

BACKGROUND

In **July 2024**, Chiefs of Ontario (“COO”), Nishnawbe Aski Nation (“NAN”), the Assembly of First Nations, and Canada reached a draft Final Agreement on Long-Term Reform of the First Nations Child and Family Services (“FNCFS”) Program that would have instituted national reforms to the FNCFS Program.

NAN Chiefs-in-Assembly and Ontario Chiefs-in-Assembly supported and ratified the reforms set out in the national Final Agreement on Long-Term Reform of the FNCFS Program at Special Chiefs Assemblies **October 9-10, 2024.**

The national agreement was put to a vote and ultimately rejected by the First Nations-in-Assembly at the Assembly of First Nations Special Chiefs' Assembly in Calgary in **October 17, 2024**.

First Nations in Ontario remained committed to reforming the FNCFS Program in Ontario. The Ontario Chiefs-in-Assembly mandated COO, in **November 2024**, to pursue an Ontario-specific agreement. Ontario Regional Chief Abram Benedict formally invited Canada to enter into negotiations to implement those reforms for First Nations in Ontario shortly thereafter.

On **December 30, 2024**, Canada announced its mandate to negotiate with COO and NAN on the long-term reform of the FNCFS Program in Ontario.

In **January 2025**, COO, NAN, and Canada, engaged in productive discussions on a formed child and family services system for First Nations children and families in Ontario.

In **early February 2025**, the parties reached a provisional Final Agreement on Long-Term Reform of the FNCFS Program in Ontario (the “Ontario Final Agreement”).

WHAT'S NEW IN THE ONTARIO FINAL AGREEMENT?

The provisional Ontario Final Agreement provides for the implementation of the reforms contained in the national Final Agreement here in Ontario. It is essentially the same as the national Final Agreement, with the only changes being those necessary for it to be applicable specifically within Ontario.

New features of the provisional Ontario Final Agreement are detailed in the tables below. The first table highlights changes related to funding and the second on changes to the on-monetary aspects of the Ontario Final Agreement.

REFORMED FNCFS FUNDING APPROACH AND HOUSING FUNDING UNDER THE ONTARIO FINAL AGREEMENT

Funding Commitment & Term

The Ontario Final Agreement commits ISC to provide \$8.5 billion over 9 fiscal years (April 1, 2025 to March 31, 2034).

Note: The above funding commitment is conditional on the Ontario Final Agreement coming into effect by **no later than March 31, 2026**. If proceedings at the Canadian Human Rights Tribunal (the “Tribunal”) are drawn out and the Ontario Final Agreement does not come into effect by that date, all funding for fiscal year 2025-26 will be lost.

ISC's Commitment to Fund Outside of \$8.5 Billion

The funding committed by ISC under the Ontario Final Agreement is actually greater than \$8.5 billion as ISC has committed to fund the following at their full cost from outside the \$8.5 billion envelope:

- Administrative support to the Ontario Reform Implementation Committee
- Cultural humility training for ISC employees
- Two comprehensive Program Assessments (to evaluate the effectiveness of the reforms and make recommendations for improvements)
- COO and NAN legal fees until the Ontario Final Agreement comes into effect

April 1, 2025 to March 31, 2026

Transition to Reformed Program and End of Actuals

- FNCFS Agencies will continue to have access to actuals for intake and investigations, legal fees, and building repairs
- First Nations and FNCFS Agencies will continue to receive prevention funding, adjusted for remoteness at the lower rate, and ISC will continue to honour BCRs it has received from First Nations directing a different allocation on or before December 31, 2024
- First Nations will continue to receive First Nation Representative Services funding and continue to have access to additional funding at actuals if 75% or more of their annual allocation has been used
- First Nations will receive results, IT, 50% of emergency, and household supports funding, and FNCFS Agencies will receive the other 50% of emergency funding, prorated based on the date the Ontario Final Agreement comes into effect
- First Nations and FNCFS Agencies will continue to have access to actuals for capital until the date the Ontario Final Agreement comes into effect
- First Nations and FNCFS Agencies will continue to have access to actuals for post-majority support services until the date the Ontario Final Agreement comes into effect. Between that date and March 31, 2026, ISC will provide First Nations with their annual PMSS allocation for 2025-26 minus any funding provided at actual costs in that year.

