

CANADIAN HUMAN RIGHTS TRIBUNAL

B E T W E E N:

**FIRST NATIONS CHILD AND FAMILY CARING SOCIETY OF CANADA and
ASSEMBLY OF FIRST NATIONS**

Complainants

-and-

CANADIAN HUMAN RIGHTS COMMISSION

Commission

-and-

ATTORNEY GENERAL OF CANADA
(representing the Minister of Indigenous Services Canada)

Respondent

-and-

**CHIEFS OF ONTARIO, AMNESTY INTERNATIONAL CANADA, and NISHNAWBE ASKI
NATION**

Interested Parties

**WRITTEN SUBMISSIONS OF THE FIRST NATIONS CHILD AND FAMILY CARING
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1. These submissions respond to the Canadian Human Rights Tribunal (the “**Tribunal**”)’s June 12, 2026, direction, Canada’s responding submissions filed on June 18, 2026, and the Tribunal’s clarification of June 24, 2026. These submissions concern the implementation of 2025 CHRT 6 and the Tribunal’s ongoing efforts to ensure that First Nations children receive the services, products and supports they need, when they need them, in a manner that remedies rather than reproduces discrimination. Behind every request, backlog statistic, reimbursement delay, documentation requirement, or eligibility decision is a First Nations child whose well-being, safety, development, dignity, culture, family life or future may be affected.

2. These submissions are confined to the implementation of 2025 CHRT 6. They do not seek to expand the proceedings or invite the Tribunal to administer Jordan’s Principle. Rather they seek the information necessary to understand how Canada is implementing 2025 CHRT 6, including its approach to substantive equality, urgency, documentation, group requests, reimbursements, backlog reduction, complaints mechanisms and what Canada has termed “operational sustainability”. At the same time, this process is not a forum for Canada to relitigate matters the Tribunal has already decided or to seek to diminish the minimum standards the Tribunal’s orders already set out.

3. The First Nations Child and Family Caring Society (the “**Caring Society**”) affirms that First Nations’ inherent right of self-government, including authority in relation to children and families, is essential to the proper implementation of Jordan’s Principle. Consistent with the Tribunal’s orders and applicable human rights principles, the collective rights of First Nations and the individual rights of First Nations children to live free from discrimination must be understood as mutually reinforcing.

4. Jordan’s Principle is also sacred. Although these submissions arise in a legal process, Jordan’s Principle carries the name, memory, and legacy of Jordan River Anderson and the gift of his family and community in allowing his name to be used so that no other First Nations child would be left waiting for the help they need when they need it. That legacy imbues this process with a sacred responsibility and requires the highest level of care, transparency, humility, and good faith from Canada and from all participants in this process. Jordan’s Principle must not be reduced

to an administrative program in a manner that degrades Jordan River Anderson’s legacy, children’s rights, or the child-first purpose at its core.

5. Canada’s June 18, 2026, submissions raise concerns that warrant scrutiny in the context of the questions before the Tribunal. First, a comparator-based approach to substantive equality risks reintroducing the formal equality approach the Tribunal already rejected in 2017 CHRT 14 and treats the normative standard as determinative. Second, Canada’s reliance on operational discretion cannot shield conduct that affects compliance with binding Tribunal orders. Third, publicly undisclosed criteria, internal tools, and heightened documentation requirements raise transparency, procedural fairness, and accountability concerns. Fourth, Canada’s choice to resolve the backlog through individualized assessments and increased documentation risks increasing that very same backlog, increasing delay and administrative burden Canada says it cannot manage, while shifting that burden onto First Nations children, families, First Nations, and service providers.

6. These submissions are divided into three parts: (I) a response to Canada’s June 18, 2026, submission; (II) submissions in favour of the questions listed for the Panel and submissions with respect to those questions; and (III) proposed questions for Canada arising from these submissions. The Caring Society suggests that information requested of Canada be provided within a reasonable timeframe given the cost to children of waiting.

I. Response to Canada’s June 18, 2026, Submission

A. Substantive Equality and Canada’s Misstated Comparative Approach

7. Substantive equality is well established in the Supreme Court of Canada jurisprudence and has been repeatedly applied by this Tribunal in the context of First Nations child and family services and Jordan’s Principle. The Supreme Court has rejected formalistic equality analysis grounded in rigid comparator groups and has directed courts and decision-makers to focus on context, impact, and the unique circumstances of disadvantaged groups.¹ These principles are directly engaged here and ultimately govern whether eligible First Nations children receive the services they need, when they need them, in a manner that remedies rather than reproduces discrimination.

¹ *Quebec (Attorney General) v Kanyinda*, [2026 SCC 7](#) [Kanyinda], at [paras 39-41](#), [45-46](#), and [51](#).

8. Canada’s reliance on comparator-based reasoning risks reproducing the formal equality approach already rejected by the courts and by this Tribunal. The Supreme Court of Canada reaffirmed that ameliorative services are not immune from equality scrutiny and that, once the state provides a benefit, it must do so in a non-discriminatory manner. The Court cautioned that decision-makers should not overlook inequality simply because a program benefits many members of a disadvantaged group while perpetuating disadvantage for others.² These principles reinforce the Tribunal’s rulings that Jordan’s Principle must be implemented in a manner that achieves substantive equality for all First Nations children, as well as the Federal Court’s conclusion that relying on a program’s ameliorative purpose to exclude the services it provides from Jordan’s Principle’s scope “cut[s] short the analysis called for by the CHRT, including with respect to substantive equality and the interests of the child.”³ More fundamentally, the provision of services to First Nations children through Jordan’s Principle must be needs-based, culturally appropriate, and child-centered. Substantive equality cannot be reduced to a comparison with external standards. It must respond to the actual circumstances of First Nations children, including the historic and structural disadvantages the Tribunal has already found.

