



INDIAN RESIDENTIAL SCHOOLS
ADJUDICATION SECRETARIAT

**DESK GUIDE FOR
LEGAL COUNSEL
PRACTICING in the IAP
2015**

Indian Residential Schools

Adjudication Secretariat

Secrétariat d'adjudication
des pensionnats indiens

www.iap-pei.ca

This guide was prepared by the Indian Residential Schools Adjudication Secretariat (the Secretariat). The Secretariat administers the Independent Assessment Process (IAP) at arm's length from the parties involved in the IAP. For more information about the Secretariat's role in the IAP, please visit our website at: www.iap-pei.ca.



You can also follow us on Twitter
@IRSASInfo.

Version 5, [2015-09-22]

This desk guide is designed to provide legal counsel with information and guidance about the Independent Assessment Process (IAP). The IAP is a non-adversarial adjudication process for individual claims of abuse arising from, or connected to, the Indian Residential School system. The IAP is intended to resolve claims of sexual and serious physical abuse, as well as other wrongful acts which have caused serious psychological consequences to the claimant.

This guide is not a substitute for Schedule D of the Indian Residential Schools Settlement Agreement but instead is a practical resource for common procedures and issues that arise during the conduct of the IAP.

This guide is a “living” document. The Secretariat may add to or modify the guide as policies and processes change or new issues arise. Throughout the guide we have highlighted key points or issues that may affect a claim reaching a hearing in a timely fashion as well as contacts for technical assistance.

We encourage you to familiarize yourself with this guide and to provide any feedback to: irsasinfo@iap-pei.ca to assist us in improving the information set out in this guide.

Table of Contents

1. Governance and Structure	4
2. Legal Counsel	5
2.1.1. Expectations of Legal Counsel	5
2.1.2. Withdrawing Representation	10
2.1.3. Law Firm Changes	10
3. Application Stage	12
3.1.1. IAP Application Form and Deadline	12
4. Interactive File Management System (IFMS)	14
5. Admissions Stage	14
5.1.1. Admissions Unit	14
5.1.2. Admissions Process	14
5.1.3. Claimant Priority	14
5.1.4. Primary Admissions Review	14
5.1.5. Secondary Review	15
5.1.6. Decisions to Not Admit	15
5.1.7. Review of Non-Admission Decisions	15
5.1.8. Claims Admitted into the IAP	16
5.1.9. Confirming and/or Changing Claim Track	16
5.1.10. Jurisdictional Pre-Hearing Teleconferences	16
5.1.11. Resident and Non-Resident IAP Claimants	17
5.1.12. How to Contact the Admissions Unit	18
6. Case Management Stage	19
6.1.1. Case Management Unit	19
6.1.2. Collecting Mandatory Documents	19
6.1.3. Government of Canada's Role (and Contact with Alleged Perpetrators)	20
6.1.4. Submitting Mandatory Documents	21
6.1.5. Release of Evidentiary Packages	23
6.1.6. Electronic Document Interchange	23
6.1.7. Expedited Hearing Requests	23
6.1.8. Mandatory Setting Down of Hearings Through the Accelerated Hearing Process	24
6.1.9. Negotiated Settlements	24
6.1.10. How to Contact the Case Management Unit	25
7. Scheduling Stage	26
7.1.1. Scheduling Unit	26
7.1.2. Legal Counsel Availability	26
7.1.3. Claimant's Preferences	26
7.1.4. Scheduling Standard Track Files	27
7.1.5. Scheduling Complex Track Files	27
7.1.6. Scheduling Expedited Hearings	27
7.1.7. Alleged Perpetrator Hearings	27
7.1.8. Changes to the Hearing Date	28
7.1.9. Postponing or Cancelling a Hearing	28
7.1.10. Hearing Substitutions	29
7.1.11. How to Contact the Scheduling Unit	29

8. Hearings Management Stage	30
8.1.1. Hearings Management Unit	30
8.1.2. Church Participation at the Hearing	30
8.1.3. Meeting Rooms	31
8.1.4. Hospitality	31
8.1.5. Elders	31
8.1.6. Support Persons	31
8.1.7. Opening Ceremony for a Hearing	32
8.1.8. Interpreters	32
8.1.9. IRS Resolution Health Support Program	32
8.1.10. Allowable Travel Costs	33
8.1.11. Pre-Hearing Meetings	34
8.1.12. Accommodations	35
8.1.13. Travel Advances	35
8.1.14. Claimants who Reside Outside Canada	36
8.1.15. Notice of Hearing	36
8.1.16. Changes to Travel Arrangements	36
8.1.17. Emergencies While Travelling	36
8.1.18. Submitting Travel Expense Claim Forms	37
8.1.19. How to Contact the Hearings Management Unit	38
9. Hearing Stage	39
9.1.1. The Adjudicator	39
9.1.2. The Hearing	39
9.1.3. Caucus	40
9.1.4. Newly Named Alleged Abusers at the Hearing	40
9.1.5. Witnesses	40
9.1.6. Future Care Plan	40
9.1.7. End of Hearing	40
10. Post-Hearing Stage	42
10.1.1. Post-Hearing Unit	42
10.1.2. Hearing Transcripts	42
10.1.3. Alleged Perpetrator Hearings	43
10.1.4. Expert Assessments-Psychological	44
10.1.5. Expert Assessments-Medical	44
10.1.6. Final Submissions	45
10.1.7. Conference Calls	45
10.1.8. How to Contact the Post-Hearing Unit	45
11. Decision & Settlement Stage	46
11.1.1. Adjudicator’s Decision	46
11.1.2. Decisions Database	46
11.1.3. Compensation	47
11.1.4. Request for a Review of the Decision	47
11.1.5. Response to Request for a Review by Other Parties	48
11.1.6. Legal Fee Ruling	48
11.1.7. Request for a Legal Fee Ruling Appeal	49
11.1.8. Use of Form Fillers	49
11.1.9. How to Contact the Post-Hearing Unit	49
12. Case Analysis and Resolution (CAR)	50

<u>12.1.1</u>	<u>Lost Claimant Protocol</u>	<u>50</u>
<u>12.1.2</u>	<u>Incomplete File Resolution (IFR)</u>	<u>51</u>
<u>12.1.3</u>	<u>Estate Claims</u>	<u>53</u>
<u>12.1.4</u>	<u>How to Contact the CAR Unit</u>	<u>54</u>
13.	Group IAP Application Process	55
14.	IAP Contact Information	56

1. Governance and Structure

The IAP has four organizational components established under the Indian Residential School Settlement Agreement (SA): the Oversight Committee, the Chief Adjudicator, the Adjudicators, and the Indian Residential Schools Adjudication Secretariat. The National Administration Committee (NAC) was established and is responsible for overseeing the proper implementation and administration of the Settlement Agreement, subject to supervision of the Courts. The NAC is comprised of seven members who are appointed by the parties who signed the Settlement Agreement.

The Oversight Committee is composed of an Independent Chair plus eight other members representing former students, claimants' counsel, churches, and the Government of Canada. The main duties of the Committee are set out in Schedule D of the SA and include:

- the appointment and/or termination of the Chief Adjudicator;
- the appointment, renewal and termination of Adjudicators,
- monitoring the implementation of the IAP, and;
- the approving of expert assessors.

The Chief Adjudicator's principal duties, which are also set out in Schedule D, include:

- assisting in the selection of Adjudicators, advising the Oversight Committee on renewal and termination of Adjudicators;
- assigning Adjudicators to particular cases;
- training Adjudicators; and,
- providing direction to the Secretariat.

The Chief Adjudicator is supported by Deputy Chief Adjudicators, and approximately 100 Adjudicators. Adjudicators preside over hearings and decide, as independent decision-makers, whether a claim is eligible for compensation and, if so, what the compensation will be.

The Indian Residential Schools Adjudication Secretariat does the paper work and support work to make the Independent Assessment Process go smoothly. They:

- receive the claims;
- assesses the claims to see if they are eligible for the process; and,
- work with claimants and their lawyers to prepare claims for a hearing.

The Executive Director of the Secretariat reports to the Chief Adjudicator.

From time to time, the Chief Adjudicator or the Oversight Committee provide further direction on the provisions of the IAP in Chief Adjudicator Directives, Guidance Papers, and Practice Directives. You can access these documents at: <http://www.iap-pei.ca/legal/directives-eng.php>.

2. Legal Counsel

2.1.1. Expectations of Legal Counsel

Claimants in the Indian Residential Schools Independent Assessment Process depend upon seasoned, competent lawyers to successfully pursue their compensation claims and assist with their healing journey.

The Chief Adjudicator has established expectations to provide guidance to claimants on what they can expect from their lawyer, and to lawyers on the appropriate norms of practice in the IAP. These expectations are intended to supplement the specific rules and guidelines of the IAP, as well as Law Society rules and the Canadian Bar Association guidelines for lawyers working on Indian Residential Schools claims. To review the expectations, please refer to: [Expectations of Legal Practice](#).

For most IAP lawyers, these expectations will reflect their existing practice. For others, they will provide useful guidance on the minimum acceptable standard of practice in the IAP. The Court-Appointed Transition Coordinator for Blott & Company claimants, the Honourable Ian H. Pitfield, requires an undertaking to adhere to these expectations as a condition of receiving files from Blott & Company.

In these expectations, “lawyer” includes the employees, associates, and agents of a lawyer, including any form-filling or other agency connected with a lawyer or from whom the lawyer accepts referrals.

Competency

1. Lawyers must ensure they are competent to act prior to accepting clients for IAP claims.
2. Lawyers must restrict their IAP practice to the number of cases they can competently and responsibly take on at any one time.

Initial contact

3. Upon initial contact with the claimant, lawyers must ensure that:
 - a. communications offering legal services to survivors are welcomed and respectful. Lawyers should not initiate contact with individual survivors to solicit them as clients or inquire about whether they were sexually assaulted;
 - b. advertising is respectful, and is not false or misleading, and;
 - c. unconscionable or exploitative means are not used in offering legal services to vulnerable persons, or persons who have suffered a traumatic experience and may not yet have had a chance to recover.
4. Lawyers should not enter into a contingency fee agreement until they have met in person with the client, unless it is not reasonable to do so if the client is remotely located.

Contingency fee agreements between a claimant and a lawyer should:

- a. not be completed by third parties;
- b. be the subject of informed discussion between the lawyer and the claimant before signature by the claimant; and,
- c. provide a copy to the claimant once signed.

5. Lawyers should, when receiving a referral or inquiry:
 - a. make initial contact with the claimant to arrange a meeting within seven days; and,
 - b. meet with the claimant in their home community, or in a mutually agreed upon location, within 60 days of contact or referral.

Working with claimants

6. Lawyers should routinely inform clients, consult with them, obtain instructions, and give them as much control as possible on the direction of their case. When working with claimants, lawyers should:
 - a. explain the process to the claimant in a way that is understandable and helps the claimant prepare for the IAP experience;
 - b. provide realistic expectations of the length of time required to resolve the claim;
 - c. avoid unnecessary delays, particularly for ill or aging claimants;
 - d. recognize claimants' special communication needs, including language barriers, cultural expectations, and limited access to telephone and internet service;
 - e. return calls from claimants within 72 hours of receipt; and
 - f. be prepared to deal with claimants' progressive disclosure of issues related to the claim, and ensure that any new information arising from such disclosure is communicated to the Secretariat and other parties as soon as practicable.
7. Lawyers should facilitate their client's healing process through:
 - a. identifying and providing referrals to appropriate community resources, including counseling resources;
 - b. referring their client to treatment programs, if appropriate;
 - c. recognizing and respecting the need for the client to develop a personal support network;
 - d. cooperating fully with the Adjudication Secretariat to ensure that a health support worker is present at the hearing and any other time the claimant is asked to give evidence;
 - e. making every effort to ensure that their client has an opportunity to meet with the health support worker before their hearing;
 - f. working with their client to ensure that an appropriate future care plan has been developed (where applicable) for presentation at the hearing;
 - g. considering having support people available at other meetings; and
 - h. being aware of available and appropriate referrals in times of crisis.

Hearings

8. Lawyers should obtain the claimant's preference for the location of their hearing and communicate it to the Adjudication Secretariat. Lawyers must be prepared to travel to the hearing location determined by the Secretariat in accordance with the Settlement Agreement. The primary factors in the selection of the location of hearings are economy, convenience and comfort of the claimant, not the convenience of counsel.
9. Lawyers must fully prepare claimants for the hearing. In particular, lawyers should ensure that claimants:

- a. understand the nature and purpose of the hearing, and what will be expected of them;
 - b. have an opportunity to review (with assistance, where required) pertinent documents such as the application form that may be referred to during the hearing;
 - c. have been given the opportunity to request the hearing location of their choice, and are comfortable with the travel and accommodation arrangements made for them;
 - d. are aware of their right to have a traditional or religious ceremony before and/or after their hearing, such as a smudge, prayer, drum, or song;
 - e. are aware of their right to have support persons attend the hearing with them, and that the Adjudication Secretariat will pay for up to two support persons, as well as an Elder or religious person;
 - f. are aware of the health support options available to them, including the opportunity to meet with the health support worker before the hearing;
 - g. are aware of their right to indicate their non-binding preference of whether a representative of the church organization attend their hearing; and
 - h. are asked about any special requirements, such as interpreters, special dietary needs, mobility requirements, or health concerns, and are informed that these needs should be communicated to the Adjudication Secretariat in sufficient time for arrangements to be made.
10. Lawyers must advise the parties, the Adjudicator, and the Adjudication Secretariat of any health issues or security concerns that might obstruct the safe conduct of the hearing.
- a. If an interpreter is required, the lawyer must communicate the need for this service and the language and dialect of the claimant so that the Adjudication Secretariat can arrange for a certified interpreter to be available at the hearing. An interpreter who is not arranged by the Adjudication Secretariat may not be permitted to perform this role at a hearing.

