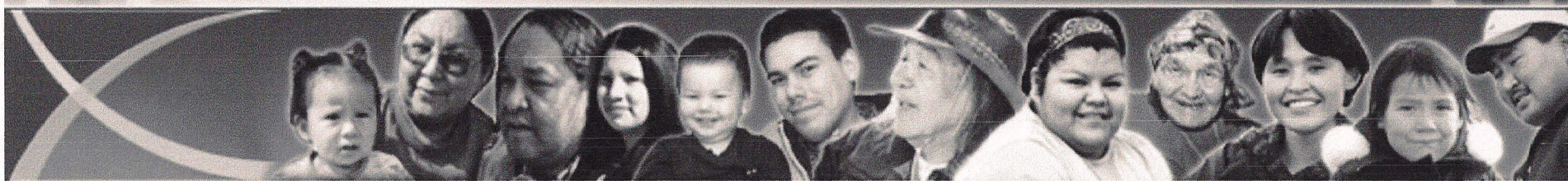




**Affaires indiennes
et du Nord Canada**

**Indian and Northern
Affairs Canada**



Indian Residential Schools Settlement Agreement (IRSSA)


Draft January 2010



Affaires indiennes
et du Nord Canada

Indian and Northern
Affairs Canada

Canada



Indian Residential Schools Settlement Agreement (Settlement Agreement)

- Largest class action settlement in Canadian history
- Received court approval on March 21, 2007, with the full support of all parties involved; the Government of Canada, legal counsel for former students, Churches, the Assembly of First Nations, and Inuit Representatives
- 327 former students opted out
- Implementation began September 19, 2007





Elements of the Settlement Agreement

The Settlement Agreement includes the following:

- Common Experience Payment (CEP) to be paid to all eligible former students who resided at a recognized Residential School
- Independent Assessment Process (IAP) provides compensation for claims of serious physical abuse, sexual abuse & other wrongful acts causing serious psychological harm
- Truth and Reconciliation Commission (TRC)
- Commemoration Activities
- Measures to support healing such as Health Canada's Indian Residential Schools Resolution Health Support Program and an endowment to the Aboriginal Healing Foundation

Common Experience Payment (CEP)

- Lump sum payment that recognizes the experience of residing at an Indian Residential School and its impacts (loss of culture, language, etc.)
- Any former student who resided at a recognized Indian Residential School and was alive on May 30, 2005 (October 5, 1996 for Cloud Class Members) is eligible for a CEP
- Upon verification, each eligible former student who resided at an IRS who applies for the CEP will receive \$10,000 for the first year or part thereof plus an additional \$3,000 for each subsequent year or partial year (total of \$1.9B set aside)
- A year is defined as a school year rather than a calendar year. Thus, a former student who attended from September 1959 to June 1960 would be paid for one year
- Former Students can submit applications:
 - by mail to a centralized processing centre (packages will be sent to those who request an application package by calling toll free 1-866-699-1742; TTY 1-800-926-9105)
 - in person through Service Canada Outreach Services or by visiting one of the more than 320 Service Canada sites across the country
- Former students do not need copies of their school records to apply for a CEP
- Legal advice not required for the CEP

CEP Process

- The CEP Process has three stages:
- Initial Application
 - Service Canada receives application, verifies identity
 - INAC Research verifies residence at recognized Indian Residential Schools (or hostels) and confirms duration. If records are not available, INAC contacts the applicant for any information about their residence
 - Service Canada notifies applicant, triggers payment
- Reconsideration
 - In cases where applications are denied, in whole or in part, applicants can ask for reconsideration
 - Reconsideration involves a review of the research done in the initial application plus a thorough review of any new information provided by the applicant. New information is not required for Reconsideration but is welcome
 - Reconsideration requests are processed based on age (elderly will get processed first) and then in order of date received
- Appeal
 - Applicants who are not satisfied with the results of reconsideration may appeal to the National Administration Committee (NAC)
 - INAC reviews initial application and reconsideration assessments, as well as any new information presented at Appeal stage, presents findings and complete history of application to NAC panel
 - NAC panel reviews all material and makes a decision
 - CEP applicants not satisfied with NAC decision can appeal to the Court





CEP Progress to Date (as of January 4, 2010)

- Initial Applications received: 97,466 (National)
 - Initial Applications processed: 95,631 (National)
 - Payments made: 75,211 (National)
 - Applications found ineligible: 20,420 (National)
- Requests for Reconsideration received: 24,129 (National)
 - Reconsiderations processed: 22,038 (National)
 - Payments made in Reconsideration: 8,160 (National)
- Appeals received:
 - Appeals decided by NAC: 758
 - Payments made at Appeal: 207
- Total paid nationally, including Advance Payments: \$1.541B



