



Nokiiwin
TRIBAL COUNCIL

Jordan's Principle and Substantive Equality

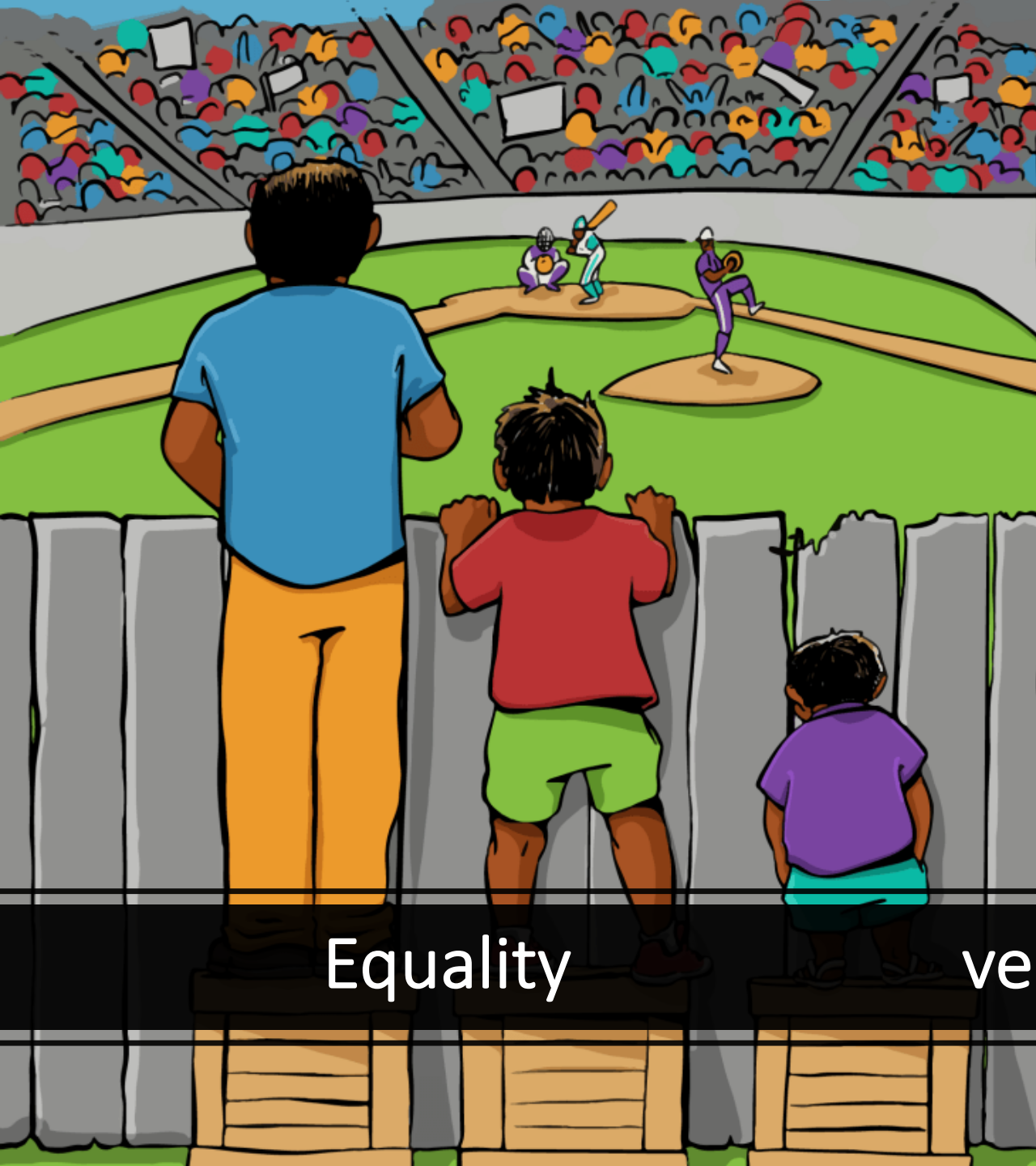
Brian Dunn, Disabilities Coordinator
Nokiiwin Tribal Council

An orange watercolor splash graphic on the left side of the slide, with a darker purple gradient at the bottom.

First... What is Equality?

