

FREQUENTLY ASKED QUESTIONS

HOW DO I KNOW HOW MUCH I AM GOING TO RECEIVE FOR THE COMMON EXPERIENCE PAYMENT?

Under the agreement, former students will receive \$10,000 for the first year plus \$3,000 for the second year and every other year they attended. For example, if you attended the Shubenacadie Indian Residential School for 7 years, you would be entitled to receive \$28,000.

DO I HAVE TO HAVE ATTENDED FOR THE FULL SCHOOL YEAR?

No. A year is defined as a school year or any part of a school year. For example, if you attended the Residential School for part of a school year and then attended another four years, you would be credited with having attended for five years.

WHAT IS THE \$10,000 PLUS \$3,000 PER YEAR TO COMPENSATE FOR?

This payment compensates former students for their common experience at the residential school as well as loss of language and culture. By common experience, we're referring to, for example, the bad food, poor clothing, working for free, the harsh conditions and lack of love at the school. It extinguishes all legal claims for compensation except claims that fit under the Individual Assessment Process (IAP).

HOW LONG WILL IT BE UNTIL I AM PAID?

Survivors over the age of 65 will get an advance payment of \$8000. This payment is likely to be made early in 2006. The rest of the payments will not be made until the settlement is approved by the Courts.

Since the settlement is part of a National Class Action, the settlement must be approved by the Court (to make sure it is fair and reasonable). That approval is conditional on the Courts in other provinces approving the national settlement.

We are committed to obtaining the necessary approval as quickly as possible. Unfortunately, the legislation in some of the provinces allows an extended period of time for survivors to consider whether or not they wish to "opt out" of the settlement (not take the settlement).

Until the opt out period has ended, survivors cannot be paid. We will be asking the Courts to reduce these time periods and to speed up the approvals so that survivors can be paid quickly. Realistically, payments may not flow until the end of 2006.

We know that this is difficult but, the alternative to the settlement, i.e. continued litigation and appeals would likely mean that survivors would not be paid for many more years to come.

WHY DOES THE COURT HAVE TO APPROVE THIS SETTLEMENT?

A Class Action cannot be settled without Court approval. This is so that those people who are members of the class will have notice of the settlement. The Court will consider the settlement to determine whether it appears to be a fair and reasonable settlement which protects the interests of the members of the class. This approval process is mandated by the Ontario Class Proceedings Act, 1992.

WHY ARE FORMER STUDENTS WHO DIED BEFORE May 30, 2005 NOT ENTITLED TO COMPENSATION?

In Nova Scotia, a claim for compensation dies with the death of the Plaintiff. As part of the Class Action settlement, Canada has agreed to pay the estates of anyone who died after May 30, 2005, the date the federal negotiator was appointed.

WHAT IS THE INDIVIDUAL ASSESSMENT PROCESS ABOUT?

The Government's current dispute resolution program allows individuals who were physically and sexually abused to make application for compensation for that abuse according to a grid that was unilaterally established by the Federal Government. The new IAP substantially expands and improves upon the Government's dispute resolution program. The goal is to have applications handled within 9 months of the date of submission and to have as many as 2,000-2,500 claims resolved every year.

Not everyone is entitled to make a claim for additional compensation under the IAP. Anyone who believes that they may be entitled to seek such compensation should speak to a lawyer. Arnold Pizzo McKiggan is committed to assisting our clients, students of the Shubenacadie Indian Residential School and those who attended other residential schools, through the IAP process.

We believe that our experienced and skilled representation, plus our extensive knowledge and background in the residential school litigation will be of significant value to our clients.

HOW DO I APPLY FOR THE COMMON EXPERIENCE PAYMENT?

The process for applying for the common experience payment is still being worked out. We expect that it will be a simple process. The Government will have the right to validate applications which means that they will have the right to check to ensure that you have correctly identified the number of years that you were at residential school.

WILL IT COST ME TO APPLY FOR THE COMMON EXPERIENCE PAYMENT?

The lawyers who participated in the negotiation of the agreement in principle have unanimously agreed that we will not charge a fee for assisting clients to apply for the common experience payment. Arnold Pizzo McKiggan has agreed not to charge a fee to the Shubenacadie survivors to apply for the common experience payment.

You should not sign any kind of contract which requires you to pay a fee for or a percentage of your common experience payment. We would be glad to assist you in the application as soon as it is available to be filled out.

We intend to be in contact with members of the Shubenacadie Survivors Association as soon as we can with more details as to when the forms will be available. We also intend to make arrangements for our clients to fill out the forms and to submit them.

WHAT ABOUT THE LEGAL FEES FOR THE IAP?

Under the IAP the Government will contribute 15% toward the cost of legal fees. 15% is based on the amount of the award. For example, if you were awarded \$100,000, the Government would put an additional \$15,000 with that amount to pay toward your legal costs.

The 15% paid by the Government may not be enough to cover your full legal bill. We will be contacting those of you who wish to apply for the IAP and working out appropriate retainer arrangements for that work.

WHAT ABOUT THE LEGAL FEES THAT HAVE BEEN INCURRED TO DATE? WHO PAYS THOSE COSTS?

Under the settlement, an amount has been set aside for payment of legal costs, including the costs of Class Action and the Shubenacadie Survivor's claim. Those costs will be paid by the Federal Government so that you receive your common experience payment without any deduction for legal fees.

There will be a "fairness hearing" where the Court determines what fee the Federal Government has to pay to the lawyers that negotiated the settlement.

WHAT ABOUT FAMILY MEMBERS?

The settlement provides programmatic compensation for families, including the relatives of survivors who have passed away. Significant sums have been set aside for truth and reconciliation, commemoration and healing, both on an individual and community level. Because of the massive numbers of family members affected across the country, it was both impractical and impossible to get any cash compensation for family members. As a result, the stake holders involved in the negotiation process believe that programmatic relief of this sort is the best way to bring closure to this issue and to help all aboriginal persons move forward from the legacy of the residential school experience.

WHAT DO I HAVE TO DO AT THIS POINT?

Stay tuned. We will be regularly updating you on the status of the approval process. We will be contacting you to determine whether you wish to go into the IAP, and will be gathering the information we need in order to be able to assist you promptly with that application. We have already interviewed many of you and will be using that information as well.

IF I HAVE ALREADY GONE INTO THE GOVERNMENT'S ADR PROGRAM AND RECEIVED SOME COMPENSATION, WILL I GET THE COMMON EXPERIENCE PAYMENT?

Yes.

HOW DO I LEARN MORE ABOUT THE AGREEMENT AND HOW THINGS ARE PROGRESSING?

Please make sure that we have your current address and information. If you have not previously signed up with us, you can still do so. We will be sending out reports as further developments arise. You can also check our website for further updates.