As of April 1, 2026

Prevention Funding

First Nations have until September 30, 2025 to submit a BCR to ISC directing a different prevention funding allocation approach for the first half of 2026-27 (Apr 1, 2026 - Sept 30, 2026), if they so choose. Assuming the Ontario Final Agreement is in effect by then, First Nations have until April 1, 2026 to submit written notice to ISC directing how prevention funding for the second half of 2026-27 (Oct 1, 2026 - Mar 31, 2027) should be allocated, if they so choose.

A First Nation can choose to receive all of the prevention funding attributable to it or to direct some/all of its FNCFS Agency.

Unless a First Nation provides notice to ISC, prevention funding will continue to be split between the First Nation and its affiliated FNCFS Agency the way it was in 2025-2026.

As of April 1, 2026

First Nation Representative Services Funding

Starting April 1, 2026, each First Nation will be funded for First Nation Representative Services (FNRS) at its highest annual amount of FNRS funding received over **five fiscal years**, from fiscal year 2019-2020 to fiscal year **2023-2024**, adjusted for inflation and population growth.

This is a notable improvement on the terms of the national agreement, which did not take 2023-24 funding levels into consideration.

As of April 1, 2026

FNCFS Capital Funding

As of the date the Ontario Final Agreement comes into effect, access to actuals will be replaced by a \$455 million envelope for the 9 year term of the agreement. This represents Ontario's share of the national capital funding pot negotiated for in the rejected Final Agreement.

The process for accessing capital funding as of April 1, 2026 is the same as it was in the rejected Final Agreement.

As of April 1, 2026

Post-Majority Support Services Funding

As of the date the Ontario Final Agreement comes into effect, access to actuals will be replaced by an approach where First Nations receive a direct annual allocation. Funding for post-majority support services over the 9 year term of the agreement is \$328.2 million.

There have been no changes to the eligibility guidelines for post-majority support services funding nor to how a First Nation's allocation is calculated.

Until March 31, 2027

Funding for First Nation Representative Services to Off-Reserve Children & Families

Outside of the Ontario Final Agreement, ISC has committed to continue to fund First Nations in Ontario to access funding at actuals to support the unmet need for First Nation Representative Services to First Nations children and families residing off-reserve (FNRS off-reserve) **until March 31, 2027**, subject to guidance it will release about how it will assess funding requests for FNRS off-reserve.

COO, NAN, and ISC will raise the issue of funding for FNRS off-reserve with the Government of Ontario in discussions on reforming the 1965 Agreement. If Ontario has not begun to fund FNRS off-reserve by March 31, 2027, First Nations in Ontario would have to seek funding for FNRS off-reserve through Jordan's Principle, provided it remains an eligible expense.

No substantive changes have been made to the original terms of the rejected Final Agreement in the Ontario Final Agreement with respect to:

➤ **The balance of the Reformed FNCFS Funding Approach to take effect in 2026-27, including:**

- Baseline funding to FNCFS Agencies
- Funding for results, IT, emergency, and household supports
- Remoteness adjustment funding and the full implementation of the RQAF methodology
- Adjustments to funding for inflation and population growth
- Non-Agency First Nations' entitlement to all prevention and emergency funding

➤ **Housing funding to First Nations**

- First Nations in Ontario have already received housing funding for 2023-24 and 2024-25
- First Nations in Ontario will receive additional funding over fiscal years 2025-2026, 2026-2027, and 2027-2028 totalling \$258.4 million
- All First Nations in Ontario receive this funding, even those exercising jurisdiction under the federal child welfare legislation (C-92)

➤ **FNCFS Agency funding from the Government of Ontario**

- FNCFS Agencies continue to receive funding directly from Ontario for prevention, investigation, least disruptive measures, and protection. The amount they receive depends on Ontario's funding formula.
- The amounts that FNCFS Agencies would receive under the provisional Ontario Final Agreement are *in addition* to these amounts from Ontario.

