



## NOTICE OF SETTLEMENT APPROVAL AND CLAIMS PROCESS

Did you attend an Indian Residential School as a student during the day but not sleep there overnight?

OR

Did your parent attend an Indian Residential School as a student during the day but not sleep there overnight?

OR

Are you the estate executor, administrator, trustee or liquidator or the heir of someone who attended an Indian Residential School as a student during the day but not sleep there overnight and who died on or after May 30, 2005?

If yes, this notice is for you. It is authorized by the Federal Court. Please read it carefully because it affects your legal rights.

### WHAT IS THIS NOTICE FOR?

There is a settlement in a certified class action called *Gottfriedson v. Canada* (Federal Court File No. T-1542-12) regarding the claims of Day Scholars (the “Survivor Class”) and their children (the “Descendant Class”). Day Scholars are students who attended Indian Residential Schools (“IRS”) during the day only and did not sleep there overnight. A Federal Court judge approved the settlement agreement on September 24, 2021 and that agreement is now binding on all Survivor Class and Descendant Class members who did not opt out.

The settlement contains benefits for both the Survivor Class and the Descendant Classes:

- **\$10,000 Day Scholar Compensation Payment:** Each Day Scholar who attended an Indian Residential School during the day only (but did not sleep there overnight) is eligible to apply for a \$10,000 Day Scholar Compensation Payment. A list of IRSs that had or could have had Day Scholars can be found at the end of this Notice, and online at <https://www.justicefordayscholars.com/schools-lists/>. In cases where the Day Scholar died on or after May 30, 2005, the deceased Day Scholar’s estate or heirs may apply for the Day Scholar Compensation Payment.
- **\$50 million Day Scholars Revitalization Fund:** Canada will pay \$50 million to the Day Scholars Revitalization Fund to be used to support healing, wellness, education, language, culture, heritage, and commemoration for the benefit of the Survivor and Descendant Classes. The funds will be administered by a non-profit society.

The proposed settlement does not include the Band Class. Nothing in the proposed settlement will affect the Band Class claim, which is moving forward to trial.

**The Claims Process for the \$10,000 Day Scholar Compensation Payment will officially open on January 4, 2022. The deadline to apply for the \$10,000 Day Scholar Compensation Payment is October 4, 2023.**

*This notice provides details of the approved settlement, the claims process, steps that class members must take to obtain settlement funds, and how to obtain further information.*

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QUESTIONS? Call 1-888-222-6845 (toll-free) or email [dayscholars@waddellphillips.ca](mailto:dayscholars@waddellphillips.ca)

or visit <http://www.justicefordayscholars.com/>

## BACKGROUND INFORMATION

### 1. What is a class action?

A class action is a type of lawsuit for a group of people who all have similar legal claims. Instead of each person filing a separate lawsuit, a class action is one lawsuit for the whole group. The group is called a “class” and members of the group are called “class members”.

Some class members are actively involved in the class action and represent the whole group. Their experiences are used as examples to help the judge understand the case. These class members are called “representative plaintiffs”.

### 2. What is this class action about?

This Class Action lawsuit is called *Gottfriedson v. Canada* and the Federal Court file number is T-1542-12. The Court “certified” this class action in June 2015, meaning that it approved the lawsuit to proceed as a class action.

Certification of a class action is a procedural step that allows the action to be carried forward by representative plaintiffs on behalf of the class they seek to represent. When a court certifies a class action it does not necessarily make any findings as to whether the allegations made by the representative plaintiffs in the action are legally or factually correct.

There are three classes that were certified by the Court in this class action:

- **Survivors** – all Aboriginal persons who attended an IRS as students during the day but did not sleep there overnight, any time between 1920 and 1997. The representative plaintiffs for the Survivor Class are Charlotte Gilbert, Diena Jules, Darlene Bulpit, and Daphne Paul.
- **Descendants** – the natural, legally adopted, or traditionally adopted children of Survivors. The representative plaintiffs for the Descendant Class are Amanda Big Sorrel Horse and Rita Poulsen.
- **Bands** – More than 100 bands that had an IRS on their lands or that have/had members who are/were Survivors, and that chose to be part of the Class Action. The representative plaintiffs for the Band Class are the Tk’emlúps te Secwépemc Indian Band and the Sechelt Indian Band (shíshálh Nation).

