

OVERSIGHT COMMITTEE MINUTES

January 25, 2011

Toronto

Mayo Moran	Chair
David Iverson	Church Representative
Mitch Holash	Church Representative
David Paterson	Claimant Counsel Representative
Kerry O'Shea	Claimant Counsel Representative
Alison Molloy	Government of Canada Representative
Luc Dumont	Government of Canada Representative
Les Carpenter	Inuit Representative
Paul Favel	AFN Representative
Akivah Starkman	IRSAS
Dan Ish	Chief Adjudicator
Irene Fraser	IRSAS (Recorder)

Guest: Deputy Chief Adjudicator Daniel Shapiro for the Technical Sub-Committee

1. Technical Sub-Committee (TSC) – Daniel Shapiro

- The procedures provided to adjudicators on jurisdictional review teleconferences are being reviewed. This will be a TSC agenda item for a teleconference on February 11th, 2011.
- Directive #8, *Canada's Admissions of Staff Knowledge/Supervision in Cases of Allegations of Student on Student Abuse*, does not address situations where admissions are made by Canada after the decision has been released. The CAO circulated a draft policy on this issue which was brought before the TSC. Canada did not have sufficient opportunity to consider its position and will bring its position to the February 11th teleconference.
- Canada raised the issue of circumstances where joint submissions are binding on adjudicators, and whether the CAO has issued or plans to issue directions on this? The CAO has not provided and does not plan on providing to adjudicators any direction on this issue as the Chief Adjudicator has already spoken on the issue through his re-review decision N-00135.
- The Settlement Agreement does not provide a transitional solution for reopening litigation cases of student on student abuse. Kerry O'Shea raised the issue of whether a case settled in litigation, versus ADR, can be reopened, relying on a "no prejudice" letter in the Settlement Agreement. The TSC is looking into this.
- There was no consensus on the part of the TSC to remove paragraph 4, the right to have a hearing, of CAD 6-R1, Hearings for Alleged Perpetrators, in circumstances where allegations against an alleged perpetrator are withdrawn or the case could not be proven and therefore could not be compensable. However, Canada will instruct its representatives that it is not necessary to

contact alleged perpetrators in circumstances where the alleged perpetrator has not previously been notified of allegations against him/her, or where the alleged perpetrator is named for the first time at the hearing, but the allegation is withdrawn.

2. Approval of Minutes

- a) Dec 14, 2010 minutes

Approved with two minor changes.

- b) Dec 14, 2010 in-camera minutes.

Approved.

3. Matters for Decision

- a) RFP Timeline for Adjudicators

The set-aside RFP was posted on Jan 25, 2011 and the other is to follow immediately.

Akivah Starkman distributed the most recent version of the timeline. Screening of candidates is to be March 8 to 10. OC members are to let Irene Fraser know their availability for participating in the screening and interviewing.

Paul Favel will make the Aboriginal Bar Association aware of the RFP.

- b) Dates for Future Meetings

Tuesday, March 29, Toronto
Tuesday, May 10, Toronto
Tuesday June 21, Vancouver
Wednesday, August 3, Toronto
Tuesday, September 13, Toronto
Tuesday, October 25, Vancouver
Tuesday, December 6, Toronto
Tuesday, January 17, Vancouver
Tuesday, February 28, Toronto
Tuesday, April 10, Vancouver*
Tuesday, May 29 – Toronto

*Note: April 9, is Easter Monday so this date may need to be changed.

4. Matters for Discussion

a) Truth and Reconciliation Commission

Mayo Moran thanked OC members for their advice on the letter sent to the TRC on January 11. Dan Ish and Akivah Starkman will be meeting with Judge Murray Sinclair on January 28th.

b) Interview Questions for Adjudicator Candidates

Document provided and discussed.

Kerry O'Shea excused herself from the discussion.

Decision: Dan Ish and Irene Fraser will move this forward.

5. Review of Key Performance Indicators

Documents sent out earlier by email were reviewed.

- 994 applications received in the last quarter.
- Six law firms are responsible for 70% of the cases on hold. Meetings are being held with each. The Court Monitor may have to be engaged if the lack of response remains. Disclosure of the names of the firms, possibly on the website, was suggested.
- Meetings are being held with institutions IRSAS has to rely on for mandatory documents.

6. Executive Director's Report – Akivah Starkman

- A strategic planning strategy is underway. Some issues:
 - 4000 hearings per year is peak performance with current resources.
 - Assuming constancy, we may see 26,000 net applications.
 - The assumption is that there will be no extension to the admission deadline.
 - Costs are rising.
 - Have to be prepared for an audit.
- Akivah met with the Ecumenical Group. They felt claimant consent to be imperative for contribution to the TRC archives of claimant information.

7. Chief Adjudicator's Report – Dan Ish

- The administration side is running well.
- A draft cover letter, a draft consent form, *Sharing your Indian Residential Schools hearing information with the Truth and Reconciliation Commission*, and a question and answer information sheet for claimants, all

distributed prior to the meeting, were discussed. Comments are to be sent to Irene Fraser. Comments from others outside of the TRC are welcome.

8. Notification of Alleged Perpetrator Contact

Canada will be notifying claimant counsel and self-represented claimants through the Secretariat when they are about to contact an alleged perpetrator on the claimant's file.

9. Next Meeting

March 29 in Toronto.