



Kahnawà:ke Membership Law Project

COMMUNICATIONS PACKAGE for COMMUNITY INFORMATION SESSIONS

Kahnawà:ke Membership Law Pamphlet

Summaries of the following documents are included in the package:

- Kahnawà:ke Membership Law History
- Federal Registry (DIA Listing) vs Kahnawà:ke Registry
- KML Summary of Reports on Membership
- 2007 SDU Review of Kahnawà:ke Membership Law Executive Summary
- 2008 Council of Elders Operational Review Report Summary
- 2010-11 Membership Law Community Survey Summary
- 2012-13 Kahnawà:ke Canada Relations – Membership Summary

The Kahnawà:ke Membership Law and various Membership Reviews can be printed from the website: Kahnawakemakingdecisions.com or printed copies can be picked up from the reception at the Social Development Unit of MCK (Services Complex) and MCK Reception.

Key Membership Law Summary Issues Identified for discussion also in package:

- KML Section 26 Amending Formula
- KML Definition of Great-Grandparents
- Role of the Membership Registrar and Membership Department



Kahnawà:ke Membership Law History

Before European contact, First Nation Indians had our own system for identifying citizens of our Nations with clan systems, matrilineal systems (mother based), kinship systems (community ties, residency), hereditary systems (chiefs, clan mothers) and had provisions for marriages and traditional adoptions. Once Britain won lands over the French, the 1763 Royal Proclamation was put into force and involved North American Indian relations, lands and protection under the Crown.

During the mid to late 1800's, many Acts or laws were made by Canada involving land protection and identifying who was an Indian. Canada introduced enfranchisement (1857) when an Indian lost rights and recognition to become a British subject. In 1850 the definition of an Indian was by birth/blood, being part of a band of Indians and being married or adopted into the band. The 1869 Enfranchisement Act allowed for self-government with elected Chiefs. This is the time that by law, an Indian women who married a non-Indian man lost rights and recognition - their children did not gain Indian status. This has been part of our lives for more than one hundred years.

The Indian Act came in 1876 when the government of Canada put together all existing Acts (Laws) made until this time. The Indian Act continued with enfranchisement and a community government system of elected Chiefs. The Superintendent General (who appointed the Indian Agent) had power over lands and government of the community. The Indian Act was amended in 1951 and created the Department of Indian Affairs, continued with enfranchisement (loss of rights), Band council government system and further entrenched gender based criteria in the definition of an Indian, favouring male lineage. In 1985, another amendment was made that attempted to remove the gender based criteria and granted First

Nation communities the right to determine their own membership rules. The Indian Act was again amended for gender equality in 2011 to allow the grandchildren of women who lost Indian status as a result of marrying non-Indian men to apply for Indian status.

On May 22, 1981 at a Band meeting, a *Moratorium* (or freeze) on mixed marriages (Mohawks marrying non-natives) and adoption of non-natives was agreed to. A person had to have 50% Indian blood to be recognized as being an Indian and any Mohawk who married a non-native would leave the community with benefits administered by the Mohawk Council of Kahnawà:ke suspended. This was an important time for our community in that the issue of membership was taken into our own hands for survival as Indian people.

In 1984 the *Kahnawà:ke Mohawk Law* was established. This Law identified our rights as Onkwehonwe of the Mohawk Territory. The rights were Mohawk registration, residency, land allotment and land rights, welfare, education, voting, burial, medication and dental, tax privileges and housing. This Law referenced the 1981 Moratorium and someone who married or lived in common law with a non-native would not be allowed residency, land allotment, land rights and voting privileges.

The Law did not remove any non-native women whose marriages prior to 1981 were intact with the Mohawk man, along with their children keeping all rights regardless of the parent's marital status. A Mohawk at this time was defined as any person whose name appeared on the Band list and Reinstatement list and who had 50% or more blood quantum.

An opinion poll conducted in 1992 revealed that out of 617 participants, 38% wanted "hard line" membership criteria. In 1995, a household survey of 1027 homes saw that 45% agreed with 50% blood quantum for membership.



In 1996, consultants conducted 2 community consultations on an existing draft document called the 1995 Mohawks of Kahnawá:ke Communal Law on Membership. In the first consultation, 280 people participated to give feedback for a re-drafting of this document, identified values and need for a law and chose an inclusionary approach to membership. In the second community consultation, 86 people participated and identified basic membership principles and a Custom Code on Membership. A protest to the removal of the 50% blood quantum and the 1981 Moratorium happened at this time.

