



# **Making Change Happen:**

## A History for First Nations Children and Families



The time for change is now. We are at a historic turning point following decades of discrimination in the child and family services system. Beginning with the Sixties Scoop when many First Nations children were removed from their homes without consent, this timeline outlines the key events that led to the \$47.8 billion Draft Agreement for the Long-Term Reform of the First Nations Child and Family Services (FNCFS) Program. It reflects the critical milestones, decades of advocacy, and collective decision-making by the First Nations-in-Assembly that have culminated in this Draft Agreement.

LEGEND

EVENT/MILESTONE

COMPENSATION

1960s-1980s

The Sixties Scoop

During the Sixties Scoop, many First Nations children were forcibly removed from their families by child welfare services and placed in non-Indigenous homes.

November 1996

Release of the Report of the Royal Commission on Aboriginal Peoples (RCAP)

The Royal Commission on Aboriginal Peoples (RCAP) report, released in November 1996, highlighted the overrepresentation of First Nations children in the child welfare system and Canada's failure to respect First Nations cultures. The report recommended recognizing First Nations authority over child welfare services to better serve their children.

2005

Wen:De Reports

In 2005, a series of reports, known as the Wen:De Reports, made recommendations regarding reform to the First Nations Child and Family Services Program. These recommendations were not implemented by the federal government, further continuing the discrimination faced by First Nations children and families.

Also in 2005, the First Nations Component of the Canadian Incidence Study of Reported Child Abuse and Neglect (FNCIS) began reporting on the incidence of child maltreatment investigations involving First Nations children. Data collected from 2005 to 2018 consistently showed a significant overrepresentation of First Nations children in the investigation stage of child and family services. These reports have become the most reliable source for data on this continued overrepresentation and shed light on the underlying causes of overrepresentation.

February 2007

Filing of the Human Rights Complaint

In February 2007, the AFN and the First Nations Child and Family Caring Society (Caring Society) filed a human rights complaint with the Canadian Human Rights Tribunal (CHRT). The complaint alleged that the Government of Canada was racially discriminating against First Nations children by underfunding child welfare services on-reserves compared to services available to non-Indigenous children, and by failing to implement the full scope of Jordan's Principle.

December 2015

Truth and Reconciliation Commission (TRC) Final Report and Calls to Action

In December 2015, the Truth and Reconciliation Commission (TRC) published its Final Report, which included specific Calls to Action aimed at reforming child welfare and implementing Jordan's Principle. The Final Report highlighted the ongoing impacts of residential schools and the need for systemic changes in child welfare to better serve First Nations children.

July 2016

AFN Resolution 62/2016

In July 2016, the First Nations-in-Assembly passed AFN Resolution 62/2016, *Full and Proper Implementation of the historic Canadian Human Rights Tribunal decisions in the provision of child welfare services and Jordan's Principle*, which called on the Government of Canada to fully implement the CHRT's orders on child and family services and Jordan's Principle to remedy the discrimination found by the CHRT.

1989

Establishment of the First Nations Child and Family Services (FNCFS) Program

The Government of Canada established the First Nations Child and Family Services (FNCFS) Program in 1989 to provide child welfare services to First Nations children living on-reserve. The program was criticized for inadequate funding, which resulted in significant gaps in the quality of services provided to First Nations children compared to those offered to non-Indigenous children.

2000

Joint National Policy Review

The Joint National Policy Review (JNPR) of First Nations Child and Family Services was completed by the Assembly of First Nations (AFN), in partnership with First Nations Child and Family Services Agency Representatives and the Department of Indian Affairs and Northern Development. The JNPR made a series of recommendations to reform child and family services for First Nations, many of which the federal government failed to act on, continuing the discrimination against First Nations children and families.

December 2007

Jordan's Principle

Jordan's Principle was adopted by the House of Commons in 2007, supporting a child-first principle regarding jurisdictional disputes pertaining to First Nations children. Jordan's Principle is named in honour of Jordan River Anderson, a young boy from Norway House Cree Nation, who died in hospital though he could have been supported with in-home care with his family, while Canada and Manitoba argued over payment for his at-home care. Jordan's Principle is meant to prevent First Nations children from being denied essential services or experiencing delays in receiving them.

