

# FREQUENTLY ASKED QUESTIONS ABOUT THE LONG-TERM REFORM FINAL AGREEMENT

Chiefs of Ontario (“COO”), the Assembly of First Nations (the “AFN”), Nishnawbe Aski Nation (“NAN”), and the Government of Canada (“Canada”) negotiated the Final Agreement on the Long-Term Reform of the First Nations Child and Family Services (“FNCFS”) Program (the “FA”), which commits \$47.8 billion in funding over a ten-year period for the reform of the FNCFS Program.

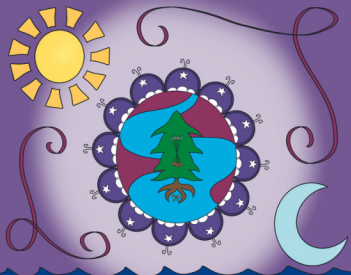
The FA is a lengthy and complicated document. This document will provide answers to some of the frequently asked questions at COO information sessions received from First Nation leadership, technicians, and community members with the aim of providing clarity and transparency on some of the FA’s key points.

## FAQS

**Why is the FA limited to ten years only and what protections exist after the ten-year term?**

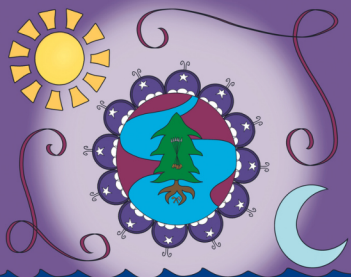
- It is impossible at Canadian law to bind Canada to an indefinite funding commitment. However, funding **will continue** after the ten year term.
- Canada’s obligation to provide non-discriminatory services to First Nations children under the FNCFS Program continue to exist after the expiry of the FA. If Canada fails to satisfy this obligation, new litigation can be started against Canada.
- The FA also contains some assurances for after year ten. Canada must engage with the Parties on the development of the Reformed FNCFS Program (or another successor program) beyond the ten-year term, must consider recommendations from the Parties in doing so, and must consider embedding the funding approach in legislation.





## Will FNCFS Agency funding be decreased if the Final Agreement is approved and why?

- The FA does not change the way that FNCFS Agencies in Ontario are funded by the provincial government for on- and off-reserve protection, maintenance, and operations. The FA only speaks to the funding that ISC provides to Agencies.
  - Ontario FNCFS Agencies continue to have access to actuals from ISC for intake and investigation, legal fees, and building repairs until March 31, 2025. After that, the FA provides funding for FNCFS Agencies for operations and maintenance. There will be further adjustments to baseline for inflation costs and population growth.
  - FNCFS Agencies have been receiving a share of their affiliated First Nations' prevention funding since April 1, 2022. Starting April 1, 2026, First Nations in Ontario may elect to receive up to 100% of the prevention funding or choose to allocate some to its affiliated Agencies. An FNCFS Agency's funding may decrease as a result of the First Nation's choice on the split of prevention funding.
  - Agencies will continue to have access to funding for capital and post-majority support services at actuals until March 31, 2025. After that, Agencies will continue to have access to capital funding (just no longer at actuals) and will receive PMSS funding only if their affiliated First Nation(s) decides to allocate some of its funding to the Agency, similar to prevention funding.
  - Agencies will be receiving one brand new type of funding: emergency funding, which is split 50/50 between the Agency and the First Nation.
  - In limited circumstances, FNCFS Agencies will be able to submit a Service Provider Funding Adjustment Request should their protection and least disruptive measures funding be insufficient.
- This funding approach recognizes First Nations as leaders in carrying out prevention services and respects that First Nations are best suited to choose whether another service provider should be delivering prevention services in their communities.
  - The new prevention approach will enhance First Nations' decision-making over prevention services.

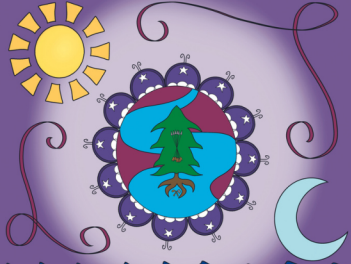


**Is it true that, as a signatory to the FA, COO is required to promote and speak only positively about the FA?**

- No.
- COO is recommending the FA to First Nations in Ontario because there are significant reforms and benefits for First Nations in the FA. COO is presenting both the benefits and costs and risks of approving the FA. It will ultimately be for First Nations leadership to decide if they approve the FA.
- However, in its engagement and information sessions, and its publicly available materials (like the [Executive Summary](#)), COO is presenting the benefits, costs and risks of approving the FA. COO's primary goal is to educate and inform First Nations leadership, technicians and citizens.