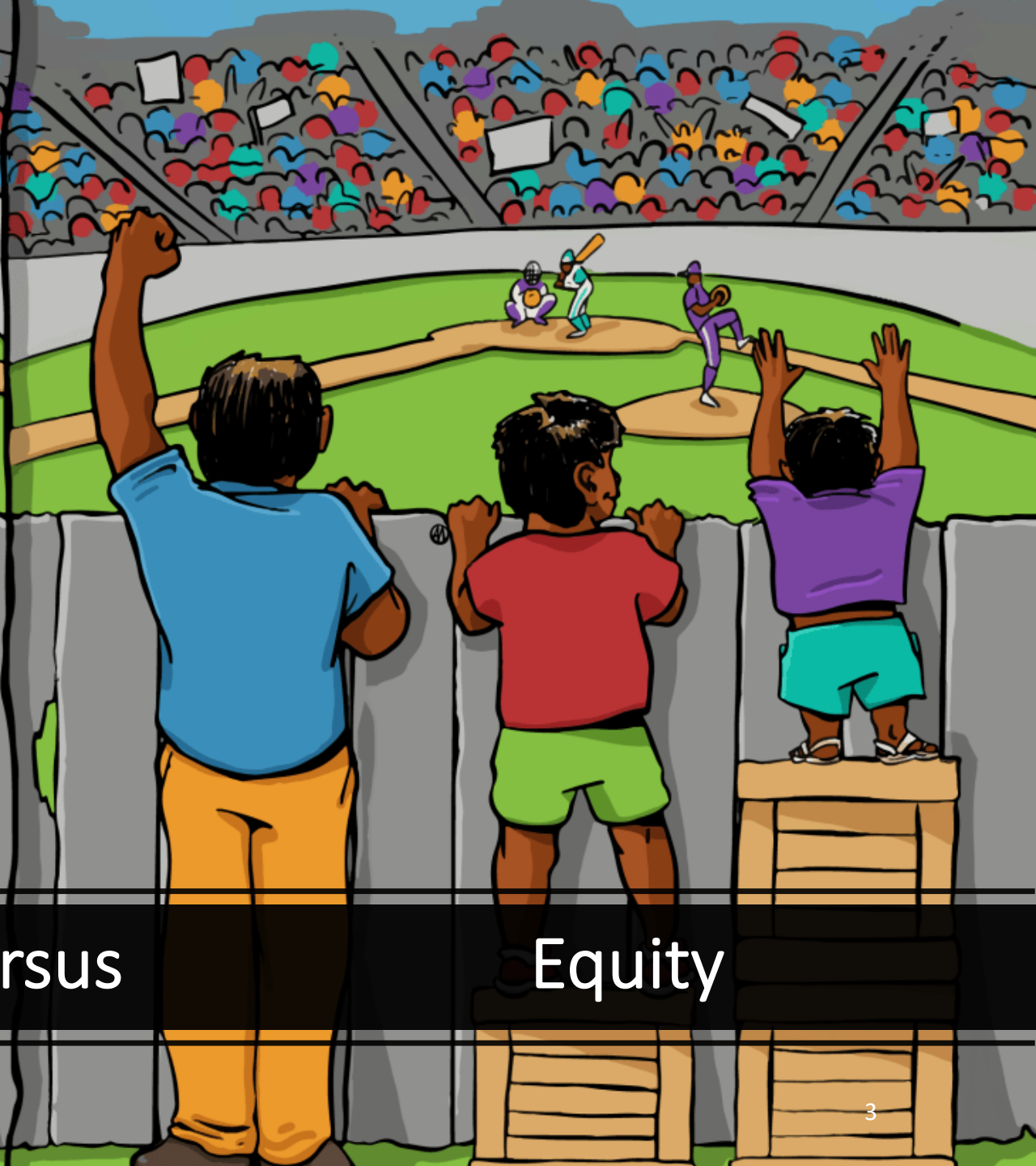
“...equality is not really about being treated the same, and it is not a mathematical equation waiting to be solved. Rather, it is about equal human dignity, and full membership in society. It is about promoting an equal sense of self-worth. It is about treating people with equal concern, equal respect, and equal consideration. These are the values that underlie equality. These are the values that are offended when we discriminate, consciously or not.”