9. The Caring Society agrees that substantive equality is contextual and fact specific. That is precisely why Canada must articulate a clear, transparent, and consistently applied decision-making framework. A contextual analysis does not authorize unstructured discretion. It requires decision-makers to apply principled, child-centred factors that account for the real-world needs of First Nations children, the systemic discrimination already found by this Tribunal, and the purpose of Jordan’s Principle as a remedial measure.

10. Canada’s assertion that substantive equality is inherently comparative is not supported at law and risks turning the normative standard into a ceiling on services rather than the minimum floor identified by the Tribunal, focusing the analysis on whether there are existing government services available to non-First Nations children instead of considering the unique needs and circumstances of First Nations children. The consequences of this approach were clearly demonstrated in the *Powless* matter, in which Canada’s “existing government service” criterion

² *Kayinda* at [para 66](#). See also *Canada (Attorney General) v Dominique*, [2025 FCA 24](#), at [paras 79-85](#).

³ *Cully v Canada*, [2025 FC 1132](#), at [para 86](#).

short-circuited the substantive equality analysis.⁴ Such an approach is harmful to First Nations children, which the Tribunal has reinforced on multiple occasions in this case.

11. In 2017 CHRT 14, the Tribunal found that the emphasis on the “normative standard of care” or “comparable” services in the context of Jordan’s Principle did not address the Tribunal’s findings on substantive equality in the Merits Decision and the need for culturally relevant services. The Tribunal stated that the “normative standard of care should be used to establish the minimal level of service only.”⁵ It further clarified that while the normative standard may help identify some gaps in services to First Nations children, it may also “fail to identify gaps in services to First Nations children, regardless of whether a particular service is offered to other Canadian children.”⁶

12. Canada has repeatedly cited “the definition” of substantive equality as an obstacle to addressing the backlog. Yet, its definition is limited and does not respect the parameters of the Tribunal’s existing rulings, to which the Federal Court’s 2025 rulings in *Cully* and *Powless* attest. The Caring Society therefore submits, in response to Canada’s June 18, 2026 submission, that Canada should be asked to provide, first, a detailed initial explanation of how its current decision-making processes, tools, criteria, and guidance are designed to achieve substantive equality for First Nations children and, second, ongoing reporting on how those processes are being applied in practice as the backlog is addressed. This explanation and reporting should include how Canada is ensuring that any comparator-based reasoning, normative standards, or external service frameworks do not limit, displace, or become a cap on access to the services, products, and supports required to achieve substantively equal outcomes for First Nations children.

B. Canada’s Lack of a Public Decision-Making Framework or Operational Definition of Substantive Equality

13. Canada submits that it does not maintain a publicly available operational definition of substantive equality. Canada has also stated that it has not developed a decision-making matrix for Jordan’s Principle cases. These omissions are inconsistent with the Tribunal’s repeated

⁴ *Powless v Canada*, [2025 FC 1227](#), at [paras 21, 27, 29, 44, 46](#) and [50-51](#), *aff’d* in *Canada (Attorney General) v Powless*, [2025 FCA 226](#) on other grounds, but see [paras 44, 46, 49-52, 66-67](#) and [71](#).

⁵ *First Nations Child & Family Caring Society of Canada et al v Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, [2017 CHRT 14](#), at [para 69](#).

⁶ 2017 CHRT 14, at [para 71](#).

requirement that Jordan’s Principle be implemented through a clear, public, and Tribunal-compliant definition and process. In 2017 CHRT 14, the Tribunal stated that there was a clear need for Canada to inform its employees, the organizations it works with, and First Nations partners of the correct definition and processes surrounding Jordan’s Principle. The Tribunal further found that a corrected definition and process warranted new publicity and education to the public, employees, applicable organizations, and all First Nations partners.⁷

14. Moreover, and unchanged in 2017 CHRT 35, Canada was ordered to publicize a clear link to information, including the compliant definition and approach to Jordan’s Principle, on the homepages of both ISC and Health Canada’s websites.⁸

15. Without a publicly available operational definition of substantive equality, a clear standardized decision-making process, and transparent approval criteria for Jordan’s Principle requests, Canada creates the conditions for arbitrary decision-making, raising serious and unaddressed procedural fairness concerns related to the processing of Jordan’s Principle requests. Families, First Nations, and service providers are left guessing about the approval process, decision-makers are left without consistent public guidance, and the Tribunal and the complainants are left without a reliable basis to assess whether Canada is complying with its orders. The practical result is a lottery model of equality: children’s access to needed services, products, and supports may depend less on their actual needs and rights than on where they live, who reviews the request, what undisclosed criteria are applied, or how much documentation a family or First Nation can assemble. Such an outcome is inconsistent with substantive equality and risks turning Jordan’s Principle from a child-centered remedy into an unpredictable administrative process to the detriment of First Nations children without an accountability mechanism.

16. Canada has, however, omitted its February 10, 2025, Jordan’s Principle Operational Bulletin: Updates to the Implementation of Jordan’s Principle (the “**Operational Bulletin**”) from its June 18, 2026, response. Canada raised its Operational Bulletin in its March 23, 2026 submission to the Tribunal, in which it described this instrument as having been issued “to improve

⁷ 2017 CHRT 14, at [para 112](#).