In April 1998, consultants gathered a group of Elders to discuss the custom code on membership draft. A series of meetings were held and a *Declaration on Kanien'ké:ha Membership of Kahnawá:ke* was written. This document was signed by 21 Elders who recommended an Elders' Council for decision-making on custom code applications for membership. Blood quantum was not supported and requirements were added to the current draft custom code that included knowledge of Kanien'ké:ha, Kanien'kehá:ka lineage back 3 generations, respect for Mother Earth and traditional family clan affiliation. The same conditions for marrying out were kept.

A more developed *Custom Code on Membership* was released to the community in February 1999. Three Elder's meetings and three community meetings gathered feedback on the Custom Code on Membership.

A 30-day community review process was held in the fall of 1999. Thirty-one people gave feedback on the Custom Code. Community feedback talked about the negative effects of the Indian Act on our People and about residency for non-natives. Blood quantum was again identified as a criterion, as was 4 great-grandparents, although more inclusive criteria were also reported. The Code was passed by Mohawk Council of Kahnawá:ke in 1999.

The Custom Code on Membership was the document used for the base of the *2003 Kahnawá:ke Membership Law* that was enacted on November 10, 2003 and is a Law respecting the collective right to determine our own membership. The Law provides a Registrar to administer the Kahnawá:ke Kanien'kehá:ka Registry and the non-member residency list. A Council of Elders responsible to apply the Law and make decisions on membership applications is part of the Law. The membership criteria is that a person is a member at birth if identified as such, is born of 2 members (or of one member and one from another of the 6 Nations), has 4 or more great-grandparents and has a clan or go through the process to sit with a clan.

The Council of elders was suspended in September 2007 until the law and operational issues were addressed. The Kahnawá:ke Membership Law needs to go through community review to gather feedback for change to better reflect who we are today using the Community Decision Making Process.



Check the website at
kahnawakemakingdecisions.com





FEDERAL REGISTRY (DIA LISTING) VS. KAHNAWÀ:KE REGISTRY

OVERVIEW

There has always been confusion when it comes to the Kahnawà:ke Kanien'kehá:ka Registry and the Federal Registry of the Department of Indian Affairs (DIA Listing) which has been renamed the Aboriginal Affairs and Northern Development Canada (AANDC). Individuals do not know the difference between the two. They assume if a person is not on the Kahnawà:ke Registry that the individual is a "C-31" and that when they see an unknown individual using a band card at a shopping center for tax exemption, they are non-Indian and should not have a card. The following will explain the difference between the Kahnawà:ke Registry and the Federal Registry.

THE INDIAN REGISTER

Is a confidential federal record of all persons who are registered as Indians in Canada in accordance with the *Indian Act*. An individual must meet the federal guidelines of registration to be eligible to be registered. At this time, an individual is issued a band number from AANDC. The MCK does not issue these numbers. Once an individual is registered on the Federal Registry, it is then determined whether or not an individual will go on the Kahnawà:ke Registry. This is determined by the MCK Membership Registrar applying the rules and regulations of the Kahnawà:ke Mohawk Law and Moratorium on Mixed Marriages of May 22, 1981.

An individual has three options to apply to be registered. They can apply to be registered through the MCK Membership Department, Kahnawake Service Center of the Lands & Estates Office of AANDC (formerly known as DIA), or go directly through Headquarters of the Department of Aboriginal Affairs.

INDIAN STATUS CARDS

There is a wide misconception when it comes to status cards. People believe that it is only members of Kahnawà:ke who obtain status cards, however, these cards are issued to over 500 Indian bands across Canada. The cards are all the same in color and size with different band designation numbers, which is 070 for Kahnawà:ke. Since 2009, AANDC has begun issuing secure cards that can only be obtained through AANDC.

The MCK Membership Department only issues Indian status cards to individuals on the Kahnawà:ke Registry. All other individuals receive their cards through AANDC, Lands and Estates office in Kahnawà:ke, or the nearest service center to them.