Legal fees

11. Lawyers must:
- a. ensure that all fees and disbursements are clearly communicated to the claimant in a way that is understandable;
 - b. explain the unique rules that govern legal fees in the IAP, including the government’s contribution toward legal fees/disbursements, the right to have legal fees reviewed by an Adjudicator, and the claimant’s responsibility for GST, PST, or HST as applicable;
 - c. release compensation funds to claimants immediately upon receipt, other than legal fees specified in a contingency fee agreement which must remain in a lawyer’s trust account until legal fee ruling is issued;
 - d. pay any remaining compensation funds over and above the approved fees to the claimant immediately upon receipt of the legal fee ruling (or the decision of a reviewing Adjudicator where a review has been sought pursuant to paragraph 19 of the Implementation Orders); and
 - e. withdraw fees from the trust account only once authorized by a legal fee ruling (or the decision of a reviewing Adjudicator where a review has been sought pursuant to paragraph 19 of the Implementation Orders).

12. Lawyers must not:

- a. charge any disbursements to a claimant. The IAP provides that Canada will pay all reasonable and necessary disbursements upon resolution of the claim, and that Adjudicators will resolve any disputes about disbursements; or
- b. withhold any part of the compensation amount payable to the claimant for any purpose, other than legal fees approved by the Adjudicator. The lawyer must not deduct any third party assignments, cash advances, directions to pay, disbursements, costs associated with the management of the file, or anything else, from the amount payable to the claimant.

Financial arrangements

13. Lawyers must not make, recommend, or participate in arrangements:

- a. to advance or loan compensation funds to claimants;
- b. to charge the claimant directly for services normally provided by a lawyer, including but not limited to form filling and document collection; or
- c. to assign or direct any part of a claimant's IAP compensation to a third party.

Form fillers

- 14.1 Lawyers must personally review the application form with the claimant and certify the accuracy of its contents. This applies whether or not the application form was prepared by the lawyer, office staff, or a third party, including a form filler.
- 14.2 If a form filler or form filling agency has a fee agreement with the claimant or makes a claim against the lawyer or the claimant, the lawyer must pay any such claim and must notify the claimant immediately in writing. This applies whether or not the agency or form filler is employed by, on contract with, or a source of referrals for the lawyer.

Changing lawyers

- 15. Lawyers must respect their clients' right to change counsel, and must assist in the orderly transition of the file to new counsel. Legal fees are only collectible at the successful conclusion of the matter.
- 15.1 Lawyers must not:
 - a. contact or harass a claimant who has exercised the right to change counsel;
 - b. attempt to dissuade a claimant from exercising their right to change lawyers;
 - c. state or imply that a client will have to pay duplicate or higher fees for having changed to a new lawyer.
- 15.2 A lawyer who takes over a file from another lawyer must protect the claimant from any claims for legal fees, disbursements, taxes, or otherwise by any previous lawyer. Lawyers must not withdraw legal fees from their trust account until those claims have been resolved.

Other rules and guidelines

- 16. In addition to these expectations, lawyers must comply with rules and guidelines issued by the Chief Adjudicator, the applicable Law Society, and the Canadian Bar Association's guidelines for lawyers working on IRS claims.

Updates

Click [here](#) to view all Legal notice postings and updates.

2.1.2 Withdrawing Representation

In rare circumstances when you must withdraw your representation of a claim, please ensure you are in compliance with the Law Society rules and guidelines of the province or territory in which you practice. If you must withdraw representation, you are required to notify the claimant either personally or by registered mail. A [Notice of Withdrawal of Lawyer form](#) must be submitted to the Chief Adjudicator's Office.

The complete Notice of Withdrawal of Lawyer consists of:

- Notice of Withdrawal of Lawyer
- Counsel Certifications regarding Notice of Withdrawal of Lawyer
 - Certification of Service on the Claimant
 - Certification of Information relating to whereabouts of Claimant
- A copy of the notification sent to the claimant advising of the withdrawal as lawyer
- Proof of registered mail delivery or attempted delivery of the notification to the claimant

Mail the completed form to:

Office of the Chief Adjudicator
Indian Residential Schools Adjudication Secretariat
9th Floor, 2010 – 12th Ave.
Regina, SK S4P 0M3

You are expected to continue to advance the claim until the Notice of Withdrawal of Lawyer is received and deemed sufficient and complete.

If you have questions regarding the withdrawal of representation, please send them to:
LegalChanges.ChangementsJuridiques@irsad-sapi.gc.ca.

2.1.3 Law Firm Changes

If you are approached by a former Residential Schools Survivor to represent their claim, ensure they are not already legally represented in the IAP to avoid **law firm conflicts**. The Secretariat relies on counsel to resolve issues of representation between themselves, and in consultation with the client. If you take over representation of a client with an active IAP claim, you must notify the Secretariat immediately.

Written submission to the Secretariat must include a current confirmation of legal representation and/or a contingency fee agreement, signed by the claimant. Counsel of record will be notified of any changes to their client's representation. When you take over a file from another law firm, you must protect the claimant from claims for legal fees, disbursements, taxes, or otherwise by any previous lawyer. Further information about transfer of the IAP file is found in Section 14 of the Chief Adjudicator's [Expectations of Legal Practice](#).

Please advise the Secretariat if a different lawyer from your firm will be representing the claimant during or after the hearing date. Although this change does not require written confirmation by the claimant, it enables the Secretariat to know which lawyer is handling the file should further inquiries need to be made and for more efficient claim processing.

Send the notice of change of legal representation by mail to:

Indian Residential Schools Adjudication Secretariat
Document Management and Control
PO Box 1575 – Station “B”
Ottawa, ON K1P 0A9

If you have questions regarding legal counsel changes or conflicts, please send them to:
LegalChanges.ChangementsJuridiques@irsad-sapi.gc.ca.

3. Application Stage

3.1.1. IAP Application Form and Deadline

The IAP application deadline passed on September 19, 2012. At this time, there are still some applications where the Secretariat requires additional information to determine claim eligibility.

The IAP Application Form must be completed with details about the school(s) attended, abuse suffered, and the harms resulting from the abuse. The applicant must sign the declaration confirming their agreement to the terms of the process and the truth of the contents of the application. As legal counsel, you are required to sign the application confirming that you have reviewed the contents of the application with your client. The claim cannot be admitted and may be delayed if mandatory information is missing.

It is highly recommended that your client make every effort at the time of completing the application to identify the alleged perpetrators against whom allegations of abuse are being made. Unnecessary delays may occur if the perpetrator is named at the hearing. This applies equally regardless of whether the alleged perpetrator is a former staff member or a former student of the IRS.

If your client wants to add additional information to their claim, please submit it in writing to:

Indian Residential Schools Independent Assessment Process
Suite 3-505, 133 Weber Street North,
Waterloo, Ontario
N2J 3G9

4. Interactive File Management System (IFMS)

The Indian Residential Schools Adjudication Secretariat and Crawford Class Action Services have created The Interactive File Management System (IFMS) in order to facilitate the movement of files through the IAP. IFMS is an online interactive tool designed to enable claimants' counsel and the Secretariat to share pertinent information about the processing of a claim.

IFMS allows you to:

- communicate information between your office and the Secretariat about the status of files in the Case Management Stage;
- provide your availability for hearing dates as well as view your calendar of scheduled hearings and conference calls;
- submit logistical preferences for hearings, and;
- obtain the status of files in the Post-Hearing Stage.

IFMS contains the most current information the Secretariat has on a file in addition to providing a direct interface for communicating in real-time. Throughout this guide we have provided quick links to the IFMS User Manual where there are operations supported by IFMS.

The Secretariat expects you to use this tool in the management of your clients' claims in the IAP. In order to gain access to IFMS, please contact the IFMS Help Desk using the information provided below:

IFMS Help Desk at Crawford Class Action Services

Phone: 1-866-879-4913

e-mail: IFMSHelpDesk@crowco.ca

Click [here](#) to download the IFMS User Guide.

If you wish to access IFMS directly, please use the following link: <http://www.iapedi.ca/>.

5. Admissions Stage

5.1.1 Admissions Unit

The Admissions Unit determines whether applications can be admitted to the IAP. As provided in Schedule D, Appendix II, of the SA (referred to as “Schedule D”) each application is reviewed to determine whether it is complete and whether allegations (should they be proven at a hearing) constitute a claim under the IAP.

5.1.2 Admissions Process

The Settlement Agreement mandate outlines that IRSAS is “responsible for determining whether applications fall within the terms of the IAP” (Schedule D, p. 17). As such, the admissions process ensures that the Secretariat carefully reviews all applications to the IAP and admits claims for resolution in the IAP, using a *prima facie* standard, if they meet the following criteria as set out in Schedule D, which was negotiated by the parties of the SA:

- All mandatory information has been provided;
- The claimant is eligible to submit an IAP claim under the SA;
- The claim contains one or more allegations which, if proven, constitute a “continuing claim”; and,
- A signed declaration has been submitted.

5.1.3 Claimant Priority

Applications are processed according to the following **claimant priorities** as per Schedule D, Appendix IV and XI:

1. **Significant risk/diminished capacity**, applications from claimants providing medical evidence that any delay in hearing their testimony involves a significant risk that they may pass away or lose the capacity to provide testimony;
2. **Failing health**, applications from claimants who submit a doctor's certificate indicating that they are in failing health such that further delay would impair their ability to participate in a hearing;
3. **Age 70+**, applications from claimants 70 years of age and over;
4. **Age 60+**, applications from claimants 60 years of age and over;
5. **Persons who have completed examinations for discovery**; and,
6. **Groups**, claimants who are applying as members of formerly recognized groups.

For all other claimants, the application will be processed in the order the application was received.

At this stage all applications submitted to the IAP are given an IAP file number. Please remember to always include your client's IAP file number and not your client's name in your correspondence to help safeguard your client's privacy.

5.1.4 Primary Admissions Review

Intake and part of the admissions process is done by Crawford Class Action Services. Crawford receives all IAP applications and conducts a **primary review** to determine whether they can be readily admitted. When necessary, Crawford follows up with claimants' counsel to retrieve missing information. The additional information is required within two weeks of the request having been made. Failure to provide the information, or to request additional time to submit will result in the file being referred to the

Secretariat for **secondary review**, unless it is noted that the claimant attended an ineligible school, the claimant settled a claim in litigation or the claimant has not responded to a request for information when they have submitted a blank application to the IAP. In these circumstances, Crawford has the ability to non-admit the claimant's application. Where eligibility requirements are met, Crawford admits the claim, notifies your office, the identified Church entity or entities and the Government of Canada in writing that the claim has been admitted, and then forwards the claim to the Case Management Unit.

5.1.5 Secondary Review

All IAP applications that Crawford does not make a final eligibility determination on are referred to the Admissions Unit for **secondary review**.

Where more information is required at secondary review, the Admissions Unit will request the missing information by notifying you in writing. All requested information is to be provided within 60 calendar days of receiving written notice. If more than 60 calendar days is required, please inform the Admissions Unit as indicated in the letter requesting additional information.

If the Admissions Unit receives the additional information that makes the claim admissible, it will notify your office, the identified church entity or entities, as well as the Government of Canada in writing, then forward the claim to the Case Management Unit.

5.1.6 Decisions to Not Admit

If the claim is ineligible, the Admissions Unit will notify your office in writing. If the Admissions Unit does not hear back from you following its request for more information, the admittance decision will be based on the information received to date and a **non-admit** letter will likely be sent. This letter outlines the reasons for non admittance, the options available to your client and the steps he/she may take to appeal the decision.

Your client has 180 days from the date of the non-admit letter to provide additional information which could make their claim eligible for the IAP. If the Secretariat does not receive a response from you or your client within the 180 days, the non-admit will stand and no further information will be accepted.

5.1.7 Review of Non-Admission Decisions

Upon request, the Chief Adjudicator will **review any final decision to non-admit an application** into the IAP, and may confirm or reverse the admissions decision. If the decision is reversed, the initial and any subsequent applications, or supplementary information, will form part of the Evidentiary Package at the time of the hearing. The Chief Adjudicator will only consider information previously provided to the Secretariat in undertaking an admissions review.

Reviews based on new facts will not be dealt with by the Chief Adjudicator. If your client provides additional information following a non-admit, please send it to the Admissions Unit at: admissions@irsad-sapi.gc.ca. If your client's review package contains new application information, the Chief Adjudicator's office will return it to the Admissions Unit for consideration against the criteria set out in Schedule "D". **The Chief Adjudicator will only consider admissions reviews on the grounds that the Admissions Unit has improperly interpreted the Settlement Agreement in making the decision not to admit the claim.**

5.1.8 Claims Admitted into the IAP

When a claim is admitted into the IAP, Crawford or the Admissions Unit will mail a package to your office that includes the following information:

- **Admit letter:** notification that your client's claim has been admitted and specifies which track the claim has been admitted to, i.e. standard or complex. (See below for a description of standard and complex track for claims).
- **Document checklist:** lists the documents that you need to submit, depending on the harm and loss of opportunity levels that are claimed in the application form.
- **Request for Hearing Form:** for you to complete and submit when submitting your mandatory documents package advising that your client is ready to have their hearing scheduled.
- **Indian Residential Schools Resolution Health Support Program brochure:** information on support programs offered by Health Canada to former students and their families. Please provide this brochure to your client.

Most claims are admitted to the Standard Track of the IAP. However, claims involving Actual Income Loss (AIL) or Other Wrongful Acts (OWA) must be admitted to the Complex Track of the IAP. Information on AIL and/or OWA and Confirmation of Track Form (where the claim could proceed in either the Complex or Standard track) is also provided in the admissions package if the claim is admitted to the Complex track.