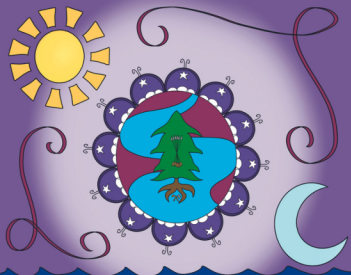
**Why were First Nations not included or consulted in the negotiation process?**

- The COO Negotiating team included COO staff from Social Services, Grand Chief Joel Abram, and Grand Chief (now Ontario Regional Chief) Abram Benedict. The team was advised by an Advisory Committee comprised of Social Services Coordination Unit members and independents, with input and involvement from COO's Chiefs' Committee on Social and COO Leadership Council.
- In addition, the COO Negotiating Team attended dozens of meetings with community technicians and leadership to discuss the FA. The Advisory Committee then consulted within the regions according to their own process. The Advisory Committee reviewed detailed proposals and came to consensus on most proposals and funding allocations.



**Does the Alternative  
Dispute Resolution  
process in the FA  
provide First Nations  
with a similar level of  
protection as the  
Canadian Human  
Rights Tribunal?**

- The decision makers in the Alternative Dispute Resolution (“ADR”) process provided for in the FA will have the ability to make binding orders against Canada, just like the CHRT.
- The decision makers in the ADR process will be First Nations persons who are experienced in social services, human rights, and law.
- The ADR process will handle two types of disputes: disputes between the parties to the FA (COO, AFN, NAN, and Canada) and disputes raised by funding recipients (First Nations and FNCFS Agencies). The ADR process that is accessible by both First Nations and FNCFS Agencies is more streamlined, less costly, and more culturally appropriate than the CHRT. First Nations and FNCFS Agencies can decide **NOT** to use the ADR process in the FA and to instead take their dispute to a court or to the CHRT if they choose. **The FA does not at all limit their right to do so.**



**Why is it not better to remain with the status quo (the current orders)?**

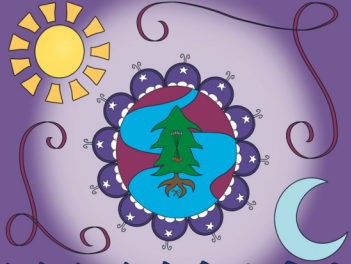


- There are **NO** current orders about several of the funding components in the FA, including housing, remoteness, emergency, household supports, results, and IT.
- The only orders that currently exist to provide funding directly to First Nations relate to funding at actuals for First Nations (Band) Representative (“FNRS”) funding and FNCFS capital funding. Post-majority support services (“PMSS”) have also been funded at actuals since April 1, 2022, on agreement of the parties.
- We know that Canada wants to move away from the actuals process. If the Final Agreement fails, Canada could seek to replace the orders and impose a new way of funding FNRS, capital, and PMSS. Canada could do this in combination with either replacing the Tribunal members currently sitting, amending the Canadian Human Rights Act, and/or cutting funding of the CHRT so that it is no longer able to operate effectively. This is made all the more likely if there is a change of government.
- COO and others could fight Canada but such a battle would likely mean lengthy litigation.

**Does Canada have new or more expansive powers over First Nations and FNCFS Agencies under the FA?**

- Canada is part of the Reform Implementation Committee (the “RIC”), which is tasked with overseeing the implementation of the Reformed FNCFS Program, but is only 1 of 4 Parties (the others being COO, AFN, and NAN) and holds only 25% of the committee’s seats. The rest of the seats are occupied by COO, NAN, and the AFN, ensuring majority First Nations representation on the RIC.
- The FA does not give Canada any powers over internal First Nation decision making.

First Nations have long called to make FNCFS Agencies more accountable to the First Nations they serve and to make Agencies more responsive to their affiliated First Nations' needs. The FA contains new and creative mechanisms to enhance Agency accountability, including some mechanisms that are enforced against the Agency by Canada.



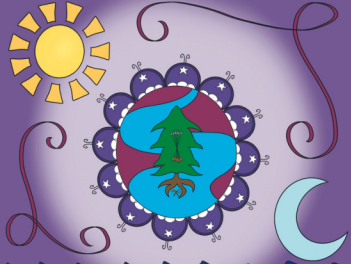
Is it true that COO, the AFN, NAN, and their lawyers are all getting paid as a result of the FA?

- No.
- Canada is reimbursing the AFN, COO, and NAN for reasonable legal costs incurred in the negotiation of the FA up until the approval of the FA **only**. It is common to have one party, in this case Canada, bear these costs in the context of negotiating large agreements.

- The AFN, COO and NAN are **not** receiving any operations funding under the FA other than funding to support for their participation in the RIC. This funding be used to cover the costs of the representatives chosen to serve on the RIC. The work of the RIC will be intensive and committee members should be reimbursed for their time and labour, as well as have their travel and meeting costs covered by Canada.

Does the funding for RIC and the committees, secretariats, etc. responsible for the governance of the Reformed FNCFS Program come out of the funding that will go First Nations and FNCFS Agencies?

