

Assembly of First Nations

50 O'Connor Street, Suite 200
Ottawa, Ontario K1P 6L2
Telephone: (613) 241-6789 Fax: (613) 241-5808
www.afn.ca



Assemblée des Premières Nations

50, rue O'Connor, Suite 200
Ottawa, Ontario K1P 6L2
Téléphone: (613) 241-6789 Télécopieur: (613) 241-5808
www.afn.ca

SPECIAL CHIEFS ASSEMBLY
October 16, 17, 18, 2024, Calgary, AB

Resolution no. 61/2024

TITLE: **Meaningful Consultation on Long-Term Reform of First Nations Child and Family Services**

MOVED BY: Proxy, Judy Wilson, Skawahlook First Nation, BC

SECONDED BY: Chief Carolyn Wahobin, Nekaneet First Nation, SK

DECISION Carried; 6 opposition; 4 abstention

WHEREAS:

- A.** The *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration) states:
- i. 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;
 - ii. 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
 - iii. Article 37: Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements, and other constructive arrangements.
- B.** First Nations Chiefs are elected by the citizens of their Nations to make informed decisions on their behalf.
- C.** The Assembly of First Nations, Chiefs of Ontario, Nishnawbe Aski Nation and Canada have reached a counsel-endorsed draft Final Settlement Agreement on long-term reform of the First Nations Child and Family Services Program (FSA).
- D.** The draft FSA, if accepted by the First Nations-in-Assembly and the Canadian Human Rights Tribunal, will have a direct impact of unprecedented magnitude on the lives of First Nations children, youth, their families, and their communities for generations to come.

Certified copy of a resolution adopted on the 18th day of October, 2024 in Calgary, Alberta

Chuxelhouse.

CINDY WOODHOUSE NEPINAK, NATIONAL CHIEF

61 – 2024

Page 1 of 3

- E. First Nations Chiefs and their advisors need adequate time to review, consider, comment, and give direction to make amendments to the draft FSA.
- F. A failure to provide adequate time for Chiefs to review and consider the draft FSA contravenes article 18 of the UN Declaration and impedes Chiefs in discharging their responsibility to make the best, fully-informed decisions possible on behalf of their citizens.

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

1. Reject the draft Final Settlement Agreement (FSA) on Long-Term Reform of the First Nations Child and Family Services program dated July 11, 2024 and the "Proposed Amendments on the Draft Agreement on Long-Term Reform" released on or about October 7, 2024, and direct the Children's Chiefs Commission (as defined in Assembly of First Nations (AFN) Draft Resolution 02/2024) to renegotiate the draft FSA in keeping with the directions of First Nations-in-Assembly including but not limited to:
 - a. Amend the purpose and associated text of the agreement to clarify that the agreement is intended to hold Canada accountable to stop the discrimination and prevent its recurrence;
 - b. Restore First Nations Chiefs as the key decision-makers on long-term reform;
 - c. Expand the principles to include honour of the Crown, Canada's responsibility to fully end discrimination and ensure it never happens again, intergenerational equity, transparency, accountability and inclusivity;
 - d. Make governance of long-term reform transparent and accountable to First Nations Chiefs;
 - e. Incorporate ongoing and meaningful oversight by, and consultation with, the National Advisory Committee on Long-Term Reform of the First Nations Child and Family Services (FNCFS) Program;
 - f. Preserve the mandate and independence of the Expert Advisory Committee to reform Indigenous Services Canada (ISC);
 - g. Expand the scope and strengthen the role of the Dispute Resolution Tribunal and ensure the remedies available to the Canadian Human Rights Tribunal (CHRT) are also available to the Dispute Resolution Tribunal;
 - h. Strengthen the Regional Modifications provisions to align with the CHRT orders that First Nations children must have access to and receive needs based, substantively equal, culturally appropriate services that account for the distinct circumstances of their communities;
 - i. Ensure that the definition of "First Nations child" as defined in 2020 CHRT 36 is considered and incorporated into the FSA;
 - j. Ensure that prevention funding is allocated as follows:
 - i. to First Nations to develop and deliver prevention programming in line with their self-determined service delivery model(s); and

Certified copy of a resolution adopted on the 18th day of October, 2024 in Calgary, Alberta

Chixelhouse.

CINDY WOODHOUSE NEPINAK, NATIONAL CHIEF

61 – 2024
Page 2 of 3

- ii. to FNCFS agencies to ensure they can deliver prevention in a substantively equitable manner in keeping with legislative requirements to meet the needs of First Nations children and their unique cultural circumstances.
 - k. Ensure there is an evidence-informed, needs-based funding structure that is responsive to the distinct circumstances and needs of First Nations children and their families and can be upwardly adjusted to address those needs and circumstances on a First Nations, regional or sub-regional basis;
 - l. Ensure there is a region-specific, independent First Nations-led technical secretariat for each province/territory;
 - m. Ensure that Canada puts in place sufficient liability coverage and statutory immunity for First Nations and FNCFS Agencies in relation to the services they provide, and ensuring that Canada shall be the insurer of last resort for First Nations and FNCFS Agencies that have exercised good-faith decision-making;
 - n. Ensure that Canada discloses all federal-provincial-territorial service level agreements during the negotiation process and consults with those affected First Nations throughout the negotiation process; and
 - o. Ensure the CHRT retains jurisdiction over implementation of any FSA.
2. Call upon Canada to obtain a new negotiation mandate to address the matters in this resolution.
 3. Direct Canada to fully implement the funding principle of predictable, stable, sustainable, needs-based funding in the form of an unconditional grant consistent with the principles of substantive equality and cultural continuity in line with the CHRT orders to secure long-term positive outcomes for First Nations children, families and societies.
 4. Direct Canada and the AFN to refrain from bringing any motions or seeking direction from the CHRT to set aside existing CHRT orders, including but not limited to 2018 CHRT 4, 2021 CHRT 41 and 2022 CHRT 8, without the prior approval of First Nations-in-Assembly.
 5. Direct the Children's Chiefs Commission to ensure that any FSA does not abrogate or derogate from First Nations' title rights, treaty rights or in any way limit or diminish Canada's duty to consult, fiduciary obligations to First Nations or the honour of the Crown.

Certified copy of a resolution adopted on the 18th day of October, 2024 in Calgary, Alberta

Chixelhouse.

CINDY WOODHOUSE NEPINAK, NATIONAL CHIEF

61 – 2024
Page 3 of 3