

Indian Residential Schools

Adjudication Secretariat

Secrétariat d'adjudication  
des pensionnats indiens

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## **A guide for claimants in the Independent Assessment Process**

## **IAP Info-Line – 1-877-635-2648**

Former students of residential schools who have questions about the IAP or about their IAP claim can call the IAP Info-Line at **1-877-635-2648**. There is **no charge** to call this number.

The IAP Info-Line can help former students better understand the IAP and how their claims will proceed in it. These services are available in English, French and Cree.

IAP Info-Line staff can:

- give information on the general status of a claimant's IAP file
- help answer general questions about the IAP
- refer claimants to relevant agencies and programs
- help claimants with their application forms where further explanation (but not legal advice) is required
- for unrepresented claimants looking for a lawyer, transfer their call to a Claimant Support Officer, who can provide a list of lawyers accepting referrals for IAP claimants
- make referrals to a law society if legal advice is sought by the claimant
- transfer a claimant's call to 24-hour crisis counseling
- transfer a self-represented claimant's call to a Claimant Support Officer
- help claimants understand letters they have received from the Secretariat
- help claimants provide additional information for their claims
- for represented claimants, transfer calls to their lawyer
- give information on the stage of the IAP the claimant's file is in, and respond to the claimant's questions on next steps
- arrange to mail general IAP information sheets to claimants
- give information to claimants about the services they can expect from their lawyer throughout the process, as well as information about changing their lawyers
- give information on the Group IAP
- transfer calls to the Group IAP unit

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## Who is this guide for?

This guide is for claimants who have been admitted into the Independent Assessment Process (IAP) under the **Indian Residential Schools Settlement Agreement**.

Under the process, former students of recognized residential schools who experienced sexual abuse, serious physical abuse or other wrongful acts may be eligible for money as compensation. However, being admitted to the IAP does not guarantee that you will be awarded compensation.

### A note about terms

Throughout the guide, specialized terms appear in **bold brown type**. You can find expanded definitions of these terms in the [Glossary](#) on page 35.

This guide explains the process and the supports available to you.

You may have decided not to be represented by a lawyer. Claimants who do not hire a lawyer are known as self-represented claimants. This guide will be especially helpful if you are a self-represented claimant because of the numerous procedures involved.

It is important to know, however, that the parties that negotiated the **Settlement Agreement** recommend all claimants have legal representation. In fact, the Settlement Agreement contains provisions to pay the fees for claimants' lawyers, up to 15% of a claimant's award. If you have a lawyer, the adjudicator for your hearing will also review your lawyer's fees to ensure they are fair. See [Should you hire a lawyer?](#) on page 5 for more information.

### Caution

This guide does not contain legal advice, and nothing in this document should be taken as legal advice. This guide is a general overview of the process.

## About the Independent Assessment Process

The Independent Assessment Process (IAP) was created to resolve claims of abuse at residential schools. The process is non-adversarial. This means that everyone involved participates in a spirit of cooperation.

The IAP involves a private hearing – not in a courtroom – that will allow you to tell your experience to a neutral **adjudicator**. The adjudicator will ask you questions and manage the hearing. Besides you, the hearing will include your lawyer (if you have one), a representative of the Government of Canada, possibly a representative of the church and the claimant's **witnesses** (if there are any). Every person at an IAP hearing signs a confidentiality form to ensure that a claimant's privacy will be maintained.

For many claimants, a hearing is not just a place to make a claim. It's an opportunity to share experiences, often for the first time. Depending on what you need, others present may include

support people for you, both your personal support people and others, such as a Health Support Worker or a Cultural Support Worker, an Elder or religious person, and an interpreter.

After the hearing, if the claim is allowed, the adjudicator will use [a formula to decide on compensation](#) (see page 25). This formula was set out in the **Settlement Agreement**. The hearings and the compensation are ways to help bring closure to residential school experiences.

### Does your claim have to go to a hearing?

If you have a lawyer, then you and your lawyer can work with the Government of Canada on settling your claim. This can happen at any time in the process. If such attempts are not successful, your claim will proceed to a decision by the adjudicator.

## Who's involved?

There are three parties to each claim:

- you, the claimant, who is the person who has applied for compensation under the IAP
- the Government of Canada, represented by an employee of **Indigenous and Northern Affairs Canada** or a lawyer from the Department of Justice
- the church that was involved in the operation of the residential school attended by you – although the church is a party and is entitled to be present at all hearings, it generally allows the government to take the lead and does not involve itself in the process

Your hearing may include any of the following participants:

- **You, the claimant:** As a former student of a residential school, you will be expected to provide testimony about the abuse that happened as well as how the abuse affected your life. You can hire a lawyer to represent you in the IAP, or you can represent yourself. All parties to the IAP recommend that claimants hire a lawyer as the process involves complex legal issues and processes.
- **Your lawyer:** If you hire a lawyer, your lawyer will represent your interests during the hearing and throughout the IAP. Your lawyer's job is to listen closely to your testimony to make sure you have every opportunity to provide evidence and to ensure all the legal tests are met for a successful claim. Your lawyer is not allowed to question you directly during the hearing, but can recommend questions for the adjudicator to ask.
- **Adjudicator:** **Adjudicators** are independent decision-makers who manage the hearing. The hearing allows the adjudicator to question you on what you stated in your application to better understand what happened, to clear up any concerns, and to decide if there is enough evidence to award compensation. Adjudicators have been selected by the parties of the **Settlement Agreement** to adjudicate IAP hearings. The adjudicator is the only person allowed to question you at your hearing.
- **Government of Canada representative:** This individual represents the interests of the defendant, the Government of Canada. His or her role at the hearing is to listen closely to

your testimony and to raise any concerns that the government may have about a claim. The representative is not allowed to question you directly, but can recommend questions for the adjudicator to ask.

- **Church representative:** If you request that a church representative not attend your hearing, the church will usually honour your request. As a party to the **Settlement Agreement**, however, the church has the right to attend hearings and oppose the claim. The church representative may also be available to offer a personal apology.

Other people who can attend your hearing – although only with *your* permission – include:

- **Your support people:** You have the right to bring support people of your choice to the hearing. The Secretariat will pay for their travel and accommodation (transportation, meals, and hotel) expenses for up to two support people. You may ask if more support people can attend your hearing at their own expense. You are entitled to have a Health Support Worker, a Cultural Support Provider or a Service Provider provide emotional support to you prior to, during and following the IAP hearing.
- **Health Support Worker:** You have the right to request that a Health Support Worker attend the hearing. The support worker can help you deal with the emotions that may come up during the hearing and provide cultural support. In fact, you can begin working with a Health Support Worker well before your hearing to help you prepare. For more information on Health Support Workers, see [Health Supports](#) on page 300.
- **Elders:** You have the right to have an Elder at your hearing. You can bring one with you (in addition to the support people above) or the Secretariat can arrange to have an Elder attend the hearing. An Elder can help you prepare for the hearing, offer a prayer or ceremony before the hearing starts, and help you through an emotional day. The Secretariat will pay for an Elder's travel costs.
- **Interpreters:** You have the right to provide testimony in the language of your choice, including any Aboriginal dialect. The Secretariat will arrange for an interpreter and pay the interpreter's travel costs. An interpreter cannot be a family member.
- **Your witnesses:** You can bring a **witness** with you to your hearing if you have provided a written witness statement two weeks before your hearing. Witnesses can testify about what they saw and heard to support your claim.

## For self-represented claimants: your Claimant Support Officer

The Secretariat ensures you have support throughout the claims process. You are assigned a Claimant Support Officer to assist you through the process. Your Claimant Support Officer is knowledgeable about the IAP and will ensure you are well-informed about the progress of your claims, the requirements for a successful claim and the health supports available while your claim is being resolved. He or she will also ensure you receive personalized support and are treated with respect and dignity.

Your Claimant Support Officer is also your single point of contact if you choose not to hire a lawyer. He or she will work with you from the time your claim is admitted right through to the decision.

Other duties your Claimant Support Officer may perform if you do not have a lawyer include:

- seeking more information to help your application get admitted
- ensuring your claim is processed in the same timeframe as claims for claimants with lawyers
- working with others in the Secretariat to prepare your claim for the hearing
- ensuring you understand the process, the roles of the parties and all the letters you receive
- collecting and paying for all [mandatory documents](#) (see page 12)
- preparing you for your hearing and assisting with any work that needs to be done after the hearing

You will not meet face-to-face with your Claimant Support Officer. The work to prepare the claim *and to prepare you* for the IAP hearing will be done over the phone and by mail. Further, your Claimant Support Officer will not attend your hearing. Consider hiring a lawyer if you feel you need this type of support in person.

### **Is having a Claimant Support Officer just like having a lawyer?**

No. There are several important things a Claimant Support Officer cannot do for claimants. For example:

- A Claimant Support Officer cannot provide claimants with legal advice. Only a lawyer can do this. Claimant Support Officers can only provide information about the IAP.
- A Claimant Support Officer cannot advise on which of the three options – [standard, complex or court track](#) (see page 20) – is best for dealing with your claim. A lawyer would be able to make this decision.
- A Claimant Support Officer cannot enter into negotiations with Canada to settle your claim without a hearing. A lawyer can.
- A Claimant Support Officer cannot attend hearings to provide advice or moral support. A lawyer will attend to provide advice and argue on a claimant's behalf.
- A Claimant Support Officer cannot give legal advice to review a decision. A lawyer can.
- A Claimant Support Officer cannot provide counseling.

For all of these reasons, all the parties to the **Settlement Agreement** agree that IAP claimants should hire a lawyer.

## Should you hire a lawyer?

It's your decision whether you want to hire a lawyer. Although the IAP does not require you to have a lawyer, the parties to the **Settlement Agreement** believe that claimants benefit from having legal representation. In fact, the agreement builds in repayment to you of lawyer's fees related to your claim, to a specified maximum.

You can decide to hire a lawyer at any stage in the process.

Even though the IAP does not take place inside a courtroom, it can be complicated and involves difficult legal concepts and processes. If you hire a lawyer, the lawyer will be responsible for all aspects of your claim. This would allow you to focus on healing and preparing emotionally for the hearing, where you will be sharing the details of your residential school experience and how it affected your life.

Other reasons you might want to hire a lawyer include:

- A lawyer understands the rules and processes of the IAP, including what legal tests and standards of proof need to be met for your claim to be successful.
- A lawyer will prepare your claim for the hearing, including collecting the mandatory documents (see page 12).
- A lawyer will ensure that you are awarded maximum compensation. Statistics show that claimants who have a lawyer receive higher compensation awards.
- A lawyer can give you peace of mind because the technical aspects of your claim are looked after.
- If your claim is awarded compensation, your costs for hiring a lawyer will be at least partly covered by the IAP, and in some cases, completely covered.
- Having a lawyer represent your interests at the hearing is usually less stressful than handling the hearing yourself.