5.1.9 Confirming and/or Changing Track

The [Confirmation of Track Form](#), which you may receive along with the letter of admission, asks you to confirm the track in which the claim will continue (some claims may be eligible for more than one track in the IAP). If the Secretariat receives no response from you within 14 days of the admit letter, the claim will continue to the Case Management Stage in the track identified in the admit letter. If a Request for Hearing form is submitted with a change from complex to standard track, a confirmation of withdrawal from the complex track will be required in a track form or cover letter.

5.1.10 Jurisdictional Pre-Hearing Teleconferences

Occasionally questions arise in the Post- Admission Stage with respect to whether a claim falls within the jurisdiction of the IAP. For example, sometimes a release or trial decision is brought to the attention of the Secretariat after a claim has been admitted and raises a genuine question as to whether the claim is admissible. Sometimes there are issues as to whether allegations occurred during the "operating years" of a school. The Secretariat takes the view that an Adjudicator should decide such issues. After a decision to admit has been issued such issues are generally referred to an Adjudicator unless it is clear and unambiguous that the claim was admitted in error. Any party may request a jurisdictional review. The Secretariat will determine if the file should be reviewed by an Adjudicator in advance of a hearing. The Adjudicator may initiate a jurisdictional pre-hearing teleconference if she/he determines it is necessary. It is fundamental that any issue that could prevent a claim from proceeding should be determined as early as possible.

Click [here](#) for more information regarding the process for jurisdictional pre-hearing teleconferences.

To request a jurisdictional pre-hearing teleconference, please contact by e-mail: PH-PA@irsad-sapi.gc.ca.

Or, by mail to:

Request for Jurisdictional Review
Office of the Chief Adjudicator
Indian Residential Schools Adjudication Secretariat
9th Floor, 2010 – 12th Ave.
Regina, SK S4P 0M3

5.1.11 Resident and Non-Resident IAP Claimants

Claimants who lived at the residential School are called Resident Claimants. According to the Settlement Agreement, Resident Claimants may only resolve their Indian Residential School abuse claims in the IAP. Schedule D, Item 3 (a)(i) (page 7) of the Settlement Agreement states that Resident Claimants are “deemed to have released the Defendants for all claims arising from their IRS attendance or experience, subject to retaining the right to resolve within this IAP their continuing claims for IRS abuse”.

Non-Resident Claimants, defined *as all individuals who did not reside at an Indian Residential School who, while under the age of 21, were permitted by an adult employee of an Indian Residential School to be on the premises of an Indian Residential School to take part in authorized school activities prior to December 31, 1997.* (<http://www.iap-pei.ca/legal/directives-eng.php?act=pd-2-sfd-memo-eng.php>). Non-resident Claimants have the option to either resolve their Indian Residential School abuse claims in the IAP or through a formal court process.

If Non-Resident Claimants choose to go through the IAP, they must sign a Schedule P Release prior to a hearing in the IAP. Section 11.02 of the Settlement Agreement requires all Non-Resident Claimants, who wish to proceed in the Independent Assessment Process (IAP), sign a Schedule P Release to ensure that they are covered by the same provisions of the Settlement Agreement as those that apply to Resident Claimant. A Schedule P Release is sent to claimants immediately following admission to the IAP before the claim can move to Case Management. Given the pressing need to move claims through to hearing in a timely manner, the claim will move forward to document collection and scheduling and the signed Schedule P Release can be provided any time prior to the hearing or on the day of the hearing. If your client received funds under the Common Experience Payment (CEP), they may still be asked to sign a Schedule P. The CEP and the IAP are entirely different processes. For reasons of confidentiality, information is not shared between the CEP and the IAP. If you believe that the results of your client’s CEP claim will benefit your client’s IAP application you may provide your client’s CEP results to us. If you decide to provide your client’s CEP results to us we will forward this information to the Defendants and ask if it changes their position on whether a Schedule P Release is required for your client’s IAP file.

A signed copy of the Schedule P Release can be sent by fax to: (604) 666-7068.
The original signed copy of the Release must also be mailed to:

IAP Secretariat
P.O. Box 1575, Stn. “B”
Ottawa, ON K1P 0A9.
For questions, please e-mail: ScheduleP-AnnexeP@irsad-sapi.gc.ca

5.1.12 How to Contact the Admissions Unit

For all admissions related issues or questions, please contact us by e-mail: admissions@irsad-sapi.gc.ca .
Or, by mail to:

Admissions Unit
Indian Residential Schools Adjudication Secretariat
P.O. Box 1575, Stn. "B"
Ottawa, ON K1P 0A9

6. Case Management Stage

6.1.1. Case Management Unit

The Case Management Unit within the Secretariat collects and determines the completeness of documents to ensure that the requirements set out in Schedule D of the Settlement Agreement are met prior to a hearing being scheduled. This role is similar to that of a registry; The Unit ensures that the proper categories of documents are received but the documents are not reviewed for content.

Document submissions are assessed to see if they meet the minimum requirements set out by Schedule D, according to the Harm and Loss levels claimed and not on whether the documentary evidence adequately supports the claim. Submission of your documents is due 175 days from the claim's admission into the IAP.

It is very important that you provide a written explanation for any mandatory documents that you are not able to submit. It will prevent the delay of moving a file from the document management stage to the scheduling of a hearing. The written explanation should address the reason for the absence of the documents and/or describe your attempts to obtain them.

The Case Management Unit uses the Interactive File Management System (IFMS) to communicate with claimant counsel regarding the status of claims. Any questions relating to a claim can be forwarded directly to a Case Officer through [IFMS](#).

6.1.2 Collecting Mandatory Documents

When collecting mandatory documents to support a claim, refer to the [Document Checklist](#) which lists the mandatory documents required for each combination of Harm and Loss of Opportunity levels.

Mandatory document collection can be a lengthy process and is the primary reason that claims are delayed from being hearing ready. The documents required depend on the Harms/Loss levels in your client's claim. Limiting your documentation requests to only those which are pertinent to your client's claim, will help accelerate the process for you, your client and the organizations providing the records. Requested documents that are pending, as well as status updates, are recorded in [IFMS](#).

Suggestions on how to accelerate the mandatory document collection process include:

- ***Records from Correctional Institutions*** are required to prove consequential harms at levels 3, 4 and 5. Not "any and all" corrections records are needed. Key corrections records may include: intake assessment, medical records (including psychiatric), parole hearings, discipline records, and pre-sentencing reports. Records relating to day-to-day actions need not be requested since they do not relate to injuries or harms.
- ***Medical/Treatment records*** are required for consequential harms at levels 3, 4 and 5 and for Loss of Opportunity levels 3, 4 and 5. Medical clinics should send their complete records with the exception of lab reports. Lab reports are admissible in the IAP but are not considered "mandatory". X-rays based on any recent injuries would not be required. Some medical clinics will not have the resources to sort specific documents. In such cases, receiving and submitting a large amount of documentation is expected. All medical/treatment records should be submitted to the Secretariat. The Adjudicator will determine their relevance to the claim.

- **Workers' Compensation records** are only required in order to prove consequential harms at levels 3, 4 and 5 and to prove consequential Loss of Opportunity at levels 2, 3, 4 and 5, but only if the claim is based in whole or in part on a physical injury. The Secretariat has several instances where claimants' counsel are requesting and submitting Workers' Compensation Records for claims at Harm Level 1 and in instances where only sexual abuse is claimed.
- **Missing/Unsubmitted records** require that a statement be provided by claimant/claimant's counsel indicating that the document (Workers' Compensation/Corrections/Education records) will not be submitted because:
 - a) the claimant has never made a Workers' Compensation claim/been incarcerated/attempted secondary or post-secondary schooling;
 - b) the agency/school/etc. has not responded. (Please include all details of the attempts to contact), or;
 - c) the records have been destroyed.

An explanation can be included in either the cover letter of your document package and/or document checklist, sent directly by mail to the Secretariat's Case Officer assigned to the claim, or by using [IFMS](#).

6.1.3 Government of Canada's Role (and Contact with Alleged Perpetrators)

The Government of Canada's role during the document collection stage includes:

- to research and provide records relating to the claimant's attendance at the IRS;
- to research and provide records relating to any named alleged perpetrators and their role at the IRS, dates at the school and any reports on record of sexual or physical abuse allegations concerning the named abuser;
- a report and background information about the IRS (school narrative) including any documents mentioning sexual abuse at that IRS is provided to the Secretariat and forms part of the Evidentiary Package.

For allegations of abuse of one student by another, Canada provides any admissions from witness or alleged perpetrator interviews, or previous ADR or IAP decisions in its possession that are relevant to the claim.

Canada and/or the church organization involved in the operation of the IRS will attempt to locate and contact any alleged perpetrators identified by your client in their application or addendum to the original filed application. Alleged perpetrators are to be heard "as of right" provided the parties are advised in advance of what their evidence will be. Canada has 60 days to advise the alleged perpetrator of the allegations made against them and to ascertain if they will be participating in the IAP process. If the alleged perpetrator intends to participate in the process, he or she must provide a written statement of their anticipated evidence within 75 days of being contacted. The alleged perpetrator will be provided with the specific allegation made against them by your client. No other part of the application form will be provided to them. In order to participate, the alleged perpetrator is required to provide a written statement in advance addressing the allegation(s) made against them. Additionally, Canada will provide a research report to the Secretariat concerning that person's employment or attendance at the relevant IRS.

There may be instances where Canada is unable to provide an alleged perpetrator's statement by the minimum two weeks in advance of your client's hearing. An example of an instance may be when your client's hearing is scheduled on an expedited basis due to health issues. If an alleged abuser is first identified by your client at their hearing, this will result in a delay post-hearing in order to allow Canada the time to locate and contact the alleged abuser (as per the timelines outlined in Schedule D).

Once Canada's research is complete, Canada submits their documents to the Case Management Unit to form part of the Evidentiary Package. The service standard for submission of all documents from Canada to the Secretariat is 135 calendar days from the date your client's IAP Application was admitted into the IAP.

6.1.4 Submitting Mandatory Documents

Mandatory documents can be submitted as soon as you receive them. The Secretariat will keep track of the records they receive for the claims. It is essential to confirm with Case Management when your document submission is complete. Ensuring that mandatory documents are complete and fully inclusive will alleviate the need for post hearing document collection allowing the claim to be resolved more quickly. If you wish to submit supplementary documents which support you client's claim, please submit them at the same time as you submit the mandatory documents. Supplementary documents will be released to the Adjudicator and the parties according to the schedule described in the *Release of Evidentiary Packages* section below.

When submitting a complete document package be sure to include the [Document Checklist](#) with your package detailing all the documents which you are submitting. You may also use a cover letter or similar form utilized by your firm. You must also confirm that your document collection is complete by completing the [Request for Hearing in the Independent Assessment Process form](#). This form serves a number of purposes:

- it declares that your document collection is complete;
- it confirms the priority, track, and Harm and Loss of Opportunity levels (please ensure to verify this information is correct); and,
- it serves as a 'trigger' for the Case Management Unit to begin their assessment of the documents.

For reasons of privacy, do not name more than one client in your cover letters and/or mandatory documents. Where necessary, redact the names, birthdates, Social Insurance number, and any personal information of other clients or uninvolved third parties from your documents and correspondence to safeguard their privacy. If possible, submit your client's Future Care Plan and any witness statements along with the document package. Future Care Plans are not required at the document collection stage and can be submitted post-hearing or with final submissions. A treatment plan should also be submitted when requesting future care. Witness statements are required at least two weeks prior to the hearing date. Early submission helps to ensure that all parties receive documents in a timely manner.

Please be advised that mandatory documents can no longer be submitted by email. Documents can be sent by the following methods:

By EDI to "Document Management"

By mail to:
Indian Residential Schools Adjudication Secretariat
Document Management and Control
PO Box 1575 - Station "B"
Ottawa, ON K1P 0A9

By courier to:
IAP Adjudication Secretariat
Document Management and Control
10 Wellington Street
Gatineau, QC K1A 0H4

Please note that the Secretariat does not consider documents sent by email to have been submitted.

For any assistance with EDI please contact edihelp@crowco.ca.

Do not send any queries or file specific questions to the above addresses. Document Management Control (DMC) only receives mandatory documents and does not answer any inquiries or file related questions. Questions related to document collection should be sent to: CaseManagement-GestionDesCas@irsad-sapi.gc.ca.

Always retain copies of the documents you submit as the Secretariat cannot return original documents. To avoid confusion, do not send your document package more than once and do not submit duplicate records. If you need copies of your client's documents or are unsure whether your document package has been received, contact the Case Management Unit by e-mail: CaseManagement-GestionDesCas@irsad-sapi.gc.ca or directly through the [IFMS](#).

Remember to always include your client's IAP file number and NOT their name in your correspondence to assure the safeguarding of their privacy.

If you are asked to provide further documentation after a pre-hearing conference call or hearing, the documents are to be submitted through the Secretariat's Document Management Unit, as described above, for inclusion in the evidentiary or post-hearing package.

The Secretariat recognizes that there will be instances, due to unforeseen circumstances, when you will have to submit additional documentation after you have sent in the Request for Hearing form. In these cases, contact the Case Management Unit directly to inform us that additional documents will be forthcoming.

6.1.5 Release of Evidentiary Packages

Evidentiary packages containing the complete set of mandatory documents will be distributed **ten working days after the hearing date is set** by the Scheduling Unit.

Documents may become available after the original evidentiary package has been issued to parties. In those cases, a supplementary package containing only those additional documents will be created and distributed to all parties. In order to ensure these documents are included in a revised package, they must be received by the Secretariat, as described above in “*Submitting Mandatory Documents*”, no later than **four weeks prior** to the hearing. After receipt of the supplementary documents, the Case Management Unit will include those in a revised package to be sent to all parties **two weeks prior** to the hearing. If no additional documents are submitted, a revised evidentiary package will not be sent. Any documents that cannot be included in the revised package must be brought and shared between the parties at the hearing and will be included in a post-hearing evidentiary package.

