

2017

Annual report of the Chief Adjudicator to the Independent Assessment Process Oversight Committee

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About the Indian Residential Schools Adjudication Secretariat

The Indian Residential Schools Adjudication Secretariat (the Secretariat) is an independent, quasi-judicial tribunal providing impartial application processing and decision-making for claims of abuse at federally-administered Indian Residential Schools.

The Secretariat manages the Independent Assessment Process (IAP), a non-adversarial, out of court process for claims of sexual abuse, serious physical abuse, and other wrongful acts causing serious psychological injury to the claimant. As one of the compensation programs established under the Indian Residential Schools Settlement Agreement (IRSSA), the IAP is the only option for former residential school students to resolve these claims¹, unless they opted out of the Settlement Agreement. The deadline to submit an application under the IAP was September 19, 2012. The IAP aims to bring a fair and lasting resolution to harms caused by residential schools through a claimant-centred and neutral process.

The Secretariat is one of Canada's largest quasi-judicial tribunals. It reports to Chief Adjudicator Daniel Shapiro, Q.C., whose appointment by the IAP Oversight Committee was confirmed by the Courts.

¹ Apart from: (a) the ability to seek leave of the Chief Adjudicator to access the courts, in specified circumstances defined by the IAP, which has occurred only three times since implementation of the IAP.; (b) the potential right for those who have not previously brought claims under the pilot projects, litigation, ADR or the IAP, to bring legal action in the courts, under Article 4.06(i) of the Indian Residential School Settlement Agreement.

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Message from the Chief Adjudicator

I am pleased to release my Annual Report for 2017, which sets out the activities undertaken by myself and by the Indian Residential Schools Adjudication Secretariat (the Secretariat) in fulfilling our mandate to deliver the Independent Assessment Process (IAP). This has been a year of significant milestones and we have seen a great deal of progress. Simultaneously, new challenges and questions have arisen, including complex legal and procedural questions, many still to be resolved. I, my fellow adjudicators, and the Secretariat have worked hard with the parties and stakeholders to the Agreement and the Courts to bring resolution to these questions in a manner that is claimant centered, yet fair to all concerned. As the Chief Adjudicator, I am very pleased by the results we have achieved this year.

Performance

In December 2013, I prepared my Completion Strategy to the Courts, outlining how the Secretariat would work to complete the IAP case load in the following years. The IAP Completion Strategy projected that all first claimant hearings would be concluded by the spring of 2016.²

With my full support and that of the Deputy Chief Adjudicators and IAP Oversight Committee, exceptional efforts were undertaken by Secretariat staff in order to achieve this ambitious goal. Among these initiatives were fully implementing the Accelerated Hearing Process and targeted approaches for claims that were blocked. These initiatives resulted in us effectively having reached the IAP Completion Strategy target regarding the conclusion of first hearings. By the end of March 2016, of the 38,087 applications which had then been received, fewer than 300 active claims remained which were expected to proceed to hearing³.

As of December 31, 2016, 1,693 claims remained in progress. By December 31, 2017, the claims in progress had been reduced to 635. Of these remaining claims, 26 were awaiting a hearing, 323 were at the post-hearing stage, 72 had an Incomplete File Resolution (IFR) Procedure Direction on hold pending Canada's appointment of estate

² An Update to the Completion Strategy, reflecting the additional risks to completion that had arisen over the intervening years, was provided on August 2, 2017 and will be discussed further below.

³ Although a total of 1,859 claims had not been heard as of March 31, 1,592 were considered likely to be resolved through means other than hearing, such as deceased claimants without active estate representation, those undergoing negotiated settlement or Jurisdictional review, claims in the Incomplete File Resolution Procedure, and lost claimants.

administrators and 214 were in the category of “may resolve without a hearing”⁴. About 32% of the remaining claims (203 claims) involve unrepresented claimants, adding further complexity.

In 2017, the Secretariat resolved⁵ 1,112 claims⁶ (bringing the total resolved claims since implementation to 37,467). The 2017 statistics include:

- 537 regular and short-form IAP decisions (26,378 since Implementation)
- 42 claims resolved through the Negotiated Settlement Process (NSP) plus 17 claims resolved by NSP after a hearing (4,382 claims have been resolved by NSP since Implementation)
- 396 cases dismissed without a hearing (primarily through the IFR Procedure, where an adjudicator has determined that there is no reasonable prospect of the case proceeding to hearing)

As of December 31, 2017, there had been 13 requests to the Chief Adjudicator for reconsideration of IFR Directions that had dismissed claims. Of these, 12 were granted and one was pending.

Total compensation paid to December 31, 2017, including awards, negotiated settlements, legal fees and disbursements⁷ was \$3.15B. Compensation was awarded in 89% of claims that went to hearing before IAP Adjudicators or to a Negotiated Settlement Process (NSP) interview, with average compensation of approximately \$91,000.

With only a trickle of first hearings yet to be held, the focus of the process has now turned to finalizing decisions and resolving remaining claims.

In 2017, Secretariat staff, adjudicators, Deputy Chief Adjudicators and I have focused on the successful implementation of the Lost Claimant Protocol, dedicated efforts to reactivate stalled claims at various stages including the Incomplete File Resolution

⁴ This category includes deceased, lost, IFR, NSP, jurisdictional review, pending withdrawal and Guidance Paper 7 decisions.

⁵ A claim is considered ‘resolved’ upon an adjudicator’s decision or dismissal, the claim is deemed ineligible (not admitted or not accepted), a jurisdictional review is finalized, a settlement is negotiated, or the claim is withdrawn.

⁶ Due to the fact that a claim may have been resolved and then undergo a file action (such as a decision review or re-review, etc) which can impact its resolved status or date of resolution, the number of claims currently in progress is not equal to those in progress as of December 2016 less those resolved in 2017.

⁷ This figures excludes settlement of claims by Canada regarding administrative split cases that took place outside of the IAP in respect of claims processed through the IAP, many with hearings before adjudicators.

Procedure, the Student on Student project, reassignment of stalled claims to other adjudicators, other targeted approaches and dedicated efforts to drill down into individual claims in order to conclude them.

A number of claims remained on hold as of December 31, 2017 for reasons outside of the control of the Secretariat or my office, including re-reviews awaiting the outcome of appeals from Requests for Direction to the Supervising Courts (11), IFR Directions on hold pending an appointment of an estate administrator by Canada (72) and student on student claims on hold pending potential future admissions by Canada of staff knowledge of such abuse (61). I have good reason to be optimistic that many of the holds on these claims will be lifted in 2018.

A significant milestone was achieved this year with the admission of the last application into the IAP, which occurred in September 2017. Since implementation, of the 38,098 applications received (two in 2017), 3,903 were rejected/not admitted (31 in 2017), 193 were not accepted/received after the September 19, 2012 application deadline (13 in 2017) and 33,808 were admitted (11 in 2017). 194 claims were withdrawn pre-admission (1 in 2017) and 1,468 applications were withdrawn post-admission (63 in 2017). Of the post-admission withdrawals, 224 had hearings (8 in 2017).

Barring a court order allowing new claims into the IAP, the admissions process within the Secretariat is now concluded. I am indebted to the Admissions Unit staff for their capable and claimant-centered management of the admissions process, providing applicants with every reasonable opportunity to provide sufficient information to allow their claims to be admitted.

Success stories: The Lost Claimant Protocol and the Incomplete File Resolution Procedure

Of the several process improvements introduced in the past few years in order to better serve claimants and complete the IAP mandate, the Lost Claimant Protocol (LCP) and the Incomplete File Resolution (IFR) Procedure stand out as particular success stories. These two processes⁸, created in collaboration with the Oversight Committee and the NAC and approved by the Courts in June 2014, have made a significant difference in

⁸ These documents are available in their entirety on the IAP website at:
<http://www.iap-pe.ca/media/information/publication/pdf/pub/lcp-eng.pdf>
<http://www.iap-pe.ca/media/information/publication/pdf/pub/ifrp-eng.pdf>

our ability to resolve remaining claims while providing extraordinary safeguards to claimants, and allowing every reasonable opportunity to allow each claim that can proceed to hearing to proceed to hearing.