Indian Residential School List

- The original list of 133 recognized residential schools and hostels is available at www.residentialschoolsettlement.ca
- An institution that is not on the list may be added if it meets the criteria contained in the Settlement Agreement:
 - the child was placed in a residence away from the family for the purposes of education
 - Canada was jointly or solely responsible for the operation of the residence and care of the children resident there
- The Government will research the proposed institution and determine whether it should be added to the list
- There is a right of appeal from that decision to the appropriate court
- Thus far, three schools have been added to the official list;
 - St. Paul's Hostel, Yukon (September 1920 to June 1943)
 - Anahaim Lake Dormitory, British Columbia (September 1968 to June 1977)
 - Côté Improved Federal Day School (September 1928 to June 1940)
- Results of this research can be found at:
www.residentialschoolssettlement.ca/Decisions.pdf



Independent Assessment Process (IAP)

- The IAP is an out of court adjudicative process which replaces the former Alternative Dispute Resolution (ADR) Model
- The IAP is administered by the Indian Residential Schools Adjudication Secretariat (IRSAS) a neutral, arms-length office. The IRSAS reports to the Chief Adjudicator, who in turn reports to an IAP Oversight Committee and the Courts.
- The IAP provides individual compensation for sexual abuse, serious physical abuse, and other wrongful acts causing serious psychological harm. The deadline for applications to the IAP is September 19, 2012.
- All parties to the Settlement Agreement believe that every Claimant should have legal representation for the Independent Assessment Process (IAP).
- The IAP uses a Compensation Framework that was approved by the parties to the IRS Settlement Agreement to determine the level of compensation. The maximum total compensation for any claim is \$511,750.00.
- For more information on the IAP go to www.iap-pei.ca or call 1-866-879-4913.
- It is important to note that former students can apply for both the CEP and IAP.



CEP and IAP – Different Processes

The CEP and the IAP are two different parts of the Settlement Agreement

- Different application forms
- Payment in one does not affect payment in the other
- Eligibility for one does not guarantee eligibility for the other



Commemoration

- \$20M over five years to support activities to memorialize the legacy of Indian Residential Schools.
- Supports events or projects at the local, regional and national level in order to remember, acknowledge, and educate on the impacts of the Indian residential school system on Aboriginal communities:
 - Can include the creation of, or improvements to existing, permanent memorials, ceremonies or gatherings
 - Initiatives that focus on the IRS legacy and honour former IRS students, their families, and communities
 - Link to other aspects of the IRSSA wherever possible to promote the goal of reconciliation
- Former IRS students have said that Commemoration should:
 - Improve former IRS students' well-being
 - Enhance community interaction and cultural pride
 - Increase a sense of understanding by others
 - Nurture a positive perception of life in the future





Truth and Reconciliation Commission (TRC)

- The Truth and Reconciliation Commission (TRC) will report to the Canadian public on what happened in Indian residential schools (IRS) attended by First Nations, Inuit, and Métis children, and on the lasting legacy of these institutions
- The TRC will provide those affected an opportunity to tell their stories in a safe and culturally appropriate forum
- The TRC will initiate and encourage reconciliation from all parties of interest including former Indian Residential School students, their families, communities, religious entities, government, and the people of Canada
- The TRC will promote awareness and public education about the IRS system and its impacts on the human dignity of former students



IRS Resolution Health Support Program

- Health Canada administers \$95M over six years to ensure that eligible former IRS students and their families:
 - Have access to emotional health and wellness support services
 - Can safely address emotional health and wellness issues related to the disclosure of childhood abuse(s)
- Provides support to all former IRS students (regardless of status or place of residence) who are:
 - Eligible to receive, or receiving, the Common Experience Payment
 - Resolving a claim through the IAP, the ADR, or the courts
 - Participating in TRC and/or Commemoration events
- Coordinates and funds the following:
 - Professional counseling services
 - Assistance with the cost of transportation (to access professional counselling services and/or Elders not available in home community)
 - Emotional support provided by Resolution Health Support Workers
 - Cultural support provided by Elders



Other Elements of the IRSSA

- Aboriginal Healing Foundation endowment of \$125 million for five years to continue healing programs
- Legal fees payment of up to \$100 million, subject to verification
- Oversight bodies monitoring administration of the IRSSA include:
 - National Administration Committee (NAC)
 - Independent Court Monitor, Crawford Class Action Services, Inc., appointed to ensure that parties to the IRSSA meet performance requirements
- Church entities to contribute up to \$100M in cash and services for healing initiatives





Communications

- Websites
 - <http://www.ainc-inac.gc.ca/ai/rqpi/index-eng.asp>
 - <http://www.residentialschoolssettlement.ca>
 - <http://www.iap-pei.ca>
- The Community Impacts Working Group (CIWG) is made up of representatives of various government departments as well as of Aboriginal organizations, Churches and many other groups working “on the ground”