6.1.6 Electronic Document Interchange (EDI)

The [Electronic Document Interchange](#) (EDI) is a secure web-based file transfer system offered by the Secretariat to IAP legal counsel. The EDI is hosted by Crawford Class Action Services and alleviates the need to courier packages to distribute protected information to parties of the Settlement Agreement.

To request an EDI account, please send your proposed EDI user's name (usually a legal assistant), e-mail address, and phone number to: IAPS_Chiefadjudicatorsoffice@irsad-sapi.gc.ca. Also, include a list of all the lawyers in your firm whose EDI packages will be directed to that user.

*Please note that EDI is for document transmission, not document storage. Any package sent to you by EDI must be retrieved and downloaded within 60 days of transmission.

If you require EDI technical assistance, please contact the Crawford EDI Help Desk at 1-877-739-8935.

6.1.7 Expedited Hearing Requests

[Schedule “D”](#) (appendix IV .iv) allows for a hearing to take place before mandatory document submission is complete in circumstances where there is cause to believe that your client risks losing the capacity to provide testimony or may pass away due to diagnosed illnesses. An expedited hearing can be requested using the [Request for Expedited or High Priority Hearing form](#). The form must be completed by a physician and must indicate the urgency of the request. This form can be submitted at the claim application stage or at any time throughout the process should your client’s health diminish. Requests for Expedited Hearings can now be requested through [IFMS](#).

Expedited hearings are offered to claimants where a medical doctor has indicated that prolonging a hearing date could result in a significant risk that the claimant may pass away or lose their capacity to provide testimony. Where this is the case, an expedited hearing is held for the purpose of preserving testimony and claims are still bound by document collection requirements outlined in Schedule D.

High Priority hearings are offered to claimants where a medical doctor has indicated that a claimant’s failing health places them at some risk of passing away or otherwise losing capacity to provide testimony should there be delays in hearing their testimony. High Priority claims are still bound by document requirements as per Schedule D, although they receive priority in hearing date scheduling.

Accelerated hearings may be offered due to the health status or age of a claimant but a decision on the claim cannot be rendered until Canada's research is complete and all mandatory documents have been submitted.

*Please note that evidentiary packages prepared for hearings will only include documents received 2 weeks prior to the scheduled hearing date. Completed packages will be sent post-hearing once all mandatory document requirements are met.

The [Request for Expedited or High Priority Hearing form](#) is the required format for all expedited or high priority requests and replaces any other forms or processes used to request Expedited or High Priority hearings, including requests and forms created by legal counsel, as well as the previously available 'Request for Expedited Hearing' and the 'Request for Expedited Hearing or High Priority Hearing due to Failing Health' forms. Have your client's physician complete the form and submit to the Case Management Unit at: CaseManagement-GestionDesCas@irsad-sapi.gc.ca.

6.1.8 Mandatory Setting Down of Hearings Through the Accelerated Hearing Process (AHP)

As of May 11, 2015 all pre-hearing claims are being set down for hearing dates. The AHP is the procedural tool used to administer the setting down of all hearings.

The Accelerated Hearing Process (AHP) is designed to both preserve testimony and meet efficiencies in scheduling non-hearing ready files. A pre-hearing conference call with an Adjudicator is held to prepare files for a hearing. When scheduled as an AHP, a hearing will be held even though some mandatory documents have not yet been collected. If this happens, document collection will continue after the hearing. Once all of the documents have been collected, final submissions will occur via teleconference. Decisions on AHP claims are written once all the mandatory documents are collected and final submissions are made. Should mandatory documents become available before the hearing date, the claim will move out of the AHP and into the regular hearing stream, and the hearing date will be preserved.

Although AHP hearings may be held before some mandatory documents are available, claims that proceed via AHP are handled with the same level of diligence, thoroughness and fairness as regular claims proceeding in the IAP.

Information regarding the AHP, including a [detailed description](#) of the process and a list of [Frequently Asked Questions](#) (FAQs), are available on the Secretariat's website.

6.1.9 Negotiated Settlements

The IAP allows for claims to be settled through a Negotiated Settlement Process (NSP) between the parties (Canada and the claimant) rather than at a hearing, provided both parties agree to enter the NSP. Requests for an NSP are made and sent to the Government of Canada which reviews the file and contacts claimant counsel directly if Canada is willing to negotiate. **Canada must provide confirmation that the parties are entering into an NSP.** A discussion with a Department of Justice lawyer does not constitute nor confirm that the claim will actually enter the NSP.

To submit a written request of interest to enter the NSP, contact Canada directly by e-mail: For all Atlantic NSP files please contact: NSP.ATL@aandc-aadnc.gc.ca.

For all Ontario NSP files please contact: NSP.ON@aandc-aadnc.gc.ca.

For all Quebec NSP files please contact: NSP.QC@aandc-aadnc.gc.ca.

For all Manitoba NSP files please contact: NSP.MAN@aandc-aadnc.gc.ca.

For all Saskatchewan NSP files please contact: NSP.SASK@aandc-aadnc.gc.ca.

For all NSP files from Alberta, British Columbia, Nunavut, Yukon and North West Territories please contact: NSP_Team@aandc-aadnc.gc.ca.

If the parties agree to enter the NSP, the Secretariat receives notification from Canada's representatives. The Case Management Unit prepares an Evidentiary Package containing all the documentation currently on file submitted by both parties, regardless of whether Schedule D requirements have been met. The package is provided to both parties. While a claim is active in the NSP, the parties are still obliged to continue the collection of mandatory documents. The documents are directly shared between the parties as well as with the Secretariat for record-keeping purposes and in the event that the negotiation is unsuccessful and that a hearing with an Adjudicator will be required. When document collection is complete during the course of the NSP, the Case Management Unit will contact you to offer the option of scheduling a hearing. **If the negotiation process is discontinued, the claim returns to the adjudication process.**

6.1.10 How to Contact the Case Management Unit

For all mandatory document related issues or questions, please contact us by e-mail:

CaseManagement-GestionDesCas@irsad-sapi.gc.ca or directly through [IFMS](#).

7. Scheduling Stage

7.1.1 Scheduling Unit

The Scheduling Unit is responsible for scheduling hearing dates in consultation with the parties. The Scheduling Unit will set a hearing date based on the information provided within the original application form or the [Request for Hearing form](#) that was completed by your client. Schedulers assign an Adjudicator and a hearing date based on your client's preferences and your mutual availability.

7.1.2 Legal Counsel Availability

You are expected to provide and regularly update your availability for hearings through the IFMS [Booking and Availability Tool](#). The tool offers access to real-time updates for availability and scheduled hearings in a convenient calendar format. All scheduled hearings and pre hearing teleconferences are displayed in your IFMS calendar. For specific directions on providing availability in the [Booking and Availability Tool](#).

The Scheduling Unit makes every attempt to ensure that hearings are scheduled in a timely manner while maximizing resources. As a result, we will attempt to schedule two or more consecutive hearings in a single location. The more accurate the information is regarding your availability, the more efficiently the Secretariat can schedule your clients' hearings. Failure to update availability regularly can result in the unnecessary postponement and delaying of hearings.

7.1.3 Claimant's Preferences

We make every effort to accommodate claimant preferences as provided on the [Request for Hearing form](#). Please provide any preferences for location, gender of adjudicator and availability. It is also essential that you advise the Secretariat of any health, mobility issues, or special requirements your client may have that would impact their travel or participation at the hearing. For best results, gather your client's hearing preferences directly from them. Please provide individual preferences (separate forms) for each of your client's to ensure their specific needs are addressed when planning the hearing.

The more flexibility your client has regarding the location of the hearing or the gender of the Adjudicator, the more readily a hearing can be scheduled. The [Request for Hearing form](#) asks for your claimant's preferences of the city or community for a hearing location. While we make every effort to accommodate claimant preferences, the Scheduling Unit may propose an alternate location to maximize resources or shorten the time to hearing. If your client indicates a preference for an earlier hearing rather than a particular location please indicate this on the [Request for Hearing form](#). If your client does not indicate a gender preference we will assign the first available Adjudicator. If you are requesting a hearing in a province/territory other than the claimant's province/territory of residence, you will be required to provide a justification. Such requests require approval of a Deputy Chief Adjudicator.

Please note that it is the responsibility of the Adjudicator to ensure a safe environment for all parties involved in the hearing. They may decide to have a Health Support Worker available at the hearing even if not requested by the claimant.

7.1.4 Scheduling Standard Track Files

Once the Secretariat determines that your client's Standard Track file is hearing-ready, the Scheduling Unit will contact you within 30 days to offer a hearing date based on your client's preferences. The hearing date offered will be no less than eight weeks in advance, allowing time for the Secretariat to prepare hearing logistics except in such cases of expedited or accelerated hearings.

7.1.5 Scheduling Complex Track Files

Complex track files require a pre-hearing conference call before a hearing date can be set. The pre-hearing call is held to determine whether the file is ready for a hearing in the Complex Track or if more information is required, such as:

- additional supporting documentation;
- research from Canada; and,
- witness statements.

A pre-hearing conference call will be scheduled no less than six weeks in advance allowing time for the parties to prepare. At the conclusion of the call the Adjudicator will notify the Secretariat if additional documentation or other information is required before the claim can proceed. The Case Management Unit will monitor the file to ensure it proceeds to a hearing without subsequent delays. All documents requested on the conference call should be submitted in one complete package.

If the parties agree during the conference call that the file is hearing ready, they will select a mutually agreed upon hearing date, and the Adjudicator will advise the Scheduling Unit. The hearing date can be no less than eight weeks from the date of the conference call to allow time for logistical arrangements. If, during the call, the file reverts to the Standard Track, the parties may still proceed with setting a hearing date but the date that is no later than eight weeks from the date of the conference call.

7.1.6 Scheduling Expedited Hearings

Where a request has been approved by the Secretariat, expedited hearings are scheduled within two weeks of receipt of the request. The hearing date offered will not be less than three weeks from the scheduling date to allow time for logistical arrangements. If your client's health is deteriorating rapidly, urgent arrangements can be made. Please advise the Secretariat as soon as possible.

7.1.7 Alleged Perpetrator Hearings

Alleged perpetrator hearings, although set at the same time as claimant hearings; occur approximately six weeks after the claimant's hearing date. If allegations against alleged perpetrators are withdrawn at the hearing, the Adjudicator will notify the Secretariat and the hearing for the alleged perpetrator is cancelled. When a new alleged perpetrator is named at the hearing, a hearing for that individual could be required if they choose to participate. The Scheduling Unit will advise you of the hearing date for the new alleged perpetrator once Canada's research is completed. The date offered will be no less than six weeks from receipt of Canada's research.

7.1.8 Changes to the Hearing Date

Once a hearing date has been set, you will receive a Hearing Set Notification advising you of the date, time, and location of your client's hearing. Please confirm the Hearing Set Notification details with your client and advise Scheduling by e-mail to: IAPS_Schedulers@irsad-sapi.gc.ca of any changes that are required.

If the assigned hearing date is not convenient for you or your client, please notify the scheduler within ten calendar days of receipt of the Hearing Set Notification. When requesting a change to the hearing date, you are required to provide a minimum of three alternate dates eight weeks or more in advance. All other changes to time or location will be considered up until six weeks prior to hearing date. Once the Secretariat has sent the Notice of Hearing to all parties, no changes to location can be made unless there are extenuating circumstances.

7.1.9 Postponing or Cancelling a Hearing

Hearing postponements are to be avoided. The Secretariat understands that sometimes postponements are unavoidable; however, postponing a hearing, particularly when it is close to the hearing date cause both delays for claimants and wasted resources.

Once the hearing date is set, postponing a hearing should be restricted to cases where your client is unable to participate because of illness, family emergency or other similar cause, inclement weather, epidemic concerns, or if you have lost contact with your client. In all cases, the permission of the Adjudicator is required to postpone a hearing. Postponements that are deemed unnecessary by an Adjudicator may be subject to penalties. Hearing cancellations due to the withdrawal of the claim, the claim entering the negotiated settlement process, or the claimant passing away should be reported to the Secretariat by e-mail as soon as possible to: IAPS_Schedulers@irsad-sapi.gc.ca.

For additional information please refer to the [postponement or cancelling of hearings](#).

Hearings involving alleged perpetrators may only be cancelled when:

- the alleged perpetrator has provided written notice that he or she is no longer participating;
- where the allegations have been withdrawn by your client, or;
- where the alleged perpetrator has passed away.

Rescheduling a hearing for an alleged perpetrator follows the same process as a claimant hearing.

Witness hearings may be cancelled where the witness is no longer participating, or postponed if your client's hearing has also been postponed.

To request a postponement contact the Registry Officer at:
Postponement.Reporter@irsad-sapi.gc.ca

7.1.10 Hearing Substitutions

The IAP Oversight Committee has approved a policy on claimant hearing substitutions, a process where cancelled or postponed hearing dates might be used by another claimant. This policy will help preserve claimants' testimony, reduce the number of lost hearing dates, and reduce the likelihood of an Adjudicator directing claimant counsel to pay costs associated with a postponement or cancellation. Substitutions can be made provided it is still two weeks or more before the hearing.

Criteria for proposed substitution claimants:

- Case is in the Standard track, is hearing ready and not already scheduled for a hearing;
- Case is represented by the same law firm;
- Claimant has no Adjudicator gender preference, or their preference matches the gender of the scheduled Adjudicator;
- Your firm is able to receive the Evidentiary Package through the Secretariat's Electronic Document Interchange (EDI) system;
- No Interpreter is required, or you have made arrangements for an interpreter that is approved by and will be paid directly by the Secretariat;
- There are no flights or other complex travel requirements, or Claimant Counsel is willing to make travel arrangements subject to pre-approval by the Secretariat.

For additional information, please refer to the [Substitution Policy](#).

7.1.11 How to Contact the Scheduling Unit

For all scheduling related issues or questions, please contact us by e-mail: IAPS_Schedulers@irsad-sapi.gc.ca.