⁸ 2017 CHRT 14, at [para 135\(3\)\(A\)](#). See also *First Nations Child & Family Caring Society of Canada et al v Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, [2017 CHRT 35](#), at [para 10](#).

clarity and efficiency and to better define what types of requests are appropriate.”⁹ This decision-making document was provided to the Tribunal in that submission, which states that ISC has determined, “based on its analysis of legal obligations related to substantive equality under Jordan’s Principle,” that funding for certain listed items “will not be approved unless such funding is required by substantive equality.” Canada is limiting access to Jordan’s Principle in a manner that presumptively excludes eligible categories of services, products, and supports, such as non-medical respite, while relying on its own interpretation of “substantive equality” as a metric for determination. This approach raises serious concerns, particularly in relation to the backlog addressed below, and risks eroding the child-first purpose of Jordan’s Principle.

17. The Operational Bulletin is central to the Tribunal’s assessment of Canada’s assertions regarding backlog management, request processing, eligibility determinations, documentation requirements, reimbursement practices, group requests, and operational decision-making. Its significance is heightened by Canada’s acknowledged lack of a publicly available operational definition of substantive equality and its lack of a decision-making matrix or comparable mechanism to ensure consistent and transparent decision-making. This submission does not ask the Tribunal to adjudicate the validity of every aspect of the Operational Bulletin in the abstract. Rather, where Canada relies on the Operational Bulletin as part of its implementation of 2025 CHRT 6, the Tribunal is entitled to understand how the Operational Bulletin is being operationalized and whether its application is consistent with the Tribunal’s existing orders.

18. The Operational Bulletin’s importance lies in Canada’s repeated justification of restrictions, heightened documentation requirements, individualized assessments, and limitations on certain categories of requests, particularly for eligible First Nations children resident off reserve, by reference to its interpretation of substantive equality. At the same time, Canada has acknowledged that it does not maintain a publicly available operational definition of substantive equality or a public framework explaining how that standard is applied in practice. The Operational Bulletin therefore occupies a central role in determining what services, products, and supports are

⁹ Canada’s March 23, 2026, submissions at p. 5 and footnote 21. In response to any argument from Canada that the Operational Bulletin lies outside the scope of the questions presently before the Tribunal, the Caring Society notes that the Operational Bulletin was listed as one of the items of ISC’s “key progress” on 2025 CHRT 6’s requirements.

approved, denied, delayed, reimbursed, escalated, or subjected to additional documentation requirements.

19. Therefore, as a measure to ensure that its backlog-reduction order is effective, and in light of Canada's failure to produce a decision-making matrix, the Caring Society respectfully submits that production of the following would materially assist the Tribunal and the parties to assess Canada's compliance: any related criteria, tools, guidance, templates, training materials, escalation practices, reimbursement instructions, group request guidance, regional implementation materials, and other operational instruments relied upon in relation to the Operational Bulletin. Canada should also be directed to explain how the Operational Bulletin and related materials operationalize substantive equality and how their application complies with the Tribunal's existing orders, including 2025 CHRT 6. If such materials are ordered to be produced, the Caring Society respectfully seeks the opportunity to identify any necessary follow-up questions or further directions required to permit the Tribunal and the parties to meaningfully assess compliance.

20. Canada's assertions regarding sustainability are difficult to reconcile with the absence of a publicly available operational definition of substantive equality, transparent decision-making criteria, or an accessible framework explaining how requests are assessed. Without such information, it is not possible to determine whether operational pressures stem from the volume and nature of requests, from administrative design choices, from evolving interpretations of eligibility, from documentation requirements, or from other systemic factors. Transparency regarding the framework being applied is therefore a prerequisite to any meaningful assessment of sustainability.

21. Accordingly, it would be helpful for Canada to identify and produce all materials that define, guide, or inform the application of substantive equality in Jordan's Principle decision-making, including any criteria, instructions, bulletins, internal guidance, training materials, escalation practices, or other instruments relied upon by decision-makers. Such a request is consistent with the concerns raised by the Federal Court of Appeal in *Canada v Powless*.¹⁰

¹⁰ *Canada (Attorney General) v Powless*, [2025 FCA 226](#), at [para 59](#).

22. The Caring Society is also concerned, as it was in the months leading up to 2017 CHRT 14, with whether Canada's employees have the training, tools, and direction necessary to implement Jordan's Principle in accordance with the Tribunal's orders. Canada should therefore be asked to explain what training is provided to Jordan's Principle decision-makers and how that training ensures compliance with substantive equality, minimal documentation, urgency, group requests, appeals, complaints, and reimbursement obligations under 2025 CHRT 6.

23. In light of the absence of evidence of any decision-making guidance other than the Operational Bulletin, Canada should also identify the measures it uses to ensure consistency and Tribunal-compliant decision-making across regions, including Headquarters and request types, including any oversight, quality assurance or audit mechanisms.

C. The Tribunal's Remedial Jurisdiction

24. Canada submits that any prescriptive direction regarding how ISC applies substantive equality raises concerns about discretion and institutional role. The Caring Society disagrees. The Tribunal is not being asked to administer Jordan's Principle; it is being asked to ensure that its binding orders are effectively implemented and that the outstanding issues set out in 2025 CHRT 6 are addressed in a manner consistent with the substantive equality rights of First Nations children, taking into full consideration their needs, best interests, culture(s) and unique community circumstances.