Having a lawyer also gives you additional options that may help resolve your claim more quickly. These options include:

- **Negotiated Settlements:** It may be possible to resolve your IAP claim without a hearing. Depending on the facts of your claim, your lawyer can ask the Government of Canada if a settlement can be negotiated. If the government agrees, your lawyer would then negotiate with the Government of Canada to find a settlement amount that all parties are satisfied with. Settlements can be negotiated only by claimants represented by a lawyer. During negotiations, your claim is still active – the parties will continue to collect any outstanding mandatory documents. The Secretariat shares these documents among the parties, but also retains copies in case the negotiation is unsuccessful and an IAP hearing is needed after all.
- **Short-Form Decisions:** If you're in the standard track and you have a lawyer, you may have the option of a short-form decision at your hearing. With the short-form decision, the

adjudicator writes the decision at the hearing if the hearing includes final submissions. Because the parties agree to the amount at the hearing, short-form decisions mean that [you receive your compensation award](#) sooner (see page 29). You don't have to wait additional time after a hearing for the adjudicator's decision. In the accelerated hearing process, if your claim is in the standard track, your lawyer can still request a short-form decision. It will be provided to you about two weeks after final submissions.

The parties that participate at the hearing (the **adjudicator** and the Government of Canada representative) generally have legal training. In fact, they are often certified lawyers. It is best for you as a claimant to be equally prepared for the hearing by having your own lawyer attend the hearing to represent your interests.

## Finding a lawyer

If you decide to hire a lawyer, it is important to find one that is trustworthy. You will be trusting your lawyer to not only deal with a sensitive issue, but to keep your interests first and foremost. You will have to speak openly and honestly because your lawyer will need to know all the facts about your claim. You may find it helpful to speak with other former students who have completed their claims to ask them who they would recommend.

Any certified lawyer can take on your claim. Already, more than 600 law firms across Canada have represented IAP claims. To find one that you feel comfortable with, you can call **1-877-635-2648** to be transferred to a Claimant Support Officer who can provide a list of lawyers accepting referrals for IAP claimants.

When you're searching for legal representation, speaking with more than one lawyer is a good idea to help make sure you find one that has agreeable terms and is trustworthy. Here are some questions you should ask every lawyer you speak to:

- What percentage of the awarded claim do you charge for legal fees?
- How many IAP claimants have you represented? How many were successful?
- What, if anything, will I have to pay if my claim receives zero compensation?
- Will I have to pay tax? If so, what is the rate?
- Will we meet in person before the hearing? How soon will you return my phone calls?

Asking these questions will ensure that you know what to expect from, and the financial terms of, the relationship with your lawyer. You should be clear on these matters before signing any retainer agreement with a lawyer to ensure peace of mind and a positive working relationship.

### Communication with your lawyer

Your lawyer will be in the best position to act in your best interests if all communication about the Independent Assessment Process is first directed to him or her. That's why the Secretariat will communicate directly with your lawyer if you hire one.

This is standard practice in Canada for anyone who hires a lawyer.

Remember – your lawyer works for you. It's your lawyer's responsibility to help you understand the IAP rules and processes and to keep you informed on the progress of your claim. Don't be afraid to ask questions if you're unsure about something.

## Legal fees

- If you have a lawyer for your claim, the Government of Canada will help pay your legal fees, up to 15% of the amount of your award (Canada's contribution). This payment for legal fees does not come out of your award; it is in addition to your award. You will need to pay anything above 15% and you may also have to pay taxes on the legal fees.
- The maximum your lawyer can charge you is 30% of your compensation award.
- You can negotiate the fee your lawyer will charge.
- In most cases, you will also be responsible to pay taxes –HST or the combination of PST and GST – on the legal fees, unless all the legal work is done on reserve for a Status Indian.
- If your claim is successful, the Government of Canada will also reimburse your lawyer for any reasonable and necessary **disbursements**, such as the cost of obtaining records required for your claim.

You can find some examples of how legal fees are charged in [Examples of compensation and payment of legal fees](#) (see page 26).

## Legal fee reviews

If you have a lawyer, your decision will come with a form asking you if you want the adjudicator to examine your legal fees. Adjudicators review legal fees in all cases. In addition, where fees are claimed that are above 15% of the compensation award, if you return this form, the **adjudicator** will:

- make sure the fee the lawyer is charging is legal
- make sure the fee makes sense for how much work the lawyer had to do

This is done to ensure that lawyers cannot take advantage of claimants by charging fees that were not earned. Lawyers must provide their fee agreements to the adjudicator. When deciding whether legal fees are fair and reasonable, the adjudicator considers many factors, including how complex the claim was and the skill shown by the lawyer.

If the adjudicator decides the fee is not fair, the adjudicator has the power to order the lawyer to reduce the fee. Claimants will receive a copy of the adjudicator's legal fee ruling, which will state the compensation amount a claimant is to receive. If you're in this situation and receive less than the amount written in the legal fee ruling, ask your lawyer for an explanation. If you're not satisfied with the explanation, you can use the toll-free Info-Line at **1-877-635-2648** to contact the **Chief Adjudicator** to follow up. You can also contact your provincial/territorial law society.

## If you have a complaint about your lawyer

All parties to the IAP want fairness and integrity as foundations to the process. To learn about your rights as a client, contact your provincial/territorial law society for the code of conduct that lawyers must follow. Further, the Secretariat has developed a document called *Expectations of Legal Practice in the IAP*. You can obtain this document by calling **1-877-635-2648** or visiting [www.iap-pei.ca/former-ancien/expect-attentes-eng.php](http://www.iap-pei.ca/former-ancien/expect-attentes-eng.php). This document outlines what is expected of lawyers who are representing IAP claimants. It can help you understand what to expect from your lawyer.

To support claimants who have a complaint about their lawyer or representative, the IAP has appointed an Independent Special Advisor to the Court Monitor dedicated to handling these complaints. You can bring your complaint to the Independent Special Advisor by calling 1-866-879-4913 or the Chief Adjudicator by calling the Info-Line at **1-877-635-2648**. You can also make a complaint to your provincial/territorial law society if you feel your lawyer is not conducting himself or herself properly.

If you're having problems when working with your lawyer, talk to your lawyer about it. If after following these steps you still have concerns, hiring a new lawyer might be an option to pursue.

## Changing lawyers

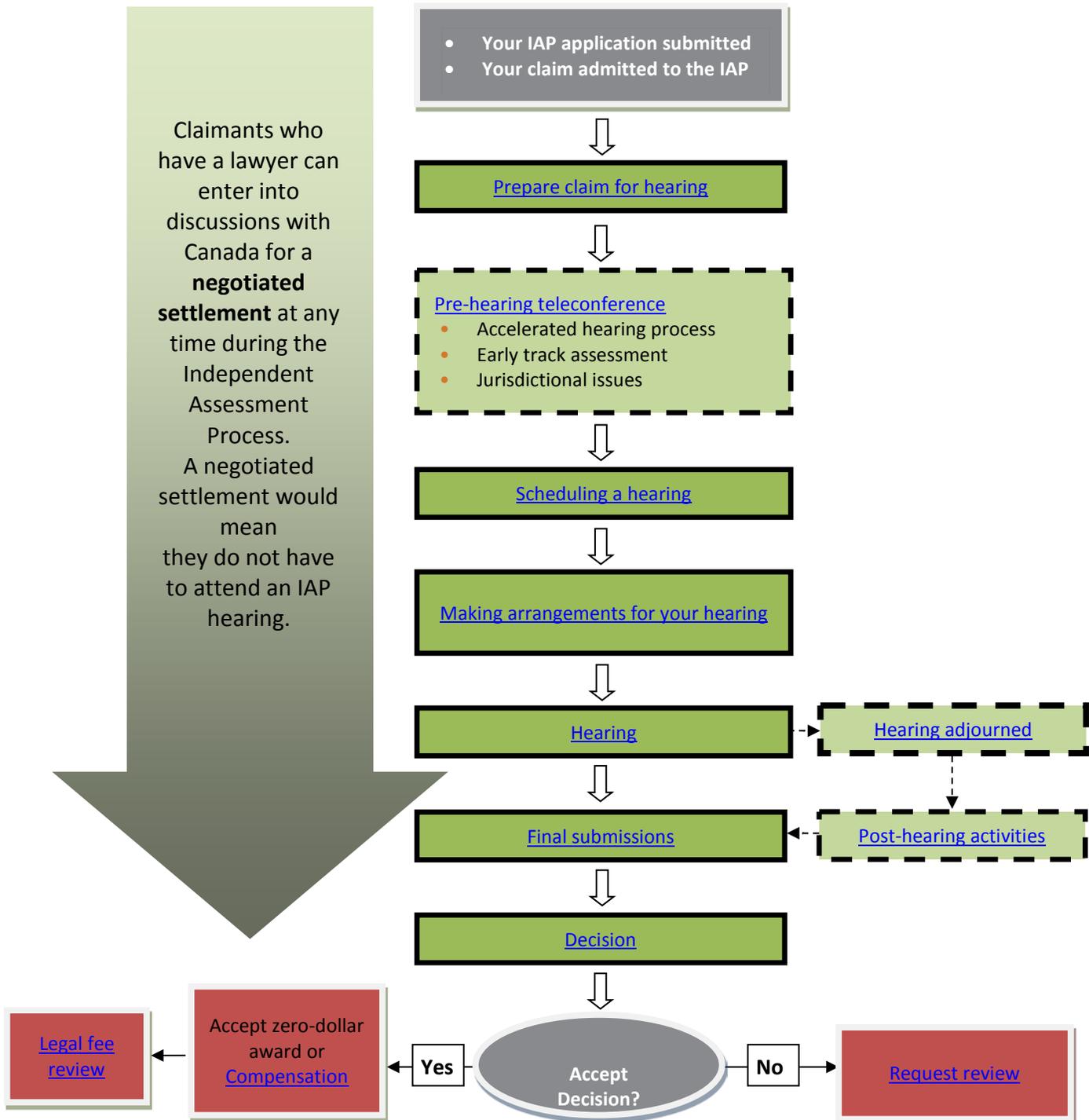
Your lawyer must respect your right to change legal counsel, and must assist in sending the file to the new lawyer. A lawyer that takes over a file from another lawyer must protect you from any claims for legal fees, **disbursements**, taxes, or otherwise by any previous lawyer.

If a lawyer withdraws from a claim, it does not necessarily mean the claim itself is withdrawn. Claimants have the right to continue with their claim by finding another lawyer or proceeding without a lawyer.

## What can you expect from the claims process?

The process presented in the following chart shows the possible steps that your claim may go through, now that your claim has been admitted to the IAP.

