

# Jordan's Principle: Enforcing the Tribunal's orders at Federal Court

## AFN Jordan's Principle Service Coordinator Gathering

Presented by **Brittany Mathews**

September 23, 2025



First Nations Child & Family  
Caring Society of Canada

Société de soutien à l'enfance  
et à la famille des Premières Nations  
du Canada

# First Nations kids holding Canada accountable

## **Pictou Landing Band Council and Beadle v. Canada (2013 FC 342)**

- Canada must implement Jordan's Principle broadly, not narrowly.
- Jordan's Principle ensures the needs of the children are met.

## **Shiner v. Canada (2017 FC 515)**

- Canada's other programs do not address the best interests and needs of children.
- Canada has been repeatedly ordered by the Tribunal to coordinate and address gaps in its programs.

## **Schofer v. Canada (2025 FC 50)**

- Canada owes kids a higher level of procedural fairness as Jordan's Principle's purpose is to overcome, not reinforce, systemic barriers.
- Canada must actively inform requestors if their documentation is missing any key elements.

## **Isaac v. Canada (Docket: T-2872-24)**

- Judge issued a *prima facie* decision, ordering Canada to immediately reinstate services to family due to irreparable harm coming to children.

## **Powless v. Canada (2025 FC 1227)**

- Canada cannot deny Jordan's Principle requests due to "comparable services," "ameliorative programs" or "no existing government services."

## **Cully v. Canada (2025 FC 1132)**

- The Tribunal's orders limit Canada's discretion when determining Jordan's Principle requests.

# ISC's February 10, 2025 Operational Bulletin: Trying to get out of human rights obligations

Rather than addressing longstanding gaps in its own programs, Canada is attempting to limit the scope of Jordan's Principle.

Result: Children go without services.

Unclear how bulletin applies to urgent requests.

ISC is applying the bulletin to CHRT 41 requests and the backlog. Amounts to shifting goal posts, is procedurally unfair and will only exacerbate the backlog, further delaying services to kids.

ISC has acknowledged kids accessing Jordan's Principle will not be eligible for other programs and gaps are significant, so why is ISC requiring requestors to "prove" that there is a gap in services?

Carves out categories of requests "unless such funding is required by substantive equality" is inconsistent with the Tribunal's clarification that the presumption of substantive equality applies.

Canada must withdraw this bulletin.

# ATIP: Canada's Bulletin based on an attempt to save money, not evidence or planning

## Confusion followed Ottawa's crackdown on Jordan's Principle as costs topped \$2B

By Karyn Pugliese

Sep 17, 2025



*Internal ISC emails reveal internal confusion and inconsistent decisions after Ottawa restricted Jordan's Principle services amid skyrocketing costs.*



- ISC more concerned about rising costs than needs of children and addressing gaps.
- Internal chaos leading to delays and harms for children.
  - ISC relying on "Daily Urgent Escalations" calls to interpret the new directives.
- Internal warnings going unheeded.
  - "Directives shared only on "rapid fire" calls were inconsistent and, without written guidance, left frontline workers without clear rules to follow."
  - New guidance is administratively burdensome and would contribute to backlog.
  - Collecting case histories of each child may violate the Privacy Act.
  - Frontline staff left to navigate changes on their own.

# Canada attempting to achieve through policy what it cannot achieve through litigation

## The Initiative has seen a substantial expansion of scope in requested items...

- Prior to the announcement on February 10, 2025, the range of approved expenses has shifted from the initial trend of requests related to health and education, to socioeconomic supports like groceries, rent and recreational requests such as sports camp fees.
- Between April 1 to October 31, 2024, **the most approved requests** were for:



**#1 Economic Supports**  
31,845 requests (22%)



**#2 Medical Travel**  
28,325 requests (19%)

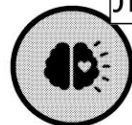


**#3 Education**  
17,400 requests (12%)

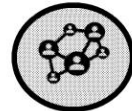
- Between April 1 to October 31, 2024, **the most approved funds** were for:



**#1 Education**  
\$392.6M (23%)



**#2 Mental Wellness**  
\$357.0M (21%)



**#3 Social**  
\$251.5M (15%)

- Internal ISC documents about **Operational Bulletin show**: ISC concerned about expansion of requested items
- **Does not show**: ISC understanding children's needs or rights.



