

IAP Fact Sheet

Getting legal help with the IAP claim

The Independent Assessment Process (IAP) is a claimant-centred, non-adversarial, out-of-court process for the resolution of claims of sexual abuse, serious physical abuse, and other wrongful acts suffered at Indian Residential Schools (IRS).

The IAP is managed by the Indian Residential Schools Adjudication Secretariat (IRSAS), an administrative tribunal which replaces the traditional court process. The IAP and IRSAS were established under the 2007 Indian Residential Schools Settlement Agreement (the "Settlement Agreement"). IRSAS operates independently from the groups (known as "Parties") that signed the Settlement Agreement, including the Government of Canada.

The parties to the Settlement Agreement include (but are not limited to): the Government of Canada, former Indian Residential School students and their lawyers, the churches that administered the schools, and the Assembly of First Nations and Inuit representatives.

The IAP involves complex legal concepts and processes. This is why all of the Parties who signed the Settlement Agreement recommend that a claimant hire a lawyer to help with their IAP claim.

Why should a claimant get legal help with their IAP claim?

Many lawyers who work in the IAP are experienced and knowledgeable. Lawyers will ensure all of the process requirements are met, providing a well prepared claim for consideration by the Adjudicator (decision maker). Generally, claims with lawyers are processed more quickly and receive higher awards than claims from self-represented claimants (SRC).

Claimants who do not hire a lawyer can get help from a Claimant Support Officer (CSO) who works for and is paid by the Adjudication Secretariat. A CSO cannot attend a hearing with the claimant. The CSO role is to provide information, guidance, and support, but not legal advice.

The Government of Canada will have a representative at a claimant's hearing, who is highly trained (often a lawyer). It is best for a claimant to be equally well prepared for the hearing by having their own lawyer attend the hearing to represent their interests.

In what way does the lawyer prepare the IAP claim for their client (claimant)?

- A lawyer will help the claimant to understand the process and what to expect.
- A lawyer will ensure all legal aspects of the claim are considered.
- A lawyer will provide advice on the IAP legal requirements and processes. A lawyer will take care of locating and collecting all of the documents that are needed to support the claim. These often include school, medical, corrections and employment records that can be difficult to track down. A claim cannot go forward under regular circumstances without these documents being collected.
- A lawyer will ensure all aspects of the claim are brought forward for consideration by the Adjudicator. This will often result in a higher level of award than if the claim were not prepared by a lawyer.
- A lawyer will always attend the hearing with the claimant.

By having the lawyer prepare the claim, the claimant may focus on their own needs. As well, at the hearing, the claimant may focus on speaking with the Adjudicator and feel confident that their lawyer is looking after any paperwork that needs to be located, collected, processed, or submitted on their behalf.

How does a Claimant hire a lawyer?

If the claimant decides to hire a lawyer, it may be helpful to talk to other former students who have gone through the IAP and request a recommendation. In addition, it is recommended that a claimant speak to two or three different lawyers. Here are some questions that may be helpful to ask:

- How many IAP claimants have they represented?
- How many of them were successful?
- How much do they charge?
- What, if anything, will they charge a claimant if their claim is not successful?
- How soon will they return a claimant's phone calls?
- Will they meet with a claimant in person before their hearing?

The Chief Adjudicator has set expectations of legal practice in the IAP. These expectations help claimants understand what they can expect from their lawyer, and provide guidance to lawyers on the appropriate norms of practice in the IAP. For further details please visit the IAP website at the address below: <http://www.iap-pei.ca/expectations-eng.php>

It is important for trust to exist between the lawyer and the claimant. A trusting relationship ensures the Adjudicator has a well prepared claim and testimony to consider. The hearing is the only opportunity for the claimant to tell the adjudicator everything that happened at the residential school. Trust with their lawyer will build a claimant's confidence to speak about their residential school experience. If a self-represented claimant decides to hire a lawyer, the CSO can help them find one who has experience in the IAP.

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.

For more information on working with a lawyer, please visit <http://www.iap-pei.ca/lawyer-avocat-eng.php>

You may also wish to work with the lawyer referral service that is available on the Settlement Agreement website: <http://www.residentialschoolsettlement.ca/lawyers.html>

Working with a lawyer in the IAP

It is a lawyer's job to help move an IAP claim through all the steps, including a claimant's hearing.

If a claimant is unsure about something, they may ask their lawyer about it. If the claimant has problems working with a lawyer, they need to ensure that they discuss it with him/her. Remember –the lawyer works for the claimant! If the claimant does not feel that a lawyer is providing the support that is required, a new lawyer may be hired. To learn about the claimant's rights when dealing with a lawyer, contact the provincial or territorial Law Society in your area.

What other help can a claimant get as a former IRS student?

There are a full range of services, including Resolution Health Support Workers, a Crisis Line and the IAP Information Line:

- Counseling at no cost is available on a 24-hour basis by calling 1-866-925-4419.
- Claimants can get information on the status of their claim by calling the IAP Information Line at:

1-877-635-2648

- Claimants can find more information about the IAP on the IAP website at <http://www.iap-pei.ca>.