February 2013

Canadian Human Rights Tribunal (CHRT) Hearings Begin

After years of legal battles and procedural delays, the CHRT hearings officially began in 2013. The CHRT was tasked with determining whether the Government of Canada had violated the Canadian Human Rights Act by providing inequitable funding to First Nations child welfare services and the narrow application of Jordan's Principle. The proceedings involved testimony from various experts, First Nations leaders, and families.

January 26, 2016

Canadian Human Rights Tribunal Ruling

On January 26, 2016, the CHRT ruled that the Government of Canada had racially discriminated against First Nations children by underfunding the FNCFS Program and narrowly applying Jordan's Principle. It ordered Government of Canada to work with the parties to the CHRT complaint, which are the AFN, the Caring Society, Nishnawbe Aski Nation (NAN), and Chiefs of Ontario (COO), to immediately reform the FNCFS Program, and to adopt an approach to Jordan's Principle that honours the full meaning and scope of the principle.

July 2017

AFN Resolution 40/2017

In July 2017, the First Nations-in-Assembly passed AFN Resolution 40/2017, *Call on Canada to Comply with the 2016 Canadian Human Rights Tribunal Orders*, which again called on Canada to comply with the CHRT's orders, and to remove its appeal of orders on Jordan's Principle.



LEGEND

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DRAFT AGREEMENT TIMELINE

December 2018

Institute of Fiscal Studies and Democracy (IFSD) Phase 1 Report

In December 2018, the Institute of Fiscal Studies and Democracy (IFSD) released their Phase 1 research report, *Enabling First Nations Children to Thrive*, which analyzed the current funding approach to the FNCFS Program and made recommendations to shift FNCFS to address discrimination found by the CHRT.

January 2020

An Act respecting First Nations, Inuit, and Métis Children, Youth and Families

On January 1, 2020, *An Act respecting First Nations, Inuit and Metis children, youth and families* came into force. The AFN co-developed the Act, which affirms the rights of First Nations sovereignty and jurisdiction over their children and families.

June 2019

UN Declaration on the Rights of Indigenous Peoples (UNDRIP)

In 2019, the Government of Canada passed legislation to implement the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which includes provisions on the rights of First Nations children.

July 2020

Institute of Fiscal Studies and Democracy (IFSD) Phase 2 Report

In July 2020, the IFSD completed their Phase 2 report, *Funding First Nations Child and Family Services (FNCFS): A Performance Budget Approach to Well-Being*, which outlined a funding approach and performance measurement framework for First Nations Child and Family Services.

Fall 2021

Intensive Negotiations Commence

In Fall 2021, the AFN, Government of Canada, and other parties entered into intensive negotiations to settle the matters of long-term reform and compensation. These negotiations continued through December 2021, resulting in the Agreement-in-Principle on Long-Term Reform and Compensation. Throughout this process, the AFN Executive Committee provided direction to the AFN, and the AFN's position was further informed by expert advice based on research conducted by the IFSD.

December 2021

Agreement-in-Principle on Long-Term Reform of the FNCFS Program

The AFN, the Caring Society, COO, NAN, and the Government of Canada signed an Agreement-in-Principle (AIP) on the Long-Term Reform of the FNCFS Program and Jordan's Principle.

March 2022

Immediate Measures Order 2022 CHRT 8

In March 2022, the CHRT issued a Consent Order, which is a legally binding directive approved by the court, regarding immediate measures that were included in the Agreement-in-Principle. Several of the proposed reforms could be implemented before a settlement agreement was finalized. The Consent Order required Canada to begin funding for prevention services, post-majority services, capital purchases, and other important reforms to the FNCFS Program and in the application to Jordan's Principle.

Summer 2022

Regional-led Engagements

During Summer and Fall 2022, the AFN Regional Offices held engagement sessions to identify regional priorities for the long-term reform of the FNCFS Program. The recommendations from these sessions formed the basis of the AFN's negotiating positions for long-term reform.

