

Long Form Notice of Certification and Settlement

First Nations Child and Family Services and Jordan's Principle Class Action

INTRODUCTION

The Federal Court of Canada (the Court) has approved this notice.

The plaintiffs and Canada have reached a \$23.34 billion settlement of this class action taken on behalf of First Nations children and some of their family members (**Settlement**). If you qualify, you may be entitled to payment under this Settlement.

This notice provides information about the class action and this Settlement. For more detailed information related to the compensation process and to sign up for updates on the compensation process, visit <https://www.fnchildcompensation.ca>.

If you want to stay in the class action and be eligible to submit a claim for payment in this Settlement, you do not need to do anything now.

This notice also gives you a chance to remove yourself from the class action (opt-out). **You should only remove yourself from the class action if you do not want to receive payment in this Settlement. If you opt out of the class action, you lose the right to be compensated under this Settlement.**

If you would like help to better understand this notice, there is contact information below (see page 14). You can make an appointment for a call with someone who will explain it to you and answer your questions.

THE CLASS ACTION

WHAT IS A CLASS ACTION?

A class action is a lawsuit brought by one or more persons on behalf of a large 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. This group is called a 'class'.

WHAT IS THIS CLASS ACTION ABOUT?

This class action is about discrimination by the Canadian government against First Nations children and families in providing child welfare, health care, and other essential services.

The class action claims that from 1991 until 2022, Canada discriminated against First Nations children living on reserve and in the Yukon who were removed from their homes and placed in out-of-home care, as well as their families.

The class action also claims that between 1991 and 2017, Canada failed to provide (or delayed in providing) essential services to First Nations children who had a confirmed need for such essential services. This treatment discriminated against the First Nations children and their families, and broke a legal rule known as Jordan's Principle.

The parties' intensive negotiations led to Canada agreeing to pay **\$23.34 billion** to compensate the members of the class and to resolve the class action. The goal of this Settlement is to compensate Survivors and their families in recognition of the harms they've endured – while knowing that no amount of money can make up for their pain and suffering.

WHO IS INCLUDED IN THE CLASS ACTION?

There are (3) categories of individuals potentially eligible to receive compensation under this Settlement:

Category 1:

(A) First Nations children who, at any time between April 1, 1991 and March 31, 2022, while they were under the age of majority, were removed from their homes by child welfare authorities and placed into care while they, or at least one of their caregivers (parents or grandparents), were ordinarily resident on reserve or living in the Yukon (excluding individuals living in the Northwest Territories at the time of removal). Furthermore, the placement was funded by Indigenous Services Canada (**ISC**).

(B) Also, First Nations children who, during the same time period, while they were under the age of majority, were placed by a caregiving parent or grandparent off-reserve with a non-family caregiver, while the First Nations children were ordinarily resident on reserve or living in the Yukon (excluding individuals living in the Northwest Territories at the time of placement), and where a Child Welfare Authority was involved in the placement.

Category 2: First Nations children (living both on-reserve and off-reserve) who were confirmed to need an essential service but faced a delay, denial or a gap in receiving that essential service between April 1, 1991 and November 2, 2017.

Category 3: The parents, grandparents or siblings of one of the individuals in Categories 1 and 2, above.

CATEGORY 1: REMOVED CHILDREN AND KITH CHILD CLASS

Under the Settlement, First Nations children ordinarily resident on reserve or in the Yukon at the time of their removal, or those who had at least one caregiver ordinarily resident on reserve or in the Yukon at that time, who were removed from their home and placed into care between April 1, 1991 and March 31, 2022, are eligible to receive compensation.

You may qualify for compensation under the Removed Child Class if you:

- Are First Nations;
- Were ordinarily resident on reserve or in the Yukon at the time of your removal (excluding individuals living in the Northwest Territories at the time of removal), or had at least one caregiving parent or grandparent ordinarily resident on reserve or in the Yukon at that time (excluding individuals living in the Northwest Territories).
- Were placed into care as a child between April 1, 1991 and March 31, 2022; and
- Your placement was funded by ISC.

You may also qualify for compensation if you:

- Are First Nations;
- Were ordinarily resident on reserve or in the Yukon at the time of your placement (excluding individuals living in the Northwest Territories at the time of the placement).
- Were placed by your caregiving parent or grandparent as a child between April 1, 1991 and March 31, 2022; and
- You were placed off-reserve with a non-family caregiver, your placement was not funded by ISC, and a Child Welfare Authority was involved in your placement (**Kith Child Class**).

