



THE LAND OF THE TWO LAKES

First Nations Child and Family Services (FNCFS) Long Term Reform Update

On October 17, 2024, the Assembly of First Nations (AFN) voted on the Final Settlement Agreement (FSA) for the First Nations Child and Family Services (FNCFS) program Long Term Reform. Of the 405 votes cast, 267 were opposed to the FSA as presented.

This draft agreement stems from the Canadian Human Rights Tribunal (CHRT) case, where Canada was found to have discriminated against First Nations in funding the FNCFS program. The CHRT ordered Canada to negotiate a settlement that would stop discrimination, ensure it never happens again, and compensate the victims. The parties involved in the CHRT case included Canada, the AFN, Chiefs of Ontario (COO), and Nishnawbe Aski Nation (NAN). The First Nations Caring Society, an original party, withdrew from the negotiations to seek CHRT rulings against Canada for continued non-compliance.

This should not be confused with the FNS compensation approved in 2023 where Canada agreed to pay \$23 billion in compensation to the victims of FNCFS discrimination. The recent vote was on the agreement for Long Term Reform to ensure discrimination within the FNCFS program ends.

The ʔAkisq̓nuk First Nation, stance on the FSA, relied on information from various meetings, review of the FSA, feedback from Ktunaxa Kinbasket Child and Family Social Services (KKCFSS) Agency, financial comparisons of existing funding vs anticipated funding levels under new program, legal analysis and discussions amongst ʔAkisq̓nuk Chief and Council.

On August 22, 2024, the AFN held an information session to provide details about the FSA. Updates were provided at the Union of BC Indian Chiefs (UBCIC) AGA from September 24-26 and at the BC Assembly of First Nations (BCAFN) AGA from October 8-10. Additional insights came from the Assembly of First Nations, Canada, the Caring Society, Cindy Blackstock (an original plaintiff), and legal opinions on the FSA amendments.

The FSA proposed \$47.8 billion over 10 years, or approximately \$4.8 billion per year, to eliminate discrimination against First Nations children, youth, and families. The FSA would basically double the funding for FNCFS, and include funds to support prevention, housing, and capital construction. A portion of the funds would be allocated for IT, results tracking, and emergencies, with two-thirds going directly to First Nations and one-third to First Nations agencies, who would need to negotiate priorities with First Nations.

Key Concerns and Opposition:

- The FSA focused on funding but did not fully comply with the CHRT's order to eliminate discrimination and prevent its recurrence.
- The FSA would remove the CHRT oversight or jurisdiction to hold Canada accountable. (Canada continued to be in non-compliance with CHRT orders)
- The FSA did not provide anything substantially more than already ordered by the CHRT for prevention and remote location funding, but would have removed CHRT oversight.

Through sound, responsible leadership, we will promote the well-being and economic self-reliance of our people by encouraging and fostering education and sustainable employment.

- There was a feeling of being rushed, even though it was delayed from September to October 17, the amended FSA was only released October 7.
- The agreement was negotiated without involvement from regions of Canada Diverse First Nations. There was a lack of regional representation throughout the agreement and subsequent governing structure and implementation. An amendment added one seat per region to the Reform Implementation Committee, however there was still no representation on the National Secretariat or dispute resolution tribunal.
- The dispute resolution process created a two-tier system, separating parties to the agreement (AFN, COO, NAN) from claimants (other First Nations).
- If Indigenous Services Canada (ISC) did not respond to a dispute within 30 days, it would be considered denied, favoring ISC over First Nations.
- Funding formulas did not adequately account for the smaller populations of BC First Nations on “on-reserve populations” perpetuating underfunding for small reserves.
- The Institute for Fiscal Studies estimated that BC First Nations would face a \$1.3 billion deficit after five years under the FSA.
- There was concern the annual funding subject to parliamentary or other federal approval processes, which were not clearly defined and appeared to be a loophole.
- The FSA focused on on-reserve funding and did not address the needs of off-reserve members.
- The agreement required parties to “procure” approval from First Nations. Would AFN be prevented from providing objective information.

ʔAkisq̓nuk First Nation and other Ktunaxa representatives voted against the motion to fully support the FSA after careful consideration of feedback from KKCFSS, ʔAkisq̓nuk Chief and Council, and the information available. Instead, we supported two other resolutions calling for the formation of a proper oversight committee and legal team to advance the negotiations and address outstanding concerns in a transparent and accountable to all First Nations. These resolutions were voted on and passed.

ʔAkisq̓nuk looks forward to seeing a transparent and accountable process from the AFN moving forward so that we can confidently tell our children’s children, we did the best we could for all ʔA·k̓smak̓nik, children, youth and families.

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