

Federal Court



Cour fédérale

Date: 20240429

Docket: T-1417-18

Ottawa, Ontario, April 29, 2024

PRESENT: The Honourable Mr. Justice Pamel

CERTIFIED CLASS PROCEEDING

BETWEEN:

**REGINALD PERCIVAL, ALLAN MEDRICK
MCKAY, IONA TEENA MCKAY and
LORNA WATTS**

Plaintiffs

and

HIS MAJESTY THE KING

Defendant

ORDER

UPON hearing the motions made by the representative plaintiffs with respect to certain administrative matters under the settlement agreement [Settlement Agreement] approved by the Court by Order dated December 11, 2023.

THIS COURT ORDERS that:

1. Notice of the settlement shall be published to Class Members substantially in the form attached as Schedule A.
2. The means of giving the Notice shall be substantially as set out in the notice plan attached as Schedule B.
3. The estate claims protocol under section 6.01 of the Settlement Agreement is approved in the form attached as Schedule C.
4. The reconsideration protocol under section 7.05 of the Settlement Agreement is approved in the form attached as Schedule D.
5. The legal fees protocol pursuant to section 11.02 of the Settlement Agreement is approved in the form attached as Schedule E.
6. The data disposition protocol under section 14.02 of the Settlement Agreement is approved in the form attached as Schedule F.
7. The Opt-Out Period under the Settlement Agreement expires on Monday, July 22, 2024.

"Peter G. Pamel"

Judge

Schedule A



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Indian Boarding Homes Class Action

Notice of Settlement

Were you in the Indian Boarding Homes Program between September 1, 1951, and June 30, 1992, OR, if your placement in the Indian Boarding Homes Program was after June 30, 1992, was Canada responsible for the placement?

You may be eligible for Compensation

The Indian Boarding Homes Program, established by the Government of Canada, placed children from First Nations and Inuit communities with private families for the purpose of attending school.

The Indian Boarding Homes Class Action Settlement provides compensation to people who were placed in these homes by the Government of Canada.

Individuals placed in these private homes who are no longer living are eligible for compensation if they died on or after July 24, 2016. Representatives of deceased individuals may claim compensation on their behalf.

Placements for the purpose of attending post-secondary education (college or university) are not part of the Settlement and are not eligible for compensation.

You can:

1. Make a Claim for Compensation

If you were in the Indian Boarding Homes Program, you can make a claim for compensation. You must complete a claim form and send it to the Claims Administrator by the Claims Deadline of **Monday, February 22, 2027**.

Claim forms are available on the Class Action Website or by contacting Class Counsel.

OR

2. Opt-Out of the Class Action

If you do not want to participate in the Settlement, you must complete and submit an Opt-Out Form by **Monday, July 22, 2024**. By opting out, you will maintain your right to independently sue Canada for harms you suffered in the Indian Boarding Homes Program, but you will not be able to claim compensation under the Settlement. To obtain an Opt-Out Form, please visit the Class Action Website or contact Class Counsel.



How to get more information

To obtain details of the Settlement, the Claim Forms and the Opt-Out Form:

- **Go to the Indian Boarding Home Class Action Website:**
<https://boardinghomesclassaction.com>
- **Contact the Claims Administrator:**
Phone Number: 1-888-499-1144
Email: claims@boardinghomesclassaction.com
- **Contact Quebec Subclass Counsel (Quebec only):**
Dionne Schulze s.e.n.c.
Mailing Address: 507 Place d'Armes, Suite 502 Montreal, QC H2Y 2W8
Phone Number: [phone number]
Email: percival@dionneschulze.ca
Website: <https://www.dionneschulze.ca>
- **Contact Class Counsel (All Other Provinces & Territories):**
Klein Lawyers LLP
Mailing Address: 1385 W 8th Avenue #400 Vancouver, BC V6H 3V9
Phone Number: 1-604-874-7171
Email: ibhclassaction@callkleinlawyers.com
Website: <https://www.callkleinlawyers.com>

If you know others who were in the Indian Boarding Homes Program, please share this information with them or share the class action website:
<https://boardinghomesclassaction.com>



Recours collectif concernant les foyers familiaux indiens

Avis de règlement

Avez-vous fait partie du programme des foyers familiaux indiens entre le 1^{er} septembre 1951 et le 30 juin 1992, OU, si votre placement dans le cadre du programme des foyers familiaux indiens a eu lieu après le 30 juin 1992, le Canada était-il responsable du placement?

Vous pourriez être admissible à une indemnisation

Le programme des foyers familiaux indiens, mis en place par le gouvernement du Canada, plaçait des enfants des communautés des Premières Nations et des Inuit dans des familles privées dans le but de fréquenter l'école.

Le règlement du recours collectif concernant les foyers familiaux indiens prévoit une indemnisation pour les personnes qui ont été placées dans ces foyers par le gouvernement du Canada.

Les personnes placées dans ces foyers privés qui sont maintenant décédées sont admissibles à une indemnisation si leur décès est survenu le 24 juillet 2016 ou après cette date. Les représentants des personnes décédées peuvent demander une indemnisation en leur nom.

Les placements dans le but de suivre des études postsecondaires (collégiales ou universitaires) ne sont pas visés par le règlement et ne sont pas admissibles à une indemnisation.

