



INDEPENDENT ASSESSMENT PROCESS AND RECORDS

OVERVIEW

On October 6, 2017, the Supreme Court of Canada upheld an Order of the Ontario Court of Appeal that recognizes that Independent Assessment Process and Records (IAP) claimants have a choice to preserve their records, or have them destroyed. All IAP documents will be retained for 15 years, during which time IAP claimants have the opportunity to direct the Chief Adjudicator to transfer their records to the National Centre for Truth and Reconciliation (NCTR) or another archive of their choice. The 15 year archival deadline begins for the individual when their claim was settled or a final decision was rendered. The default position is that the records will be destroyed, unless the claimant agrees to share their information.

On July 4, 2018, the Ontario Superior Court of Justice approved a Notice Plan to be administered by the Chief Adjudicator of the IAP. All IAP Claimants are to be provided with notice of their ability to preserve their IAP records, subject to required redaction, with the NCTR.

The Chief Adjudicator of the IAP will develop a number of communication products for public distribution. These products will be consistent with the Court-approved Consent Form, and will include a multi-media campaign, a pamphlet, a poster, a postcard, and videos about the IAP, the consent form, and the NCTR. The 15-year Retention Period for IAP documents has been set from September 19, 2012 until September 19, 2027.

UPDATE

The overall objective of the Notice Program is to notify all IAP and Alternative Dispute Resolution (ADR) Claimants about their options regarding their IAP & ADR records. The intent is not specifically to obtain requests for copies of records or for archiving of those records - which ultimately will be the choice of each claimant - but rather to ensure that all claimants are informed of their right to determine what is done with their records.

All individuals who applied for compensation under the IAP have the following choices for the final disposition of their records:

- do nothing: their records will remain confidential and will then be destroyed on September 19, 2027;
- get a copy for themselves to keep or share with others;

- preserve them for history, public education and research at the NCTR; or
- get a copy for themselves *and* preserve them for history, public education and research at the NCTR.

For those individuals who decide to preserve their records at the NCTR, they have a choice of two ways to do that: restricted access or open access. In either case the NCTR will use and share their records for public education and research to promote reconciliation. The NCTR is committed to the respectful and dignified use of records and of doing no harm:

- **Restricted access** means the NCTR may use and share records with the public for purposes such as education, but only if the NCTR removes all personal and identifying information. Personal

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information means information that identifies a person or could be used to identify the Claimant. Personal information will be held by the NCTR and may be made available to researchers, but only under strict confidentiality conditions. Personal information will not be available to the public and will not be published. One's family will not be allowed to see the records.

- **Open access** means the NCTR may use your records and personal information, including your name, for education and research to promote reconciliation, including by sharing

with the public (which may include your family). However, the NCTR will not disclose certain personal information, such as your address, phone number or First Nation to the public.

Records archived at the NCTR are managed according to Manitoba laws, including *The National Centre for Truth and Reconciliation Act*. IAP records will not be disclosed through access requests under *The Freedom of Information and Protection of Privacy Act*. IAP records will ONLY be made available as permitted by the consent signed by a former student of an Indian Residential School.

NEXT STEPS

During the fall of 2018, training will be provided to Indigenous organizations that provide services under the Resolution Health Support Program (RHSP), as well as other organizations, such as the NCTR, the Records Agent - Crawford, the Assembly of First Nations (AFN) and members of the Inuit Representative, which will have roles in the Notice Program.

Commencing January 1, 2019, the distribution phase will begin where information will be disseminated to claimants. The distribution phase is further broken down into four sub-phases, as detailed below.

Phase 1 – Multi-media Campaign: Notice of information will be distributed through various print, television, radio and social media. A dedicated website www.MyRecordsMyChoice.ca will be launched, and the Secretariat's toll-free IAP Information Line, which has been in use for the last 10 years, will continue to be maintained.

The AFN will also have dedicated staff to answer any questions Claimants may have. The AFN has set up a toll free number (1-833-212-2688) and email address (iapdesk@afn.ca) for claimants to contact our staff. These will remain in effect for two years.

Phase 2 – Distribution of Posters and Information Packages: Information packages, posters, and postcards will be sent to First Nation, Métis & Inuit communities, Indigenous & Inuit Organizations, Friendship Centres, Correctional Centres, Tribal Councils, and other partners/stakeholders. Further mail-outs may occur throughout the distribution phase. To protect claimants' confidentiality, these will be provided in bulk in a general-distribution approach.

Phase 3 – Community notices: The Secretariat staff will reach out and partner with Indigenous communities across Canada to provide notice on local radio stations, local newsletters and links on their websites. These notices will be in the language of the community media type.

Phase 4 – Ongoing Information for the Duration of the Record Retention Period: The dedicated website and information line will be maintained throughout the 15-year Record Retention Period, to continue to provide information to claimants. The mailing address for Consent Forms will be updated to include the processing centre of the Records Agent – Crawford.