Some students at IRSs were “residents”, meaning that they stayed at the IRSs overnight. Those students who attended IRSs as students during the day only but did not stay overnight are called “Day Scholars”. These Day Scholars are the Survivor Class in this Class Action.

The central argument advanced by the representative plaintiffs is that the purpose, operation, and management of the IRSs, by Canada or on Canada’s behalf, destroyed the Class Members’ language and culture, violated their cultural and linguistic rights, and caused psychological harms.

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The Class Action sought compensation for Survivors who say they were harmed as a result of their attendance at IRSs as Day Scholars. The class action also seeks compensation for Descendants and Bands who say they too were harmed as a result of the Survivors' attendance as Day Scholars at IRSs and IRS policy.

### **3. What is this class action not about?**

#### ***Residents at Indian Residential Schools***

The class action is not about persons who exclusively attended IRSs as live-in residents. These claims were previously settled under the Indian Residential Schools Settlement Agreement ("IRSSA"), which included a Common Experience Payment ("CEP").

#### ***Harms related to Physical and Sexual Abuse***

This class Action is also not about harms related to sexual or serious physical abuse suffered by students at IRSs. Day Scholar Survivors were eligible to bring claims through the Independent Assessment Process ("IAP") of the IRSSA for sexual or serious physical abuse suffered while attending IRSs as Day Scholars.

#### ***Federal Indian Day Schools***

This Class Action is not about Federal Indian Day Schools. Claims relating to harms endured at Federal Indian Day Schools are included in the *McLean* Federal Indian Day Schools Settlement Agreement. To learn more about the *McLean* Federal Indian Day Schools Settlement Agreement, as well as the list of schools included in that settlement, go to: <https://indiandayschools.com/>.

#### ***Day Scholars who were Residents at IRSs and who also attended Federal Indian Day Schools are still eligible***

Day Scholars may still claim compensation under this settlement, even if that Day Scholar also attended Federal Indian Day Schools or was a resident of an IRS, so long as they have not received compensation for all school years they attended as a Day Scholar through either the McLean Federal Indian Day School Settlement Agreement or the IRSSA.

For example:

- If you lived at an IRS from, for instance, 1960-1962 and received a CEP under the IRSSA, but also attended an IRS from, for instance, 1963-1964 as a Day Scholar, you may claim compensation as a Day Scholar for 1963-1964 and may be eligible for a payment under this settlement.
- If you attended a Federal Indian Day School, for instance, from 1940-1945, but also attended an IRS as a Day Scholar from, for instance 1946-1948, you may still be eligible for a payment under this settlement.

### *Persons who Opted Out*

Any Survivors or Descendants who chose to opt out (be excluded) from the class action before the deadline on November 30, 2015, are not included in the class action and will not be affected by the Settlement. Because the deadline has passed, it is no longer possible to opt out (be excluded) from the class action.

Unless you took an explicit step to opt-out of this class action, and you otherwise meet the definition of a “Survivor” or “Descendent” the Settlement applies to you.

### *The Band Class*

The Settlement does not include the Band Class. Nothing in the Settlement will affect the Band Class claim, which is moving forward regardless of this Settlement.

## THE SETTLEMENT

### 4. What is the Settlement?

The Settlement is for Day Scholars (i.e., the Survivor Class) and their children (i.e., the Descendant Class). The Settlement contains benefits for both the Survivor Class and the Descendant Class. Day Scholars (the Survivor Class) are students who attended at an IRS during the day only (i.e., did not sleep there at night).

The list of IRSs that had, or could have had Day Scholars, and that are included in the Settlement, is at the end of this Notice (and online at <https://www.justicefordayscholars.com/schools-lists/>). The full list is divided into two:

- List 1, which includes IRSs confirmed to have had Day Scholars; and
- List 2, which includes IRSs where there may have been Day Scholars.

Schools on both lists are included in the Settlement.