### Steps in Processing a Claim in the IAP



Not every claimant goes through these steps. Each claim is unique:

- there may or may not be a need for a pre-hearing teleconference
- not all hearings need to be adjourned before final submissions are made
- if you have a lawyer, at any stage in the process you may arrive at a [negotiated settlement](#) with the Government of Canada (see page 5). If you reach a negotiated settlement, then you do not need to wait for an adjudicator's decision. And if it happens before your hearing, then you do not have to provide testimony.

The 1-2-3 flow of the steps is based on the regular hearing process. Now that the **Settlement Agreement** is nearing its conclusion, the Secretariat is offering an accelerated hearing process to claimants who've been admitted to the IAP.

## Accelerated hearing process

The accelerated hearing process involves the same steps as the regular hearing process, but the hearing itself – the time when you tell your story – can be done before the collection of mandatory documents is completed.

The accelerated hearing process can benefit you by giving you an earlier hearing date and preserving your testimony. But the accelerated hearing process does not necessarily speed up the time for an adjudicator to reach a decision on your claim. An accelerated hearing process IAP claim will be treated with the same level of diligence, thoroughness and fairness as claims that are dealt with under the regular process for IAP claims.

It starts with the Secretariat identifying your claim-in-progress as one that could be scheduled as an accelerated hearing. The Secretariat will contact you or your lawyer, if you have one, to explain the accelerated hearing process.

As part of the accelerated hearing process, you need to participate in a [pre-hearing teleconference](#) (see page 15). At this teleconference, the adjudicator will decide if enough information will be available for your hearing. Some documents are essential for you to deliver your testimony; others are supporting evidence that need to be collected before final submissions can be made and the adjudicator prepares a decision. If the adjudicator believes that everyone is comfortable with proceeding to hearing before all mandatory documents are collected, then the accelerated hearing will be scheduled.

If you have an accelerated hearing, it's likely that your final submissions stage will be by teleconference—after all your mandatory documents have been collected.

A detailed description of the accelerated hearing process and a list of frequently asked questions (FAQs) are available from your Claimant Support Officer or your lawyer, as well as on the IAP website at <http://www.iap-pei.ca/legal/counsel-faq-eng.php>.

## Before your hearing

### Preparing an IAP claim for a hearing

Now that you've been notified that you've been admitted to the Independent Assessment Process (IAP), you should know that the Secretariat has also notified the other parties that will participate in your hearing: the Government of Canada and the church.

You and the other parties need to prepare for the IAP hearing. These preparations are overseen by the Secretariat.

The steps in Table 1 must be completed before your claim can move forward in the regular hearing process.

**Table 1. Steps to prepare for your hearing**

What's required	Who does what?
<p><b>Collecting your mandatory documents.</b> Certain documents are necessary for supporting your claim (see page 12 for information on <a href="#">mandatory documents</a>).</p> <p>Note: If you are in the accelerated hearing process, then your hearing may be held before all your mandatory documents are collected.</p>	<ul style="list-style-type: none"> <li>• <b>You</b> need to identify the documents that might be available and where they can be located.</li> <li>• <b>Your lawyer</b>, if you have one, will then do the digging to obtain the documents and pay for them if necessary.</li> <li>• <b>If you don't have a lawyer, you</b> will need to sign a preauthorization form for your Claimant Support Officer to authorize the collection of mandatory documents on your behalf.</li> </ul> <p>Your <b>Claimant Support Officer</b> will then obtain the documents and pay for them if necessary.</p>
<p><b>Submitting Government of Canada research and documentation for the claim.</b> For each claim, the Government of Canada provides:</p> <ul style="list-style-type: none"> <li>• confirmation of the claimant's attendance/residence at the residential school</li> <li>• research on the persons named as abusers</li> <li>• a complete history of the residential school attended</li> </ul>	<ul style="list-style-type: none"> <li>• The <b>Government of Canada</b> does the research</li> </ul>

<p><b>Filling out the required forms.</b></p> <ul style="list-style-type: none"> <li>Form 1A, Claimant’s Hearing Preferences</li> <li>Form 1B, Request for IAP Hearing</li> </ul> <p><a href="#">Appendix A</a> (on page 38) has Forms 1A and 1B.</p>	<ul style="list-style-type: none"> <li><b><u>If you don’t have a lawyer, you</u></b> must complete these forms.</li> </ul> <p>Your <b><u>Claimant Support Officer</u></b> will mail these to you and, if needed, help you complete these forms.</p> <ul style="list-style-type: none"> <li>If you have a lawyer, <b><u>your lawyer</u></b> will work with you to complete these forms.</li> </ul>
<p><b>Completing a future care plan, if applicable.</b></p> <p>Not all claimants require a <a href="#">future care plan</a> (see page 25).</p>	<ul style="list-style-type: none"> <li>If you have a lawyer, <b><u>your lawyer</u></b> will work with you to prepare this document.</li> <li><b><u>If you don’t have a lawyer, you</u></b> must prepare this document.</li> </ul> <p>Your <b><u>Claimant Support Officer</u></b> will, if needed, help you.</p>

Collecting your mandatory documents can be time consuming. Sometimes they can be collected within six months, but it is not uncommon for the process to take a year or more.

Your mandatory documents and the Government of Canada’s completed research are given to the Secretariat to prepare your case’s evidentiary package. The evidentiary package:

- helps everyone better understand the claim
- ensures that all the parties have access to the same documents about the claim
- is used as a basis for questioning by the **adjudicator** during the hearing

The Secretariat aims to send the evidentiary package to the parties at least five weeks before the hearing date.

## Collecting mandatory documents

As with all claimants who apply to the IAP, you will need certain documents at the hearing to support your claim.

The documents you will need are based on the level you selected in your application for consequential harms and loss of opportunity (see pages 4 and 5 in **Schedule D** of the **Settlement Agreement**).

Before the hearing, your job is only to identify where to

### A time-consuming task

Collecting mandatory documents can take months, sometimes more than a year. For this reason, the Secretariat has developed the [accelerated hearing process](#) (see page 10), where your hearing is held before all your mandatory documents are collected.

get these documents. You are not expected to gather and pay for these documents on your own. If you have a lawyer, your lawyer will take care of this. If you do not have a lawyer, your Claimant Support Officer will be responsible for this task.

If certain mandatory documents don't apply to your situation, you, or your lawyer if you have one, will have to complete a form explaining why.

### Why are these documents necessary?

The documents listed below will help support your claim. They will not prove the abuse happened, but they will help prove that your life was made more difficult because of the abuse that happened at a residential school.

For example, if your application states that your time at a residential school caused you to become drug or alcohol dependent in later years, your treatment records will help prove that particular harm. As another example, if your application said that your residential school experience caused you to attempt suicide several times, the records from the hospitals or clinics where you were treated will help prove that particular harm.

### Documents to prove “consequential harms”

If, on your application, you selected **levels 1 or 2** for consequential harms, no supporting documents are required.

If, on your application, you selected **levels 3, 4, or 5** for consequential harms, the following documents must be collected:

You can obtain Schedule D from your Claimant Support Officer, by calling **1-866-879-4913** or

- treatment records relevant to the harms claimed – This includes clinical, hospital, medical or other treatment records. This does **not** include records of counseling while pursuing a claim.
- workers' compensation records, if a claim involves a physical injury – for example, you may have stated that you suffer back problems as a result of abuse at the residential school. This injury may have stayed with you throughout your career and caused you to miss work on one or more occasions and you collected workers' compensation benefits.
- corrections records that relate to injuries or harms – if you were incarcerated in a federal or provincial/territorial prison, you may have had counseling and medical issues related to your residential school experience.

#### Schedule D

The descriptions of the levels and types of abuse in IAP claims are taken directly from pages 3–5 of [Schedule D of the Settlement Agreement](#) (available by visiting [www.residentialschoolsettlement.ca/settlement.html](http://www.residentialschoolsettlement.ca/settlement.html)). These descriptions are also listed in the guide to your IAP application. If you need a print copy, you can get one from your Claimant Support Officer or your lawyer.

### Documents to prove “Loss of Opportunity”

If, on your application, you selected **level 1** for loss of opportunity, no supporting documents are required.

If, on your application, you selected **level 2**, the following supporting documents must be collected:

- workers’ compensation records, if your claim involves a physical injury
- income tax records, or if they’re not available, Employment Insurance and Canada Pension Plan records
- high school, college and/or university records that are not records from the residential school itself

If, on your application, you selected **levels 3, 4, or 5** for loss of opportunity, the following documents must be collected:

- workers’ compensation records, if your claim involves a physical injury
- income tax records, or if they’re not available, Employment/Unemployment Insurance and Canada Pension Plan records
- treatment records relevant to the injury/condition that caused the opportunity loss – this includes clinical, hospital, medical or other treatment records but does **not** include records of counseling while pursuing a claim
  - For example, if you were diagnosed as bipolar as a result of your residential school experience, this may have affected your ability to remain in a certain job for long or may have prevented you from ever finding a job.
- high school, university and/or college records that are not records from the residential school itself

### Other non-mandatory documents

You can submit other documents. These documents are **not** mandatory, but can support your claim if you have them. These documents may include:

- Any document that you have from when you were a student at the residential school. These can sometimes support attendance, for example, yearbooks, pictures, report cards, diplomas, letters or newspaper clippings, or provincial/territorial education records.
- Any written statement or testimony that you may have given about your experiences at residential school or harms suffered because of the abuse. For example:
  - information related to drug or alcohol treatment
  - statements you made to the police
  - previous written statements given to a priest, other religious person or employee of the school
  - previous statements given to medical or counseling professionals
  - personal diary recording information that supports the claim
  - video statements that were not made solely for pursuing an IAP claim

## Developing a future care plan

Some claimants will require future care to deal with the effects of the abuse they suffered at a residential school. If you need future care, you will need to prepare a future care plan to present at your hearing. You would have indicated if you require future care when you first completed your IAP application.

To get started on preparing a future care plan, your Claimant Support Officer can provide you with some examples of future care plans. Your lawyer, if you have one, will also be very knowledgeable and will work with you in preparing one.

Examples of future care activities could be:

- counseling sessions
- treatment for substance abuse
- traditional healing, such as attending sweats or talking circles

Other costs that could be covered in a future care plan include: travel costs, session costs, treatment costs, honoraria or gifts (such as tobacco for Elders). To prepare one, list all of the activities you would like to pursue in the future care plan, and an estimate of the cost.