In my respectful view, the LCP is an exceptional process. It was developed to allow the Secretariat the necessary authorities to access information in its attempts to locate and re-establish contact with claimants who could no longer be reached by the process, while at every step protecting these persons' privacy. To my knowledge, it is unprecedented among tribunals in its goal and methods to reach vulnerable people who have lost contact with the tribunal. As of December 31, 2017, of the 838 file referrals to the LCP representing 769 unique claimants⁹, 538 claimants had been located (for 560 referrals) and returned to the regular file stream or assigned to another targeted approach, with the Secretariat still actively searching for nine claimants. Searches have been exhausted on 280 referrals; however, in 35 cases, claimants responded to inquiries following the conclusion of best efforts. The remaining unlocated claims have subsequently been referred to IFR or were non-admitted. By any measure, the LCP has been a huge success.

The goal of IFR is to remove obstacles to cases proceeding to hearing and where possible to return cases to the regular hearing stream. Where this is not possible, Step 2 of the IFR provides adjudicators the authority to dismiss claims without hearing, but not before all possible avenues to reactivate the claim have been exhausted. This process is highly complex due to the extraordinary safeguards for claimants before files may be dismissed. Although we had encountered obstacles to the full implementation of this procedure for some file types, the IFR has been fully implemented and achieving significant results. As of December 31, 2017, 425 cases had been the subject of a resolution Direction, there were 51 files in the IFR procedure (six in step 1 and 45 in Step 2), including non-participating claimants; non-participating estates; deceased claimant files with no estate representative; lost or incapacitated claimants. Importantly, a total of 624 claims which had been referred to the IFR have returned to the normal hearing stream or other targeted approaches; exactly what the IFR was designed to achieve. While not complete, the IFR Procedure has been another success story.

⁹ In some cases, claimants have been located and subsequently lost contact once again, leading to a second referral.

The Changing Environment: Challenges and Risks

Potential New Claims

Even as we look ahead to the resolution of the remaining claims currently in inventory, there is still a possibility that the IAP may yet receive additional claims, as a result of unresolved Article 12 appeals, as well as other matters before the courts. Article 12 of the Settlement Agreement allows for the addition of an eligible Indian Residential School to Schedule F of the Agreement. The Chief Adjudicator is not a party to these proceedings.

The supervising courts have set a deadline for bringing such RFDs, which has since expired; as a result, no further applications to add institutions can be brought. Two Article 12 cases have been resolved with finality during 2017 – Teulon Residences (Manitoba) and Fort William Sanatorium (Ontario). However, as of the time of writing, one case remains pending before the Nunavut Court of Appeal (Canada's appeal re Kivilliq Hall) and a second is the subject of an application for leave to appeal to the Supreme Court of Canada (Timber Bay, Saskatchewan). The approximate number of potential class members, should Kivilliq Hall be added, is 100, and with Timber Bay, 650. Historically, an average of 47.5% of potential eligible class members have filed IAP claims. While it is possible that neither of these schools will ultimately be added to the agreement, it is necessary to plan based on the possibility that either or both may be.

IAP Document Disposition

In August 2014, in response to Requests for Direction filed by the Truth and Reconciliation Commission and the Chief Adjudicator, Ontario Superior Court Justice Perell released his decision regarding the final disposition of IAP documents following the conclusion of the process, ruling that: a) all but four specific categories of records (application forms, transcripts and audio recordings of claimants' hearings, and decisions) should be destroyed, and that b) those four categories of records would be retained for up to 15 years from the date of the claim's conclusion, in order to inform each claimant of their rights and provide them the opportunity to choose whether they wish to have their records preserved. Following that fifteen-year period, documents that the claimant has not chosen to preserve would be destroyed. This decision was appealed by Canada, the TRC, and others, and on April 4, 2016, the majority of the Ontario Court of Appeal panel that heard the appeals upheld the ruling, with some revisions, with one judge dissenting. The appeal decision confirmed the independence of the Secretariat and the status of IAP records as under the control of the court, and delegated the responsibility for the Notice Program to inform claimants of their rights to the Chief Adjudicator. The decision also added former Alternative Dispute Resolution Model claims to the scope of the order. Canada appealed the decision of the Ontario

Court of Appeal to the Supreme Court of Canada, which heard the case in May 2017. Further background regarding this case is available on the IAP Web site.

The IAP is, and has always been, a confidential process, and it has been my position in this matter that, unless the claimant chooses otherwise, the documents collected and created under the process should be destroyed to protect this highly sensitive and personal information. Without the assurance of privacy, many claimants may not have been willing to undergo a hearing or to participate in the process, and I have been vigorously advancing the position in the courts that those assurances must be upheld.

While the Court of Appeal's decision was under appeal to the Supreme Court, our ability to prepare for the disposition of documents was constrained. We did, however, engage in lengthy consultations with the National Centre for Truth and Reconciliation, the AFN, Inuit Representatives, Independent Counsel and Catholic Church entities, as well as conducting focus groups with former students. In addition, Secretariat staff began organizing and preparing hard copy and electronic records by identifying and separating out the four specified document types and ensuring files are correct, secure, and easily locatable.

Since the release of the decision of the Supreme Court of Canada in October, 2017, upholding the decision of the Ontario Court of Appeal, further consultations have occurred, including expert consultations and focus groups among former students. Requests for Direction to establish a Notice Program and Disposition of Records program were due to be filed in January 2018, for a court hearing scheduled before Justice Perell in April 2018.

Requests for Direction (RFDs)

This year has again seen an unprecedented level of Court activity with respect to the IAP, with multiple RFDs filed by various parties on a number of different topics. These RFDs address important questions, and many bear the potential to have significant impacts on our processes and our planning, including our ability to bring the IAP to its close within the previously projected timelines.

As of December 31, 2017, there were 13 RFDs pending or awaiting decisions from Supervising Courts, 10 appeals¹⁰ pending to provincial Courts of Appeal and two applications for leave pending before the Supreme Court of Canada. Out of respect for

¹⁰ Includes cases with a motion for extension of time before the Chief Adjudicator

the sensitivities of matters before the Courts, and the responsibilities of other bodies to report on such matters, I will avoid going into detail regarding ongoing RFDs. The issues they engage range from seeking judicial recourse regarding adjudicator's decisions, to Canada's RFD seeking "interpretive guidance" regarding Procedural Fairness within the IAP, issues such as whether IAP settlement proceeds may lawfully be assigned, RFDs dealing with alleged deficiencies in document disclosure by Canada and a number of related RFDs involving matters arising from St. Anne's IRS.

Administrative Split Cases

In February 2016, the Minister of Indigenous Affairs announced in the House of Commons that the department would undertake an urgent review of Canada's position regarding "Administrative Splits" – cases where the classroom portion of an Indian Residential School was removed from the direct control of those who managed the residence, beginning in the 1960s. The Administrative Split affected the outcome of a number of claims in the IAP when Canada began to raise objections to some claims in 2010. Canada argued that it was not required to compensate for abuse that occurred in classrooms that were no longer part of the residential schools for which it was responsible, and some adjudicators' decisions accepted Canada's argument. At Canada's request, following the Minister's announcement, I agreed to place on hold the small number of remaining in-progress claims which could be impacted by an Administrative Split, pending the outcome of the review. An announcement following Canada's review of such cases was made in early February 2017, to the effect that Canada would compensate for cases falling within its definition of "administrative split" in a settlement process outside of the IAP. Canada advises that as of December 31, 2017, it had resolved 107 such claims, with settlements totaling approximately \$8.23 million in compensation, and will continue to pursue negotiated settlements outside of the IAP until all affected claims are resolved. Also as of December 31, 2017, 123 affected claimants have received an offer from Canada to resolve their claim.

Student on Student Cases

In claims involving claims of abuse by another student, decisions can be significantly impacted by the results of previous claims which can provide critical evidence leading to admissions by Canada of staff knowledge of such abuse occurring at the school at the time. Therefore, claims involving such abuse have been entered into a targeted approach meant to ensure that claims deemed to have the highest likelihood of providing evidence leading to admissions of staff knowledge are handled before those claims which could benefit most from them. While this process has been significantly time consuming, with concerted effort by the Secretariat, Canada, and members of the Technical Sub-committee to find efficiencies to progress student-on-student (SOS) claims in a timely manner, a 59% reduction since December 31, 2016 has been

achieved by the end of 2017, when 260 claims remained in the SOS project, 63 of these on hold pending potential future admissions.

