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Open Letter: Resolving Residential Schools Settlement Agreement Issues

13 July 2017

To former day scholars in the Indian Residential School system, plaintiffs affected by the “administrative split,” and former Teulon residents:

As Moderator of The United Church of Canada, I am writing to assure you that as one of the parties that signed the Indian Residential Schools Settlement Agreement (IRSSA), the United Church commits itself to working collaboratively with plaintiffs not included in the Settlement Agreement.

We offer you this assurance of our desire to cooperate in resolving at least three identified disputed legal issues expeditiously in order to demonstrate our commitment to honouring The Truth and Reconciliation Commission’s Calls to Action—specifically #29.

The United Church of Canada first offered an [apology](#) to First Nations Peoples in 1986, and another in 1998 to former residential school students, their families and communities. Each day brings a deeper understanding of all the harms that were wrought on children in the operation of residential schools, and the responsibility to address these harms and build mutually respectful and equitable relationships.

We acknowledge that there are many students who attended United Church affiliated residential schools as day scholars, and the certification of their class action. We realize that daytime students were denied monetary compensation in the 2006 IRSSA. We recognize that day scholars may have also experienced loss of language and culture.

We are glad that Canada has revisited its position and no longer seeks to apply the administrative split argument, at least under certain circumstances.

We are aware that some who attended schools or residences, like the Teulon Residence, that were not included in the original list of eligible institutions are still seeking eligibility. The United Church of Canada has been and is supportive of the application of the former Teulon students.

For more information on the nature of each of these three issues and the United Church’s role in them, please see the attached appendix.

As Moderator I have named reconciliation and right relations as the top priority for my term (August 2015–July 2018). I am therefore committed to ensuring that our church continues to live up to our commitments. I pray that, as parties to the Settlement Agreement, we will continue to

work together to ensure a just resolution for day scholars, for those who may have been caught in the administrative split period of operations and those who lived in the Teulon residence. We are open to listening to all of you.

Sincerely yours,



The Right Reverend Jordan Cantwell
Moderator/Modératrice
The United Church of Canada/L'Église Unie du Canada

cc. Key contact for the Day Scholar Class Action:
Ms. Jo-Anne Gottfriedson BGS/CED
T'kemlups te Secwepemc Day Scholar Coordinator

Key contacts for the Teulon Residence case:
Mr. Ken Young, lawyer, Winnipeg
Mr. Gabby Munroe, member from Garden Hill First Nation

cc. Representatives of the Parties to the Settlement Agreement:
Mr. Perry Bellegarde, National Chief, Assembly of First Nation
Mr. Natan Obed, President, Inuit Tapiriit Kanatami
Mr. Martin Reiher, Assistant Deputy Minister, Indigenous and Northern Affairs
Mr. Ry Moran, Executive Director, National Centre for Truth and Reconciliation
The Rev. Stephen Kendall, Principal Clerk, The Presbyterian Church in Canada
The Ven. Michael Thompson, General Secretary, Anglican Church of Canada
Mr. David Paterson, Claimant Counsel Representative

cc. The United Church of Canada:
Ms. Nora Sanders, General Secretary
Kii'iljuus (Ms. Barbara Wilson), Chair, Committee on Indigenous Justice and Residential Schools
Mr. Lawrence Sankey and Mr. George Montour, Co-chairs, Aboriginal Ministries Council
The Rev. Maggie McLeod, Executive Minister, Aboriginal Ministries and Indigenous Justice
Ms. Cynthia Gunn, Legal/Judicial Counsel

cc. The Honourable Jody Wilson-Raybould
Minister of Justice and Attorney General of Canada

The Honourable Carolyn Bennett
Minister of Indigenous and Northern Affairs

cc. Mr. Gerry Kelly, Our Lady of Guadeloupe Circle

cc. Msgr. Frank Leo, General Secretary, Canadian Conference of Catholic Bishops

Appendix: Disputed Legal Issues and the United Church's Role

The Truth and Reconciliation Commission's Call to Action #29 says, "We call upon the parties and, in particular, the federal government, to work collaboratively with plaintiffs not included in the Indian Residential Schools Settlement Agreement to have disputed legal issues determined expeditiously on an agreed set of facts."

To be included in the Settlement Agreement, students must have attended facilities listed in Schedules "E" and "F" of the Settlement Agreement and those subsequently deemed eligible through the prescribed process.

The United Church of Canada is one of the parties wishing to work collaboratively to resolve three specific outstanding disputes:

1) The Day Scholars Class Action

On June 3, 2015, of the class action law suit brought by thousands of students who attended residential schools, but went home after school each day, was certified. The church is aware that many of those daytime students attended residential schools that were affiliated with The United Church of Canada and our predecessor churches.

Daytime students were denied monetary compensation in the 2006 Indian Residential Schools Settlement Agreement (IRSSA). While the "day scholars" could apply for the Independent Assessment Process (IAP) for abuses experienced in school, they were excluded from "common experience" compensation for having attended, even though they may have also experienced some of the same loss of language and culture as those students who lived in residence.

The United Church of Canada Archives continues to be open to the public for research; however, our documentation regarding individuals who were daytime students at residential schools is limited.

2) The review of cases in the Independent Assessment Process where the "administrative split" argument was used

The residential schools were combinations of educational institutions and boarding facilities operated by the federal government and churches. In September 1969, the government began splitting the operation of some of the institutions, running the classrooms separately from the residences, which continued to be operated by the church. That was known as the administrative split. In 1969, The United Church of Canada withdrew from all agreements to operate residential schools.

Late in 2010, Justice Department lawyers began to successfully argue that schools listed in the Settlement Agreement ceased to be residential schools at the time the administrative split took place and that students who were abused at one of the institutions after the split should be disqualified from receiving compensation under the IRSSA. This was after hundreds of such cases had already been heard and compensated in the Independent Assessment Process between 2007 and 2010. In the Alberta court

where certain students from the Grouard Residential School sought a Request for Direction, The United Church of Canada supported the claimants who argued that the “school” was eligible under the Settlement agreement until the residence had been closed.

Canada has revisited its position and no longer seeks to apply the administrative split argument, at least under certain circumstances. Now, a process must move quickly for re-opening eligible cases, and admitting others who did not file because of supposed ineligibility to enter the claims process.

3) Schools that were not deemed eligible under the Settlement Agreement

There are students who attended schools or residences that were not included in the original list of eligible institutions, and who have made application to be included, were denied, and appealed the rulings. One such group of students lived at the Teulon Residence in Manitoba, and attended the local public high school (as was the operative situation with several schools that were deemed eligible). The United Church of Canada has been supportive of the application of the former Teulon students, supplying all available documentation.

The United Church of Canada Archives are open to the public for research—the national archives in Toronto, and regional archives in Vancouver, Edmonton, Regina, and Winnipeg. Relevant United Church of Canada records are also in the collection of the National Centre for Truth and Reconciliation, located in Winnipeg. Histories and photos from each of the 15 United Church residential schools can be found at www.thechildrenremembered.ca.

For more information, please contact Sara Stratton, Reconciliation and Indigenous Justice Animator, sstratton@united-church.ca or 1-800-268-3781, ext. 2742; or The United Church of Canada Archives, archives@united-church.ca. Toll-free: 1-800-268-3781, ext. 1101.