



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 Kahanwà: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?

*Kahnawà:ke Membership Law Project
Mohawk Council of Kahnawà:ke Membership Department*

Document Summary Report

*Summarized by: Heather Jacobs-Whyte BSc
Kahnawà:ke Membership Law Project Consultant
February 11, 2010*

EXECUTIVE SUMMARY

The Mohawk Council of Kahnawà:ke, Social Development Unit, Membership Registrar, contracted Heather Jacobs-Whyte as an independent contractor to perform a summary of 5 reports on membership from 1996 to 2008.

A 1996 report focused 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. Included were descriptions of membership processes in Kahnawà:ke and though Indian and Northern Affairs Canada. In addition to recommending review of the KML, the report recommended an independent review of the Council of Elders.

In September of 2007 the MCK suspended the Council of Elders. 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. It was recommended to conclude appointments of the Council of Elders and evaluate the *Kahnawà:ke Membership Law*.

Each summary report groups data into tables and concludes with a discussion that offers key words or phrases that gives the reader a broad sense of the feedback. Not all summaries have the same type or number of tables, but most summaries have feedback placed into categories of justice, community, education, process-structure and political needs.

**1. Summary Report: Membership Task Force (July 1996).
Report on the Consultation on the Kahnawà:ke Communal
Law on Membership.**

Summary Structure	
1.	Introduction
2.	Consultation Methods
2.1	Research
2.2	Consultation Approach
3.	Consultation Outcomes
3.1	Participant Data
3.2	Identified Values
3.3	Membership Perspectives
3.4	Identified Needs
3.5	Recommendations
4.	Discussion

1. Introduction

This report describes many challenges and negative emotions expressed by participants, concerns for the well-being of community members related to stress and expressions of a weak confidence in settling the issue of membership in the community. Some descriptions of emotions were feeling terrified, angry, frustrated, sad and being labelled as half-breed. It was a challenge for the consultants to gather feedback as it is described that participants did not want to discuss the issue – they were intimidated by discussion. This community consultation is described in the report as an opportunity to vent.

The Information Task Force (consultants) team of three worked with a team from the Mohawk Council of Kahnawà:ke and Dr. Gerald Alfred to conduct a community consultation from March – June 1996 on a current draft version of the communal law. Dr. Alfred was contracted by the MCK to use community input from this consultation to re-draft the *1995 Mohawks of Kahnawà:ke Communal Law on Membership*. Dr Alfred worked directly with the consultants. At this time, membership criteria used blood quantum and the 1984 law on marriage and membership. Blood quantum is described as well intentioned to preserve our Mohawk identity.

The general goal of the consultants was to conduct a community consultation and provide community input to Dr. Alfred for the re-drafting of the *1995 Mohawks of Kahnawà:ke Communal Law on Membership*. This re-drafting was the primary outcome of this consultation process. This consultation focused on who can be a member to benefit from services provided by the Mohawk Council of Kahnawà:ke.

Kahnawà:ke Membership Law Project
Document Summary Report

2. Consultation Methods

Table 1: Consultation Method Description, located at the back of this summary report, presents consultation methodology as reported including some statistical calculations for interest purposes. Data in this table is further described in the content that follows.

2.1 Research

The consultants interviewed Dr Alfred on the *1995 MCK Communal Law on Membership*. The notations of the interview contributed to the development of the primary consultation tool to gather feedback.

Research conducted by the consultants included documents from 1981 – 1995. The consultants report information was gathered through interview with participants as well as reading available documents. The report includes descriptions of research and references membership documents developed from 1986 – 1995.

It is reported that three sources of documentation made up basic elements of the *Communal Law on Membership* that included the *1981 Moratorium* on mixed marriages, the *1984 Mohawk Law* and the *Indian Act*. Other documents were reviewed from the *Indian Act* to varied publications in the *Eastern Door*. The report states membership documents were incomplete and scattered.

Community surveys conducted by the Mohawk Council of Kahnawà:ke were reviewed and had results referenced to support the use of 50% blood quantum for membership/citizenship determination, and are described in the report as a critique. The two surveys referenced are:

- *1992 Opinion Poll* (conducted at the MCK Elections) resulted in 38% of the 617 survey participants supporting a “hard line” approach to membership, or option A membership perspective;
- *1995 Kahnawà:ke Membership Survey Results* (conducted as a household survey) document compiled on August 24, 1995 stated that the results supported the 50% blood quantum and the marriage law as membership criteria. Results of this survey related to the 1984 Mohawk Law and information presented in the report includes:
 - The total number of survey participants was 1027, with the majority of participants being female @ 60%.
 - Close to 74% were listed on the Mohawk Registry, although 21% did not enter a registration status.
 - 45.2% of participants agreed with 50% blood quantum would determine eligibility for citizenship.
 - 60 – 70% of participants agreed that reinstatement/instatement people should receive community benefits.
 - A general split in opinions (yes and not sure) was the result reported for moving towards a traditional concept of Mohawk identity.