8. Hearings Management Stage

8.1.1 Hearings Management Unit

Once a hearing date has been set and the parties notified, the Hearings Management Unit coordinates the logistical arrangements for the hearing. The file is assigned to a Hearings Management Officer who is the primary contact on all matters relating to travel, hospitality, and supports such as Elders. If required Hearings Management will arrange for a language interpreter to attend the hearing. Locating an available interpreter for different dialects can be challenging so we ask that you provide the Secretariat with eight weeks notice prior to the hearing date if an interpreter will be needed.

As counsel, you are required to make your own, pre-approved travel arrangements and the Hearings Management Officer will provide you with a travel expense form for reimbursement. Please be mindful of the [Travel Directive](#) when making your arrangements, as the most cost effective travel arrangements should be selected. For example, hotels are reimbursed using the government rate. If you are unsure what you will be reimbursed for, please contact the Hearings Management Officer assigned to your claimant's file.

A completed [Logistics Request form](#) is required by our office a minimum of eight weeks prior to the hearing date. The [Logistics Request form](#) is used to make the arrangements for the hearing event and related travel. *** **Logistics forms are to be submitted electronically through the IFMS [Booking and Availability Tool Calendar](#).** In order to avoid delays, ensure the information is completed accurately and includes sufficient detail to meet your client's individual needs for their hearing.

Once the arrangements are completed, you will receive mail confirming the logistical details. This information should be reviewed within three days to confirm that all requirements have been addressed. When an Elder is requested, please ensure that you include information regarding any prayer or ceremony to take place at the hearing, so that our office can ensure the Elder is prepared and able to provide that service.

8.1.2 Church Participation at the Hearing

You will be asked if your client has any objection to having a representative of the church organization who operated the school attend their hearing to respectfully listen to their experience in residential school. As a party to the process, the Churches have the right to participate in the hearing.

The **Anglican, Presbyterian and United Churches** would like to send a representative to your client's hearing to respectfully listen to their experience in residential school, to acknowledge responsibility of the church's role in the residential school system, and to offer an apology. The representative is not attending as the church's legal counsel.

The Protestant Churches wish to be present in the spirit of healing and reconciliation. The churches believe that accepting responsibility for the harm that has been done is the first step towards healing and reconciliation. The participation of its representatives generally adds very positively to the hearing. It is important to remember that the churches are parties to the process. While church representatives will normally accept a request to not attend, as a party to the process, the church has a right to be a participant in the hearing.

8.1.3 Meeting Rooms

Hearings are often booked in hotels, community centres, designated hearing rooms (Winnipeg and Vancouver) or other available meeting spaces. Where a request is made to hold an IAP hearing in a law firm's boardroom, the Hearings Management Unit will attempt to accommodate that request. The Secretariat does not pay the law firm a fee for the use of its boardroom. A hotel suite is not considered an appropriate place to hold a hearing. If you have a specific request or concern regarding the hearing venue to be booked, please indicate this on the [Logistics Request form](#). Changes after the Notice of Hearing is sent out are difficult to accommodate, and may not be an option.

8.1.4 Hospitality

Every effort is made to ensure that healthy and appropriate light refreshments are provided for a hearing. Hospitality is not meant to replace or provide a regular breakfast or lunch, but to provide light refreshment during the hearing for the claimant and other participants. Items generally provided include coffee, tea, juice, and a variety of baked goods with a focus on having a healthy option, where available. Because of the broad scope of communities we host hearings in, and the associated limitations we sometimes encounter with bookings, we cannot guarantee the same variety of refreshments at each hearing.

If there is an attendee who has specific dietary requirements such as diabetes or food allergies, we ask that the information be shared with us on the [Logistics Request form](#), and we will do our best to accommodate. However, we also recommend that you advise them to bring any required food/snack that they would have on a daily basis to ensure that their medical needs are met. Feel free to discuss this with the Hearings Management Officer assigned to the file.

When a hearing is held in the boardroom of a law firm, the Secretariat will only reimburse for the cost of refreshments, not the cost to prepare or provide the service or for room set up fees. We can only reimburse up to the cost of the current treasury board hospitality per person rate for breakfast. Please provide original receipts with your invoice on company letterhead requesting reimbursement, showing the breakdown of food/beverages provided. Please also attach receipts to your invoice if you purchased food from a third party source such as grocery store or restaurant. The receipts must be original or certified true copies. Copies or faxed receipts will not be accepted. Hospitality will not be provided by the Secretariat for any type of medical or expert assessment. As noted above, in cases where there are dietary requirements for the claimant, it is their responsibility to supply those items. If break times will be required during an assessment, please communicate this directly with the assessor prior to the appointment.

8.1.5 Elders

If your client wishes to have an Elder present at the hearing, please ensure this is indicated on the [Logistics Request form](#). Claimants should be encouraged to identify an Elder of their choice. If the claimant prefers that the Secretariat arrange for an Elder, please provide details of the tribal affiliation, dialect, or cultural background requested.

8.1.6 Support Persons

Claimants are eligible to have up to two support people attend the hearing and their travel paid so long as it's in accordance with the [Travel Directive](#) policy.

8.1.7 Opening Ceremony for a Hearing

If your client wishes to have the hearing beginning with a prayer, the room blessed or cleansed, or have a traditional ceremony, please ensure that you've indicated this on the [Logistics Request form](#). If an Eagle Feather is desired, you or your client must provide it. It is important that you indicate the language preference and type of ceremony so that appropriate arrangements can be made.

8.1.8 Interpreters

If an interpreter is required, please ensure that the requirement is now included on the Request for Hearing form as it is no longer to be sent on the [Logistics Request form](#). It is imperative that you provide the language as well as the dialect and/or First Nations community background. Because of the nature of disclosure, interpreters must not be directly related to the claimant. A roster of interpreter names is maintained by Hearings Management as interpreters are arranged by that unit. It is the responsibility of legal counsel to ensure that proper steps are taken in order to ensure there is no conflict of interest, and to ensure that the dialect of the interpreter is a match for your claimant. Legal counsel will be contacted by the Interpreter Liaison to discuss these steps. Hearings Management arranges the interpreter payment and their travel coverage. The Interpreter Liaison can be contacted by e-mail at: Interpretation@irsad-sapi.gc.ca.

8.1.9 IRS Resolution Health Support Program

Health support services are available to your client. The IRS Resolution Health Support Program is delivered through regional agreements with Aboriginal organizations. Health Support Workers provide emotional and wellness support services to former students who are resolving a claim through the IAP and to their family members. Most Health Support Workers are Aboriginal and they are available during all stages of the IAP to support claimants to prepare emotionally for a hearing. Claimants are often unaware or unprepared for the impact of testifying prior to, during and following the hearing. Health Support Workers can be of considerable assistance. Before the hearing, it is a good practice to encourage your client to take advantage of the services provided by Health Support Workers.

The objectives of the IRS Resolution Health Support Program are to ensure that your client and their family have access to emotional health and wellness support services to safely address issues related to the disclosure of childhood abuse(s). The services provided by the IRS Resolution Health Support Program include:

- professional counseling provided by Health Canada registered service providers;
- cultural support provided by Elders; and,
- emotional support provided by Resolution Health Support Workers during all phases of the IRS Settlement Agreement.

The Adjudicator is responsible for ensuring that the hearing is safe for all parties involved. This may require a Resolution Health Support worker to attend the hearing even if the claimant has indicated that emotional support is not required. It is important to note that hearings have been adjourned when claimants could not proceed because of the lack of support that a Resolution Health Support Worker could have provided. If there are any concerns of safety that could pose a potential risk to any of the hearing attendees, please advise us at your earliest possible convenience or on the Logistics form so that we may take precaution to mitigate potential risks ensuring the safety and well being of all.

IRS Resolution Health Support Program contact information:

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

Please indicate on the [Logistics Request form](#) if your client is comfortable releasing his or her contact information to a Health Support Worker. The support worker may contact them before the hearing to help them prepare for the emotional impact. Early communication may also avoid potential conflicts of interest between claimants and support workers.

8.1.10 Allowable Travel Costs

The Settlement Agreement considers that travel costs should be reimbursed for claimants that are successful. Currently, the approach being used by the Secretariat is broader than the Settlement Agreement obligation. The Secretariat often reimburses travel costs before the claims are resolved. To do so, the Secretariat must apply the Treasury Board policy rather than the “reasonable and necessary” language regarding out of pocket expenses found in the Settlement Agreement.

Although the current approach is more advantageous to travelers than what is required by the Settlement Agreement, it does require that all travel be pre-approved. Treasury Board Policy is the reason why you may occasionally be denied items that may appear to be “necessary” or “reasonable”. In such cases, you may claim those costs as a disbursement at the end of the process, though approval cannot be guaranteed.

The [Travel Directive](#) indicates that transportation shall be based on cost, duration, convenience, safety and practicality. The Secretariat attempts to accommodate claimant preferences for mode of travel and often receives requests to drive long distances by private vehicle rather than fly. In many cases, air travel would be the most economical method; however, if the traveler still chooses to drive, the travel amount the Secretariat will authorize would be based on the amount incurred if travelling by air. Sometimes it is more cost effective to drive than fly, particularly where there are two or more travelers driving long distances together. In this case, all the mileage should be reimbursed. There may also be extenuating circumstances that would prohibit a traveler from flying. As an example, medical conditions like ear ailments may restrict a traveler from flying.

For flights, the Secretariat reimburses economy air fare costs according to the requirements set out by [Travel Directive](#). Please note that Air Canada considers Latitude fares as above economy and only the amount indicated in the Travel Directive will be reimbursed. As the volume of hearings increases, the Secretariat is looking at ways of achieving a higher level of consistency in how travel claims are prepared and paid.

You will receive a travel expense claim form from a Hearings Management Officer prior to the hearing for each person for whom travel arrangements have been made, or who are eligible for reimbursement of travel related costs. Contact the Hearing Management Officer immediately if there is a traveler for whom you did not receive a travel expense claim form. Counsel must also complete a separate travel expense claim form if reimbursement is sought.

All travel for hearings in the IAP is arranged and paid for according to the Government of Canada’s guidelines for travel found on the federal government [Travel Directive](#). These guidelines ensure that payment for travel is fair, consistent, and reasonable. If you have any questions about the reimbursement for travel, please be sure to direct them to your Hearing Management Officer.

Please note that expenses will only be paid or reimbursed if they are pre-approved. An e-mail will be sent containing information on the travel logistics that have been arranged for authorized participants at each hearing. Please review the arrangements and ensure that they meet the needs for the hearing. Any changes must be made within three business days of receipt of the travel logistics e-mail. The following chart shows the **allowable travel costs** that the Secretariat can pre-pay and the costs which can be reimbursed after the hearing.

Pre-paid by the Secretariat* (where possible)	Reimbursed after the hearing
<ul style="list-style-type: none"> • Airline tickets; • Bus and train tickets; • Hotel rooms, if possible; and, • Hotel parking, if possible. <p>* Receipts are required for airline tickets, bus, train, ferry, rental car, hotel parking if the costs are not prepaid by the Secretariat.</p> <p>* Meal allowance where available may be arranged for all hearing attendees with the exception of legal counsel.</p>	<ul style="list-style-type: none"> • Per-kilometer rate for driving your own vehicle**; when approved rental car, where pre-approved and no other option exists (in city taxi should be used); • Parking, with original receipts; • Taxi fares and ferries, with receipts; • \$50 per night if you stay with a friend or family member, if you need to stay overnight and choose not to stay in a hotel (no receipts are required but private accommodation should be noted in travel expense claim form); • Meal allowance** All claims for reimbursement for meals must be supported by a receipt. If breakfast is included with your hotel, and the food is not suitable for medical reasons, you must submit a receipt for your breakfast and provide a justification for not using the breakfast services (diabetic, missed it, unhealthy, etc.). • Daily incidental allowance; • and, anything listed in the left column, if the Secretariat cannot arrange to pay for it in advance. Your office will be notified in advance if this is the case. <p>** Indicates that an advance may be provided to cover these costs. Advances are provided at 75% of estimated costs.</p>

8.1.11 Pre-Hearing Meetings

Claimants who meet with legal counsel prior to the hearing have reported that they feel better prepared and more comfortable than those claimants who did not. If requested, efforts will be made to allow

travelers to arrive in the hearing city by noon the day prior to the hearing to allow for a pre-hearing meeting. Pre-hearing meetings must occur in the same community/city as the scheduled hearing. Pre-hearing meetings should be scheduled later in the day to reduce extended travel needs (extra days of travel) for claimants and support persons, and allow for travel time between flight arrivals and travel to the pre-hearing location. Legal counsel must indicate this need on the [Logistics Request form](#) along with the scheduled meeting time. There will be situations where arrival by noon is not possible, in which case approval to arrive one day earlier may be obtained. The Secretariat will not be responsible to book, pre-pay, or reimburse meeting rooms for pre-hearing meetings.

All pre-hearing participants and their travel requirements should be clearly identified on the logistics forms for authorization and pre-approval of travel expenses. Please note that the pre-hearing meeting is intended for the claimant and legal counsel to prepare for the hearing. If a support person is required, please provide the justification on the logistics form when it is submitted.

Interpreter and Elder honoraria are not covered for pre-hearing meetings. If an interpreter is deemed necessary, legal counsel will be responsible to cover the costs of the honoraria which can be used as a disbursement if Canada deems this to be a reasonable and necessary charge.

8.1.12 Accommodations

The standard for accommodation is a single room, in a safe environment, conveniently located and comfortably equipped. Hotel costs will be reimbursed at the rates indicated for a single room on the [PWGSC accommodations directory](#).

*Please note you are only eligible to be reimbursed up to the maximum rate of the city where the accommodations are required, and that the Secretariat will only reimburse you up to that amount.