KAHNAWAKE MOHAWK LAW

As of May 22, 1981, a moratorium was placed on all mixed marriage and adopted non-Indians. Any Mohawk of Kahnawà:ke, male or female who marries, co-habitates, lives common-law with a non-Indian, will be deprived of benefits and privileges that derived from the Kahnawà:ke Mohawk Territory. In 1984 the Kahnawake Mohawk Law was established based on a 50% blood quantum minimum requirement to be a member.

KAHNAWÀ:KE MEMBERSHIP LAW

Once an individual has been registered with a band number and their affiliation is with Kahnawà:ke, the individual's information is sent to the MCK Membership Department and is entered into our program. It is at this time it is determined whether or not they will automatically become a member, or be considered a non-member. This is established by applying Kahnawà:ke's Laws, taking into consideration whether or not the individual is married to a Native or non-Native, if they have a non-Native parent, if they are living in a common-law relationship with a non-Native, and if they meet the criteria of the Kahnawà:ke Membership Law. Once it is determined and individual meets the criteria, that individual is put on the Kahnawà:ke Registry and they are entitled to all services and benefits provided by the Mohawk Council of Kahnawake. If it is determined that the person does not meet the criteria, an application may be made to the Council of Elders to become a member or non-member resident if they are the age of majority.

SERVICES

According to Canada, a registered or status Indian is entitled to all services and benefits provided by Federal Departments. However, keep in mind that most of the Aboriginal Affairs funding is directed to on-reserve programs. For an off-reserve status Indian the services may include: receiving status cards, housing assistance, post-secondary education assistance, prescription medication, medical transportation and equipment, dental, social assistance, and economic development. For an individual to access these services, they must be obtained in Canada.

According to Kahnawake Laws, only individuals on the Kahnawà:ke Registry are entitled to receive all the services and benefits mentioned above along with other services, such as land allotment, residency, water and sewer, ability to vote, own and operate a business. Certificate of Indian Status (CIS) cards are issued from the MCK Membership Department to individuals on the Kahnawà:ke Registry, but exclude non-Indians and non-members. If an individual on the Federal Registry only requested services such as housing, on reserve education, land allotment, water & sewer, or to vote in Kahnawà:ke, those individuals would be denied.



Kahnawà:ke Membership Law Development

Development of Membership in Kahnawà:ke:

1981	Moratorium on Mixed Marriages
1984	Kahnawà:ke Mohawk Law
1986	Citizenship Proposal to MCK
1987/88	Citizenship Law drafts for consideration
1991	Membership Code Drafts
1995	Membership Law Drafts
1999	Custom Code on Membership
2003	Kahnawà:ke Membership Law

Summary of Reports on Membership:

A MCK 1996 report on consultation headed by Gerald Alfred focused on community consultation on membership and used feedback to contribute to the re-drafting of the *1995 Mohawks of Kahnawà:ke Communal Law on Membership*. This consultation marked the introduction of non-member residency and Native lineage with two Mohawk grandparents as a criterion with removal of blood quantum criterion, and also determined that a Mohawk never loses rights.

A consultation that occurred later in 1996 used radio shows and information sessions to inform the community on the revised *Communal Law*. Protest letters were filed that voiced objection to the removal of the 50% blood quantum criterion and the removal of the 1981 Moratorium on mixed marriages. This community action influenced the consultation to change direction to focus on entitlement, residency and a membership board with groups from 3 membership perspectives. A *Custom Code on Membership* was identified.

The *Custom Code on Membership* released to the community in February 1999 by the Mohawk Council of Kahnawà:ke, was brought through a series of discussions with Elders and at community meetings to refine the document. The *Custom Code* underwent a 30-day review for community ratification and was approved by the Mohawk Council of Kahnawà:ke (MCK). In 2003, the *Kahnawà:ke Membership Law* was passed and enacted in 2004.

In 2007, the Social Development Unit Director and the Membership Registrar undertook a review of the *Kahnawà:ke Membership Law (KML)* to highlight issues and concerns related to its administration and implementation. In addition to recommending review of the KML, the report recommended an independent review of the Council of Elders. In a collaborative decision, the Council of Elders were suspended in 2007.



In 2008, an independent review of the Council of Elders was performed. The review examined the Council of Elder's framework, alignment, impacts and provided recommendations to improve operations, involving developmental requirements, policy and procedures, competency and training and identified needs for response planning.