Note this survey asked blood quantum question for membership and citizenship but offered not distinction between the two. Interestingly, results were similar. This is an observation made by this writer.

2.2 Consultation Approach

Compilation of a membership history and membership case examples, hiring of 3 additional staff, development of a participant data recording form and development of a work plan is what made up the consultation approach.

The consultant team developed a work plan with an approach to be “objective, independent, open and appreciative.” Five target groups were identified for consultation. A test group was organized and used to test planned consultation methods and tools. Use of the test group resulted in changes to aspects of the consultation approach.

The population frame used 3 existing community group lists as well as direct invitation to participate. Community organizations were contacted with an offer to conduct consultation during work hours and it is not reported if this had occurred. Confidentiality was addressed by the consultant team with the use of reference numbers on the recording form and once data was compiled, the recording form was destroyed.

Participants were consulted by individual or small group meetings. It is noted that allowing choices by participants for time and location of consultations gave participants empowerment. All participants were advised to read the discussion paper mailed out to the community prior to attending the consultation session. The consultation was conducted by:

1. Introducing its purpose and posing the question, “Do we need a law on membership?” (Nominal data collection for participant responses to this question was not performed and is a lost opportunity).
2. Sharing the history of membership with a document produced by the consultants.
3. Gathering feedback using a discussion paper condensed by Dr Alfred and the consultants on the December 1995 draft of the *Communal Law on Membership*.
4. The use of a comparison paper of pre and post 1981 with case examples and visual diagrams.

Public relations/communications included K103 public service announcements, paid advertising and a 3-member panel discussion on the topic of membership, blood quantum, marriage moratorium and discussion of a proposed membership board. Consultants distributed the discussion paper to the community via the *Eastern Door* and a general mail-out prior to the consultation sessions.

An agenda, History of Membership in Kahnawà:ke, consultation procedure, recording form, discussion paper, 1981 comparison of membership with case examples are attached to the report as Appendix 1.

3. Consultation Outcome

The consultants were required to provide a weekly report to a MCK Ad Hoc Committee and ended with the reporting of the consultation process progression to one MCK person bi-weekly. The consultants gathered qualitative data recorded on a form, word for word, linked to sections of the discussion paper on the *Communal Law on Membership*. Comments in the report described difficulty with this method related to challenge for the interpretation of the data and performing the analysis. A reference to a report containing the raw data was made. Primary consultation outcomes are:

1. The community strongly indicated a need for a [membership] law and a need to move toward identifying and including traditional values when forming a membership law.
2. A June 1996 draft of the *Mohawks of Kahnawà:ke Communal Law on Membership* written with a moderate membership perspective.

3.1 Participant Data

It is clear that more women participated in this consultation. The report identifies that personal invitation of participants is recommended rather than relying on media communications in the community. The participants were grouped as identified on the recording form, into several membership registration categories to demonstrate that participation came from each category. Participants came from all age groups with most from the 35-59 years category. Majority of participants were listed on the Mohawk Registry. Dates of consultations are not reported. Age and status of participants are presented in tables 1 and 2 below.

Of 138 total consultation sessions, 61 sessions were held in the evening and 35 sessions had more than 1 person in a session. Reasons for non-participation included no desire, cancelled session, no follow-up contact or did not show up for scheduled session.

A total of **280** participated in consultation sessions. Ninety –three percent were invited directly by consultants or attended with person invited directly and the **majority** of participants were **female** (65%) compared to 35% of male participants.

Table 1: Age Categories for Participants

<u>Age Category (years)</u>	<u>Age of participants*</u>
15-19	12%
20-24	4%
25-34	14%
35-59	48%
60 +	18%
Not provided	4%

*rounded percent

*Kahnawà:ke Membership Law Project
Document Summary Report*

Table 2: Participant Registration Status

Registration Status	Status of participant
*Mohawk Registry	72%
Federal List only	11%
Not Registered	3%
Longhouse	5%
Registered in other Native community	3%
Unknown Status	6%

*One non-native women on the Mohawk Registry participated.

3.2 Identified Values

Consultants identified a number of values they derived from consultation feedback. It is reported that these values were given attempt to incorporate into the draft law. This summary report lists these values in themes in Table 3.