Voici vos options:

1. Faire une demande d'indemnisation

Si vous avez participé au programme des foyers familiaux indiens, vous pouvez faire une demande d'indemnisation. Vous devez remplir un formulaire de réclamation et l'envoyer à l'administrateur des réclamations avant la date limite de réclamation du **lundi 22 février 2027**.

Vous pouvez obtenir les formulaires de réclamation en visitant le site Web du recours collectif ou en communiquant avec les avocats du groupe.

OU

2. Vous exclure du recours collectif

Si vous ne souhaitez pas participer au règlement, vous devez remplir et soumettre un formulaire d'exclusion au plus tard le **lundi 22 juillet 2024**. En vous excluant, vous conserverez votre droit de poursuivre le Canada de façon indépendante pour les préjudices que vous avez subis dans le cadre du programme des foyers familiaux indiens, mais vous ne pourrez pas demander une indemnisation en vertu du règlement. Pour obtenir un formulaire d'exclusion, veuillez visiter le site Web du recours collectif ou communiquer avec les avocats du groupe.



Pour obtenir plus d'information

Voici comment obtenir des renseignements sur le règlement, les formulaires de réclamation et le formulaire d'exclusion :

- **Rendez-vous sur le site Web du recours collectif concernant les foyers familiaux indiens :**
<https://foyersfamiliauxfederaux.com>
- **Communiquez avec l'administrateur des réclamations :**
Numéro de téléphone : 1-888-499-1155
Adresse courriel : reclamer@foyersfamiliauxfederaux.com
- **Communiquez avec les avocats du sous-groupe du Québec (Québec seulement) :**
Dionne Schulze s.e.n.c.
Adresse postale : 507 Place d'Armes, bureau 502 Montreal, (Québec) H2Y 2W8
Numéro de téléphone : [numéro de téléphone]
Adresse courriel : percival@dionneschulze.ca
Site Web : <https://www.dionneschulze.ca>
- **Communiquez avec les avocats du groupe (provinces et territoires autres que le Québec) :**
Klein Lawyers LLP
Adresse postale : 1385 W 8th Avenue #400 Vancouver, (Colombie-Britannique) V6H 3V9
Numéro de téléphone : 1-604-874-7171
Adresse courriel : ibhclassaction@callkleinlawyers.com
Site Web : <https://www.callkleinlawyers.com>

Si vous connaissez d'autres personnes qui ont participé au programme des foyers familiaux indiens, veuillez leur transmettre cette information ou l'adresse du site Web du recours collectif :
<https://foyersfamiliauxfederaux.com>

Schedule B

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Indian Boarding Homes Class Action
Settlement Notice Plan
March 2024 – April 2024

1. Background

The Indian Boarding Homes Program was an educational program implemented by the Government of Canada in the 1950s. As part of this program, Indigenous children were removed from their families and communities and placed in private homes to attend public school. Acting on behalf of Class Members, Klein Lawyers LLP, and Dionne Schulze s.e.n.c. advanced a national class action against the Government of Canada, to seek compensation for the harm suffered by students who were part of this program.

On December 7, 2022, an Agreement in Principle was reached between the parties in anticipation of a final Settlement Agreement. PricewaterhouseCoopers Inc. was appointed as Claims Administrator on October 3, 2023, with the responsibility of developing and administering a claims process for Class Members that is trauma informed and culturally sensitive. The Settlement Agreement was approved by the Federal Court on December 11, 2023.

One of the first important tasks of the Claims Administrator is to communicate the Notice of Settlement (“Notice”) to Class Members. Through an Indigenous-led team of professionals and trauma-informed community engagement specialists, the goal is to reach as many as possible, including those in First Nations and Inuit communities, to support their informed decision to Opt-Out of or participate in the settlement.

The Notice will feature a short-form notice with essential settlement information on how to Opt-Out, along with a link to the main website for additional information. The approach will harness a range of communication channels incorporating a paid, earned, and owned comprehensive communications strategy. National, regional, and Indigenous community awareness and understanding will be raised through a print, radio, television, social media, and targeted media campaign. This multi-pronged strategy prioritizes culturally sensitive and trauma-informed language use, engaging design, and vetted community mental health support resources. The digital components of the campaign will be translated into key

Indigenous languages to ensure maximum reach and knowledge translation throughout the notice period.

The Indian Boarding Home Class Action court documents are available to the public and will continue to be updated online through the Indian Boarding Home Class Action website: www.boardinghomesclassaction.com and www.foyersfamiliauxfederaux.com.

The students who participated in the Indian Boarding Homes Program were from over 518 bands and from Inuit communities across the country. Program data provided by Canadian Crown-Indigenous Relations and Northern Affairs Canada (Government of Canada) are displayed in Chart 1 and Table 1 with regional estimates where students were taken from. The class size estimate as presented in court filings is in the range of 36,000 – 42,000 students. The average age at entry into the Boarding Homes Program was identified as being 15.3 years of age and the average age at exit being 17.5 years. The court filings also indicated that on average a student spent 2.2 years in the program.

