



13 February 2025

Julien Castonguay
A/Assistant Deputy Minister
First Nations and Inuit Health Branch
Indigenous Services Canada

Good day Mr. Castonguay,

The Caring Society has received ISC's Jordan's Principle Operational Bulletin dated February 10, 2025, which provides a measure of transparency regarding ISC's recent conduct and changes in operations. The Caring Society is carefully reviewing the bulletin alongside the Tribunal's orders on Jordan's Principle to end Canada's discrimination against First Nations children and prevent its recurrence.

However, a number of items in the bulletin immediately raise concerns, including:

- ISC unilaterally applying this operational bulletin to the reported backlog of nearly 129,000 requests [[Canada's January 17, 2025 Report to the Tribunal](#)]. Many of these children have been waiting several months or longer to receive a determination on their request. Applying this bulletin retroactively amounts to shifting goalposts, is procedurally unfair, and risks exacerbating the backlog, further delaying services to children. A recent Federal Court ruling [*Schofer v Canada*, [2025 FC 50](#)] requires Canada to provide "reasonable facilitation" and not "passive obstruction" to First Nations families seeking supports for their children. As a result, any documentation gaps arising from Canada's shifting goalposts must be brought to families' attention before any denials are issued.
- ISC requiring requests to demonstrate how the child has experienced gaps, delays, or denials in government services before considering the request for support. In doing so, ISC recycles its discriminatory conduct found in the [Merits Decision](#) by presuming that the needs of First Nations children can be satisfied by existing services and then foisting the responsibility of identifying and coordinating such services onto First Nations, service providers and families, even though INAC had not done so.

The Tribunal has reaffirmed its order that Canada must close gaps and coordinate its federal programs to ensure that children do not experience gaps, delays and denials in services. The orders for Canada to coordinate its federal programs and to fully and properly implement Jordan's Principle must work together [[2025 CHRT 6](#), para. 92]. The Tribunal found no evidence that Canada has thoroughly evaluated its federal programs to respond to First Nations children's needs and gaps in services [para. 383]. Indeed, when Canada reported its progress in coordinating federal programs with the Tribunal on [January 10, 2025](#), it indicated that "there is limited transferability between Jordan's Principle requests and other ISC programs." If ISC's assessment concludes at this time that children accessing Jordan's Principle will not be eligible for other programs, it is unreasonable to require families to prove to Canada a conclusion it has already arrived at.

- ISC requiring families/communities to disclose children's assessments or detailed diagnoses by including them in supporting documentation for requests. Disclosure of private health information is unnecessary when registered/licensed professionals are already providing a recommendation for the request, particularly given the Tribunal has reaffirmed that ISC can engage in clinical case conferencing when it is reasonably necessary to better understand a child's clinical needs [[2017 CHRT 14](#), [2017 CHRT 35](#) and [2025 CHRT 6](#), para. 304]. It is also unclear how this aligns with the privacy/confidentiality of the child(ren). [The Caring Society has repeatedly](#)

[cautioned](#) ISC against requiring that level of documentation. The Caring Society has serious concerns about the compliance of this approach with the *Privacy Act* and the bulletin does not indicate whether any privacy assessment or consultation with the Privacy Commissioner has been conducted.

- ISC narrowing the scope of eligible products, services and supports "unless such funding is required by substantive equality" appears inconsistent with the Tribunal's clarification that the presumption of substantive equality applies to break down accessibility barriers and remove burdens on requestors in proving how their requests meet the substantive equality test. The onus is on Canada to prove that substantive equality does *not* apply [[2025 CHRT 6](#), paras. 168-170].
- It is unclear how this bulletin applies to urgent requests, if at all. ISC must immediately provide that clarity.

ISC releasing this bulletin without consulting the Caring Society or the Parties who are in active mediation on directly related matters, raises serious concerns about ISC's commitment to mediation and complying with the Tribunal's orders. In previous years, when ISC was contemplating directives of this nature, ISC has reached out to the Caring Society, the AFN, the Canadian Human Rights Commission and the Interested Parties to seek their views on draft materials before they were implemented. This past practice was consistent with Tribunal orders to coordinate these communications. Canada must withdraw this bulletin and mediate these issues on a good faith basis as part of the dialogic approach, or the Caring Society will bring this to the mediator's attention and reserves the right to seek other remedies.

The Caring Society also reiterates that Jordan's Principle Operations Committee (JPOC) members must provide their regional expertise, guidance and input into ISC policies and conduct as per the JPOC Terms of Reference. The Caring Society notes that JPOC has not met since September 2024, despite the critical need for regional expertise to inform ISC conduct on Jordan's Principle and repeated requests for meetings from JPOC members. We further call on ISC to call a JPOC meeting within five business days to discuss the bulletin and seek their expertise on urgent matters, such as the request and reimbursement backlogs, the status of funding agreements for First Nations service coordinators and urgent cases.

Thank you,



Cindy Blackstock, PhD.

Executive Director, First Nations Child & Family Caring Society

CC: Jordan's Principle Operations Committee