The full Settlement Agreement is available at: [www.justicefordayscholars.com/wp-content/uploads/2021/Gottfriedson-Settlement-Agreement-FINAL-Signatures-Added.pdf](http://www.justicefordayscholars.com/wp-content/uploads/2021/Gottfriedson-Settlement-Agreement-FINAL-Signatures-Added.pdf)

### *Benefits for the Day Scholar Survivor Class: Individual \$10,000 Payment*

Under the terms of the Settlement, all Day Scholar Survivors who were alive on May 30, 2005 and who attended a listed IRS for all or part of a school year are eligible for a \$10,000 payment. A claim will be approved if:

- It is made on or before the claims deadline of October 4, 2023 which is 21 months after the claims process opens on January 4, 2022;
- The Survivor Class Member was alive as of May 30, 2005; and

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- The Survivor Class Member was a Day Scholar for at least part of one or more school years for which they did not already receive: (i) a Common Experience Payment from the Indian Residential Schools Settlement Agreement, (ii) any payment from the *McLean* Federal Indian Day Schools Settlement Agreement, or (iii) any compensation from any other settlement relating to a school on the *McLean* Settlement list.

There is no limit on how many people will receive Day Scholar Compensation Payments.

No reductions will be made to Day Scholar Compensation Payments. All approved claimants will receive a single payment of \$10,000, regardless of how long the Survivor Class Member was a Day Scholar.

### ***The Estate or Heirs of Survivor Class Members***

In cases where the Day Scholar has died on or after May 30, 2005, the estate or heirs of the deceased Survivor Class Members may be entitled to make a claim.

More details on how estate claims can be made are in the “Can claims be made on behalf of a deceased Survivor Class Member?” section below.

### ***Benefits for the Survivor Class and Descendant Class: Day Scholars Revitalization Fund***

The Settlement establishes a \$50 million Day Scholars Revitalization Fund set up for the benefit of the Survivor Class and the Descendant Class.

The funds will be used to support healing, wellness, education, language, culture, heritage and commemoration, and will be managed by a not-for-profit Day Scholars Revitalization Society (“Revitalization Society”). The Revitalization Society will be Indigenous-led, and is independent of Canada (save for one out of at least five directors who will be appointed by Canada).

The Revitalization Society will develop and implement a process that allows Survivor Class and Descendant Class members to apply to obtain funding to support healing, wellness, education, language, culture, heritage and commemoration activities. It will develop a process to assess applications and provide grants.

### ***Releases***

In exchange for the benefits of the settlement discussed above, the legal claims advanced on behalf of Survivor and Descendant Class Members will end and Canada will receive a “release” of its liability from all Survivor and Descendant Class Members. This means that in the future:

- No Survivor Class Members can sue Canada for any harm or damage due to their attendance as a Day Scholar at any IRS.
- No Descendant Class Members can sue Canada for any harm or damage suffered by them due to their parents’ attendance as a Day Scholar at any IRS.

The full release terms can be found at sections 42.01 and 43.01 of the Settlement Agreement. Please contact Class Counsel if you have any questions about the release terms and what they mean.

## MAKING A CLAIM

### **5. How do Survivor Class Members claim the Day Scholar Compensation Payment?**

To receive a Day Scholar Compensation Payment, a Survivor Class Member must submit a Claim Form to the Claims Administrator prior to the Claims Deadline.

#### *Obtaining Claims Forms*

Claims forms will officially be available starting on January 4, 2022 in both online and paper versions.

- The online form is found at [www.dayscholarsclaims.com](http://www.dayscholarsclaims.com) and can be completed entirely online.
- If you would prefer a paper version, please contact the Claims Administrator (Deloitte) to request that a paper claims form be mailed to you. Class Members who complete paper forms will have to mail or fax them directly to the Claims Administrator.

Please note that Claims Forms completed online will be processed more quickly.

Please only submit one Claims Form. Submitting multiple claims forms may lead to processing delays.

#### *Filling Out Claims Forms*

Detailed instructions on how to make a claim are included within the Claims Form.

Claimants will need to know, prior to completing a Claims Form, the IRS that they attended as a Day Scholar and the approximate dates of attendance as a Day Scholar.

Limited supporting documentation is required to complete a Claims Form:

- For claims relating to any IRSs in List 1 (IRSs with known Day Scholars), no supporting documentation is required to prove the Day Scholars' attendance beyond the basic information in the Claims Form itself.
- For claims relating to any IRSs in List 2 (IRSs that may have had Day Scholars), claimants will be required to provide a formal sworn statement confirming that they were a Day Scholar and explaining where they were living when they attended the IRS as a Day Scholar.

If you need assistance filling out the claim form, please contact the Claims Administrator.