# Canada: Not meeting its Jordan's Principle human rights obligations

- Attempting to narrow the scope of Jordan's Principle by cutting categories of services for kids, not aligned with Tribunal's orders and needs of children
- Offloading legal responsibilities
  - taking the position that Provinces/Territories ought to cover certain services
  - no longer considering education and land-based wellness off-reserve as eligible
- Nine years since ordered to implement Jordan's Principle, ISC still relying on email request and intake system
- ISC not paying bills in a timely manner, leaving families and First Nations to cash manage
- Jordan's Principle Service Coordinators trying to meet the needs of children while ISC is cutting services and providing no clear funding

Featured National News

'If Mason didn't have hockey, I don't know if I'd have a son': The kids and the communities caught in the Jordan's Principle fiasco

By Karyn Pugliese

Mar 07, 2025



Mason Jacko (left) and Heath Smith (right) best friends whose lives centered around hockey. Photo courtesy Rosie Jacko.

# Canada: Not meeting its Jordan's Principle human rights obligations

- Canada must put children first and immediately address the backlog
  - Backlog due to ISC's lack of quality control and using Jordan's Principle to cover other underfunded program areas (i.e. NIHB and poverty supports)
  - Backlog has grown to 140K requests
  - Individual requests: 116,000 requests representing \$45million = \$388/request
- ISC must establish triage and case management mechanisms in place to receive and process requests
  - Relying on "first come, first served" that leaves children with high need and urgent needs waiting
  - Kids with chronic needs should not be subject to re-request process

## Wolastoqey family fights for care as Jordan's Principle backlog leaves children waiting

Indigenous Services says it still has a backlog of nearly 140,000 requests



[Sis'moqon](#) · CBC News · Posted: Sep 02, 2025 3:00 AM CDT | Last Updated: 33 minutes ago



Stephanie and Ashton Francis from Tobique First Nation (Neqotkuk) have been navigating Jordan's Principle since their son Beckett, left, was diagnosed with GSD 1A when he was an infant. (Submitted by Stephanie Francis)

# Powless v. Canada

London

## Grandmother challenges Ottawa's refusal to apply Jordan's Principle to renovate mouldy home

Jordan's Principle is designed to ensure Indigenous kids get care, services supports in a timely manner

 Isha Bhargava · CBC News · Posted: May 15, 2025 9:34 AM EDT | Last Updated: May 15



Joanne Powless, 65 of the Oneida Nation of the Thames is the primary caregiver for her two granddaughters. The family has been fighting Ottawa for three years to fix their mould-contaminated home which has caused the girls, aged eight and 10, to suffer from severe asthma and multiple hospitalizations. (Submitted by Joanne Powless)

**Canada has filed  
appeal to Federal  
Court of Appeal**

- Kids need mould remediated in home; increasing harmful impacts on health, including asthma.
- Denial: ISC took the position that Jordan's Principle is not intended to change the scope of special or ameliorative programs and referred the family to another program.
- J.P. and family wins! The Federal Court found it to be unreasonable that:
  - ISC narrowly assessed the request without considering key principles (needs, substantive equality, best interests and culturally relevant services provision).
  - ISC relied heavily on the cost as prohibitive in denying the request.
  - ISC's conclusion that other programs could meet the needs of children.
- **The Federal Court confirmed that Canada must focus on whether the children's needs are addressed, not whether there is an ameliorative program.**