Table 3: Values identified by consultants grouped into themes.

Decision-making	Family/Community	Culture
fairness/non-judgemental	family	Mohawk nation
reasoning	children and Elders	roots
justice	unborn	ancestry
common sense	oneness	peace-good mind-respect
compassion	harmony	traditions
equality-objective	sense of belonging	language
protection	unity	ceremonies
cooperation		
consensus		
knowledge & education		
information		
communications		

3.3 Membership Perspectives

An Opinion Poll conducted by Onenta Associates in 1992 in conjunction with the MCK Elections presented 3 membership options. These 3 options or Option A, B or C, were used in the consultation approach. The report describes these options in the following way:

*Kahnawà:ke Membership Law Project
Document Summary Report*

Inclusionary	Moderate	Exclusionary
Clan system	Open to native /non-native marriages	Not entitled for registration[member]: <i>Pre- 1981</i> Moratorium (all non-natives and non-native families)
Citizenship	Unsure of non-native residency	Not entitled for registration[member]: All C-31 who are married to non-native husband and less than 50% Mohawk)
Adoption	Natives married to non-natives eligible for rights	Not entitled for registration[member]: <i>Post- 1981</i> Moratorium (native less than 50% Mohawk)
Non-native residency	No rights/privileges for non-natives	
Blood quantum not a solution	Serious concerns about use of blood quantum	
Lineage		

Participants were asked to select the option preferred for membership. Forty-four percent of the 280 participants selected the inclusionary perspective.

Inclusionary 122 or **44%** of participants
Moderate 106 or 38% of participants
Exclusionary 52 or 19 % of participants

It is reported that most were either against using blood quantum or had serious concerns about using blood quantum (as membership criteria). Although no question regarding agreement or opinion on the 1981 Moratorium were asked in the consultation, it is reported that 99 (35% of participants) persons stated they did not agree with it and 40 (14% of participants) persons said they agreed with the 1981 Moratorium on marriages.

3.4. Identified Needs

In the report section VII, Other Issues, are feedback statements not directly related to the consultation tools (communal law draft sections) and membership perspective option selections. These statements have been grouped in this summary report into *Table 2: 1996 Consultation Feedback Needs*, located in the back of this summary report.

Data in Table 2 is directly derived from the report's content and summarizes feedback for easy reference and comparison. The table is intended to facilitate action-planning and groups information into categories of justice, community, education, process-structure and political areas. Data is not always written in the exact wording as in the report.

3.5 Recommendations

Table 3: 1996 Consultation Outcome, located in the back of this summary report, lists reported feedback from the consultation. There was strong response to document that once a Mohawk, always a Mohawk regardless of who one marries. As well, it is noted that blood quantum criteria is not strongly supported as it was believed in the past. It is recognized that there needs to be a process and ability for non-natives (who have married Mohawks) living here to have residency privilege. Structure of a membership board to administer the law is documented with an appeals process. Recommendations are listed in *Table 3* and are more process/approach oriented rather than feedback/outcome oriented.

7. Discussion

Options A, B & C are not well described in the report but are referenced. Often in the report, the consultants made reference to “the community,” and because of the design of the consultation, and selection of participants, information from this consultation cannot be generalized to the population of Kahnawà:ke, but treated as a snapshot of opinions at one point in time. The information can be stated as “participants strongly support” for example.

Repeated participant feedback was to have *no deletions from the present membership list* and identified need for *non-native residency* within the community. This is the first report to reference non-native residency and a membership board. The expectations of the membership board are high and unreasonable. Much of the feedback statements were presented as concerns. The report was heavily weighted with consultation process description and less on analysis of feedback. The graphs were poorly represented and did not enhance the report. There was no nominal data reported although opportunity was evident for collection. The questions or methods could have produced clearer results if the method was designed with more direct questions and less open-ended ones. Some consultation feedback was not clearly defined in the description, using terms such as “most” or “long-time” and therefore leaves open interpretation to the data. Qualitative responses from the participants are difficult to group, analyse and make correlations to the purpose of the consultation. Re-examining the raw data with qualitative analysis software could produce clearer data results.

