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August 6, 2026

Via e-mail: arandell@aeslms.ca and annie.randell@sac-isc.gc.ca

Annie Randell
Table Lead for Indigenous Services Canada
Neqotkuk Coordination Agreement Main Table

Dear Annie,

SUBJECT: Request for Canada's written policies and legal basis by August 28, 2026 on capital funding and 2021 CHRT 41, enactment of Neqotkuk's law, retroactive funding, and ISC's interim fiscal framework, and Canada's August 6, 2026 updates to its funding approach

Thank you, Annie, and your client, the Government of Canada, for attending Neqotkuk's June 30, 2026 Coordination Agreement Main Table meeting. The last monthly trilateral Main Table meeting that Canada attended prior to June 30 was on November 18, 2025. Canada's unilateral decision not to attend, and not to fund Neqotkuk's law-implementation capacity or the coordination agreement discussions, causes us serious consternation, compromises the trust cultivated between us as Treaty Partners, and denies Neqotkuk Persons our preferred means of exercising our constitutionally recognized and affirmed Aboriginal and Treaty rights.

Neqotkuk welcomes Canada's renewed honourable and good-faith participation at our Coordination Agreement Main Table. The work we do at Neqotkuk's Coordination Agreement Main Table must be guided by the paramount purpose of advancing the best interests, well-being, and substantive equality of Neqotkuk children, youth and families who have suffered, and continue to suffer, from intergenerational traumas that are compounded by the deleterious effects of Canada's ongoing systemic discrimination in First Nations child and family services ("**FNCFS**") and Jordan's Principle.

We are glad to hear you, on behalf of Canada, acknowledge in your opening remarks at the Main Table on June 30, 2026, that Neqotkuk's June 8, 2026 Pre-Coordination Submission is within a reasonable range for Canada to continue working with Neqotkuk and New Brunswick toward a trilateral agreement to coordinate between Canada, New Brunswick and Neqotkuk in relation to Neqotkuk's Wolastoqey child, youth and family well-being law, *Neqotkuk Child and Family Well-Being Act, Neqotkuk Wasis naka 'Siwiyik Wolankeyutikon Tpaskuwakon* ("**NWNSWT**"). To get there, Neqotkuk was forced to accept Indigenous Services Canada's ("**ISC**") intransigent reliance on an Indian Registration System (the "**Indian Register**") population-driven funding

formula as well as ISC's unilaterally[1] capped prevention funding amounts, albeit under protest and without prejudice to Neqotkuk's position that *An Act respecting First Nations, Inuit and Métis children, youth and families*, SC 2019, c 24 (the "**Federal Act**") requires Canada, at paragraph 20(2)(c), to provide Neqotkuk with fiscal transfers based on actual Neqotkuk child, youth and family needs and that the Indian Register drastically understates the population of Neqotkuk Persons that Neqotkuk will serve under Neqotkuk's law, and correspondingly their needs.

Three questions were unresolved for Neqotkuk at the Table on June 30, 2026, and a fourth arose from our e-mail exchange of July 13 to 15, 2026. The purpose of this letter is to seek clarification and to request Canada's written policies or operational directives relating to each. The four questions are stated here in summary form and developed in detail after the material context. Another matter arises from Canada's letter of August 6, 2026, received after those exchanges, and is addressed at the end of this letter.

1. What is the legal basis, and where is the written policy, for Canada's position that a coordination agreement limits or ends Neqotkuk's access to capital funding at actual cost under 2021 CHRT 41, and what federal instrument or directive establishes the $35 million capital maximum?

