

DAY SCHOLARS SURVIVOR AND DESCENDANT CLASS SETTLEMENT

NOTICE OF PROPOSED PARTIAL SETTLEMENT AND SETTLEMENT APPROVAL HEARING

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?

If yes, this notice is for you.

Please read it carefully because it affects your legal rights.

- **What is this lawsuit about:**

- A class action lawsuit called *Gottfriedson v. Canada*, Federal Court File number T-1542-12, is in progress on behalf of three classes:
 - Day Scholar Survivors who attended Indian Residential Schools as students during the day only (i.e. they did not sleep there overnight) at any time between 1920 and 1997,
 - the Survivors' children (Descendants), and
 - certain Bands who opted in/chose to be included in the class action.
- This class action is happening because the plaintiffs say that the purpose, operation and management of the Indian Residential Schools destroyed the Class Members' language and culture, violated their cultural and linguistic rights, and caused Survivors psychological harms. The class action seeks compensation for Survivors who say they endured harms as a result of their attendance at Indian Residential Schools as Day Scholars. It also seeks compensation for Descendants and Bands who say they endured harms as a result of the Survivors' attendance at Indian Residential Schools.
- This class action is not about sexual or serious physical abuse endured by students at Indian Residential Schools (those claims were covered by the Indian Residential School Settlement Agreement) and does not cover claims by students who attended Indian Day Schools (those claims are covered by the *McLean* Federal Indian Day Schools Settlement Agreement).
- This class action also does not include any Survivors or Descendants who chose to opt out (be excluded) from the class action before the deadline on November 30, 2015. It is no longer possible to opt out from the class action.

- **What is the proposed settlement:**

- **There is now a proposed settlement in this class action of the Survivor and Descendant claims.**
- The settlement includes two types of compensation:
 - Direct compensation to each Survivor Class Member in the form of a \$10,000 Day Scholar Compensation Payment. There will be no reductions made to the Day Scholar Compensation Payments and there is no limit on how many people will receive Day Scholar Compensation Payments. All approved claimants will be paid \$10,000 by Canada.

- Canada will also 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 Survivor and Descendant Class Members.
 - All Survivor Class Members who attended a listed Indian Residential School during the day only, for part or all of a school year, are included in the proposed settlement. A listed Indian Residential School is one where there were, or might have been, Day Scholars.
 - You can see the full list of Indian Residential Schools that are included in this class action at the end of this Notice and at Schedule E of the Settlement Agreement. The full list is divided in two: List 1, which includes Indian Residential Schools confirmed to have had Day Scholars; and List 2, which includes Indian Residential Schools where there may have been Day Scholars. Both List 1 and List 2 Schools are included in the settlement.
 - A Survivor Class Member's claim will be approved if it is made before the claims deadline (21 months after claims start being accepted), and if, for at least one of the school years when the Survivor Class Member was a Day Scholar, they did not already receive a Common Experience Payment under the Indian Residential Schools Settlement Agreement or payment under the *McLean* Federal Indian Day Schools Settlement Agreement for that school year.
 - Any Survivor Class Members who were alive as of May 30, 2005, but have died since, are included in the proposed settlement. The heirs of these deceased Survivor Class Members may be entitled to make a claim. The Estate Claims Process is at Schedule D to the Settlement Agreement.
 - Claimants whose claims are dismissed because the Claims Administrator is not satisfied that the claimant was a Day Scholar at a listed Indian Residential School have the right to seek reconsideration. Claimants seeking reconsideration can choose to be represented by the lawyers for the Class Members at no cost, or to hire and pay for other lawyers of their choice.
 - In exchange for the benefits discussed above, the Survivor and Descendant Class claims will be dismissed in the class action and Canada will receive a "release" of its liability from all Survivor and Descendant Class Members. No Survivor Class Members will be able to sue Canada for any harm or damage due to their attendance as a Day Scholar at any Indian Residential School. No Descendant Class Members will be able to sue Canada for any harm or damage due to their parents' attendance as a Day Scholar at any Indian Residential School.
 - Canada will pay the legal fees and expenses of the lawyers for the Class Members directly. These fees and expenses are separate from the settlement benefits and will not lower or affect the benefits in any way.
 - **Unless and until the Federal Court approves the Settlement Agreement, it is only a proposed settlement. Class Members cannot submit claims and cannot receive compensation until after the proposed settlement is approved by the Federal Court.**
 - The proposed settlement does not include the Band Class. Nothing in the proposed settlement will affect the Band Class claim, which is moving forward regardless of what happens with this proposed settlement.
- **What's next:**
 - A Federal Court judge will decide whether to approve the proposed settlement. The test that the judge will apply is whether the settlement is fair, reasonable, and in the best interests of the Class Members. The judge will consider the entire settlement agreement all together as a

complete package. The judge is not able to pick and choose which parts of the settlement to approve or not approve.

- The judge will make the decision about whether to approve the proposed settlement following a court hearing that will start on September 7, 2021.
- Because of COVID-19, it is not clear at this point whether the settlement approval hearing for this class action will take place in a courtroom or online. Either way, it will be possible to watch the hearing online. The link for the hearing will be posted on the <http://www.justicefordayscholars.com/> website several days beforehand.
- If the judge **approves** the settlement, then it will apply to all Survivors and Descendants. If the judge **does not approve** the settlement, then it will not take effect and the class action lawsuit will continue to trial.
- At the hearing, the lawyers for the Class Members will also ask the Federal Court to approve their legal fees and expenses.

- **What you can do:**

- You do not have to do anything at this time.
- You can choose to participate in the settlement approval process. This means sharing your opinion about whether the settlement is fair, reasonable, and in the best interests of the Survivors and Descendants:
 - you can send in a written statement, which must include your name, contact information, a statement that you are a Class Member, and a statement that you support or object to the proposed settlement, and any other details you would like to add. Written statements can be sent by email, mail or fax, and must be received by August 20, 2021, at 11:59 PDT at:

dayscholars@waddellphillips.ca
Waddell Phillips Professional Corporation
Att'n: Day Scholars Class Action
36 Toronto Street, Suite 1120
Toronto, ON M5C 2C5
Fax: 416-477-1657
 - you can sign up to speak at the settlement approval hearing by emailing dayscholars@waddellphillips.ca by August 20, 2021, at 11:59 PDT. Further details, including technical information about the online hearing, will be sent to everyone who signs up to speak.

More information about your rights and options, details of the settlement (including the settlement agreement), and details about the settlement approval process, can be found on the www.justicefordayscholars.com website. If you have questions or opinions you would like to share, please contact Class Counsel at 1-888-222-6845 or dayscholars@waddellphillips.ca.