8.1.13 Travel Advances

Your client can request a travel advance to pay for costs such as mileage for driving their own car and meals provided that the calculated advance amount meets or exceeds \$100. When requesting the travel advance for your client, please include the full names and addresses of the travelers. **All requests for advances are to be submitted with the [Logistics Request form](#) which should always be submitted no less than six weeks prior to the hearing date.** Requests received after the six week deadline are less likely to be granted due to insufficient processing and mailing time. It is a common practice to advance approximately 75% of the estimated mileage. If you would like a recommendation on the amount to advance, please discuss the matter with the Hearings Management Officer assigned to the file. Your client is required to send us their receipts and travel expense claim form following the hearing as outlined in the allowable travel costs charts above. Please note that a travel expense claim form is still required to be returned back to our office even when an advance has been issued so we may reimburse the remaining funds to the claimant. **Only the claimant is eligible for an advance.** However, we will, where possible, make travel arrangements and prepay airfare, hotel and meals for support persons, including Elders, interpreters and witnesses and pay for additional necessary costs such as taxis if they submit receipts. You may also choose to advance funds from your office for travelers.

Please do **NOT** advance the honoraria payment for Elder or interpreter services. Canada Revenue Agency automatically issues tax documents to an Elder or interpreter once they receive in excess of \$1000.00 from honoraria payments. If honoraria payments are advanced for four hearings and a request for reimbursement is made, the income becomes taxable.

8.1.14 Claimants who Reside Outside of Canada

The costs associated for your client and their support people to travel to Canada for a hearing will be paid for by the Secretariat as per the allowable travel cost chart above. Please ensure that all travelers have the required documentation to enter Canada. It is possible to accommodate claimants who reside outside of Canada and want a hearing in another country. The same rules and regulations apply to these claimants in terms of travel and supports persons allowed.

8.1.15 Notice of Hearing

The Notice of Hearing which contains the date, time and location of the hearing, will be sent to each of the parties five weeks before the hearing date. In the case of Expedited files, the notification period may be shortened due to the urgency of the request. The Notice of Hearing will be followed up by an e-mail outlining the travel arrangements. Travel information is usually sent two weeks in advance of a non-expedited hearing.

8.1.16 Changes to Travel Arrangements

Changes to completed travel arrangements are to be avoided wherever possible. **Making changes to your client's or your travel arrangements may delay your client's hearing.** Changing the arrangements for one hearing can impact other hearings. Due to these difficulties the Adjudication Secretariat may not be able to accommodate requests for changes. If you need to make changes, submit a change request through the IFMS Booking and Availability Tool Calendar. Changes submitted through the [Booking and Availability Tool](#) will be forwarded to the Hearing Management Officer for consideration. Changes include:

- the names of the people travelling (a new travel expense claim will be created);
- the mode of travel (for example, driving, taking a bus or flight);
- the date of travel; and,
- whether your client and their support(s) need to stay overnight.

It is important to ensure that the information provided on the logistics forms is complete and accurate. Last minute travel changes, such as canceled flights or accommodations, could incur large costs.

8.1.17 Emergencies While Travelling

The Secretariat cannot accommodate changes any more than three business days after your office has been sent the travel logistics e-mail, except in extenuating circumstances. If the changes are not pre-approved before the hearing, these costs cannot be reimbursed by the Secretariat and can be claimed as disbursements after a decision has been rendered.

If your client misses the scheduled travel arrangements, cannot travel because of weather or other emergency, or requires assistance while traveling you must contact the Hearings Management Officer assigned to the hearing immediately via telephone or e-mail.

If your client requires emergency assistance after hours, please provide them with the Hearings Management after hours emergency number: **1- 306-530-8134**. Although the first point of contact for represented claimants is their legal counsel, this number should be used when the claimant is unable to contact their legal counsel.

8.1.18 Submitting Travel Expense Claim Forms

Following the hearing, all approved travelers must **submit a travel expense claim** along with original receipts. It is recommended that legal counsel assist their client and other travelers complete their expense claims after travel to ensure that all required areas are completed correctly and that the document has been signed. We require original signed documents. The claims must be submitted within **30 calendar days** of the hearing. If travelers didn't attend or are not submitting any claims for reimbursement, please let us know so that we may close their file.

*Please note that for Elder/interpreter honoraria, their Social Insurance Number **IS REQUIRED** for payment. Please ensure it is included on the honorarium form before submitting the document for payment.

Please submit all travel expense claims related to a hearing together. Submitting separate travel claims will delay payments. Once the Hearings Management Unit receives the travel claims, and verifies their accuracy to determine that no other information is required, a cheque will be issued within four to six weeks.

When preparing a travel expense claim:

- Attach the original receipts to the claim. Photocopies or faxes will **not** be accepted, original or certified true copies are required;
- Complete a declaration of any receipts that have been lost or misplaced including a detailed description of the charges incurred. Please note that duplicate hotel receipts can be obtained from the hotel;
- Provide a written note, if there were any changes, explaining the change required (some changes may not be reimbursed and could be claimed as disbursements);
- Provide as much detail as possible to avoid delays in payment;
- Submit all claims related to each hearing as a package, rather than separately;
- Include a mailing address; and,
- Ensure that the claim is signed by the appropriate traveler. The complete claim, and the amount advanced by legal counsel if applicable, needs to be signed in order for the claim to be processed. Claims received without a signature will be returned by mail causing a delay in payment.

If counsel advances funds or pays any expenses for travelers complete the direction to pay section on the appropriate travelers' forms. Please ensure the form includes the amount of their reimbursement and the name of the person to whom the advance should be reimbursed. Both the traveler and the person who advanced the fund must sign the form.

If you would like your travel expense cheque made payable to your firm, please ensure the 'direction to pay' section is completed on your travel claim.

If you have any questions about how to fill out your Travel Claim Form, contact the Hearings Management Officer. Send your completed Travel Claim Form, with all receipts by mail to:

Hearings Management – Travel
Indian Residential Schools Adjudication Secretariat
9th Floor, 2010 – 12th Ave.

Regina, SK S4P 0M3

8.1.19 How to Contact the Hearings Management Unit

For all hearing logistics related issues or questions, please contact us by e-mail:

IAPHearingMgmtSec@irsad-sapi.gc.ca

9. Hearing Stage

9.1.1 The Adjudicator

Each Adjudicator is an independent decision-maker who presides over the hearing. The IAP uses an inquisitorial model. This means that the Adjudicator asks all of the questions at the hearing. **The Adjudicator does not conduct an investigation and does not work for the government.** The Adjudicator reviews all the information provided to him or her and explores any discrepancies or missing information, asking questions of the claimant and other witnesses in order to understand the circumstances. The Adjudicator also examines the testimony of the claimant to determine credibility and reliability. The Adjudicator may not bring witnesses or submit evidence, but may ask for treatment reports or an expert assessment in certain situations. After the hearing, additional documents, reports or assessments may be required. Once they have all been submitted and reviewed, and final submissions have been made, the Adjudicator writes the decision.

9.1.2 The Hearing

The hearing is conducted in a claimant-centered approach meaning your client's needs are addressed to the best of our ability. Claimants are treated respectfully, in an environment that is fair, impartial and neutral. Standard track hearings are typically scheduled for one day while Complex track are typically scheduled for two days. Hearings are closed to the public and only the claimant, their support person(s), an interpreter (if requested), claimant's counsel, the Adjudicator, the government of Canada's representative, and a health support worker may attend. A representative of the church organization who was involved in the operation of the residential school has a right to participate in the hearing; however, some church organizations attend only at the request of the claimant. The church may wish to attend the hearing to respectfully bear witness to the evidence and/or provide pastoral support. Your client can indicate a preference that a church representative not be present, which will be taken into consideration by the church representative.

Depending on the situation, an elder or religious or spiritual support person, if requested, can open the hearing with a ceremony or prayer, can remain in the hearing if requested by the claimant.

The Adjudicator starts the hearing by describing the process and what will happen during the hearing. The Adjudicator will also ask all the hearing participants to sign a Confidentiality Form. Your client will then begin to tell the Adjudicator about their residential school experience in their own words. This will be done while under oath or under other acceptable attestation.

If you feel that your client needs to stop the hearing for a break at any time, please advise the Adjudicator. At the end of the hearing, your client should provide their current address to the Adjudicator in order to ensure all correspondence with the claimant is sent to the proper address.

The Indian Residential Schools Adjudication Secretariat has released a new video called *Telling Your Story* to help claimants prepare for their hearing in the IAP. *Telling Your Story* provides claimants in the IAP with information about what to expect at their IAP hearing. This video is intended to help your client prepare for their hearing, and reduce the anxiety they may feel before their hearing. The video explains the rights that claimants have under the IAP, and discusses the roles and responsibilities of participants at the hearing, and all parties to Settlement Agreement.

The 17 minute English video was produced by BearPaw Communications, an affiliate of Native Counseling Services of Alberta. A 20 minute French version of the video was produced by Forest Communications, an Aboriginal owned company. The videos are available on the [IRSAS YouTube channels](#). Copies of the videos are also being distributed on DVD so that they are accessible to claimants who live in remote communities with no Internet access. The videos also contain a closed caption option.

The DVD includes a [14 page booklet](#) that provides an overview to the IAP, and information about various aspects of the Independent Assessment Process. To order copies of the DVD for your clients, please contact Crawford by e-mail: IAP_Crawford@irsad-sapi.gc.ca or by phone: 1-877-635-2648.

9.1.3 Caucus

Cross-examination of your client or witnesses is not permitted during the hearing. **The Adjudicator is the only person who can ask questions.** The Adjudicator will ensure there are regular breaks to allow each of the parties to caucus with the Adjudicator to suggest questions or specific areas they believe need to be more closely examined by the Adjudicator. The Adjudicator has the discretion of accepting the suggestions unless he or she decides they are not relevant to your client's claim.

9.1.4 Newly Named Alleged Abusers at the Hearing

If your client reveals additional allegations against a newly named alleged abuser at the hearing, the hearing will be adjourned in order for the Government of Canada to conduct its research. A Summary of Allegations will be submitted by the Adjudicator.

9.1.5 Witnesses

The claimant, the Government of Canada, or the church organization may bring witnesses to the hearing to speak about what they saw and heard. However, parties who wish to have a witness speak at the hearing must give a written witness statement to the other parties and the Adjudicator at least two weeks prior to the hearing.

9.1.6 Future Care Plan

Where a claim has been made for future care, the Adjudicator will consider whether to award additional compensation within and according to the criteria in the Compensation Rules. Relevant factors here will include the impacts of the proven abuse on the individual; any treatment already received for those impacts; the availability of treatment in the claimant's home community and the need for assistance with travel costs; and the availability of alternative sources of funding for parts of the plan.

No award for future care shall be made unless the Adjudicator is satisfied that the claimant has a need for treatment of the kind proposed, and a genuine desire to use the funding for that purpose. In most cases, this will be evidenced by a treatment plan and an articulated and credible determination to follow that plan.

9.1.7 End of Hearing

Once everyone has spoken and answered the Adjudicator's questions, the Adjudicator will close this phase of the hearing. Hearing attendees are often invited to make closing comments to the claimant to thank them for participating in the hearing. Your client should be prepared to advise the Adjudicator if they would like an apology letter to accompany the compensation package.

You should also be prepared to provide the Adjudicator with a copy of a signed retainer or contingency fee agreement between yourself and your client so that the Adjudicator can complete a legal fee ruling. Please inform the Adjudicator if your client's address has changed. The Secretariat will need to be advised of any changes to the claimant's home address up until the time the fee ruling is released.

The Adjudicator and the parties will discuss the evidence collected so far and decide if the case is ready for final submissions. If all evidence has been collected and the parties agree how the claim should be resolved, a short form decision may be considered. This voluntary option can reduce the amount of time from the hearing date to compensation being paid, and is available when there is no further evidence, and the parties agree on credibility, liability and compensation. More information about Short Form Decisions is available on the [IAP website](#). If desired, the claimant is always entitled to a full narrative decision for memorialization or other reasons.

In some cases, there are outstanding material issues to be decided after the hearing, or further evidence must be collected such as:

- medical or expert assessments;
- additional documents; a future care plan; or,
- a witness or alleged perpetrator hearing.

In such instances, the case will then move to the post-hearing phase of the IAP.

10. Post-Hearing Stage

10.1.1 Post-Hearing Unit

The Secretariat's Post-hearing Unit supports all post-hearing activities, including:

- post-hearing summaries, transcripts, and expert assessments,
- Substantive and Short Form Decisions,
- legal fee rulings (schedules 1 and 2), and requests for reviews of legal fee rulings,
- post-hearing teleconference scheduling,
- requests for decision reviews and re-reviews, and
- appeals of fee rulings.

Legal counsel may obtain the post-hearing status of claims in their carriage, which is updated daily, by logging on to IFMS and accessing the [post-hearing component](#) of the system

10.1.2 Hearing Transcripts

If desired, claimants may receive a copy of the transcript of their own evidence for memorialization purposes. They are also entitled to request a transcript of the closing comments made to them at the hearing. Claimant transcripts are redacted to remove information that would identify other individuals.

Aside from the claimant memorialization transcripts, hearing transcripts will not be released unless requested in a circumstance listed below. These transcripts are distributed on the undertaking that they will be used solely for the purpose they were provided and will not be distributed further.

Transcripts will be released:

- To the presiding adjudicator upon request.
- To a review adjudicator.
- To the Chief Adjudicator, upon request, in order to support the duties outlined in Schedule D, III(s)(i).
- To an expert retained to do an assessment of a claimant and parties entitled to question the expert. When a transcript is provided to an expert, one will also be provided to the parties who participated in the hearing. When requested, all parties who participated in the hearing will also receive a copy of the transcript of the oral examination of an expert that occurs following the receipt of an expert report.
- To alleged perpetrators upon request, but limited to a transcript of the alleged perpetrator's testimony. Alleged perpetrator transcripts are redacted to remove information that would identify other individuals. Neither the alleged perpetrator nor their legal counsel are entitled to a transcript of the claimant's hearing.
- To participating parties:
 - Significant adjournment: Upon request where, because of an adjournment, a significant period of time has elapsed (in excess of four months).