[1] The $2,500 per person figure is an interim amount. It was set by consent in 2022 CHRT 8, effective April 1, 2022, to be adjusted annually for population and inflation until a reformed FNCFS Program is fully implemented. The $2,500 amount derives from the Institute of Fiscal Studies and Democracy ("**IFSD**") Phase 1 report (*Enabling First Nations Children to Thrive*, pp. 89–94), recited in the IFSD Phase 2 report (*Funding First Nations child and family services (FNCFS): A performance budget approach to well-being* (September 2020)). IFSD's costing of $2,500/person for prevention is based on a single First Nations agency (n=1), K'wak'walat'si CFS, serving 'Namgis First Nation and the Village of Alert Bay on Cormorant Island, British Columbia, which had already scaled up its full capacity to deliver prevention and had not placed a child in care since 2007. The whole $800–$2,500 prevention cost range rests on strikingly thin "evidence" (if it can be called that). The $800 low-end and $2,000 mid-range tiers come from a single anonymous First Nation Prevention Coordinator's verbal estimate of what would be required for them to deliver prevention services. The IFSD costing also notably did not include start-up or capital costs.

Nonetheless, Canada unilaterally paternalistically caps the prevention amount in ISC's interim funding framework for a coordination agreement in relation to Neqotkuk's prevention-based law at approximately $2,500 per person. It is not needs-based for Neqotkuk children and families, and does not allow Neqotkuk to exercise our constitutionally recognized and affirmed self-government, including legislative, authorities and responsibilities effectively. Neqotkuk was not consulted, despite the real and significant impact that these decisions in ISC's interim funding framework will have on the rights and lives of Neqotkuk persons, especially on our vulnerable children and youth. Nor can Canada assert the amount was settled in confidential negotiations or in interim CHRT consent orders to which Neqotkuk was not a party. It is unfair, and contrary to the rule of law and the proper administration of justice, for Canada to invoke confidentiality or settlement privilege over the negotiations it has entered into to resolve the Tribunal complaint as a reason not to disclose to Neqotkuk, and not to consult Neqotkuk as a rights-holder on, decisions that engage the honour of the Crown, including the duty to consult and accommodate, notably because of the serious deleterious adverse impacts these decisions risk on vulnerable Neqotkuk children and families. Canada's asserted settlement privileges in the CHRT case do not license the Crown to unilaterally set the fiscal terms on which Neqotkuk Persons' section 35 Aboriginal, and Treaty-reserved, right may be exercised behind closed doors and impose them on Neqotkuk persons. Canada is our Treaty Partner and has corresponding positive constitutional obligations.

2. Is Canada claiming authority, through the withholding of financial contributions, to determine when and how Neqotkuk's law comes into force, and if so, on what legal basis and under what written policy?

3. What written policy precludes coordination agreement funding retroactive to Neqotkuk's passage of its law and its section 20 notice, or at minimum to the commencement of negotiations? You and your client have confirmed that funding was secured in a 2022 Treasury Board submission for a five-year period. And, what written policy underlies Canada's June 30 statement that coordination agreement funding related to Neqotkuk's child and family well-being law and FNCFS Program funding cannot be received concurrently?

4. What is Canada's internal fiscal framework under which Neqotkuk's funding allocation was submitted to Treasury Board and re-profiled, what are its terms, and what happens to Neqotkuk's funding after the re-profiling deadline at the end of March 2027?

Material Context

The Canadian Human Rights Tribunal (the "**Tribunal**") found that by its funding approach, design, management and control of FNCFS and Jordan's Principle, Canada engaged in, and is continuing to actively engage in wilful and reckless systemic racial discrimination against First Nations children, youth and families of the worst kind meriting the maximum amount compensable under the *Canadian Human Rights Act*: 2016 CHRT 2, at paras 456–467, 481–482; 2019 CHRT 39, at para 253. The Tribunal ordered Canada to immediately cease its systemically discriminatory conduct, and it retained jurisdiction over the remedial phase of the human rights complaint until Canada can demonstrate to the Tribunal with satisfactory evidence that Canada has permanently eradicated the systemic discrimination found and that it will not recur in a different form in the future – Canada has yet to do so. This is a quasi-constitutional permanent injunction-like cease and desist order against Canada, under the *Canadian Human Rights Act*, that is not subject to variation, abrogation or derogation, whether by agreement or by subsequent legal proceedings: 2019 CHRT 7, at para 52; 2025 CHRT 80, at paras 58–60, 67–71.