Estate Claims

Since the process to continue estate claims for claimants who have passed away was established in early 2015, the Secretariat has made significant progress in contacting these estates and resolving this caseload. In 2016 we encountered difficulties in cases where the Government of Canada bears responsibility to administer estates for some claimants who pass away without an identified estate representative. Due to the conflict of interest this could represent, in such cases, Canada must work to identify an alternate representative for the estate. This caused significant delays in the resolution of these claims; nearly one-third of the claims which had not yet been heard at the close of 2016 (359 claims) were on hold at Canada's request due to jurisdictional issues surrounding estate claims. As of December 31, 2017, this number had been reduced to 132 claims.

Deputy Chief Adjudicators

The creative and dedicated work and support of the DCAs has been indispensable to the success of the IAP. I wish to acknowledge their exceptional contributions.

Although she had planned to retire in the fall of 2015, following the appointment of former DCA Kaye Dunlop to the Bench, DCA Catherine Knox kindly stepped in to assist in concluding DCA Dunlop's remaining work within the IAP. DCA Knox completed her work in the IAP in early 2017. We were fortunate to have had DCA Knox as a highly valued member of our team, serving as a DR senior adjudicator starting in 2006, an IAP adjudicator from its outset in 2007 and DCA since December 2012. In addition to supervising and mentoring adjudicators, DCA Knox always played a key role in continuing education for adjudicators and was deeply involved in the very important work of IAP integrity issues from March 2012 to November 2014. I am very grateful for her many contributions to the IAP.

In December 2017, DCA Emeritus Delia Opekokew concluded her work in the IAP. Delia became a senior adjudicator under the ADR Process in the fall of 2004 and an IAP adjudicator in 2007. She was appointed DCA in June 2008. I wish to acknowledge her contributions to the successful implementation of the IAP, specifically her assistance in the development and delivery of adjudicator training sessions, her leadership of a team of adjudicators, her assistance in the facilitation of Indigenous Adjudicator focus groups and most recently her assistance in facilitating community meetings for the IAP Final Report. These accomplishments led to very positive outcomes. I wish Delia all the best in her future endeavors.

Adjudicator Capacity

As the IAP proceeds towards its conclusion and the number of hearings and unresolved cases remaining declines, adjudicators and Deputy Chief Adjudicators are working hard to resolve their ongoing caseloads. Many adjudicators have begun the transition to new work opportunities.

Over the past year, 15 adjudicators have completed their work in the IAP, and additional adjudicators are in the process of winding down their IAP responsibilities. Many of these colleagues have taken on new tribunal or other work, and it is gratifying to see so many IAP adjudicators taking on exciting new responsibilities. I wish to acknowledge the many contributions of departing colleagues to the success of the IAP and to wish them all the best in their new endeavors.

Currently, the IAP's adjudicative capacity stands at five Deputy Chief Adjudicators (DCAs), four of whom carry an active writing docket and caseload of adjudicators, and 52 adjudicators, including some who have advised of their intention to depart, and are concluding their existing dockets; this is down from approximately 100 adjudicators and nine DCAs when the IAP was at its peak. However, given that, during the peak of the Alternative Dispute Resolution process functioned with approximately 40 adjudicators dealing with over 1000 cases per year, at this point in time it is felt that there should remain sufficient adjudicative capacity to address foreseeable eventualities.

Completion of the IAP

The potential admission of one or both Article 12 schools to the Settlement Agreement, or the potential re-opening of previously resolved claims, or addition of new claims referred to us by the courts, and delays already resulting from procedural and technical questions bear significant consequences in terms of planning for the wind-up of the IAP. The Secretariat, adjudicators, and the various parties and stakeholders to the agreement must carefully consider the timelines anticipated for the completion of the process, and the amount and kinds of resources that may be anticipated. As we consider our obligation to ensure a responsible and controlled wind-down of the process and of the Secretariat as an organization, we must also ensure sufficient capacity to provide any claimants entering or re-entering the process via these legal actions a just, compassionate, and claimant-centred IAP experience.

Meanwhile, we must maintain a transparent and collaborative planning process involving all stakeholders when considering the real and potential impacts of the changing environment, and recent and future legal decisions, to the timeline for the IAP's completion projected in the 2013 Completion Strategy. Therefore, in August 2017 I provided an Updated Completion Strategy, examining the various risks and their potential impacts in greater detail than discussed here. This update followed significant

consultation with the stakeholders and governance bodies involved, including the Oversight Committee and the National Administration Committee, prior to its submission to the Courts.

The Oversight Committee initially determined that February 1, 2018 was the last practical date to hold first Claimant hearings and set August 1, 2017 as the Reconsideration Deadline. Oversight Committee has since extended the Reconsideration Deadline to June 1, 2018. The Reconsideration Deadline is the last date a file could re-enter the regular stream for a hearing while the Secretariat still has the capacity to resolve the claim. With June 1, 2018 as the Reconsideration Deadline, the last practical date to hold first Claimant hearings has now been established as December 1, 2018.

We remain on track to conclude first hearings by December 1, 2018 and wind up, undoubtedly with limited exceptions, our IAP adjudicative work by December 1, 2020, and allowing four months within which to close down the Secretariat – by March 31, 2021. With the commitment of all stakeholders and partners, there is reason for optimism that we will be able to achieve these objectives.

A proposal will be made to the Supervising Courts for the hand-off of records administration to a contracted records management firm, following the sunset of the Secretariat. The timing and mechanisms to achieve IAP sunset remain to be determined by the IAP Oversight Committee and the Supervising Courts.

As the remaining caseload moves ever closer to resolution, it remains necessary for the Secretariat as an organization to continue the process of an orderly and efficient wind-down, including decreasing its staffing levels. Should it be necessary to ramp up operations once wind-down has begun, the Secretariat will face significant challenges in both recruiting and retaining experienced, skilled staff members (and, if required, adjudicators) to complete the required work, and further funding submissions will be required to provide the necessary financial resources.

While much remains to be done, it is important to acknowledge and celebrate successes. We have achieved practical conclusion of first claimant hearings and completion of the admissions process; both major milestones.

We are fortunate to have benefited from the steady, stable, creative and determined leadership of the IAP Oversight Committee, including Chair Mayo Moran, and the committee members, including two, David Paterson and David Iverson, who have been on board from the very beginning.

On the Secretariat side, we are fortunate to have benefited from the contributions of Shelley Trevethan, and since her departure on leave in September 2017 until her retirement at the end of 2017, from the capable interim leadership of Dr. Akivah Starkman.

I would be remiss if I did not acknowledge the exceptional dedication and commitment of Secretariat staff, who, despite the uncertainties of their own work situations, are determined to ensure that the work of the Secretariat is concluded in a good way.

Our adjudication team, while greatly reduced in numbers, remains the face of the IAP, and remains committed to concluding the IAP in a good way, with the objective of ensuring that the process remains claimant friendly throughout the wind-down process.

I am grateful for the contributions of so many people to the success of the IAP.

All of which is respectfully submitted,

A handwritten signature in black ink, appearing to read "Dan Shapiro". The signature is fluid and cursive, with the first name "Dan" being more prominent than the last name "Shapiro".

Daniel Shapiro, Q.C.
Chief Adjudicator

Key Numbers¹¹

Applications Resolved and Processed

Since implementation of the IAP to December 31, 2017, 38,098 applications have been received by the Secretariat, of which 33,808 have been admitted. At the end of September 2017, the Secretariat concluded the process of analyzing applications for admission, and, barring court actions enabling additional application submissions, no further admissions are expected.

As illustrated in Table 1, 1,112 applications were resolved in 2017, through an adjudicator's decision, a negotiated settlement, a claimant's withdrawal or ineligibility; this is less than half the total of 2016, which is reflective of the small caseload remaining and its complexity. In total, 37,463 claims had been resolved by December 31, 2017, approximately 98% of all applications received.