A document explaining the complete Claims Process can be found at Schedule C of the Settlement Agreement: [www.justicefordayscholars.com/wp-content/uploads/2021/08/Schedule-C-Claims-Process-EN.pdf](http://www.justicefordayscholars.com/wp-content/uploads/2021/08/Schedule-C-Claims-Process-EN.pdf)

### *Claims Deadline*

**The Claims Deadline is October 4, 2023 at 11:59 p.m. You must deliver your claim form by the Claims Deadline in order to ensure that your claim is processed.**

#### **6. Can a claim be made on behalf of a deceased Survivor Class Member?**

In cases where the Survivor Class Member has died on or after May 30, 2005, the estate or heirs of the Survivor Class Member can claim the \$10,000 Day Scholars Compensation Payment by submitting an Estate Claim Form to the Claims Administrator.

### *Estate Claims Forms*

Estate Claims Forms can be filled out using the online form is found at [www.dayscholarsclaims.com](http://www.dayscholarsclaims.com).

If you would prefer a paper version of the Estate Claims Form, please contact the Claims Administrator (Deloitte) to request that a paper claims form be mailed to you. Completed paper forms will have to be mailed or faxed directly to the Claims Administrator.

Forms completed online will be processed more quickly.

Instructions on how to make a claim are included in the Estate Claims Form.

### *Who May Claim and Priority of Claims*

In cases where the estate has an executor, administrator, trustee or liquidator (either because one was named in a will, or appointed by a court), that person may make a claim on behalf of the estate.

If there is no estate executor, administrator, trustee or liquidator (i.e., one was not named in a will or appointed by a court), the highest priority heir can make a claim. The priority level of heirs follows the distribution of property in cases where someone dies without a will in under the *Indian Act*, and is as follows (from highest to lowest priority)

- a. surviving spouse or common-law partner;
- b. children;
- c. grandchildren;
- d. parents;
- e. siblings; and
- f. children of siblings.

In cases where there is more than one heir of the same priority level, those heirs must choose one heir to make a claim on behalf of all of them.

A document explaining the complete Estate Claims Process and priority of claims can be found at Schedule D of the Settlement Agreement: [www.justicefordayscholars.com/wp-content/uploads/2021/08/Schedule-D-Estate-Claim-Process-EN.pdf](http://www.justicefordayscholars.com/wp-content/uploads/2021/08/Schedule-D-Estate-Claim-Process-EN.pdf)



## ASSESSING AND ADJUDICATING CLAIMS

### **7. Who determines if I have a valid claim?**

The Claims Administrator is responsible for managing the claims process and for determining whether a submitted claim is valid.

The Claims Administrator is independent from the lawyers for the Class Members and from Canada. The Court has appointed Deloitte to act as the Claims Administrator.

### **8. How will claims be assessed?**

The following is the process for assessing claims:

- (1) The Claimant completes a Claims Form and/or Estate Claims Form online or sends the paper form (by email, fax, or mail) to the Claims Administrator;
- (2) The Claims Administrator provides the Claimant with confirmation of receipt of the claim, once received.
- (3) If the Claims Form or Estate Claims Form is missing information, the Claims Administrator will contact the Claimant and provide the Claimant with an opportunity to complete the missing information.
- (4) The completed Claims Form or Estate Claims Form will then be sent to Canada to review to see if it has any information or documentation which supports or contradicts the claim made. If Canada does have any such information, Canada will send it to the Claims Administrator.
- (5) The Claims Administrator will then determine if the claim is eligible for a payment under the Settlement. The Claims Administrator will only dismiss the claim if there is positive evidence that the claim is not eligible.
- (6) Once a Claims Form or Estate Claims Form is approved for payment, the Claims Administrator will provide payment as quickly as possible in accordance with the payment details set out in the Claims Form or Estate Claims Form.

Throughout the claims process, the Claims Administrator is required to assume that a Claimant is acting honestly and in good faith unless there is reasonable evidence to the contrary, and to draw all reasonable inferences that can be drawn in favour of the Claimant.