25. Canada's operational choices are not immune from review where they adversely affect whether First Nations children receive timely, needs-based, culturally appropriate, and non-discriminatory services. This distinction is important. The Caring Society does not ask the Tribunal to substitute itself for Canada's program administrators. It asks the Tribunal to determine whether Canada's criteria, guidance, documentation practices, escalation processes, and remedies Canada uses to implement Jordan's Principle address the outstanding issues in 2025 CHRT 6 in a manner that reflects the rights of First Nations children that were already affirmed by the Tribunal. Such an approach is in keeping with the Tribunal's approach in this proceeding to its remedial jurisdiction.¹¹

¹¹ In 2020 CHRT 7, as it relates to compensation, the Tribunal underscored that it retained jurisdiction over remedial orders to ensure that they are effectively implemented. In 2022 CHRT 41, the Tribunal relied on its

26. As set out in the Tribunal’s June 24, 2026, direction, the Caring Society understands that the Tribunal is engaging in a process that does not expand the scope of the proceedings or impose new obligations. Rather, it seeks information necessary to assess next steps in the implementation of 2025 CHRT 6 in a manner that considers whether Canada’s current decision-making practices comply with existing binding orders and whether children are receiving timely access to the services required by those orders.

II. The Caring Society’s Questions for the Panel

A. Urgency (Questions 1-3)

27. In 2025 CHRT 6, the Tribunal confirmed urgent categories including life-threatening circumstances, palliative or end-of-life care, suicide risk, risk to physical safety, no access to basic necessities, risk of entering the child welfare system, children and caregivers affected by domestic violence, and certain time-sensitive cases. The Caring Society submits that these categories must be interpreted purposively and preventively, in a manner consistent with the substantive equality rights of First Nations children and the best interest of the child. First Nations children should not have to reach the point of acute or irreversible harm before Canada acts.

28. Canada should be asked to identify and produce all materials that define, guide, or inform the application of urgency in Jordan's Principle decision-making, including any urgency criteria, triage tools, operational instructions, bulletins, internal guidance, training materials, escalation practices, quality assurance mechanisms, and other instruments relied upon by decision-makers. Without transparency regarding how urgency is identified, categorized, escalated, reviewed, and monitored, families, First Nations, service providers, the parties, and the Tribunal cannot meaningfully assess whether urgent requests are being processed in accordance with the Tribunal's orders or whether children facing reasonably foreseeable harm are receiving either immediate response or decision-making within 12 hours.

analysis in 2020 CHRT 7 and found that it remained seized of its compensation orders to “ensure effective implementation of its orders.”

29. The Caring Society makes the following specific submissions regarding the questions related to urgency.

1. Risk of Suicide

30. Cases involving suicidal ideation or self-harming behaviours should be treated as involving suicide risk and not be limited to situations where a child has an imminent life ending plan. For the child, delay in recognizing suicide risk can mean escalating distress, isolation, fear, untreated mental health needs, increased risk of self-harm, and loss of connection to family, community, culture, and care. Requiring a First Nations child to reach an imminent crisis before urgent supports are provided is inconsistent with the preventive, remedial, and child-centred purpose of Jordan's Principle. Urgency must therefore be understood as the need to act before harm deepens or becomes irreversible.

2. Risk to Physical Safety

31. "Physical safety" should be interpreted broadly to include unmet medical, mental health, disability-related, and safety needs where those needs create a foreseeable risk to a child's stability, care, or ability to remain safely with family and community. A narrow interpretation would leave First Nations children most affected by service gaps without timely protection.

3. Basic Necessities

32. The Tribunal states in 2025 CHRT 6 that "a child with no access to food or other basic necessities is considered an urgent case requiring action within 12 hours."¹² The Caring Society submits that "no access to basic necessities" must be interpreted purposively to include absence of or inadequate access to basic necessities, which fail to meet the child's basic needs. Canada should not be shielded from the requirement to urgently review a request simply because a minimal or token amount of a necessity has been provided. For example, providing a child with only one meal or one glass of water a day cannot reasonably be treated as meaningful access to food and water. For the child, inadequate access can mean hunger, dehydration, unsafe living conditions, interrupted care, worsening health, increased distress, and escalating risk of preventable harm. The category should therefore include no access, or inadequate access, to food, safe drinking water,

¹² *First Nations Child & Family Caring Society of Canada and Assembly of First Nations v Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, [2025 CHRT 6](#), at [para 557](#).

shelter, medical products, infant products, and basic personal hygiene products where the absence or inadequacy places the child's health, safety, dignity, or development at risk.

4. Risk of entering the child welfare system

33. Cases involving a “risk of entering the child welfare system” are urgent, as determined in 2025 CHRT 6, and should be interpreted broadly and preventively. Consistent with the Tribunal's findings, child welfare involvement may arise not only from maltreatment concerns, but from the absence, inadequacy, delay, or denial of services necessary to meet a child's needs.¹³ This risk is heightened where child protection frameworks define neglect or protection concerns by reference to circumstances in which a caregiver is “unable or unwilling” to provide for a child's needs. A caregiver may be willing to care for the child but rendered unable to do so safely because necessary supports have not been made accessible.

34. The Caring Society submits that the scope of “risk of entering the child welfare system” ought to be interpreted in a manner that reflects the lived realities of First Nations children and families who face structural drivers connected to child welfare involvement. Thus, imminent removal should not be the only instance a Jordan's Principle request connected to child welfare is deemed urgent. A child should not have to reach active child welfare intervention, imminent removal, or out-of-home placement before urgent supports are provided. This urgency category should include circumstances where there is a reasonably foreseeable risk of child welfare involvement, including in the form of necessary voluntary services. Where a request for a voluntary service (such as treatment or counselling) may mitigate more intrusive child welfare involvement, that request ought to be deemed urgent under this category. This urgency category should therefore include, at minimum, circumstances where necessary Jordan's Principle supports are required to prevent a reasonably foreseeable referral to or involvement with child welfare, as well as circumstances where a child is already placed outside the home, including through a parent's or caregiver's agreement, and Jordan's Principle supports remain necessary to address unmet needs, reduce the harms of separation, or support safe and timely reunification.

