First Nations Child &
Family Caring Society

November 12, 2026

Leadership Brief: First Nations Child and Family Services and Jordan's Principle Proceedings Update



The Canadian Human Rights Tribunal (Tribunal) is currently considering several matters with significant implications for the future of First Nations Child and Family Services (FNCFS) reform and Jordan's Principle implementation. These include the ongoing assessment of FNCFS long-term reform proposals under 2025 CHRT 80, Jordan's Principle proceedings concerning compliance with 2025 CHRT 6 and ongoing litigation regarding the composition of the Tribunal panel hearing the case.

First Nations Child and Family Services: Long-Term Reform

The Tribunal is currently considering two proposals for long-term reform of FNCFS outside Ontario. One plan is the First Nations-led Loving Justice Plan submitted by the Caring Society and the National Children's Chiefs Commission (NCCC) with support of the Assembly of First Nations (AFN). The Tribunal encouraged Canada to work with the AFN and Caring Society to create one submission, but Canada refused to do so, choosing instead to submit its own National Framework and regional agreement approach. The Tribunal will assess and determine whether these proposals satisfy the minimum human rights standards established in 2025 CHRT 80 to ensure meaningful and lasting long-term reform.

Canada has recently filed updated affidavit evidence describing changes to its proposed National framework, including changes to proposed governance structures, implementation mechanisms, accountability processes and dispute resolution mechanisms. The materials also provide updates on regional agreement discussions and one agreement reached as part of Canada's proposed approach. These materials will form part of the evidentiary record that the Tribunal will consider as it evaluates the Loving Justice Plan and Canada's Plan.

Over the coming months, the Tribunal is expected to receive reply evidence from the parties and written submissions regarding the proposed approaches to FNCFS long-term reform and their consistency with the Tribunal's orders. This process will culminate in hearings and final submissions in January 2027, before the Tribunal begins further considerations of what long-term framework should ultimately guide implementation outside Ontario.

Why This Matters

While two proposals are presently being considered, the Tribunal is not limited to adopting either proposal in its entirety. It may ultimately adopt elements from both proposals, identify additional measures or take another approach altogether where it considers this necessary to achieve the objectives of long-term reform. The key issue is not what proposal prevails, but whether the final outcome meets the standards established by the Tribunal and results in meaningful and sustainable change for First Nations children, youth and families. It is important to note that Canada's plan has not been approved and any agreement they negotiate cannot come into effect without Tribunal approval.

Jordan's Principle: Compliance and Implementation

The Tribunal is currently overseeing the outstanding implementation and compliance issues arising from 2025 CHRT 6 with a number of significant matters that have returned to the Tribunal for determination. Hearings are scheduled for November 9, 12, 17, 18 and 19, 2026. Individuals wishing to observe the proceedings virtually may register through the Tribunal's hearing registration process.

The Caring Society, the AFN, the Chiefs of Ontario (COO) and the Nishnawbe Aski Nation (NAN) have jointly argued that further direction is required to ensure Jordan's Principle is being implemented in a manner that achieves substantive equality and provides timely access to services for First Nations children. Amongst other measures, their Joint Proposal and subsequent Joint Notice of Motion seek greater oversight and accountability for Canada regarding service delays and backlogs, a Tribunal-compliant and transparent decision-making framework, including clear guidance on how Canada applies substantive equality to its decision-making, coordination of federal programs to avoid service gaps and jurisdiction issues, remedies concerning

reimbursement and payment delays, a complaints mechanisms, safeguarding an independent appeals mechanisms and public reporting on Canada's implementation of Jordan's Principle. They also raised concerns regarding Canada's February 2025 Operational Bulletin, seeking an order that Canada immediately withdraw the Operational Bulletin, and whether current administrative practices are consistent with previous Tribunal orders. Canada opposes all of the measures and argues that several of the proposed orders exceed the Tribunal's remedial role and could interfere with existing efforts to improve service delivery and reduce backlogs. Canada further submits that, while Jordan's Principle has been instrumental in addressing the needs of First Nations children, its implementation through a succession of Tribunal's orders has resulted in an unsustainable framework and no further orders are warranted or necessary.

Why This Matters

The key issue before the Tribunal is whether Canada's current implementation of Jordan's Principle contains sufficient safeguards and accountability to ensure First Nations children can access the services, supports and products they need, when they need it, in a manner consistent their best interests, culturally relevant service provision and substantive equality. The Tribunal must determine whether additional direction is required to address ongoing implementation concerns and ensure compliance with its orders, or whether, as Canada submits, further intervention is neither necessary nor appropriate. The outcome may shape how Jordan's Principle is implemented, monitored and enforced in the years ahead.

Tribunal Panel Composition and Continuity

Following the resignation of Tribunal Member Edward Lustig in July 2026, Canada requested the Tribunal be reconstituted as a three-member panel. Other parties argued that continuity should be preserved given the extensive record developed over nearly two decades of litigation and implementation proceedings. The Tribunal ultimately ruled against Canada's request and Canada has submitted a notice for application of Judicial Review to challenge that decision in Federal Court. This matter is ongoing and currently before Federal Court.

Why This Matters

The outcome of this issue may influence how future implementation and compliance matters are heard across both FNCFS and Jordan's Principle proceedings.