

**Indian Residential Schools Resolution Canada
Media Clips**



**Résolution des questions des pensionnats indiens Canada
Actualité**

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<i>Media Outlet:</i>	CBK-R (Saskatchewan)	<i>Date:</i>	Feb 20/2007
<i>Program:</i>	Saskatchewan Blue Sky	<i>Time:</i>	12:07
<i>Anchor / Reporter:</i>	Jennifer Gibson	<i>Length:</i>	06:00
<i>Topic:</i>	Interview with Sandra Gogal, Canadian Bar Association		

Jennifer Gibson: At a meeting in Quebec this weekend, Canadian lawyers were told they should follow a code of conduct when it comes to handling residential school cases. And this isn't the first mention of a strict code for this issue. A resolution was brought up again to urge regional law societies to enforce rules on how to deal with these clients.

Sandra Gogal was at the meeting. She is the Vice-Chair of the National Aboriginal Law Section of the Canadian Bar Association and she joins me on the line from Toronto.

Hello, Ms. Gogal.

Sandra Gogal (Vice-Chair, National Aboriginal Law Section, Canadian Bar Association): Hi, how are you?

Jennifer Gibson: I'm fine, thank you. Can you give us an idea of what are the general points in the code of conduct?

Sandra Gogal: Sure, well the 2007 resolution that was passed here, at Mont-Tremblant this weekend was the renewal of our call to law societies to adopt guidelines for lawyers who represent students who attended the Indian residential schools.

And that resolution reaffirmed essentially the 2000 resolution which was passed by the Canadian Bar Association.

Jennifer Gibson: Okay, and what are some of those guidelines?

Sandra Gogal: The guidelines addressed were the issues with respect to retainers for clients. It also makes lawyers aware of the need for healing as a part of the

entire settlement process and therefore the counselling services that are available. It just sort of heightens the sensitivity in relation to the students who attended and who would be receiving payment under this settlement agreement, very general guidelines.

Jennifer Gibson: Okay, and why did you decide to bring it up again?

Sandra Gogal: Well, since the 2002 resolution was passed, new factors had come to light. We have had the settlement agreement, which was just tabled in 2005. So the interest, I believe, in adopting these guidelines have now been enhanced because of the payments and the imminent nature of the settlement agreement being accepted by the jurisdictions involved.

Jennifer Gibson: Okay, and have you had any problems?

Sandra Gogal: The Canadian Bar Association is not aware of any specific problems in relation to this. I know we did have a couple of calls from the chief adjudicator of the ADR process as well as the Indian Residential Schools Department Canada in relation to some concerns with respect to general lawyers' conduct in relation to the settlement agreement and from there, we decided to retable it with the council.

Jennifer Gibson: Okay, and why do you think it's important to have this code?

Sandra Gogal: Well, I believe the whole circumstances surrounding the Indian Residential school calls for an increased sensitivity to the victims of the Indian residential school, and we want to ensure that these people are not revictimized and having to relive their childhood experiences and the abuse that they went through.

Jennifer Gibson: Um-hum.

Sandra Gogal: And want to make sure that the process is conducted fairly and in sensitivity to their interests.

Jennifer Gibson: Are there other scenarios that you had to have a code of conduct for, like outside of this particular issue?

Sandra Gogal: Not that I can think of offhand.

Jennifer Gibson: Right, okay. And one of the guidelines is talking about not soliciting clients. Can you give me a bit more what that means?

Sandra Gogal: Well, I think there's a section that talks about soliciting clients is really in relation to the manner of retention. And it talks about lawyers having to meet with the students or the claimants in person as opposed to just by telephone or by email.

Jennifer Gibson: Okay.

Sandra Gogal: So it's really trying to ensure that the lawyer does meet with the claimant who to follow the process.

Jennifer Gibson: Are you trying to avoid I guess a mass collection of clients? Is that it?

Sandra Gogal: I don't believe that's the intent of it, but it would probably address that, yes.

Jennifer Gibson: Right, okay. Another point talks about whether or not clients were sexually assaulted, saying that lawyers should not ask whether they were sexually assaulted or not. Why would that be in there?

Sandra Gogal: Well, I believe dependent upon which payment and which part of the settlement agreement they would pertain to, because there is some payment under the settlement agreement that does not require any evidence as far as the abuse that they have gone through. It's straight common experience payments.

Jennifer Gibson: Um-hum.

Sandra Gogal: And I guess the ADR process that's out there is less evidentiary focused and more inquisitive and sensitive to what their interests are. So dependent upon what the actual claim is, it may not be necessary to get into the details.

Jennifer Gibson: Right, okay. Are there repercussions for lawyers who don't follow this particular code of conduct?

Sandra Gogal: Well, if the guidelines are adopted by the law societies in the respective jurisdictions, part of the resolution talks to the law societies being vigilant in monitoring the conduct of lawyers to see whether they are complying with the guidelines that are set forward. If a lawyer breached the guidelines in the opinion of the Law Society or complaint was received to the law society, then they would be possibly disciplined under... through each provincial law society.

Jennifer Gibson: Right, and how do the law societies feel about the code of conduct?

Sandra Gogal: Well, I know that three law societies have adopted it outright and I haven't heard any formal negative complaints from them in relation to the guidelines.

Jennifer Gibson: Right, okay, so does this code of conduct take form immediately, that it was passed, since it was passed?

Sandra Gogal: Well, if the Law Society adopts the guidelines, yes, it would take the form that's in the resolution.

Jennifer Gibson: Okay, very good. All right, Ms. Gogal, thanks very much for talking with me today.

Sandra Gogal: You're welcome. Thank you.

Jennifer Gibson: Okay, bye, bye. Sandra Gogal is the Vice-Chair of the National Aboriginal Law Section of the Canadian Bar Association.

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