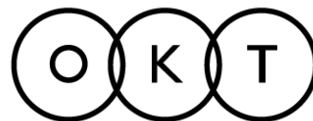


Update: Ontario Final Agreement, 1965 Agreement Reform, and Jordan's Principle Reform

COO ACA Dialogue Session | June 6, 2025

Jessie Stirling-Voss



Your sovereignty. Your prosperity. Our mission.



Overview of Presentation

This presentation will provide updates on the following files:

1

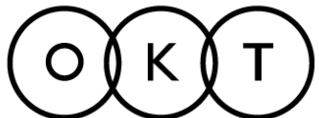
Ontario Final Agreement

2

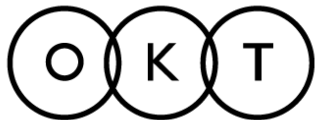
1965 Agreement Reform

3

Jordan's Principle Reform



Ontario Final Agreement



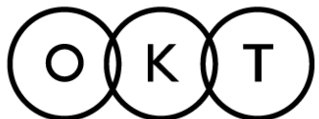
OFA Approval Motion

Background

- **Feb 26, 2025** – The Final Agreement on Long-Term Reform of the First Nations Child and Family Services Program in Ontario (the “Ontario Final Agreement” or “OFA”) is ratified by Ontario Chiefs-in-Assembly
- **Mar 7, 2025** – COO and NAN jointly file materials with the Canadian Human Rights Tribunal (the “Tribunal”) for its approval of the OFA, with support from Canada

Other CHRT Litigation Parties’ Positions on OFA

- None of the AFN, the Caring Society, the Canadian Human Rights Commission, or Amnesty International have expressed their position on the merits of the OFA approval motion
- The Tribunal has not yet set a deadline for this to happen



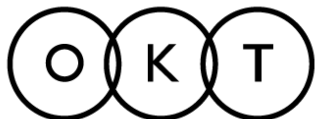
Interested Party Status Motions

Motions for Interested Party Status in the OFA Approval Motion

- A total of 13 First Nations and organizations sought interested party status in the OFA Approval
 - 2 in Ontario: Chippewas of Georgina Island First Nation and Taykwa Tagamou Nation, who filed jointly
 - 11 from outside of Ontario
- COO acknowledged that Chippewas of Georgina Island First Nation and Taykwa Tagamou Nation have a clear interest in the OFA approval motion and left it for the Tribunal to decide whether they should be granted status
- COO opposed all the prospective interested parties from outside of Ontario having status in the OFA approval motion
- Final documents were filed with the Tribunal on May 22nd. We don't know how long the Tribunal will take to render a decision.

Motions for Interested Party Status in the CHRT Proceedings More Generally

- 3 organizations are seeking interested party status in the CHRT proceedings more generally: AFN Quebec-Labrador, Our Children Our Way (representing 24 BC Agencies), and Assembly of Manitoba Chiefs
- As well, FSIN and Council of Yukon First Nations signaled that they may want to seek interested party status in the CHRT proceedings in the future
- COO will submit the following positions on June 16th:
 - Re participating in FNCFS Program reform outside of Ontario – no position
 - Re participating in Jordan's Principle long-term reform – oppose any new parties being added at this stage

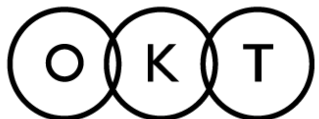


COO and NAN's Party Status in the CHRT Litigation

COO and NAN were concerned that our status as interested parties in the CHRT litigation may restrict us from filing the OFA approval motion.

To be proactive, COO and NAN formally requested that the Tribunal make an order granting COO and NAN additional participation rights for the purposes of bringing the OFA approval motion. COO and NAN filed joint submissions in support of our request on May 21^s.

Canada's May 28th submissions supported the Tribunal granting COO and NAN the additional participation rights. Canada also included that **if the Tribunal would not grant the participation rights sought to COO and NAN**, Canada would ask to be added as a moving party to the motion so that the motion could proceed without further delay.