Chart 1: Estimated Boarding Home Students by Region

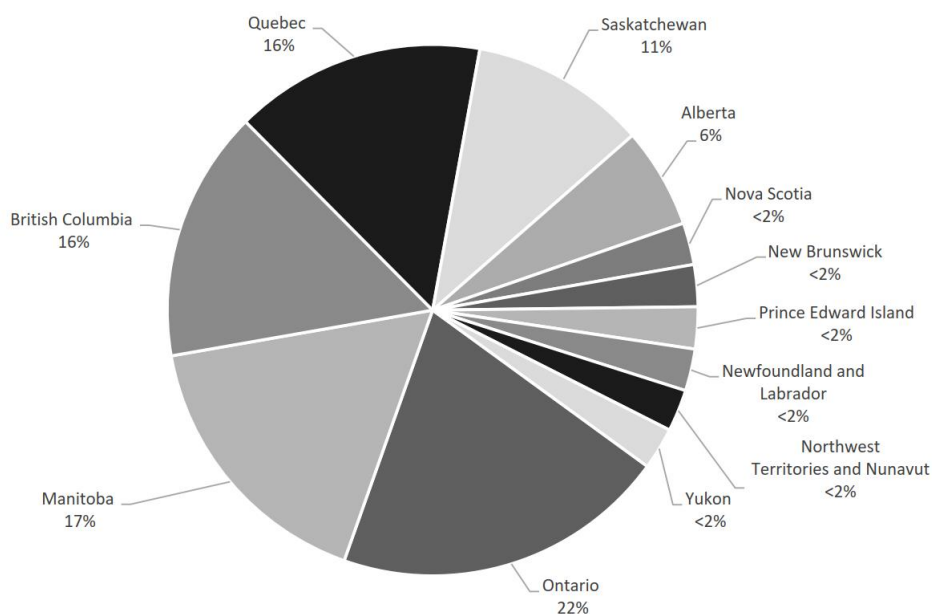


Table 1: Estimated Boarding Home Students by Region

Province / Territory	Student Estimates
Ontario	Est 8,000
Manitoba	Est 6,600
British Columbia	Est 6,000
Quebec	Est 6,000
Saskatchewan	Est 4,200
Alberta	Est 2,400
Northwest Territories & Nunavut	< 1,000
Yukon	< 1,000
New Brunswick	< 1,000
Nova Scotia	< 1,000
Prince Edward Island	< 1,000
Newfoundland and Labrador	< 1,000

2. Notice Plan Summary

The Notice Plan reflects the range in the ages of the target Class Members, their individual school experiences, geographic distribution across Canada, languages spoken and familiarity with traditional and social media means of communication.

The Notice will:

1. Announce the settlement approval and briefly outline the settlement and its terms;
2. Provide information to Class Members of their options because of the settlement approval;
3. Describe the process and deadlines to Opt-Out; and
4. Provide general information to Indian Boarding Homes Program Class Members.

Situation Analysis

A Class Member is someone who was placed in private home, during the period from September 1, 1951, to June 30, 1992, for the purpose of attending school, not including placements for post-secondary education. Individuals placed after June 30, 1992, are also included if Canada was responsible for their placement.

The challenges associated with communicating the Notice of Settlement to Class Members include:

- no contact information list;
- geographic disparity (remote, rural, urban);
- language diversity;
- literacy and comprehension levels;
- those who have passed away (though estates are eligible);
- social and cultural diversity;
- trauma triggers and trust.

With these challenges in mind, there needs to be a concerted effort to reach Indigenous communities throughout Canada. Technology must be leveraged in conjunction with the networks of Indigenous organizations to create a multiplier effect for the Notice.

3. Notice Plan Strategy

Reach & Engagement

The goal of the Notice Plan is to reach as many Class Members as is reasonably possible, ensuring methods are using a culturally sensitive, trauma-informed, transparent, and respectful approach, considering varying degrees of western education levels, conscious of triggers, mental health, systemic neglect, or language needs.

Methods of Communication

Given the importance of Class Members understanding and exercising their rights in the claims process, including to Opt-Out, notice to all Class Members must be in plain language and supported by additional materials such as FAQs and access to court documents. Emphasizing the deadlines for settlement approval, Opt-Out and the claims process is important.

The Notice will be communicated by email, telephone, facsimiles, and community messaging; by television and radio; by social media, as well as digital/internet advertising; and by letter mailing where required and practical. The goal of the Notice is to reach as many anticipated Class Members as possible. Class Members are assumed to reside in urban, rural, and remote regions across Canada. Based on Boarding Homes Program data, the main languages that will be used for Notice materials and Opt-Out forms will be English, French, Cree and dialects, Ojibwe, Dene, Inuktitut.

4. Notice Plan Delivery

An Indigenous-focused communication strategy that uses written, audio, and visual senses and incorporates digital and social media with a trauma-informed and culturally safe perspective will reach and inform as many Class Members as possible. Communications will use plain language that is reviewed and edited by Indigenous-led trauma-informed community engagement experts. Indigenous knowledge translation will be embedded in our outreach and Claims Administration processes to get maximum participation of Class Members in the claims process.

We intend to produce several videos that will be on the Indian Boarding Homes Class Action website; topics may include an overview of the approved Settlement Agreement and information on opting-out or participating in the claims process. Additional topics such as how to complete the forms and navigate the process will be used throughout the Community Engagement and claims process.

