mandate sufficient to negotiate long-term reform that includes First Nations members living off-reserve and direct the AFN to urge Canada to extend the scope of reform beyond children and families ordinarily resident on reserve and in the Yukon.
- 4. Direct the AFN, through its Executive Committee, to call on the National Children's Chiefs Commission to pursue substantive equality in Child and Family Services for all First Nations children and families – regardless of residency – through all available legal and political channels.
- 5. Direct the AFN to urge Canada to recognize, in the design and funding of long-term reform, that the on-reserve and Yukon basis of the federal FNCFS Program and of the interim prevention funding baseline in 2022 CHRT 8 reflect the historic scope of the federal program, and do not limit First Nations' inherent jurisdiction or Canada's obligations to First Nations children living off-reserve.
- 6. Affirm, consistent with 2017 CHRT 14, that Jordan's Principle applies to all First Nations children whether resident on or off reserve, and call upon Canada to ensure that long-term reform identifies and resolves the service gaps experienced by off-reserve First Nations children.

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7. Direct the AFN Executive Committee and the National Children's Chiefs Commission to report to the First Nations-in-Assembly, at the next and subsequent Assemblies, on progress toward substantive equality for First Nations members living off-reserve.

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