## 9. What if my claim is rejected/dismissed?

The following is the process for rejected claims:

- (1) If your claim is rejected, the Claims Administrator will send you a written notice providing clear reasons why the claim has been dismissed.
  - a. Claimants do not have a right of reconsideration if their claims are dismissed because the Claims Administrator is satisfied the claim relates to an institution or school that is not an IRS listed in Schedule E of the Settlement Agreement, or is on behalf of an individual who died before May 30, 2005.
  - b. Claimants have a right of reconsideration if their claims are dismissed for any other reason. Where a Claimant has a right to reconsideration, the Claims Administrator will inform the claimant of their right to reconsideration and their right to be represented by Class Counsel at no cost in seeking reconsideration, and will attach copies of any information or documents that were considered as part of the decision to dismiss the claim.
- (2) A Class Member who has a right of reconsideration may request that the Independent Reviewer reconsider a claim rejected by the Claims Administrator. The Independent Reviewer is appointed by the Court to consider anew certain claims that have been rejected by the Claims Administrator.
- (3) Claimants seeking reconsideration before the Independent Reviewer can choose to be represented by the lawyers for the Class Members (Class Counsel) at no cost to them, to represent themselves, or to hire and pay for other lawyers of their choice. As part of the reconsideration process, Claimants may submit new evidence.
- (4) The Independent Reviewer will consider the claim anew based on the written submissions of the Claimant (or his or her counsel) and any new evidence submitted by the Claimant.
- (5) The Independent Reviewer's determination of the reconsideration will be provided in writing to the Claimant and to Canada and is final and binding.

### THE LAWYERS IN THE CASE

## 10. Who are the lawyers for the Class Members?

The lawyers for the Class Members are called Class Counsel. You may contact Class Counsel at:

**Tel: 1-888-222-6845 (toll-free)**

**Email: [dayscholars@waddellphillips.ca](mailto:dayscholars@waddellphillips.ca)**

QUESTIONS? Call 1-888-222-6845 (toll-free) or email [dayscholars@waddellphillips.ca](mailto:dayscholars@waddellphillips.ca)

or visit <http://www.justicefordayscholars.com/>

**Class Counsel in this case are:****John Kingman Phillips**

Tel: (647) 261-4486

[john@waddellphillips.ca](mailto:john@waddellphillips.ca)**Peter R. Grant**

Tel: (604) 886-4846

[pgrant@grantnativelaw.com](mailto:pgrant@grantnativelaw.com)**Diane Soroka**

Tel: (514) 939-3384

[dhs@dsoroka.com](mailto:dhs@dsoroka.com)**W. Cory Wanless**

Tel: (647) 261-4486

[cory@waddellphillips.ca](mailto:cory@waddellphillips.ca)**Otto Phillips**

Tel: (289) 481-0425

[otto@waddellphillips.ca](mailto:otto@waddellphillips.ca)

There is no charge to speak to Class Counsel about the Class Action or the Settlement.

**11. How will the lawyers be paid?**

Canada will pay Class Counsel's legal fees and expenses directly. The Court has determined that the Fee Agreement setting out amounts to be paid by Canada for legal fees and expenses is fair and reasonable. Legal fees and expenses are separate from the settlement benefits and will not lower or affect the dollar amount that Survivors receive, or that the Day Scholars Revitalization Fund receives, in any way. The reasons and order approving the legal fees can be found at: <https://canlii.ca/t/jkg40>

**GETTING MORE INFORMATION****12. How do I get more information about the Class Action or the Settlement?**

This notice summarizes the Class Action and the Settlement. The full settlement agreement, the court order approving the settlement agreement, as well as more details and documents, is on the <http://www.justicefordayscholars.com/> website.

If you want to speak to Class Counsel about the Class Action or the Settlement, you can do so by mail, fax, phone, or email:

Waddell Phillips Professional Corporation  
Att'n: Day Scholars Class Action  
36 Toronto Street, Suite 1120  
Toronto, ON M5C 2C5  
Fax: 416-477-1657  
Tel: 1-888-222-6845 (toll-free)  
[dayscholars@waddellphillips.ca](mailto:dayscholars@waddellphillips.ca)

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or visit <http://www.justicefordayscholars.com/>

If you want to obtain a paper copy of a claims form, want assistance completing a claims form, or want more information about this class action or the claims process, please see [www.dayscholarsclaims.com](http://www.dayscholarsclaims.com) or contact the Claims Administrator:

Deloitte:

Indian Residential School Day Scholars Claims Administrator c/o Deloitte

PO Box 7014

Toronto, ON, Canada M5C 0A9

Fax: 416-601-6101

Phone: 1-877-877-5786

Email: [dayscholarsclaims@deloitte.ca](mailto:dayscholarsclaims@deloitte.ca)

*This notice was approved by the Federal Court. It is a summary of the settlement agreement. If there is a conflict between what is stated in this notice and what is stated in the settlement agreement, the settlement agreement will govern.*

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