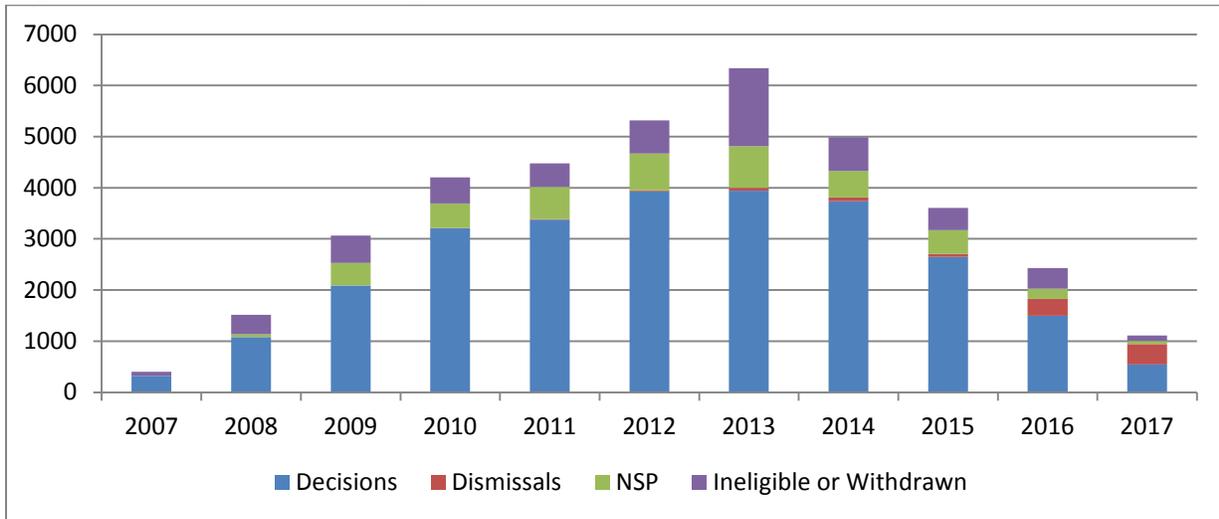
Table 1: Applications Received and Resolved by Calendar Year (see also Fig. 1)

Calendar Year	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	Total
Applications received	3,849	5,418	4,750	5,148	5,494	12,787	372	132	48	98	2	38,098
Applications resolved	404	1,518	3,062	4,205	4,480	5,319	6,335	4,989	3,607	2,432	1,112	37,463
Adjudicator decisions	322	1,081	2,087	3,210	3,377	3,931	3,944	3,737	2,648	1,495	546	26,369
Dismissals ¹²	0	0	0	2	12	20	53	75	55	330	398	945
Negotiated settlements	0	55	444	481	626	720	814	514	468	201	59	4,382
Ineligible/withdrawn	82	382	531	512	465	648	1,524	663	436	406	109	5,758

¹¹ Note re: past year data: Past years' numbers in this section reflect minor updates from previous reports. In the past years, the Secretariat has devoted significant effort to in-depth file review and improvements to data integrity, reporting methods, and consistency of definitions. Meanwhile, events within a file's life-cycle can impact the year and category in which it is counted (e.g. non-admitted claims where the claimants submit further information and are subsequently admitted; a withdrawn claim is reactivated and receives another resolution). Finally, NSP information is reported directly by INAC, and may contain variances from the Secretariat's.

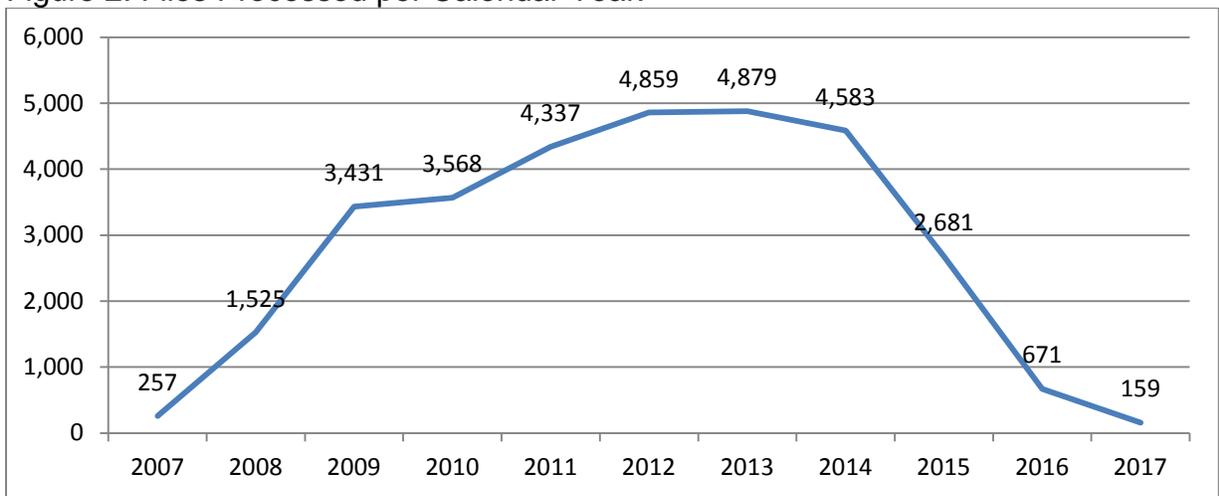
¹² In previous years, this line has been dedicated to Jurisdictional Decisions; it has now been expanded to include various types of dismissals including those proceeding from Jurisdictional Decisions, Failure to Appear, Estate decisions and Resolution Directions provided under the Incomplete File Resolution process.

Figure 1: Claim resolutions by Calendar Year



A total of 159 IAP claims were processed¹³ in 2017 (see Figure 1), for a total of 30,950 since the beginning of the IAP. It should be noted the definition of ‘processed’ does not include files which resolve without undergoing a hearing, paper review, or negotiated settlement; thus claims withdrawn, ineligible, or dismissed without a hearing are not included. The vast majority of hearings and Negotiated Settlements have now been held, leaving only 26 claims in the pre-hearing caseload at the end of the year.¹⁴

Figure 2: Files Processed per Calendar Year:



¹³ A claim is considered processed if a hearing or paper review has been held or the parties have entered into a Negotiated Settlement.

¹⁴ Additional claims may return to this caseload through successful implementation of the Incomplete File Resolution process or other targeted initiatives, or return from the Negotiated Settlement process.

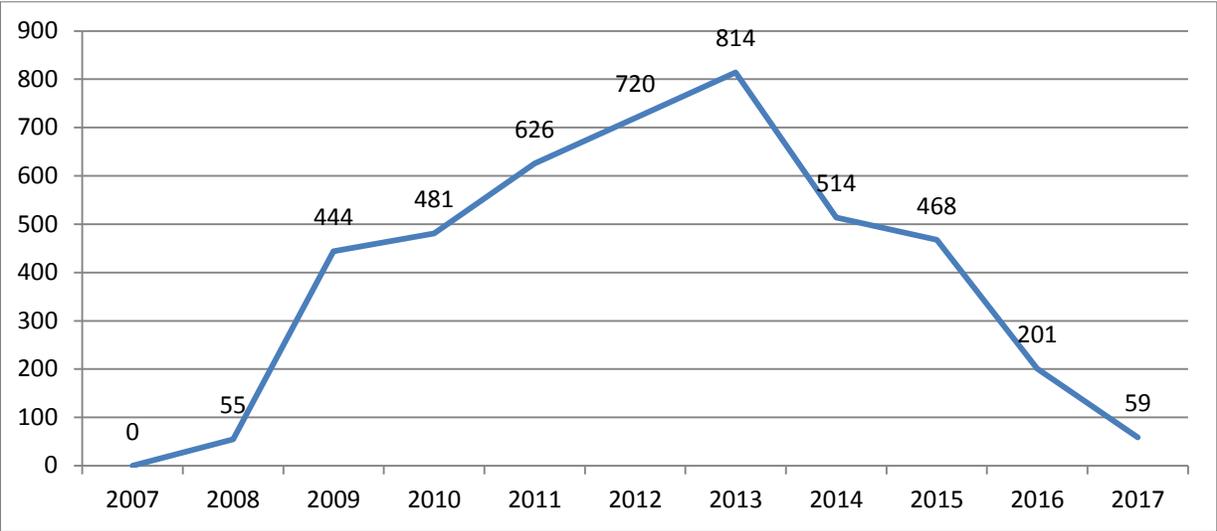
Negotiated Settlement Process (NSP):

In the IAP, parties have the option to negotiate a settlement to a claim. In most cases that are accepted for negotiation, this avoids the need for an adjudicated hearing and decision.

