

# Knowing your rights under Jordan's Principle

Jordan's Principle Webinar

May 27, 2025 | Presented by **Jessica Raby**



First Nations Child &  
Family Caring Society

Société de soutien  
à l'enfance et à la famille  
des Premières Nations

# Canada's Non-Compliance on Jordan's Principle

Not doing better when knowing better

- Communities and families have been raising concerns for years because we want Jordan's Principle to work for kids

Not addressing known harms and non-compliance

- Lack of timely and compassionate response to urgent cases. Canada's delays have placed children at serious risk.
- Approximately 135,000 requests in the backlog, including unopened requests
- Serious issues with the 24-hour ISC Jordan's Principle and regional phone lines

Canada offloading its non-compliance onto First Nations communities and service coordinators:

- Backlogs and serious delays in determining requests means communities are bridge financing Jordan's Principle requests
- Service coordinators taking the brunt of Canada's non-compliance in timelines, backlogs, non-responsiveness, etc.



# 2025 CHRT 6 ruling: Key findings

Backlogs are inconsistent with previous Tribunal orders and must be immediately addressed.

Approved requests must be reimbursed/funded in a timely manner to avoid hardship.

Urgent request definition can be reviewed but Canada's requested change in timelines denied.

Canada must close gaps and coordinate its federal programs to ensure children do not experience gaps, delays and denials in services.

Independent national complaints mechanism required.

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.

# ISC's February 10, 2025, Operational Bulletin

How does this apply to urgent requests, if at all?

ISC should not apply bulletin to backlog. Applying the bulletin retroactively amounts to shifting goal posts, is procedurally unfair and will only exacerbate the backlog, further delaying services to kids.

ISC should not require requestors to "prove" that there is a gap in services when ISC itself concluded that kids accessing Jordan's Principle will not be eligible for other programs.

ISC narrowing the scope of eligible products, services and supports "unless such funding is required by substantive equality" appears inconsistent with the Tribunal's clarification that the presumption of substantive equality applies.

ISC releasing this bulletin without consulting the Caring Society or the Parties who are in active mediation on directly related matters, raises serious concerns about ISC's commitment to mediation and complying with the Tribunal's orders.

Canada must withdraw this bulletin and mediate these issues on a good faith basis as part of the dialogic approach.

# Canada's Website: Jordan's Principle

## What is not eligible to be funded

ISC will not approve funding for the following items unless such funding is required by substantive equality under Jordan's Principle:

- purchase, construction or structural renovations of homes
- requests to support sporting events or elite or competitive sport-related training, unless it is linked to the specific health, social, or educational needs of the First Nations child
- international travel, unless it is related to an exceptional medical need of the First Nations child
- non-medical supports such as travel costs, non-medical respite care, child care, clothing, furniture and vehicles, unless accompanied by a letter of support from a medical professional. The professional must be able to provide a child-specific recommendation based on their professional designation and their knowledge of the First Nation child's specific needs
- school-related requests, unless linked to the specific health, social or educational need of the First Nations child. Supports to school boards off-reserve and private schools will be redirected to provincial school boards, or other existing provincial and federally-funded programs
- automatic administrative fees within group requests, including salaries, service fees and overhead costs

## Health

- mobility aids
- wheelchair ramps
- addiction services
- services from Elders
- mental health services
- specialized hearing aids
- traditional healing services
- services for children in care
- assessments and screenings
- transportation to appointments
- medical supplies and equipment
- long-term care for children with specialized needs
- therapeutic services for individuals or groups (speech therapy, physiotherapy, occupational therapy)

## Social

- social worker
- land-based activities
- personal support worker
- specialized summer camps
- respite care (individual or group)
- specialized programs based on cultural beliefs and practices

## Education

- school supplies
- tutoring services
- teaching assistants
- specialized school transportation
- psycho-educational assessments
- assistive technologies and electronics

# What is funded

Funding can help with a wide range of health, social and educational needs, including the unique needs that First Nations Two-Spirit and LGBTQQIA children and youth and those with disabilities may have. Some examples of what can be funded under Jordan's Principle include:

<div>Health</div> <div><ul style="list-style-type: none"><li>• Child-specific addiction services</li><li>• Professional mental health services</li><li>• Specialized hearing aids</li><li>• Assessments and screenings for a medical or educational need</li><li>• Transportation to child-specific medical appointments</li><li>• Medical supplies and equipment</li><li>• Therapeutic services for individuals or groups (speech therapy, physiotherapy, occupational therapy)</li><li>• Medical respite care (individual or group)</li><li>• Mobility aids</li><li>• Wheelchair ramps</li></ul></div>	<div>Social</div> <div><ul style="list-style-type: none"><li>• Child-specific land-based activities <b>s on reserve</b></li><li>• Child-specific specialized programs based on cultural beliefs and practices <b>s on reserve</b></li></ul></div>	<div>Education</div> <div><ul style="list-style-type: none"><li>• School supplies</li><li>• Tutoring services</li><li>• Teaching assistants <b>on reserve</b></li><li>• Assessments and screenings for educational needs</li><li>• Assistive technologies and electronics related to child-specific educational needs</li><li>• Specialized school transportation</li></ul></div>
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# What does the Tribunal say?