In 2009 the *Kahnawà:ke Membership Law* was submitted for a community review through the Community Decision Making Process. During 2010 the Membership Department contracted the summary of the above reports, developed a Conceptual and Operational Issues Report, contracted a community survey on the Membership Law, and held 8 informational sessions on Membership to gauge community support for the Law.



2007 SDU Review of the Kahnawá:ke Membership Law

EXECUTIVE SUMMARY

The Kahnawá:ke Membership Law was enacted in 2003 with the hope of creating a new way of approaching Membership in our community. Since the law has been in existence for over three full years, it was time for a full review of the law to highlight issues and concerns in the law itself as well as its administration and implementation. This report provides an overview of the Membership situation, highlights specific issues and provides recommendations for improvement.

Many issues and concerns have surfaced regarding Membership and the Kahnawá:ke Membership Law. Some concern inefficiencies related to specific clauses or definitions in the law such as: enforcement; members who are not Status Indians; beneficiaries; and inconsistency between native communities' membership requirements. Other issues that were raised in the community related to the law included blood quantum requirements, border crossing, clan identification, the differences between identifying as Kahnawá:kehró:non vs. Kanien'kehá:ka, and the concept of citizenship vs. membership. Specific issues were also raised associated with the workings of the Council of Elders (COE) including the actions and decisions of the Council of Elders, the lack of redress regarding decisions of the Council of Elders, their legal representation, the lack of transparency and the working relationship between the COE and the Membership Department.

In general, it must be noted that many of the processes and institutions established through the current Membership Law have failed to live up to its preamble. Instead of developing a sense of community, they have led to disharmony and anger. Instead of respecting the principles of dignity and compassion, they have promoted accusations and resentment. Instead of replacing foreign laws such as the Indian Act, they are often still cited in the decision-making required.

It is recommended that a total reworking of the law must be considered including a revamping of the processes and institutions established as well as the definitions, roles and responsibilities identified. Specific recommendations were also made to address particular concerns and issues. One was that an independent review committee be formed to further investigate the processes, actions and authorities of the Council of Elders. Others involved recommending that working groups be formed of appropriate individuals to specifically address those sections and clauses within the Law that have proven to be unclear and develop those tools and processes necessary including new legislation. Others were directed at MCK operations and addressed areas of discussions with the Federal Government, establishing a formal network of communications, and proposing that the MCK set the example and ensure that its employees follow the law. Finally, a recommendation was made that the Election Law be consistent with the Membership Law.



2003 Kahnawà:ke Membership Law 2008 Council of Elders Operational Review Report Summary

The 2003 Kahnawà:ke Membership Law (KML) was reviewed by the Social Development Unit Director and the Membership Registrar in 2007. Following their 2007 report entitled “A Review of the Kahnawake Membership Law” which included a recommendation for an independent review of the Council of Elders, the Organizational Development Services (ODS) was contracted to conduct an operational review of the Council of Elders (CoE). Here is a summary of the conclusions and recommendations from ODS’ 2008 report:

The CoE was a well-intentioned concept and the development of CoE was intended to be a well-functioning body, yet there were key elements that should have been in place and not left to development while the CoE was expected to operate. The CoE had good intentions towards the community, however the individual members had different interpretations about their roles and responsibilities in the course of carrying out their mandate and there were different mindsets within the CoE.

The competencies of CoE members need to correspond with those required by the law, regulations, policies or procedures. This means the competencies should not only be based on the opinion of community members but should be determined in terms of factual competencies based on their functions and responsibilities. Specifically what knowledge, skills and attitudes are required to ensure processes and activities carried out under the law by the CoE respects the guiding principles. There needs to be concrete assessment of the knowledge, skill sets and attitudes essential to the work. Many respondents indicated maturity as an essential quality for a CoE member, noting a bias for people 50 and over, but age does not guarantee maturity.

There were clear indicators of racism existing within the community and within the CoE. Comments made during interviews indicate blood quantum is still entrenched in the thinking and attitudes. Lineage is not well understood and was strongly based on blood quantum and not affiliation. How does the selection of those who will determine membership ensure that decisions made are not racist? Or what can be built into the CoE that will counteract racist influence? The answer is clear criteria and definitions that allow no room for subjective opinions of decision makers.