The short-form notice and FAQs will be delivered by email, post, or facsimile at the start of the Notice period:

- to Band offices, community centres, Friendship Centres and Indigenous local government offices of the First Nations and Inuit communities that may have been a part of the Indian Boarding Homes program by email and facsimile (black and white to allow it to be printed and posted);
- to all Assembly of First Nations, including the National Chief and all Regional Chiefs, by email and facsimile (black and white to allow it to be printed and posted) to Tribal Councils and National Association of Friendship Centres, including 112 Regional Centres, by email and facsimile (black and white to allow it to be printed and posted);
- print package (colour) of posters and other approved materials to be sent to targeted (large) communities and urban Indigenous centres close to surrounding rural and reservation communities;
- to Inuit and Inuvialuit organizations (ITK, NTI, Makivvik Corporation) and their Friendship Centres including, but not limited to, Tungasuvvingat Inuit;
- to Regional and National Indigenous Governments by email and facsimile;
- to Indigenous Elders and community leaders;
- to Indigenous and urban-Indigenous mental health and shelters/institutions.

5. Indigenous Organizations

A print and a social media package optimized for each social media platform will be created and shared with national and provincial/territorial Indigenous organizations as well as rural and urban community council offices/leaders. The networking with these organizations already entrenched in the First Nations and Inuit communities will assist in the effort to reach Class Members.

Our Indigenous-led team will work with these organizations that have an existing presence in communities which are built on a trusted track-record of accountability, reciprocity, responsibility, and respect. This approach will continue with: (1) online presence; (2) working with administrative offices to manage the print campaign visibility in targeted community posts; and (3) supporting the community engagement process that will follow the Notice period and continue for the next several years. Authentic and “organic” outreach will contribute to the success in these type of outreach campaigns.

We intend to collaborate with the following Indigenous organizations to utilize their social media channels, mailing lists and networks to notify Indigenous communities of the Notice of Settlement.

National:

Province / Territory	Organization(s)
National	The Assembly of First Nations
	Congress of Aboriginal Peoples
	Inuit Tapiriit Kanatami
	National Association of Friendship Centres
	Native Women's Association of Canada
	Sixties Scoop Network
	National Centre for Truth and Reconciliation (NCTR)
	Missing and Murdered Indigenous Women and Girls (MMIWG)
	Indigenous Professional Association of Canada (IPAC)
	National Consortium for Indigenous Medical Education (NCIME)
	International Indigenous Music Summit
	The Indigenous Screen Office
	National Council of Indigenous Midwives (NCIM)

Regional Tribal Councils/Political Territorial Organizations:

Province / Territory	Organization(s)
Alberta	Confederacy of Treaty 6 FN Athabasca Tribal Council Kee Tas Kee Now Tribal Council
New Brunswick	The Atlantic Policy Congress of First Nations Chiefs Secretariat
Nova Scotia	The Atlantic Policy Congress of First Nations Chiefs Secretariat
Prince Edward Island	The Atlantic Policy Congress of First Nations Chiefs Secretariat
British Columbia	First Nations Leadership Council
Manitoba	Manitoba Keewatinowi Okimakanak Southern Chiefs' Organization Keewatin Tribal Council
Newfoundland and Labrador	The Atlantic Policy Congress of First Nations Chiefs Secretariat Nunatsiavut Government
Northwest Territories	Dene Nation Inuvialuit Regional Corporation
Nunavut	Nunavut Tunngavik Incorporated
Ontario	Chiefs of Ontario Independent First Nations (IFN) Anishinabek Nation Association of Iroquois and Allied Indians (AIAI) Nishnawbe Aski Nation (NAN) Grand Council Treaty #3 (GCT3) Algonquin Nation Programs and Services Secretariat (ANS) Ontario Federation of Friendship Centres
Quebec	Conseil de la Nation Atikamekw Makivvik Corporation Grand Council of the Crees (QC) The First Nations of Quebec and Labrador Health and Social Services Commission (FNQLHSSC) Algonquin-Anishinabeg Nation Tribal Council Algonquin Nation Programs and Services Secretariat (ANS)
Saskatchewan	Federation of Sovereign Indigenous Nations
Yukon	Council of Yukon of First Nations
General	Regional Friendship Centres Assembly of First Nations – in every region

6. Website

The current website will be updated to include information about the Notice Period, Opt-Out registration, the settlement claims process, and a link to the claims-processing portal.

Some of these revisions will include:

- Increase traffic to boardinghomesclassaction.com / foyersfamiliauxfederaux.com websites by boosting search engine optimization;
- Add images of Indigenous content, to resonate with people on a cultural, emotional, and social level. Imagery will mirror content being shared across the country on social media, coming from a master branding kit;
- Add a push notification option for visitors to the website, allowing them to receive a message when content is added or updated to the website, and/or subscribe button/mailling list to receive email updates/alerts.

7. Social Media

The social media used for the Settlement Notice will include Facebook, Instagram, TikTok, and LinkedIn. Success in using social media means to attract attention to the information being shared so that it is shared through re-posts. These platforms are also intended to be used for the Community Engagement outreach over the coming years. The activities are expected to include:

- creation of assets (imagery refresh of the Indian Boarding Homes Program website) for use on social media platforms;
- account creation and social media presence on Facebook and Instagram which are the widest reaching social media platforms for Indigenous communities, as well as LinkedIn and TikTok;
- targeted (Facebook and Instagram) media advertising (image ads, carousel ads, etc..) focusing on short form notice, related materials, and resource links;
- utilize Meta's (Facebook) demographic targeting tools to reach Indigenous audiences, specifically emphasizing the Notice and related materials;
- ensure all social media messaging is developed in accordance with platform rules/regulations while maintaining cultural sensitivity using a trauma-informed approach;

- all social media platforms used will be locked down to avoid them being used as a forum for discussion, and the sole purpose will be for disseminating sources of information related to the settlement process.