Covered	Not Covered
First Nations children	Non-First Nations children
Children ordinarily resident on reserve or in the Yukon, or who had at least one caregiver ordinarily resident on reserve or in the Yukon at the time of removal	Children ordinarily resident off-reserve or in the Northwest Territories at the time of removal
<p>Children who were placed into care or were in care as of April 1, 1991 or at any time between April 1, 1991 and March 31, 2022, and whose placement was funded by ISC, including in:</p> <ul style="list-style-type: none"> • Foster Homes • Assessment Homes • Non-kin Foster Homes • Paid Kinship Homes • Group Homes • Residential Treatment Facilities • Others 	<p>Children who were placed into care and whose placement ended <i>prior</i> to April 1, 1991, or who were placed into:</p> <ul style="list-style-type: none"> • Non-paid Kin Homes (i.e., with extended family) • Non-paid Community Homes
Funded by ISC	Funded by a province
OR	
<p>First Nations Children ordinarily resident on reserve or in the Yukon at the time of placement (excluding individuals living in the Northwest Territories); AND between April 1, 1991 and March 31, 2022, were placed off-reserve with a non-family caregiver; AND whose placement did not receive any funding from ISC; AND a Child Welfare Authority was involved in the placement.</p>	

Children placed in care who were removed from and returned to their homes prior to April 1, 1991 are the subject of other class actions such as the “Sixties Scoop” settlement. These are separate class actions, distinct from this one.

WHAT DOES “FIRST NATIONS” MEAN UNDER THE SETTLEMENT WITH RESPECT TO REMOVED CHILDREN AND KITH CHILD CLASS?

Under the Settlement, “First Nations” means Indigenous peoples who:

- (i) Are registered under the *Indian Act*;
- (ii) Were entitled to be registered under the *Indian Act* as of February 11, 2022; or
- (iii) Met band membership requirements as of at least February 11, 2022 (i.e., they were included on the Band List of their community).

I AM FIRST NATIONS BUT WAS NOT LIVING ON RESERVE AT THE TIME THAT I WAS REMOVED FROM MY HOME. CAN I STILL RECEIVE COMPENSATION?

If you or at least one of your caregivers were ordinarily resident on reserve or in the Yukon when you were placed into care, you may be entitled to compensation. But, if neither you nor your caregivers were ordinarily resident on reserve or in the Yukon at the time of your removal, you are not entitled to compensation under this Settlement.

Take this quiz to find out if you qualify in this category:

1. Are you First Nations?

Yes No

2. Did you ordinarily reside on a reserve or have at least one caregiver ordinarily residing on reserve, or live in the Yukon, at the time of your removal?

(N.B. if you lived in the Northwest Territories, select “No”)

Yes No

3. Were you placed in care at any time between April 1, 1991 and March 31, 2022 or were you in care as of April 1, 1991?

Yes No

If you answered “Yes” to all of these questions, you may qualify for payment.

CATEGORY 2: JORDAN’S PRINCIPLE / TROUT / ESSENTIAL SERVICES

Under the Settlement, First Nations children who faced a service gap or were denied or delayed access to an essential service between 1991 and 2017 may be entitled to compensation. This group is commonly referred to as the “Jordan’s Principle” class, in honour of Jordan River Anderson. Because the term Jordan’s Principle was not recognized until 2007, this category dates back to April 1, 1991 under the name of “**Trout**”. The Settlement also includes an Essential Service Class, which refers to First Nations children who faced a service gap or were denied or delayed access to an essential service between December 12, 2007 and November 2, 2017, but who do not meet the threshold of impact for qualification as a member of the Jordan’s Principle or Trout class.

WHAT IS “JORDAN’S PRINCIPLE”?

“Jordan’s Principle” is a legal rule that requires the government to treat First Nations children in the same manner as non-First Nations children, and not deprive them of essential services that they need. The government must put the interests of the child first, before any jurisdictional or funding dispute.

This principle was named in honour of Jordan River Anderson, who did not receive the essential services he desperately needed because various governments were arguing about who should pay for Jordan’s needs. Jordan’s Principle is intended to ensure that what happened to Jordan does not happen to other First Nations children.