The inconsistencies within the application process has bred a lack of confidence in the CoE. Many inconsistencies can be linked to the weak KML framework (regulations not fully developed, unclear roles and responsibilities, weak selection process and criteria for CoE members). Confidence was further weakened by the lack of accountability by the CoE, the varying competencies of the CoE, conduct and behavior of some members. These issues combined to have fostered the poor relationships that existed. The lack of definition for key elements of the law and regulations provided for a major weakness in the application of the KML and accountability for those involved.

The intent of the KML was to take further steps away from the Indian Act and return to more traditional Kanien’kehá:ka ways of determining who belongs to the community and is entitled to the associated privileges of being a member. ODS concluded that Kahnawake has not moved as far from the Indian Act as envisioned in the preamble of the KML. It is important for the community to realize the challenges the Indian Act mentality presents to determine membership so it is able to explore meaningful ways to work through these challenges. Blood quantum does not appear to have been a method used to determine



membership within a clan or community (pre-Indian Act). The majority of people consulted in the development of the KML clearly indicated they did not support blood quantum criteria.

The conditions/environment of the CoE meetings and hearings over 2004 to 2007 created a fracturing of the council and has led to inappropriate ways of dealing with others internally and externally. There seems to be a lack of respect for authority and applicants. Attitudes towards cooperation and collaboration were poor. Mutual respect was low. There are valid reasons for the lack of trust that developed, however the CoE did not work through problems. The CoE does not have the comprehensive framework in place nor the management capacity to mend itself.

ODS Recommendations:

1. Conclude the appointments of the current CoE members with thanks for their investment of their time, and without prejudice to any CoE member becoming a future member of the CoE. The community should complete key elements of the KML framework that a CoE (as a body) needs to operate effectively.
2. Until the community can ensure that people they appoint are accountable, the MCK as the sponsoring body must ensure: the mechanism for accountability, methods for evaluation of mandate fulfillment, and methods of intervention before enacting the next CoE appointments.
3. Ensure the KML is fully functional through a well-designed comprehensive framework that supports the CoE operations. The framework would ensure the CoE have all the tools, resources, competencies and training involved in carrying out their work.
4. Ensure there is an appeal process for applicants dissatisfied with the decisions of the CoE. The appeal process would include authority to change decisions on applications. Criteria would need to be established for: screening appeals to determine validity, and reviewing decisions by the CoE (should be same criteria used by CoE). Authority of a separate body (such as the Membership Review Council) to overturn CoE decisions would provide a check and balance for the process, possibly resulting in more credibility and confidence of both applicants and the community.
5. The process to remove the CoE should be comparable to the one that selects them. The guidelines on conduct and behavior should be included in the commitment to community document signed by all members upon appointment.
6. Reduce the number of CoE members of not less than nine and not more than 15. Most boards in the community operate with between 9 to 10 members. Another option could be maintaining a CoE with 15 members, organized into smaller working groups (3 groups of 5 members each) and these groups would have the authority to review, hear and decide applications. The feasibility of this is contingent on clear, objective criteria and definitions on which to screen and base decisions (allowing no room for discretion).



2003 Kahnawà:ke Membership Law 2010-11 Community Survey Results Summary

The 2003 Kahnawà:ke Membership Law (Law) has undergone a number of reviews, including community survey on questions about the Kahanwà:ke Membership Law conducted in 2010-11 and released to the community in 2011.

Summary of 2010-11 Membership Law Community Survey:

The major findings of the questionnaire on Membership and the 2003 Kahnawà:ke Membership Law indicates that:

- A majority favours keeping things as they are with a possibility of changing the great-grandparents to three.
- A majority disagreed that a person of little or no Indigenous lineage married or living common law may apply to be a member.
- A majority feel that an adopted non-Indian child should not be eligible for membership.
- A majority agreed that an adopted child with four Kanien'kehá:ka great-grandparents can notify the Registrar to request to be put on Registry and make a Member's pledge, some wanted the adult adopted child to apply for membership or present themselves to Council of Elders.
- A majority agreed that a person can apply to become a non-member resident if the person has some Kanien'kehá:ka lineage, maintains family ties and has made a positive contribution to the community.
- Most respondents said community ties means having biological family members in Kahnwà:ke, or their own biological child here, others possibilities were if raised as an adopted native child here, married to a member, possibly work here more than 10 years, or living common law with a member.
- A majority disagreed that all non-natives married to a member should be allowed to live here.
- In regard to the Council of Elders, a majority saw no changes needed to the 9 to 15 number, but there should be more requirements to be on the Council of Elders, selected by election, and serve a limited number of years, possibly two year term.
- For non-member residency, a majority felt Kahnawà:ke is not for non-natives. Many indicated a person should be married to a member and could live here until any biological children reach 18 years of age, need residency criteria, and should leave the community when the person is no longer married to the member.
- The overwhelming majority were told that if you marry or live with a non-native that they could not live in Kahnawà:ke.



