

CANADIAN HUMAN RIGHTS TRIBUNAL

BETWEEN:

FIRST NATIONS CHILD AND FAMILY CARING SOCIETY OF CANADA
and ASSEMBLY OF FIRST NATIONS

Complainants

And

CANADIAN HUMAN RIGHTS COMMISSION

Commission

And

ATTORNEY GENERAL OF CANADA
(representing the Minister of Indigenous Services Canada)

Respondent

And

CHIEFS OF ONTARIO, AMNESTY INTERNATIONAL CANADA and
NISHNAWBE ASKI NATION

Interested Parties

AFFIDAVIT OF VALERIE GIDEON

Affirmed March 14, 2024

Privacy [REDACTED]

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AFFIDAVIT OF VALERIE GIDEON

I, Valerie Gideon, federal public servant, of the City of Gatineau, in the Province of Quebec, affirm as follows:

I. Introduction

1. I have been employed with the Government of Canada (Canada) since November 2007. My current position is as Deputy Minister in the Department of Crown Indigenous Relations and Northern Affairs. From 2020 to November 2023, I was the Associate Deputy Minister of the

Department of Indigenous Services Canada (ISC). I was the Senior Assistant Deputy Minister of the First Nations and Inuit Health Branch (FNIHB) at ISC from 2017 to 2020 and prior to that, I was the Assistant Deputy Minister of Regional Operations of FNIHB for 5 years. In my positions with ISC, I reported directly to the Deputy Minister of ISC on all matters of First Nations and Inuit Health. I am a registered member of the Gesgapegiag First Nation.

2. I have personal knowledge of the facts and matters herein deposed to by me from my former roles as Associate Deputy Minister, Senior Assistant Deputy Minister and Assistant Deputy Minister at ISC, save and except where they are stated to be based on information and belief, in which case I believe those facts to be true.
3. I have reviewed the Notice of Motion for Relief of the Complainant First Nations Child and Family Caring Society of Canada (Caring Society), dated December 12, 2023, the Affidavit of Cindy Blackstock, affirmed January 12, 2024 (Blackstock Affidavit) and Affidavit of Brittany Mathews, affirmed January 12, 2024 (Mathews Affidavit). I provide this affidavit in response thereto.
4. I have also reviewed the Affidavit of Candice St-Aubin, to be sworn, and my previous affidavits, sworn April 15, 2019 and April 30, 2020, both of which were filed in these proceedings. This affidavit is intended to supplement my earlier evidence. In this affidavit, I will detail the exceptional growth and actions taken to advance Jordan's Principle within ISC, as well as ISC's current Jordan's Principle operational model.

II. Growth in Jordan's Principle since 2016

5. Jordan's Principle requests have grown exponentially since the Tribunal rendered its decision in 2016 CHRT 2. Under ISC administration, Jordan's Principle is seeing a continuous increase in funding of products, services and supports to First Nations children. The initiative has evolved to address requests for services that are very different in type than previously submitted to ISC in the years immediately following the Tribunal's definition of Jordan's Principle in 2017 CHRT 35, namely mental health, special education, dental, physical therapy, speech therapy, medical equipment and physiotherapy. However, while the types of requests have evolved over time, the goal of ensuring that First Nations children have an equal chance to thrive as other children in Canada remains unchanged.

A. Growth in volume of requests

6. Between July 2016 and January 31, 2024, more than 4.4 million products, services and supports have been approved under Jordan’s Principle by ISC. In particular, ISC has seen an exponential growth in the volume of Jordan’s Principle requests determined since 2018. ISC data reveals the following growth in number of requests determined between 2018 and 2023:

Growth in Request Volume

	Total Requests Determined	Requests Approved¹	Requests Denied
2018-19 fiscal	15,887	14,765 (93%), representing 140,332 products, services and supports and \$311.3M	1,122 (7%)
2019-20 fiscal	27,657	24,590 (89%), representing 347,616 products, services and supports and \$401.9M	3,067 (11%)
2020-21 fiscal	39,534	34,278 (87%), representing 324,173 products, services and supports and \$504.9M	5,256 (13%)
2021-22 fiscal	55,520	51,144 (92%), representing 488,128 products, services and supports and \$522.9M	4,376 (8%)
2022-23 fiscal	110,033	104,039 (95%), representing 1,274,140 products, services and supports and \$1.1B	5,994 (5%)
2023-24 (Q1-Q3)²	104,193	100,520 (96%) representing 1,593,787 products, services, and supports and \$1.2B	3,673 (4%)

7. The growth in volume of requests may be related to the impacts during and after the COVID-19 pandemic, increases in the cost of living and public safety emergencies such as wildfires.