¹³ See for example, *First Nations Child and Family Caring Society of Canada et al v Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, [2016 CHRT 2](#), at [para 362](#).

35. *An Act respecting First Nations, Inuit and Métis children, youth and families*¹⁴ (the “**Federal Act**”) reinforces a preventive approach through priority to preventive care, family unity, and non-apprehension solely on the basis of socio-economic conditions. Jordan’s Principle requests that align with the preventative care model are critical to promoting the substantive equality rights of First Nations children, which are also enshrined in the Federal Act.

36. A parent's or caregiver's agreement to an out-of-home placement does not mitigate the impact on the child or negate the coercive context created by unmet needs and service gaps that leave families with no reasonable alternative. Excluding these circumstances from the scope of urgency would not align with the Tribunal’s findings regarding the impact of a child welfare removal, irrespective of the circumstances.¹⁵ Canada should not draw a bright line between Jordan’s Principle and child and family services where the unmet need, service gap, or delay giving rise to child welfare involvement could be remedied through the proper application of Jordan’s Principle. Such an approach would artificially fragment the child’s circumstances, undermine the preventive purpose of Jordan’s Principle, and risk deepening the very harms the Tribunal has found Canada must remedy.

37. Moreover, the scope of who can attest to the “risk of entering the child welfare system” must be equally balanced in order to mitigate the real and ever lasting impacts of child removal. These include First Nation Representatives and First Nation prevention workers, health and social workers, community and social service workers, and child protection workers. This is not a closed list but instead reflects a holistic approach to caring for and protecting First Nations children.

5. Domestic Violence

38. Cases involving children and caregivers affected by domestic violence should include timely supports to prevent, mitigate, escape, or survive unsafe conditions, regardless of whether the family has already left the home or community. This must be interpreted in light of the reality that many First Nations communities do not have access to 911 and/or domestic violence shelters on reserve or other immediately available safe housing options, particularly in rural and remote communities. In those circumstances, urgency cannot be limited to supporting a family only after

¹⁴ *An Act respecting First Nations, Inuit and Métis children, youth and families*, [SC 2019, c 24](#).

¹⁵ See generally *First Nations Child & Family Caring Society of Canada et al v Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, [2019 CHRT 39](#).

they flee. Where safe alternative housing is unavailable or delayed, Jordan’s Principle must be capable of supporting measures that optimize the child’s safety in the home, stabilize care, reduce foreseeable risk, and prevent escalation to crisis or child welfare involvement. A narrow interpretation would deter families from seeking help until conditions have become acute, leaving children exposed to preventable harm.

7. Coordination of Services

39. At paragraph 550 of 2025 CHRT 6, the Tribunal recognized that, in urgent situations involving states of emergency, there may be other services available in cases where Jordan’s Principle is also engaged, including fire evacuation services. The Tribunal also recognized that “a clear coordination between Jordan’s Principle and the other services ought to be established” and underscored that referrals to other services are acceptable only if the services are “culturally appropriate, timely, effective, and address needs in a meaningful way.”¹⁶

40. In order to address this outstanding issue, it would be helpful for Canada to identify and produce, any guidelines, protocols, criteria, agreements, operational instructions, training materials, or other instruments governing coordination between Jordan’s Principle and emergency services, including Government of Canada emergency planning and responses to natural disasters and states of emergency declared by First Nations, provincial, territorial, or federal governments. Canada should also be required to explain how those materials ensure that referrals to other services do not limit Jordan’s Principle obligations and how Canada verifies that any referred service is culturally appropriate, timely and capable of meeting the child’s needs in a meaningful way.

B. Qualified Professionals (Question 4)

41. The Tribunal found that aspects of the Back-to-Basics approach aligned with its orders where they included a presumption of substantive equality, minimal supporting documentation, and professional identification of urgent cases.¹⁷

42. For urgency assessments, the definition of “qualified professional” must be sufficiently flexible to reflect the realities of First Nations communities, including remote, rural and

¹⁶ 2025 CHRT 6, at [para 558](#).

¹⁷ 2025 CHRT 6 at [paras 167-168](#).

underserved contexts where formally credentialed professionals may not be available. “Qualified Professional” should include people with relevant health, social, education, community, cultural, or lived expertise, who are recognized or authorized by the child’s First Nation, community, or service context as having knowledge relevant to the child’s needs, risks, safety, cultural continuity, family circumstances, or urgency of the request. This includes, where appropriate, community-authorized Elders, Knowledge Keepers, service providers, educators, child and family workers, and other individuals with direct and relevant knowledge of the child’s circumstances.

43. A rigid, credential-based approach would create foreseeable harm by delaying urgent supports, excluding community-recognized expertise, privileging Western credentialing systems, and making timely access depend on whether a child lives near formally credentialed professionals. That result would be inconsistent with substantive equality and with the realities of remote, rural, and underserved First Nations communities. The Caring Society seeks guidance from the Tribunal on these important parameters to ensure that Canada is not applying a rigid approach that will have detrimental discriminatory impacts on First Nations children.

C. Backlog (Question 5)

44. In 2025 CHRT 6, the Tribunal ordered the parties to co-develop efficient solutions to reduce and eliminate the backlog that work in the government context. Co-development is a means of improving implementation of the Tribunal’s orders; it is not a mechanism for lowering, delaying, or redefining the standards those orders require.