In preparing your future care plan, remember that in deciding whether to award you future care the adjudicator will consider:

- the effects the abuse had on you
- treatment you've already had
- whether travel is required to get the treatment
- whether other funding sources can pay all or some of the treatment
- whether you have shown a genuine need for the treatment and a genuine desire to complete the treatment

## Pre-hearing teleconferences

Your claim may require a teleconference before your hearing for a number of reasons:

- if you are in the accelerated hearing process and the adjudicator needs to verify that your claim is developed enough without all of the mandatory documents to allow your hearing to be scheduled
- if you are a self-represented claimant and would like some direction on [whether to have your claim heard in the standard track or the complex track](#)
- if your claim is in the complex track
- if there are [jurisdictional issues](#) related to your claim

## Pre-hearing teleconferences in the accelerated hearing process

A pre-hearing teleconference for a claim in the [accelerated hearing process](#) (see page 10) allows the adjudicator to assess if the claim is developed enough to proceed to hearing without

all of the mandatory documents. The adjudicator also wants to be sure all participants are comfortable with holding the hearing before all the documents are collected.

A pre-hearing teleconference for the accelerated hearing process would involve the following people:

- the adjudicator – usually the person who will be the adjudicator for your claim
- Canada’s representative
- you
- if you are representing yourself, your Claimant Support Officer
- support people you have requested to participate
- your lawyer, if you have one
- possibly a Secretariat employee

During the teleconference, the adjudicator will confirm many aspects of the claim related to the hearing, including:

- whether new allegations will be made, or whether existing allegations will be withdrawn
- whether Canada has completed its research into the claim
- the status of the collection of mandatory documents
- the need for **medical / expert assessments**, or whether these could be waived
- logistical arrangements for the hearing

The adjudicator will lead the conversation with Canada’s representative and your lawyer, if you have one, and you.

### **Early track assessment pre-hearing teleconference**

If your claim has a combination of [standard and complex track claims](#) (see page 20) – for example, a physical abuse claim and a claim for other wrongful act or sexual abuse and an Actual Income Loss claim – you must choose which track you would like to follow. If you have a lawyer, your lawyer can help you make this decision.

If you don’t have a lawyer and you’re uncertain, an early track assessment teleconference can help you decide which track to follow. You should discuss setting up an early track assessment teleconference with your Claimant Support Officer. This teleconference will take place shortly after your claim is admitted to the process.

The teleconference will include an adjudicator, a Government of Canada representative, you and your Claimant Support Officer. They will each have a copy of your application. During the teleconference, the adjudicator and the Government of Canada representative will provide information to you on the standard and complex tracks and how your choice will affect your claim.

You can then make a well-informed decision on which track you would like your claim to follow. Although there is always the option of changing which track to use, the process will be completed more quickly if you're on the right track as soon as possible.

### Jurisdictional pre-hearing teleconferences

A jurisdictional issue arises when one of the parties, usually the Government of Canada, argues that a claim falls outside the scope of what the IAP can deal with. These jurisdictional issues can be raised after a claim is admitted into the IAP. Examples of why a claim may be flagged for a jurisdictional issue are:

- **Did not attend a recognized residential school.** The **Settlement Agreement** lists which residential schools are included in the IAP. Some claimants may have attended a school with the same name as a recognized residential school, but ultimately the school is not part of the Settlement Agreement.
- **Attended outside the years of operation.** All the recognized residential schools have a start and end date which identifies when the Government of Canada was involved in the administration and/or day-to-day operations. Some claimants may have attended a recognized residential school, but not during the time when the Government of Canada was involved.

If a claim falls outside the jurisdiction of the IAP, it is dismissed. The parties to the **Settlement Agreement** don't want claimants to invest emotional effort, time and financial resources only to find out at the end of the process that their claims are not eligible for compensation. For this reason, jurisdictional issues are examined as soon as possible with a jurisdictional pre-hearing teleconference.

All requests for a jurisdictional review are sent to the office of the **Chief Adjudicator**, which will assign an **adjudicator** to review the file. The adjudicator will then determine if a jurisdictional pre-hearing teleconference is necessary. If the adjudicator decides a teleconference is not necessary, the claim will continue on the path toward a hearing.

If a jurisdictional pre-hearing teleconference is necessary, the following steps are taken:

- **Preparing for the teleconference.** The parties (the Government of Canada and you, or your lawyer if you have one) will be notified in writing. Each party has the option to provide written statements or other evidence regarding the jurisdictional issue. These written statements or other evidence will be shared with the other party and the adjudicator before the teleconference is scheduled.
- **Conducting the teleconference.** During the teleconference, the adjudicator will hear the submissions from both parties. If you don't have a lawyer, your Claimant Support Officer will also listen in on the teleconference. The teleconference will be recorded.

- **Issuing the decision on jurisdiction.** After reviewing the submissions, the adjudicator will decide whether your claim can continue in the IAP or if it will be dismissed. If your claim can continue, the adjudicator will issue a letter to the parties. If your claim cannot continue, the adjudicator will issue a jurisdictional pre-hearing teleconference decision to the parties advising the claim is to be dismissed. Like compensation decisions, these decisions are subject to [reviews](#) (see page 27).

## Scheduling your hearing

Once your claim is identified as ready for a hearing, the Secretariat will schedule a suitable hearing date and find a location and an available adjudicator, if one is not already assigned. Your preferences will be taken into account when scheduling the hearing. For example, if you ask for your hearing to be held in a certain city or for the adjudicator to be male, the Secretariat will do its best to accommodate your request.

You, or your lawyer if you have one, will be notified of your hearing date by letter about three to five months before the hearing. This gives you time to prepare for the hearing and make appropriate arrangements at work or at home. See [Appendix B](#) on page 44 for an example of the letter you'll receive, called a notice of hearing.

### Priority for scheduling

When you completed your application, you indicated whether you belonged in one of the groups that receive priority in scheduling hearings. These hearings are called expedited hearings, and they're different from the accelerated hearings because they are for claimants who:

- submit a doctor's note confirming that they are in failing health where any further delays may prevent them from taking part in a hearing;
- are older than 70 years;
- are between 60 and 70 years old; and
- have completed an examination for discovery. This is a pre-trial process where the claimant's lawyer and the Government of Canada's lawyer question the claimant on the record about residential school abuse. An examination for discovery is only done for claimants who began a court claim, but never received a settlement.

If your health status has deteriorated since your application and there's a significant risk of passing away before you can attend a regularly scheduled hearing, you, or your lawyer if you have one, should notify the Secretariat at **1-877-635-2648**. Your testimony is the most important piece of evidence in your claim, so the Secretariat will arrange an expedited hearing as quickly as possible.

## Making arrangements for your hearing

Besides scheduling your hearing, the Secretariat's Hearings Management Unit is responsible for making other arrangements for your hearing, including:

- booking the location—even if you are in the accelerated hearing process, you can state your preference for the location where your hearing will take place
- making travel arrangements (transportation and hotels) for you and your support people (If you don't have a lawyer, the Secretariat will contact you directly when making travel plans.)
- arranging an adjudicator – you can state whether you prefer a male or female adjudicator
- paying you, or your lawyer if you have one, for out-of-pocket expenses, such as parking, meal costs and mileage for your car, as well as a travel advance

Hearings are often booked in hotel conference rooms. Or you can ask for your hearing to be in one of the Secretariat's **hearing centres** in Winnipeg or Vancouver.

About four to six weeks before the hearing date when your hearing location is booked, the Secretariat will send a Notice of Hearing form to you or to your lawyer if you have one. This form includes details on the date, time and location of your hearing. The form also includes information on travel arrangements and accommodations. ([Appendix B](#) on page 44 presents an example of a Notice of Hearing form.)

### Your hearing *your way*

You have a lot of input into how your hearing will be arranged. Before your hearing is scheduled, you will complete forms 1A and 1B (see [Appendix A](#) on page 38) to say what your preferences are, including:

- where you would like the hearing to be – the Secretariat will do its best to accommodate your request, whether you would like your hearing in your community or somewhere else in Canada
- how the hearing begins – in a way that respects your beliefs and traditions; for instance, with a song, a ceremony, or a prayer
- how you make an oath – an oath on a Bible, an oath on an Eagle Feather or simply affirming you will tell the truth
- whether you want a male or female adjudicator – in the accelerated hearing process, however, this preference cannot always be accommodated

## Your hearing

If your claim proceeds to a hearing, you can expect a fair, impartial, safe, supportive, culturally appropriate and respectful hearing. The hearing is your opportunity to provide testimony to explain in detail what happened to you at the residential school and how it affected your life.

You are responsible for proving that the abuse happened as described in your IAP applications. You will prove this by providing testimony at your IAP hearing. Your hearing will be private – closed to the public – and will not be in a courtroom. You will tell your story to the **adjudicator**, who will ask you questions and manage the hearing.

Besides you, your hearing will include your lawyer (if you have one), a representative of the Government of Canada, possibly a representative of the church and any **witnesses** you may have for your claim. Others who may attend, but only with your permission, include your support people, a Resolution Health Support Worker, an Elder and an interpreter (see [Who's involved](#) on page 2 for information on how the Secretariat helps you with the costs to bring these individuals to your hearing).

You are encouraged to raise any concerns and to ask questions during the hearing to make it a positive experience. Every effort will be made to create a comfortable and non-threatening atmosphere so that you can safely be heard.

## Standard, complex and court tracks

The IAP deals with residential school abuse claims in three tracks:

- standard track;
- complex track; and
- court track.

Each has its own standards of proof for a claim to be successful.

### Standard track

The standard track is used for dealing with claims of abuse. Most IAP claims are dealt with in this track. Claims under the standard track are less complex because claimants must prove their claims solely on a **balance of probabilities**. That means the adjudicator makes a decision based on whether it is more likely than not that the abuse happened.

The adjudicator will work with you to establish the facts of your case, asking you questions. Your answers will need to prove to the adjudicator that:

- the abuse is more likely to have happened than not;
- you were harmed by the abuse; and
- the harm you experienced is likely linked to the proven abuse.

Under this standard of proof, the adjudicator does not need as much evidence to award compensation.

### **Complex track**

Claims for other wrongful acts and Actual Income Loss proceed in the complex track. If your application includes these claims, you will have a [early track assessment pre-hearing teleconference](#) (see page 16) to confirm whether your claim should continue in the complex track or be changed to the standard track. This teleconference is held before your hearing to ensure you will be able to provide the evidence needed to prove other wrongful acts or actual income loss. The adjudicator may order additional documents to be collected.

Under this track, you must prove your claim using the court standard of proof – you must be able to show a direct link between the abuse you suffered and the actual income you lost or opportunities you missed. Using this standard of proof, the adjudicator requires more evidence to make a decision.

It is important to hire a lawyer if your claim is in the complex track. Your lawyer will be able to advise you on how to meet the court standard of proof. Your lawyer can also ask the adjudicator to consider specific parts of your testimony. This is important because the adjudicator's questions will be more in-depth for a complex track hearing.

