



Back-to-Basics Approach for Improving Outcomes Under Jordan's Principle

Introduction to Back-to-Basics Approach

The Back-to-Basics Approach (B2B) is an implementation guideline that Indigenous Services Canada (ISC) staff (including call centre staff, Focal Points, and decision-makers) must follow. Keeping with the Canadian Human Rights Tribunal (Tribunal or CHRT) orders, the approach must be non-discriminatory, centre the needs and best interests of the child, consider distinct community circumstances, ensure substantive equality and culturally relevant service provision, be simple to access, be timely, and minimize the administrative burden on families. As such, B2B 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;
- 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.

The B2B Approach stems from October 2021, when the Caring Society, the Assembly of First Nations, and Canada (the Parties) entered into negotiations to try and reach an agreement to end the Canadian Government's discrimination against First Nations children. During these negotiations, the Parties agreed that a "back-to-basics" approach to Jordan's Principle was required to get ISC closer to compliance with the Tribunal orders and to ensure that things were changing at the level of children and families. The Parties signed an Agreement-in-Principle on Long-Term Reform of the First Nations Child and Family Services

(FNCFS) Program and Jordan's Principle on December 2021, and negotiations remain ongoing. The B2B Approach was implemented in early 2022.

Substantive Equality Must be Presumed in Decision-Making

First Nations children may need services beyond the kinds or levels of services available to non-First Nations children because of the impacts of Canada's colonial history and discrimination against First Nations children and families. ISC staff must assume that substantive equality will apply in all requests. This means that families do not need to provide "proof" that substantive equality applies in a request, and the responsibility is on ISC to prove that substantive equality does *not* apply. Normative standards—the types, duration, and frequency of services, products, and supports available through the provinces and territories—must not be relied upon to deny requests.

Proper and Timely Identification and Determination of Urgent Cases

ISC staff must identify and determine urgent cases in a proper and timely manner. Per Tribunal orders, individual urgent requests must be determined within 12 hours of initial contact, and group urgent requests must be determined within 48 hours.

ISC staff must ask the requestor if they think the case is urgent or time sensitive. Understanding that the requestor is in the best position to judge the urgency of a request, call centre staff and Focal Points will accept the requestor's identification and will not re-assign a request to a lower level of urgency once the requestor identifies it as urgent.

In urgent cases, compassionate crisis intervention that meets the child's needs must come first, and documentation can follow. ISC needs only a minimum amount of information to approve an urgent request. This minimum amount of information includes:

- Verbal or written consent from the parent or guardian,

or from a young person who is legally able to make decisions about their own care;

- If possible, 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.

ISC staff must contact the requestor to implement a risk mitigation plan if a request is unlikely to be determined within the proper timeframes.

Examples of urgent requests include end-of-life care, risk of child entering the child welfare system, physical safety concerns, no access to basic necessities, and mention of suicide. The age and vulnerability of children should be considered in determining urgency.

Documentation Cannot be a Barrier to Accessing Jordan's Principle

Reasonable documentation to determine a request includes parent or guardian consent and one referral from a professional (related to their scope of practice) or an Elder/knowledge holder (related to culture, language, or wellness requests).

One recommendation letter from a professional or Elder/knowledge holder is the presumed requirement, and this letter can speak to multiple needs within the recommending professional's scope. ISC does not require a letter for every requested product, service, or support. Quotes, cost estimates, and length of service are not required for ISC to decide on the request.

ISC staff will review previous requests for the child and any relevant letters already on file to support new requests that are clearly linked.

In urgent cases, only verbal or written consent from the parent or guardian is needed; documentation can follow once the child's immediate needs are met. *In all cases, documentation should not be a barrier to children accessing supports through*

Jordan's Principle.

If ISC is unclear about how the recommending professional's expertise relates to the request, they will first seek direction from a supervisor. If clarity is still needed, ISC will seek clarification from the professional in keeping with the Tribunal timelines.¹ In the *rare cases* that ISC has concerns about a professional (documented evidence that they are not in good standing or not qualified with their regulatory body/college, or ISC has documented billing irregularities beyond reasonable errors), ISC will work with the requestor to ensure that the child does not face a delay in receiving services.

Background

Jordan's Principle is a legal rule and child-first principle named in honour of Jordan River Anderson. It ensures that First Nations children receive the services and supports they need when they need them. In a 2016 ruling, the Tribunal found the Canadian Government to be racially discriminating against 165,000 First Nations children and their families in its provisions of the FNCFS program and by failing to implement the full scope of Jordan's Principle ([2016 CHRT 2](#)).

In its ruling, the Tribunal ordered Canada to stop its discriminatory policies and practices, to reform the FNCFS program, to stop applying a narrow definition of Jordan's Principle, and to immediately implement the full meaning and scope of Jordan's Principle. Since this landmark ruling, the Tribunal has made further procedural and non-compliance orders, including 13 that directly relate to measures Canada must take to eliminate discrimination and fully and immediately implement Jordan's Principle.

For more information, see the following:

[How to Access Services and Supports Through Jordan's Principle](#)

[Jordan's Principle: Ensuring First Nations Children Receive the Supports They Need When They Need Them](#)

¹ Canada must approve or deny requests within these timelines:

- Urgent individual requests: within 12 hours

- Non-urgent individual requests: within 48 hours
- Urgent group requests: within 48 hours
- Non-urgent group requests: within 1 week