

Jordan's Principle

Who was Jordan?

Jordan River Anderson, a First Nations child from Norway House Cree Nation in Manitoba, died in the hospital (2005) at the age of 5 while the provincial and federal governments could not agree on who was financially responsible for his home care in a medical foster home.¹

What is Jordan's Principle?

The website of the Government of Canada website states: Jordan's Principle makes sure all First Nations children living in Canada can access the products, services and supports they need, when they need them. 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.²

On May 26, 2017, and amended on November 2, 2017, the [Canadian Human Rights Tribunal \(CHRT\) issued a ruling](#) that included an expanded definition of Jordan's Principle. As part of the ruling, the CHRT ordered the Government of Canada to post the information below on the web.

"[2] In recognition of Jordan, Jordan's Principle provides that where a government service is available to all other children, but a jurisdictional dispute regarding services to a First Nations child arises between Canada, a province, a territory, or between government departments, the government department of first contact pays for the service and can seek reimbursement from the other government or department after the child has received the service. It is a child-first principle meant to prevent First Nations children from being denied essential public services or experiencing delays in receiving them. On December 12, 2007, the House of Commons unanimously passed a motion that the government should immediately adopt a child-first principle, based on Jordan's Principle, to resolve jurisdictional disputes involving the care of First Nations children."³

The Latest in the Never-Ending Court Battle with Canada

The Government of Canada website states: The First Nations Caring Society lobbied the federal government [in 2006] for a 'child-first principle' to ensure that services for First Nations children are not delayed due to jurisdictional disputes.⁴ In 2007, the First Nations Child and Family Caring Society of Canada (Caring Society) and the Assembly of First Nations (AFN) filed a complaint against Canada at the Canadian Human Rights Tribunal (CHRT).⁵

On January 26, 2016, in a decision referred to as the Merit Decision, the Tribunal found that Canada was discriminating against First Nations children on reserve and in the Yukon pursuant to the Canadian Human Rights Act (the Act) for two reasons. First, Canada's funding of the

¹ [Files T-1559-20 and T-1621-19 \(fct-cf.gc.ca\)](#). Accessed 28 April 2022.

² [Jordan's Principle \(sac-isc.gc.ca\)](#). Accessed 28 April 2022.

³ [Definition of Jordan's Principle from the Canadian Human Rights Tribunal \(sac-isc.gc.ca\)](#) Accessed 28 April 2022.

⁴ [Files T-1559-20 and T-1621-19 \(fct-cf.gc.ca\)](#) Accessed 28 April 2022.

⁵ Ibid. Accessed 28 April 2022.

FNCFS Program as well as health services related to Jordan's Principle was inadequate. Second, Canada was taking an overly narrow approach to eligibility for Jordan's Principle.⁶

The Tribunal found that Canada knew about the negative effects of these actions, including that a lack of funding drives First Nations children into state care. The Tribunal ordered that Canada immediately cease its discriminatory practices and fully implement Jordan's Principle. Canada did not ask the Federal Court to set the Merit Decision aside.⁷

Since the ruling, the CHRT has issued a number of follow-up orders about Jordan's Principle. In May 2017, the CHRT ordered that the needs of each individual child must be considered, to ensure the following is taken into account under Jordan's Principle:

- substantive equality
- providing culturally appropriate services
- safeguarding the best interests of the child

This means giving extra help when it is needed so First Nations children have an equal chance to thrive.⁸

September 29, 2021, the Federal Court rejected Canada's request to quash two sets of decisions by the Human Rights Tribunal: decisions impacting compensation and eligibility for services under Jordan's Principle. The first decision relates to a compensation order (the Compensation Decision) where the Tribunal awarded compensation to First Nations children, parents, or care-giving grandparents because of the effects of discriminatory funding of the First Nations Child and Family Services Program (FNCFS Program) and Jordan's Principle. The second decision relates to who is eligible for Jordan's Principle as a 'First Nations child', the term used throughout the various Tribunal decisions/rulings (Eligibility Decision). Ultimately, the Federal Court upheld the Tribunal's decisions.⁹

- In the Compensation Decision, the Tribunal decided that each child removed from their home because of Canada's discrimination should be compensated a total of \$40,000. The Tribunal also found that the parents or caregiving grandparents of those children are eligible for the same award.
- In the Eligibility Decision, the Tribunal considered who should be eligible for Jordan's Principle. Jordan's Principle directs the government of first contact to provide services to First Nations children pending a decision by different governments or departments regarding which one should pay for the services. The Tribunal decided that two more categories* of children (in addition to three existing categories) should be eligible for Jordan's Principle. Under this decision, each of the following groups are **eligible to apply** for Jordan's Principle whether they live on or off reserve:
 - ✚ 1. A child with Indian Act status;
 - ✚ 2. A child who is eligible for Indian Act status;
 - ✚ 3. A child who is covered by a First Nation's self-government agreement or arrangement;

⁶ Ibid.

⁷ Ibid.

⁸ [Jordan's Principle \(sac-isc.gc.ca\)](#). Accessed 28 April 2022.

⁹ [Files T-1559-20 and T-1621-19 \(fct-cf.gc.ca\)](#). Accessed 30 April 2022.

- ✚ 4. *A child, without Indian Act status that is a citizen or member of a First Nation; and
- ✚ 5. *A child that does not have Indian Act status and is not eligible for status, but has a parent/guardian with, or who is eligible for status.¹⁰

What is funded?

The Indigenous Services website states:

Each child's situation is unique. Please confirm coverage in advance with your [regional focal point for Jordan's Principle](#). 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 has been funded under Jordan's Principle include:

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

¹⁰ Ibid.

- specialized school transportation
- psycho-educational assessments
- assistive technologies and electronics¹¹

Indigenous Services Canada issued a call for proposals, January to March 2021, “to seek services from professionals in the health, social and education fields to review appeals and issue recommendations as part of the new Jordan's Principle External Appeals Committee.”¹²

For more information:

Jordan's Principle Call Centre: 1-855-JP-CHILD (1-855-572-4453)

For Ontario requests: [613-618-1833](tel:613-618-1833), or sac.jordansprincipleon-principedejordan.isc@canada.ca

¹¹ [Submit a request under Jordan's Principle \(sac-isc.gc.ca\)](#). Accessed 30 April 2022.

¹² [Jordan's Principle \(sac-isc.gc.ca\)](#). Accessed 30 April 2022.