¹ Throughout my affidavit, where ISC refers to amounts approved for individual or group requests, this denotes an amount that has been approved by ISC for a determined request, as recorded in the Jordan's Principle Case Management System. The approval information captured in the system may not immediately reflect the actual expenditures in the same year. For example, a request approved in a given year, could be spent in the following fiscal year.

² First three quarters of fiscal year only, being April 1 to December 31, 2023.

In addition, and in accordance with the Tribunal's previous orders, the parties have successfully raised awareness of Jordan's Principle with a resulting increase in request volume. Canada worked with the parties on a communications plan, including the language and frequency of social media campaigns, which was approved through the Jordan's Principle Operational Committee. Canada published social media posts to ensure the public is aware of where to find the latest resources related to Jordan's Principle, to ensure awareness of how to make a Jordan's Principle request, and to provide reminders on specific supports available through Jordan's Principle (for example, educational supports prior to the start of the school year).

8. ISC's Jordan's Principle funding is available through two types of requests: individual and group. Individual requests are requests for a product, service, or support that addresses a specified unmet health, social, or education need for individual children or children from the same family/household. A family includes children that may be siblings, adopted or fostered children in the custody of a common guardian/parent, aunts, children in informal kinship arrangements, and/or blended families (i.e. children in the care of a parent, step-parent, or grandparent).
9. Often one individual request includes several different items. For example, a requestor may ask for an educational assistant, a psycho-educational assessment, a laptop and groceries for the child. In this case, the request is reported as four distinct requests for four distinct products, services or supports. Depending on the differing nature of the requests contained in the application, each product, service, or support may require its own supporting documentation.
10. Group requests are requests for products, services, or supports that address an indicated unmet health, social or educational need for multiple children from different families/households that are more effectively addressed as collective needs of a defined group. For example, a requestor may ask for mental wellness supports and land-based cultural supports for an estimated cohort of 500 children. This would be reported as two requests for 1,000 products, services or supports.

11. Over 90% of requests received by ISC’s Jordan’s Principle initiative are individual requests:

Annual total requests determined

	Individual Requests	Group Requests
2018-19 fiscal	93%	7%
2019-20 fiscal	95%	5%
2020-21 fiscal	94%	6%
2021-22 fiscal	95%	5%
2022-23 fiscal	94%	6%
2023-24 (Q1-Q3)³	93%	7%

12. However, the majority of Jordan’s Principle funding approved by ISC is used for group requests, which accounts for approximately 80% of total funding provided by ISC through Jordan’s Principle:

Annual Approved Requests

	Individual Requests	Group Requests	Totals
2018-19 fiscal	13,776 (93%), representing \$51.4M	989 (7%), representing \$259.9M	14,765 (100%), representing \$311.3M
2019-20 fiscal	23,379 (95%), representing \$99.1M	1,211 (5%), representing \$302.8M	24,590 (100%), representing \$401.9M
2020-21 fiscal	32,325 (94%), representing \$143.7M	1,953 (6%), representing \$361.2M	34,278 (100%), representing \$504.9M

³ First three quarters of fiscal year only, being April 1 to December 31, 2023.

2021-22 fiscal	48,465 (95%), representing \$202.2M	2,679 (5%), representing \$320.7M	51,144 (100%), representing \$522.9M
2022-23 fiscal	97,764 (94%), representing \$447.2M	6,275 requests (6%), representing \$638.8M	104,039 (100%), representing \$1,086M
2023-24 (Q1-Q3)⁴	93,134 (93%), representing \$451.1M	7,386 (7%) representing \$789.8M	100,520 (100%) representing \$1,241M

B. Growth in complexity of requests

13. The range of approved expenses has shifted notably from Jordan’s Principle’s initial trend of requests related to health and education, to socioeconomic supports like groceries and rent payments, mortgage payments, requests for new homes and renovations, as well as items such as personal vehicles and recreational requests such as sports camp fees. This has contributed to an increased complexity of Jordan’s Principle requests and processing times. Case managers must be able to properly determine a wide range of products, services and supports, without the benefit of standardized operating procedures or a pre-determined list of eligible products, services and supports.
14. ISC data reflects that the growth in volume may be related to post-pandemic conditions, such as higher inflation rates and costs of living, which have increased the need for socioeconomic supports to First Nations families.. While not intended to displace government income support programs, Jordan’s Principle has been approving a range of socioeconomic supports such as rent, groceries and utilities for periods of 6 to 12 months or longer. The number of requests for socioeconomic support approved through Jordan’s Principle has increased over time, from 2,226 requests in the 2020-21 fiscal year to 21,071 requests (847% growth) in Q1-Q3 alone of the 2023-24 fiscal year.⁵
15. Of the 1,271 requests for socioeconomic support that were denied with a denial rationale between Q1 to Q3 of the 2023-24 fiscal year, 28% were denied due to Jordan’s Principle “not being an income supplement.” This is because while Jordan’s Principle may be used as

⁴ First three quarters of fiscal year only, being April 1 to December 31, 2023.