# Powless v. Canada: Canada files appeal at Federal Court of Appeal

|          |                                                                                    |
|----------|------------------------------------------------------------------------------------|
|          | Court File No.: A-                                                                 |
|          | <b>FEDERAL COURT OF APPEAL</b>                                                     |
| BETWEEN: |                                                                                    |
|          | <b>ATTORNEY GENERAL OF CANADA</b>                                                  |
|          | Appellant                                                                          |
|          | - and -                                                                            |
|          | <b>JOANNE POWLESS</b>                                                              |
|          | Respondent                                                                         |
|          | <b>NOTICE OF APPEAL</b>                                                            |
|          | (pursuant to subsection 27(1) of the <i>Federal Courts Act</i> , RSC 1985, c. F-7) |

- Canada's grounds for appeal:
  - The Federal Court erred by concluding ISC failed to assess for substantive equality.
  - It is Canada's position that that Jordan's Principle does require an existent comparable service or an ameliorative program to be eligible
  - The Federal Court erred by concluding that ISC unreasonably handled the request solely has a remediation request, not considering needs, substantive equality, best interests and culturally relevant services provision

Hearing dates:  
October 6, 2025

**Caring Society and Assembly of Manitoba Chiefs have been granted interested party status.**

# Cully v. Canada

Thunder Bay

## Family denied Jordan's Principle funds for Thunder Bay, Ont., girl's autism therapy fears she'll stop talking

Program funding services for First Nation children underwent changes to address backlog in requests

 Sarah Law · CBC News · Posted: Apr 04, 2025 4:00 AM EDT | Last Updated: April 4



**Note: Canada has until approx. end of Sept to appeal decision to the Federal Court of Appeal.**

- S.C. needs full-time Applied Behavioral Analysis (ABA) therapy.
- Denial: ISC took the position that Jordan's Principle is not intended to change the scope of special or ameliorative programs and referred the family to another program.
- S.C. wins! The Federal Court found it to be unreasonable that:
  - ISC relied on a narrow interpretation of Jordan's Principle and failed to assess whether the requested services were necessary to achieve substantive equality for the child.
- The Federal Court confirmed that:
  - Labelling a service as ameliorative does not remove Canada's obligations under Jordan's Principle; Canada cannot create blanket exclusions based on whether a service is part of a special or targeted program.
  - Denying a request on these grounds would create an extensive carve out of Jordan's Principle which is not supported by the Tribunal's orders.
  - **Jordan's Principle applies to ameliorative and special programs, not just the normative standard of care or existing government programs.**

# Canada's Denial Rationales

Indigenous Services Canada (ISC) is not aware of an existing government service that currently provides funding for [REDACTED]. If there is no existing government service, as in this case, substantive equality does not apply and there is no discrimination that can arise from how a service or benefit is provided. In ISC's view, substantive equality does not require the application of Jordan's Principle in regards to this request.

**For these reasons, Jordan's Principle does not apply to the circumstances of this case, and your request for [REDACTED] is denied.**

Section 15(2) of the *Charter* enables governments to address discrimination of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

An ameliorative or remedial program is to address historical and ongoing disadvantages faced by certain individuals and groups.

Jordan's Principle is a human rights principle based on the legal concept of [substantive equality](#)<sup>1</sup> which is intended to ensure that First Nations children do not experience gaps or delays in accessing government services, and that they are not denied government services, because of their identity as First Nations children.

Jordan's Principle is intended to ensure that First Nations children can benefit equally from existing government services. It recognizes that to allow First Nations children to access substantively the same level of services as other children in Canada, First Nations children may need resources or supports that are not provided to others, within the context of an underlying existing government service available to the general public. ISC understands substantive equality requirements with respect to the decisions of the Canadian Human Rights Tribunal and more recent decisions on substantive equality from the Supreme Court of Canada.

All requests are reviewed on a case-by-case basis.