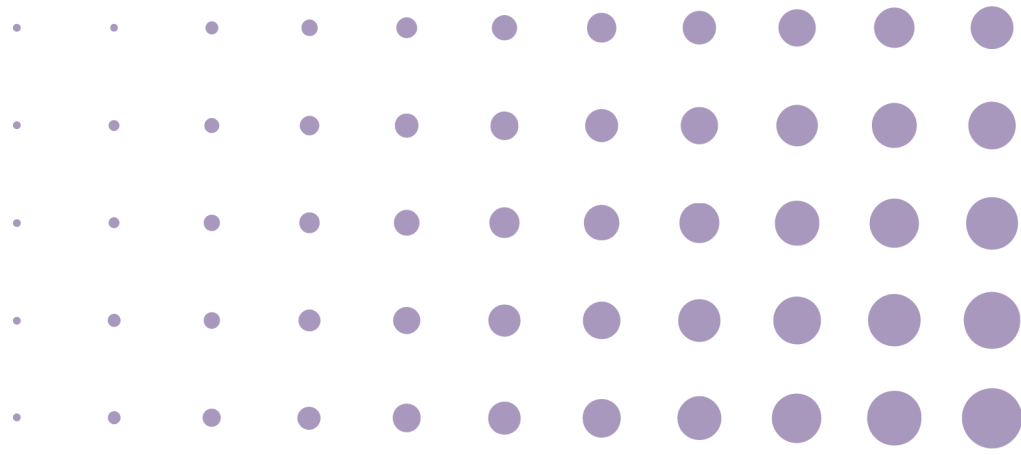
- Funding to support the various secretariats, the RIC and its subcommittees, the Expert Advisory Committee in its work to reform ISC, the various remoteness-focused bodies, the ADR system, the Program Assessments, and the First Nations parties' legal fees **was negotiated separately**.
- None of the costs listed above will be paid out of the funding meant for First Nations and FNCFS Agencies.
- It was **critical** that the FA guarantee funding to ensure the proper governance and implementation of the FA and the Reformed FNCFS Program.

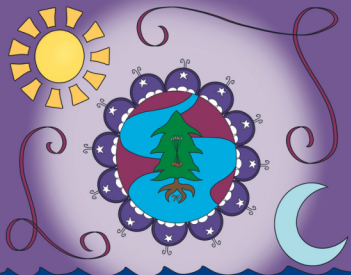


**Why does Ontario have a unique approach to funding First Nations Band Representative services (also known as Band Rep) as compared to the rest of the country?**



- In Ontario, First Nations Representative Services have been operating long before the CHRT litigation that led us here today. In 2018, COO won at the CHRT and Canada was ordered to fund the actual cost of Band Rep services in Ontario. This resulted in Band Rep programs in Ontario growing in capacity and increasing service levels for their programming even further.
- Ontario's child welfare legislation, the *Child, Youth and Family Services Act, 2017* is the most advanced when it comes to the roles and responsibilities of Band Reps.
- It was only recently that *An Act respecting First Nations, Inuit and Métis children, youth and families* (Bill C-92) detailed the role of Band Reps nation-wide and that Band Rep funding become available outside of Ontario.
- First Nations in Ontario are funded for Band Rep at a slightly higher level than First Nations outside of Ontario because programming in Ontario is on a different level here and adequate funding is required to continue meeting the needs of First Nations children, families, and communities.





**How does the Final Agreement affect First Nations that exercise jurisdiction over child and family services under the federal legislation (Bill C-92)?**

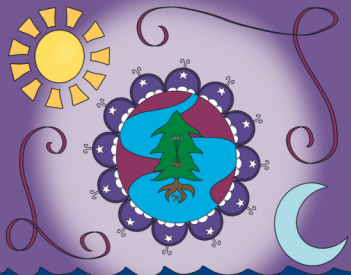
- If a First Nation has already exercised jurisdiction and has implemented its law, the FA does not apply to it apart from their entitlement to housing funding.
- If a First Nation is currently negotiating its Coordination Agreement or draws down jurisdiction sometime in the future, the FA guarantees that a First Nation that exercises jurisdiction under C-92 will be entitled to **no less than** the funding it would have received under the Final Agreement in its Coordination Agreement to run their CFS program.



**The Final Agreement says that the long-term approaches to PMSS and FNCFS capital funding are still being developed, as well as the Terms and Conditions for the FNCFS Program. When will this information be shared publicly?**

- COO, the AFN, NAN, and Canada are working hard to finalize draft documents to share. Information will be announced and posted to COO's website as soon as possible.





## Why are children, youth, and families residing off-reserve excluded in the Final Agreement?

- The FA is an agreement between COO, the AFN, NAN, and Canada to settle the CHRT litigation and orders already made by the CHRT.

- The CHRT litigation related **only** to ISC's discrimination against First Nations children living on reserve due to unequal funding and the CHRT **only** ordered Canada to reform its on-reserve child welfare program.

- Services for off-reserve members along with several other important matters are beyond the scope of this settlement agreement. First Nations in Ontario will have to develop a strategic about how to improve services and funding to serve their off-reserve citizens.