## 2017 CHRT 14:

B. **As of the date of this ruling**, Canada's definition and application of Jordan's Principle shall be based on the following key principles:

- i. Jordan's Principle is a child-first principle that applies equally to all First Nations children, whether resident on or off reserve. It is not limited to First Nations children with disabilities, or those with discrete short-term issues creating critical needs for health and social supports or affecting their activities of daily living.
- ii. Jordan's Principle addresses the needs of First Nations children by ensuring there are no gaps in government services to them. It can address, for example, but is not limited to, gaps in such services as mental health, special education, dental, physical therapy, speech therapy, medical equipment and physiotherapy.





# What does the Tribunal Say?

**2020 CHRT 36:** Affirms that non-status First Nations children resident off reserve who are recognized by their First Nations are eligible for federally funded Jordan's Principle services, products and supports

This recognition is **ONLY** for the purposes of Jordan's Principle



# What we know about the backlog

Table 1: Estimated Request Backlog by Region as of February 20, 2025

Region	Intake Pending Backlog (A)*	In-Progress Backlog (B)	Total Estimated Request Backlog
	Emails for new requests not yet in the CMS	Undetermined Requests in the CMS	(A+B)
Alberta	2,199	15,654	17,853
Atlantic	683	12,016	12,699
British Columbia	1,539	13,458	14,997
Manitoba	1,130	24,333	25,463
Northern	0	4,223	4,223
Ontario	216	34,255	34,471
Quebec	1,425	2,948	4,373
Saskatchewan	3,147	17,667	20,814
National Teams	0	4	4
<b>Total</b>	<b>10,339</b>	<b>124,558</b>	<b>134,897</b>

1) Intake pending backlog (A) includes requests under Jordan's Principle and ICFI; 2) In progress backlog (B) limited to Jordan's Principle requests; 3) Includes service coordination requests; 4) "National Teams" refer to requests which have yet to be assigned to a region within the CMS; 5) In-progress requests were collected through the Jordan's Principle Case Management System (extracted 2025-02-21) and may not align with other analyses; 6) Email volume collected during the week of 2025-02-16.

Table 2: In Progress Backlog by Urgency and Region as of February 20, 2025

Region	Estimated Request in Progress Backlog		
	Urgent	Non-urgent	Total (B)
Alberta	1,163	14,491	15,654
Atlantic	229	11,787	12,016
British Columbia	409	13,049	13,458
Manitoba	2,120	22,213	24,333
Northern	159	4,064	4,223
Ontario	3,446	30,809	34,255
Quebec	173	2,775	2,948
Saskatchewan	777	16,890	17,667
National Teams	0	4	4
<b>National</b>	<b>8,476</b>	<b>116,082</b>	<b>124,558</b>

1) Limited to Jordan's Principle requests; 2) Includes service coordination requests; 3) "National Teams" refer to requests which have yet to be assigned to a region within the CMS; 4) Requests were collected through the Jordan's Principle Case Management System (extracted 2025-02-21) and may not align with other analyses.

Table 3: In Progress Backlog by Urgency and Work Unit as of February 20, 2025

Work Unit	Estimated Request in Progress Backlog		
	Urgent	Non-urgent	Total (B)
Alberta	980	11,758	12,738
Atlantic	19	9,165	9,184
British Columbia	34	11,867	11,901
Manitoba	1,279	19,039	20,318
Northern	17	2,227	2,244
Ontario	355	23,110	23,465
Quebec	102	2,452	2,554
Saskatchewan	576	16,001	16,577
HQ (Escalations)	5,114	20,459	25,573
National Teams	0	4	4
<b>National</b>	<b>8,476</b>	<b>116,082</b>	<b>124,558</b>

1) Limited to Jordan's Principle requests; 2) Includes service coordination requests; 3) "National Teams" refer to requests which have yet to be assigned to a region within the CMS; 4) Requests were collected through the Jordan's Principle Case Management System (extracted 2025-02-21) and may not align with other analyses.

Table 4: Estimated Appeal Backlog as of February 20, 2025

Region	Appeal Backlog
Alberta	106
Atlantic	84
British Columbia	67
Manitoba	47
Northern	75
Ontario	72
Quebec	51
Saskatchewan	25
<b>National</b>	<b>727</b>

1) Limited to Jordan's Principle requests; 2) Requests were collected through the Jordan's Principle Case Management System (extracted 2025-02-21) and may not align with other analyses.