(The Honourable Claire L’Heureux-Dubé, “Conversations on Equality” (1999) 26 Man. L.J. 273)



Equality

versus

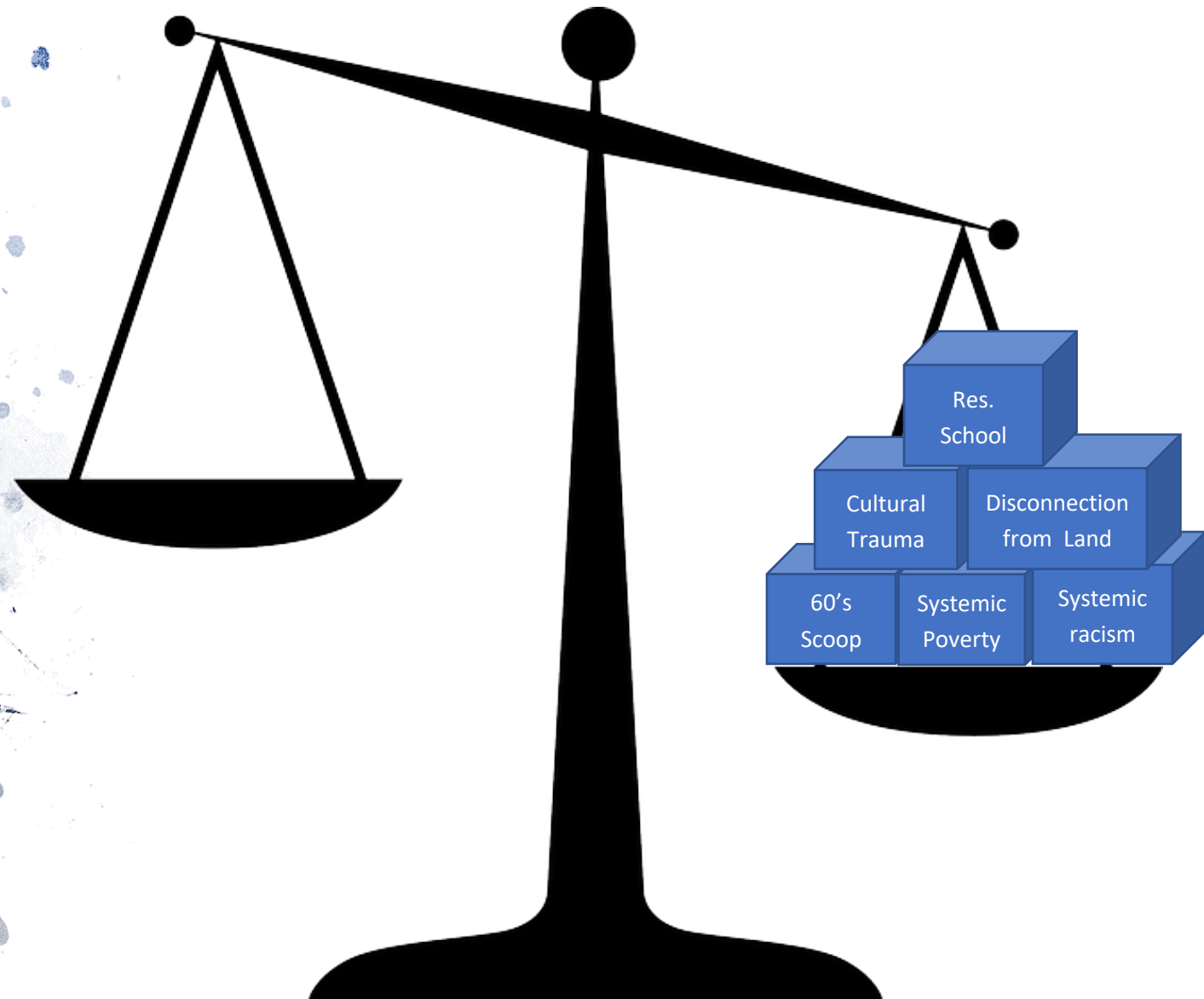


Equity

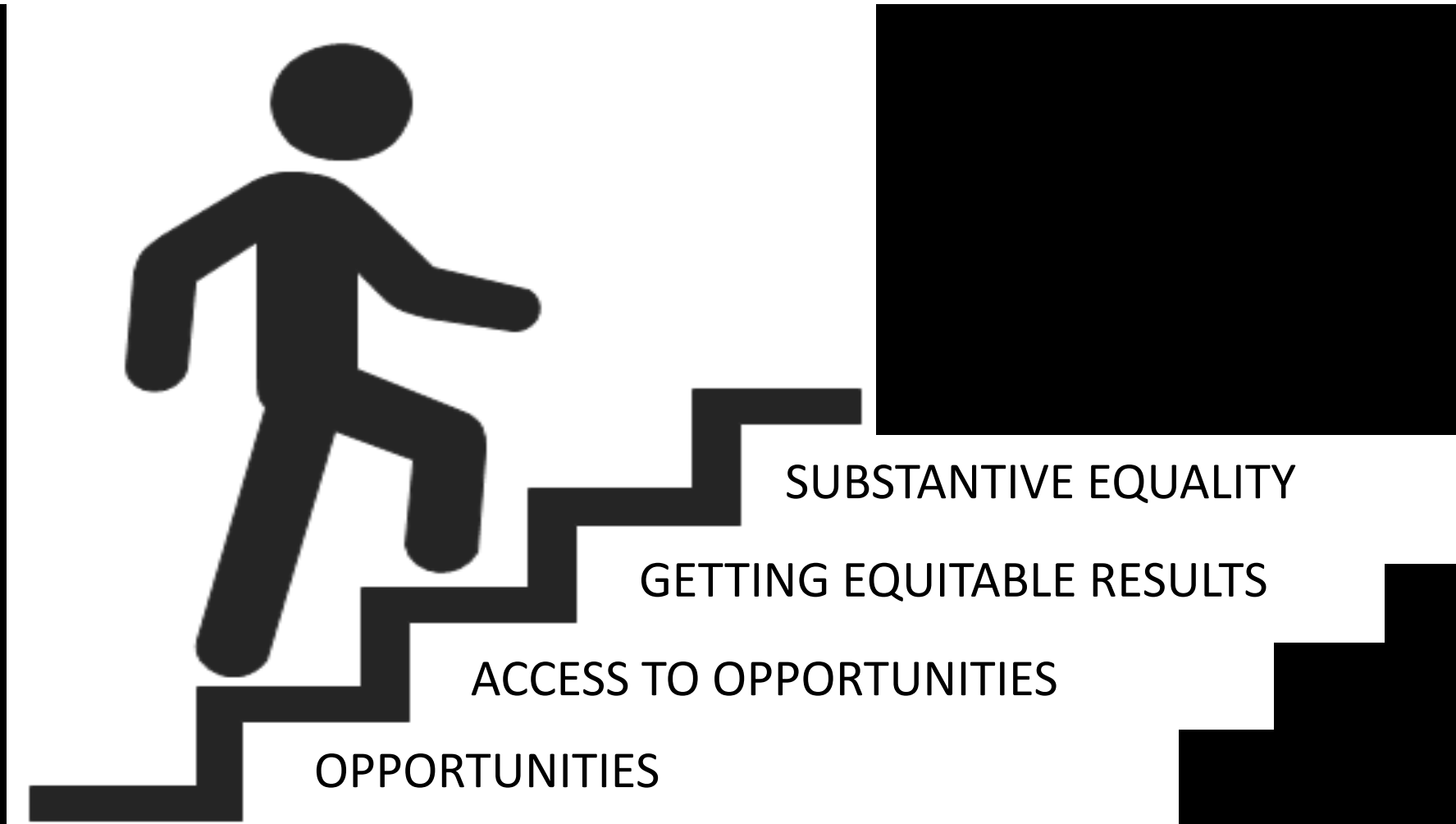


But can we hope for even more?

Substantive equality recognizes that the law must take elements such as discrimination, marginalization, and unequal distribution into account in order to achieve equal results for basic human rights, opportunities, and access to goods and services



Substantive Equality doesn't happen overnight... it's a *Process*



Remembering Jordan River Anderson

- Jordan was a First Nation child from Norway House Cree Nation in Manitoba, born with a rare muscular disorder.
- He lived all five years of his short life in the hospital because the provincial and federal governments could not agree on who should be responsible for his care.
- As jurisdictional disputes continued, Jordan's condition worsened and he passed away in hospital February 2, 2005
- His precious life has changed hundreds of thousands of lives ever since



Jordan's Principle is NOT a handout

"Our people have been subsidizing Canada since it became a country and the British Crown long before that. The British and French monarchies grew rich from the extraction of resources from our territories, from the fur trade to modern mining and forestry industries of today. Untold trillions of dollars have been gained from our lands. We continue to subsidize Canada today while our communities suffer in poverty."

- Mike Restoule, Lead Plaintiff for the ongoing Robinson Superior and Huron Annuity case.

"WE ARE ALL TREATY PEOPLE"



And it is a legal requirement...

