



March 31, 2026

Canadian Human Rights Tribunal Summary Ruling Approving the Ontario Final Agreement

Today, the Canadian Human Rights Tribunal (the “Tribunal”) released its summary (i.e., expedited) ruling approving the *Final Agreement on Long-Term Reform of the First Nations Child and Family Services (“FNCFS”) Program in Ontario* (the Ontario Final Agreement, or the “OFA”).

The motion for approval of the OFA was brought jointly by Chiefs of Ontario (“COO”), Nishnawbe Aski Nation (“NAN”), and Canada within the long-standing First Nations child welfare proceedings before the Tribunal, commonly referred to as the *Caring Society* case, in which COO and NAN are interested parties. The OFA, ratified by NAN and Ontario Chiefs-in-Assembly in February 2025, sets out a suite of reforms developed by COO, NAN, and Canada intended to eliminate the systemic racial discrimination identified by the Tribunal in relation to the FNCFS Program in Ontario, and to prevent its recurrence.

The Tribunal’s task on the motion was to assess whether the OFA’s reforms are sufficient to achieve those objectives. The Tribunal answered that question with a clear yes.

In its decision, the Tribunal placed the OFA within the context of its earlier decisions and orders. It emphasized that “at the heart of this entire case is the principle of substantive equality.” The Tribunal found that the OFA delivers on substantive equality by responding to actual needs, recognizing remoteness and regional realities, and shifting decision-making authority to First Nations. The Tribunal described the OFA as a meaningful and “noble” step toward reconciliation and emphasized that the partnership between COO, NAN, and Canada represents a major step toward reversing Canada’s legacy of systemic racial discrimination.

The Tribunal made several key findings with respect to the OFA, including:

- The OFA rightly puts First Nations “in the seat of authority” for decisions concerning their own children. The Tribunal stated that the OFA is an exercise of and upholds **First Nations’ right to self-determination** by empowering communities to shape their own child and family services, including deciding who will deliver key services, particularly in the area of prevention, based on their own priorities and choices. In doing so, the Tribunal reaffirmed that self-determination is a fundamental human right and found that children’s fundamental right to grow up within their families and communities is best protected when First Nations make decisions for their own children.
- The OFA’s **built-in safeguards**, including mid- and end-term Program Assessments and a commitment to co-develop a successor program following the OFA’s expiry, are “entirely in line with the Tribunal’s views on reform”.
- The OFA **supports both First Nations and FNCFS Agencies** and does not force an either/or choice between them.

- The Tribunal described the **remoteness quotient** – championed by NAN – as “an important, ground-breaking, innovative and valuable tool.” The OFA uses the remoteness quotient to ensure FNCFS funding reflects the real costs of delivering services in remote and northern communities.
- The Tribunal was satisfied that the OFA’s reforms are **evidence-based** and, in some respects, goes beyond what the research recommended.
- The Tribunal was also satisfied with the commitment of COO, NAN, and Canada in the OFA to advance **reform of the 1965 Agreement**.

Importantly, the Tribunal underscored that approval of the OFA strengthens – rather than replaces – the human rights protections already in place. The Tribunal confirmed that its order requiring Canada to end and prevent discrimination in the FNCFS Program is permanent and that this order and all Tribunal findings and reasons in this proceeding survive the OFA. The Tribunal also made clear that increased First Nations control under the OFA does not lessen Canada’s legal obligations. Canada remains fully responsible for complying with the *Canadian Human Rights Act* and for ensuring that discrimination is eliminated and does not recur.

The Tribunal also considered the concerns raised by the First Nations Child and Family Caring Society (the “Caring Society”), as well as those raised by Taykwa Tagamou Nation (“TTN”) and Georgina Island First Nation (“GIFN”), who intervened in opposition to the OFA. With respect to the Caring Society, the Tribunal found that concerns about interpretation had been adequately addressed and rejected the request to reopen negotiations, concluding that further delay would be harmful to First Nations children and would disregard the expressed will of First Nations leadership in Ontario.

With respect to TTN and GIFN, the Tribunal rejected the argument that the OFA failed to reflect the will of First Nations leadership based on the proportion of Chiefs absent from the votes, emphasizing that it is not the Tribunal’s role to second-guess decisions made by First Nations leadership. At the same time, the Tribunal recognized that respecting self-determination requires acknowledging distinct circumstances. It therefore confirmed that the OFA will not apply to TTN or GIFN, citing TTN’s distinct circumstances, including its pending coordination agreement, and GIFN’s remoteness and higher service-delivery costs. In both cases, the Tribunal ordered Canada to consult with the First Nations to establish interim solutions that respond to their specific needs, are consistent with substantive equality, and are no less generous than the Tribunal’s prior orders.

The Tribunal’s approval of the OFA represents a significant step toward substantive equality in First Nations child and family services in Ontario. The OFA will take effect following the 60-day appeal period, if no appeal is filed. COO’s focus now turns to implementation – ensuring the OFA translates into real, on-the-ground improvements for First Nations children, youth, families, and communities.

The decision released today is a summary ruling only. The Tribunal will release a full decision later, although exact timing has not been provided.