⁵ First three quarters of fiscal year only, being April 1 to December 31, 2023.

a bridge, or temporary relief measure, to address immediate risk factors to children, it is not intended nor structured to displace government income assistance programs.

C. Growth in “urgent” requests

i. Shift from Standard Operating Procedures to Back-to-Basics Approach

16. In about 2018, ISC developed Standard Operating Procedures (SOPs) in response to concerns highlighted by the Caring Society in the context of the parties’ discussions at the Jordan’s Principle Oversight Committee (later renamed the Jordan’s Principle Operations Committee). The SOPs, an evergreen document, communicated standard processes for review, processing and reporting of all Jordan’s Principle requests. The comprehensive approach to the development of the SOPs took into account comments and recommendations from key stakeholders including: Regional focal points, First Nations Child and Family Caring Society, Assembly of First Nations, Chiefs of Ontario and Nishnawbe Aski Nation. All ISC employees responsible for Jordan’s Principle were required to adhere to the SOPs and report on deviations. A copy of ISC’s former SOPs is attached hereto and marked as **Exhibit A**.
17. The parties agreed in 2021 that ISC would adopt a Back-to-Basics Approach worksheet, co-developed by the parties, which ISC implemented in early 2022. A copy of the Back-to-Basics Approach worksheet is attached as Exhibit 8 to the Mathews Affidavit. For convenience, a copy is also attached as **Exhibit B** to my Affidavit.
18. The Back-to-Basics Approach, which replaced the SOPs, was meant to reduce any administrative burden on families seeking support through Jordan’s Principle, until the parties agreed to a final settlement on a long-term approach for Jordan’s Principle. Pursuant to the Back-to-Basics Approach, ISC’s operational model takes the following approach:
 - a. ISC starts with a presumption that substantive equality applies when a request is submitted;
 - b. ISC does not deny requests on the basis of normative standard;
 - c. ISC’s determination of requests centers on the needs and best interests of the child, including consideration of distinct community circumstances; and
 - d. the inclusion of costing information with the request is not required and there are no predetermined caps on the cost of a product, service or support.

ii. New: self-identification of “urgent” requests

- 19. The Back-to-Basics Approach changed how ISC intake officers identify requests as “urgent” or “non-urgent.” Under the SOPs, urgency was based on the initial assessment by the regional focal point, and “urgent” requests were defined as “a child requires urgent assistance, is in palliative care, or a risk of irremediable harm is reasonably foreseeable.”
- 20. Pursuant to the Back-to-Basics Approach, the parties view the requestor as best positioned to judge the urgency of a request. The intake officer is required to accept the requestor’s identification of the request as urgent or not, and is not permitted to reassign the request to a lower level of urgency. However, ISC may raise the level of urgency if they determine a request designated by the requestor as non-urgent is actually urgent.

iii. Immediate increase in “urgent” requests following the Back-to-Basics Approach

- 21. Since the implementation of the Back-to-Basics Approach, there has been a rapid increase in the number of “urgent” Jordan’s Principle requests, compared to non-urgent requests. Between 2021-22 and 2022-23, urgent requests grew by over 900% compared to non-urgent requests, which only grew by 88%:

Determined Requests by Urgency (Group and Individual)

	Urgent Determined Requests	Non-Urgent Determined Requests
2018-19 fiscal	766	15,006
2019-20 fiscal	901	26,733
2020-21 fiscal	598	38,936
2021-22 fiscal	693	54,827
2022-23 fiscal	7,026	103,007
2023-24 (Q1-Q3)⁶	20,715	83,478

⁶ First three quarters of fiscal year only, being April 1 to December 31, 2023.