Key words/phrases derived from the feedback gathered in the consultation provide conceptual grouping in no particular order as listed below.

non-native resident	public records office
less support for blood quantum	no deletions from Mohawk Registry
appeal process/no outside courts	native lineage for criteria
enforcement	responsibilities linked to membership
membership board	emotions

**2. Summary Report: Information Task Force. (January 1997).
Report on the Consultation on Membership: Phase II.**

Summary Structure

Introduction

PART 1: Report on the Consultation on Membership: Phase II

1. Consultation Methods
2. Consultation Feedback
3. Consultation Outcome

PART 2: Report on the Consultation on Membership: Phase II

1. Consultation Methods
2. Consultation Feedback
 - 2.1 Identified Needs
 - 2.2 The Custom Code
3. Consultation Outcome
4. Discussion

Introduction

The goal of this consultation is “the on-going discussion on the matter of membership with the community of Kahnawà:ke and to move towards the development of a membership law for Kahnawà:ke through a second consultation process and a ratification process”. The objectives are listed as:

1. To design and implement a process to educate the community and to provide a mechanism for community feedback.
2. To analyze the feedback and make necessary changes to the draft law.
3. To assist and facilitate in the ratification of the law.

The introduction discusses challenges of making a law on membership and references the previous membership consultation held in the spring of 1996. The Mohawk Council of Kahnawà:ke (MCK) Intergovernmental Relations Team (IRT) contracted the Information Task Force (consultants) in September 1996 to continue the consultation process, this time with a Mohawk speaker as part of the consultation team.

This report on membership consultation, Phase II, focused on education, consultation and dialogue with community members. Initially the focus was on education regarding the *1996 Communal Law on Membership* to refine the draft and produce a final draft Law. Once the consultation began, the consultants changed the approach and concentrated on 3 sections of the draft communal law, therefore this report is divided into part 1 and part 2. This consultation was conducted from August 1996 to January 1997.

PART 1: Report on the Consultation on Membership: Phase II

1. Consultation Methods

The community consultation was designed to gather feedback on the draft *1996 Communal Law on Membership*. Strategies used were community education and consultation.

Research was performed to design a community education process on the draft *1996 Communal Law on Membership (Law)*. The education process would include information on the spring 1996 consultation, discussion on why views on blood quantum as membership criteria changed and how the draft *1996 Communal Law on Membership* was written. An education package was organized that included an information brochure with basic *Law* development points and focus on 3 main sections of the *Law*. The brochure was mailed out to the community in September 1996. K103 call-in talk shows were held (September 26 & October 1, 1996) and concerns expressed primarily related to non-natives in the community. Four community education/information sessions were held (two on October 3 and two on October 15, 1996) at a local hall. Feedback from these sessions focused on concerns related to draft *Law* process and general opinions on membership. The population frame was the Kahnawà:ke community but due to the time constraint of one month, the consultants selected 10% of the spring 1996 consultation sample in addition a selected number of key people. A Mohawk speaker participated in all community consultations. A total of 86 participated in the information sessions and the consultation sessions combined.

Table 1: Part 1 – 1996 Consultation Method Description, located at the back of this summary report, presents consultation methodology as reported.

2. Consultation Feedback

K103 Radio shows:

Feedback was categorized in the analysis into four areas being process, Great Law, membership issues and emotional responses.

- Call-in feedback and analysis categories from the radio talk shows are listed in more detail in report PART A, Appendix 1.
- The number of calls received was reported as 22.
- Feedback:
 - ✓ expressed emotions related to membership,
 - ✓ questioned the spring 1996 consultation process for type of participants as well as the present consultation process related to workshop session for day workers and on one of the consultation Elders,
 - ✓ gave comment on the draft membership law – many (5) calls related to the use and role of the Great Law, reinstatement of rights, risk of the promotion of marrying non-natives, weakened blood lines, non-native residency, and the proposed membership board for its regulations and membership assessment criteria process.

Kahnawà:ke Membership Law Project
Document Summary Report

Community Information Sessions:

Feedback was categorized in the analysis into two areas being process and membership issues.

- Feedback and analysis categories from the information sessions are listed in more detail in report PART A, Appendix 1.
- The number of questions or statements reported was 37.
- Feedback:
 - ✓ Related to the actual law – its direction, communication of purpose and content for informed decisions, being too flexible, 9 women not being representative, appeals process, be transparent/use of intermediaries, process to measure blood quantum and to validate a law by using the community. There is an enforcement issue, entitlement by passing through whole community, use traditional concepts with clan education and flexibility with residency.
 - ✓ Related to the consultation process and needs of clarity of issues like the discussion paper development, need for more information sessions and more people, information on how other communities use blood quantum, welcoming of other natives, question opinion rights of “mixed bloods”, define terms like non-native/culture/personal history/conflict of interest/character/adoption, reference to limited land base, questioning the C-31 use of money(community money) and process for children of single Mohawk women with father not identified.

No further reference was made in the report regarding this feedback from the Radio shows or information sessions.

