

Substantive Equality and Jordan's Principle

YOUTH-FRIENDLY INFORMATION SHEET



Caring Society

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What is Substantive Equality?

SUBSTANTIVE EQUALITY means making sure kids have what they actually need, so they have the same chance as other kids to grow up safely with their families at home, get a good education, and be healthy and proud of who they are. Some First Nations kids face extra challenges because of Canada's unfair treatment.

Many First Nations kids don't get things that other kids have, like safe and comfy schools and clean drinking water. Because of this, First Nations kids may need extra help or different kinds of help. Treating all kids exactly the same is not always fair. Substantive equality is about making sure all kids have what they need so that they have the same chances as others to live a good life.

Instead of asking, "Are we treating every child the same?," substantive equality asks: "Does this child have what they need to live a good life?"

There are three parts of substantive equality:

- 1 Focus on outcomes:** Instead of giving every kid the same things, focus on making sure each kid gets what they need to have the same opportunities to learn, grow, and live a good life. For example, make sure First Nations kids have safe, comfy schools close to home so they do not have to leave their families to finish high school.
- 2 Fixing the unfairness:** To make things fair, remove barriers that make life harder. For example, some First Nations kids have a hard time getting the healthcare and medicine they need because the government won't pay for it. Substantive equality says that each kid should get the help they need right away, and that the adults can figure out the money later.
- 3 Different help to match children's different needs:**

Sometimes kids need different kinds of help to have the same chances in life as other kids. For example, a kid who uses a wheelchair might need a ramp at their school.



Comparing equality and substantive equality

Equality	Substantive Equality
Treating every child the same, even if their needs are different.	Helping each child in a way that fits their specific needs.
Does not consider a child’s unique needs or experiences.	Understands that things like unfair treatment, disability, poverty, age, and where you live can affect what a child needs.
May look “fair” at first, but may not be fair in real life.	Focuses on fair outcomes so children can succeed, even if the help is different.
Result: Often leading to more inequality and unfairness.	Result: All kids have a real chance to thrive.

Canada’s legal responsibility to use substantive equality

In 2016, the Canadian Human Rights Tribunal (Tribunal) said that Canada is discriminating against First Nations children by providing unfair child welfare services. The Tribunal also said that Canada was not properly using Jordan’s Principle to make sure First Nations kids got the services they needed.

The Tribunal said that a one-size-fits-all approach does not work for First Nations kids. Canada must use substantive equality to make sure First Nations kids get the right services to meet their real needs.

What about Jordan’s Principle?

Jordan’s Principle was founded by Jordan River Anderson, a special boy from Norway House Cree Nation in Manitoba. It’s a legal rule saying First Nations children should get the help they need when they need it, like visits to doctors or extra support in school.

The Tribunal said that the Government of Canada must make decisions for First Nations kids based on each child’s unique needs. Decisions should not be based on what other children get through programs or rules in the province or territory they live in. Basing decisions on what other children get is called the “normative standard.”



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Canada must make sure that First Nations kids can access support that is:

- **Fair:** First Nations kids should have their needs met without delays caused by adults arguing about who should pay or who is responsible for giving kids what they need. These arguments are called "jurisdictional disputes."
- **In the child's best interests:** Decisions must help First Nations children be safe, well cared for and able to grow in healthy ways.
- **Culturally appropriate:** Decisions and services must respect the First Nations child's culture, language and traditions.
- **Meeting all parts of a child's life:** Kids need more than physical things like medicine or school supplies. They also need emotional, mental and cultural support, like access to doctors, help with school and learning about their language. Their family, community and past unfair treatment must be considered.
- **Meeting the community's situation:** Help should match the child's community and its unique experiences.

Words to know

Canadian Human Rights Tribunal: A Tribunal is like a court where groups can go to try and solve a problem.

Child welfare: Services that help keep kids safe at home with their families and connected to their culture

Discrimination: Discrimination happens when people are treated unfairly because of who they are.

Fairness: Fairness happens when everyone gets what they need to be healthy, safe, valued, and respected.

Government: The people in charge of making big decisions for all the people living in a particular area, like a country, province or city. Governments decide which laws to create, how to spend Canada's money, what services and programs to create, and who gets those services.

Human Rights: Human rights are something that everyone around the world has. They ensure that all people are treated fairly.

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