45. The Caring Society submits that any reliance on Canada’s assertion that the urgent backlog has been reduced must be approached with caution. A numerical reduction in urgent files does not, on its own, establish compliance with the Tribunal’s orders or improved access for First Nations children, particularly in light of Canada’s unilateral design and application of the Operational Bulletin. Where Canada has not disclosed its operational definition of substantive equality or decision-making approach, the basis on which urgent requests were approved, denied, downgraded to non-urgent, delayed, closed, or removed from the backlog cannot be meaningfully assessed. Those omissions call the reported reductions into question, because they leave open whether the backlog was reduced through timely child-centred approvals, or instead through undisclosed criteria, reclassification, premature closure, inadequate documentation demands, decisions that

failed to apply substantive equality, or other measures that deterred families from submitting requests. The issue for the Tribunal is therefore not simply whether Canada’s urgent backlog is smaller, but whether the affected children received a timely, substantively equal outcome consistent with the Tribunal’s orders.

46. Pursuant to 2025 CHRT 6, Canada was ordered to report on its reimbursement backlog yet indicated in its reports that data on the volume of backlogged payments/reimbursements were not available. As such, neither the parties nor the Tribunal can assess the degree to which Canada has remedied the reimbursement/payment backlog. Canada's [December 10, 2024](#), [January 17, 2025](#), and [March 7, 2025](#) reports to the Tribunal state: “Data on the volume of outstanding payments/reimbursements is not available at the time of compiling this report. However, efforts are underway to identify solutions and develop the mechanisms necessary to systematically track and report this information in the future. Initial estimates may be available within 6 to 12 months.” It has been eighteen months since Canada’s December 10, 2024, report, and the record before the Tribunal does not disclose whether complete and reliable reporting is now available.

47. The Caring Society submits that Canada should be asked to detail its efforts to develop and implement this reporting capacity, identify what reimbursement and payment backlog data is currently collected, explain why such data has not previously been available, and provide timelines for when complete and reliable reporting will be available to permit meaningful assessment of compliance with the Tribunal's orders and the hardship caused by reimbursement delays.

48. The Caring Society further submits that Canada should be asked to identify what data it collects and reports regarding the backlog, including by region, request type, urgency status, group request status, age of request, approval or denial status, reclassification or downgrading of urgency, payment or reimbursement delay, reason for delay, and anticipated timeline for determination or payment. Canada should also identify what data it collects to assess whether backlog reduction efforts result in timely and substantively equal outcomes for First Nations children rather than merely reducing the number of files awaiting determination.

49. Such information will assist in addressing this outstanding issue as contemplated in 2025 CHRT 6 and is necessary to assess whether backlog reductions reflect improved access or whether they reflect deterrence caused by delay, uncertainty, heightened documentation, or administrative

burden. Families who have been waiting for prolonged periods should not be left without meaningful information about where their requests stand or when services, products, supports, or reimbursement may be provided.

50. The question is not whether the backlog is reduced in the abstract, but whether First Nations children are receiving timely access to the services, products, and supports they require.

D. Reimbursement (Question 6)

51. The Tribunal recognized in 2025 CHRT 6 that reimbursement delays can create significant hardship for children, families, First Nations, First Nations organizations, and service providers.¹⁸ The Tribunal found that where requestors are required to bear costs while awaiting reimbursement, delays may jeopardize continued access to services and supports and can undermine the effectiveness of Jordan's Principle as a remedial measure. The practical ability of families, First Nations, and service providers to absorb costs while awaiting payment is therefore a relevant consideration in assessing whether reimbursement practices comply with the Tribunal's orders. Reimbursement processes must be designed to avoid hardship and ensure that children do not experience interruption, reduction, delay, or loss of services because of payment delays.

52. Delayed reimbursement may function as a denial where families, First Nations, service providers, or First Nations organizations cannot absorb costs while awaiting payment. Delay can cause providers to stop serving children, families to incur debt or forgo necessities, First Nations to divert scarce resources from other children and community needs, and children to experience interruptions in care. In order to assist in addressing this important issue, the Caring Society submits that Canada should be asked to identify its current reimbursement timelines, the extent of any reimbursement delays, the reasons for those delays, and what measures are in place to ensure that payment delay does not disrupt or deny children's access to services or cause hardship.

53. Canada should also be asked whether a clear reimbursement timeline, including its previously committed to 15 business-day timeline, can be implemented to prevent disruption, delay, denial of services or hardship. Consistent with the Tribunal's findings, reimbursement practices should not require children, families, First Nations, First Nations organizations, or

¹⁸ 2025 CHRT 6, at [para 332](#).

service providers to assume financial burdens that threaten access to services or create inequitable outcomes based on a requestor's ability to temporarily absorb costs.

54. Reimbursement must be assessed by its practical effect on children: whether delay in payment interrupts services, deters providers, burdens families or First Nations, or prevents children from receiving timely supports.

E. Documentation and Group Requests (Question 8)

55. In 2025 CHRT 6, the Tribunal stated that supporting documentation for Jordan's Principle requests should be kept minimal unless additional documentation is reasonable. The Tribunal recognized that in cases with higher complexity or cost, it may be reasonable to require supporting documentation.¹⁹

56. Where many children are experiencing the same need, a group request may bring those needs forward in a way that avoids duplicative applications, supports coordinated service delivery, and responds to systemic or structural barriers at the community level. Group requests are often the most practical and culturally appropriate means by which First Nations, service providers, and professionals identify shared needs affecting children.

