



Jordan's Principle

Ensuring First Nations Children Receive the Public Services 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 all public services they need, when they need them. Services must be provided on the basis of substantive equality, which includes providing culturally appropriate services that take into full account the historical and contemporary disadvantage that many First Nations children live with. 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 for First Nations children are common. First Nations children are frequently left waiting for services they desperately need, or are denied services that are available to other children. This includes, but is not limited to, services 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 services that fully meet their needs. Jordan's Principle is a legal requirement that provides access to services for First Nations children in need and ensure that the government of first contact pays for the services 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, after nine years of the case being filed by the Caring Society and the Assembly of First Nations, the Tribunal found that the Canadian Government is racially discriminating against 165,000 First Nations children and their families in its provision of the First Nations Child and Family Services program and by failing to implement the full scope of Jordan's Principle (2016 CHRT 2). In this ruling, the Tribunal ordered Canada to stop applying the narrow definition of Jordan's Principle and to take measures to immediately implement the full meaning and scope of Jordan's Principle.

What else should I know?

Since the 2016 landmark ruling, 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 fnwitness.ca.

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2016 CHRT 10

- Canada must immediately implement the full meaning and scope of Jordan's Principle within two weeks (by May 10, 2016). Jordan's Principle includes all jurisdictional disputes, including between departments, and involves all First Nations children, not only those with multiple disabilities.
- Payment must happen without policy review or case conferencing occurring before payment or funding is received.

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, as stated by the Tribunal (para. 119), 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."

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 respond to individual requests within 48 hours, and 12 hours for urgent needs; and to group requests within 1 week, and 48 hours for urgent needs.
- Case conferencing may occur only with relevant professionals when consultations are reasonably necessary to determine the child's clinical needs. 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, and onwards shall be reviewed to ensure compliance with these latest orders.

2019 CHRT 7

- Interim ruling that First Nations children without Indian Act status, who are recognized by their First Nation and who have urgent or life-threatening needs, are eligible for funding through Jordan's Principle until the evidence has been heard regarding the definition of a First Nations child.
- The Tribunal indicates that this interim order does not override First Nations' rights, including the inherent rights of self-determination and the right to determine citizenship and membership.

2019 CHRT 39

- The Tribunal finds that Canada is "wilfully 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 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.

2020 CHRT 20

- Canada is ordered to immediately consider eligible for services through Jordan's Principle:
 - > First Nations children who will become eligible for *Indian Act* registration/status under S-3 implementation.
- The Tribunal finds two other categories of First Nations children who will be eligible in the future following a further order from the Tribunal:
 - > First Nations children without *Indian Act* status who are recognized by their respective First Nation.
 - > First Nations children who do not have *Indian Act* status and who are not eligible for *Indian Act* status, but have a parent/guardian with, or who is eligible for, *Indian Act* status.

To report a Jordan's Principle case or find out more, contact **1-855-572-4453**.

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



**First Nations Child & Family
Caring Society of Canada**

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