... passed by the House of Commons in 2007 **under orders from the Canadian Human Rights Tribunal (CHRT)**. Its mandate is for...

- **‘substantive equality’**
- through providing for **‘culturally appropriate services’**
- that **‘safeguard the best interests of the child’** makes funding and resources available both to individuals and communities.



Jordan's Principle is...

... a **'child-first principle'** that applies equally to children living **'on or off reserve'** that aims to:

"eliminate service gaps, inequities and delays for First Nations children to ensure that they have an equal chance to thrive in their own home community and culture."



Beyond 'normative' standard of care...

“...The emphasis on the “normative standard of care” or “comparable” services... does not answer the findings in the Decision with respect to substantive equality and the need for culturally appropriate services (see Decision at para. 465). The normative standard of care should be used to establish the minimal level of service only.

(see 2017 CHRT 14, at paras. 399-427).

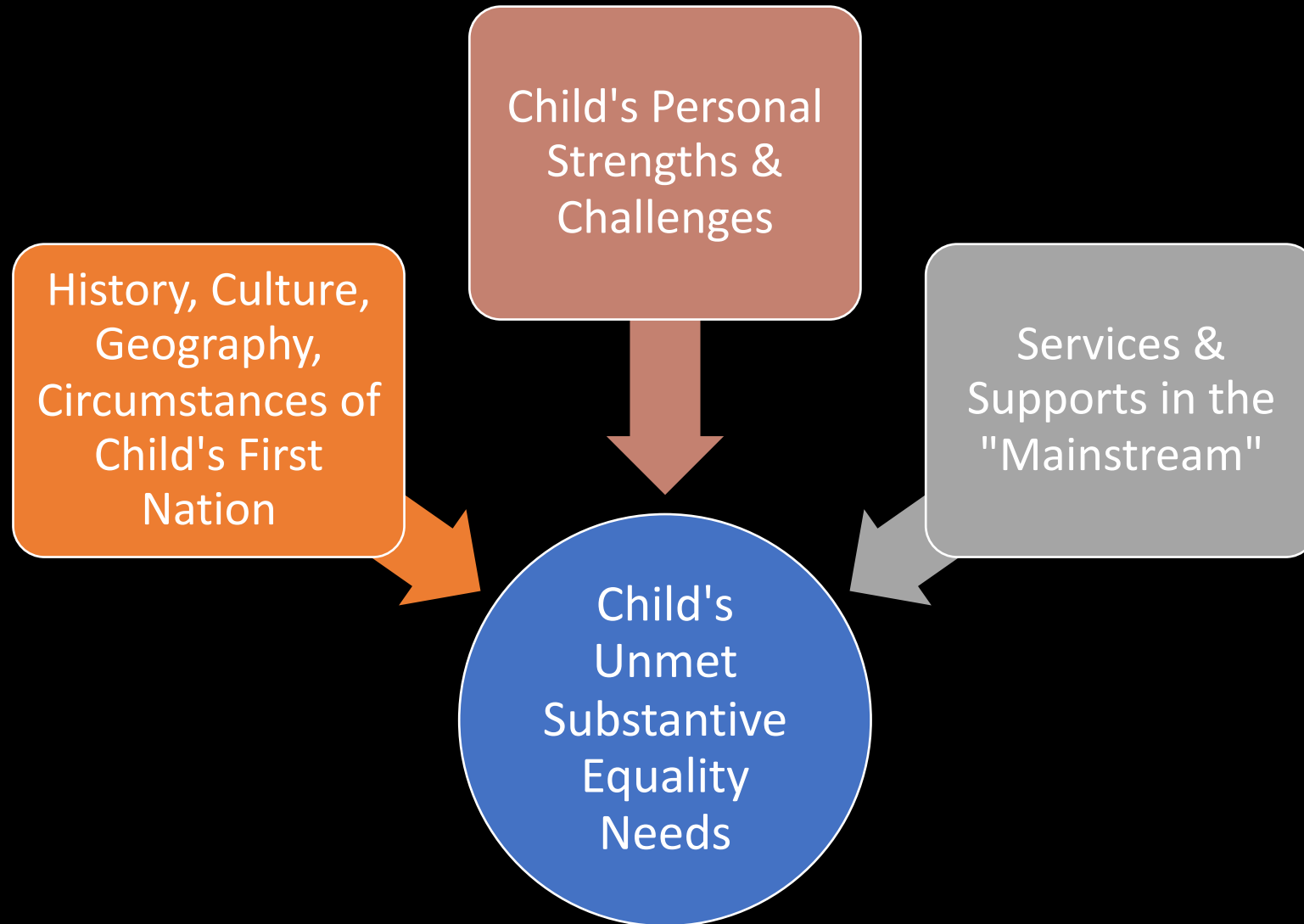
‘Substantive equality’ ensures...

