



Federal Court Decision on Jordan's Principle: *Cully v. Canada* Information Sheet

On June 23, 2025, the Federal Court released its decision in [Cully v. Canada \(Attorney General\)](#), 2025 FC 1132. The decision is an important step forward in affirming that Jordan's Principle must be applied broadly and in a manner that respects substantive equality, cultural appropriateness, and the best interests of First Nations children.

The Court dismissed Indigenous Services Canada's (ISC) appeal denial of a young First Nations child's request for full-time Applied Behavioural Analysis (ABA) therapy and returned the request to the Appeals Committee for reconsideration in accordance with the Court's reasons.

This case sets an important precedent and confirms that:

- **Substantive equality, cultural appropriateness, and the best interests of the child** must guide all decisions under Jordan's Principle;
- **The Tribunal's orders limit ISC's discretion** when determining Jordan's Principle requests.
- **Jordan's Principle applies to ameliorative and special services**, not just the normative standard of care or existing government programs;
- The federal government **cannot create blanket exclusions** based on whether a service is part of a special or targeted program;
- ISC must conduct **individualized assessments** and cannot rely on narrow interpretations or technical arguments to avoid providing needed supports, services or products.

This ruling reinforces that Jordan's Principle is to be interpreted broadly and liberally, rather than narrowly. It ensures that First Nations children are not denied vital services based on rigid or exclusionary interpretations. It is a significant step forward in holding the federal government accountable to its legal obligations, including those arising from multiple final and binding orders from the Canadian Human Rights Tribunal (Tribunal), and upholding the rights and dignity of First Nations children in Canada.

This information sheet contains general information about the *Cully* decision and is ***not legal advice***.

Impacts

Families whose Jordan's Principle requests were denied for reasons similar to those in the *Cully* case, may have grounds to challenge the decision. If you have received a denial that references ameliorative or special programs per s.15(2) of *The Canadian Charter of Rights and Freedoms* (the Charter) or s.16(1) of the *Canadian Human Rights Act* (CHRA), or it is clear that ISC did not assess the request based on the child's needs to ensure substantive equality, cultural appropriate services, and safeguard the best interests of the child, you may wish to ask for a reconsideration or re-review of the request and point to the *Cully* decision.

We extend our deepest gratitude to the courageous family who brought this case forward. Your strength, resilience, and unwavering pursuit of justice have paved the way for meaningful change and will shape a better future for so many other First Nations children.

Decision

The Court found that ISC's decision was unreasonable because it relied on a narrow interpretation of Jordan's Principle and failed to assess whether the requested services were necessary to achieve substantive equality for S.C. The Court emphasized that ISC must meaningfully evaluate each child's individual needs, rather than dismissing applications based on whether the program they seek funding for might be considered special or ameliorative. The Court set aside the appeal denial decision and returned the request to the Appeals Secretariat for reconsideration in line with the Court's reasoning.

1. Jordan's Principle must be applied broadly

The Court held that in its consideration of S.C.'s request, ISC adopted an overly narrow and unreasonable interpretation of Jordan's Principle. ISC's denial was based on the claim that Jordan's Principle does not apply where a request relates to services offered through an ameliorative or special program, such as the OAP.

The Court made clear that labeling a service as ameliorative does not remove the government's obligations under Jordan's Principle. Denying requests for this reason would create a new and extensive carve out (or exception) to Jordan's Principle where any program could be considered special or ameliorative. This approach is not supported by the Canadian Human Rights Tribunal (Tribunal) orders and undermines the very purpose of Jordan's Principle, which is to ensure that First Nations children receive the services and supports they need. As the Court reemphasized in its decision, the Tribunal has ordered that Canada cannot use a definition of Jordan's Principle that in any way restricts or narrows its key principles (2017 CHRT 35).

2. Decisions under Jordan's Principle must respect substantive equality

The Court emphasized that substantive equality is a foundational principle of Jordan's Principle. This means that First Nations children may need services beyond the kinds or levels of services available to non-First Nations children. As such, when assessing a request, ISC must account for historical disadvantage, cultural needs, and the real barriers First Nations children face in accessing services. As the Tribunal has previously stated, even when a requested service is beyond the normative standard (what is available to the general public), the government must still assess the request based on the child's specific and individual needs (2017 CHRT 35). When determining a request, ISC must consider whether it is necessary to ensure substantive equality, culturally appropriate services, and the best interests of the child. Despite this, ISC failed to evaluate S.C.'s needs in light of substantive equality, instead choosing to apply a restrictive approach to Jordan's Principle. The Court found that this failure rendered ISC's decision unreasonable.

Background

S.C. is a young First Nations child from Batchewana First Nation, living off-reserve, who was diagnosed with autism spectrum disorder (level 2) with a language impairment. After receiving approval from ISC for numerous supports for her autism

diagnosis via Jordan's Principle funding in July 2023, S.C. began part-time ABA therapy alongside a part-time "entry to school" program facilitated by the Ontario Autism Program (OAP). The school later advised, after the school year began, that it was unable to accommodate S.C.'s needs.

In light of clinical assessments recommending that S.C. attend full-time ABA therapy, and in consultation with S.C.'s circle of care, they were transitioned into full-time ABA therapy to help them build the skills needed to eventually enter and thrive in a school environment. Concurrently, in October 2024 an urgent updated Jordan's Principle request for funding to support full-time ABA therapy was submitted to ISC. In March 2025, ISC denied the request, stating that substantive equality did not apply because full-time ABA therapy in place of school-based educational supports was not covered by any existing government programs. The decision was appealed by S.C.'s family in April 2025.

In May 2025 ISC issued its decision on the Appeal, granting limited temporary bridge funding equating to roughly six weeks of therapy. In its reasoning, ISC defined the OAP, which has a waitlist of roughly three to seven years, as a "special" or "ameliorative" program, meaning that it is specifically designed to help people who may face disadvantages based on factors like disability, race, or gender identity. ISC's appeal denial decision concluded that the purpose of Jordan's Principle is to ensure First Nations children have access to government services available to the general public, not to provide access to special or ameliorative programs. S.C.'s family challenged this decision in Federal Court, seeking an expedited hearing so that they would not fall onto the provider's waitlist, which would lead to a 6- to 18-month wait for resumption of services.

For more information on Jordan's Principle, including information sheets and the latest updates on the case before the Tribunal, please visit jordansprinciple.ca.