

**EMERGENCY DRAFT RESOLUTION**  
**# 0 2 / 2 0 2 3**

**AFN Special Chiefs' Assembly, April 3-6, 2023, Ottawa, ON**

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**TITLE:** Revised Final Settlement Agreement on Compensation for First Nations Children and Families

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**SUBJECT:** Child and Family Services

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**MOVED BY:** Ogimaa Kwe Linda Debassige, M'Chigeeng First Nation, ON

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**SECONDED BY:** Chairperson Khelsilem, Squamish Nation, BC

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**WHEREAS:**

- A.** The First Nations-in-Assembly honour all the children, youth, and families, those with us and those lost, who experienced egregious harms by Canada and its colonial structures, the impacts of which continue to be felt today. We dedicate ourselves to ensuring justice for all affected children, youth, and families.
- B.** The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:
- i.** Article 2: Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.
  - ii.** Article 7 (2): Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.
  - iii.** Article 22 (2): States shall take measures, in conjunction with Indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.
  - iv.** Article 40: Indigenous peoples have the right to access to prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.
- C.** The First Nations-in-Assembly commend the Representative Plaintiffs for their strength and resilience in pursuing the Class Action against Canada's discrimination under the First Nations Child and Family Services (FNCFS) Program and the improper implementation of Jordan's Principle seeking fair and equitable compensation for individuals impacted by this profound discrimination.
- D.** In 2022, Canada and the Assembly of First Nations (AFN) sought the Canadian Human Rights Tribunal's (CHRT) approval of the \$20 billion Final Settlement Agreement (FSA) on Compensation. On October 24, 2022, the CHRT issued a letter decision confirming that the FSA on Compensation substantially, but not fully, satisfied its orders on compensation. The CHRT provided its full reasons on December 20, 2022 (2022 CHRT 41).

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- E. The First Nations-in-Assembly mandated the AFN by way of Resolution 28/2022, *Final Settlement Agreement on Compensation for First Nations Children and Families*, to, among other items:
- i. support compensation for those entitled under the FSA and those entitled to \$40,000 plus interest under the CHRT compensation orders;
  - ii. direct the AFN to return to the First Nations-in-Assembly to provide regular progress reports and seek direction on implementation issues, and,
  - iii. expressed support for the Representative Plaintiffs and all victims and survivors of Canada's discrimination and sought to ensure that compensation would be paid as quickly as possible.
- F. The Representative Plaintiffs, youth in care and formerly in care, and those with lived experience in other class actions have expressed that supports for class members are imperative to their wellbeing, including mental wellness supports, financial literacy, and supports for youth past the age of majority, including for high needs Jordan's Principle recipients.
- G. Canada, the AFN, Moushoom counsel, and the First Nations Child and Family Caring Society of Canada ('Caring Society') thereafter came together to amend the FSA on Compensation to address the concerns identified by the CHRT in 2022 CHRT 41. In these negotiations, the AFN advanced the mandates directed by the First Nations-Assembly in Resolution 28/2022.
- H. The Parties have negotiated a revised Final Settlement Agreement (Revised FSA) on Compensation, providing over \$23 billion in compensation for the survivors and victims of Canada's discrimination, while addressing the issues highlighted by the CHRT in 2022 CHRT 41 and pursuing fair compensation for the Classes dating back to 1991.
- I. The Representative Plaintiffs, the AFN, and the Caring Society are recommending that the First Nations-in-Assembly endorse the Revised FSA on Compensation.
- J. Pending approval of the Revised FSA, the AFN will present the revised agreement to the CHRT for approval. Once approved by the CHRT, the revised agreement will then be presented to the Federal Court of Canada for approval to ensure the timely distribution of compensation to the survivors and victims of Canada's discrimination.

**THEREFORE, BE IT RESOLVED that the First Nations-in-Assembly:**

1. Fully support the Revised Final Settlement Agreement (Revised FSA) on Compensation in principle and authorize the Assembly of First Nations (AFN) negotiators to make the necessary minor edits to complete the Revised FSA.
2. Support the AFN in seeking an order from the Canadian Human Rights Tribunal (CHRT) confirming that the Revised FSA on compensation fully satisfies its compensation orders.
3. Direct the AFN, upon the endorsement of the Revised FSA on Compensation by the CHRT, to seek approval of Revised FSA on Compensation by the Federal Court of Canada on an expedited basis.

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4. Call on the Prime Minister of Canada to make a formal and meaningful apology to the Representative Plaintiffs and the survivors of Canada's discrimination and those who have passed away.
5. Continue to support the Representative Plaintiffs and all survivors and victims of Canada's discrimination by ensuring that compensation is paid and adequate supports are provided as quickly as possible to all those who can be immediately identified and to continue to work efficiently to ensure that compensation reaches all those who are eligible.
6. Direct the AFN to return to the First Nations-in-Assembly to provide regular progress reports on supports, implementation and the claims process and seek direction where required.