Membership Department SOCIAL DEVELOPMENT UNIT

Kahnawà:ke Canada Relations - Membership

Background:

In 2011 the Mohawk Council of Kahnawà:ke (MCK) entered into discussions with Aboriginal Affairs and Northern Development Canada (AANDC) to develop a Memorandum of Understanding (MOU) on Kahnawà:ke Canada Relations (KCR) based on finding operational solutions jointly. KCR is starting with Lands and Membership. The MOU was signed by Minister Duncan in February 2012. Joint KCR Work Plans were developed with AANDC for Lands and for Membership and signed by both parties in March 2012.

Approach:

KCR Membership approach is to exchange information by MCK and AANDC on membership to reach common understandings, hold joint discussions, and develop options and solutions for outstanding issues on membership.

Outstanding issues include:

- MCK never submitted the Kahnawà:ke Membership Law (KML) to Canada for approval, so AANDC Indian Registrar continues to add new registrants to the Kahnawà:ke band list managed by AANDC.
- The number of registered Indians recognized by Canada on the Kahnawà:ke list who do not meet the criteria of the Kahnawà:ke Membership Law is growing.
- AANDC's unofficial review of the Membership Law has pointed out that the KML does not protect acquired rights as set out in the Indian Act and that there is potential for Charter challenges.
- Acquired rights means any person who has been registered as an Indian by Canada has rights that Canada cannot remove, including non-Indians who married band members and those persons registered by AANDC who do not meet the membership requirement of the KML.

Status:

Joint meetings so far covered:

- MCK presentation on the history of membership development in Kahnawà:ke and review of summarized Membership Law.
- How AANDC does Indian registrations under *Indian Act* sec. 6 and membership under sec.11, and what sec. 10 transfer control of membership requires.



- The Indian Registrar's unofficial review of KML under sec. 10 identified the key issue for Canada is KML does not protect acquired rights and so transfer of membership to Kahnawà:ke would not be recommended to the Minister.
- The MCK KLCC Coordinator made a presentation on how the Community Decision Making Process works to approve laws and AANDC reviewed various ratifications processes used for agreements between AANDC and First Nations.
- There were joint discussions on links to concepts on First Nations membership, registration and citizenship, as well as, brainstorming options and ideas for membership.

The KCR Membership forward agenda covers: discussions on services and programs leading into discussions on rights and benefits for registered Indians and members, collective vs individual rights, obligations and liabilities of MCK and AANDC to members, and the impacts of Bill C-3 Gender Equality Act.



KAHNAWÀ:KE MEMBERSHIP LAW

Issue: SECTION 26 AMENDING FORMULA

The Kahnawà:ke Membership Law (KML) was enacted in 2003 and came into force in September 2004. In 2009, the Kahnawà:ke Membership Law was submitted to the Legislative Coordinating Committee (LCC) for review in the Community Decision Making Process (CDMP). However, the KML has its own amending process set out in section 26 of the Law.

The KML amending process works like this:

An amendment to the present law may be proposed by either:

- a) The Council of Elders,
- b) The Mohawk Council of Kahnawà:ke, or
- c) One hundred (100) members of the Kanien'kehá:ka of Kahnawà:ke

The party that proposes the amendment will make a written draft of the proposed amendment.

If the proposal is by 100 members then the proposal must be signed at the office of the Registrar with all signatures within 30 days. The Registrar will verify that each person that signed is a member. Then the proposal goes to the Council of Elders to review. And last to the Council of Chiefs to review.

If the proposed amendment(s) to KML are proposed by the COE then the proposal goes directly to the Council Chiefs for approval, and if the proposed amendments are not accepted by Council of Chiefs then a small group of 3 COE and 3 Chiefs will meet to discuss the proposed amendments until revised wording is found or amendment is rejected.

Once proposed amendments are agreed to by both COE and Council of Chiefs, the amendments will be posted in the community with local media for at least 30 days. After 30 days the COE and the CC will review any recommended changes or modifications to the amendments and reach agreement to any changes. Once the amendment is accepted, the Council of Chiefs will pass a resolution to accept the amendments.