57. One of the unilateral measures taken by Canada to reduce the backlog is the requirement in the Operational Bulletin that group requests must now contain individual assessments and supporting documentation for each individual child in the group. Such an approach negates the benefits of a group request. Group requests are intended to address community-wide service gaps affecting multiple First Nations children through collective, needs-based solutions. As Canada's own evidence confirms, they were designed to respond to shared unmet needs, reduce burdens on children, families, and communities, and support First Nations in identifying and addressing needs at the community level.²⁰

¹⁹ 2025 CHRT 6, at [para 564](#).

²⁰ Cross examination of Valerie Gideon, Senior Assistant Deputy Minister of the First Nations and Inuit Health Branch at the Department of Indigenous Services Canada, May 7, 2019, at page 50, lines 1-10.

58. Moreover, a single professional recommendation addressing shared needs should be sufficient, unless Canada can demonstrate that additional information is necessary, proportionate, child-centred, and consistent with timely access (as contemplated in 2025 CHRT 6).

59. The backlog cannot be resolved by measures that shift the burden of curing Canada's unclear decision-making framework onto children, families, First Nations, service providers, or First Nations organizations through escalating documentation demands. Group requests should only require child-specific information where Canada can demonstrate that such information is necessary, proportionate, and will not delay, deter, or impede timely and substantively equal access to services.

60. The purpose of group requests, which the evidence in this proceeding shows were intended to be managed by First Nations partners,²¹ is undermined by any requirement for individual recommendations for each child where such a requirement fragments systemic needs into individual evidentiary burdens and increases the backlog Canada says it cannot manage. Canada ought not to require children to undergo individual assessments solely to satisfy administrative, evidentiary, or processing requirements. When individual assessments or recommendations are said to be required, Canada should be asked to explain why the information is necessary, why less burdensome evidence is insufficient, and how the requirement is in the best interests of the affected children, clearly setting out how the requirement will not delay, deter, or impede timely and substantively equal access.

61. Canada's simultaneous movement toward individualized assessments and heightened documentation thresholds is inconsistent with its stated concern about request volume and is not in keeping with the Tribunal's guidance in 2025 CHRT 6. Both measures increase administrative burden while fragmenting systemic needs into individual files. Administrative systems must be designed around children's timely access to services, not children's access constrained by administrative design. Their practical effect may be to deter, delay, or prevent requests, shift the burden onto First Nations children and families, and obscure patterns of systemic disadvantage.

²¹ Affidavit of Sony Perron, dated November 15, 2017, at Exhibit "3" (Delegation of Authorities to Regional Executives for Request Funding, Approvals and Data Tracking" at p 3.

62. Documentation and group request requirements must be assessed by their impact on children, including whether they delay, deter, fragment, or prevent access to needed services, and whether they displace systemic needs into individual burdens that children, families, and First Nations should not have to carry.

F. Appeals Process and Complaints Mechanism (Question 7)

63. In 2025 CHRT 6, the Tribunal discussed the appeals process developed by the parties and considered issues relating to accountability mechanisms within Jordan's Principle. The Caring Society submits that, in order to assess implementation of 2025 CHRT 6, the Tribunal should understand the current status of those mechanisms and any material changes that have occurred since the evidence and submissions were considered in that decision.

64. The Caring Society respectfully submits that Canada should be asked to identify:

- the current structure of the appeals process applicable to Jordan's Principle requests;
- any material changes made to that process since the proceedings leading up to 2025 CHRT 6;
- the current timelines applicable to appeals;
- how requestors are informed of available appeals rights;
- what information Canada collects regarding appeals, including volumes, outcomes and processing times; and
- what measures are in place to monitor whether the appeals process is functioning consistently with the implementation objectives discussed in 2025 CHRT 6.

65. These inquiries do not seek to expand the scope of the proceedings or to prescribe the design of an appeals process. Rather, they are directed at understanding the current implementation landscape and determining whether further information or directions may be required in relation to matters already addressed in 2025 CHRT 6.

66. The Caring Society has serious concerns that the appeals process presented to the Tribunal in the context of 2025 CHRT 6 may no longer exist in the form previously described, and that the current record no longer supports the conclusion that an arm's-length appeal mechanism is implemented and effective.

67. The Tribunal also found that Canada’s appeal process was not equipped to act as a complaints mechanism or address systemic issues.²² The Tribunal found “in applying a systemic lens supported by the available evidence and the evolution of Jordan’s Principle, establishing a credible, transparent, and effective Independent Jordan’s Principle complaints mechanism within a reasonable period through consultations among the parties would assist the effective implementation of the Tribunal’s orders.”²³ The Tribunal ultimately ordered the parties to consult on “an interim independent, non-complex but effective, credible, national Jordan’s Principle complaints mechanism.”²⁴

68. A complaints mechanism is critical to accountability and transparency. The Caring Society submits that Canada should be asked to provide an update on the status of the complaints mechanism contemplated in 2025 CHRT 6, including any steps taken toward its development or implementation, any consultations undertaken, and any anticipated next steps. If a complaints mechanism is being developed, Canada should be asked whether it has authority to address complaints during and after adjudication of a request, whether it can grant meaningful remedies, whether it can provide timely interim relief where a child’s need is urgent or ongoing, and whether it can identify systemic issues. Its scope should include processing timelines, staff conduct, reasons for denial or delay, payment delays to service providers, reimbursement delays for families who have paid out of pocket, and recurring barriers affecting groups of children or communities.

