

Back-to-Basics Approach



Back to Basics Approach

Objective

To apply a Canadian Human Rights Tribunal order compliant “back to basics” approach for implementing Jordan’s Principle that is non-discriminatory, centers the needs and best interests of the child, takes into consideration the distinct circumstances of their community, is simple to access, timely, and minimizes the administrative burden on families. Jordan’s Principle team members will exercise compassion, common sense, and a reconciliation-first approach when receiving, processing, and determining Jordan’s Principle requests.

Approach

Jordan’s Principle is a legal obligation with no end date. It is a needs-based initiative, driven by principles of substantive equality, the best interest of the child, and distinct community circumstances. Jordan’s Principle ensures First Nations children can access the products, services, and supports they need, when they need them. Cost or other administrative considerations are not factors in determining a request.

In keeping with the spirit of Jordan’s Principle, decision making by Indigenous Services Canada (ISC) is informed by the following presumptions:

- Professionals and community-authorized Elders and knowledge holders are acting within their area of expertise and in the best interests of the child;¹
- The parent or guardian is acting in the child’s best interest when consenting to the recommended product, service, or support;
- Substantive equality applies to the child (more on this below);
- The request is specific to the child and their needs;
- Requests are not limited to those falling within the normative standards.

Substantive equality is presumed in decision making

- Focal Points and others will begin with the assumption that substantive equality will apply in all requests. This means that there is a presumption that First Nations children need services going beyond the kinds or levels of services available to non-First Nations children due to the unique disadvantage that they face. Normative standards or the types, duration and frequency of services, products and supports made available through the provinces and territories must not be relied upon to deny requests.

¹ For greater certainty, examples (not an exhaustive list) of professionals are provided here: <https://www.sac-isc.gc.ca/eng/1620743040769/1620743088435>.

Proper and timely identification of urgent cases

- Focal Points and call centre staff will ask all service requesters if they feel the case is urgent or time-sensitive, using a plain-language approach to ensure the requester understands the question and providing examples of an urgent request (as listed below).
- The requestor is best positioned to judge the urgency of a request. Focal Points and call centre staff will accept the requestor's identification of the request as urgent and will not re-assign the request to a lower level of urgency.
- Even if a requester does not identify a case as urgent or time-sensitive, Focal Points and call centre staff may determine, based on a common-sense appraisal of the information, that the request is urgent or time-sensitive for the purposes of determining the request.
- Examples of urgency include all cases involving end-of-life/palliative care, mention of suicide, physical safety concerns, no access to basic necessities, risk of child entering child welfare system, etc. The age and vulnerability of children should be considered in determining urgency.
- Focal Points and call centre staff will advise requesters to immediately contact the call centre if their request becomes urgent over time.
- In urgent cases, compassionate crisis intervention that meets the child's needs must come first; and documentation can follow. This means requests can be determined before all documentation is submitted. ISC only needs a minimum amount of information to adjudicate a request:
 - Verbal or written consent from the parent or guardian or a young person who is legally able to make decisions about their care;
 - If possible, a verbal or other confirmation of the service need by a professional. Such confirmation cannot delay a child receiving urgent support.
 - If possible, confirmation of eligibility. Conditional approvals can be granted in absence of eligibility confirmation. Efforts to obtain confirmation of eligibility cannot delay a child receiving urgent support.
- The 12 hour period to determine the request is a maximum for urgent individual requests. The maximum is 48 hours for urgent group requests. Cases should be determined earlier if possible.
- If an urgent individual request remains undetermined 6 hours after receipt and is unlikely to be determined within the 12-hour period, the Focal Point will contact the requestor to implement a risk mitigation plan and discuss the case with the Jordan's Principle Executive Director (note that any electronic communication must include a confirm receipt).
- If, at the 24-hour mark, a group urgent request is unlikely to be determined within the 48-hour period, the Focal Point will contact the requestor to implement a risk mitigation plan and will flag the case to the Jordan's Principle Executive Director.

Documentation required to support a request is reasonable and not a barrier to accessing Jordan's Principle.