It is in ISC's view that substantive equality does not apply to the services and supports requested; therefore, the application for [REDACTED]

For more information on the changes to operating procedures related to the approval of products, services, and supports under Jordan's Principle, please visit this link: [Jordan's Principle Operational Bulletin \(https://sac-isc.gc.ca/eng/1739222520301/1739222546551\)](https://sac-isc.gc.ca/eng/1739222520301/1739222546551).

Requestors may appeal a denial decision within one year of the date of denial. Should you wish to appeal this decision, please submit a request in writing to your regional Jordan's Principle Focal Point contact within one (1) year of the decision.

Information on how to appeal a denial decision is available at this link: [How to appeal decisions. \(https://www.sac-isc.gc.ca/eng/1568396296543/1582657596387#sec8\)](https://www.sac-isc.gc.ca/eng/1568396296543/1582657596387#sec8).

Sincerely,

Indigenous Services Canada (ISC), Jordan's Principle National Headquarters

<sup>1</sup> which prohibits discrimination when services are provided (as found in Supreme Court of Canada cases about equality rights in [section 15](#) of the *Canadian Charter of Rights and Freedoms* (Charter), and it has the same meaning under [section 5](#) of the *Canadian Human Rights Act* (CHRA)).

# Legal Avenues Available

- **Judicial Review:** Federal Court review denied request to see if the denial was fair and reasonable.
- **Injunction:** An injunction is a court order that can prevent or force a government body to take an action to avoid irreparable harm or maintain the status quo.
- **Writ of Mandamus:** A mandamus is a court order that can compel a government body to carry out a legal duty it owes to the public.

***This is general information and is not legal advice. Legal counsel should be consulted for guidance on your situation.***





# Operational Bulletin

Any request must show:

1. How the requested product, service or support meets the distinct needs of the First Nation child, and
2. How the child either:
  - a. experienced gaps or delays in accessing government services, or
  - b. was denied an existing government service because of their identity as a First Nations child

Reintroduces:

- Requiring proof of jurisdictional dispute to be eligible
- Service navigation
- Normative standard

## Canada's Legal Responsibilities

2017 CHRT 35

- The government or department of first contact must determine the request and where the request is approved, seek reimbursement from the appropriate government or department.
- The “normative standard” is not the maximum threshold, Canada must still determine requests based on substantive equality, best interests of the child and cultural continuity.

### **Pictou Landing Band Council & Beadle v. Canada**

- Canada must implement Jordan's Principle broadly.
- A jurisdictional dispute is not required to trigger a Jordan's Principle case.
- Canada must meet the needs of kids through Jordan's Principle.

# ATIP: ISC has NO decision-making matrix, yet is foisting the responsibility of "proving" unmet needs on the shoulders of children and families

## DRAFT – Qs and As

Special Jordan's Principle Operations Committee meeting  
Conference Call  
February 25, 2025

**Q: How are requestors expected to demonstrate that the child has experienced gaps, delays, or denials in government services? Doesn't this put the burden on the requestor?**

A: At this time ISC has not developed a specific requirement for *how* the requestor needs to demonstrate that the child has experienced gaps, delays or denials in government services. It is necessary, however, that the request show or explain that the child experienced gaps or delays in accessing government services, or was denied an existing government service, because of their identity as a First Nations child. This is necessary because it is the basis on which the review and adjudication of Jordan's Principle requests occur – that is, is the child facing discriminatory barriers in accessing publicly funded services or supports?

# Operational Bulletin

Additionally, ISC has determined, based on its analysis of legal obligations related to substantive equality under Jordan's Principle, that funding for the following items will not be approved unless such funding is required by substantive equality:

Does not consider child's needs, their right to substantive equality and cultural continuity, and their best interests.

## Canada's Legal Responsibilities

### 2017 CHRT 35

- Canada must determine requests based on substantive equality, best interests of the child and cultural continuity.

### **Schofer v. Canada**

- Canada must actively inform requestors if their documentation is missing any key elements.