# 2025 CHRT 6:



[251] Pursuant to section 53 (2) of the *CHRA*, the dialogic approach, the Tribunal's previous Jordan's Principle orders, and its retained jurisdiction, the Tribunal orders Canada to:

- A. Immediately deal with the backlog with the assistance of the Tribunal's clarifications mentioned above and return to the Tribunal with its detailed plan with targets and deadlines by December 10, 2024.
- B. Report back to the Tribunal and the parties by December 10, 2024, to identify the total number of currently backlogged cases both nationally and in each region, including the intake backlog, the in-progress backlog, and the reimbursement backlog, including with information regarding the cumulative number of backlogged cases at month's end, dating back 12 months.
- C. Triage all backlogged requests for urgency with the assistance of the Tribunal's clarifications mentioned above. ISC shall review all self-declared urgent requests and evaluate if the requests are in fact urgent as per the Tribunal's clarifications and, if not, reclassify them as non-urgent by December 10, 2024. If a qualified professional with relevant competence and training has deemed them urgent, and until such time as the parties develop a definition for a qualified professional with relevant competence and training, ISC shall deem the requests urgent.
- D. Communicate with all requestors with undetermined deemed urgent cases as per the Tribunal's clarifications to take interim measures to address any reasonably foreseeable irreparable harms within fourteen days of the Tribunal's order and report back to the Tribunal by December 10, 2024.
- E. Consult and work with all parties to co-develop solutions to reduce and eventually eliminate the backlog that are efficient and effective and that can work within a government context (this does not mean that red tape should be excused or permitted in this system) and report back to the Tribunal by January 9, 2025.

# What we know about determination timelines

- Caring Society is seeing increasing severity of harm due to delays in determinations.
- ISC's reporting of national compliance rates on urgent requests as of March 2025:
  - Urgent individual requests (12 hours): 16%
  - Urgent group requests (48 hours): 0%

*Source: March 2025 Compliance Report*



# What does the Tribunal say?

## 2017 CHRT 35:

Urgent individual request	Non-urgent individual request	Urgent group request	Non-urgent group request
12 hours	48 hours	48 hours	1 week

## 2025 CHRT 6:

[204] The Tribunal does not agree to change timelines for urgent services at this time.

[295] However, the Tribunal rejects the proposed terms “without unreasonable delay”. This concept is vague and does not align with the best interest of the child or any reasonable practice standard. As even immediately and urgent were not understood the same way by everyone, the term “without unreasonable delay” would likely cause other misunderstandings.



# What we know about urgent requests

## 2025 CHRT 6

The Tribunal ordered that the following are considered urgent:

- **Life-threatening cases**
- **Cases involving end-of-life/palliative care**
- **Risk of suicide**
- **Risk to physical safety**
- **A child with no food or other basic necessities**
- **Risk of child entering the child welfare system**
- **Caregivers and children fleeing from domestic violence**
- **Certain time-sensitive cases**

The above is not an exhaustive list and there may be requests that are time-sensitive and require a fast response.

Bereavement is a sacred time for First Nations children and some relating to the passing of a close family member may be considered urgent, while others may be considered time-sensitive (not urgent).





# Supporting Documentation



- Reasonable documentation to determine a request includes parent or guardian consent and one referral from a professional (related to their scope of practice) or an Elder/Knowledge Keeper (related to culture, language, or wellness requests).
- In urgent cases, recommendations can follow once the child's immediate needs are met.
- Detailed assessments, cost breakdowns and treatment plans are not necessary to determine a request. If more information is needed, ISC can reach out to the recommending professional. This should not delay or disrupt the determination.

# What does the Tribunal say?

## 2025 CHRT 6:

[168] Aspects that are in line with the Tribunal's orders: presumption of substantive equality\*, supporting documentation kept minimal\*\*, and professionals identifying urgent cases. (However, the Tribunal orders Canada to consult with the parties and seek to co-



# Substantive equality: what we're seeing

Indigenous Services Canada (ISC) is not aware of an existing government service that currently provides funding for [REDACTED] on behalf of individuals. If there is no existing government service, as in this case, substantive equality does not apply and there is no discrimination that can arise from how a service or benefit is provided. In ISC's view, substantive equality does not require the application of Jordan's Principle in regards to this request.

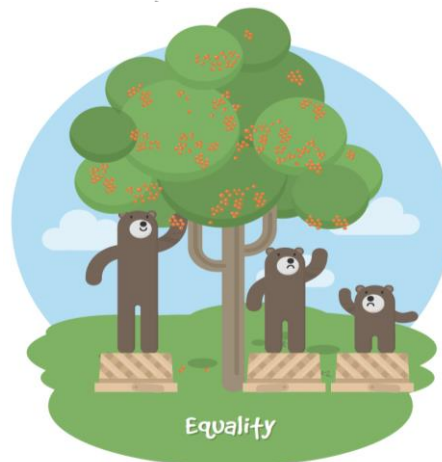


ISC should consider: substantive equality, culturally appropriate service provision, the child's needs and best interests, and distinct community circumstances.