NON-MONETARY ASPECTS OF THE ONTARIO FINAL AGREEMENT

Governance of the Reformed FNCFS Program

The Reform Implementation Committee in the rejected Final Agreement has been rebranded the Ontario Reform Implementation Committee, or ORIC. The ORIC has the same roles and responsibilities, receives input from the same entities, and will form the same subcommittees as the Reform Implementation Committee, but it is composed differently with 8 members appointed as follows:

- 1 member appointed by each of COO, NAN, and ISC; and
- 5 at-large members appointed by Ontario Chiefs-in-Assembly, one of whom is to be a youth with lived experience of out-of-home care

Ontario FNCFS Data Secretariat

The model of a National Secretariat assisted by regional secretariats found in the rejected Final Agreement has been replaced by one Ontario FNCFS Data Secretariat. The Ontario FNCFS Data Secretariat has all of the data-related duties formerly assigned to the National Secretariat.

COO and NAN intend to select an existing organization to act as the Ontario FNCFS Data Secretariat and has had preliminary discussions with the Institute for Clinical Evaluative Sciences (ICES) to this end. ISC will provide \$13.5 million over the term of the Ontario Final Agreement to support the Ontario FNCFS Data Secretariat.

Dispute Resolution Process

The Dispute Resolution process in the Ontario Final Agreement had to be reworked to fit an Ontario-only context but still closely resembles the process in the rejected Final Agreement in that:

- It will continue to handle 2 types of disputes: Parties Disputes between COO, NAN, and/or Canada; and Claimant Disputes by First Nations and Agencies to address funding inaccuracies or denial of Service Provider Funding Adjustment Requests
- It continues to provide for duty counsel to assist First Nations and FNCFS Agencies in filing disputes free of charge; and
- First Nations and FNCFS Agencies still have the option of using this process, but it is not mandatory – they can pursue other legal remedies

Cultural Humility Training for ISC Employees

The Ontario Final Agreement provides for mandatory cultural humility training for all ISC employees whose work intersects with Ontario Final Agreement and for COO and NAN to have a continued role and voice in ISC reform more generally.

References to the Expert Advisory Committee on ISC Reform and details of its work had to be removed from the Ontario Final Agreement due to being national in scope and having been rejected by the First Nations-in-Assembly.

Remoteness Governance and Research

The NAN-Canada Remoteness Quotient Table will continue and will establish an Ontario Remoteness Secretariat, which will be a centre of expertise on the impacts of remoteness experienced by First Nations and FNCFS Agencies in Ontario.

References to the National Association of Remote Communities (NARC) had to be removed from the Ontario Final Agreement due to the body being national in scope and having been rejected by the First Nations-in-Assembly.

Road to Approval by the Tribunal

The rejected Final Agreement committed the parties to speaking publicly in favour of the agreement and making best efforts to have First Nations leadership ratify the agreement. This language caused distrust and **has been removed from the Ontario Final Agreement**. Now, the section simply says that COO and NAN will take the Ontario Final Agreement to Ontario First Nations leadership for ratification and, if ratified, to the Tribunal for approval.

Effective Date

If the Tribunal approves the Ontario Final Agreement and ends its jurisdiction in Ontario, the Ontario Final Agreement will come into effect 60 days later. However, the effective date will be pushed back if a party to the Caring Society/Tribunal litigation takes steps to try and overturn the Tribunal's decision.

As noted above, the above funding commitment is conditional on the Ontario Final Agreement coming into effect **by no later than March 31, 2026**. If the Ontario Final Agreement does not come into effect by that date, all funding for fiscal year 2025-26 will be lost.

Implementation Funding to COO and NAN over the Term of the Ontario Final Agreement

Canada will provide funding in the total amount of \$11.02 million to COO and in the total amount of \$6.56 million to NAN over the term of the Ontario Final Agreement to support COO and NAN in completing implementation work assigned to and required of them under the Final Agreement. This funding includes amounts to support:

- Staff positions created specifically to further work necessary to the implementation of the Ontario Final Agreement;
- Implementation-related research;
- Hosting First Nation engagements;
- Legal fees; and
- With respect to funding to COO, project management and contract administration costs related to the two (2) Program Assessments, the Ontario FNCFS Data Secretariat, and the initiative to support eligible First Nations youth and young adults in accessing information on post-majority support services.