Monitoring the effectiveness of the social media campaigns, during the Notice Period and in the coming years of Community Engagement, will help inform changes that need to be made to content, social media strategy and posting frequency. The roll-out will not be a “set it and forget it” strategy, but will involve continuous monitoring, optimization, and planning. The social media strategy will be proactive and flexible to respond to the performance data metrics such as likes, clicks, shares, mentions, visits, followers, reach, impression, traffic and leads.

8. News and Media

A two-prong approach will be undertaken to communicate the Notice of Settlement through news and media outlets. This will include leveraging news services that will disseminate messaging through their established channels as well as ensuring publications through Indigenous specific sources as outlined below.

- A. Develop and be responsible for uploading and updating media services (traditional and digital) throughout the Notice Period through a blend of both paid and earned media coverage developed in multiple languages:
 - News release(s) announcing the Notice of Settlement, through wire services and multi-media sites that are mainstream and Indigenous specific (communities, leaders, media, educators, healthcare);
 - Public Service Announcements (PSA) created and distributed for Aboriginal radio stations (APTN online, CBC Radio/CBC Indigenous/CBC North) (repeated daily where feasible);
 - PSA messaging / videos to be published on APTN, APTN lumi, and ad buys on APTN streaming service;
 - Development and delivery of interviews and articles with indigenous publications;
 - Garner interest and arrange for interviews with representative plaintiff and class counsel for radio and television.

B. Development and delivery of notice, interviews, and articles in Indigenous publications such as:

Province / Territory	Organization(s)
Alberta	Alberta Sweetgrass
New Brunswick	
Nova Scotia	Micmac Maliseet Nation News
Prince Edward Island	
British Columbia	Raven's Eye Ha-Shilth-Sa IndigiNews (digital)
Manitoba	The Drum Say Magazine
Newfoundland and Labrador	
Northwest Territories	Nunatsiaq News Tusaayaksat
Nunavut	Nunavut News Nunatsiaq
Ontario	Birchbark Anishnabek News Wawatay News Muskrat Magazine (digital) The Nation (digital) The Two Row Times (print and digital)
Quebec	Nunatsiaq Nation News
Saskatchewan	Sage Eagle Feather News
Yukon	Raven's Eye
General	Windspeaker First Nations Drums Turtle Island News APTN (digital) CBC Indigenous (digital) NationTalk (digital)

9. Radio

PSAs will be created and provided to Indigenous and regional radio. The 30second notice segments will deliver key information about the Settlement and may be repeated up to 3-5 times daily for the eight weeks of the notice period. The regional and Indigenous radio stations may include:

Province / Territory	Organization(s)
Alberta	Edmonton – CHED
	Calgary/Edmonton – CFWE-FM, CJWE-FM (First Nation, Country)
	Edmonton – Acimowin 88.5
	Windspeaker Radio CJWE & CFWE
New Brunswick	
Nova Scotia	Halifax – CJCH
Prince Edward Island	
British Columbia	Bella Coola BC – Nuxalk Radio 91.1 FM
	Cariboo Chilcotin/Williams Lake – Tsilhqot'in Radio 104.5 FM
	Vancouver – Unceded Airwaves 101.9 FM
	Terrace – CFNR-FM (First Nation, Classic Rock)
	Tofino – CHMZ-FM 90.12 FM
Manitoba	Winnipeg – CJOB 680
	Winnipeg – NCI FM (First Nation, Country)
Newfoundland and Labrador	
Northwest Territories	Northwest Territories – CKLB- 101.9 FM
Nunavut	Nunatsiaq News
Ontario	Ontario (Six Nations) – CKRZ- 100.3FM
	Toronto and Ottawa – ELMNT FM
	Northeastern Ontario: (107.1 The Island – Moose Factory)
	Northern Ontario – Wataway (First Nation)
	Ottawa – CFRB (New Talk 580)
	Georgina Island – CFGI 102.7 FM
	Georgina Island – Nish Radio 92.3 FM
	Akwesasne – CKON 97.3 FM
	Northern Ontario/Quebec – JBCCS
Quebec	Quebec – ICI Abitibi-Témiscamingue (Radio Canada)
	Quebec – CKFF (Drumbeat Radio))
	Quebec – SOCAM (Atikamekw-Innu broadcasting network)
	Northern Quebec – Taqramiut Nipingat Inc.
	Quebec – James Bay Cree Communications Society