Canada's systemic discrimination against Neqotkuk children, youth and families is ongoing, while Canada's contingent liabilities arising from Indigenous claims continue to grow sharply. When it comes to addressing the needs of our First Nations children, youth and families, Canada can either pay us now to do the work that our people need, or pay exponentially more later from public funds because of the compounding downstream consequences.

Neqotkuk has more than 40 years' experience and expertise doing child protection under a provincially delegated service delivery model. We conducted comprehensive multi-stakeholder trauma studies, gaps analysis, and needs analysis for the purpose of enacting our own child and family Wolastoqey legislation. We have studied, identified and devised practical solutions to the

principal structural drivers that increase the risk that our First Nations children will come into contact with child protective services.

Neqotkuk knows the solutions in child and family services that Neqotkuk Persons need. We wish to deliver these services under Neqotkuk's law as an exercise of our Inherent, Aboriginal and Treaty-protected rights to self-determination and self-governance. Canada is effectively, dishonourably, preventing Neqotkuk from doing so by withholding the statutorily required needs-based, predictable and sustainable funding, causing Neqotkuk Persons undue hardship and denying them their preferred means of exercising their constitutionally recognized and affirmed Aboriginal, and Treaty-reserved, rights to self-government in the area of children and families, in a manner that cannot be justified by the compelling and substantial public objectives the Crown purports to pursue to justify its current dishonourable conduct.

Where Canada prevents a First Nation from meeting the needs of its at-risk children and families early, those children and families will predictably require more from every publicly funded system later, including child and family services, education, health and mental health, income assistance, policing, and corrections. Underfunding First Nations delivery of prevention services today defers the cost, multiplies it, shifts it onto other public budgets, and adds to Canada's contingent fiscal liabilities related to Indigenous claims.

Children apprehended rather than supported at home, and children whose families are denied prevention and least disruptive measures, are materially more likely to accumulate adverse childhood experiences, to enter youth custody, the adult criminal justice system, or trafficking. Funding Neqotkuk at needs-based levels to deliver prevention services now is the fiscally rational course for Canada, and it advances Canada's own Nation-building objectives. A needs-based budget for Neqotkuk will stimulate the New Brunswick economy through jobs, opportunities in the trades, capital and infrastructure improvements, and housing. Most of the money will be spent in New Brunswick, and it will be an investment in our children.

Canada cannot contract out of future human rights violations. The $23.34 billion settlement agreement that Canada concluded on April 19, 2023 resolves claims arising from Canada's past systemically discriminatory underfunding of FNCFS and Jordan's Principle. Canada is not immune from liabilities for the same prejudices accruing since the effective date of the settlement agreement due to Canada's continuing discriminatory underfunding of FNCFS and Jordan's Principle. In *Quebec (Attorney General) v Pekuakamiulnuatsh Takuhikan*, 2024 SCC 39, the Supreme Court of Canada found the Crown's conduct dishonourable where it knowingly perpetually underfunded essential services that a First Nation delivered through its own institutions, and it upheld an award of damages corresponding to the funding shortfall on a basis of reconciliatory justice, confirming that these types of illegal breaches of the Crown's positive obligations can give rise to the full range of judicial remedies, including both declaratory and coercive court-ordered relief.

In May 2026, the then Chief Justice of the Manitoba Court of King's Bench, Chief Justice Joyal (appointed to the Supreme Court of Canada on June 30, 2026), found that Canada's funding of First Nations child and family services "cannot properly be characterized as merely the 'cutting of a cheque'. It is government action capable of interfering with the exercise of the plaintiffs' Aboriginal right": *Chief Heidi Cook et al v The Government of Manitoba et al*, 2026 MBKB 65 at para 714 [*Cook*]. The Chief Justice went on to find that:

> "[838]…the defendants' [Canada's and Manitoba's] cumulative conduct … constituted a meaningful diminution of the plaintiffs' constitutionally protected right to self-government in the area of CFS [(child and family services)]. Specifically, […] the manner in which the defendants funded, regulated and provided child welfare services has caused undue hardship to the plaintiffs and has denied them their preferred means of exercising their right to self-government in the area of CFS. That conduct also compromised and indeed significantly negated the capacity on the part of the plaintiffs to safeguard their own intergenerational and multi-generational cultural continuity and survival. Accordingly, I determined that the plaintiffs established a *prima facie* infringement of their right.
>
> [839] … I accepted that it could be said that the defendants' actions were taken in pursuit of the compelling and substantial objective to act in the best interests of children. However, I was not satisfied that the defendants' actions were undertaken in a manner consistent with the honour of the Crown and its fiduciary relationship with Indigenous peoples.
>
> [840] Specifically, I found that the evidence was insufficient to support a finding that the defendants had […] adequately discharged their duty to consult First Nations and to accommodate their interests. I further found on a charitable reading of the evidence, the defendants' conduct may have been rationally connected to a pressing and substantial objective. However, absent any compelling evidence by Manitoba or Canada to the contrary, I found that the combined and cumulative negative effects of the defendants' conduct more than minimally impaired the plaintiffs' s. 35 right, and that its impact on the Aboriginal right has been disproportionate to the benefits that may have been expected to flow from the pursuit of any pressing and substantial objective. In the result and having also found that the defendants failed to discharge their duty to consult and accommodate, I concluded the defendants' infringement of the plaintiffs' s. 35 right was unjustifiable.
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> […]
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> [842] … given the plaintiffs' s. 35 right is fundamental to the culture and identity of Indigenous peoples, the manner of the defendants' involvement, however well intentioned, fell well short of what was required of the defendants to ensure that the plaintiffs' constitutionally protected right was recognized and respected."

Unresolved questions

Neqotkuk asks Canada to respond to each of the four questions summarized above and developed below. For each, please provide the written policy or instrument itself, with its date, its author, its office of record and the record of any consultation with First Nations leadership, including which First Nations were consulted, when, and in what forum. If no written policy exists, please confirm that in writing, tell us when and by whom the position was adopted, and confirm whether any First Nation was consulted before it was adopted. If a document exists but cannot be shared, please give us enough detail about it, its title, date and office of record, to request it under the *Access to Information Act*, RSC 1985, c A-1. We hope that is unnecessary between Treaty Partners at an active negotiation table who are working to advance the best interests of our children, youth and families.

1. **Capital and 2021 CHRT 41**

On June 30, 2026, Canada advised that signing any coordination agreement, even a prevention-only agreement, ends a First Nation's access to funding under 2021 CHRT 41 for capital and infrastructure, and that feasibility and design costs count against a $35 million total capital maximum. Since June 30, we have continued this discussion by e-mail. On July 15, 2026, you advised that the $35 million capital maximum is for full jurisdiction, prevention, post-majority supports and protection together; that if Neqotkuk spends the $35 million on prevention and later takes on protection, Canada will not add additional capital to the coordination agreement; and that Neqotkuk should plan its entire child and family services capital need against the $35 million. Canada is treating capital as a fixed envelope for the whole of Neqotkuk's jurisdiction. We appreciate the clarification. You also acknowledged at the Table that this position has not been clearly documented as a written policy. We accordingly ask Canada to answer the following:

- What is the legal basis, and where is the written policy, for Canada's position that signing a Coordination Agreement, even a prevention-only agreement, limits or ends Neqotkuk's access to capital funding at actual cost under 2021 CHRT 41, and what federal instrument or directive establishes the $35 million capital maximum? Where does the $35 million maximum figure come from, what is the evidentiary basis, or what assessment of Neqotkuk children's needs supports it? Is Canada relying on the *Financial Administration Act*, RSC 1985, c F-11, on appropriation limits, or on Treasury Board authority as the basis for the $35 million capital maximum? If so, please identify the specific instrument, provision, or decision on which Canada relies.