“... the provision of culturally appropriate services, the needs of each individual child must be considered and evaluated, including taking into account any needs that stem from historical disadvantage and the lack of on-reserve and/or surrounding services.”

(see 2017 CHRT 14, at paras. 399-427).

Substantive Equality, according to the CHRT ruling...

- Must not perpetuate historical disadvantages endured by Aboriginal peoples (403, 455)
- Addresses the intergenerational trauma caused by Residential Schools (422)
- Narrows the gap between First Nations and the rest of Canadian society (403)
- Meets real needs, e.g. additional needs of First Nations vs others, needs of specific First Nations (425, 455)
- Provides services that are culturally appropriate (422, 425)
- Breaks the cycle of outside control (425-426)
- Is of comparable quality to those off reserve (455)



Gathering narrative for support letters for Jordan's Principle

History and Geography questions to ask...

- Has your family experienced intergenerational trauma (for example: residential school, child welfare involvement, removal from your land, abuse)?
- Is support available in your First Nation? If not, how far would you have to travel to access this support for your child?
- Is your First Nation remote? Is the cost-of-living in your community more expensive than normal?

Cultural Questions to ask...

- Does your child face any unique circumstances that make access to cultural supports especially important to them as an individual (e.g. mental or physical health needs or conditions)?
- Will this request help your child fulfill their cultural needs or strengthen their Indigenous identity?
- Will this request help your child strengthen their relationship with their traditional territories?

Cultural Questions, cont'd...

- Will this request help your child learn more about their language, traditions, or protocols?
- Has your child experienced any difficulties in his/her/their family history that give rise to a heightened need for this support?
- Is this support needed to help your child participate in school?
- Will this support help your child overcome any barriers or challenges related to being First Nations (for example, systemic discrimination and inaccessibility of services)?

Continuity of Care Questions to ask...

- If this support was not provided, would your child have to be away from the community for an extended period?
- If this support was not provided, would your child experience any disruption in his/her/their care (i.e. who their caregiver is day-to-day)?
- Is there any risk that Children's Aid may become involved with your family if this support is not provided?
- Will this support help your child's family to build resilience and healing?

Jordan's Principle has approved funding for...



Professional Services

Podiatry/Chiropody
Chiropractic
Optometric



Home Based Services

Respite Care
Palliative Care
Respiratory equipment and supplies



Social Services

Assisted adoption
Permanency planning
Customary care/adoption



Rehabilitation

Occupational Therapy
Physiotherapy
Speech and Language pathology and therapy

Approved funding, cont'd



Aids to persons with disabilities

Communication aids
Orthodontic
prosthetic devices
Wheelchairs, mobility aids and seating



Mental Health Services

Crisis Counselling
Prevention services/care
Traditional Counselling and ceremony



In-home family support

Assisted living and Home care
Medical Supplies and equipment
Medical foster homes

And specifically for education...

Supplies and technology for continuing at-home education

Special Needs assistant/teachers, support care workers

Psych-ed assessments (including related travel)

Accessibility aids and equipment for schools

Land-based Education

Privately contracted tutoring

Who is eligible?

- Registered First Nation children living on or off reserve,
- First Nation children entitled to be registered, under the Indian Act (includes children eligible for status because a parent is status, whether the child's status has been applied for or not),
- Up to their 18th birthday (it's different by province, but generally it goes by whatever is the 'age of majority'),
- ...who aren't being adequately served by available health, education or social services.

Who is eligible? Cont'd

- Non-status indigenous children who are ordinarily resident on reserve
- Non-status indigenous children who do not reside on the reserve but are facing an urgent and/or life-threatening need and are recognized and supported by their Tribal Council or First Nation as community members
- Inuit and Métis (but only Métis living on reserve?!)
- First Nation children who as of Dec 22, 2017 are eligible for status under Bill S-3



History of Amendments to the *Indian Act* Regarding Sex-based Inequities

1869 - 1876

*Gradual
Enfranchisement Act
and first Indian Act*

- Several forms of enfranchisement introduced
- Patrilineal rules of descent introduced
- Sex-based discrimination
- The term 'Indian' was defined