### **Cully v. Canada**

- Canada 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.

# Operational Bulletin

## Repeats of previous requests

- Each new request will be considered on a case-by-case basis. An existing or previously-approved request does not guarantee that a request for new funding will be renewed or approved.

- Kids with disabilities, high needs, chronic needs will be required to “prove needs” every year, even when it is likely their needs won’t change.
- Is not consistent with reality of a backlog and Canada’s poor administration of Jordan’s Principle.
- IFSD report from 2022: Jordan’s Principle is covering gaps in services and programs and this will increase unless Canada realigns its services and programs to needs of children.

# Canada’s Legal Responsibilities

## 2016 CHRT 2

- Canada must fully implement Jordan’s Principle to meet the needs of First Nations children, particularly given “the high number of children in alternative care and at the frequent removal of children from their families as a first resort in cases of neglect or financial hardship or disability.”

## Pictou Landing Band Council & Beadle v. Canada

- Jordan’s Principle exists to ensure the needs of the child are met, particularly in exceptional cases and with high needs



# Operational Bulletin

## Management of group requests

- Funding should not be spent unless approved first through Jordan's Principle.
  - Previous year's expenditures or deficits that have not previously been approved are not eligible for reimbursement under Jordan's Principle.
  - General administrative fees, including the application of an automatic 10% administrative charge, is no longer funded under Jordan's Principle.
  - Group requests should clearly demonstrate how the proposed activity or service will benefit each First Nations child within the request.
- 
- Canada has provided no evidence of how First Nations should be funded to meet needs, be it through group requests or service coordinator services.
  - Concerns about privacy and confidentiality rights of children.

# Canada's Legal Responsibilities

## 2020 CHRT 36

- Outlines eligible expenses (i.e. coordination processes, policy making, additional human resources, etc) relating to recognition activities plus a 10% administrative fee.

## 2025 CHRT 6

- Where Canada funds First Nations and First Nations organizations to take on Jordan's Principle work, Canada must fund those Nations so they may meet the needs of the children they serve.

**Upcoming research:** Caring Society has sought expert research in the costing of service coordination to meet the needs of kids.

# ATIP: Jordan's Principle

**From:** Larose, Mathieu  
**Sent:** Friday, February 28, 2025 2:01 PM  
**To:** Ouellette, Andrew [REDACTED] Heffernan, Bryna  
**Subject:** RE: [DIRECTION] Estimated Group Requests // Demandes de groupe estimée

If they don't want us to do group requests anymore, they should just tell us..  
Right now, it feels like the rules around group requests is to have a bundle of individual requests paid out with vote 10 \$\$\$. There has to be a difference or what's the benefit for communities?  
Mat

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**From:** Ouellette, Andrew  
**Sent:** Friday, February 28, 2025 12:03 PM  
**To:** Jordan's Principle IPMT / EGPI Principe de Jordan  
**Cc:** Larose, Mathieu ; Heffernan, Bryna [REDACTED]  
**Subject:** RE: [DIRECTION] Estimated Group Requests // Demandes de groupe estimée

Hi  
We have a few questions/concerns around entering names for every child in our large group requests – some of which reach 750-1,000 children.

ISC admits to downloading the burden of navigating its bureaucratic chaos onto the shoulders of children, families and communities.

# Impacts

**•Federal Court confirms that Canada's implementation and discretion of Jordan's Principle is governed by the Tribunal's orders.**

Substantive equality, cultural appropriateness, and the best interests of the child must guide all decisions under Jordan's Principle.

Jordan's Principle applies to ameliorative and special services, not just the normative standard of care or existing government programs.

Canada cannot create blanket exclusions based on whether a service is part of a special or targeted program.

Canada must actively inform requestors if their documentation is missing any key elements.

**Seek re-review of request, citing Cully and Powless rulings.**



***We extend our deepest gratitude to the courageous families who have brought legal cases forward. Your strength 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.***



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