69. Without that authority, individual complaints may be resolved without addressing systemic practices that continue to harm First Nations children. A mechanism that cannot provide timely interim relief is inadequate where the child’s need is urgent or ongoing, because a complaint may succeed only after the child has already experienced preventable harm. Appeals and complaints mechanisms must be assessed by whether they provide timely and meaningful remedies for children, not merely whether an administrative review process exists.

²² 2025 CHRT 6, at [para 522](#).

²³ 2025 CHRT 6, at [para 529](#).

²⁴ 2025 CHRT 6, at [para 551](#).

III. Next Steps and Proposed Questions for Canada (Question 9)

70. The Caring Society acknowledges that the Tribunal is engaging in a process to address the outstanding issues in 2025 CHRT 6, with the ultimate goal of ensuring that First Nations children are receiving the services, products and supports they need, when they need them in a manner that remedies rather than reproduces discrimination. The Caring Society's position is not that implementation must be uniform in every respect. Rather, any variation, discretion, or co-developed approach must meet or exceed the minimum standards established by the Tribunal's orders and must result in substantively equal outcomes for First Nations children.

71. Substantive equality is a binding legal standard that governs both the design and implementation of Jordan's Principle. Canada cannot claim to apply that standard while relying on undisclosed criteria, heightened documentation requirements, individualized processing, or operational discretion in ways that deny, delay, deter, or obscure access for First Nations children.

72. Each question before the Tribunal in relation to 2025 CHRT 6 should be assessed by its practical impact on children: whether Canada's implementation of the outstanding issues in 2025 CHRT 6 results in timely access, meaningful remedies, prevention of harm, protection of dignity, safety, culture, family integrity, and development, and full compliance with the Tribunal's orders. Where uncertainty remains, it should not be resolved at the expense of children waiting for supports Canada has already been ordered to provide.

73. The prejudice to children if disclosure is not required now is concrete and immediate. Canada may continue applying undisclosed criteria while reporting backlog reductions that mask measures that have negative impacts for First Nations families. Without disclosure, the Tribunal and the parties cannot determine whether First Nations children are receiving the services, products and supports required by the Tribunal's orders.

74. The Caring Society therefore respectfully submits that in order to address the outstanding issues set out in 2025 CHRT 6 and in order to protect and promote the substantive equality rights of First Nations children, it will be important to Canada to address the following questions:

1. Substantive equality framework: How does Canada define and operationalize substantive equality in Jordan's Principle decision-making, and how does that definition align with the Tribunal's orders, including 2025 CHRT 6?

2. Decision-making materials: Apart from the Operational Bulletin and related materials, what decision-making criteria, tools, guidance, additional bulletins, operational instructions, training materials, escalation practices, internal instruments, triage tools, templates, reimbursement rules, eligibility guidance, approval or denial instructions, and regional implementation materials are used to assess Jordan's Principle requests (including urgent and group requests), and will Canada produce them so the Tribunal and the parties can assess compliance?
3. Backlog and delay data: What backlog, urgency, reimbursement, payment, delay, denial, approval, reclassification, downgrading, closure, and regional data does Canada collect and report, and does that data permit assessment of whether barriers are being reduced or merely displaced?
4. Reimbursement and payment delays: What timelines govern reimbursement and payment to families, First Nations, service providers, and First Nations organizations, what policies, procedures, service standards, tracking tools, escalation processes, and regional guidance govern those payments, and what measures are in place to ensure reimbursement delays do not function as denials?
5. Coordination with other services: What guidelines, protocols, criteria, agreements, operational instructions, training manuals, or other instruments govern coordination between Jordan's Principle and other federal, provincial, territorial, First Nations, emergency or disaster-response services, and how does Canada ensure that referrals do not delay, displace, narrow or deny Jordan's Principle obligations?
6. Appeals and complaints: How do the appeals process and complaints mechanism operate, including their current structure, any material changes since 2025 CHRT 6, applicable timelines, notice to requestors, available data on volumes and outcomes, capacity to provide timely interim relief and meaningful individual remedies, and ability to identify and remedy systemic issues affecting First Nations children?
7. Funding of eligible consultation under the Consultation Protocol (including capacity funding for April to October 2025 mediation activities): In light of Canada's refusal to engage in further discussions with the Caring Society, does Canada continue to require the signature of a Contribution Agreement that would include audit rights over the recipient to reimburse expenses related to mediation activities from April to October 2025, which are presently unfunded?

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 3rd day of July 2026.



Sarah Clarke, David P. Taylor, Robin McLeod and Henna Mohan

Counsel for the Complainants,
The First Nations Child and Family Caring Society of Canada

LIST OF AUTHORITIES

STATUTES	
1.	<i>An Act respecting First Nations, Inuit and Métis children, youth and families</i> , SC 2019, c 24
CASELAW	
2.	<i>Canada (Attorney General) v. Dominique</i> , 2025 FCA 24
3.	<i>Canada (Attorney General) v Powless</i> , 2025 FCA 226
4.	<i>Cully v. Canada (Attorney General)</i> , 2025 FC 1132
5.	<i>First Nations Child & Family Caring Society of Canada and Assembly of First Nations v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)</i> , 2025 CHRT 6
6.	<i>First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)</i> , 2017 CHRT 14
7.	<i>First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)</i> , 2017 CHRT 35
8.	<i>First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)</i> , 2019 CHRT 39
9.	<i>First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)</i> , 2016 CHRT 2
10.	<i>Powless v. Canada (Attorney General)</i> , 2025 FC 1227
11.	<i>Quebec (Attorney General) v. Kanyinda</i> , 2026 SCC 7