Although the Secretariat is responsible for assembling and distributing packages of evidentiary documents received to date, and adjudicators are responsible for conducting legal fee reviews in such cases, the NSP is handled primarily by Canada¹⁵ rather than the Secretariat, and has been an important path to file resolution: Negotiated Settlements account for approximately 12% of all IAP file resolutions. The majority of claims in the NSP resolve without the need for an adjudicated hearing. However, in some cases a claim may proceed to negotiation after a hearing has occurred.

It should be noted that, in response to the question of “Administrative Splits” (discussed further below), Canada entered into negotiations with claimants affected by this issue; these negotiations are considered external to the IAP.

Figure 3: Negotiated Settlements by Calendar Year¹⁶



¹⁵ Adjudicators are required to approve legal fees in all negotiated settlements. Claimants may also request an adjudicator’s review of their Negotiated settlement.

¹⁶ Includes NSPs with and without hearing. Statistical data regarding Negotiated Settlements are provided to the Secretariat directly by Canada’s representatives.

The Changing Caseload:

Over the past two years' reports, we have noted changes in the composition of the in-progress caseload. The introduction of targeted initiatives to reduce blockages to file movement has made a significant difference in enabling claims to be processed promptly and receive a resolution, most especially the Accelerated Hearing Process, the Lost Claimant Protocol, and the Incomplete File Resolution process, as well as measures introduced to better address the specific needs of self-represented claims and to resolve policy and procedural issues.

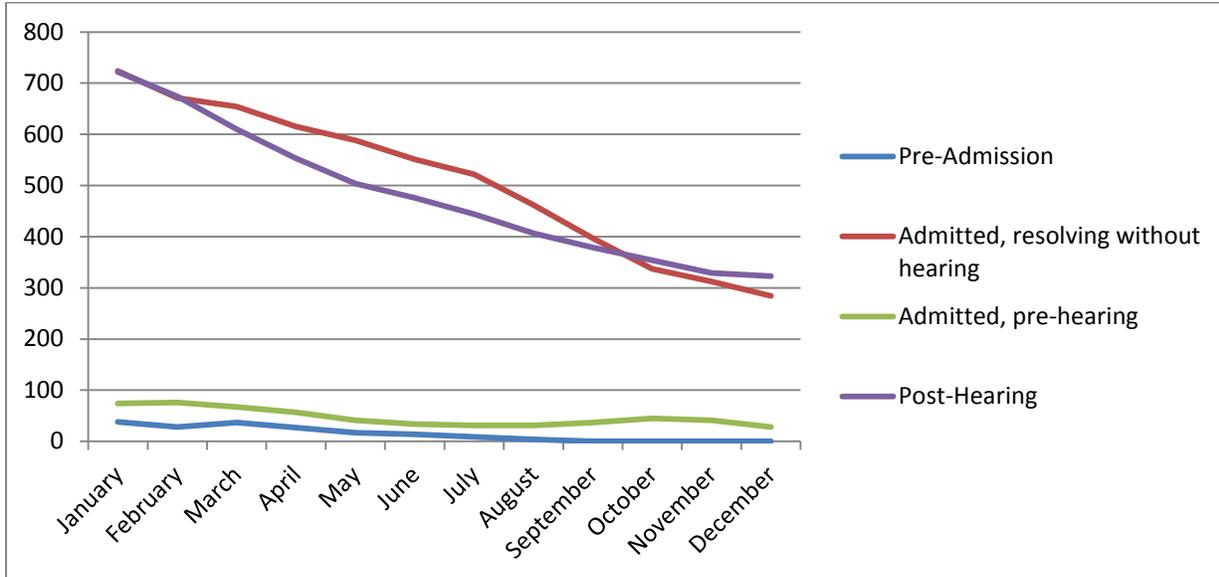
Over the course of 2017, the number of admitted, pre-hearing claims has fluctuated, but has ultimately reduced by over 60%. With the final claim admitted to the process in September 2017, the contribution of new admissions has been relatively small; however, this caseload has been partially replenished over time as claims have returned to the regular hearing process from various targeted approaches.

Meanwhile, the post-hearing caseload has declined sharply, being the subject of significant focus among staff and adjudicators to resolve outstanding issues, obtain required evidence, hold final submissions calls, and release decisions in a timely manner. The release of holds due to the Administrative Split issue in March 2017 and the gradual resolution of student-on-student claims and outstanding jurisdiction and representation questions for estate claims (discussed further below) have also significantly contributed. The remaining post-hearing caseload contains some of the process' most complex and challenging claims. Significant delaying factors for claims in the post-hearing stage include holds due to the student-on-student project and the need for Estate documents for deceased claimants.

Other, temporary issues which might delay an in-progress claim's resolution pre- or post-hearing include changes of representation (exceptional cases), claimant unavailability or loss of contact, family emergencies, requirements for a particularly complex expert assessment, and similar. Postponements and cancellations, which have been a subject of considerable concern in previous years, are no longer impacting large numbers of claims; however, when they do occur, they can introduce delays to an individual claim's resolution.

The caseload of claims resolving without a hearing¹⁷ has been reduced by 74% over the course of the year, due in large part to the completion of steps in the Incomplete File Resolution Process, enabling either return to the hearing process or the release of a Resolution Direction; and to the resolution of Estate claim jurisdictional questions (discussed further below), as well as the gradual resolution of student-on-student claims and negotiated settlements.

Figure 4: Pre- and Post-hearing Admitted Caseload, 2017



In previous years, unrepresented claims have resolved much more slowly than those with the benefit of legal counsel, due to multiple factors. However, reduced overall numbers have permitted more intensive case management of such claims, which appears to be making an impact: as shown in Figures 5 and 6 below, the numbers of unrepresented claims are now decreasing at a similar rate as represented, and the overall percentage of self-represented claimants among the in-progress caseload has ceased to increase and has been decreasing over the latter half of the year. The Secretariat provides individualized, non-legal support to unrepresented claimants to assist them in obtaining required documentation and to navigate the steps of the process.

¹⁷ Claims are considered likely to resolve without a hearing when they are undergoing a claimant withdrawal from the process; a negotiated settlement; are deceased; are undergoing the Incomplete File Resolution or Lost Claimant Protocol, or are in jurisdictional review. All efforts are given to enable resolution through the normal hearing process wherever possible, in which case the claim would move to the in-progress pre-hearing caseload.

It must be acknowledged that, while some claimants choose to represent their own claims, as is their right, others are involuntarily unrepresented due to difficulties in obtaining counsel or withdrawal of their counsel. The Secretariat provides information and assistance to help such claimants to retain legal counsel where possible and where desired. As well, a dedicated Support Officer is available to claimants undergoing the Incomplete File Resolution procedure to assist them in navigating this complex process.

Figure 5: In-Progress (total pre- and post-hearing) caseload by representation status