# What does the Tribunal say?

## 2017 CHRT 14:

[69] Furthermore, the emphasis on the “normative standard of care” or “comparable” services in many of the iterations of Jordan’s Principle above does not answer the findings in the *Decision* with respect to substantive equality and the need for culturally appropriate services (see *Decision* at para. 465). The normative standard of care should be used to establish the minimal level of service only. To ensure substantive equality and the provision of culturally appropriate services, the needs of each individual child must be considered and evaluated, including taking into account any needs that stem from historical disadvantage and the lack of on-reserve and/or surrounding services (see *Decision* at paras.





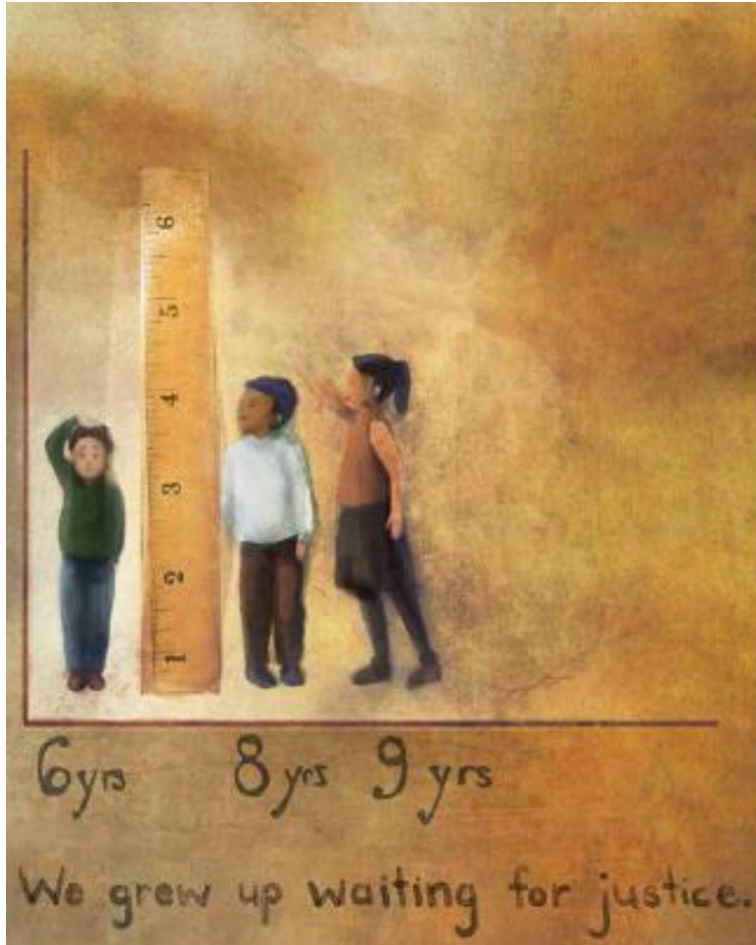
# 2025 CHRT 6:

[393] The IFSD's report, titled, Data Assessment and Framing of an Analysis of substantive equality through the application of Jordan's Principle, September 1, 2022, is attached as Exhibit J to the amended affidavit of Craig Gideon, dated March 22, 2024. The Tribunal agrees with the findings of the report and finds it is entirely in line with the Tribunal's vision of substantive equality and approach in this case and mentioned above. Canada cannot implement Jordan's Principle without assessing the gaps in other federal programs and then relying on the existence of those programs to limit access to Jordan's Principle. It might have

[400] Jordan's Principle was clearly defined by this Tribunal as having a substantive equality objective which also accounts for intersectionality aspects of the discrimination in all government services affecting First Nations children and families. The Tribunal has the

[555] \* A presumption of substantive equality is a means to break down accessibility barriers and remove burdens on requestors of having to prove how their requests meet the substantive equality test. The Tribunal has no intention to deny ISC's right of rebuttal or say

# ISC's Allegations of Misuse of Jordan's Principle



- Canadian government officials have recently suggested, without credible evidence, that there is widespread misuse of Jordan's Principle.
- Key safeguard of registered/licensed professional required to access Jordan's Principle and help demonstrate need. ISC can deny Jordan's Principle requests that are not supported by a professional recommendation or are clearly not required to end discrimination towards the child. ISC has not consistently required professional recommendations despite repeated calls to do so by the Caring Society and First Nations.
- The Tribunal has affirmed that Jordan's Principle is a human rights principle grounded in substantive equality. This does not mean that all requests should be approved under Jordan's Principle, or that Jordan's Principle is open-ended, but that the real needs of First Nations children are to be met.



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