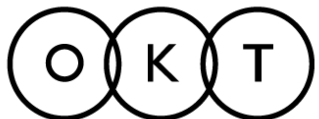


COO and NAN's Party Status in the CHRT Litigation: Caring Society's Position

- On June 4, 2025, the Caring Society and AFN filed their submissions in response to COO and NAN's request for additional participation rights for the purposes of bringing the OFA approval motion
 - ❖ Caring Society **opposes** the additional participation rights sought
 - ❖ The AFN took no position on the matter

Key Points from the Caring Society's Submissions

- granting COO and NAN the additional participation rights **would not be in the interests of justice** and would set a dangerous precedent in the human rights regime
- COO and NAN's interested party status in the CHRT litigation **does not** extend us the right to bring the OFA approval motion and settle the complaint in Ontario only
- "The Caring Society and the AFN have taken all of the significant steps in the proceedings" (para 47). Canada must file an amended Notice of Motion reflecting their alternate proposal and recognizing Canada's role as the party responsible for the discrimination
- Should Canada's amended Notice of Motion be different from the existing one submitted by COO and NAN then **all 11 prospective parties should be given an opportunity to provide their own submissions in response.**
 - This would lead to significant delay in the proceedings.



Preparing for Implementation

- The implementation of the OFA is conditional on it receiving Tribunal approval
- The OFA will come into effect 60 days after Tribunal approval unless the Tribunal's approval is challenged
- COO, NAN, and ISC are hoping that the OFA comes into effect **before March 31, 2026**
- Parties are already working together to get ready to implement the reforms in the OFA. Work is presently focused on the components of the OFA listed below.
- COO continues to be guided by the Final Settlement Agreement Advisory Committee (now the "OFA Implementation Advisory Committee")

Cultural Humility
Training for ISC

Ontario FNCFS
Data Secretariat

Community Well-
being Indicators

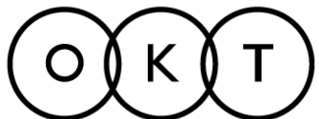
Capital Funding
under the OFA

Communications
to/Guides for
First Nations and
FNCFS Agencies

Initiative to
Support Youth in
Accessing Info on
PMSS

Alternative
Dispute
Resolution
Process

Ontario Reform
Implementation
Committee



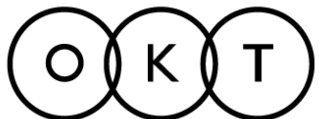
BCR Process Re: 2026-27 Prevention Funding

First Nations in Ontario have until **September 30, 2025** to submit a BCR to ISC if they want to direct a different allocation approach (i.e., a different split between the First Nation and their FNCFS Agency) for their prevention funding for the *first half* of 2026-27 (Apr 1-Sept 30, 2026)

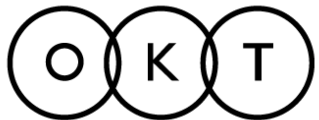
Assuming the OFA is in effect by then, First Nations have until **April 1, 2026** to submit written notice to ISC directing how prevention funding for the *second half* of 2026-27 (Oct 1, 2026-Mar 31, 2027) should be allocated, if they so choose

A First Nation can choose to receive all the prevention funding attributable to it or to direct some/all of it to its affiliated 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 2025-26

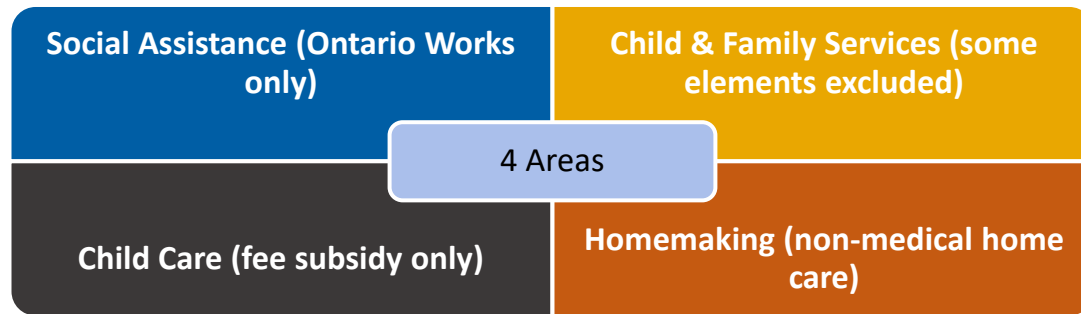


1965 Agreement Reform



Background

- **Full name:** *The Memorandum of Agreement Respecting Welfare Programs for Indians entered into between Ontario and Canada* (frequently called the “1965 Indian Welfare Agreement”, the “1965 IWA”, the “1965 Agreement”)
- It’s a **cost-sharing agreement** between Canada and Ontario that sets out an arrangement for Canada to reimburse Ontario for ~93% of the cost of delivering certain social services to First Nations on reserve:



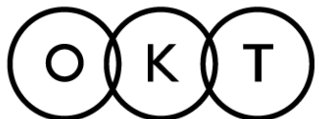
- In 2016, the Canadian Human Rights Tribunal found that the application of the 1965 Agreement in Ontario results in discrimination in child & family services and **ordered Canada to “cease its discriminatory practices and reform the...1965 Agreement”** (2016 CHRT 2).
- Ontario-specific provisions in the **Agreement-in-Principle** on Long-Term Reform of the FNCFS Program and Jordan’s Principle signed December 31, 2021 committed Canada to work with COO on reform of the 1965 Agreement and to approach Ontario together
- In Feb 2025, Ontario Chiefs-in-Assembly ratified by the **Ontario Final Agreement** (which contains a commitment from Canada to work with COO and NAN on an expedited basis to reform the 1965 Agreement with Ontario) and the **Trilateral Agreement** in Respect of Reforming the 1965 Agreement (which details how COO, NAN, and Canada will work together).

Canada has had a mandate to discuss reform of the 1965 Agreement as a whole (leaving no sectors behind) since March 2023. Ontario does not yet have a mandate to have preliminary discussions.



The Trilateral Agreement

- The Trilateral Agreement in Respect of Reforming the 1965 Agreement (the “Trilateral Agreement”) contains the following commitments:
 - commitment by COO, NAN, and Canada to:
 - **create a work plan** outlining how we will reach out to Ontario and identifying substantive subjects for discussion with Ontario
 - in negotiations with Ontario, be guided by principles including that services should advance substantive equality and consider remoteness; service delivery by First Nations should be prioritized; funding for FNRS (Band Rep) off-reserve is crucial; mainstream Agencies should be accountable to/be required to collaborate with the First Nations they serve; and accurate and timely data is key
 - commitments by Canada to:
 - engage in preliminary discussions with COO, NAN, and Ontario on comprehensive reform
 - take the position that COO and NAN be given the opportunity to fully participate in discussions with Canada and Ontario in respect of reforming the 1965 Agreement
 - not amend, replace, or terminate the 1965 Agreement or enter into a reformed agreement without consultation with COO and NAN
 - make best efforts to reach a reformed agreement by March 31, 2027 and to discuss a Plan B with COO and NAN if that’s not possible
 - fund COO and NAN to carry out the activities set out in the workplan (engagements, research, legal fees, SCA costs, etc.)



Next Steps

❑ COO, NAN, and ISC complete the work plan by July 30th

- Purposes of the work plan are to outline steps for outreach to Ontario and identify key subjects for discussion with Ontario, which may include:
 - ✓ Deficiencies, gaps, or issues in program areas in the 1965 Agreement
 - ✓ First Nations-led solutions to improving service delivery and advancing substantive equality in program areas
 - ✓ Differences among First Nations in Ontario (geography, treaty, historical context)
 - ✓ Capital needs of First Nations in the program areas in the 1965 Agreement
 - ✓ Involvement of First Nations in discussions related to funding
 - ✓ Conditions/process for First Nations to opt-out of the reformed agreement
- COO Negotiating Team continues to be guided by the 1965 IWA Advisory Committee established by COO Leadership Council in September 2023 and take direction from COO Leadership Council