### **Court track**

In rare circumstances, a request can be made to the **Chief Adjudicator** to allow a claim to be brought to the courts. This approach would be for claims that are exceptionally serious or complicated, such as:

- There is enough evidence that the claimant lost more income or opportunity than the maximum compensation allowed (\$250,000).
- There is enough evidence that the physical harms experienced were catastrophic and that the compensation available through the courts may be more than the maximum compensation allowed. For example, such a physical harm could be a permanent significantly disabling physical injury.
- In any other wrongful act claim, the evidence involved in the harms claimed is so complex and extensive that going to the courts is the most appropriate action.

Unlike IAP hearings, court hearings would be open to the public and you would be subject to cross-examination.

## **Providing your testimony at your hearing**

For most residential school abuse claims, the only evidence of what happened is the testimony of the claimant. There are rarely any **witnesses** or other evidence available to help claimants prove their abuse claims. Claimant testimony is the most important piece of evidence that may

lead to compensation, which is why it is so important that you be as detailed as possible at your hearing.

The adjudicator will give you every opportunity to provide detailed testimony by asking open-ended questions. Adjudicators are trained to draw out the full story of what happened to ensure that the legal tests are met. While the adjudicator is asking questions and listening to your testimony, he or she will also be assessing your credibility and reliability. These two factors are essential for a successful claim. When adjudicators assess credibility, they are asking themselves – is this claimant trying to tell the truth? When adjudicators assess reliability, they are asking themselves – is this claimant able to give accurate testimony? Is what this claimant telling me consistent with what we know about the residential school?

These hearings can be difficult. The adjudicator’s questioning can lead to emotional **trauma**. Do what you can to prepare yourself emotionally and mentally to have a successful hearing. At the hearing, take breaks when you need to. If you have support people there, remember that they want to help. Your Claimant Support Officer will also give you information about the health supports available (see [Health Supports](#) on page 300) to help you prepare for your hearing and to provide emotional and wellness support after the hearing. Claimants are entitled to health support services prior to, during and following their hearing. This continues until the end of the Settlement Agreement.

## How an abuse claim is proven

The **Settlement Agreement**, specifically pages 3–5 of **Schedule D**, states which abuse acts are eligible for compensation – also called compensable abuse – as well as the legal tests that need to be met for compensation to be awarded. Schedule D establishes the rules and processes for the IAP. Everything about the IAP, from the powers of adjudicators to the compensation rules, comes from Schedule D. You can obtain Schedule D from your Claimant Support Officer, by calling **1-866-879-4913** or by visiting [www.residentialschoolsettlement.ca/settlement.html](http://www.residentialschoolsettlement.ca/settlement.html).

## Activities after the in-person hearing – why the process can take longer

After your hearing, the **adjudicator** may need more information before writing a decision on your claim. This is called an adjourned hearing. If this happens, the conclusion of the hearing will be delayed until these activities have been completed. A new hearing date may be scheduled. This hearing may be conducted by teleconference. You may be asked to provide

### **Telling Your Story: Video on the IAP**

To help claimants prepare for their hearings, the Secretariat produced *Telling Your Story: The Indian Residential Schools Independent Assessment Process*, a video available from the Secretariat or at

<http://www.iap-pei.ca/information/multimedia/vid-eng.php?act=2013-03-26-eng.php>.

The video comes with a helpful guidebook, also available from the Secretariat or at [http://www.iap-pei.ca/information/publication/pdf/pub/irsas\\_dvd\\_booklet-eng.pdf](http://www.iap-pei.ca/information/publication/pdf/pub/irsas_dvd_booklet-eng.pdf).

additional testimony and answer more questions from the adjudicator to finish telling your story. This will also be the time to provide final submissions.

Your claim may need one or more of the items listed below before the adjudicator can write a decision:

- **Continuation hearing.** If you didn't finish telling your story on the first day, you may be asked to participate in a second hearing. Your second hearing is usually held about three months after the first hearing.
- **More documents.** If the adjudicator requires additional documents – particularly after an accelerated hearing – your lawyer or Claimant Support Officer may have to collect these documents after your hearing. Depending on how many documents and the type of documents required, it may take only a few weeks or several months to collect them.
- **Alleged perpetrator hearing.** The people you named as abusers in your IAP application are called 'alleged perpetrators' and will be contacted by the Government of Canada. If found and if they wish to participate, an alleged perpetrator hearing is then scheduled. This can take three to four months. You do not have to attend this hearing, but you can if you would like to hear the alleged abuser's testimony. The alleged perpetrator will not know anything about your claim except for the abuse allegations you made against them.
- **Witness hearing.** During your hearing, if you said that another person witnessed the abuse that you suffered and that witness is not already participating in your hearing, the adjudicator may ask to speak with that witness. If the witness is found and willing to participate, a witness hearing is scheduled as soon as possible. This can take three to four months. The **witness** will not know anything about your claim except for the abuse that you say the person witnessed.
- **Psychological assessment.** Depending on your claim, the adjudicator may order a psychological assessment. You will need to meet with a psychologist who will prepare a report on how your time at the residential school affected you. This process usually takes three to four months.
- **Medical assessment.** Depending on your claim, the adjudicator may order a medical assessment. If you are claiming a physical injury (for example, hearing loss) but there is no evidence of the injury in your medical records, the adjudicator may require that you meet with a doctor who will examine you and prepare a report with their findings. This process usually takes three to four months.
- **Transcript request.** You may have noticed that the adjudicator recorded your testimony at your hearing. On occasion, the adjudicator may require that the recording be typed up. This is called a **transcript**. It helps remind the adjudicator what you said and will help the adjudicator write the decision on your claim. The transcript takes two to three weeks to prepare and may delay the adjudicator's decision. You can also have a copy of your transcript if you want one. Ask your lawyer or your Claimant Support Officer to request this for you.

You can do what you wish with this transcript including keeping it, destroying it or publishing it. You can also share your transcript with the National Research Centre for Truth

and Reconciliation (<http://umanitoba.ca/centres/nctr>), an archive that has been developed specifically for keeping claimants' hearing transcripts in order to preserve forever the stories of Canada's former residential school students.

Keep in touch with your lawyer or Claimant Support Officer for updates on these items.

## Final submissions

After all activities are completed, you or your lawyer and the Government of Canada representative will make final submissions. Final submissions can take place in person, right after your hearing. More often, final submissions are teleconferences that are usually held one or two weeks after the adjudicator has everything needed to start writing your decision. The call itself usually takes less than an hour.

Final submissions are an opportunity to summarize your testimony. The parties also give recommendations to the adjudicator on where the claim should fall in each of the levels listed on pages 4 and 5 in **Schedule D** of the **Settlement Agreement**, including what portion of the [future care plan](#) (see page 15) should be funded. These recommendations will be based on the evidence of your testimony and mandatory documents. The adjudicator will consider these final submissions when writing the decision.

Having a lawyer is particularly helpful at the final submissions stage. During final submissions, your lawyer can make arguments to strengthen your claim. Your lawyer can also make a case for the level of compensation you should receive, based on the evidence presented at the hearing.

If you do not have a lawyer, you will be expected to make your own final submission. The adjudicator and Government of Canada representative will provide support and guidance to assist you through final submissions. In addition, your Claimant Support Officer will educate you about final submissions well in advance of the hearing so that you can prepare for this step.

At final submissions, the Government of Canada representative speaks first. If you agree with the representative's statements, you can choose to say that you agree and not offer further statement.

You may contact a health support worker for you and your family, either in person or by telephone at anytime throughout the IAP. You can request health support services at any point during the IAP, not just during the hearing itself.

You can find out more information about the Resolution Health Support Program at <http://www.hc-sc.gc.ca/fniah-spnia/services/indiresident/irs-pi-eng.php> or from the 24-hour National Crisis Line at 1-866-925-4419.

## The adjudicator's decision

The adjudicator at your hearing is responsible for writing the decision for your claim. The adjudicator's decision will indicate if you will receive compensation, and include reasons for the decision. Although the accelerated hearing process has increased the volume of decisions for adjudicators, every effort is being made to meet the following deadlines:

- **Standard track claims:** 30 days after final submissions
- **Complex track claims:** 45 days after final submissions
- **Short-form decisions (if your lawyer opted for this):** two weeks after final submissions

The decision will be sent to the Government of Canada and to you. Both of you will have 30 days from the date written on the decision to decide whether to accept the decision or request a review. The decision will have information on how to accept the award and how to request a review. Both parties have to accept the decision before the process can begin for you to receive your compensation award. If you accept the decision, but the Government of Canada requests a review, then a review will occur.

Decisions should be examined carefully so you understand why the adjudicator came to that decision. If you have questions, talk to your lawyer or your Claimant Support Officer. To view a template of an adjudicator's decision, see [Appendix C](#) on page 47.

## How adjudicators calculate compensation

The **Settlement Agreement** contains a compensation grid in **Schedule D** that contains the rules for calculating compensation awards. If you have proven your case, these rules tell the adjudicator how to award compensation, including dollar amounts. These rules ensure fairness and transparency.

IAP compensation is based on points. The more points a claim receives, the more compensation will be awarded (see page 6 in Schedule D). Adjudicators have the authority to determine how many points a claim receives for the following categories:

- **Acts proven.** The adjudicator will assign points for the most serious abuse suffered by the claimant (see table on page 3 in Schedule D)
- **Consequential harms.** The adjudicator will assign points for the psychological harms suffered by the claimant as a result of the abuse (see table on page 4 in Schedule D).
- **Aggravating factors.** The adjudicator will assign points for any factors that made the abuse worse (see table on page 5 in Schedule D).
- **Future care.** The adjudicator will not assign points for this category, but a monetary value (see table on page 5 in Schedule D). For more information, see [Developing a future care plan](#) on page 15.
- **Loss of opportunity.** The adjudicator will assign points for the claimant's loss of opportunity (see table on page 5 in Schedule D).

The table on page 6 of Schedule D lists the amount of money that can be awarded based on the total number of points assigned to your claim.

## Examples of compensation and payment of legal fees

To help you understand how the **Schedule D** compensation grid works, here are some examples. They show how a compensation award could be calculated and how the lawyer's fees would be paid.

### Example #1

An adjudicator gives an award at the SL3 level with harms at H2, aggravating factors of 12%, future care of \$10,000, and loss of opportunity at L1.

- Acts proven at SL3 – range is 26 to 35 points; adjudicator awards 30 points
- Consequential harms at H2 – range is 6 to 10 points; adjudicator awards 10 points
- Aggravating factors at 12% – total points so far is 40; 12% of 40 is 4.8, which is rounded up to 5 points
- Loss of opportunity at L1 – range is 1 to 5 points; adjudicator awards 4 points
- Future care – adjudicator grants \$10,000 based on the future care plan

The total is 49 points. Based on these points, the adjudicator can award anywhere from \$51,000 to \$65,000 and has the authority to decide how much exactly to award. In this instance, the adjudicator awards \$62,000. The total compensation in this example would be **\$72,000** (\$62,000 for the points, plus \$10,000 for future care).