- Change in representation: To a party's representative when a change in representation occurs and the new representative was not in attendance at the hearing.
- Deciding to seek a review: Upon request, subsequent to receipt of a decision for the stated purpose of deciding to seek a review of a decision.
- Review submissions refer to passages in transcript: Where a claimant who has received a transcript of his or her testimony and in support of a requested review makes specific reference to passages in the transcript.
- Alleged perpetrator hearings:
 - Upon request, where an extended period of time (in excess of four months) has elapsed since the hearing for the alleged perpetrator.
 - To claimant's counsel where counsel was not in attendance at the hearing of an alleged perpetrator.
- Re-openers:
 - Upon request, a transcript of the original hearing.
 - If available, a transcript of the teleconference for a re-opener will be provided upon request.
- Short Form Decisions: A transcript of an adjudicator's oral reasons in support of a Short Form Decision shall be provided upon request.
- Complex Track cases: A transcript of Complex Track hearings, or such portions thereof as the adjudicator deems necessary, upon request, with leave of the adjudicator.
- Unavoidable absence: Upon request of the presiding adjudicator, when a party was unavoidably absent from a hearing or teleconference.
- Potential for negotiated settlement: When any party identifies the claim as potentially suitable for a negotiated settlement.

To request a copy of the hearing transcripts by e-mail: IAPS_Chiefadjudicatorsoffice@irsad-sapi.gc.ca.

10.1.3 Alleged Perpetrator Hearings

The purpose of the alleged perpetrator hearing is to allow the alleged perpetrator to respond to the allegations made against him or her in your claimant's application. Your client is a party and has the right to attend the hearing although this rarely occurs.

If the alleged perpetrator has agreed to provide a statement, and the testimony of your client at a hearing differs materially from the account provided in the application which was shared with the alleged perpetrator, the Adjudicator will prepare a summary of the new allegations and the Secretariat will provide it to the alleged perpetrator before he or she gives evidence.

Prior to the hearing, identify relevant questions you wish the Adjudicator to ask the alleged perpetrator. You must provide them to the Adjudicator before the hearing begins. **A participating alleged perpetrator is entitled to know the results of the hearing only with respect to the allegations against**

them, but not the amount of any compensation awarded. Canada will provide a redacted copy of the decision to the alleged perpetrator and only information on the findings of allegations against the alleged perpetrator will be included. It does not include other information about your client such as lasting harms or impacts, nor does it contain information on the compensation awarded.

The alleged perpetrator is not entitled to request a review of the decision.

10.1.4 Expert Assessments-Psychological

If your client claims a harm level 4 or 5, the Adjudicator must order a **psychological assessment** unless Canada consents to a waiver. Where a psychological or psychiatric assessment is ordered, the Adjudicator will provide a copy of the letter of retention and instruction to the parties, the expert and the Secretariat.

The Expert Assessment Unit will send the Assessment Set Notification (ASN) and Logistics forms to notify you that you are required to book the appointment with the expert, along with instructions and contact information. At this point you will need to work with your client to book an appointment date and notify the Secretariat at least four weeks prior to the appointment to allow for travel and financial requirements to be completed. **Five weeks notification is required if your client requests a travel advance cheque** (for further information, see the section on Travel Advances. The completed ASN and Logistics forms citing the dates and time as well as your client's travel requirements must be submitted to the following Electronic Document Interchange (EDI) address: Mail_and_Records.

If you fail to submit the forms at least four weeks prior to the assessment, the appointment may have to be cancelled and re-scheduled. The Hearings Management unit will notify you if this will be the case or they might give you the option to coordinate travel and reimbursement of expenses for the claimant.

You will need to notify the Secretariat at the e-mail addresses above if your client is unable to or did not attend their appointment, stating the reason for not attending.

The parties will be provided with a copy of the transcript from the Secretariat as well as the expert's report upon receipt. A conference call may be scheduled to question the expert at the request of any of the parties. Upon receipt of such a request, the Adjudicator will notify all the parties and arrange a date for a conference call.

10.1.5 Expert Assessments-Medical

The Adjudicator may order an independent medical evaluation to verify or establish a finding within the physical abuse category.

Medical assessments are conducted through a contract with a supplier. Once the retainer letter is received from the Adjudicator, the Secretariat will contact the supplier, providing the Letter of Instruction and the document package that the expert is required to review. The supplier will confirm the assessor's availability and contact your firm to arrange an appointment for your client. When the appointment is confirmed both the Secretariat and Counsel will receive a confirmation letter indicating the date, time, and location of the assessment.

The Secretariat will then provide you with the Assessment Set Notification (ASN) and Logistics forms. These documents must be completed and returned at least four weeks prior to the appointment to

allow for travel and financial requirements to be completed. **Five weeks notification is required if your client requests a travel advance cheque** (for further information, see the section on Travel Advances). You will be responsible for coordinating travel and reimbursement of expenses if the Secretariat is not notified at least four weeks from the appointment date.

The completed ASN and Logistics forms must be submitted to the following Electronic Document Interchange (EDI) address: Mail_and_Records.

You must notify the Secretariat at Expert.Assessment@irsad-sapi.gc.ca if your client is unable to or did not attend their appointment, stating the reason for not attending.

The parties will be provided with a copy of the transcript from the Secretariat as well as the expert's report upon receipt. A conference call may be scheduled to question the expert at the request of any of the parties. Upon receipt of such a request, the Adjudicator will notify all the parties and arrange a date for a conference call.

10.1.6 Final Submissions

After all evidence is collected the Adjudicator will convene the parties for a teleconference to make final submissions.

10.1.7 Conference Calls

You may be contacted by the Adjudicator to determine a suitable date and time for a conference call. Dial in instructions and codes are typically sent to all parties by the Secretariat.

10.1.8 How to Contact the Post-Hearing Unit

For all post-hearing related issues or questions, please contact directly by phone at 1-306-790-4700 or by e-mail: IAPS_Chiefadjudicatorsoffice@irsad-sapi.gc.ca.

11. Decision & Settlement Stage

11.1.1 Adjudicator's Decision

The Adjudicator has 30 days to write their decision after final submission for standard track claims or 45 days for complex track claims. The decision will outline key factual findings and provide a rationale for the decision of compensability within the IAP model and for the damages assessed, if any. The Adjudicator provides his or her decision to the Post-hearing Unit. The decision administration process can take 21 calendar days from receipt of the decision from the Adjudicator.

You will receive two copies of the decision, an unredacted copy for your records and a redacted copy for the claimant. **The unredacted copy is confidential and for your files only.**

If you note errors in the calculation of the compensation award, names spelled incorrectly or other issues in the text of the decision you can request an amended decision to the Post-hearing Unit by e-mail: IAPS_Chiefadjudicatorsoffice@irsad-sapi.gc.ca.

Unless one of the parties requests a review, the Adjudicator's decision is final.

11.1.2 Decisions Database (IAP dBase)

In pursuance of a Court Order issued in August 2010, Crawford Class Actions Services has developed and will maintain a secure IAP Decisions Database for IAP users. Please refer to [the IAP dBase](#) for more information.

The IAP dBase provides you with access to redacted versions of the following decision types:

- Other wrongful acts decisions (OWA).
- Actual income loss decisions (AIL).
- Student on student abuse decisions (SOS) where findings of actual or constructive knowledge have been made or admitted.
- Decisions specifically requested for inclusion by any party to the IAP with final discretion of the Chief Adjudicator.
- Decisions selected by the Chief Adjudicator, Deputy Chief Adjudicators and their readers.
- Review decisions.
- Legal fee appeals.

Users must be licensed lawyers and must agree to comply with the confidentiality undertakings required at the beginning of each visit to access this section of the IAP dBase. Users may then access decisions in the above categories.

If you are interested in accessing the IAP dBase, User names and passwords will be assigned. Please contact the Adjudication Secretariat via e-mail at: IAPS_Chiefadjudicatorsoffice@irsad-sapi.gc.ca to request access. A User Guide and help desk information will be provided by Crawford Class Action Services once your dBase access has been established.

11.1.3 Compensation

If a negotiated settlement or Adjudicator's decision awards compensation, and no party requests a review of the decision, **Canada will automatically process the compensation payment.** Payment would be received approximately 60 days following receipt of the decision.

Cheques are made payable to the law firm in trust, and will include Canada's contribution towards the claimant's legal fee bill, equal to 15% of the award. Canada also pays reasonable and necessary disbursements. If you submit your disbursement account to Canada within 30 days of the decision date, the compensation cheque will also include payment for approved disbursements; otherwise disbursements will be paid separately. Instructions for submitting your disbursement account are included on the letter that accompanies the decision. **Disbursements can never be charged to the claimant.** If a disbursement dispute arises between Canada and legal counsel, either party may ask the Secretariat to have an Adjudicator rule on the dispute (pursuant to Schedule D Section III (a) vi). Make this request by writing to: IAPS_Chiefadjudicatorsoffice@irsad-sapi.gc.ca.

Immediately upon receipt, compensation funds must be released to the claimant. The legal fees specified in a contingency fee agreement must remain in a lawyers' trust account until the legal fee ruling or legal fee appeal ruling is issued.

If you have questions about the timing of compensation payments, or about the payment of disbursements, please contact Canada's Settlement departments directly:

Resolution West – settlementsIRS@aandc-aadnc.gc.ca or 1-877-236-2219

Resolution East – IRSsettlements@aandc-aadnc.gc.ca or 1-877-307-9089

11.1.4 Request for a Review of the Decision

A review of the decision must be submitted in writing to the Post-hearing Unit and to Canada within **30 days** of the date the original decision was sent out, i.e. the date on the transmittal letter from the Secretariat. To request a review, counsel can use the [fillable form](#) found on the Indian Residential School Adjudication website.

Requests for reviews must be based on the facts as found by the Adjudicator and must address improper application of the IAP Model or palpable and overriding error. Counsel must also provide a short written statement describing their objection to the decision. **This statement must not exceed 1500 words**, unless the Chief Adjudicator allows you to exceed this limit. Your request can be sent by mail to:

Chief Adjudicator
Indian Residential Schools Adjudication Secretariat
9th Floor, 2010 – 12th Ave.
Regina, SK S4P 0M3

Provided the request is made within this time period, the Chief Adjudicator may authorize up to an additional **21 days** to submit written argument. A request for an extension of the time must be submitted in writing to the Secretariat's Adjudication Management Directorate and to Canada.

11.1.5 Response to Request for a Review by Other Parties

Once the Chief Adjudicator receives your request, parties will be notified and they will have 30 days to provide a **reply of 1000 words or less**. You will receive a copy of all replies that are submitted. If you want to make further submissions after receiving a reply, you must receive permission from the Chief Adjudicator.

If the Government of Canada or the Church has requested a review of the Adjudicator's decision, the Adjudication Management Unit will provide you with a copy of the request and you may submit a **written response of 1000 words or less** on behalf of your client within 30 business days from the date the notice was sent from the Secretariat. An extension can be requested if required.

Compensation, if any, cannot be paid until the review process is completed.

11.1.6 Legal Fee Ruling

All legal fees are reviewed by Adjudicator's. Adjudicators will consider numerous factors when reviewing the legal fees, including the complexity of the claim, time spent on the claim, risk factors, size of the award, as well as the competency/experience of lawyer.

Under the IAP the courts have imposed two obligations on Adjudicators with regards to legal fees.

1. Adjudicators must determine if legal fees are within the 15% cap allowed by the courts (in addition to the 15% payable by Canada); and,
2. that the legal fees are "fair and reasonable". It is within the Adjudicators' discretion to determine what is fair and reasonable, bearing in mind certain criteria. (See Appendix A of the Settlement Agreement for a survey of the court judgments approving the Settlement Agreement.)

In every case, the Adjudicator must confirm that the legal fees are within the allowable limits. These are called Schedule 1 legal fee rulings.

When a claimant requests it, or on the Adjudicator's own motion, the Adjudicator will assess the fairness and reasonableness of the proposed legal fees. These are called Schedule 2 legal fee rulings. During Schedule 2 legal fee rulings, the Adjudicator will consider the risk a lawyer takes on for individual clients (i.e., potential for \$0 award, potential for claimant not making it to the hearing due to ill health, or the potential for claimant to withdraw their claim). However, lawyers can not argue that because some of their clients are high risk they should be able to charge low risk clients higher fees to balance out the risk.

Each claim is looked at individually. The lawyer's entire case load is not considered in the fee ruling. When submitting billing hours, do not include hours spent working on Schedule 2 submissions and arguments. The breakdown of the billing of working hours must be reasonable. If a lawyer travels to visit numerous clients on the same trip he/she can not bill each client for the full cost of travel. Travel costs should be split between clients. When it comes to legal fee rulings, the solicitor/client relationship does not exist.

If your client was assisted by a form filler named in the June 11, 2014 order from Justice Schulman of the Court of Queen's Bench of Manitoba, the Adjudicator should be given all information relating to arrangement between claimants, counsel and Form Filler and will consider this information in the legal fee ruling.

The Secretariat will send a copy of the Adjudicator's ruling on legal fees to both you and your client directly.

11.1.7 Request for a Legal Fee Ruling Appeal

Both the claimant and legal counsel can appeal the Adjudicator's legal fee ruling if they are in disagreement. If you believe that the ruling is unfair and unreasonable you must return the last page of the ruling document attaching a letter outlining your reasons for launching a review. The appeal must be submitted within seven calendar days of the Adjudicator's ruling unless the Chief Adjudicator grants permission to extend or waive the appeal period.