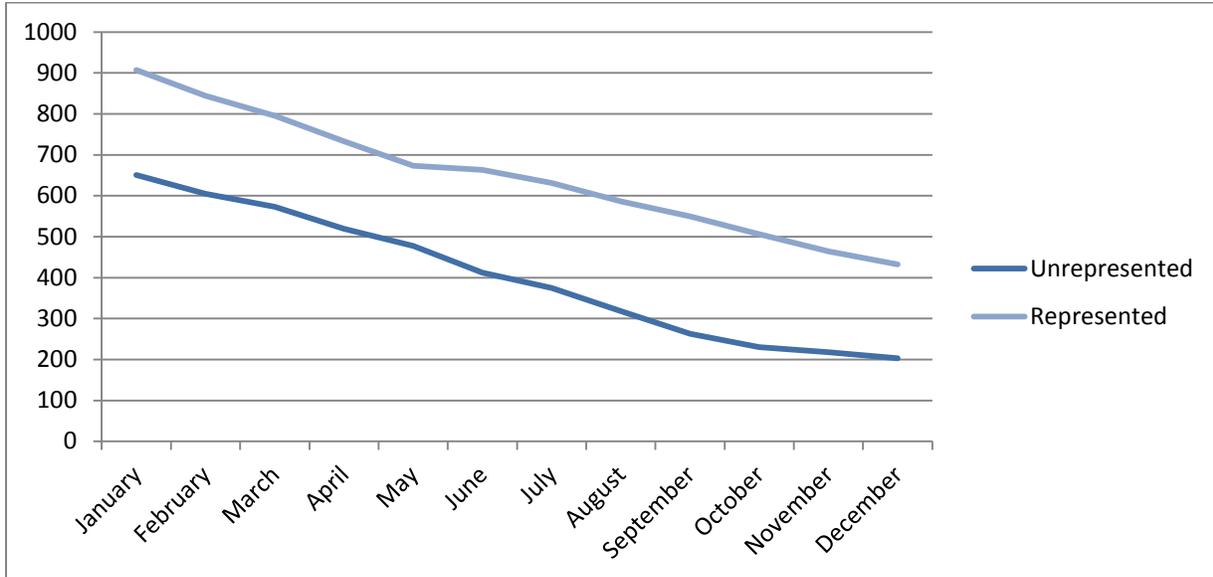
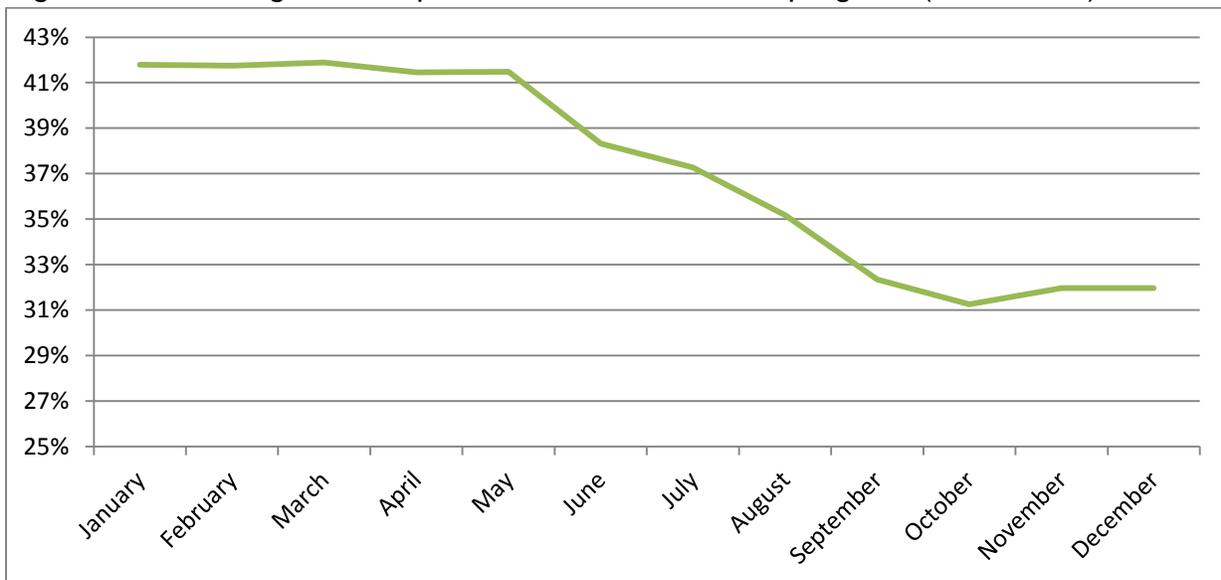
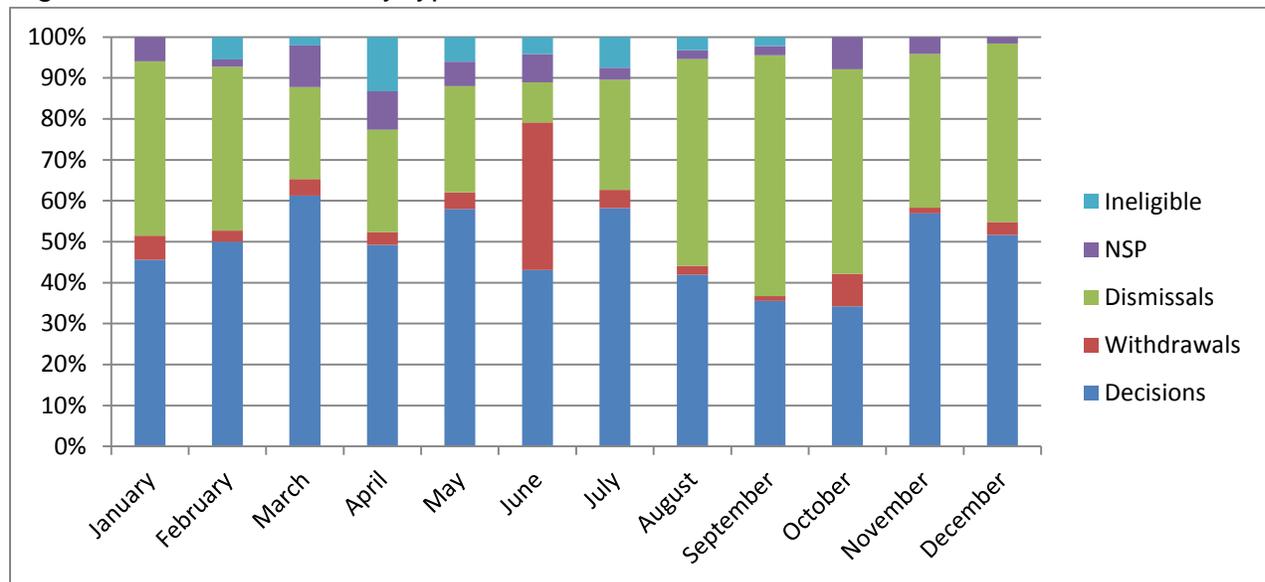


Figure 6: Percentage of Unrepresented claims in the in-progress (unresolved) caseload



Over the course of the year, regular adjudicated decisions (with or without awards) averaged 49% of all claim resolutions, with the various forms of dismissal averaging 36%. Withdrawals (6%), Negotiated Settlements (5%), and Ineligibility (4%) accounted for the remainder. As the admissions process is now complete, it is unlikely that ineligibility will continue to play a significant role in claim resolution. With the significant complexity of the remaining caseload, it is also reasonable to expect that numbers of Negotiated Settlements within the IAP will not increase.

Figure 7: File Resolution by type - 2017



Resolving the Remaining Caseload

In September 2017, the Secretariat passed a significant milestone: the admission of the final IAP claim to the process and the completion of the pre-admission caseload. Barring the intervention of the courts, it is not expected that further claims will be added to the process.

As mentioned briefly above, caseloads in all phases of the process are gradually diminishing, and it is to be expected that only a very small number of claims will remain in progress by the end of 2018. Secretariat staff is working closely with adjudicators and parties to provide the necessary support to facilitate timely resolutions for all claimants.

Adjudicator capacity is becoming a matter of greater focus for the Secretariat and the Chief Adjudicator, as we are seeing increased attrition as adjudicators close their caseloads and move on to new opportunities elsewhere. However, reassignment of files

and intensive case management by the Chief Adjudicator and his Deputies are helping to mitigate matters of capacity.

The Incomplete File Resolution (IFR) procedure, approved by the courts to provide a mechanism for the resolution of claims which, despite best efforts, could not be resolved through the normal hearing process, is nearing its conclusion. At the end of the year, only 51 claims remained under review by analysts and/or adjudicators in the IFR, and 25 Resolution Directions were pending release (not including those for deceased claims awaiting confirmation of estate representation due to Canada's jurisdiction issue discussed below). The IFR reconsideration deadline has been extended from August 1, 2017 to June 1, 2018. This is the last date by which a claimant may request the Chief Adjudicator reconsider a dismissal under the IFR. Based on the recommendations of the Chief Adjudicator, the Oversight Committee agreed to extend the Reconsideration Deadline to allow adequate time to resolve the caseload while ensuring claimants' opportunity to request reconsideration.