22. The number of urgent requests has continued to increase at a pace greater than that of non-urgent requests. As of the third quarter of the 2023-24 fiscal year, urgent requests accounted for 25% of all requests determined through the initiative, up from 1% in the 2021-22 fiscal year.

iv. Review of “urgent” requests

23. While recognizing that requestors may be in the best position to identify a subjectively urgent request, presently, under the Back-to-Basics Approach, ISC may not re-assign the request to a lower level of urgency. Canada treats all self-identified urgent requests with the same level of priority.

24. From a sample of 31,258 urgent requests between January 1, 2022 and December 31, 2023, ISC identified 5,800 (18.5%) requests which were likely misclassified as “urgent” following the implementation of the Back-to-Basics Approach. A list of these likely misclassified requests is attached hereto and marked as **Exhibit C** to my Affidavit, and includes urgent requests for:

- Laptops, desktop computers, software, tablets, printers
- Electronics accessories (including phone cases) and warranties
- Modeling headshots
- Zip line kit
- Musical instruments and lessons
- Office supplies and equipment, including cell phones
- Bicycles
- Gaming console, chair and desk
- Snowmobile
- Window coverings
- School tuition, fees, transportation costs, uniforms and supplies
- Lawnmower
- Sporting equipment, annual registration fees and associated travel costs
- Summer camp registration
- Televisions, including stands, units and wall mounts
- Furniture, including protection plans, warranties, and delivery, assembly and haul away fees
- Toys
- Pet expenses and fees
- Social/recreational activities (e.g., movie passes, museum tickets, fair tickets, gym memberships)
- Outdoor play structures, trampolines and playgrounds
- Glowsticks
- Driver training

25. These examples demonstrate that, following the implementation of the Back-to-Basics Approach, a significant number of “urgent” requests likely do not meet objective criteria for the identification of urgency. Miscategorized “urgent” requests pose a significant challenge to the overall administration of Jordan’s Principle, as they may be prioritized over other urgently needed requests. Canada is interested in working with the parties to enable the identification of objectively urgent requests, to ensure that those that are objectively most urgent are actioned first.
26. In Canada’s view, the Caring Society’s proposed additions to objective criteria for “urgent” requests, set out on pages 2 and 3 of their Notice of Motion, do not necessarily assist in identifying objective criteria for whether or not a given request is urgent. For example, a request for an unrelated product, service or support (for example, a gaming console) in the context of a child who recently experienced caregiver death or in a community impacted by a state of emergency is likely non-urgent. However, other requests in that context, such as for therapy services, may well be objectively urgent. This further exemplifies the need for ISC to have the ability to reclassify self-identified “urgent” cases based on objective criteria.

D. Redirection from regular program and service requests or group requests

27. The Back-to-Basics Approach for implementing Jordan’s Principle, including the minimal documentation requirements, the customized approach for each individual child and the Tribunal’s timeframes, are factors that may situate ISC’s administration of Jordan’s Principle as a preferred and accessible option for requests for services for First Nations children that may otherwise be available under other government programs.
28. Since the government of first contact must pay for the services (without engaging in administrative case conferencing), ISC cannot redirect requestors to existing services available in First Nations communities, or to existing approved group requests which are being administered by First Nations partners and community organizations through a contribution agreement with ISC. As a result, in some cases, Jordan’s Principle is duplicating funding which it has already provided for an approved group request or existing service.

E. Federal Funding Growth

29. As the Jordan's Principle initiative has grown, Canada has continuously increased funding for the administration and funding of requests. Most recently, Budget 2022 proposed to provide \$4 billion over six years, starting in the 2021-22 fiscal year, to ensure First Nations children continue to receive the support they need through Jordan's Principle.⁷
30. From April 1, 2017 to January 31, 2024, a total of \$4.63 billion was expended and committed to provide funding for requested products, services and supports requested under Jordan's Principle. Given the demand driven nature of the initiative, expenditures for 2023-24 are likely to increase further before the end of the fiscal year, being March 31, 2024. Over this time period, annual Jordan's Principle expenditures increased from approximately \$154.84 million in the 2017-18 fiscal year to approximately \$1.46 billion in the 2023-24 fiscal year (up to January 31, 2024 only), representing an increase of 845%.⁸
31. As reflected in the charts above, ISC approved almost \$1.1B for Jordan's Principle requests in the 2022-23 fiscal year, further highlighting that Canada's commitment to supporting First Nations children remains ongoing and is continuing to increase over time. However, ISC sees more requests than ever flowing into the Jordan's Principle initiative, as well as a shift in the children's needs.