You may qualify for payment if:

- You are First Nations (whether you lived on or off reserve); and
- You had a confirmed need for an essential service between April 1, 1991, and November 2, 2017; and
- You requested the service but were denied or delayed access to this service, or you did not request the service but there was a service gap. This could have been due to:
 1. lack of funding
 2. lack of jurisdiction
 3. jurisdictional dispute between Canada and the provincial / territorial government
 4. other reasons

WHAT DOES “FIRST NATIONS” MEAN UNDER THE SETTLEMENT WITH RESPECT TO JORDAN’S PRINCIPLE / TROUT / ESSENTIAL SERVICES?

Under the Settlement, “First Nations” means Indigenous peoples across Canada (including the Yukon and Northwest Territories) who:

- (i) Are registered under the *Indian Act*; and
- (ii) Were entitled to be registered under the *Indian Act* as of February 11, 2022.
- (iii) In addition, with respect to the Jordan’s Principle Class only, individuals who:
 - Met band membership requirements under sections 10-12 of the *Indian Act* and who suffered a delay, denial or service gap with respect to an essential service between January 26, 2016 and November 2, 2017; or
 - Were recognized as citizens or band members of a First Nations community as of February 11, 2022 (included on a Band List or confirmed by First Nations Council Confirmation), and faced a delay, denial or service gap with respect to an essential service between January 26, 2016 and November 2, 2017.

CATEGORY 3: FAMILIES

The caregivers of children who were removed from their homes or who could not access an essential service may also be entitled to compensation. Foster parents are not included.

Covered	Not Covered
Caregiving biological parent(s)	Foster parent(s)
Caregiving adoptive parent(s)	
Caregiving Step-parent(s)	
Caregiving biological grand-parent(s)	
Caregiving adoptive grand-parent(s)	

Only those parent(s) or grand-parent(s) who were the primary caregiver(s) of the child at the time of removal or placement, or at the time of delay, denial or service gap with respect to the child’s confirmed need for an essential service, are entitled to compensation (if otherwise eligible) – i.e., the *primary caregivers* – to a maximum of two (2) caregivers per eligible child.

Siblings and other family members of the affected children will not receive direct compensation under this Settlement.

THE SETTLEMENT

OVERVIEW

Under this Settlement, Canada will pay **\$23.34 billion** to class members.

The Settlement must still be approved by the Federal Court. If it is approved by the court, class members falling within Category 1, Category 2 or Category 3 may be entitled to compensation.

The Settlement of the class action partly overlaps with decisions rendered by the Canadian Human Rights Tribunal (**Tribunal**). The Tribunal has confirmed that the Settlement satisfies its compensation orders. As a result, if the court approves this Settlement, the Settlement will cover all claims within the class action, as well as the claims for compensation that individuals would otherwise have been eligible to submit to the Tribunal. You will only need to make one application for compensation.

HOW MUCH COMPENSATION CAN I GET?

The amount of money you may receive will vary based on different factors. Each Category provides for an estimated minimum base payment. You may be eligible under multiple categories and you may be able to receive enhanced payments over-and-above the base payment, if certain factors are present.

CATEGORY 1: REMOVED CHILDREN AND KITH CHILD CLASS

Base Payment (Removed Child Class)

Under the Settlement, individuals who were removed from their homes as children and placed into care that was funded by ISC between April 1, 1991 and March 31, 2022, are eligible for a minimum base payment of \$40,000.

Enhanced Payments

Certain individuals will also be entitled to enhanced compensation. Enhancements are based on several factors, including, for example:

- The age when first placed into care;
- The total amount of time spent in care;
- Whether the child was removed from their home due to lack of access to an essential service;
- Whether the child lived in a Northern or remote community;

- The number of times the child was placed into care; and
- The number of the child's out of home placements.

These factors are intended to acknowledge the harm suffered by each child, in light of their individual circumstances.

The availability and the amount of enhanced payments will vary depending on the number of claimants. The precise amount of enhanced compensation cannot be known at this time.

Base Payment (Kith Child Class)

Under the Settlement, First Nations children who, while ordinarily resident on reserve or in the Yukon (excluding individuals living in the Northwest Territories at the time of removal) between April 1, 1991 and March 31, 2022, were placed with non-family member caregivers off-reserve, whose placement was not funded by ISC, and whose placement involved a Child Welfare Authority, may be entitled to a base payment of \$40,000.

Individuals in the Kith Child Class are not eligible for enhanced compensation.

