

Appendix A: Detailed information

1. Claimants who settled in the Alternative Dispute Resolution (ADR) Process that the government previously offered *and* who signed a release after May 30, 2005

If you settled in the ADR process and signed a release after May 30, 2005, you may apply to have the hearing re-opened. You may apply to be considered for additional compensation if either of the following statements applies to your claim:

- i. The Adjudicator who decided your case assessed your claim as falling within the highest level of the ADR model's consequential loss of opportunity category, level 3.
Or
- ii. You allege sexual abuse by another student at the SL4 or SL5 category and such abuse, if proven, would be the most serious abuse in your case.

2. How Adjudicators decide whether your claim will lead to compensation

A. Physical or sexual abuse committed by an adult

1. If an adult committed a sexual or physical assault on a resident or student of an IRS, you must be able to answer yes to the following questions:

- a) Was the abuser an adult employee of the government or of a church entity that operated the IRS? If so, it does not matter whether their employment contract was at that IRS.

Or, if the abuser was not an adult employee, was he or she an adult who was lawfully on the premises?

- b) Did the operation of an IRS make the assault possible? Or, was the assault connected to the operation of an IRS? This will be true if the Adjudicator decides that a relationship began at the school that led to the abuse or made it easier to commit. If this is true, the assault does not have to have occurred on the premises.

2. If an adult committed a sexual or physical assault on a non-student or a non-resident, you must be able to answer yes to the following questions:

- a) Was the abuser an adult employee of the government or of a church entity that operated the IRS in question? If so, it does not matter whether their employment contract was at that IRS.

Or, if the abuser was not an adult employee, was he or she an adult who was lawfully on the premises?

- b) Were you under 21 years old at the time of the assault?
- c) Did an adult employee give you permission to be on the premises to participate in school activities?
- d) Did the operation of an IRS make the assault possible? Or, was the assault connected to the operation of an IRS? This will be true if the Adjudicator decides that a relationship began at the school and this relationship led to the abuse or made it easier to commit. If this is true, the assault does not have to have occurred on the premises.

B. Sexual or physical assaults committed by a student

1. In order for the Adjudicator to decide that another student committed predatory or exploitative sexual abuse at level SL4 or SL5, you must be able to answer yes to the following questions (see below for definitions of *predatory or exploitative*):

- a) Did the assault take place on IRS premises?
- b) Was the sexual assault of an exploitative or predatory nature?
- c) Has the government failed to prove that the school was providing reasonable supervision?

Predatory or exploitative sexual assault means either that (1) the abuser was a lot older than the victim or (2) that the abuser used threats, coercion, or violence to commit the assault.

Please note that the fact of a sexual assault taking place at an IRS does not prove that reasonable supervision was not in place.

2. In all other instances, for the Adjudicator to decide you suffered a defined sexual assault or a defined physical assault, you must be able to answer yes to the following questions (this includes those at the SL4 or SL5 level that are not predatory or exploitative):

- a) Did the assault take place on school premises?
- b) Did an adult employee of the IRS know, or should they have known, that abuse of the kind proven was occurring at the IRS at the relevant time period?
- c) Did an adult employee at the IRS fail to take reasonable steps to prevent the assault?

C. Additional instructions about physical assaults

1. This IAP only compensates physical assaults that cause a physical injury. Medical attention or hospitalization to find out whether you were injured does not meet the IAP requirement on its own.
2. "Serious medical treatment by a physician" does not include applying salves or ointment or bandages or other similar non-invasive interventions.
3. Loss of consciousness must have been directly caused by a blow or blows and does not include momentary blackouts or fainting.
4. This IAP compensates for physical abuse only if physical force was applied to the claimant's physical body. This IAP may decide that this has occurred if:
 - (a) an employee required you to strike a hard object (such as a wall or post) so that the effect on your body was the same as if an employee had struck you, and
 - (b) your claim meets the remaining standards for compensation within this IAP.

D. Other Wrongful Acts (OWA)

The IAP intends this category to compensate claimants for wrongful acts that don't appear in the compensation rules and that have caused the defined level of psychological harms. If you are making a claim in this category but your claim is based on abuses described in another category, the IAP will apply only to that other category.

The IAP handles these claims only in the complex issues track. This is because:

- these claims are of a novel nature, and
- the IAP must be satisfied that the acts caused the psychological harms suffered.

For this category, a wrongful act (other than the specified act of physical abuse of grossly excessive duration and frequency), is one which:

- was committed by an adult employee or another adult lawfully on the premises,
- was outside the usual operational practices of the IRS at the time in question, and
- exceeds the recognized parenting or caregiving standards of the time.

Once this IAP decides that an act or series of acts was wrongful and is not described in another part of the compensation rules, the Adjudicator, unless the parties agree otherwise, must order the necessary psychiatric or medical reports. Those reports establish whether the act or acts caused harms at the H4 or H5 levels.

In all OWA claims, the IAP will use the same standards in the compensation rules as Canadian courts use for proving causation and for deciding compensation in similar cases.