	Northern Quebec/Ontario – JBCCS
	Montréal CHOM FM
	Northern Québec – Taqramiut Nipingat Radio 94.1 FM
	Labrador – KâlaKatiget Society (Web) Radio
Saskatchewan	Saskatoon – CKOM (News Talk 650)
	Regina- CKRM (Country)
	Saskatchewan- MBC (First Nation)
	Saskatchewan – CFDM-FM, CICN-FM, CHXL-FM, CIBC-FM, and CKCP-FM
Yukon	Yukon – CHON FM (First Nation, Community Radio)
General	CBC Indigenous (several active and engaged Indigenous channels, Unreserved, CBC North – Yukon, Northwest Territories, Nunavut, & Northern Quebec)
	APTN (many different national and regional branches)

10. Momentum

It is important to acknowledge that this initial outreach for the Notice period is just the beginning of a long-term community engagement process that will extend for at least three years. The relationships cultivated with the Indigenous communities, organizations, and leaders, as well as the communication channels developed, will continue to be used throughout the settlement claims process. An in-depth Community Engagement Plan will build upon this initial foundational work and will include comprehensive in-person outreach that embodies cultural sensitivity with a trauma-informed lens.

Schedule C



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Indian Boarding Homes Class Action Estate Claims Protocol

Where There is an Executor/Administrator/Trustee/Liquidator

1. The Claimant shall:
 - a. complete the appropriate claim form;
 - b. provide evidence that the Primary Class Member is deceased;
 - c. provide evidence of when the Primary Class Member died; and
 - d. provide evidence that they have been appointed as the Estate Executor of the deceased Primary Class Member's estate.
2. The claim form will contain release, indemnity, and hold harmless provisions in favour of Canada, the representative plaintiffs, Class Counsel, Quebec Subclass Counsel, the Claims Administrator, and the Independent Reviewer.
3. The Claims Administrator will assess the Application in accordance with the Claims Process.
4. Payment of any approved Application will be made payable to "the estate of" the deceased Primary Class Member.

Where There is no Executor/Administrator/Trustee/Liquidator

5. For the purposes of this Estate Claim Protocol, a Claimant includes someone who makes a claim under this Protocol based upon a family relationship to a deceased Primary Class Member whether or not that person is an Estate Executor.
6. The Claimant shall:
 - a. complete the appropriate claim form;
 - b. provide evidence that the Primary Class Member is deceased;
 - c. provide evidence of when the Primary Class Member died;
 - d. provide an attestation/declaration that the Primary Class Member did not have a will and that no executor, administrator, trustee, or liquidator has



-
- been appointed by the court;
 - e. provide proof of their relationship to the Primary Class Member, which may take the form of an attestation/declaration from a third party;
 - f. provide an attestation/declaration from the Claimant that there is/are no higher priority heir(s);
 - g. list all individuals (if any) at the same priority level of heirs as the Claimant; and
 - h. provide the written consent of all individuals (if any) at the same priority level of heirs as the Claimant for the Claimant to submit a claim on behalf of the deceased Primary Class Member.
 - 7. The claim form will contain release, indemnity, and hold harmless provisions in favour of Canada, the representative plaintiffs, Class Counsel, Quebec Subclass Counsel, the Claims Administrator, and the Independent Reviewer.
 - 8. The Claims Administrator will assess the Application in accordance with the Claims Process but will only make a payment for an approved Application or communicate a dismissed Application with a right of reconsideration in accordance with the provisions below. In cases where the Application is dismissed with no right of reconsideration, the Claims Administrator will inform the Claimant in accordance with the Claims Administrator's normal process.
 - 9. If no additional Applications with respect to the same deceased Primary Class Member are received by the Claims Administrator before the expiry of the Claims Deadline and the six month deadline for Request for Deadline Extension, the Claims Administrator shall:
 - a. in the case of an Application that is approved, pay the Claimant;
 - b. in the case of an Application that is dismissed, advise the Claimant of the dismissal. The Claimant is able to seek reconsideration in accordance with the Claims Process; and
 - c. in the case of a Category 2 Application that is assessed by the Claims Administrator at a level lower than the Claimant has identified in the Application, advise the applicant of the decision. The Claimant is able to seek reconsideration in accordance with the Claims Process.



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10. If the Claims Administrator receives another Application with respect to the same deceased Primary Class Member before the expiry of the Claims Deadline and the six month deadline for Request for Deadline Extension, where the Claimant is the estate executor, administrator, trustee, or liquidator, the Claims Administrator shall dismiss the Application from the non-executor, administrator, trustee, or liquidator Claimant, without any right of reconsideration.

 11. If any additional Application(s) with respect to the same deceased Primary Class Member is/are received by the Claims Administrator before the expiry of the Claims Deadline and the six month deadline for Request for Deadline Extension, from a Claimant who is not the estate executor, administrator, trustee, or liquidator, and who is of a different priority level of heirs than the previous Claimant(s), the Claims Administrator shall contact the Claimant with the lower priority to inquire as to whether that Claimant disputes the existence of the higher priority level heir. If the existence of a higher priority level heir is disputed, the matter shall be referred to the Independent Reviewer for a determination regarding which Claimant has the highest valid priority level and deem them to be the Designated Representative of the deceased Primary Class Member. The decision of the Independent Reviewer is final without any right of appeal or judicial review. The Independent Reviewer shall inform the Claims Administrator of their decision, and the Claims Administrator shall:
 - a. in the case of an Application that is approved, pay the Designated Representative;
 - b. in the case of an Application that is dismissed, advise the Designated Representative of the dismissal. The Designated Representative is able to seek reconsideration in accordance with the Claims Process; and
 - c. in the case of a Category 2 Application that is assessed by the Claims Administrator at a level lower than the Designated Representative has identified in the Application, advise the Designated Representative of the decision. The Designated Representative is able to seek reconsideration in accordance with the Claims Process.