This claimant's lawyer charges 15% of the award. The claimant lives in Saskatchewan, where the tax rate is 10% (5% GST, 5% PST). The claimant is responsible for paying:

- **Legal fees of \$0.** The total legal fee bill is \$10,800 ( $\$72,000 \times 15\% = \$10,800$ ). In this case, the Government of Canada pays the total bill because the lawyer only charges 15% and there is no charge to the claimant.
- **Tax (\$2,475 in GST and PST).** In this case, the claimant has to pay \$1,080 in taxes ( $\$10,800 \times 10\% = \$1,080$ ).

After paying the taxes on the legal fees, the total amount the claimant receives is **\$70,920** ( $\$72,000 - \$1,080 = \$70,920$ ).

### Example #2

An adjudicator gives an award at the SL5 level with harms at H4, aggravating factors of 8%, future care of \$5,000, and loss of opportunity at L3.

- Acts proven at SL5 – range is 45 to 60 points; adjudicator awards 54 points
- Consequential harms at H4 – range is 16 to 19 points; adjudicator awards 19 points
- Aggravating factors at 8% - total points so far is 73; 8% of 73 is 5.84, rounded up to 6 points
- Loss of opportunity at L3 – range is 11 to 15 points; adjudicator awards 13 points
- Future care – adjudicator grants \$5,000 based on the future care plan

The total is 92 points. Based on these points, the adjudicator can award anywhere from \$151,000 to \$180,000 and has the authority to decide how much exactly to award. In this instance, the adjudicator awards \$160,000. The total compensation in this example would be **\$165,000** (\$160,000 for the points, plus \$5,000 for future care).

This claimant's lawyer charges 25% of the award. The claimant lives in British Columbia, where the tax rate is 12% (5% GST, 7% PST). The claimant is responsible for paying:

- **Legal fees of \$16,500.** The total legal fee bill is \$41,250 ( $\$165,000 \times 25\% = \$41,250$ ). However, the Government of Canada pays the legal fees up to 15% of the award and the claimant is responsible for paying anything above. In this case, the claimant is responsible for 10% of the legal fees which equals \$16,500 ( $\$165,000 \times 10\% = \$16,500$ ).
- **Tax (\$4,950 in GST and PST).** In this case, the claimant has to pay \$4,950 in taxes ( $\$41,250 \times 12\% = \$4,950$ ).

After paying the additional lawyer fees and the taxes on all the lawyer fees, the total amount the claimant receives is **\$162,525** ( $\$165,000 - \$16,500 - \$4,950 = \$143,550$ ).

Remember, if you have a lawyer you will receive a form that you can send in to ask the adjudicator to review your legal fees (see [Legal fee reviews](#) on page 7).

## Settlement inquiry line

Claimants can contact the settlement inquiry line for updates on their compensation toll-free:

- For claimants in British Columbia, Alberta and the North: **1-877-236-2219**
- For claimants everywhere else: **1-877-307-9089**

## Formal review of an adjudicator's decision

You and the Government of Canada both have the right to request a review of an adjudicator's decision. A review can be requested for only the following reasons:

- **Palpable and overriding error.** A review can be requested if the decision contains a clear and telling error.
- **Improper application of the IAP model to the facts as found by the adjudicator.** A review can be requested if the adjudicator correctly understood the evidence, but the decision does not follow the IAP rules.

The reasons for requesting a review deal with the technical and legal aspects of the IAP. As such, it is important to consider hiring a lawyer to assist with the review. You can hire a lawyer at any point in the process, including the review stage.

Instructions on how to request a review will be written in the cover letter for the decision. The parties must provide a written statement and send it to the office of the **Chief Adjudicator**

within 30 days of receiving the decision. This statement describes the reasons why the decision is wrong. It must not exceed 1,500 words. If you need more than 30 days to prepare the statement, you can request an extension through the Chief Adjudicator's Office.

When one party submits a written statement to the Chief Adjudicator's Office, the other party will be notified. The other party will have 30 days to submit a response. Once the response is received, the Chief Adjudicator will assign another adjudicator to the claim. This person is known as the **reviewing adjudicator**. This reviewing adjudicator will begin the review. No new evidence is allowed during the review, so there will not be a new hearing or teleconference. Instead, the reviewing adjudicator will conduct a paper review of the claim, which includes reading all of the claimant's documents and a **transcript** of the hearing. Afterward, the reviewing adjudicator will write a new decision, known as a **review decision**.

The review decision will be sent to the parties and it will either: uphold the original decision, change the original decision, or order a new hearing. If the review decision is to uphold the original decision or order a new hearing, the Review Decision is final. However, if the reviewing adjudicator changes the original decision, the parties can request a **re-review**. If a re-review is available, the review decision's cover letter will have information on how to request it.

### Why some claims are not successful

There are reasons why some claims can result in no compensation. Legal tests need to be met, a claimant's testimony needs to have enough detail to allow the adjudicator to award compensation, plus there are standards of proof that need to be satisfied. When a claim is not successful, one or more of these criteria have not been met. It is important that claimants consider hiring a lawyer to ensure they have the best possible chance for their claims to be successful.

## Receiving your award

If both parties accept the decision and the decision involves an award of compensation, then the “compensation process” begins, that is, the final steps for you to receive your compensation award.

The Government of Canada is the party responsible for compensation and will be notified once a decision has been accepted by both parties. The Government of Canada will then send an award package to you, or your lawyer if you have one. The package includes:

- a number of legal documents that need to be signed with the assistance of a lawyer
- information on how to find a lawyer

A lawyer is absolutely required at this stage. The Government of Canada will pay the lawyer for these services. When the government receives the completed legal documents, it will begin processing the compensation cheque, which will be sent to your lawyer. The process takes four to six weeks.

## Health and other supports

Health Canada and Indigenous and Northern Affairs Canada (INAC) provide free health support services to former residential school students and their families through all phases of the **Settlement Agreement**.

Health Canada delivers the [Indian Residential Schools Resolution Health Support Program](#), which ensures that eligible former residential school students and their families have access to an appropriate level of health support services, through all phases of the Settlement Agreement, so that they may safely address a broad spectrum of mental wellness issues related to the disclosure of childhood abuses.

INAC's Resolution and Individual Affairs Sector funds the [National Indian Residential School Crisis Line](#), a national, 24-hour toll-free support service operated by trained Aboriginal crisis counselors.

The Indian Residential School's Adjudication Secretariat (IRSAS) ensures that Health Canada is aware of dates for IAP hearings so that health supports are available to claimants as soon as possible in the process, with the claimant's preference considered.

## Indian Residential Schools Resolution Health Support Program

The Indian Residential Schools Resolution Health Support Program provides mental health and emotional support services to eligible former residential school students and their families throughout all phases of the **Settlement Agreement**, except in British Columbia, where the services are provided by the First Nations Health Authority. The support program is delivered through local Aboriginal organizations.

The Resolution Health Support Program components include: cultural support services provided by Elders; emotional support services provided by Resolution Health Support Workers (RHSWs); professional counseling provided by psychologists and social workers registered with Health Canada; and assistance with the cost of transportation to access counseling and/or Traditional Healer services when not locally available.

Resolution Health Support Program services are safe, confidential, respectful and non-judgmental. Cultural Support Providers are available to provide emotional support during all aspects of the IAP.

## Health support services available

The following health supports are available through the Resolution Health Support Program:

- **Cultural Support:** Cultural supports are provided by local Aboriginal organizations that coordinate the services of Elders and/or traditional healers. Cultural supports assist former students and their families to safely address issues related to residential schools and the

disclosure of abuse. Specific services are chosen by the individual and can include traditional healing, ceremonies, teachings and dialogue.

- **Emotional Support:** Emotional support services are provided by local Aboriginal organizations and are designed to help former students and their families address issues related to the negative impacts of the residential school. Aboriginal health workers, known as Resolution Health Support Workers, will listen, talk and support individuals, and will attend IAP hearings.
- **Professional Counseling:** Professional counselors are psychologists and social workers who are registered with the province/territory and provide individual or family counseling. They will listen, talk, and assist individuals to find ways of healing from residential school experiences.
- **Transportation:** Assistance with transportation may be offered when health support services are not locally available.

You can find out more information about the Resolution Support Health Program at <http://www.hc-sc.gc.ca/fniah-spnia/services/indiresident/irs-pi-eng.php>, <http://www.iap-pei.ca/information/fact-fiche-eng.php> or from the 24-hour national crisis line at **1-866-925-4419**.

## Accessing health support services

To access health support services and for more information, please call the provincial/territorial toll-free line:

**Table 2. Health support telephone numbers**

Newfoundland and Labrador, Nova Scotia, New Brunswick, Prince Edward Island	<b>1-866-414-8111</b>
Quebec	<b>1-877-583-2965</b>
Ontario	<b>1-888-301-6426</b>
Manitoba	<b>1-866-818-3505</b>
Saskatchewan	<b>1-866-250-1529</b>
Alberta	<b>1-888-495-6588</b>
British Columbia	<b>1-877-477-0775</b>
Northwest Territories, Yukon, Nunavut	<b>1-800-464-8106</b>

## **National Crisis Line**

A National Crisis Line has been set up to provide immediate support for former students and their families who are experiencing distress. It is operated by trained Aboriginal crisis counselors and provides access to emotional and crisis referral services. The Crisis Line is available 24 hours a day, 7 days a week and can be reached at **1-866-925-4419**.

## **Aboriginal Healing Foundation website**

The Aboriginal Healing Foundation was created to develop and study community-based Aboriginal-directed healing initiatives that address the legacy of abuse suffered at residential schools, including intergenerational impacts. Although the Foundation no longer funds initiatives, its website – [www.ahf.ca](http://www.ahf.ca) – offers many free resources, including research materials, practical guides and a list of projects they have funded.

## Group IAP Program

The Group IAP Program is a program that funds, through contribution agreements, established groups for activities that support healing and reconciliation for members, their families, and communities. This program provides an opportunity for individuals to come together as they go through their individual IAP hearings. Group IAP funding is completely separate from any compensation received under individual IAP claims, or future care money.

The overall objectives are:

- to provide funding for healing activities for IAP claimants who share similar experiences such as the same IRS, community, similar goals, and who want to support each other in their journey towards healing and reconciliation; and
- to empower individuals by giving them access to tools and resources to develop, enhance and strengthen relationships between former students, their families, their communities, or other Canadians in support of healing and reconciliation throughout the IAP claim process and after.

For more information on the Group IAP Program, please consult the IAP website at <http://www.iap-pei.ca> or call the IAP toll-free line: **1-877-635-2648**.

