

Administrator's General Summary for the YDC Settlement Fund Claims Process

Our claims administration opened on January 1, 2023 and will accept claims through December 31, 2024.

The legislature's goal in establishing the \$100 million YDC Settlement Fund and Claims Process was to provide a reasonably prompt, confidential and trauma-informed administrative alternative to litigation. The legislature wants to give claimants a pathway to resolve claims that is different from litigation for claimants who believe it fits their needs. It is obviously your choice.

We are striving, consistent with the legislature's intent, to make the claims process claimant-focused. Many who file for recovery in the YDC Settlement Fund administrative process will have suffered trauma in their lifetime tied to suffering sexual abuse or physical abuse, and sometimes both, while residing at a YDC facility when they were young. We are committed to being sensitive to that experience when responding to questions, providing guidance, and processing claims.

The claims process does have certain advantages. On average a claimant should get an answer to their claim within six or seven months. Relief through the courts may take several years or longer. The filed claims and associated documents and information are treated as confidential and not available to the public to the utmost allowed under law. The YDC Claims Administration and Settlement Fund statute expressly protects a claimant's privacy. It is their choice whether to waive confidentiality. Also, in the claims process a claim is timely no matter how many years have passed. The Attorney General's Office can only raise legal issues in the claims process that are factually unique to a claim as a potential mitigating factor. Mitigating and exception factors are discussed in a *Claims Process* document called *Guidelines for Valuing Claims for Settlement Purposes*.

Any living former YDC Resident who was personally subjected to sexual or physical abuse may file a Claim for that abuse. YDC under the Settlement Fund statute means youth detention center facilities performing the function of housing adjudicated delinquent or pre-adjudication detained youth, including the State Industrial School, the Philbrook School, the Tobey Special Education School and the Youth Services Center.

The legislature established certain dollar amount caps on the amount you can recover for certain types of abuse with limits for both sexual abuse and physical abuse for claims eligible under the YDC Settlement Fund. The limit for all sexual abuse and physical abuse combined for any specific individual claimant is limited to \$1.5 million dollars by the legislature. The *Claims Process* and *Guidelines* provide more explanation.

If your claim is resolved in the YDC Settlement Fund claims process, you get to select how payment will be made: a one-time lump sum, periodic payments from the Settlement Fund itself, or periodic tax free payments through a structured settlement. Depending upon which payment method you choose, payments should start within four to six weeks of your claim being resolved.

Once you are notified by the YDC Claims Administration that your claim form is complete, you will get the written response from the Attorney General's Office in 30 days. Sometimes extensions of time may be needed to gather additional information to evaluate your claim. The Attorney General's Office may accept your claim

in full, or in part, or not at all. You are free to negotiate with the Attorney General's Office to reach a settlement of your claim.

If you cannot get to an agreement with the Attorney General's Office, you still have options. You are free to leave the claims process entirely and pursue your rights in court, OR you can elect to have the independent and neutral Administrator of YDC Claims Administration evaluate your claim. Recently the legislature changed the law so that you do not need to waive your legal rights against the State of New Hampshire in order to have your claim evaluated by the neutral Administrator. You will only need to fully waive your rights against the State of New Hampshire if you choose to accept the Administrator's decision.

You never have to waive your legal rights against the specific individual perpetrators of abuse in the YDC Settlement Fund claims process. Those claims against individuals still can be pursued in a court.

The resolution process by the Administrator sometimes may involve a confidential hearing but not always. If there is a confidential hearing at which you may testify, you are free to have your legal counsel be with you and participate (if you are represented by counsel). Whatever decision the Administrator makes after the resolution process cannot be appealed.

It is important to know that you DO NOT waive your right to sue the State of New Hampshire for your abuse SIMPLY BY filing your claim in the YDC Settlement Fund claims process. You will need to stay (or pause) any court case you have while your claim is being processed by the Administrator and his staff.

It is important to carefully review the *Claims Process for Administration of the YDC Settlement Fund* developed under the Settlement Fund Statute (NH RSA 21-M:11-a), which must be followed by claimants, the Attorney General's Office, and the neutral Administrator. The requirements include filing your claim using the *Claim Packet*. There are also *Guidelines for Valuing Claims for Settlement Purposes*. These documents are available in different ways. You may print them from our YDC Claims Administration website (www.ydcclaims.nh.gov). You may also ask our staff to send you copies by regular postal mail. If you are currently residing in a Department of Corrections facility, the claim packet and materials should be available upon request at your site. If you have difficulty understanding the forms, we are willing to assist.

Please be aware that the *Claims Process* Revision 1.2 (October 25, 2022) is in the process of being modified to reflect the recent change in law which allows claimants to seek a resolution proceeding for evaluation of a claim by the neutral Administrator WITHOUT fully waiving your legal rights against the State.

It may be emotionally difficult for you to complete the claim form, and help is available. There are counselors and advocates listed on Page 1 of the *Claim Packet* who might assist you. If you are residing at a Department of Corrections facility, we have been told that counselors are available at your facility or can be made available.

If you choose to file a claim, please complete the claim form with as much information as you can. You may want to consider getting a copy of your resident files or other records to help provide information that is important for evaluating your claim. Our website tells you how to make requests to the NH Department of Health and Human Resources. It also is helpful for processing your claim if you take the time to organize your

documents. The Administrator has provided some guidance on how to do so. Claim forms and documents can be filed in several ways. You may file them electronically at claims@ydcclaims.nh.gov, by postal mail at P.O. Box 1930, Concord, N.H. 03302-1930, or by hand delivery by making an appointment with our staff. Filing by facsimile is available at 603-798-3420.

If you have a lawyer, you should work with them in completing the claim form and if you want to retain a lawyer, our staff can provide you with information as to where you might get assistance to do that (also, available on our website).

If you are currently residing at a NH Department of Corrections facility, the Lawyer Referral Service has a dedicated phone number for you to call: 603-715-3281 or you can write to them at Lawyer Referral Service, NHBA, 2 Pillsbury Street, Suite 300, Concord, N.H. 03301.

Please know that the YDC Claims Administration is independent from the Attorney General's Office and that we are totally neutral. It is your choice whether to file a claim and ask the Administrator to resolve your claim if you cannot reach an agreement with the Attorney General's Office. Our mission is to work with claimants and the Attorney General's Office to facilitate settlement in a way that is fair, efficient, and sensitive to the trauma suffered by claimants.