 12. If any additional Application(s) with respect to the same deceased Primary Class Member is/are received by the Claims Administrator before the expiry of the Claims



Deadline and the six month deadline for Request for Deadline Extension, from a Claimant who is not the estate executor, administrator, trustee, or liquidator and who is of the same priority level of heirs as the previous Claimant(s), the Claims Administrator shall reject all of the Applications and notify each Claimant accordingly.

Notwithstanding the Claims Deadline and the six month deadline for Request for Deadline Extension, the Claimants who submitted competing Applications will then have three months to submit one new Application signed by all previously competing Claimant designating one Designated Representative on behalf of all of them and any other heirs. Upon receipt of the new Application, the Claims Administrator shall:

- a. in the case of an Application that is approved, pay the Designated Representative;
- b. in the case of an Application that is dismissed, advise the Designated Representative of the dismissal. The Designated Representative is able to seek reconsideration in accordance with the Claims Process; and
- c. in the case of a Category 2 Application that is assessed by the Claims Administrator at a level lower than the Designated Representative has identified in the Application, advise the Designated Representative of the decision. The Designated Representative is able to seek reconsideration in accordance with the Claims Process.

Priority Level of Heirs

13. The priority level of heirs follows the distribution of property intestacy provisions of the *Indian Act* and all terms have the definitions as set out in the *Indian Act*.



14. The priority level of heirs from highest to lowest priority are as follows:
- a. surviving spouse or common-law partner;
 - b. children;
 - c. grandchildren;
 - d. parents;
 - e. siblings; and
 - f. children of siblings.

Schedule D



e-document		T-1417-18-ID 311	
R	FEDERAL COURT	R	
E	COUR FÉDÉRALE	E	
C		C	
E		E	
I		I	
V	April 26, 2024	V	
E	26 avril 2024	E	
D		D	
Abbie Abe			
VAN			

Indian Boarding Homes Program
Reconsideration Request Protocol
Pursuant to 7.05 of the Settlement Agreement

1. A Claimant may file a Reconsideration Request if the Claimant receives a Notice of Claim Denial or a Notice of Approval at a lower level than was requested on the Claimant’s Category 2 Claim Form as filed.
2. The Claimant must submit a Reconsideration Request Form to the Claims Administrator.
3. Reconsideration Request Forms must be filed within 120 days of the date on the Notice of Claim Denial or the date on the Notice of Approval at a lower level than requested. Each Notice of Claim Denial and Notice of Approval at a lower level than requested will include the deadline date for filing a Reconsideration Request.
4. If Claims Administrator is satisfied that the Reconsideration Request provides sufficient information to approve the Claim, the Claims Administrator will send a Notice of Approval and associated payment to the Claimant.

Independent Reviewer and Exceptions Committee Protocol

5. If the Claims Administrator is not satisfied that the Claim should be approved based on the information in the Claimant’s Reconsideration Request, the claim will be forwarded to the Independent Reviewer.
6. If the Independent Reviewer approves the Claimant’s Reconsideration Request, the Claims Administrator will send a Notice of Approval and associated payment to the Claimant.
7. If the Independent Reviewer denies the Claimant’s Reconsideration Request, the Independent Reviewer has the option to refer the claim to the Exceptions Committee. If the claim is referred to the Exceptions Committee, a notice will be sent to inform the Claimant of the referral. If the claim is not referred to the



Exceptions Committee, the final denial notice will state the reasons for denial and for not referring the claim to the Exceptions Committee.

8. The Exceptions Committee will make the final determination on approval or denial of the Reconsideration Request.
9. If a Claimant's Reconsideration Request is denied by the Exceptions Committee, a final denial notice will be sent which will state that the claim was denied, the reasons for the denial, and that no other recourse is available to the Claimant within the claims process.

Schedule E

e-document		T-1417-18-ID 312	
R			R
E	FEDERAL COURT		E
C	COUR FÉDÉRALE		C
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V	April 26, 2024		
E	26 avril 2024		
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Abbie Abe			
VAN			

Indian Boarding Homes Program
Protocol for Payment of Individual Legal Fees

Background

As part of the Indian Boarding Homes Program settlement, lawyers who assist Claimants with their claims are entitled to legal fee payments from Canada. To receive a payment, the fees / lawyers must meet the following criteria:

- 1. Legal fees or disbursements will only be paid by Canada in relation to Category 2 applications.
- 2. The lawyer is entitled to an amount equal to 5% of the Claimant’s Category 2 payment, plus applicable taxes.
- 3. Lawyers may request on motion to the Federal Court an additional amount paid by Canada of up to 5% of the Claimant’s Category 2 payment, plus applicable taxes.
- 4. No amount may be charged to Claimants in respect of compensation under this settlement or for any other advice relating to this settlement except with prior Court approval.
- 5. Lawyers must be licensed to practice law in a province and/or territory of Canada and be in good standing.

The disbursement protocol of legal fees to lawyers who assist Class Members is outlined below.

