



ASSEMBLY OF FIRST NATIONS BULLETIN

February 29, 2024

Update on Final Settlement Agreement on Compensation for Children and Families

The Assembly of First Nations issues regular updates on work underway at the national office. More information is available at www.afn.ca.

Summary:

- On April 19, 2023, the parties to the class action on discrimination in the First Nations Child and Family Services Program (FNCFS) and Jordan's Principle agreed on a revised settlement agreement to compensate First Nations children and families who were harmed by discriminatory underfunding of the FNCFS and the federal government's narrow application of Jordan's Principle.
- The revised settlement agreement, totalling more than \$23 billion, was approved by Canadian Human Rights Tribunal (CHRT) on July 26, 2023. The Federal Court of Canada approved the settlement on October 24, 2023.
- These levels of approval mean that the implementation process for compensation can now begin, which includes preparing necessary materials like application forms.
- Eligibility criteria for all classes are not yet finalized. Experts have been retained to provide recommendations on eligibility for the Jordan's Principle class.
- The parties are preparing a Distribution Protocol, which will outline how compensation is delivered. In addition, the parties are preparing necessary support measures for claimants.
- Currently, compensation is not available, and the application process has not been established.

Update on the Status of the Final Settlement Agreement on Compensation for Children and Families

Following the approval of the revised settlement agreement by the Federal Court, the parties have turned their minds to its Implementation. Based on the recommendation of the AFN Executive Committee, the Federal Court appointed five members to the [Settlement Implementation Committee on November 16, 2023](#). On November 29, 2023, the Federal Court also appointed members of the Investment Committee, the Actuary, and the Third-party Assessor. The Federal Court of Canada will oversee the implementation of the settlement agreement over the 21-year lifespan of the settlement agreement.

The AFN will not distribute the compensation. An Administrator is in place for distribution, and that organization is Deloitte. Class Counsel and Deloitte (Administrator) are currently working on a Distribution Protocol that will guide how the compensation is delivered,

including the payment process. The parties are also preparing a significant number of support measures for claimants that the Parties and the First Nations Child and Family Caring Society of Canada agreed to in the FSA, including mental health, financial literacy, and other supports that will be provided free of charge.

Additionally, the AFN, Class Counsel and Deloitte (Administrator) are hosting regional engagement sessions across Canada to seek input from First Nations on the Distribution Protocol and how supports will be administered by Deloitte, Provincial-Territorial Organizations (PTOs), and other service providers. Sessions will be available both on-reserve and off-reserve. The AFN is working with the Regional Offices to set dates in February through March 2024 for these proposed engagements.

Work on defining eligibility for Jordan's Principle began in January 2024. While the Jordan's Principle eligibility is not yet finalized, the Parties have engaged with the Thunderbird Foundation, First Nations Information Governance Institute, and various experts to pilot the application process and set criteria for the Jordan's Principle class.

Moreover, the \$23.34 billion from Canada will need to be effectively managed in investment vehicles by a financial institution. Engagement on the appropriate process for the investment structure and the receiving of funds has been explored by Class Counsel, with their recommendations having been adopted by the Settlement Implementation Committee.

Background

In April 2023, First Nations-in-Assembly approved the revised Final Settlement Agreement (FSA) through the passage of AFN Resolution 04/2023, *Revised Final Settlement Agreement on Compensation for First Nations Children and Families*. This resolution also authorized the AFN negotiators to make necessary minor adjustments to finalize the FSA.

On April 19, 2023, the parties to the class action signed the revised settlement agreement, providing a total compensation package payable to claimants in the amount of \$23.34B. The CHRT approved the revised agreement on July 26, 2023. [The Federal Court of Canada approved the settlement on October 24, 2023](#). The Court found the settlement to be fair, just, and in the best interest of the class members.

The FSA uses the CHRT orders as a base and includes specific provisions for different classes of claimants. Most class members will receive a base award of \$40,000. However, the Trout Class and Essential Services Class will receive a lower amount of compensation. Efforts are being made to ensure the compensation is not subject to taxation or affect social assistance payments.

The Administrator will roll out the claims process for the prepared classes, starting with the Removed Child and Family Classes, following Federal Court approval of the related distribution protocol. Efforts are underway by the parties to prepare distribution protocol for the remaining classes, which will be submitted for Federal Court approval when completed.

Classes Information:

- Removed Child Class and Removed Family Class – Covers the period between April 1, 1991, and March 31, 2022. Removed Child Class members may be eligible to receive additional enhancements for various harms they experienced.
- Jordan's Principle and Essential Services Classes – Covers those First Nations children, as well as their parent/caregiving grandparents, who experienced a delay, denial, or service gap in receiving an essential service for a confirmed need from Canada between December 12, 2007, and November 2, 2017.
- Trout Classes – Covers those First Nations children, as well as their parents/caregiving grandparents, who experienced a delay, denial, or service gap in receiving an essential service for a confirmed need from Canada between April 1, 1991, and December 11, 2007.
- Kith Classes – Covers those First Nations children who were removed from their homes on-reserve and placed with a kith caregiver off-reserve between April 1, 1991, and March 31, 2022.

The AFN will continue to work on implementation and provide updates on the status of the Final Settlement Agreement on Compensation for Children and Families. For more information, please visit the www.afn.ca or contact:

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