III. Jordan's Principle Operations

32. ISC's legislative mandate is to work collaboratively with partners to improve access to high quality services for First Nations, Inuit, and Métis peoples. Its vision is to support and empower Indigenous peoples to independently deliver services and address the socio-economic conditions in their communities.
33. ISC has made fundamental, foundational change towards the ending of systemic discrimination against First Nations children. As detailed below, ISC has established an

⁷ Throughout my affidavit, annual "budget" amounts for Jordan's Principle denote annual funding that is allocated to administer the Jordan's Principle initiative. This is a baseline commitment or "starting point" that reflects only the initial amount committed. Budget amounts are typically lower than actual expenditures by the year end.

⁸ Throughout my affidavit, the term "expenditures" refers to the actual amount of funding that has been spent through Jordan's Principle, according to ISC's financial system of record (SAP). This reflects the amount spent for Jordan's Principle in the individual fiscal year only.

entire operational sector within ISC to administer and support Jordan's Principle delivery, including an arms-length appeal mechanism to ensure that requests are dealt with fairly and in keeping with the Tribunal's Orders.

34. ISC has made tremendous strides in implementing the purpose and intent of the Tribunal's Orders. To that end, all ISC executives are tasked with advancing anti-racism, diversity, equity, inclusion and accessibility in the public service by meeting all obligations of the Tribunal orders related to First Nations Child and Family Services and Jordan's Principle. All ISC staff are expected to undertake no less than 15 hours of mandatory annual Indigenous cultural competency training. This approach was developed with representatives of some of the parties, academics and other Indigenous experts on a committee tri-chaired by myself, Dr. Blackstock and the AFN.

A. Intake Process

35. When Jordan's Principle was initially implemented in 2016, requests were submitted through email and fax only. General inquiries, initial contacts and Jordan's Principle requests may now be received by ISC in one of the following ways:
 - a. by phone call to the National Call Centre; or
 - b. by phone call, fax or email to an ISC regional office, often referred to as a "regional focal point;" or
 - c. through a "service coordinator" (a First Nation or First Nation organization funded by Canada to assist requestors in making group or individual requests).
36. ISC uses the Jordan's Principle Case Management System to process and approve all requests submitted under Jordan's Principle and Inuit Child First Initiatives, as well as to submit approved requests to its financial SAP program for the purpose of issuing payment. ISC staff use the Jordan's Principle Case Management System to provide 24 hours a day 7 days a week critical services to Indigenous children in response to requests submitted by email, phone, fax and mail.

i. The National Call Centre

37. In February 2018, ISC announced the creation of Jordan's Principle 24/7 bilingual National Call Centre (Call Centre). The Call Centre is currently staffed by employees including a

manager, supervisor, quality assurance staff, technical specialist, and call agents, who are scheduled 24/7. ISC has also brought in contracted call agents from time to time, to supplement services when required (for example, during the Public Service Alliance of Canada labour disruption in 2023).

38. The Call Centre is intended to provide support and assistance to requestors in making their requests, but Call Centre agents do not determine requests. Requestors receive one-on-one service through the Call Centre, where call agents work with the requestor to complete their requests. After a request is received via the Call Centre, it is transferred to the ISC regional focal point (discussed below) for determination.
39. Other than submitting a new request or seeking a status update on an existing request, callers may not know exactly what products, services or support they want to request through Jordan's Principle to meet the child's needs. Since requests can involve multiple components, call agents often engage in lengthy conversations to help callers identify the child's needs, including providing information on the available supports in their region and general information about Jordan's Principle.
40. Call agents also assist callers by referring them to other resources when the request is for someone over the age of majority. Call Centre agents have access to nation-wide lists of service coordinators, service providers, vendors and/or region-specific procedures to assist in the delivery of products, services and supports.
41. The Call Centre has designated overnight call agents. Outside of regular business hours, if a case is urgent or a consult is required, a national on-call designated decision maker is available for determination. When a request falls outside the Call Centre's scope (being intake, information and possible updates), callers are redirected to the appropriate regional focal point.
42. While urgent requests for products, services and supports may be submitted via the Call Centre, the Call Centre is not intended to provide emergency medical or public safety response in the nature of police, firefighting or paramedic response. It does not provide 911 services and does not function like a 911 service, nor is it intended to do so. Call Centre staff are not trained to handle emergency situations. In any situation involving a child in immediate danger, the Call Centre redirects callers to 911 and/or local emergency services.