1951

Indian Act

- Creation of the Indian Registrar and the Indian Register
- From band list to central register and management by the federal government

Bill C-31

1985

- Reinstatement of women who married out and their children
- Acquiring status through marriage stopped
- Acquired rights protected
- Enfranchisement abolished
- Creation of ss.6(1) and 6(2)
- Second generation cut-off
- Section 10 and section 11
- 174,000 registered

Bill C-3

2011

- Additional generation descendants of women who were married non-Indian men became entitled
- Introduction of the 1951 cut-off
- 37,000 registered

Bill S-3

2017

Immediate changes:

- In force on December 22, 2017
- *Descheneaux* case:
 - Cousins Issue
 - Siblings Issue
 - Omitted Minors Issue
 - Unknown or Unstated Parentage

Delayed changes:

- Removal of the 1951 cut-off

Other Obligations:

- Consultation
- Report to Parliament - June 12, 2019

—

The goal is not 'equality' but the
total wholeness and wellness of
the medicine wheel

Spiritual wellness
Emotional wellness
Physical wellness
Mental wellness





Which means Land, culture and tradition

Reconnecting young people to land, culture and sacred tradition is absolutely essential for wholeness and wellness. There are creative ways to find JP funding for:

- **Services from Elders**
- **Traditional knowledge, healing services and medicine**
- **Land-based activities and education**
- **Specialized programs based on cultural beliefs and practices**

What families can bring

- The child/youth's status card or number, or
- If a child is under the age of 1 and they don't have a status card yet – their mother's or father's status number
- If a child is older than 1, but eligible to be registered – their mother's or father's status number
- If a child that is non-status and resides on the reserve – a letter from the band or tribal council



What families can bring, cont'd

- **If they have them**, any Psych-Ed assessment, IEP, Diagnosis, Doctor's or Nurse Practitioner's note plus any evidence (if available) of non-coverage through NIHB
- Invoice or quotes for items/services being requested, as detailed as possible. Unless medically necessary, these should be average prices for the region in which the child lives.
- Letter(s) of support from: tribal council, medical/health personal, elder, mental health counselor
- **If they don't have these**, the JP Navigator and/or Community Health Representative would be glad to help obtain these

Submission of application

1. JP Navigator, CHR, etc. completes and submits the JP Intake form along with...
2. parent/guardian's consent
3. Supporting documents
4. letter(s) of support
5. itemized list with dollar figure breakdown for products or services

Approval of individual applications is usually given within a few days (the longest I have waited is three weeks). Enhanced funding takes longer (the longest have waited is three months)

The image shows two identical copies of the 'Jordan's Principle Focal Point Intake Form' (Version May 6, 2019) held together by a silver clip on a wooden clipboard. The forms are blue and white, with sections for '1.0 Origin of Request', '2.0 Primary Client Demographic Information', and '3.0 Client Information'. The forms are held by a silver clip. A small green plant is visible to the right of the forms.

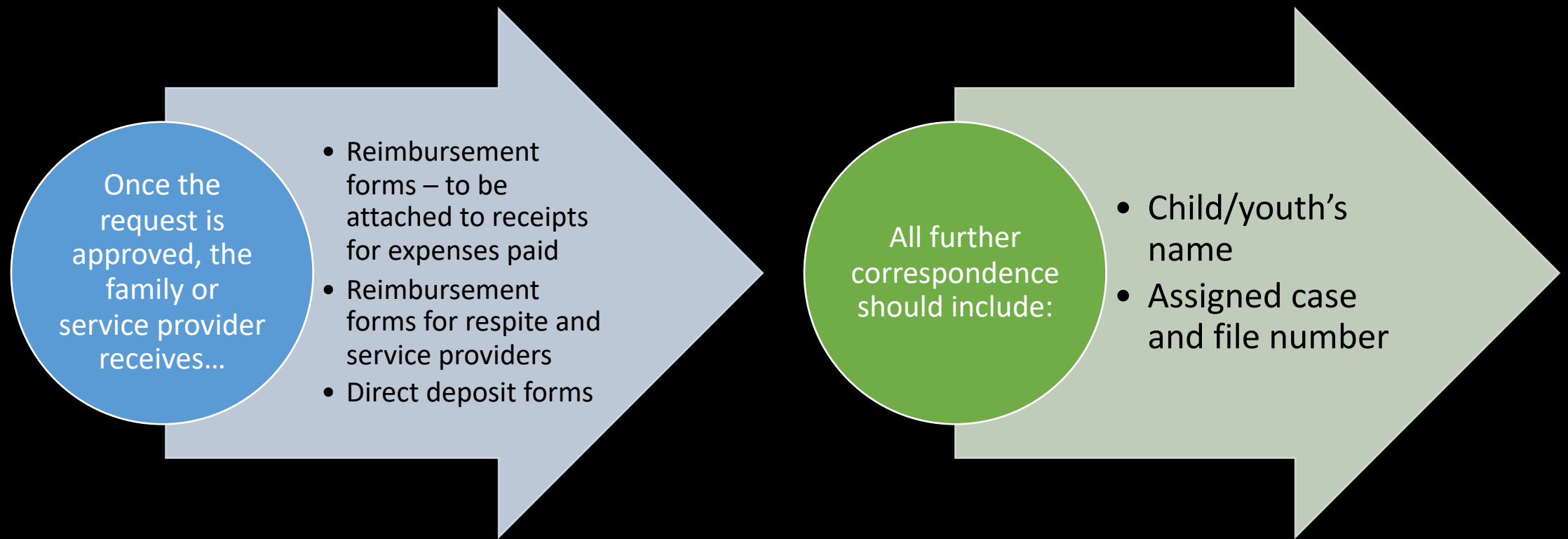
Jordan's Principle Focal Point Intake Form
Version May 6, 2019
Protected "IP" when completed