Please note that the COE proposed a number of amendments to the Law and in 2007 seven (7) amendments were accepted according to the section 26 process.

Suggested Amendment to Consider:

The community will need to decide as a first step in the CDMP whether to repeal the KML amending process in section 26 in favor of the CDMP.



2003 Kahnawà:ke Membership Law Role of Membership Registrar and Membership Department

History

The Membership Department has been in existence since the early 1970s. At that time, there was one employee who administered an Indian Act process. This process shifted with the passing of the 1981 Moratorium on Mixed Marriages. The passing of Mohawk Law in 1984 created the Membership Registry introducing blood quantum as the major criterion. In the late 1980s, the Registry was automated and a second employee was added. In 2003, another employee was added to alleviate the increased workload due to the development of the Kahnawà:ke Membership Law. In 2004, the implementation of the Kahnawà:ke Membership Law finalized the current composition of four (4) employees by creating the position of Membership Registrar.

Overview

The Mohawk Council of Kahnawà:ke Membership Department's mission is to assist and provide membership services to members and assistance to individuals and ensure confidentiality and accuracy. The Membership Department is mandated to administer guidelines for registration and apply the Kahnawà:ke Membership Law on issues of membership eligibility.

Services Provided

Reporting of events – births, deaths, marriages, divorce, transfer, amendments, generate registration numbers; provide various types of letters, certificates of Indian status cards, photos; assist individuals in completing applications for membership with the MCK and Aboriginal Affairs and Northern Development Canada (AANDC); liaise with clients and Quebec's Civil Code Office.

The Membership Registrar is the lead technician on the Kahnawà:ke Canada Relations (KCR) Membership Sectoral Table and is a member of the KCR Main Table. KCR Membership approach is to share basic approaches of MCK and AANDC on membership to reach common understandings, hold joint discussions, and develop options and solutions for outstanding issues on membership.

Membership and Council of Elders

The KML outlines the role of the Office of the Registrar in processing individuals who are automatic members seems to be the responsibility of the Registrar, while the application process for determining members seems to be the responsibility of the CoE. The KML states that the CoE have the authority to review decisions made by the Registrar, but it does not note they have the authority to overturn them. However, the CoE did give direction to the Registrar to remove names of individuals under the age of 18 from the Registry.

The Membership Department provided the initial orientation to CoE and Membership Review Council. The Membership Department provided applicant background packages (bios) for the CoE to consider.



The Registrar attempted to assist the CoE in drafting an action plan outlining operational and administrative objectives with specific tasks and activities, but the draft plan was not accepted by CoE. The Membership Department also provided the Recording Secretary for CoE meetings and hearings.

There are overlaps in responsibilities in KML between the Registrar and the CoE which caused confusion, and these overlaps were not addressed. The Registrar already has the Director of Social Development Unit (SDU) to oversee the function of the Registrar. There needs to be clarification on what KML means to oversee the Registrar.

Until 2004 implementation of the CoE, the Membership Department made the decisions on eligibility for Indian Registration and Membership. The KML removed these responsibilities except for automatic membership. Only the CoE could process applications for Membership and non-Member residents. Since the 2007 suspension of the CoE, there is a backlog of 57 completed applications for CoE.

Membership Transfers from other Bands

The KML does not cover transfer of membership from another band to Kahnawà:ke Membership. The KML membership criteria does include that a person applying for membership cannot be on another Indigenous community membership list.

The Membership Department has received a number of requests from individuals on their own behalf or on behalf of their children under 18 years of age. The Membership Department does apply the KML criteria for membership and considers if the person applying would meet the born of one person who is a member and the other parent is from an Iroquois community with documentation to show lineage of at least 4 of 8 great-grandparents for both sides of their family. If the person does not meet the criteria, then they need to complete a membership application to the CoE.

Once the Membership Department finds the documentation acceptable for automatic membership, the next steps are to prepare a Mohawk Council Executive Decision (MCED) to be approved at a formal meeting of Council, then forward the signed request for transfer, birth certificates, and MCED to AANDC to transfer the individual from their current band to the Kahnawà:ke band list managed by AANDC and to issue new Indian registration numbers.

Should transfers between bands be considered in the KML?