ii. Regional Focal Points

43. Each ISC regional office operates as a “focal point” for Jordan’s Principle requests. Most focal points maintain Jordan’s Principle call lines that are available during regular business hours in their region, as well as generic e-mail boxes for email requests. Regional call lines currently forward calls to the Call Centre after hours. While the Quebec regional focal point does not have its own phone line, it works closely with the Call Centre and supports intake and after hour calls.
44. The ISC regional focal point receives individual requests by phone, email, fax request form, or through Service Coordinators (discussed below). If the request has come through the Call Centre, the focal point is to contact the requestor by phone or email within one calendar day to acknowledge receipt of the request. A regional intake officer will then review the request to ensure all supporting information has been provided and complete an Intake Form. For urgent requests, requestors are not required to provide documentation at this intake stage.
45. Regional intake officers are responsible for intake and triage of all incoming requests, according to applicable regional practices. Some of their actions may include:
 - a. responding with an acknowledgement of receipt;
 - b. responding to clarify the inquiry;
 - c. assessing the completeness of an incoming request;
 - d. confirming eligibility;
 - e. requesting additional information/documentation from the requestor;
 - f. assigning new requests for case entry into Jordan’s Principle Case Management Systems;
 - g. escalating complex situations to a supervisor;
 - h. reviewing specific requests in Jordan’s Principle Case Management Systems; and
 - i. providing a status update to the requestor.
46. Upon completion of the intake form and receipt of any required supporting documentation and information, the focal point starts the clock for determination by documenting the request initiation date and time on the intake form, and advising the requestor that a determination is underway. The request is then placed in a queue for determination.

B. Determination Process

i. Regional Determination

47. Once intake is complete, the ISC regional focal point will inform the requestor that a determination is underway. Using all the information gathered in the intake process and upon evaluation of the request, the focal point will take one of the following steps:
 - a. determine the request, if the request falls within its authority;
 - b. consult with the National Review Team if guidance is required; or
 - c. escalate the request to the National Review Team.
48. The regional focal point is permitted to approve requests where the eligibility criteria are met and the supporting documentation sufficiently links the requested product, service or support to the child's unmet need. Focal points may approve individual requests for products, services or supports under \$100,000, and group requests for products, services or supports under \$500,000.
49. When individual or group requests exceed these amounts, the regional focal point escalates the request to the National Review Team for determination. The regional focal point notifies requestors when their request is escalated for determination.

ii. Escalation to the National Review Team

50. ISC's National Review Team consists of a number of delegated decision makers in ISC, consisting of Regional Directors, Regional Executives and Regional Directors General. This team is responsible for reviewing and determining requests in which:
 - a. the child does not meet the eligibility criteria;
 - b. the supporting documentation does not address the child's unmet needs;
 - c. the request is for products, services or supports being accessed outside of Canada;
 - d. the individual request is for products, services or supports in the amount of \$100,000 or more;
 - e. the group request is for products, services or supports in the amount of \$500,000 or more; and
 - f. there are known concerns with the proposed vendor.

51. The National Review Team notifies the regional focal point of each determination, which is then communicated to the requestor by the focal point. Where a request is denied, ISC sends a denial letter to the requestor, providing the rationale(s) for the denial and informing the requestor of the appeal procedures. ISC requires that all decisions be communicated to the requestor within one business day of determination.

iii. Re-Review Process

52. Re-reviews may be initiated by individual Jordan's Principle employees, requestors or First Nations partners or parties advocating for or acting on behalf of a child or family, or service coordinators/navigators. Re-reviews were introduced as part of the operationalization of the Back-to-Basics Approach as an informal mechanism to reconsider requests previously denied, prior to an appeal.
53. A request may be re-reviewed when new information becomes available that has rendered the product, service or support(s) eligible for approval, or if the Back-to-Basics Approach was not previously applied. If either of these criteria are identified and the request has not yet been appealed, it may be approved and considered a re-reviewed decision. Re-reviews may be conducted by any employee in the regional focal point or ISC Headquarters with authority to approve requests.

iv. Appeals Process

54. Previously, ISC formed an appeals committee composed of the Associate Deputy Minister and the Senior Assistant Deputy Minister, Regional Operations, both with ISC. In response to the Tribunal's order in 2017 CHRT 14 and Canada's commitment to the parties in 2018 to form an external arm's length Appeals Secretariat, the parties collaborated towards an improved appeals process based on the principles of transparency, accessibility, fairness and independence. In agreement with the Assembly of First Nations and the Caring Society, ISC implemented the new Jordan's Principle appeals process in 2022.
55. The new appeals process includes an arm's length secretariat function and an External Expert Review Committee (Appeals Committee). The Appeals Committee is an external non-governmental panel of experts from regulated and certified disciplines in health, education

and social sectors. The objective of the Appeals Committee is to provide ISC with recommendations on appeals utilizing their professional knowledge and expertise.