These amounts would typically be housed in private contribution agreements but were included in the Ontario Final Agreement at the decision of COO and NAN for added transparency and to better protect the funds from the whims of a new government.

No substantive changes have been made to the original terms of the rejected Final Agreement in the Ontario Final Agreement with respect to:

- **COO's and NAN's status as parties in Jordan's Principle matters.** The Ontario Final Agreement resolves COO's and NAN's stake in the Caring Society/CHRT litigation with respect to the FNCFS Program but we still continue as parties in Jordan's Principle matters.
- COO, NAN, and Canada's commitment to work together to pursue **reform of the 1965 Agreement**, the details of which are spelled out in the Trilateral Agreement in Respect of Reforming the 1965 Agreement
- The entire **Program Assessment process**, except that it will be COO (not the AFN) that will hold the contract with the Program Assessment Organization
- The provisions that **enhance Agency accountability to First Nations**, including the requirement of a co-developed plan and reporting to the First Nation on community wellness indicators
- The flexible **FNCFS Funding Mechanism** and schedules for ISC's contribution agreements with First Nations and FNCFS Agencies
- The Reformed FNCFS Program's indicators and outcomes for **measuring the performance of the program**
- **Service Provider Funding Adjustment Request process** through which First Nations can request and receive additional prevention funding in certain circumstances
- The safety net that ensures that **First Nations exercising jurisdiction under the federal child welfare legislation (C-92)** will be entitled to no less than the funding it would have received under the Ontario Final Agreement in its Coordination Agreement
- The commitment to improve measurement of the remoteness of ferry-connected communities
- FNCFS Terms and Conditions seen by the NAN and Ontario Chiefs-in-Assembly in October
- **Canada's obligations upon expiry of the Ontario Final Agreement.** Canada is required to ensure that discrimination does not recur, engage with COO and NAN about the FNCFS Program in Ontario post-expiry, and to consider embedding the Reformed FNCFS Funding Approach in legislation (i.e., statutory funding)
- The ability of COO, NAN, First Nations, and FNCFS Agencies to **enforce the funding commitment** through the Dispute Resolution Process in the Ontario Final Agreement

NEXT STEPS

Information Sessions

COO and NAN will be hosting a virtual information session to help communities understand the Ontario Final Agreement, as well as the Trilateral Agreement in Respect of Reforming the 1965 Agreement (the “Trilateral Agreement”). Leadership and technicians have two opportunities to attend the information session:

- Thursday, February 13 from 10:30-12:30pm Eastern
- Friday, February 21 from 10:30-12:30pm Eastern

To register, please visit: <https://www.chiefsmeeting.com/fncfsinfo>

COO and NAN will also be hosting one last virtual update session for Ontario Chiefs on February 14th from 1:00-2:00pm Eastern. To register, please visit: <https://www.chiefsmeeting.com/fncfschiefs>.

Votes at Special Chiefs Assemblies

NAN is holding a Special Chiefs Assembly on **February 25** where the Ontario Final Agreement and the Trilateral Agreement will be put to approval votes by NAN Chiefs. To register, please visit: <https://form.123formbuilder.com/6734960/nan-special-chiefs-assembly-final-settlementagreement>.

COO is holding a Special Chiefs Assembly on **February 26** where the Ontario Final Agreement and the Trilateral Agreement will be put to approval votes by the Ontario Chiefs in Assembly. For more information, please visit: <https://www.chiefsmeeting.com/cooscafa>. COO SCA meeting materials, including the agenda and draft resolutions ratifying the provisional Ontario Final Agreement and Trilateral Agreement, will be uploaded to the COO SCA webpage soon.

Seeking Approval of the Ontario Final Agreement at the Tribunal

Should the Ontario Final Agreement be approved by Ontario First Nations leadership at the Special Chiefs Assemblies, Canada, COO, and NAN would file a motion with the Tribunal seeking its approval of the Ontario Final Agreement and the end of its oversight over the FNCFS Program with respect to Ontario.

Full implementation of the reforms contemplated in the Ontario Final Agreement would begin after the Tribunal has approved the Ontario Final Agreement and after any related court processes are completed.

Contact

If you have any questions, please contact:

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