- Reasonable documentation means:

- A recommendation (for example, a letter/prescription) or other form of written authorization from: (i) a licensed/registered professional involved in the child's care making a recommendation related to their scope of practice or (ii) a community-authorized Elder or knowledge holder in the case of culture, language, or wellness supports that has knowledge of the child and consent of the guardian.
- Consideration is given to distinct community circumstances and the accessibility of professionals. If a professional is not available in a timely way, another community worker or professional with knowledge of the child can provide a recommendation within their scope of practice.
- One professional or Elder/knowledge holder letter of support or recommendation is the presumptive standard. If further documentation is required regarding service quantum or duration, this information can be sought after a determination is made so as to not delay a request.
- A child will not be asked to undergo an assessment for ISC's administrative purposes. Where a professional's original note had a specific duration of service, another note (versus an assessment) detailing the need for further service is sufficient.
- To protect the child's privacy, ISC will not ask requesters to provide, nor will ISC retain, a full copy of a child's assessment.
- If a family is requested to pay a fee by a service provider to get documentation to support a request, ISC will pay the costs directly (if needed) or reimburse the requestor on provision of a receipt.
- Recommending professionals or Elders or knowledge holders may be able to speak to **multiple needs (within their scope)** in one letter. ISC does not require a letter for every requested product, service, or support. When requesting additional letters, Focal Points must take into account accessibility to professionals, Elders, or knowledge holders, so as not to unreasonably delay or deny a product, service, or support.
- Focal Points (or other adjudicating staff) will review previous requests for the child and any relevant letters already on file and used to support past requests, can be used to support new requests that are clearly linked. This is particularly the case with children and youth with chronic and complex needs.
- If ISC is unclear how the recommending professional's expertise relates to the requested product, support or service, the Focal Point will first seek direction from a supervisor. If clarity is still needed, ISC will then seek clarification from the professional in keeping with the CHRT timelines (i.e., within 12 hours of receiving an urgent individual request or within 48 hours of receiving other non-urgent individual requests; or within 48 hours of receiving an urgent group request or within 1 week of receiving other non-urgent group requests). ISC will not seek "second opinions" except when: (1) there is documented evidence that the professional is not in good standing with, or is not qualified with, the respective regulatory body/college, or (2) ISC has documented billing irregularities, rising beyond reasonable errors. In these rare cases, ISC will work with the requestor to ensure that the child does not face a delay in receiving services, including identifying equivalent alternative services or supports that are accessible to the child/youth, or,

- in the event that no acceptable alternatives are available and reasonably accessible, access (such as travel, accommodation, etc.) will be facilitated. ISC must not secure a product or service of lesser standard of quality or quantity or in a manner that is unreasonably difficult for the requestor to access.
- The above circumstances should not result in the child experiencing unreasonable delays in determining the request. Where ISC has concerns about a professional/community-authorized Elder/knowledge holder, ISC will notify that professional (unless such notification poses a risk to the child) and contact the professional's regulatory body/college or the community in the case of Elder/knowledge holder. If ISC becomes aware that the service provider poses a risk to the child, ISC will notify the child's guardian and proper authorities (i.e. child welfare, law enforcement, etc.).
 - When requests are escalated to Headquarters, the request must include all of the documentation provided.

Quotes/cost estimates for the requested product, service or support are not required to determine a request.

The inclusion of costing information on the request form is not required and there are no predetermined caps on the cost of a product, service or support. The child's needs and distinct community circumstances remain the primary consideration.

ISC must not secure a product of lesser standard of quality or quantity or in a manner that is unreasonably difficult for the requestor to access.

Clinical Case Conferencing

For further clarity, per 2017 CHRT 14, and as amended in 2017 CHRT 35, Canada shall **only** engage in clinical case conferencing where it is reasonably necessary to determine the clinical needs of a child. As noted above, ISC will presume that professionals are acting in the best interest of the child, and ISC must not seek a "second opinion" or otherwise override the recommendation of a duly qualified professional.

In the event that clinical case conferencing is required to determine a child's clinical needs, as confirmed by a supervisor, requestors must be immediately notified. Canada will only consult with professionals with knowledge of the child's case, and will only involve other professionals if those already involved in the child's care are unable to provide the clinical information required. Clinical case conferencing must not delay a determination. In the event that a determination cannot be made within CHRT timelines (i.e., within 12 hours of receiving an urgent individual request or within 48 hours of receiving other non-urgent individual requests; or within 48 hours of receiving an urgent group request or within 1 week of receiving other non-

urgent group requests), ISC will work with the requestor to implement a mitigation strategy.

Role of Service Coordinators

Service Coordinators provide a critical support function to First Nations children and families in accessing supports through Jordan’s Principle. In addition to providing navigation support through the Jordan’s Principle application process, Service Coordinators also have in-depth knowledge of the other services that may be available at the community level and would be of benefit to the child to ensure a continuum of supports and services.

In cases where a child is not already connected to a Service Coordinator, ISC staff (either through the Call Centre or a Focal Point, or other staff member as applicable) will ask the requestor if they would like contact information for a Service Coordination organization to assist with future requests. ISC will explain the benefits of Service Coordination and the types of supports they can offer to a child and family.

Where a Service Coordinator is involved in submitting the request, Focal Points will confirm with Service Coordinators to ensure all documentation has been received by ISC.