

The Independent Assessment Process (IAP)

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We understand that it is very painful and difficult for some people to admit that they were abused at school. However, we also want to make sure everyone knows how the Settlement works and what options they may have under the IAP.

Many people may be afraid of what will happen if they do make an abuse claim. They may worry that the process will be too complicated or that it will open old wounds that they won't know how to deal with. They may also be afraid that the hearings will be like court and that they will be questioned by lawyers who do not believe their stories.

We cannot change your mind for you. We can just provide you with the information and answer your questions. As a result, we thought it was worthwhile to once again answer some basic questions about the IAP.

What is the IAP?

The IAP is for claims of “serious” physical, sexual or psychological abuse. The physical abuse must have been “serious”; low level physical abuse is supposed to be already compensated for through the CEP. Sexual Abuse you may have suffered at the hands of other students may also be compensated for.

Are the Forms Complicated?

Forms are longer and more complicated than the CEP forms. A Lawyer is recommended. NAN Legal can help to recommend lawyers who have signed on to the settlement agreement. You can access the forms from our website at www.nanlegal.on.ca or by calling us.

What happens If I had a claim under Alternative Dispute Resolution?

Anyone who was involved in the previous Alternative Dispute Resolution (ADR) process but did not finish the process will be transferred to the IAP. Sexual Abuse claims will flip to the IAP automatically unless you inform the government that you want to remain with the old ADR model. However, physical abuse claims will continue under the old ADR unless you say you want to do it under the IAP.

How much will I receive from my claim?

The IAP is more generous than the ADR process, it is estimated that the average claim will get \$75,000.

However, there is a “points grid” that determines how much money you get. It begins at \$5,000 and goes up to \$275,00 for serious abuse. This includes compensation for:

- The abuse you suffered,
- How the abuse hurt you later on in your life,

- Other things that happened to you during the abuse that made the abuse worse, and
- the loss of opportunity. I.e. you did not achieve your full potential (get a good job) even though you were a good student due to the trauma you suffered in Residential School, you can't keep or get a job, you can't finish your education, can't complete your work due to loss of strength, etc.

You can also receive an extra \$250,000 for proven loss of income. You can only claim for one or the other, not both (loss of income or loss of opportunity).

How does the process work?

There are three ways to get through this:

1. Negotiated settlement – case is straight forward and all parties agree to a settlement. (You must be represented by a lawyer) This may be good for people who do not want to re-tell their stories.
2. Hearing – you go before an adjudicator and tell your story in an informal setting.
3. Court – if the adjudicator doesn't think the abuse you suffered can get enough compensation through a hearing, then your case will be sent to court. (Known as a "Catastrophic Harm" case)

What proof do I need for my claim to be successful?

To prove the abuse you suffered, you may need the following evidence:

- Treatment and hospital records
- Worker's compensation records
- Income tax records, EI or CPP records
- Secondary or post-secondary school records

I heard something about having to file a Plan of Care. What is it?

There is also up to an additional \$15,000 for psychological and medical treatment, as long as a Plan of Care is filed. In order to apply for it, you need to show the government a plan for what you are going to do, including who is going to help you, what you want, how much it costs, etc. You need help from lawyers and doctors to do a proper plan.

Do I have to pay for a lawyer out of my own pocket?

The government has provided an extra 15% on top of your award to help you pay for your lawyer. If you have made a deal with a lawyer for 30% of your award, the government will pay 15% and you will be responsible for the other 15%. Lawyers are not allowed to charge you more than 30% for their services. However, you should only be charged 30% if your case is very complicated.

Even if you made an agreement with your lawyer for a high percentage, the adjudicator who does your hearing has the power to review your agreement and, if appropriate, reduce the amount you have to pay your lawyer.

There is a list of lawyers who have signed on to the agreement and have dealt with these claims from the start. A list can be found online. If you are not sure which lawyer to go

to, please give us a call and we can refer you to one.

Who is not eligible to apply for the IAP?

People who have previously settled their claims through court or a settlement do not qualify for this. The only exception is if you are claiming Student-on-Student sexual abuse.

Keep in mind that in order to prove Student-on-Student abuse, you have to prove that an adult employee of the government or church knew or should have known the abuse was happening and they didn't do anything about it.

Do I have to apply right away or do I have time to think about it?

You don't have to apply right away. You can take your time. Many people need to work through their experiences before making abuse disclosures. You have until September 18, 2012 to apply for the IAP

I heard that I can access free Health Support if I make a CEP or IAP claim. Is that true?

Anyone who is involved in the CEP or IAP is entitled to get free health supports from the government.

The IRS Resolution Health Support Program coordinates and funds:

- Professional and counseling services
- Assistance with the costs of transportation (to access professional counseling services or elders who are not in the community)
- Emotional support services provided by
- Resolution Health Support Workers
- Cultural support and guidance provided by Elders.

Services are delivered by Health Canada registered service providers.

Most of the workers are Aboriginal, former students and speak the language. Their services can be accessed at any time in the process.

You can contact them at 1-888-302-6426.