56. Currently, the Appeals Committee consists of nine consultants who have been contracted through a request for proposals process. All of these consultants are either Indigenous, have lived and worked with Indigenous communities, or have longstanding expertise in serving Indigenous communities across Canada. The inter-professional collaboration among these experts provide a fuller consideration of children's needs. ISC is working to expand the Appeals Committee membership, having launched an external Request for Proposals process in February 2024.
57. From November 2021 until February 2022, the old appeals process overlapped with the new appeals process, such that appeals were heard by one of the two committees. As of February 2022, the new appeals process is fully in place, replacing the former internal ISC committee.
58. The non-governmental Appeals Committee is supported by the Appeals Secretariat situated within ISC, but outside of the Jordan's Principle Initiative. The Appeals Secretariat, agreed upon by the parties, serves as an advocacy office to support families in bringing appeals forward. To avoid a conflict of interest with the Jordan's Principle implementation teams, the Appeals Secretariat reports directly to the Chief Medical Officer of Public Health within ISC, who is often referred to as the Chief Science Officer (CSO), who in turn reports directly to the Deputy Minister in exercising this authority. A copy of the Appeals Committee's Terms of Reference is attached hereto and marked as **Exhibit D**, and a copy of the Appeals Committee members' biographies is attached hereto and marked as **Exhibit E**.
59. The Appeals Committee makes a recommendation to the CSO regarding whether ISC's determination should be upheld or overturned, based on their specialized knowledge, professional expertise, cultural awareness and lived experiences. The CSO then renders an appeal determination based on that recommendation, which replaces ISC's earlier determination.
60. The new appeals process, as agreed by the parties, is designed to be an easy-to-access, timely and independently determined function, which provides supports to those individuals and groups seeking an appeal. The Appeals Committee and CSO strive to make determinations on all appeals within 30 days.

61. The Appeals Committee provides a clear avenue for complaint resolution. When a first instance Jordan's Principle request is denied by ISC, ISC notifies the requestor of the reasons for the denial and of the right to appeal the decision to the Appeals Committee within one year of the denial. A copy of the new appeals flowchart is attached hereto as **Exhibit F**.
62. When an appealed determination is upheld by the Appeals Committee, ISC advises the requestor of the decision in writing, together with a written rationale. ISC also advises the requestor that they have the option of filing an application for judicial review to the Federal Court within 30 days. A template of an appeal denial letter is attached hereto as **Exhibit G**.
63. In the 2022-23 fiscal year, 1,258 appeals were determined under the new appeals process. 59% of the determinations under appeal were overturned by the CSO, on recommendation of the Appeals Committee. Between April 1 and December 31, 2023, 625 appeals were determined, with 46% of those determinations overturned by the CSO, on recommendation of the Appeals Committee

v. **Federal Court Oversight**

64. ISC's final Jordan's Principle determinations are subject to Federal Court oversight pursuant to the *Federal Courts Act*, RSC 1985, c F-7, s 18.1. Further information on this is provided in the Affidavit of Candice St-Aubin.

C. Payment Process

65. When a request is approved, ISC has a variety of mechanisms to process payments. Most individual requests are processed based on a reimbursement model: after a request is approved, the requestor will submit an invoice and direct deposit information to receive payment for the approved item. ISC has also set up accounts with approved vendors that will bill ISC directly for the services provided.
66. In some circumstances involving travel, hotel stays, and accommodations for requestors, ISC can use government issued credit cards called acquisition cards to purchase products, services or supports on behalf of the requestor. Acquisition cards used for Jordan's Principle have special conditions in order to better meet the wide range of products, services and supports it purchases to meet First Nations children's needs.