  The Tribunal has held that its orders have primacy over any conflicting interpretation of the *Financial Administration Act* and related instruments, including terms and conditions, agreements, policies and conduct that hinder the implementation of the Tribunal's orders: 2025 CHRT 6, at para 584. The Tribunal has further warned that repeated reliance on the

Financial Administration Act "may result in a pattern of perpetuating the systemic discrimination": 2020 CHRT 24, at para 38. Constitutional Aboriginal and Treaty rights, and quasi-constitutional human rights, define the bare minimum obligations the Crown must meet with its programs. Programs, and particularly program funding authorities, do not define these rights.

Whatever instrument Canada identifies must be reconciled with Canada's own published commitments. ISC's First Nations Child and Family Services and Jordan's Principle Capital Delivery Guide nowhere establishes a $35 million maximum. Its Overview provides that the 2021 CHRT 41 order prevails over the Guide where they materially differ. Chapter 1, section 3.2 of the Guide states that, per the agreement-in-principle for the long-term reform of the FNCFS Program, First Nations operating under a coordination agreement "will not receive less funding than they would have received under the reformed approach". Paragraph 545 of 2021 CHRT 41 likewise provides that the Tribunal's capital orders continue to apply until, among other things, Canada reaches a Nation-specific agreement whose provisions for major capital are "more advantageous for the Nation than the orders in this ruling". A fixed capital envelope that provides less than Neqotkuk's actual capital need is not more advantageous than the order, does not end Neqotkuk's access to 2021 CHRT 41 capital funding, and cannot be reconciled with the no-less-funding commitment.

2. Enactment of Neqotkuk's law

Neqotkuk passed NWNSWT on June 8, 2022, by resolution of its government in accordance with Wolastoqey legal formalities, served its section 20 notice and request on June 9, 2022 with the law attached, and published the law on its website. Section 31.1 of NWNSWT provides that the Act, or parts of it, shall come into force on a day or days as named by resolution of the Neqotkuk Government. Neqotkuk has used that authority deliberately. As Chief Perley explained on June 30, Neqotkuk has operated under the prevention provisions of its law for years, within the budgets Canada makes available, and has judiciously not declared the cost-intensive protection provisions in force because no fiscal arrangement yet exists that could sustain them responsibly. That sequencing, prevention first and protection when it can be delivered safely, is Neqotkuk's preferred means of exercising its Inherent, Aboriginal and Treaty-protected right of self-determination and self-government. Declaring the protection provisions of our law in force without the funding to deliver them safely would set our children, our families and our Nation up to fail.

On June 30, for the first time in these negotiations, Canada asserted that it cannot make financial contributions until Neqotkuk's law is enacted, equating enactment with proclamation and publication in a form Canada recognizes. Sections 25 and 26 of the Federal Act impose posting and publication duties on the Minister alone: section 25 requires the Minister to post the name of the Indigenous group and the date of its notice or request, and section 26 leaves the manner of making the law publicly accessible to the Minister's discretion. Neither section conditions

Canada’s funding on a First Nation proclaiming its law in Canada's Westminster tradition. This appears to be a new and artificial condition that Canada is now seeking to impose on Neqotkuk unilaterally and paternalistically. The position is circular: Canada says it cannot fund until the law is in force, while Canada’s refusal to conclude a fiscal arrangement is preventing Neqotkuk from bringing the remainder of its law into force. The practical effect is that Canada, not Neqotkuk, decides when and how a section 35 right is exercised, through its control of funding.

- Is Canada claiming the authority to determine when and how Neqotkuk's law comes into force, by withholding financial contributions until Neqotkuk brings its law into force in a form Canada prescribes, and if so, on what legal basis and under what written policy?