In December 2013, the Chief Adjudicator prepared a Completion Strategy and submitted it to the Courts, describing his plan to complete all first claimant hearings by the spring of 2016. In May 2017, following extensive analysis, an update to this document was submitted to the courts, entitled "Bringing Closure, Enabling Reconciliation: Update on the Completion Strategy for the Independent Assessment Process"¹⁸. This report provides an overview of progress made to date on the various aspects of IAP implementation, process improvements, and the challenges and risks influencing the previously-forecast timeline to the completion of the process, including:

- the individual complexities and challenges of remaining files;
- the potential addition of new claims to the process under Article 12 of the Settlement Agreement;
- delays arising from Canada's jurisdiction over estates of some deceased claimants;
- student-on-student claims;
- residual work following the release of holds on claims affected by the Administrative Split issue;
- the disposition of records and associated Notice Program to claimants;
- Requests for Directions to the Courts;

¹⁸ This document may be viewed in its entirety on the IAP website at <http://www.iap-pei.ca/pub-eng.php?act=iapmisc-comp-2017-eng.php>
[note for translation: français: <http://www.iap-pei.ca/pub-fra.php?act=iapmisc-comp-2017-fra.php>]

- corporate administration risks;
- maintaining the confidence of claimants, parties, and stakeholders; and
- other external events.

Since the publication of this document, there has been some movement with respect to several of these areas, though many questions remain to be resolved.

In early 2015, Canada indicated that it may be in a conflict of interest in some cases given that Canada is a defendant party yet the Minister may have statutory jurisdiction in relation to an estate claim if the claimant has been ordinarily resident on reserve at the time of death. It was thus required for Canada to identify cases affected by such a conflict of interest and ensure that an estate administrator was contacted or appointed where necessary before each claim could continue. Resolving these matters is time consuming, due to the intricacies and sensitivities involved, but progress has been made: as of the end of the year, 119 claims which had been on hold with IFR Resolution Directions pending had been forwarded to the Estate Pre-hearing Teleconference process (EPHT) and INAC's estate team had assigned 128 files to seven law firms to act as third party co-administrators. A further 63 claims under INAC's jurisdiction remained with a Resolution Direction on hold; in 20 of these cases, estate administrators had been identified but were lost or deceased. Only two claims remained where jurisdiction had not yet been determined.

Four adjudicators have been specifically assigned to the handling of Estate claims.

For claims involving allegations of student-on-student abuse, compensation depends significantly on the existence of admissions that school staff had knowledge of such abuse occurring. The goal of this strategy is to enable claims deemed most likely to yield such admissions to be heard prior to claims which might benefit from them. By the end of the year, only 260 claims remained in the process, a 59% reduction since January 2017. Twenty-two of these claims are considered "Priority 1&2", considered to have the most potential to yield admissions which could impact other claims.

On February 3, 2016, the Minister of Indigenous and Northern Affairs made a commitment in the House of Commons to have officials conduct an urgent review of the administrative split issue. At that time, the Chief Adjudicator put all files from affected Indian Residential Schools on hold, pending the review by INAC. An "administrative split" refers to the separation of the school component from an existing Indian Residential School, such that the school component, which was once part of the Indian Residential School, becomes a separately administered day school. This hold was lifted

in March of 2017, with fewer than 200 claims identified in Canada's review as affected by the issue.

Adjudicators and the Secretariat have a very limited role in settling claims affected by the issue of administrative splits. Affected claims which had not yet received a decision are proceeding through the normal Negotiated Settlement Process. All other claims are being settled through external negotiations. As of the end of 2017, Canada reports it has successfully settled 107 claims and that all negotiations have so far been successful.

Other areas identified as risks in the Updated strategy will be discussed further below.

“My Records, My Choice”: Disposition of IAP Records

On August 6, 2014 Justice Perell of the Ontario Superior Court ordered that four classes of IAP records referred to as ‘IAP Retained Documents’ should be destroyed after a 15 year retention period, during which time claimants may choose to obtain copies of their own documents (as has always been their right), transfer documents to the National Centre for Truth and Reconciliation (NCTR), or allow the records to be destroyed following the retention period. This decision was appealed, but upheld (with some revisions) by the majority of the Ontario Court of Appeal on April 4, 2016. Canada obtained leave to appeal this decision to the Supreme Court of Canada, which heard the case on May 25, 2017, and released its decision on October 6, 2017, supporting the decision of the Ontario Superior Court as varied by the Ontario Court of Appeal. More information on this case, including court documents, is available on the IAP web site.

The question of the disposition of IAP records is a major priority for the Chief Adjudicator and the Secretariat. A significant part of the Ontario Superior Court's decision, upheld by the Supreme Court, is the establishment of a comprehensive Notice Program to ensure all claimants have opportunity to make and express their choice with respect to the final disposition of their documentation. In advance of the Supreme Court hearing, with the leave of the courts, the Secretariat undertook several meetings and consultations with stakeholders concerning the (then potential) Notice Program, on the grounds that, should such a program be required, it would be necessary to commence it as soon as possible following the release of the Supreme Court's decision. These meetings, which included representatives from the AFN, the ITK, the NCTR, Independent Counsel, Canada, and the Catholic Entities, focused on seeking consensus wherever possible and involved significant discussion of the best ways to

reach out to claimants effectively and to receive their responses, while remaining culturally appropriate and minimizing the potential for causing further distress.

Following the release of the Supreme Court's decision, the Chief Adjudicator and Secretariat have proceeded with drafting proposed consent forms, notice products, and a plan and budget for the Notice Program. The Chief Adjudicator and representatives of the Secretariat continue to seek input and advice from multiple sources through a range of activities, including meeting with claimants, parties to the Settlement Agreement, experts, and Indigenous organizations who provide services to claimants from most regions across Canada. These consultations have been held both in individual meetings and in focus group formats allowing discussion amongst the participants. The Chief Adjudicator submitted his Request for Direction on the Notice Program, along with the proposed notice products, to the Court in January 2018.

Internally, the Secretariat has expended significant effort over the course of the year in preparing hard copy and electronic IAP documents for the anticipated implementation of the Court's decision. IAP documents are being prepared for the implementation of the Supreme Court's decision via a long-term archiving project, so that complete sets of such documents can efficiently be located and forwarded to the appropriate disposition in line with the Court's direction and according to individual claimants' choices. This involves the receipt and acknowledgement of all files from INAC's National Capital Region office and the amalgamation of these files with those held by the Secretariat and separation of relevant documents. Due to the sheer volume of files and documents involved, this is a work-intensive and long-term project. Pilot projects to test planned procedures for document disposition are expected in 2018.

Focus on the Claimant: Engaging, Supporting and Reaching Out

The framers of the Settlement Agreement created the IAP as a claimant-centred process, with multiple measures built into the model to ensure that the individual rights and needs of IAP claimants are respected throughout the process, while maintaining a fair and balanced adjudication process. This concept is integrated into the core values and the Strategic Objectives of the Secretariat.

The importance of the IRS Resolution Health Support Program in the IAP:

A crucial component of the IAP is the support provided by Health Canada's Resolution Health Support Program. The Indian Residential Schools Resolution Health Support Program provides mental health and emotional support services to eligible former residential school students and their families throughout all phases of the Settlement

Agreement, except in British Columbia, where the services are provided by the First Nations Health Authority. The support program is delivered through local Indigenous organizations.

Continuity of these services will continue to be crucial throughout the wind-down of the IAP, particularly as the most complex and difficult cases move to resolution, and as the Notice Program regarding IAP document disposition begins implementation. Health Canada staff and individual Resolution Health Support Workers are an important part of the IAP, and valued partners of the Secretariat in facilitating communication and information exchange between communities and claimants and the Secretariat, and provide invaluable assistance with outreach and community engagement efforts.

Re-establishing Contact with Claimants - the Lost Claimant Protocol:

In 2014, the Secretariat, with the support of the Courts, began an ambitious program to locate and re-establish contact with claimants with whom contact had been lost, causing their claims to become stalled. This initiative is now essentially complete, being invoked now only on an as-needed basis, though elements of the LCP are helping to locate and contact estate representatives as well. Since its inception, as of the end of December, 838 referrals for searches had been received by the Lost Claimant protocol affecting 769 unique claimant files (as claims may be referred more than once). Of these there had been 560 successful locations (538 unique case files). For 280 referrals, efforts had been exhausted and claims transferred back to the referring unit; however, in 35 cases, claimants later responded to inquiries after best efforts had been concluded. LCP searches remained underway to locate nine claimants.

Though there remains the potential for further claimants to become 'lost', low numbers of active in-progress claims remaining provide a protective factor as remaining claims receive faster and more regular follow-up.

