

Because the Settlement Agreement would involve the termination of a number of class-action proceedings that the courts had already authorized, it was necessary for courts in most provinces and territories to consider whether the Settlement Agreement was a fair resolution of the claims and, in particular, whether it adequately protected the interests of all the class members.

The Settlement Agreement included a Common Experience Payment (CEP) for everyone who attended one of the residential schools listed in the Agreement. In addition to the CEP, an Independent Assessment Process (IAP) was established to pay compensation to those who suffered sexual or serious physical assaults, such as severe beating, whipping, and second-degree burning, at the schools. The process also included compensation for assaults by other students if they were the result of a lack of reasonable supervision.

The IAP was designed to be an easier process for complainants than litigation. Hearings are held in private with cultural supports for the claimants and health supports provided by Health Canada. In contrast to the protracted nature of much civil litigation, hearings are supposed to be held within nine months, with decisions due shortly after the hearings.

In their statements to the Commission, some Survivors have expressed concerns about the IAP abuse hearing process because it did not allow them to face their abusers directly. Bernard Catcheway, a former student at Pine Creek residential school in Manitoba, told the Commission,

You know and [my abuser's] still alive. I think she's eighty-nine years old according to when I went to my hearing three years ago. I wanted her so badly to come to that hearing, you know, but because of her age and because of her, I guess, incompetency, you know, she chose not to be there. I would have loved for her to, to meet her at that time, to basically say I, you know, to say whatever it was that made her do things to us, I was going to say, "I forgive you." But I never got a chance to say that.<sup>127</sup>

Other claimants, such as Amelia Galligos-Thomas, a former student at Sechelt residential school in British Columbia, criticized the IAP's delay in hearing and settling claims.

I've been waiting five years now for my appeal, and it hasn't happened yet. And it's almost time for them to stop giving the money out to us. And they opened up all our wounds, for what? To turn us all down? And some people are dying.... My sister's doing drugs, like, 'cause she's tired of waiting. She's living on the streets. So, so, why did they do this to us, again? They hurt us again. They shouldn't go back on their word to us. They already hurt us. Stop hurting us.<sup>128</sup>

## Exclusions from the Settlement

Not all Survivors of residential school abuse were included in the Settlement Agreement. For example, day school students, many Métis students, and pupils from schools in