67. Many service providers/organizations will not accept acquisition cards as a form of payment. In exceptional circumstances, ISC may use the acquisition card to purchase gift cards to meet the child's immediate needs. Currently, the Jordan's Principle acquisition cards terms and conditions allow a maximum \$100 limit for gift cards. Gift cards are most commonly used in the context of necessities of life such as food, clothing, diapers or formula.
68. In December 2023, to assist with faster reimbursement, ISC adjusted its policy on acquisition card thresholds for one-time transactions from \$5,000 to \$10,000, and for emergency travel from \$5,000 to \$20,000 per transaction. The monthly limit is \$50,000. These policy adjustments enable intake officers to grant access for one time transactions and emergency travel immediately for requests that fall within the new threshold.
69. Group request approvals are funded through contribution agreements with First Nations partners and community organizations. ISC reimburses the recipient in accordance with the terms and conditions of the contribution agreement, and the recipient distributes the funding based on the community's proposal outlined in the group request. This type of payment typically takes less time than when processed through ISC.
70. ISC has established a 15-day business day standard for processing all payments which is 50% less than the federal government standard. Processing times differ based on the type of payment. In the 2020-21 fiscal year, ISC processed 23,436 payments within the 15-business day standard, representing 82.9% of all payments.
71. Under the Back-to-Basics Approach, requestors no longer need to provide detailed costing information or quotes at the time of the request, which reduces administrative burden and allows for rapid decision-making. However, the lack of documentation required upfront potentially requires ISC to collect more information after the fact, which can result in payment delays beyond the 15-business day service standard.
72. As the volume of requests grew by 103% in the 2022-23 fiscal year, the percentage of payments made within 15-business days decreased to 50.7%, representing 36,433 payments. The total number of payments made within 15-business days increased nevertheless, from 35,806 payments in 2021-22 to 36,433 payments in 2022-23. As the volume of requests continue to increase, further payment delays are anticipated.
73. ISC has partnered with third parties in some regions to improve payment processing. For example, in the Alberta region, the First Nations Health Consortium (FNHC) supports the

delivery of Jordan's Principle, including payments administered through the Service Access Resolution Fund (SARF). At present, the Alberta region processes all payments and reimbursements within 7 to 15-business days.

74. Similarly, the British Columbia region has implemented a third-party payment initiative called the Approved Request Contingency (ARC) Fund to enable Enhanced Service Coordinator (ESC) partners to initiate payment for approved items on behalf of the region. ARC's objective is to decrease payment timelines, streamline processes and reduce administrative burdens faced by First Nation children and families in BC. It has also improved relationships with service providers by providing timely payment. As of March 11, 2024, \$10.5 million in payments for Jordan's Principle products, services or supports have flowed through ARC organizations, significantly reducing the number of invoices rendered directly by ISC. There is a plan to expand the third-party payment model from 24 to 33 partner organizations in the British Columbia Region in 2024-2025.


D. Service Coordination

75. In addition to processing Jordan's Principle requests itself, ISC also works collaboratively with regional and First Nations partners to support First Nations-led service coordination. The Jordan's Principle service coordination function is delivered by one of several service delivery organizations regionally (for example, First Nations communities, Tribal Councils, Health Authorities and Indigenous Non-governmental Organizations).
76. Funding for service coordination is provided through contribution agreements between ISC and each service coordination organization. Historically, ISC worked with First Nations partners and regions to develop a funding allocation formula based on caseload, eligible population and other regional distinctions.
77. ISC has significantly increased funding to support service coordination overall. From fiscal years 2021-22 to 2022-23, service coordination funding increased from \$66 million to \$71.5 million. ISC has since increased funding for this fiscal year to \$112 million.
78. There are a variety of service delivery organization models across the regions to address individual community needs. Generally speaking, the Service Coordination function supports families as they navigate systems, linking them to existing resources, and informing regional focal points of identified service gaps to help facilitate access to support children.

ISC currently has 599 contribution agreements in place with First Nations and a variety of organizations across Canada.

- 79. As just one example, and as noted above, ISC's Alberta region has a contribution agreement in place with FNHC, which is a partnership of 11 First Nations from each Treaty area in Alberta. ISC funds FNHC to support service coordination in Alberta.
- 80. Regional service coordinators provide navigation support throughout the Jordan's Principle application process. Regional Service Coordinators also have in-depth knowledge of the other services that may be available at the community level and would benefit the child to ensure a continuation of supports and services are available.
- 81. In 2019, ISC transferred partial responsibility for administration of ISC-approved Jordan's Principle payments to FNHC, as a pilot project. In addition to SARF, which ensures the expedited delivery of funding for Jordan's Principle individual requests, FNHC provides ongoing post-approval supports to families accessing products, services and supports through Jordan's Principle.
- 82. Currently, the Alberta Region also has Contribution Agreements in place with approximately 123 recipients, including First Nations Communities, School Districts/Schools, and other Indigenous and non-Indigenous Partners.

AFFIRMED before me this 14th day of)
March, 2024, at the City of Gatineau, in the)
Province of Quebec, Canada)


_____)
A Commissioner of Oaths for Quebec,)
with jurisdiction across Canada and)
all Countries)


_____)
VALERIE GIDEON

(George Exarhos #229835)