CATEGORY 2: JORDAN'S PRINCIPLE / TROUT/ ESSENTIAL SERVICES

Base Payment

The amounts to be paid to individuals in this Category depend on *when* the essential service gap or the denial or delay of an essential service happened, and the severity of impact experienced.

The precise amount to be paid to each individual will depend on the severity of the impact on the child, the number of approved claimants, and the availability of funds. The precise amount to be paid cannot be determined at this time.

Timeframe	Class	Base Payment
April 1, 1991 – December 11, 2007	Trout Class	\$20,000
December 12, 2007 – November 2, 2017	Jordan's Principle Class	\$40,000
December 12, 2007 – November 2, 2017	Essential Service Class	up to \$40,000

Enhanced Payments

Individuals may also be eligible for enhanced compensation, in certain circumstances, if the denial or delay of an essential service had a severe impact on them. Any enhanced payments will depend on the severity of the impact, the number of approved claimants, and the availability of funds. The precise amount of enhanced payments cannot be known at this time.

CATEGORY 3: FAMILIES

The caregiving parents or the caregiving grandparents of children who were removed from their homes or denied access to an essential service may also be entitled to compensation. The amount of compensation a caregiver may be entitled to depends on various factors, as well as the number of approved claims. The precise amount to be paid cannot be determined at this time.

Category 1: Caregivers of Removed children and Kith	\$40,000 per child up to a maximum of \$80,000 in certain circumstances.
Category 2: Caregivers of Jordan's Principle and Trout children	Up to \$40,000 per child. The precise amount cannot be determined at this time. The amount will depend on various circumstances, including the number of approved claims.

Siblings and other family members of the affected children will not receive direct compensation under this Settlement.

To find out how you can get money, visit <https://www.fnchildcompensation.ca>.

WILL MY MONEY BE TAXED?

Money received under this Settlement is not subject to federal income tax. In addition, Canada has agreed to work with provinces and territories to exempt these amounts from provincial taxes or other deductions.

ARE THERE ADDITIONAL SUPPORTS FOR CHILDREN & FAMILIES?

In addition to the above, a **\$50 million** trust fund will be created to support First Nations children and families in different ways. This includes, for example:

- Grants to facilitate culture, community and healing-based services to class members and their children;

- Supports for children in care, or formerly in care, including funding for family and community reunification;
- Funding to facilitate access to cultural programs, activities and supports (ex. youth groups, ceremonies, languages, Elders and Knowledge Keepers, mentors, land-based activities, and culturally-based arts and recreation);
- Supports for children transitioning out of care (ex. safe and accessible housing, life skills and independent living, financial literacy, continuing education, health and wellness supports, etc.);
- Facilitating the creation of a scholarship for the Jordan's Principle Class and their children; and
- The creation of a national network for First Nations children in care.

An additional trust fund of **\$90 million** will be established for the benefit of high-needs Jordan's Principle class members to ensure their personal dignity and well-being.

APPROVAL OF SETTLEMENT

WHEN WILL THE SETTLEMENT BE APPROVED?

FEDERAL COURT

The Federal Court will hold a hearing to decide if this Settlement should be approved (**Settlement Approval Hearing**). This Settlement Approval Hearing will take place in Ottawa, beginning on **October 23, 2023**. Details of the hearing will be posted at <https://www.fnchildcompensation.ca>, as well as details on how to attend virtually.

Sign up at <https://www.fnchildcompensation.ca> to receive notifications by email.

CAN I COMMENT OR OBJECT TO THE SETTLEMENT?

You do not need to attend the Settlement Approval Hearing or make any comments in order to benefit from the Settlement.

If you want to provide comments or object to the Settlement, there are two (2) ways you can do so:

In writing: You can provide comments in writing to this address: PO Box 7030, Toronto ON M5C 2K7 or fnchildclaims@deloitte.ca. Your comments will be sent to the Federal Court before the hearing. To be included, all written comments must be received by **October 13, 2023**.

In person: You can ask to speak at the Settlement Approval Hearing at the Federal Court about the Settlement on October 23, 2023 in person or by videoconference. If you want to comment or object in person, you must send your request to speak at the hearing by **October 13, 2023**.

WHAT HAPPENS AFTER THE SETTLEMENT APPROVAL HEARING?

An additional notice will be published informing you about how you may make a claim for payment under this Settlement.

Class counsel are strongly recommending that the Court approve this Settlement, as they believe that it is in the best interest of class members.

Staying in the class action should not impact any government supports that you may be receiving or may be entitled to receive in the future from any government.