Supporting Unrepresented Claimants:

As discussed briefly above, unrepresented claimants face additional challenges in resolving their claims in the IAP. Although the Secretariat's claimant support staff work directly with these claimants to provide information, reduce barriers and facilitate the administrative requirements for claims to proceed, they cannot take the place of qualified legal counsel. The Secretariat continues to provide one-on-one support to such claimants, and also provide assistance to claimants who are seeking legal counsel.

Unrepresented claimants whose cases are in the IFR Procedure have a dedicated support officer who can help them to navigate the unique complexities of that process. As well, the Chief Adjudicator has provided instruction to adjudicators to ensure that claimants are supported during the final submissions process, to understand the submissions made by Canada and the importance of that process.

Outreach and Community Engagement:

As a part of its National Outreach Strategy, the Secretariat continues to work with local Indigenous organizations, via contracts, to engage in IAP information sharing and outreach activities for claimants, communities and stakeholders. Information sessions under this strategy have been held across the country. Outreach activities are an important element of the Secretariat's work in collaboration with Indigenous organizations to provide ongoing information to claimants. Additionally, partnerships developed in Outreach activities have been invaluable in seeking feedback from claimants for the IAP final report project.

Group IAP:

Group IAP is a contribution program designed to facilitate healing and reconciliation activities for groups of IAP claimants. Groups receive funding via an annual Call for Proposals. Funded activities vary widely according to the needs and interests of each group, and often include traditional cultural practices such as pow-wows, healing circles and ceremonies.

Eight contribution agreements (for 11 groups) totaling \$776,843 were signed for 2016-17 (ending March 2017) under the Group IAP program (this represents the total contribution funding available). The Groups ranged from 3 members to 62 members, were from Alberta, Saskatchewan, Manitoba, Nova Scotia and the Northwest Territories.

The 2017-18 Call for Proposals resulted in 27 proposals received. Following screening and assessment, funding in the amount of \$997,500 had been allocated to 20 groups under nine contribution agreements, representing 285 claimants; these projects are now ongoing. A Call for Proposals for the 2018-19 fiscal year closed December 1, 2017.

Responding to the Courts: Increased levels of litigation

As the process draws closer to its end date, we are continuing to see unprecedented levels of legal activity with respect to Requests for Directions brought to the Courts by various parties to the Agreement. These Requests form an important part of ensuring

the just and lasting resolution of the IAP by answering very important questions of policy and interpretation of the agreement, as well as addressing matters specific to individual claims. Recent decisions provided by the Courts have provided necessary direction and helped to ensure the finality of the IAP by placing limitations on future litigation and providing necessary deadlines.

Litigation cases also represent a significant workload for Secretariat staff and the Chief Adjudicator and his Deputies as we work to provide information to support proceedings, participate in or attend hearings where appropriate, and to respond to and implement court directions. Litigation can have significant impacts on the projected timelines and resource needs for the completion of the IAP mandate and thus represents a significant area of risk for planning purposes.

At the time of writing of this report, there are 21 Requests for Direction at various stages before the Courts, many of them having received a decision and awaiting the results of appeals. The majority of these concern individual claim files. However, some, particularly the Procedural Fairness case decided in January 2018 and currently under appeal; a Request for Direction originally submitted by REO Law corporation regarding the interpretation of the SL 1.4 category of sexual abuse in the Settlement Agreement now pending hearing of an appeal to the Supreme Court of Canada; and Requests for Direction surrounding the implementation of the Records Disposition order (submitted in January 2018) have significant potential to influence the greater Process and to impact timelines.

Of the four Article 12¹⁹ cases before the courts at the time the Updated Completion Strategy was written, three have been denied addition: Teulon Residences (Manitoba), Fort William Sanatorium School (Ontario), and Timber Bay (Saskatchewan); an application for leave to appeal to the Supreme Court of Canada is pending regarding Timber Bay. One (Kivalliq Hall) was accepted, but this decision is also under appeal. Although these decisions significantly reduce the number of claims which could potentially have been added to the agreement, the addition of even low numbers of new claims could have a significant impact on the length of time and the resources required to finalize the IAP, and would impact corporate wind-down planning in order to ensure the availability of adequate resources to ensure all claimants have full and fair access to the process.

¹⁹ Article 12 of the Settlement Agreement concerns the addition of schools to the Agreement. The deadline has passed for additional Article 12 applications.

Winding Down: Preparing for the Completion of the IAP

As we move ever closer to the full resolution of the IAP caseload, the Secretariat has begun a gradual, controlled and efficient wind-down of its organizational operations. This means balancing a decreasing workload, and with it reductions in the organization's size, with the need to maintain sufficient capacity to provide efficient and quality service to all remaining claims and related duties, and to ensure that the organization's planning allows sufficient agility to respond effectively to risks and changes in the work environment.

Completion Action Plan:

The Completion Action Plan (CAP) is the comprehensive, evergreen document which guides the administrative wind-down process in a transparent and well thought-out manner. The plan is composed of a number of themes, each of which encompasses several key activities and milestones. The CAP has been implemented and regular reporting is ongoing. A full refresh of the CAP is planned for the new year.

As discussed in detail in the Chief Adjudicator's Update to the Completion Strategy, In addition to legal and policy questions, uncertainties regarding administrative needs, particularly funding availability and human resource availability, are adding extra challenges to completion planning.

Human Resources

Maintaining the necessary skilled, dedicated labour force to complete all required activities will be essential while simultaneously managing a controlled wind-down in the coming years. Already, the organization is experiencing departures of staff at all levels before the planned closures of their positions. To this end, the Secretariat has implemented a comprehensive Retention strategy. This strategy and the strategic staffing plan focus on both retention efforts, such as increased employee workplace flexibilities, training and career development option, and recruitment efforts, as recruitment of talented individuals will become increasingly challenging as the organization nears its close. Should actions by the courts or by parties necessitate the extension of timeframes or introduce additional claims to the process during the wind-down process, re-staffing would represent a significant challenge.

Financial Resources:

Following combined efforts by INAC, the Secretariat and Health Canada, a Treasury Board Submission to secure funding for 2016-17 and 2017-18 was approved in 2016. A further Treasury Board submission to fund the coming three years is currently in progress. Until funding for the 2018-19 fiscal year is approved, needs are being met via the reprofiling of previous year surplus funds.

IAP Report on the Achievement of Objectives (Final Report) and Administrative Report:

In the spring of 2013, the Oversight Committee tasked the Secretariat with preparing a report which examines the extent to which the objectives of the IAP have been met.

The Secretariat continues this multi-year project, with the objective of submitting the first draft of the final report to the Oversight Committee in 2018. Although addressed to the Oversight Committee, it is anticipated that this report will form a significant historical record of the IAP and may ultimately be of interest to IAP claimants, Indigenous groups, governmental and non-governmental entities, academic researchers, and future similar reconciliation/restitution processes which may be undertaken.

Secretariat staff, in partnership with local community groups and organizations, has conducted consultations, interviews and focus groups representing all parties to the agreement as well as other stakeholders and key figures. In 2017, work on this document involved the conduct of several targeted consultations to ensure data collection included a representative sample of various populations (e.g. different parts of Canada, linguistic and cultural backgrounds, etc.). However, the greatest part of the work comprised the collation and analysis of information gathered and the preparation of the first draft itself. At the time of writing of this report, a preliminary first draft has been completed and is under revision.

In addition to the Final Report for the Oversight Committee, the Secretariat is also preparing a comprehensive Administrative report to examine the challenges and lessons learned relating to corporate and administrative aspects of the Secretariat and its implementation of its mandate as an arm's length organization within yet separate from the Government of Canada. It is anticipated that a first draft of this report will be completed in early 2018.

In Conclusion

As the completion of the IAP edges nearer, there remain multiple questions and challenges to be faced. High levels of legal activity, the complexity of the remaining file load, uncertainties in the environment, resourcing and administrative needs, and the considerable work still required to successfully implement the Court's direction with respect to records disposition, must all be addressed while remaining focused on our commitment to ensuring a fair and equitable process for all claimants. However, with the dedicated team of IAP adjudicators and Secretariat staff, and the support of our partners and stakeholders, we look forward to the coming years and the completion of this historic and essential mandate.