11.1.8 Use of Form Fillers

On June 4, 2014, Justice Schulman of the Manitoba Court of Queen's Bench issued a decision that protects claimants from having to pay most fees charged by form fillers for claims in the IAP.

Justice Schulman ruled that contingency fee arrangements between form fillers and claimants were null and void. Under a contingency fee arrangement, a claimant is required to pay a percentage of the award received to the form filler. The judge also ruled that fees charged by form fillers for legal services are not permitted, and that any fees charged by form fillers for services related to processing IAP claims must be approved by the Court.

The decision was in response to a request to the Court by Chief Adjudicator Dan Shapiro to ensure that claimants under the Independent Assessment Process receive the benefits intended for them under the Indian Residential Schools Settlement Agreement. The case was heard in Winnipeg on April 24, 2014.

Form fillers, form filling agencies and lawyers identified in the decision must provide details to the Court Monitor on all financial arrangements between themselves and claimants in the IAP. In addition, adjudicators will ask self-represented claimants for details of any financial arrangements with form fillers at the conclusion of each IAP hearing or Negotiated Settlement Process interview.

Claimants who have signed fee arrangements with form fillers, or who have paid fees to form fillers, can contact the IAP Information line at 1-877-635-2648 if they have questions.

[Link to Justice Schulman's decision](#)

11.1.9 How to Contact the Post-hearing Unit

For all Post-hearing Unit or Chief Adjudicator related issues or questions, please contact us by e-mail: IAPS_Chiefadjudicatorsoffice@irsad-sapi.gc.ca.

12. Case Analysis and Resolution (CAR) Group

The CAR Group is a unit in the IRS Adjudication Secretariat that was created in 2014 for the purpose of administering the IFR procedure and the Lost Claimant Protocol. In addition, the unit has been tasked with the orderly wind down of Admissions, as well as the resolution of Estate Claims and Withdrawn Claims.

12.1.1 Lost Claimant Protocol

Claimants involved in the IAP that have ceased communicating with the Secretariat and/or their counsel are considered under the category of Lost Claimants. Resolving Lost Claimant cases is particularly challenging as the IAP requires the active participation of claimants. Re-establishing communication is, therefore, crucial.

On July 15, 2014, the supervising courts approved the Secretariat's proposed Lost Claimant Protocol, which stipulates all entities, institutions, and agencies, private and public, operating in Canada shall provide contact information regarding the whereabouts of claimants as requested by the Secretariat that have been identified as lost.

Guiding Principles

- The powers of the Lost Claimant Protocol are extensive, however protecting and respecting the privacy of claimants remains paramount. The Secretariat will attempt to locate Lost Claimants using a progressively intrusive methodology.
The Lost Claimant Unit (LCU) is a distinct part of the Case Analysis and Resolution (CAR) Group and is responsible for implementing the Lost Claimant Protocol, as well as exercising the powers of the Consent Order. They can be contacted at: LostClaimants-DemandeurPerdu@irsad-sapi.gc.ca
- The following proofs are required to identify claimants as lost: Returned mail Written confirmation from counsel. All attempts to re-establish contact with a claimant will be recorded and be a part of the claimant's file. Counsel is expected to also keep a record of their attempts to reach their client.

The following information sources are searched to complete the Lost Claimant Protocol:
Level 1 <ul style="list-style-type: none">• Internet searches (eg. Google, Canada411, LinkedIn, Provincial Obituary lists)• Review of all information submitted and used
Level 2 <ul style="list-style-type: none">• Common Experience Payment• Aboriginal Affairs and Northern Development Canada (eg. Indian Registry, Estates)• Service Canada (eg. Canada Pension Plan, Old Age Security, Guaranteed Income Security)• Health Canada (eg. Non-insured health benefits re: pharmacy, dental, crisis intervention, medical transportation, client reimbursement)• Correctional Service of Canada (eg. Offender Management)• Territorial / Provincial Motor Vehicle Registries
Level 3 – Approved / Not Approved (if approved - the following applies) <ul style="list-style-type: none">• Support Persons identified in claimant's application

- | |
|--|
| <ul style="list-style-type: none">· Regional Health Support Workers· Local police detachments (eg. RCMP, First Nations Police)· Other (If information points to a source outside of list above - ex. Veterans Affairs) |
|--|

Confirming Claimant's Contact Information

- When new contact information is found for a lost claimant, the Secretariat will provide counsel with the results for follow-up.
- Counsel will be asked to provide the Secretariat with updates on their efforts to re-establish communication with their clients. Counsel will be responsible for recording their efforts because if a lost claimant file is referred to IFR for resolution, a record of their efforts to locate their client may be requested.
- In certain situations, a claimant's file may require more intensive and intrusive searches. The details of how these searches will be conducted are still being determined, but counsel will be notified about them should their client qualify for them.

Next Steps

- If a Lost Claimant is found, their file will be returned to the regular IAP file flow.
- If a claimant cannot be located, is non-responsive or unwilling to participate in the IAP, their file will be moved to the Incomplete File Resolution (IFR) Group for action.

12.1.2 Incomplete File Resolution (IFR) Procedure

The Incomplete File Resolution (IFR) Procedure is a court approved 2-step procedure for resolving claims that are failing to proceed to a hearing in the IAP.

The IFR Procedure is designed to address recurring problems in the administration of the Independent Assessment Process (IAP) and to facilitate the orderly wind-up of the IAP. It includes safeguards at every stage to protect the claimants' rights. It also includes a mechanism to dismiss some claims where progress cannot be made.

At any point in the IFR Procedure, a claim will be returned to the regular IAP process if the issue preventing the claim from proceeding to a hearing is resolved.

Step 1 - Referral to File Management Adjudicator

In Step 1 of the IFR Procedure, the CAR Group will work with claimant counsel to identify and resolve issues preventing the claim from proceeding to a hearing.

If CAR is unable to resolve the issue by working with claimant counsel, CAR will ask a File Management Adjudicator for assistance. The File Management Adjudicator will work with CAR, claimant counsel, and other participating parties to resolve the issue preventing the claim from proceeding to a hearing.

The File Management Adjudicator may:

- Convene teleconferences with the parties;
- Identify steps necessary to ready a claim for hearing;
- Establish timetables for taking steps necessary to move the claim forward;
- Obtain undertakings (or commitments) from the parties to take steps necessary to move the claim forward;
- Refer a claim for a Jurisdictional Pre-hearing Teleconference (JPHT);
- Determine that documents are not available or relevant (if the participating parties agree);
- Determine that a claim is suitable for the Accelerated Hearing Process (AHP);
- Take other steps allowed by the IFR procedure.

File Management Adjudicators may not:

- Dismiss a claim (except where the claim is being withdrawn);
- Direct a claim be set for hearing without the required documents, unless the parties agree or the claim is suitable for the Accelerated Hearing Process (AHP).
- Direct a claim be set for hearing at lower harm or opportunity loss levels, unless the claimant agrees.

Possible outcomes of Step 1:

- Issue resolved; case proceeds normally.
- Referral to a Jurisdictional Pre-Hearing Teleconference (CAD-9).
- An administrative withdrawal under Guidance Paper 8 (GP-8).
- Referral for Adjudicative File Management, whereby an adjudicator works with the parties on a consensual basis to ready the claim for hearing.
- The File Management Adjudicator may refer the file to Step 2, Special Resolution Process. The File Management Adjudicator may also be the Step 2 adjudicator, unless a participating party requests in writing that a new adjudicator be appointed as the Step 2 Adjudicator.

Step 2 - Special Resolution Process

If the File Management Adjudicator determines that all reasonable steps to resolve outstanding issues have been exhausted and that there are no prospects of the file becoming hearing ready within a reasonable period of time, the Adjudicator may refer the claim to the Special Resolution Process upon providing written notice to the parties.

Once a claim has been referred to the Special Resolution Process, the adjudicator may:

- Take any steps available under step 1 of the IFR procedure;
- Determine that outstanding documents are not available or relevant;
- Direct a claim be referred to the Secretariat to be scheduled for a hearing before an adjudicator with or without conditions;

- Dismiss the claim without a hearing, where conditions for scheduling a hearing have not been met by a date set by the adjudicator;
- Dismiss the claim without a hearing, where the adjudicator determines there is no realistic prospect of the case proceeding to a hearing within a reasonable amount of time.

12.1.3 Estate Claims

Following a review and re-review on decisions in several important IAP cases by Chief Adjudicator Dan Shapiro, the freeze on estate claims in the IAP has been lifted. The review focused on IAP claims brought forward by estates on behalf of claimants who had passed away. . In his final review decision The Chief Adjudicator provided clarification on the general principles applicable to estate claims:

1. There is a presumption that estate claims cannot be pursued in the IAP, except for three possible exceptions:
 - a. Where the claimant has testified at an IAP hearing;
 - b. Where the claimant has previously given meaningful and reliable sworn testimony in some other forum, and Canada has participated in the questioning; or
 - c. Where there is eyewitness testimony to the alleged abuse.
2. Unless one of these exceptions applies, an adjudicator has no jurisdiction to hear the claim and must dismiss it.
3. If the claim is pursued on the basis of exceptions (a) or (b), all elements of a claim except future care may be considered.
4. If a claim is pursued on the basis of exception (c), eyewitness testimony, the following limitations apply:
 - The eyewitness testimony will be heard only in relation to the allegations of abuse. It will not be considered in relation to consequential harms, aggravating factors or opportunity loss.
 - Eyewitness testimony may be relied upon to support a finding of acts proven only if it is sufficient to support all elements of the liability criteria applicable to that claim.
 - The eyewitness must be made available for questioning by the IAP adjudicator and the defendants must be given an opportunity to provide input into the questioning.

Depending on the evidence available, it can be very difficult to pursue an estate claim.

Only the executor or administrator of an estate can pursue an estate claim. Counsel who represented a claimant prior to their passing does not automatically represent their estate. The estate must hire the lawyer or retain a new lawyer if they wish to do so.

There are four main steps to pursue an estate claim:

1. Determine if the claim is eligible to proceed.
2. Decide on legal representation and submit estate documents.

3. Participate in a pre-hearing teleconference.
4. Prepare for and attend the hearing.

Because of the unique nature of these claims and the need to resolve them in a fair and orderly manner, the Secretariat has established new Procedures for Estate Claims in the IAP at: <http://www.iap-pei.ca/information/pub-eng.php?act=estates-2015-01-29-eng.php>.

The Indian Residential Schools Adjudication Secretariat has established an Estate Claims Coordinator who can provide information and answer questions about estate claim procedures.

Phone: 1-877-635-2648 and ask for the Estate Claims Coordinator

Email: estates-successions@irsad-sapi.gc.ca

12.1.4 How to Contact the CAR Unit

For all IFR related issues or questions, please contact us by email: CAR-ARC@irsad-sapi.gc.ca. Or, by mail to:

Case Analysis and Resolution Unit
Indian Residential Schools Adjudication Secretariat
P.O. Box 1575, Stn. "B"
Ottawa, ON K1P 0A9

13. Group IAP Application Process

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](#) or call the IAP toll-free line: 1-877-635-2648. For inquiries regarding the Call for Proposals (CFP) process e-mail: groupiap.peicollectif@irsad-sapi.gc.ca.

14. IAP Contact Information

Admissions Unit:

admissions@irsad-sapi.gc.ca

Case Management Unit:

CaseManagement-GestionDesCas@irsad-sapi.gc.ca

Case Analysis and Resolution Unit:

CAR.ARC@irsad-sapi.gc.ca

Chief Adjudicator's Office:

IAPS_Chiefadjudicatorsoffice@irsad-sapi.gc.ca

Document Management Unit:

IAPS_DocumentManagement@irsad-sapi.gc.ca

EDI :

edihelp@crawco.ca

Estates Unit:

Estates-Successions@irsad-sapi.gc.ca

Group IAP:

- Phone: 1-877-635-2648
- E-mail: groupiap.peicollectif@irsad-sapi.gc.ca

Hearings Management Unit:

- E-mail: IAPHearingMgmtSec@irsad-sapi.gc.ca
- After hours Emergency: **1- 306-530-8134**

IAP Info Line: 1-877-635-2648

IFMS Help Desk at Crawford Class Action Services:

- Phone: 1-866-879-4913
- E-mail: IFMSHelpDesk@crawco.ca

Interpreter Liaison:

Interpretation@irsad-sapi.gc.ca

IRS Support Line (24 hours): 1-866-925-4419

Legal Changes Unit:

LegalChanges.ChangementsJuridiques@irsad-sapi.gc.ca

Negotiated Settlement Process:

- Atlantic: NSP.ATL@aandc-aadnc.gc.ca.
- Ontario: NSP.ON@aandc-aadnc.gc.ca.
- Quebec: NSP.QC@aandc-aadnc.gc.ca.
- Manitoba: NSP.MAN@aandc-aadnc.gc.ca.
- Saskatchewan: NSP.SASK@aandc-aadnc.gc.ca.
- Alberta, British Columbia, Nunavut, Yukon and North West Territories: NSP_Team@aandc-aadnc.gc.ca.

Post-Hearing Unit:

- Phone: 1-306-790-4700
- E-mail: IAPS_Chiefadjudicatorsoffice@irsad-sapi.gc.ca

Postponements:

Postponement.Reporter@irsad-sapi.gc.ca

Pre-hearing teleconference:

PH-PA@irsad-sapi.gc.ca

Resolution Health Support Workers:

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

Schedule P:

- Fax: (604) 666-7068 or
- E-mail: ScheduleP-AnnexeP@irsad-sapi.gc.ca.

Scheduling Unit:

IAPS_Schedulers@irsad-sapi.gc.ca

Settlement department:

- Resolution West – settlementsIRS@aandc-aadnc.gc.ca or 1-877-236-2219
- Resolution East – IRSsettlements@aandc-aadnc.gc.ca or 1-877-307-9089

SOS Admissions: IAPAdmissions-AveuxduPEI@aandc.gc.ca