

# Ontario Final Agreement on the Long-Term Reform of First Nations Child and Family Services Program in Ontario

## Final Agreement Timeline and Legal Update

Presented by: Falconers LLP

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## Part II – Extracts from the Affidavit of Taykwa Tagamou Nation

### **The OFA was not Developed Through Meaningful Engagement**

15. I do not believe that TTN or other First Nations in Ontario were provided with a meaningful opportunity to engage with and be consulted on the OFA and have our suggestions for improvement considered. Rather, it felt like NAN and COO leadership, staff, and legal counsel were trying to “sell” the OFA to the First Nations as something that could not be changed.

18. Throughout the process, it appeared to me that NAN and COO underestimated the amount of consultation and engagement that was necessary for the First Nations to understand the details and implications of such a large and potentially monumental agreement and be comfortable to vote on whether to adopt or reject it. Instead, the attitude of NAN and COO leadership and legal counsel was that it should be sufficient for them to just provide a brief synopsis of the agreement and their views of its benefits, and then the First Nations should move quickly to approve it. What occurred was not meaningful consultation or any real attempt to gather feedback and input from impacted communities, but instead an effort to sell the already drafted agreement to the communities.



## Part II – Extracts from the Affidavit of Taykwa Tagamou Nation

### Criticisms of Engagement Process

40. At that meeting, the draft version of the Draft FSA had just been released and was made available for the Chiefs and their proxies to review. However, the document was only available in the room in print form and attendees were specifically told that they were prohibited from removing any copies from the room, in order to maintain confidentiality. NAN had even taken measures to ensure that no one took any copies with them, including by marking everyone's copy with an individual number and collecting them at the end of the meeting.

42. Several of the Chiefs and proxies in attendance were very upset about the rushed process and expressed their opposition to holding a vote on the Draft FSA due to the lack of time to review and consult. As a result, NAN agreed to cancel the scheduled vote. In response, NAN leadership claimed that they were in fact looking for input from the Chiefs in the process to follow. However, in subsequent meetings, they changed their tone, making clear that they would not be accepting any input and that they would answer questions but would not adopt any suggested changes.



## Part II – Extracts from the Affidavit of Kunuwanimano CFS

### “OFA Will not Address Discrimination Against First Nations Children Accessing Child and Family Services”

35. There is also a real risk that, under the OFA, FNCFS Agencies will not have sufficient funding to provide adequate, culturally appropriate, and substantively equitable child and family services. The funding allocated to FNCFS Agencies under the OFA is very similar to the funding provided before this case began, particularly for those agencies that have not accessed the Actuals Order or have only accessed the Actuals Order on a limited basis and/or in emergency situations.

38. Another key problem is that under the OFA, FNCFS Agencies will not be able to access any funds for prevention services if that funding is allocated to First Nations (which they can elect to receive to our exclusion) — services that are absolutely critical to serving the best needs of First Nation children and families, and which FNCFS Agencies are statutorily required to provide. Without prevention funding, FNCFS Agencies are only left with the option of taking children into care to access resources under a different category of funding (i.e. maintenance).



## Part II – Extracts from the Affidavit of Kunuwanimano CFS

### **“OFA Will not Address Discrimination Against First Nations Children Accessing Child and Family Services”**

40. Under the OFA regime, I understand that prevention funds will go to First Nations directly. I have two major concerns with this arrangement...First Nations (through no fault of their own) may not be set up to provide the necessary prevention services on their own, either in terms of resources or experience, and there is no clear transition plan or strategy in place for the shift of responsibilities from FNCFS Agencies to First Nations. Second, there is no guarantee or assurance that First Nations will re-allocate prevention funding to FNCFS Agencies like Kunuwanimano, making it extremely difficult, if not impossible, for FNCFS Agencies to plan and ensure adequate staff and resources for prevention related services and programming....



# Extracts from the Affidavit of Chief Alex Batisse (Nishnawbe Aski Nation)

## Chiefs Support the OFA

15. As was laid out in the affidavit of GC Fiddler at paragraphs 61 to 64, the NAN Chiefs-in-Assembly voted to ratify the FSA in October 2024. AFN First Nations in Assembly voted to reject the FSA shortly after. Canada communicated to NAN and COO in late December that they had a mandate to negotiate the OFA. As a result, the OFA negotiations began in January 2025.

31. In reply to paragraph 50 of the Murray Affidavit, four (4) First Nations did not vote against the OFA at the NAN Special Chiefs Assembly on February 25, 2025. As recorded in NAN Resolution 25/07 when the OFA was ratified, the only opposition was Proxy Victor Linklater (voting on behalf of TTN).



## 91% of Voting Chiefs Voted for the OFA

### Chiefs Support the OFA

**31 of 34 NAN Chiefs** voted in favour of the OFA (91%)  
(2 abstentions and 1 dissenting)

**73 of 80 Ontario Chiefs** voted in favour of the OFA (91%)  
(3 abstentions and 4 opposed)