



Frequently Asked Questions

INDIAN RESIDENTIAL SCHOOLS SETTLEMENT AGREEMENT

Q1. What is the Settlement Agreement and how does it address the legacy of Indian Residential Schools?

- A1. The Settlement Agreement represents the consensus reached in the discussions led by the Honourable Frank Iacobucci with legal counsel for former students, legal counsel for the Churches, the Assembly of First Nations and other Aboriginal organizations. Mr. Iacobucci was appointed by the Government of Canada on May 30, 2005 to negotiate a fair and lasting resolution of the legacy of Indian Residential Schools, and an Agreement in Principle was previously announced on November 23, 2005.

The Settlement Agreement proposes a Common Experience Payment to be paid to all eligible former students who resided at recognized Indian Residential Schools, an Independent Assessment Process for claims of sexual and serious physical abuse, as well as measures to support healing, commemorative activities, and the establishment of a Truth and Reconciliation Commission.

Although the Settlement Agreement has the full support of all parties involved in its creation, including the Government of Canada, it still requires the approval of the courts in nine Canadian jurisdictions.

Q2. How will the Settlement Agreement be approved, and when will it come into effect?

- A2. Approval of the Settlement Agreement will be sought from the courts in nine Canadian jurisdictions over the coming months. Following court approval, a five-month opt-out period will apply. It is proposed that the Settlement Agreement would come into force unless more than 5,000 eligible former students formally opt-out by the closure of the opt-out period.

Common Experience Payment / Advance Payment

Q3. What is the Common Experience Payment?

- A3. The Common Experience Payment (CEP) is a lump-sum payment that recognizes the experience of residing at an Indian Residential School(s) and its impacts. Upon verification, each eligible former student who applies for the CEP would receive \$10,000 for the first year or part of a year of residence plus an additional \$3,000 for each subsequent year of residence.

Q4. Who is eligible for the Common Experience Payment?

- A4. All former students who resided at a recognized Indian Residential School(s) who were alive on May 30, 2005 will be eligible for the Common Experience Payment. This includes First Nations, Métis, and Inuit former students. The list of recognized Indian Residential Schools can be found in Schedules E and F of the Settlement Agreement. Additional schools may be added to this list in the future, provided that they meet the criteria set out in the Settlement Agreement.

Q5. How and when can I apply for the Common Experience Payment?

- A5. The final approved application form for the Common Experience Payment does not currently exist and will only be made available after the Settlement Agreement comes into effect (see Question #2). Eligible former students will have a period of four years after the Settlement Agreement comes into effect to apply for the Common Experience Payment.

Q6. What is the Advance Payment and how can I apply for it?

- A6. The Government has announced an Advance Payment program for former students who resided at a listed Indian Residential School and who were 65 years of age or older on May 30, 2005, the day the negotiations were initiated. Upon application and verification, eligible former students will receive an \$8,000 Advance Payment, which would then be deducted from any future Common Experience Payment or other payment related to their experience at Indian Residential Schools.

Advance Payment application forms will be accepted until December 31, 2006.

Advance Payment application forms are available at www.irsr-rqpi.gc.ca and can also be obtained from the Indian Residential Schools Resolution Canada Help Desk at 1-800-816-7293.

Q7. Will I need to have a copy of my school records to apply for the Advance Payment or the Common Experience Payment?

A7. No, former students do not need to obtain a copy of their school records in order to apply for the Advance Payment or the Common Experience Payment. The Government of Canada will verify former students' attendance at listed Indian Residential Schools.

Q8. Do I need a lawyer to apply for the Advance Payment or the Common Experience Payment?

A8. No, a lawyer is not required for applications for the Advance Payment or the Common Experience Payment.

Q9. Will I be eligible for the Advance Payment or Common Experience Payment if I have settled my claim through either litigation or the ADR process?

A9. All eligible former students who resided at a recognized Indian Residential School(s) may apply for the Common Experience Payment after the Settlement Agreement comes in to effect (see Question #2), including former students who have settled their claims through litigation, the ADR process, or the ADR pilot projects.

Similarly, eligible former students who have settled their claims through litigation, the ADR process, or the ADR pilot projects may apply for the Advance Payment, provided they meet the criteria for that program (see Question #6).

Q10. Will receiving the Advance Payment or Common Experience Payment affect social assistance benefits?

A10. The Government of Canada is working with the provinces and territories and all Federal departments to ensure that payments to former students provided for in the Settlement Agreement do not impact on social assistance payments.

Q11. Will the Advance Payment or Common Experience Payment be taxable?

A11. The Advance Payment and the Common Experience Payment will not be subject to income taxes.

Independent Assessment Process

Q12. What is the Independent Assessment Process?

A12. The Settlement Agreement provides for an enhanced alternative dispute resolution process called the Independent Assessment Process (IAP). Following the Implementation Date of the Settlement Agreement for a period of five years, the IAP will be the only way a former student may pursue a sexual or serious physical abuse claim, unless he or she has formally opted out of the Settlement Agreement. Compensation through the IAP will be paid at 100% by the Government in all cases, following validation of the claim by an independent adjudicator.

Q13. When can I make a claim in the Independent Assessment Process?

A13. The IAP application form is not yet available; it will be made available as part of the implementation of the Settlement Agreement. Processing of IAP claims will begin as soon as the Settlement Agreement comes into effect (see Question #2).

Q14. What happens to Alternative Dispute Resolution (ADR) claims still underway?

A14. Until the courts approve the Settlement Agreement, the current ADR process will continue to receive applications, hear claims, and award compensation to former students.

Healing and Truth & Reconciliation

Q15. How does the Settlement Agreement address the ongoing needs for healing, commemoration and a truth and reconciliation process?

A15. Continuing to support healing, educating, and bringing all Canadians together to understand the legacy of Indian Residential Schools are important parts of this resolution process. The Settlement Agreement provides:

\$60 Million for the establishment of a Truth and Reconciliation Commission and research centre;

\$20 Million for a Commemoration program for events and memorials to commemorate the legacy of Indian Residential Schools, to be managed by the Government in conjunction with the Truth and Reconciliation Commission;

\$125 Million as an endowment to the Aboriginal Healing Foundation to continue to support healing programs and initiatives for a further five years; and

\$100 Million in cash and services toward healing initiatives, to be contributed by the Church entities involved in the administration of Indian Residential Schools.

Q16. Will health supports continue to be available to former students?

A16. Yes, health supports currently available to former students in the ADR or litigation processes will be made available to all former students eligible for the Common Experience Payment and their families upon implementation of the Settlement Agreement.

Legal Fees

Q17. Does the Settlement Agreement provide for payment of legal fees for counsel representing former Indian Residential School students?

A17. For many years, legal counsel have undertaken a substantial amount of work on behalf of former students and, in many instances, may have not yet received payment. Following implementation of the Settlement Agreement, legal counsel will receive fees for work undertaken in relation to representing former students.

The Settlement Agreement provides that legal counsel who accept a payment for legal fees from the Government agree not to charge former students any legal fees or disbursements in respect of the Common Experience Payment. Legal fees payable under the Settlement Agreement are subject to verification and approval by the courts.

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