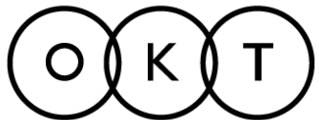


Next Steps

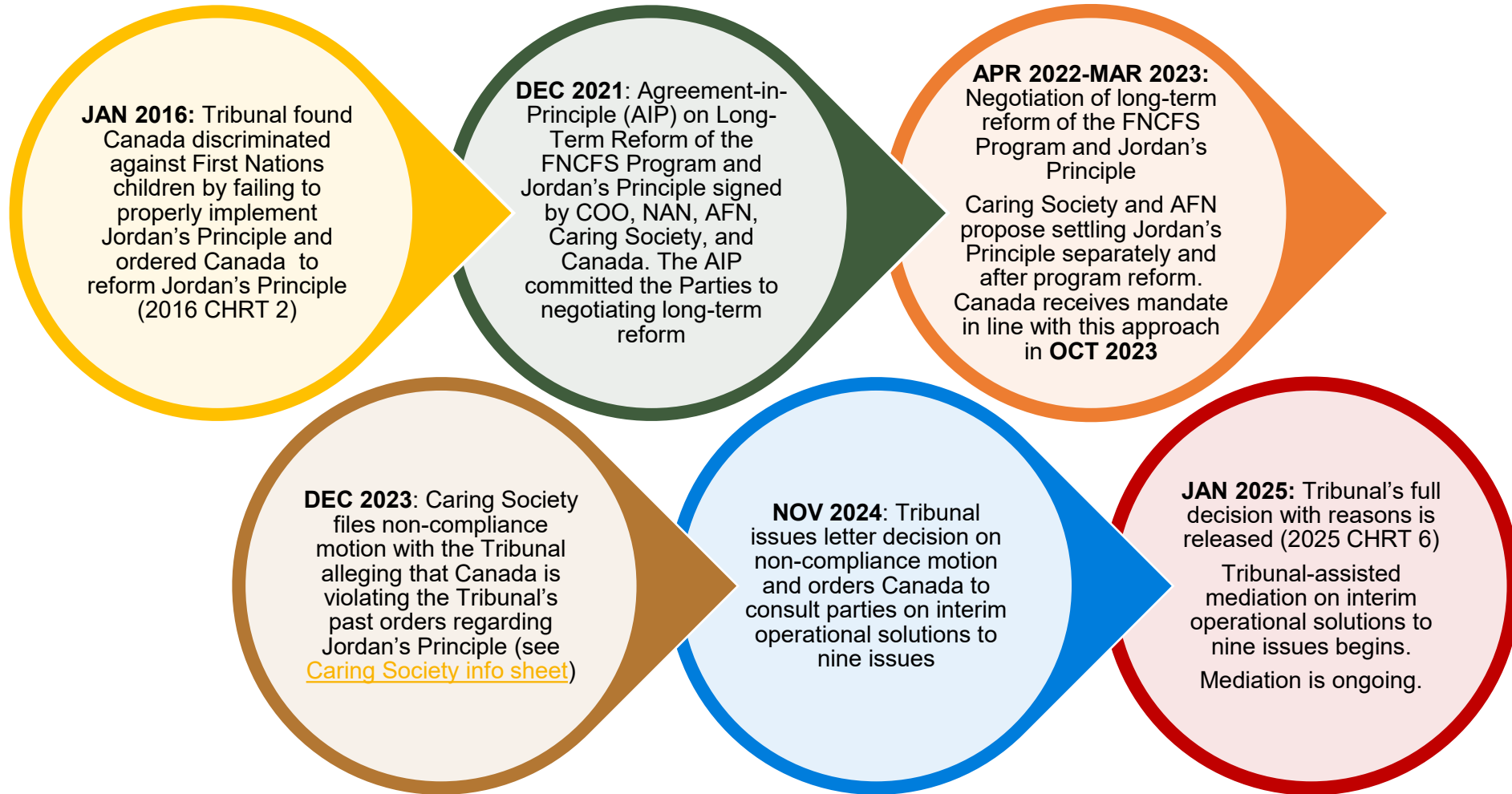
- ❑ **Parties engage Ontario.** To proceed, Ontario needs to seek and obtain a mandate to have preliminary discussions with COO, NAN, and Canada about 1965 Agreement reform based on the work plan and participate in preliminary discussions in good faith.
 - There may be a resolution on this at the COO ACA
- ❑ **Canada and Ontario seek and obtain negotiation mandates**
- ❑ **Canada and Ontario negotiate a Reformed 1965 Agreement** with COO and NAN fully participating in discussions. Canada and Ontario remain the only signatories to the agreement but COO and NAN's written consent would be required.
- ❑ **COO and NAN Chiefs vote on Reformed 1965 Agreement** (i.e., whether to consent to it) after leadership and technicians have had the opportunity to be briefed on it