July 2022

Assembly of First Nations (AFN) Resolution 04/2022

In July 2022, AFN Resolution 04/2022, *First Nations Determination of the Reforms to the First Nations Child and Family Services Program and Jordan's Principle Ordered through the 2022 Canadian Human Rights Tribunal Ruling 8*, was passed by the First Nations-in-Assembly. The resolution called on Canada to recognize First Nations' inherent rights to care for their children and families. It also called on Canada to ensure that First Nations exercising jurisdiction over child and family services receive equitable funding to those under the reformed FNCFS Program.

July 2022

Assembly of First Nations (AFN) Resolution 40/2022

In July 2022, AFN Resolution 40/2022, *To Ensure Quality of Life to the First Nations Child and Family Services Program and Jordan's Principle*, passed by the First Nations-in-Assembly. This resolution mandated the AFN to negotiate the Draft Agreement on the Long-Term Reform of the First Nations Child and Family Services Program.

July 2023

Assembly of First Nations (AFN) Resolution 86/2023

In July 2023, AFN Resolution 86/2023, *To Ensure Quality of Life to the First Nations Child and Family Services Program and Jordan's Principle*, was passed by the First Nations-in-Assembly. This resolution expanded the AFN's mandate to secure a draft agreement and seek approval from the First Nations-in-Assembly.

July 2023

Joint Path Forward and Separation of Jordan's Principle

Following AFN Resolution 40/2022, negotiations on long-term reform of Jordan's Principle were separated from the negotiations on FNCFS reform. This separation, outlined in the *Joint Path Forward* proposal, developed by AFN and Caring Society, would ensure that each area received the focus necessary to address its unique challenges effectively.

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# NEXT STEPS

July 2023

**CHRT Approval on Final Settlement Agreement on Compensation**

On July 26, 2023, the CHRT issued a Letter of Decision approving the revised Final Settlement Agreement on Compensation. This landmark agreement will compensate more than 300,000 First Nations children and families.

February 2024

**Supreme Court Ruling on An Act respecting First Nations, Inuit, and Métis Children, Youth and Families**

In 2022, the Government of Quebec challenged the constitutionality of *An Act respecting First Nations, Inuit, and Métis Children, Youth and Families*, arguing it exceeds Canada's constitutional authority. In February 2024, the Supreme Court of Canada upheld the constitutionality of the Act, affirming the inherent right and jurisdiction of First Nations to self-govern child and family services.

July 2024

**Draft Agreement on Long-Term Reform of the FNCFS Program**

The AFN, COO, NAN, and the Government of Canada reached a draft agreement, which included \$47.8 billion for long-term reform of the FNCFS Program. This agreement was the culmination of years of advocacy and legal action and is historic in scope and impact.

October 2023

**Final Settlement Agreement on Compensation**

In October 2023, the Federal Court of Canada approved the Final Settlement Agreement on Compensation, which included \$23.34 billion in compensation for First Nations children and families who were harmed by discriminatory underfunding of the FNCFS Program and the narrow application of Jordan's Principle.

March 2024

**IFSD Phase 3 Report**

The IFSD completed testing reformed funding and performance measurement frameworks with First Nation and Agency collaborators. While the AFN and other parties to the CHRT had always relied on IFSD reports and recommendations to develop an evidence-based approach to funding reform and performance measurement, this allowed for additional assurances and fine-tuning before finalizing the draft agreement.

July-August 2024

**AFN Engagement with First Nations**

The AFN met with First Nations, both in person and virtually, to share information, answer questions, hear concerns, and gather feedback on the Draft Agreement. Based on these sessions, the AFN will advocate for changes to ensure that First Nations' feedback and concerns are reflected in the Draft Agreement.

- 1



A Special Chiefs Assembly will take place where First Nations-in-Assembly will discuss, deliberate, and vote whether to approve the Draft Agreement.
- 2



If approved by the First Nations-in-Assembly, the Draft Agreement will be brought to the Canadian Human Rights Tribunal for review and approval.
- 3



If the Draft Agreement is approved by the CHRT, the Parties will work with the Government of Canada and Indigenous Services Canada to implement the reforms in 2025.