Legal Fee Payment Procedures

- 1. The Claims Administrator will generate a list of applications that meet both of the following criteria:
 - a. Category 2 applications where Claimants were determined to be eligible for compensation
 - b. Category 2 applications where a licensed lawyer assisted the Claimant
- 2. The Claims Administrator will calculate the 5% amount of the Claimant’s Category 2 payment, plus applicable taxes, and issue payment to the lawyer listed on the form through electronic payment.

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3. If a Claimant requests reconsideration of their Category 2 application and is entitled to higher compensation following assessment, the lawyer who assisted the claimant with their reconsideration request will be paid the difference between 5% of the higher compensation and the original compensation amount.
 4. The Claims Administrator will conduct due diligence prior to the issuance of payments to confirm lawyer eligibility to receive the 5% amount. In instances of concern regarding eligibility (for example, where a license to practice law is under question), the Claims Administrator will withhold payment until the completion of additional due diligence is undertaken, which may include the request for additional documents to support the existence of the lawyer's licence and / or good standing). If the Claims Administrator's concerns regarding eligibility remains, a Final Denial Notice will be sent to the lawyer.

Request for Additional Legal Fees

Pursuant to section 11.02(1) of the Settlement Agreement, lawyers who assist Claimants with their Category 2 claims may request on written motion to the Federal Court up to an additional 5% of the Claimant's Category 2 Payment plus applicable taxes for legal fees and/or disbursements to be paid by Canada in accordance with the guidelines agreed upon by the Parties and approved by the Court. It is anticipated that in most cases a fair and reasonable fee will not exceed 5% of the Claimant's Category 2 Payment, considering the limited risk to counsel and the uncomplicated nature of the claims process, and that usually no additional amounts will be warranted.

1. Lawyers who believe there are circumstances which would merit fees above the standard 5% may prepare and serve a motion to the Federal Court for the fees and/or disbursements they seek. Canada will indicate whether it consents or opposes the motion after being served.

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2. Motions for additional fees and/or disbursements will be reviewed taking into account the following:
 - a. Amount already paid on account of fees;
 - b. Complexity of the matter;
 - c. Time spent
 - d. Necessary disbursements; and,
 - e. Other exceptional factors.
 3. If successful in their motion, lawyers will provide the Court Order to the Claims Administrator. Upon the receipt of orders from the Federal Court, the Claims Administrator will issue additional payments to the lawyers whose requests were approved by the Court.

Schedule F



Indian Boarding Homes Class Action Data Use and Disposition Protocol

Introduction

The Claims Administrator will collect, process, and retain data throughout the claims process. The content, communications, and information provided by Class Members may contain personal and sensitive information. The Claims Administrator understands the importance of maintaining privacy and commits to the confidential management and destruction of the information upon its end of use.

The information collected and used by the Claims Administrator is subject to the following disposition protocol.

Summary of Collected Data

Information collected and processed throughout the Settlement will include the following:

- **Information provided within the forms** – This includes information, both required and optional, requested to evaluate Category 1 and Category 2 compensation. This includes requests for missing information and reconsideration requests. This information may be retained in a hard copy or digital format.
- **Information provided throughout the claims process** – This includes queries, communications, and feedback provided throughout the claims process, that may not be contained in the claims forms. This information may be retained in a hard copy or digital format.
- **Information about the content provided** – This information may include data about the content submitted physically and digitally (i.e., metadata). Examples can include the date(s) of submission, or the file name of a digital file uploaded as part of a claim.



Use of Collected Data

The Claims Administrator will limit its collection of information to what is necessary to perform the assigned responsibilities specified in the Settlement Agreement. These tasks include:

- Identification of the Class Member and/or their representative(s)
- Determining the potential Class Member's eligibility
- Communication and socialization of the Settlement within relevant communities
- Communications to provide guidance on the location, navigation, and completion of claim forms
- Evaluation of Class Member Category 1 and Category 2 claims
- Prevention of fraud
- Improving the services and technology used to manage the claims process

Data Disposition Protocol

1. The information collected during the claims process, including all digital and hard copies, will be retained by the Claims Administrator for the duration of the process. The retention period will conclude two years following the completion of all individual payments (both initial and those issued following reconsiderations).
2. Following the retention period, the Claims Administrator will destroy all information and documentation in its possession that was received or collected during the Settlement process.
3. The destruction of information will include all physical and digital copies of information, as per ISO 27001 and ISO 27701 data sanitization standards. The standards are summarized as follows:
 - a. Physical documents maintained on paper will be shredded in such a way that the data cannot be read or retrieved.
 - b. Digital media including information on servers will be disposed of in such a way that identification or the re-identification of sensitive data will not be possible.



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4. Certification of destruction will be provided to class counsel and Canada following the destruction of information and documentation by the Claims Administrator.
 5. The Claims Administrator will not provide Claimant information or documentation back to the Class Member or their Representative(s), unless Claimants specifically request that their information and documentation be returned to them.

All other information in the Claims Administrator's possession will be destroyed in accordance with the above protocols. The Claims Administrator will provide notice on claim forms and supplementary materials, that information submitted will not be returned nor copies made available.

6. An exemption to the above data destruction protocols is information and documentation created by the Claims Administrator with respect to administrative reports. These reports will be retained in strict confidence and can only be used in a legal proceeding or in the settlement process where relevant.