For inquiries about the Call for Proposals process, please email: [groupiap-peicollectif@iap-pei.ca](mailto:groupiap-peicollectif@iap-pei.ca).

## Are you making a claim as a day student?

Students who attended a recognized residential school – that is, a school that is listed in the **Settlement Agreement** – but went home every day were called day students<sup>1</sup> or, as named in the Settlement Agreement, non-resident claimants.

Day students are identified in two ways: either the claimant self-identifies as a day student in the IAP application or the Government of Canada's research is unable to confirm that the claimant lived at the residential school.

### Day students' additional requirement: Schedule P release form

Under the terms of the Settlement Agreement, day students have not given up their right to sue the Government of Canada and the churches. If you are a day student who has decided to pursue your claim through the IAP, you must take an extra step to have your claim continue: you must sign the [Schedule P](#) release in the Settlement Agreement. When you sign this release, you are saying that you are choosing the IAP to resolve your claim and will not sue the Government of Canada and the churches for the effects of abuse as a result of your time as a day student at a recognized residential school.

The Schedule P release is a legal document and affects your rights. For this reason, it is necessary to meet with a lawyer to get legal advice about signing the Schedule P release. The lawyer will also explain any other options available. **The Government of Canada will pay the lawyer for any fees related to signing the Schedule P release.** If you are a day student and do not complete the Schedule P release, your claim cannot continue in the IAP.

Once you are identified as a day student and your claim is admitted, the Secretariat will send you a Schedule P release package. The Schedule P release package contains:

- a letter explaining why a Schedule P is necessary for your claim
- information on how to find a lawyer, including a list of lawyers to choose from
- a Questions & Answers document regarding Schedule P
- the Schedule P release forms that you must take to a lawyer to sign

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<sup>1</sup> For information about day students vs. day schools please visit <http://www.iap-pe.ca/information/fact-fiche-eng.php?act=day-students-eng.php>

## Glossary

For ease of reference, the following terms are beneficial for claimants to know. Even though some of the terms below have been discussed within the Handbook, some are more fully-defined to provide clarity on certain aspects of the IAP.

**Indigenous and Northern Affairs Canada (INAC)** – a federal department responsible for meeting the Government of Canada’s obligations and commitments to Aboriginal peoples and for fulfilling constitutional responsibilities in the North. Within INAC, the **Settlement Agreement** Operations Branch is responsible for representing Canada at IAP hearings, negotiating settlements without a hearing, conducting research, and paying the settlements.

**Adjudicator** – a neutral decision-maker who is the authority at all IAP hearings. All adjudicators have formal training to prepare them to deal with IAP claims, including learning about residential schools and their impacts on former students. Their job is to review the claims assigned to them and preside over the hearings in a fair and equal manner. Adjudicators decide if claimants receive compensation using the **Settlement Agreement** as their guide. They can also assist the parties through the negotiated settlement process and they review legal fees to ensure they are fair.

**Chief Adjudicator** – assists in the selection of adjudicators, advises the **Oversight Committee** on adjudicators, assigns adjudicators to particular cases, trains adjudicators, conducts reviews of adjudicator Decisions, and provides direction to the Secretariat. The Chief Adjudicator is supported by Deputy Chief Adjudicators.

**Disbursements** – expenses incurred by a law firm that are necessary to move forward with the claim. In the IAP, examples of disbursements could include: the cost of collecting mandatory documents, the cost of mailing/faxing documents and letters, or the cost of long-distance telephone calls. Reasonable and necessary disbursements will be paid by the Government of Canada.

**Hearing centres** – There are two designated hearing centres: one in Winnipeg and the other in Vancouver. These designated hearing centres provide a comfortable, secure location with on-site support from Secretariat staff. These are options *in addition to* hearings booked in hotel conference rooms or, when a claimant has a lawyer, in law office boardrooms.

**Indian Residential Schools Settlement Agreement (Settlement Agreement)** – The implementation of the Settlement Agreement began on September 19, 2007, and with it the creation of the Secretariat (the Secretariat) mandated to implement and administer the IAP under the direction of a Chief Adjudicator in an independent, objective and impartial manner.

The Settlement Agreement establishes measurable objectives for the Secretariat to achieve including:

- to provide for a fair and impartial mechanism to adjudicate IAP claims;
- to resolve claims in an efficient and time manner given the advanced age and failing health of many claimants; and
- to meet the hearings held requirements of 2,500 per year and the time limitations. The high volume of claims has meant that the Secretariat has held far more than 2,500 hearings each year since 2011.

**Medical/Expert assessments** – these assessments provide the adjudicator expert evidence to support your testimony. A medical assessment from a doctor can help the adjudicator decide when the physical injury occurred, if the physical injury is related to residential school abuse, and the long-term effects of the physical injury. An expert assessment from a psychologist can help the adjudicator decide what caused the consequential harms or the loss of opportunity or the actual income loss.

**Oversight Committee** – composed of an independent chair plus eight members who represent the parties that negotiated the Settlement Agreement. The main duties of the committee include: setting policies; making key process decisions; appointing/terminating the Chief Adjudicator; appointing/renewing/terminating adjudicators; and monitoring the IAP.

**Schedule D** – the Settlement Agreement is composed of 22 schedules (Schedule A-V) that lay out the rules and processes for each component of the agreement. Schedule D establishes the rules and processes for the IAP. The powers of adjudicators and the compensation rules come from Schedule D. You can get a copy of Schedule D by calling **1-866-879-4913** or by visiting [www.residentialschoolsettlement.ca/settlement.html](http://www.residentialschoolsettlement.ca/settlement.html).

**Settlement Agreement** – see [Indian Residential Schools Settlement Agreement](#).

**Transcript** – all IAP hearings are recorded as the adjudicator may need to re-visit parts of the hearing to assist with writing a decision. These recordings are sometimes written out. This is known as a transcript. These transcripts are issued to the parties when a decision is under review or when claimants request a copy. Claimants can request a transcript at the hearing.

**Trauma** – in the IAP, trauma is considered to be a type of psychological damage to the psyche that occurs as a result of a deeply distressing or disturbing experience. It can completely overwhelm a person's ability to cope. Trauma is a concern for claimants who revisit their residential school experience by filling out an IAP application and attending an IAP hearing. Free health support services (see [Health and other supports](#) on page 3030) are available to claimants who are resolving their residential school abuse claims.

**Witness** – the claimant, the Government of Canada or the church may put forward witnesses. Witnesses put forward by the claimant before the claimant's hearing may testify at the claimant's hearing about what they saw and heard. Other witnesses will have separate hearings. Parties who wish to have a witness speak must provide a 'witness statement' at least two weeks before the hearing. This statement will summarize what the witness will speak

about at the hearing. This statement will then be shared with the other parties before the hearing.

# Appendix A: Form 1A: Claimant’s Hearing Preferences & Form 1B: Request for Hearing

**Note:** These forms are only used for self-represented claimants. When a claim is ready for a hearing, these forms will be mailed to a self-represented claimant by the Claimant Support Officer.

Indian Residential Schools

Adjudication Secretariat

Secrétariat d’adjudication

des pensionnats indiens

**Form  
1A**

## Claimant’s Hearing Preferences Independent Assessment Process (IAP)

**IAP File Number: E5442-10-  
Protected B**

(when completed)

**Claimant’s Name:**

**STANDARD TRACK**       **COMPLEX TRACK**

<b>Adjudicator:</b> What is your gender preference for the Adjudicator?	<b>Male</b> <input type="checkbox"/>	<b>Female</b> <input type="checkbox"/>	<b>No Preference</b> <input type="checkbox"/>
<b>Location:</b> What is your preference for the location of the hearing?			
<b>Interpreter:</b> Is an interpreter required? If yes, in what language?	<b>Yes</b> <input type="checkbox"/>	<b>No</b> <input type="checkbox"/>	<b>Language:</b>
<b>Resolution Health Support Worker:</b> Do you wish to have a Resolution Health Support Worker (RHSW) attend the hearing?	<b>Yes</b> <input type="checkbox"/>	<b>No</b> <input type="checkbox"/>	If <b>yes</b> , please indicate male or female

<p><b>All RHSWs are Aboriginal and are available to attend the hearing with you to provide support. They will also give you guidance on available support programs.</b></p>			<p>preference:</p> <p>Male <input type="checkbox"/></p> <p>Female <input type="checkbox"/></p> <p>No Preference <input type="checkbox"/></p>
<p>May we provide the RHSW with your contact information so they can call you before the hearing? This will allow them to introduce themselves.</p> <p>(If <b>Yes</b>, please give the telephone number where they can reach you.)</p>	<p><b>Yes</b> <input type="checkbox"/></p>	<p><b>No</b> <input type="checkbox"/></p>	<p><b>Phone number:</b></p>

<p><b>Travel Arrangements:</b></p> <p>Will you need to travel to attend the hearing?</p> <p>If yes, please tell us:</p> <ul style="list-style-type: none"> <li>- how you will travel,</li> <li>- where you are coming from, and,</li> <li>- if you will travel alone <b>or</b> with your support persons.</li> </ul> <p>*Please tell us your preferences for accommodations: smoking or non-smoking rooms, one or two beds, separate rooms, etc.</p> <p>PLEASE NOTE THAT A LOT OF HOTELS DO NOT ALLOW SMOKING IN THEIR ROOMS.</p> <p>Prepaid accommodation and transportation will be arranged when needed. Meal and travel expenses are reimbursed a few weeks after the hearing. In extreme circumstances we may be able to advance you travel funds for meals and/or travel. This is <u>not</u> the regular practice and can delay the scheduling of your hearing. <b>Please provide details if a travel advance is required.</b></p>	<p><b>Yes</b> <input type="checkbox"/></p>	<p><b>No</b> <input type="checkbox"/></p>	<p><b>Details:</b></p>
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<p><b>A REQUEST FOR A TRAVEL ADVANCE MUST BE RECEIVED <u>AT LEAST FOUR WEEKS PRIOR TO THE HEARING.</u></b>  <b>(We can only provide advances to you as the Claimant and not to your support person.)</b></p>			
<p><b>Support People:</b></p> <p><b>If you have support people attending your hearing:</b></p> <p>Please provide the names and addresses for any support person(s) attending the hearing.</p> <p>Please tell us what their travel and accommodation needs are.</p> <p>Please state if your support person(s) will be travelling with you or separately, and if they require shared or separate hotel rooms.</p> <p>This information is needed to make travel arrangements and issue travel claims</p>	<p><b>Yes</b>  <input type="checkbox"/></p>	<p><b>No</b>  <input type="checkbox"/></p>	<p><b>Name(s):</b></p> <p><b>Address(es):</b></p> <p><b>Travel/Accommodations:</b></p>