3. Retroactive funding

Neqotkuk requests coordination agreement funding retroactive to the date when Neqotkuk passed its law and provided notice to start negotiating an agreement to coordinate in relation to NWNSWT, or at minimum to the commencement of negotiations consistent with Action Item 4 from the June 30 meeting, minus any identifiably duplicative program funding that Neqotkuk and its Agency already received for the same services. You and your client have confirmed that Treasury Board approved a 2022 submission for a five-year term. Please explain how those funds lapsed while negotiations were ongoing. Canada at no time communicated that prior years' funding would be unavailable unless a coordination agreement was signed. Other signed coordination agreements provide retroactive funding, and Treasury Board approval was already in place. We have already confirmed there would be no expectation from Neqotkuk of double-counting. If Canada maintains its refusal, please provide the written policy that precludes retroactive funding. Please also provide the written policy underlying Canada's statement on June 30 that coordination agreement funding cannot be received concurrently with First Nations Child and Family Services program funding for the same services.

4. The internal fiscal framework and the March 2027 deadline

In your July 14, 2026 e-mail, you advised that Neqotkuk's funding allocation was presented under ISC’s interim internal fiscal framework. The funding was submitted for Neqotkuk in 2023 under that framework's terms and re-profiled into the current fiscal year. The re-profiling runs to the end of March 2027. You advised that you do not know whether a new framework or guidelines exist, nor what would happen with Neqotkuk’s allocation if negotiations extend into the next fiscal year.

- Please provide the internal fiscal framework itself, the terms on which Neqotkuk's funding was submitted and re-profiled, and any condition under which the funding lapses, changes, or is reallocated after March 2027. Neqotkuk also asks Canada to confirm that it will not treat the March 2027 deadline as a reason to pressure, or exercise undue influence on, Neqotkuk to agree to coordination agreement terms that are not needs-based, sustainable and predictable.

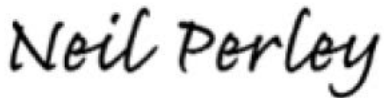
5. Canada's August 6, 2026 updates to its funding approach

On August 6, 2026 Isabelle Quintal, Acting Director General, An Act respecting First Nations, Inuit, and Métis children, youth, and families, Children, Families and Learning Sector, ISC, wrote to Chief Ross Perley to advise of "updates to Canada's funding approach for the implementation of coordination agreements" under the framework of the Federal Act. That letter states that, as a result of these updates, "funding for on-reserve child and family services will align with reforms of the First Nations Child and Family Services Program"; that discussions at Neqotkuk's table "will continue to be guided by the previously approved negotiating mandate until that mandate expires", such that the updates "do not change Canada's current negotiating position" at our Table. ISC officials will provide further information on the updated approach at the upcoming table meeting. We appreciate being informed. We note that the letter was not addressed or copied to Neqotkuk's Table Lead or to Neqotkuk's counsel, which is outside of Neqotkuk's Coordination Agreement Main Table protocol for these discussions, and that it references two federal instruments that Neqotkuk has never been provided, to wit: the updated funding approach itself, and the negotiating mandate that governs our Table. These updates bear directly on the questions above. Neqotkuk asks Canada to provide, on the same terms as the other document requests in this letter, the written instrument or directive setting out the updated funding approach.

For each of the questions set out above, **Neqotkuk asks Canada to please provide its answers in writing, with the written policy or instrument on which it relies as well as the record of any consultation with First Nations leadership, by Friday, August 28, 2026**, so Neqotkuk has time to consider the responses before the next Main Table meeting on September 17, 2026.

This letter is delivered with full reservation of the inherent, Aboriginal, and Treaty rights of the Wolastoqiyik Neqotkuk, including the rights recognized and affirmed by section 35 of the *Constitution Act, 1982* and the Treaties of Peace and Friendship. Nothing in it constitutes an admission, waiver, or endorsement of any federal or provincial policy on the implementation of the inherent right of self-government, including ISC's Interim Funding Framework. Neqotkuk's reference in this letter to Canada's own instruments and commitments does not constitute acceptance of those instruments as the lawful measure of Canada's obligations.

Mam koluskapihiw (I am sincere),



Neil Perley
Table Lead for the Neqotkuk Wolastoqiyik Government

cc:

Chief Ross Perley, Neqotkuk Wolastoqiyik Government, hand delivered

Josie Marks, KC, Neqotkuk's Coordination Agreement Table Lead for Social Development New Brunswick, *via e-mail*

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