1.0 Origin of Request
Was the request received from:
☐ Yes ☐ No
If no, was the request received from:
☐ Health Professional
☐ Regional Health Authority
☐ Other
Did the requester receive consent:
☐ Yes ☐ No
Requester's Given Name
Address to send correspondence
Was the request received from:
☐ Yes ☐ No
If yes, please enter the NINBS ID:
Requester's Given Name
Requester's Surname
Email
Telephone Number
Address to send correspondence
City
Province
Postal Code
Was the request received from:
☐ Yes ☐ No
If yes, please enter the NINBS ID:
Requester's Given Name
Requester's Surname
Email
Telephone Number
Address to send correspondence
City
Province
Postal Code

2.0 Primary Client Demographic Information
Child's Given Name
Child's Family Name
Child's Date of Birth (MM/DD/YYYY)
Child's Sex
☐ Male ☐ Female ☐ Unspecified
Address where child currently resides
City
Province
Postal Code
Community of Residence - ALBERTA
Community of Residence - BRITISH COLUMBIA
Community of Residence - MANITOBA
Community of Residence - ATLANTIC
Community of Residence - ONTARIO
Community of Residence - QUEBEC
Community of Residence - SASKATCHEWAN
Community of Residence - YUKON

3.0 Client Information
3.1 Age
Is the request for a child (as defined by the province/territory of residence)?
☐ Yes ☐ No
If the request is not for a child (as defined by the province/territory of residence), please provide details:

Payment Process



Jordan's Principle Funding

Giiniwenama "To care for and look after"



Jordan's Principle is a 'child-first' initiative that seeks substantive equality for First Nations children.

Jordan's Principle funding helps families and communities access culturally appropriate supports and services that safeguard the best interests of the child.

Funding is based on the child's individual health, education, or social needs which may include:

Nokiiwin Tribal Council's Disabilities Initiative is here to help families from member communities to navigate the application process by providing support letters and submitting requests for products, services or supports.

We continue to work closely with local coordinators and health and educational professionals to ensure that all Jordan's Principle requests are processed as quickly as possible.

Health

- mobility aids
- addiction services
- mental health services
- traditional healing services from Elders
- assessments and screenings
- transportation to appointments
- medical supplies and equipment
- therapeutic services (speech therapy, physiotherapy, occupational therapy)

Social

- social worker
- land-based activities
- personal support worker
- specialized camps
- respite care (individual or group)
- specialized programs based on cultural beliefs and practices

Education

- supplies for continuing at-home education
- tutoring services
- teaching assistants
- specialized school transportation
- psycho-educational assessments
- assistive technologies and electronics and specialized online services

For more information, or for help with submitting Jordan's Principle applications contact:
disabilities@nokiiwin.com | (807) 632-9941

Nokiiwin is continuing to provide services for families in member communities during this difficult time of COVID-19.



Feel free to contact me...

Brian Dunn, Disabilities Coordinator

Nokiiwin Tribal Council

(807) 632-9941

disabilities@nokiiwin.com