<p><b>Witnesses:</b></p> <p><b>If you have any witnesses attending your hearing:</b></p> <ol style="list-style-type: none"> <li>Please provide the names and addresses for any witness(s) attending the hearing.</li> <li>Please tell us what their travel and accommodation needs are.</li> <li>Please state if your witness(es) will be travelling with you or separately, and if they require shared or separate hotel rooms.</li> </ol> <p>This information is needed to make travel arrangements and issue travel claims.</p>	<p><b>Yes</b>  <input type="checkbox"/></p>	<p><b>No</b>  <input type="checkbox"/></p>	<p><b>Name(s):</b></p> <p><b>Address(es):</b></p> <p><b>Travel/Accommodations:</b></p>
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<p><b>Prayer/Ceremony:</b> Do you wish to have a prayer or ceremony performed before or after the hearing?</p> <p>Please check Prayer or Ceremony.</p> <p>If it is a Ceremony, we need to know who will be performing the Ceremony.</p>	<p><b>Yes</b> <input type="checkbox"/></p>	<p><b>No</b> <input type="checkbox"/></p>	<p>Prayer <input type="checkbox"/> Ceremony <input type="checkbox"/></p> <p>Who?</p> <p>Type of Ceremony?</p>
<p><b>Elder Participation:</b> Do you wish to have an Elder attend your hearing?</p> <p>If <b>Yes</b>, please state if this office is to make arrangements, or if you will bring an Elder with you.</p> <p>If the Secretariat is to arrange for an Elder, we need to know your cultural background and/or your tribal affiliation.</p>	<p><b>Yes</b> <input type="checkbox"/></p>	<p><b>No</b> <input type="checkbox"/></p>	
<p><b>Oath Process:</b> What type of oath process do you prefer? Bible – Swearing in – Eagle Feather</p> <p>If an <b>Eagle Feather</b> is to be used in the prayer, ceremony, or in the <b>Oath Process</b>, please tell us if you have your own Feather, or if an Elder or RHSW should provide it.</p> <p>Who will provide the Eagle Feather?</p>	<p><b>Bible</b> <input type="checkbox"/></p> <p><b>Swearing In</b> <input type="checkbox"/></p> <p><b>Eagle Feather</b> <input type="checkbox"/></p>		

<b>Health Concerns:</b>	<b>Yes</b>	<b>No</b>
Do you have any special health concerns that we need to be aware of when setting up the hearing? If yes, please tell us about the concerns below. <i>Please indicate if you are diabetic.</i>	<input type="checkbox"/>	<input type="checkbox"/>
<hr/>		

**Church Participation Preferences :**

The Church involved in your claim is a party to the Independent Assessment Process. **That means they have the right to participate in your hearing.**

However, not all Churches send representatives to each hearing. Where the church chooses not to participate, they may still wish to attend your hearing to witness your evidence and/or provide pastoral support.

Please check off the appropriate box below:

I prefer that a church representative **not** be present to bear witness and/or provide pastoral support.

I would like a church representative to be present to bear witness and/or provide pastoral support.

**Every effort will be made to accommodate your stated preferences.**

Indian Residential Schools

Adjudication Secretariat

Secrétariat d'adjudication

des pensionnats indiens

**PROTECTED B (when completed)****Form  
1B**

<b>IAP File Number: E5442-10- Level:</b>	<b>Priority:</b>	<b>Harm</b>
<b>Claimant's Name: Level:</b>	<b>Track:</b>	<b>Loss</b>

**Request for Hearing in the Independent Assessment Process**

I am writing to request a hearing. I confirm that I have submitted all mandatory documents that I intend to/am able to submit in support of the harm and loss levels I am claiming, as required by Schedule D of the Indian Residential Schools Settlement Agreement.

**Where to send Form 1A and Form 1B:**

Once all documents are collected, please submit these forms to:

Indian Residential School Adjudication Secretariat, Client Services  
25 Eddy Street  
7th Floor  
Gatineau, Quebec K1A 0H4

Or by fax to: Attn: Indian Residential School Adjudication Secretariat, Client Services  
819-934-0848

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 Date

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 Claimant Signature

## **Appendix B: Notice of Hearing**

The Secretariat sends this letter to self-represented claimants or to the lawyer for represented claimants. It will be sent about 4–6 weeks before the hearing date. If you have travel and hotel needs, the details will be included with this letter.

Indian Residential Schools

Adjudication Secretariat

 Secrétariat d'adjudication  
 des pensionnats indiens
**NOTICE OF HEARING**

Adjudicator: ADJUDICATOR NAME  
 Canada: GOVERNMENT OF CANADA REPRESENTATIVE NAME  
 Church: CHURCH REPRESENTATIVE NAME  
 RHSW: RHSW NAME

**RE: Independent Assessment Process Hearing – STANDARD/COMPLEX Track**

This letter will confirm that the hearing of CLAIMANT'S NAME application for compensation under the Independent Assessment Process will be held at the following place on the following date:

**File Number:** E5442-10-  
**Claimant Gender:** MALE/FEMALE  
**Location:** HOTEL NAME  
 HOTEL ADDRESS  
 CITY, PROVINCE  
 POSTAL CODE  
 Meeting Room: CONFERENCE ROOM NUMBER  
 Break-Out Room: CONFERENCE ROOM NUMBER  
**Phone number:** HOTEL PHONE NUMBER  
**Date:** HEARING DATE  
**Time:** HEARING START TIME  
**RHSW Contact Info:** RHSW PHONE NUMBER  
**Church:** The Claimant has indicated a preference that a church representative **not be present** at their hearing.

If for any reason, you cannot attend or if you have any questions or concerns, please feel free to contact **HEARING COORDINATOR NAME** at **HEARING COORDINATOR PHONE NUMBER**.

In the event the claimant has a travel emergency outside of regular business hours, please call 306-530-9425. We will accept collect calls.

Yours truly,

**HEARING COORDINATOR NAME**

Adjudication Coordinator

## Appendix C: Adjudicator's Decision Template

### INDIAN RESIDENTIAL SCHOOLS RESOLUTION CANADA INDEPENDENT ASSESSMENT PROCESS

<b>CLAIMANT:</b>	[Claimant Name]
<b>FILE NUMBER:</b>	E5442-10-
<b>TRACK:</b>	Standard/Complex
<b>SCHOOL NAMED:</b>	[Indian Residential School Name]
<b>DECISION MAKER:</b>	[Name of Adjudicator]
<b>HEARING DATE:</b>	[Date of Hearing]
<b>HEARING LOCATION:</b>	[Location of Hearing]
<b>DECISION DATE:</b>	[Date of Decision]
<b>ATTENDING:</b>	
Lawyer for the Claimant:	[Name of lawyer, if applicable]
Claimant Supporters:	[Name of claimant supporters]
Canada's Representative:	[Name of Canada's Representative]

### REPORT OF DECISION-MAKER

#### A. Summary

1. Allegations
2. Conclusions

- Here the **adjudicator** will provide a summary on the abuses that were discussed at the hearing.
- The adjudicator will also provide a summary of what their conclusions are – has the claimant proven the abuse and does the claimant receive compensation?

#### B. Decision

- Here the adjudicator will either state how much compensation the claimant is to receive or that the claim was not proven and no compensation is awarded.

#### C. Analysis

##### 1. Background

- Here the adjudicator will provide background information on the claimant.
- The claimant's family life before they attended residential school will be discussed as well as the circumstances on how they came to attend residential school.

## 2. Findings

### a. Credibility

- It is an adjudicator's duty to consider all of the evidence and decide whether the claimant has proven that the alleged abuse happened.
- Here the adjudicator will discuss the claimant's testimony and whether it was credible and reliable.

### b. Acts Proven

- Here the **adjudicator** will list the abuse acts that the claimant discussed at the hearing. The adjudicator will provide their findings regarding if the claimant has proven them or not.
- If compensation is awarded, the adjudicator will be very detailed about the abuse and will sometimes use quotes that were said by the claimant during the hearing. The adjudicator will also quote from the **Settlement Agreement**, which is the document that tells adjudicators how claims are proven. The adjudicator will then award points for the most serious abuse act proven.
- If no compensation is awarded, then there is no need to discuss sections c to f below.

### c. Harms

- If compensation is awarded, the adjudicator will list the harms that the claimant discussed at the hearing.
- The adjudicator will write if the harms have been proven or not and if the harms are linked to the proven abuse acts. The adjudicator will be detailed about the harms and will sometimes use quotes that were said by the claimant during the hearing. The adjudicator will also quote from **Schedule D**, which is the document that tells adjudicators how claims are proven.
- The adjudicator will then award points based on the harms proven.

### d. Aggravating Factors

- Aggravating factors are circumstances that made the proven abuse worse – in other words, it aggravated the abuse.
- If compensation is awarded, here the adjudicator will list which factors made the abuse worse for the claimant. The adjudicator will then award a percentage, depending on the number and seriousness of the aggravating factors.

### e. Loss of Opportunity

- If compensation is awarded, here the adjudicator will state if the claimant has suffered from loss of opportunity.
- The adjudicator will be detailed about the reasons why there is a loss of opportunity and will discuss the claimant's work and education history. They may use quotes that were said by the claimant during the hearing to support their decision. They may also quote from the Settlement Agreement, which is the document that tells adjudicators how claims are proven.
- If successful, the adjudicator will award points.

### f. Future Care

- Here the **adjudicator** will discuss the claimant's **future care plan** and will state how much of it to award – either all of it, some of it, or none of it. The adjudicator will list the reasons why they came to that decision.

## D. Calculation of Points

Compensation Category	Level of Compensation	Points	Dollar Award
1. Acts Proven	[SL 5 – SL 1, PL, or OWA]		----
2. Harms	[H5 – H1]		----
3. Aggravating Factors	[Acts + Harms x ___% = points]		----
4. Loss of Opportunity	[L5 – L1]		----
Sub-total	-----		\$
5. Future Care	-----	----	\$
Total, including Future Care:	-----	----	\$

- Here the adjudicator will summarize the number of points awarded for the claim. The total points will then equal a dollar amount, at the adjudicator's discretion.
- The chart that shows the compensation amounts based on the total amount of points can be viewed in [Schedule D](#) of the Settlement Agreement.

## E. Conclusion

- The adjudicator will write a brief concluding paragraph regarding the claim.
- Claimants can also request a letter of apology from the Government of Canada. Here the adjudicator will state if the claimant has requested one.

SIGNED AT [Town and Province], on [date adjudicator submitted decision]

---

[Adjudicator Name]

Independent Assessment Process

For more **information**,  
please contact the IAP Info-Line

**1-877-635-2648**

or visit the Secretariat's website at

**[www.iap-pei.ca](http://www.iap-pei.ca)**

For **24-hour crisis counseling**, please contact the National Crisis Hotline at

**1-866-925-4419**