Updated March 2025

Jordan's Principle

Ensuring First Nations Children Receive the Supports They Need When They Need Them

What is Jordan's Principle?

Jordan's Principle is a child first principle named in memory of Jordan River Anderson. Jordan was a First Nations child from Norway House Cree Nation in Manitoba. Born with complex medical needs, Jordan spent more than two years unnecessarily in hospital while the province of Manitoba and the federal government argued over who should pay for his at home care. Jordan died in the hospital at the age of five years old, never having spent a day in a family home.

Jordan's Principle ensures that First Nations children can access the supports they need, when they need them. Supports are provided on the basis of substantive equality, best interests of the child, culturally relevant service provision, and account for distinct community circumstances. When services are requested, the government of first contact pays for the service and can resolve any jurisdictional or payment disputes later.

Why is Jordan's Principle important?

Payment disputes within and between federal and provincial or territorial governments over services and supports for First Nations children are common. First Nations children are frequently left waiting for supports they desperately need, or are denied supports that are available to other children. This includes, but is not limited to, supports in education, health, early childhood services, recreation, and culture and language. Even when there is no jurisdictional dispute, First Nations children often face a lack of culturally appropriate supports that fully meet their needs. Jordan's Principle is a legal requirement that provides access to supports for First Nations children in need and ensures that the government of first contact pays for the supports without delay.

What did the Canadian Human Rights Tribunal say about Jordan's Principle?

The Canadian Human Rights Tribunal (Tribunal) is a legal institution whose mandate is to adjudicate cases where there has been an alleged breach of the *Canadian Human Rights Act*. In 2016, nine years after the case was filed by the Caring Society and the Assembly of First Nations, the Tribunal found the Canadian Government (Indigenous Services Canada) to be racially discriminating against 165,000 First Nations children and their families in its provision of the First Nations Child and Family Services (FNCFS) program and by failing to implement the full scope of Jordan's Principle. This ruling is known as 2016 CHRT 2. In this ruling, the Tribunal ordered Canada to stop its discriminatory policies and practices, to reform the FNCFS program, to stop applying the narrow definition of Jordan's Principle that it had been using and "to take measures to immediately implement the full meaning and scope of Jordan's Principle" (para. 481).

What else should I know?

Since the 2016 landmark finding, further procedural and non-compliance orders have been made by the Tribunal. The case is ongoing and new rulings may arise in the future.

Below is a summary of the Tribunal's orders relating to Jordan's Principle since 2016 CHRT 2. To read the full rulings and other information related to Jordan's Principle, visit **fncaringsociety.com/chrt-orders** and **jordansprinciple.ca**

2016 CHRT 10

- Canada must immediately implement the full meaning and scope of Jordan's Principle as per the House of Commons definition within two weeks of the ruling (by May 10, 2016).
- Jordan's Principle includes all jurisdictional disputes, including between departments, and involving all First Nations children, not only those with multiple disabilities.
- The government of first contact pays for the services "without the need for policy review or case conferencing before funding is provided" (para. 33).

2016 CHRT 16

- Canada will not reduce or restrict funding for First Nations child and family services due to services being covered by Jordan's Principle.
- Jordan's Principle applies to all First Nations children, not only those resident on reserve. In addition, Jordan's Principle is not limited to Canada's narrow definition of First Nations children with "disabilities and those who present with a discrete, short-term issue" (para. 119).

2017 CHRT 14 and 2017 CHRT 35 (Amendment)

- Canada must stop relying on definitions of Jordan's Principle that are not in compliance with the Tribunal's orders.
- Canada must determine individual requests within 48 hours, and within 12 hours for urgent needs. Canada must determine group requests within 1 week, and within 48 hours for group requests for urgent needs.
- Clinical case conferencing may occur only with relevant professionals when consultations are reasonably necessary to determine the child's clinical needs before a service is approved and funding is provided. Administrative case conferencing is not allowed.

- A dispute amongst government departments or between governments is not a necessary requirement for a child to be eligible for Jordan's Principle.
- Previous requests made from April 1, 2009, onwards shall be reviewed to ensure compliance with these latest orders.

2019 CHRT 39

- The Tribunal finds that Canada is "willfully and recklessly" discriminating against First Nations children.
- The Tribunal orders Canada to pay the maximum amount allowable ($40,000) under the *Canadian Human Rights Act* (CHRA) to compensate certain First Nations children, youth, and families who have been harmed by the child welfare system or were denied or delayed receipt of services due to Canada's discriminatory implementation of Jordan's Principle.
- The Tribunal made additional orders in 2020 and 2021 (2020 CHRT 15, 2021 CHRT 6, and 2021 CHRT 7) about the compensation eligibility criteria and the Framework for the Payment of Compensation.

2020 CHRT 36

- The Tribunal approves four categories of eligibility submitted by the parties, in keeping with the Tribunal's direction in 2019 CHRT 7 and 2020 CHRT 20. Children meeting any one of the following criteria are eligible for consideration under Jordan's Principle:
  - > A child residing on or off reserve who is registered or eligible to be registered under the *Indian Act*, as amended from time to time;
  - > A child resident on or off reserve who has one parent/guardian who is registered or eligible to be registered under the *Indian Act*;
  - > A child resident on or off reserve who is recognized by their Nation for the purposes of Jordan's Principle only; or
  - > The child ordinarily resides on reserve.
- Jordan's Principle is not a fixed budget program – it is a legal obligation of the Government of Canada, meaning as more children become eligible, the funding pot expands. Recognizing a child for the purposes of Jordan's Principle does not mean another child gets less.