Jordan's Principle Reform



Background



Mediation on ‘Interim Operational Solutions’

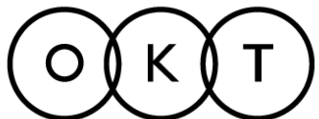
- **COO, NAN, the AFN, the Caring Society, the Canadian Human Rights Commission, and Canada are participating in Tribunal-assisted mediation to co-develop interim operational solutions to these 9 issues identified by the Tribunal:**
 1. Criteria for identifying urgent requests
 2. Defining “no access to basic necessities”
 3. Criteria and guidelines for cases involving caregivers and children fleeing domestic violence
 4. Coordination between Jordan’s Principle and emergency services
 5. Defining “Qualified Professionals”
 6. Determination clock on requests
 7. Fixing reimbursement and payment delays
 8. Clearing the backlog
 9. Non-urgent Jordan’s Principle requests
- **Status of Tribunal-assisted mediation**
 - Began in January 2025
 - Progress has been slow, but parties remain committed to achieving consensus on solutions as much as possible and then returning to the Tribunal to have our solutions made into orders
 - Areas of disagreement will be resolved by the Tribunal



ISC's Jordan's Principle Operational Bulletin

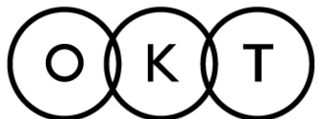
- On February 10th, ISC released a new Jordan's Principle Operational Bulletin “to provide information on the changes to operating procedures related to processing requests under Jordan's Principle”
- The bulletin introduced a number of changes for individual and group requests, which came into effect immediately
- ISC did not consult with First Nations, service providers, COO, or any of the other parties to the CHRT litigations
- **Key issues with the bulletin:**
 - ❑ New criteria are being applied retroactively to requests in the backlog
 - ❑ Increased requirements for supporting documentation
 - ❑ New (old) requirement for requestors to demonstrate the funding gap
 - ❑ Group requests –10% administration fee for the delivery of services under group requests no longer accepted; group requests will only be funded on a 1 fiscal year basis; larger administrative burden of capturing the qualifying information from children and families who will be receiving services under the group requests; funding for past expenses and deficits related to group requests will not be reimbursed
 - ❑ Supports to school boards off-reserve and private schools will **NOT** be approved under any circumstance. They will be redirected to provincial school boards, or other existing provincial and federally-funded programs.

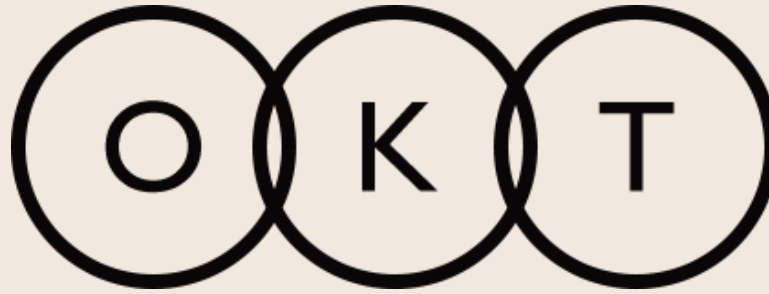
➤ There may be a resolution on this at the COO ACA



Jordan's Principle Reform

- The long-term reform of Jordan's Principle has not been discussed by parties **since March 2023**. There is currently **no timeline** for these discussions to resume, and it is anticipated that if they do resume, they will be very complex and long-drawn-out.
- COO has expressed that First Nations in Ontario cannot wait any longer for Jordan's Principle reform and that there is a desire to explore a **regional agreement on reforming Jordan's Principle in Ontario**
 - There may be a resolution on this at the COO ACA





Jessie Stirling-Voss – jstirling@oktlaw.com