By staying in the class action, you can submit a claim for compensation under this Settlement; however, you will not be able to sue Canada again, or make an application to the Canadian Human Rights Tribunal, regarding the same discriminatory conduct that is the subject of the class action.

Nothing in the Settlement prevents you from taking legal action for any other harms not included in this class action, or starting a claim against a province, territory or agency.

Following the Settlement Approval Hearing, there will be further hearings for the purpose of approving the Distribution Protocol and Claims Process. There will be different Distribution Protocols for the various Categories of Class Members. Once the Distribution Protocols are finalized, they will be available to be reviewed at <https://www.fnchildcompensation.ca>.

HOW TO REMOVE YOURSELF FROM THE CLASS ACTION

If you do not want to participate in the class action, you can ask to be removed from the lawsuit. You can do so by filling out an [Opt-Out Form](#) online or mailing a copy to this address: PO Box 7030, Toronto ON M5C 2K7 or email to fnchildclaims@deloitte.ca or fax to 416-815-2723. **If you remove yourself from the class action, you will NOT receive any compensation under this Settlement.** Before removing yourself from the class action, you should contact the Administrator of the Settlement at 1-833-852-0755 to discuss your choice. The last day to remove yourself from the class action is: **October 6, 2023.**

IF I OPT-OUT OF THE SETTLEMENT, CAN I STILL GET MONEY FROM THE CANADIAN HUMAN RIGHTS TRIBUNAL COMPENSATION ORDER?

No. The Tribunal has decided that this Settlement satisfies its compensation orders, and has terminated its jurisdiction regarding compensation in favour of the Federal Court. Therefore, if this Settlement is approved by the Federal Court, it will replace the Tribunal's Compensation Order process altogether.

CLASS ACTION TEAM

WHO IS REPRESENTING THE CLASS?

YOUR REPRESENTATIVE PLAINTIFFS

The Assembly of First Nations is a plaintiff. The class action was brought by the following individuals on behalf of affected First Nations individuals across Canada:

- Xavier Moushoom
- Jeremy Meawasige
- Jonavon Joseph Meawasige
- Ashley Dawn Louise Bach
- Karen Osachoff
- Melissa Walterson
- Noah Buffalo-Jackson
- Carolyn Buffalo
- Dick Eugene Jackson
- Zacheus Joseph Trout

These are your representative plaintiffs. They act as representatives of the entire class.

YOUR LEGAL TEAM

The class is represented by five (5) law firms across Canada:

- Sotos LLP
- Kugler Kandestin LLP
- Miller Titerle + Co.
- Nahwegahbow Corbiere
- Fasken Martineau Dumoulin LLP

HOW WILL THE LAWYERS FOR THE CLASS BE PAID?

You do not have to pay the lawyers for the class (**Class Counsel**), or anyone else, to be a part of this lawsuit or to receive compensation under this Settlement.

Class Counsel will be paid by Canada, separate and apart from the Settlement. These fees will not be taken from the Settlement, or from any payments to be made to class members. The Settlement funds have been set aside for the class *only*.

The amount to be paid to Class Counsel will be negotiated separately between the Class Counsel and Canada and will be subject to court approval. These fees will have no impact on the compensation you are eligible to receive under this Settlement.

More details on the legal fees that Class Counsel will be seeking will be posted at <https://www.fnchildclaims.ca> after the negotiations with Canada have concluded, as will details regarding when the court will hold a hearing addressing class counsel fees.

The Distribution Protocol and Claims Process are being designed to avoid the need for class members to pay lawyers to help them make claims. Navigators and the Administrators are available to assist individuals who wish to make claims free of charge.

CONTACT US

WANT MORE INFORMATION ABOUT THE CLASS ACTION OR THIS SETTLEMENT?

More information about the case can be found at <https://www.fnchildcompensation.ca>.

NEED SUPPORT OR ASSISTANCE?

Support services are available by calling the Claims Administrator at 1-833-852-0755. If you are experiencing emotional distress and would like to speak with a counsellor, please contact the Hope for Wellness Helpline at 1-855-242-3310, or visit <https://www.hopeforwellness.ca> to chat.

To learn more about the Settlement and your options, to determine if you are included, for any legal questions, to contact the Assembly of First Nations, to learn more about opt-out, to learn more about the claims process, and for any other questions please visit: <https://www.fnchildcompensation.ca> or call 1-833-852-0755.