- Canada will provide funding to support First Nations in setting up a process for recognizing children who do not have status and are not eligible for status if the First Nation does not already have such a system.
- In urgent cases where children are likely to experience irremediable harm if they do not get the help they need, Canada will try to contact the First Nation to determine recognition but if unable to reach the First Nation, the child will get the services needed to remedy the immediate risk.

2021 CHRT 41 Amendment

- This order is an amendment to 2021 CHRT 41 based on the consent of the Parties and following a letter-decision from the Tribunal. A letter-decision is equivalent to an oral ruling being made at the bench and is legally binding. The full reasons found by the Tribunal follow a letter-decision.
- The Tribunal orders Canada to fund all First Nations or First Nations–authorized service providers for the full cost of the purchase and/or construction of capital assets that support the delivery of Jordan's Principle services to children on reserve, including in Ontario and the Yukon.
- The Tribunal further orders Canada to fund First Nations or First Nations–authorized service providers to conduct capital needs and feasibility studies (project assessment) regarding the purchase and/or construction of capital assets for the delivery of Jordan's Principle on-reserve, including in Ontario, in the Northwest Territories, and in Yukon, and off-reserve.
- The Tribunal rules that Canada cannot interpret the *Financial Administration Act* (FAA) in a way that hinders its implementation of the Tribunal orders. Tribunal orders are to be read harmoniously with the FAA and, in the event of conflict, the Tribunal orders have primacy over the FAA.

2022 CHRT 8

- The Tribunal orders Canada, as part of the commitment to non-discrimination and substantive equality, to assess the resources required to assist families and/or young adults in identifying supports for needed services for high-needs Jordan's Principle recipients past the age of majority.
- The Tribunal orders Canada to fund research through the Institute for Fiscal Studies and Democracy (IFSD) to research long-term funding approaches for Jordan's Principle.
- The Tribunal orders Canada to implement mandatory cultural competency training and performance commitments for all Indigenous Services Canada employees. As well, Canada is ordered to establish an expert advisory committee to develop and oversee the implementation of an evidence-informed work plan to prevent the recurrence of discrimination.

2022 CHRT 41

- The Tribunal finds that the class action Final Settlement Agreement (FSA) on compensation brought forward by Canada, the AFN, and class-action parties substantially satisfies, but does not fully satisfy, its orders on compensation. This decision provides the Tribunal's full reasons following its October 24, 2022, letter-decision on the matter.
- The Tribunal finds that the FSA completely disentitles some victims, reduces compensation for some victims and makes some victims entitlements uncertain.
- The Tribunal does not have the legal authority to remove or reduce compensation for victims who have protected rights, indicating that the *Canadian Human Rights Act* "does not grant fleeting rights: once entitlements are recognized under the CHRA, they cannot be removed" (para. 504). In other words, once there is a finding of discrimination and the Tribunal issues a compensation order to vindicate rights, the entitlements may not be set aside. It was also significant that the Federal Court upheld the Tribunal compensation orders in September 2021 (2021 FC 969).
- In light of these findings, the Tribunal recommends a path forward for revisiting the class action FSA to ensure it fully satisfies the Tribunal's orders to fully compensate all those who are entitled to human rights compensation.

2023 CHRT 44

- The Tribunal finds that the Revised Final Settlement Agreement (Revised FSA) on compensation brought forward by Canada, the AFN, and the class action parties, fully satisfies the Tribunal's compensation orders.
- The Caring Society's primary role in the compensation was before the Tribunal and is not a party to the Revised FSA. The class action lawyers, alongside the Settlement Implementation Committee, will take the lead role on compensation. To learn more, visit **fnchildclaims.ca**.

- The Tribunal finds that the Revised FSA fully addresses the derogations identified by the Tribunal in 2022 CHRT 41 by providing full compensation to all those entitled further to the Tribunal's compensation orders.
- When the Federal Court approved the Revised FSA in October 2023 (2023 FC 1533), the Tribunal's jurisdiction over its compensation orders ended.
- The Tribunal continues to retain jurisdiction over FNCFS and Jordan's Principle, to ensure Canada's discrimination stops and does not happen again.

2025 CHRT 6

- The Tribunal found that the backlog of Jordan's Principle requests and reimbursements for approved requests are inconsistent with its previous orders and ordered Canada to immediately tackle the backlog.
- The Tribunal confirmed the presumption of substantive equality, minimal supporting documentation, and identification of urgent requests by qualified professionals are aligned with its orders.
- The Tribunal confirmed that there are two levels of urgent requests:
  1. Urgent requests involving foreseeable irremediable harm (requiring an immediate response) and;
  2. Other urgent requests requiring action within 12 hours.
- Consistent with previous orders, Canada must provide National and Regional contact centers with the capacity to put in place immediate compassionate interventions when a request is placed for urgent services. The Tribunal reaffirmed its 2016 orders that Canada must coordinate its federal programs to ensure that First Nations children do not experience gaps, delays and denials in programs. The Tribunal found no evidence that Canada has successfully coordinated its federal programs.
- Approved Jordan's Principle requests must be reimbursed or funded in a timely manner to avoid hardship on families and to avoid delays or risks to a child's needs going unmet.
- The Tribunal found that an independent national and effective complaints mechanism is needed.
- The Tribunal confirmed that Canada can refer requestors to First Nations so long as Canada does not transfer its legal obligations or set First Nations up to fail the children they serve. Canada must ensure that First Nations have the sufficient resources, including funding, to do this work.

To make a request for services through Jordan's Principle or for questions, contact 1-855-572-4453 (1-855-JP-CHILD).

To learn more about Jordan's Principle visit **jordansprinciple.ca**.

To learn more about the Canadian Human Rights Tribunal orders, visit **www.fnwitness.ca**