3. Consultation Outcome

In October 1996, a “membership committee” organized a letter of protest campaign and communicated to the consultants and to the Mohawk Council of Kahnawà:ke their objection to the removal of the 50% blood quantum membership criteria and to the removal of the 1981 Moratorium. A second letter was sent and asked for a response and proposed a public meeting. Letters were signed by 332 community members listed on the Mohawk Registry. This protest was the turning point for the consultant team resulting in a directional change for the remainder of the consultation.

A preliminary report dated October 30, 1996 to the IRT identified need to focus this consultation on key people and Elders on 3 main areas of the draft *Communal Law*. Consultants acknowledged community fears and the need for continued dialogue with a proposal to draft specific sections of the draft *Law* based on feedback. Part 1 preliminary report gave results and conclusions, identified as:

- a) There was great fear that the proposed law would be passed before enough community members became knowledgeable and available for input.
- b) There was a great fear that the law, perceived as not clearly defined and allowing for too much interpretation by the Board, would make it too easy for anyone to be a member and for residency.
- c) There was mistrust that all three perspectives would not be fully consulted and considered.

Kahnawà:ke Membership Law Project
Document Summary Report

The MCK Intergovernmental Relations Team approved this preliminary report and the consultation objectives changed to:

- a) To promote an on-going dialogue with key representatives of the three perspectives on three sections of the law [draft *Communal Law*]: entitlement, residency and membership board.
- b) To define common ground and progress to the point of consensus of all groups.

Table 2: Part 1 – 1996 Consultation Outcomes, located at the back of this summary report, presents information on the outcomes and consultant team recommendations.

PART 2: Report on the Consultation on Membership: Phase II

1. Consultation Methods

The consultants acquired more information to the growing picture of the membership issue and learned that there existed different interpretations to some membership concepts.

Research was conducted using resource people, elders and historians to verify and cross check information. Directional change occurred with the research to focus on discussions with elders. This revealed a custom code existed that determined membership in the community. A quote from an elder stated:

“If the language and culture of Kahnawà:ke, or any other endangered community, is to survive, then we must take full responsibility for preserving our culture, our oral and written history and most importantly our land, not for seven generations but for the next generation.”

Research involved reading historical membership documentation in a book by Dr G. Alfred (*Heeding the Voices of our Ancestors*). As well, the consultant team consulted with McGill University professors on their planned consultation methods.

Consultations occurred with key people from each of the 3 perspectives, inclusionary, moderate and exclusionary, (described in summary #1) regarding entitlement, residency and the membership board to define common ground and to progress to the point of consensus. These key people, with whom a relationship was established with consultants during the spring 1996 consultation, were referenced to be representative of a cross section of varying views within each perspective.

Consultants developed a tool by analyzing community input on residency and entitlement. The consultation tool was planned to be used with each of the 3 perspectives groups. Three sets of pictorial ancestry diagrams for 3 types of unions using a family tree presentation style were developed and used in group consultations as examples of how a

Kahnawà:ke Membership Law Project
Document Summary Report

membership code based on custom would define Onkwehon:we, Shatehahtinekwenshihen or Iahten teionnokweonwe. Appendix 2 has discussion papers that offer expanded membership perspectives and interesting discussion points on a traditional membership and a clan system.

Sessions were held with the exclusionary perspective group (one meeting is reported), and the inclusionary group (references several meetings). It is not reported meeting with the moderate perspective group but it is stated that discussions took place with all key persons involved. As a result of these discussions, a final working document, the consultation tool on entitlement and residency, was finalized. The working document was distributed back to all key people to verify content and share other perspectives. Additional key people were contacted to participate.

A communication plan was reported as designed to use all local media. Effort to contain this information [within the community] was made so not to attract outside media attention and allow the community to resolve its own internal matters. It was reported that this information gathered was sufficient to generate dialogue. Readers were referred to two other reports (1995/1996) for further description of communication strategies used that were not attached. A community meeting was held November 19, 1996. A reporting mechanism with the MCK Intergovernmental Relations Team was organized with one liaison that was responsible to oversee the progress of the Phase II consultation process.

Table 1: Part 2 – 1996 Consultation Method Description, located at the back of this summary report, presents consultation methodology as reported. Note that the number of participants in Part 2 is not reported.

2. Consultation Feedback

The first set of consultation discussions held with the perspectives groups revised the consultation tool on entitlement and residency. A meeting with the exclusionary group had reported that there were 4 different interpretations of the 50% blood quantum and that discussion on the half bloods or the Shatehahtinekwenshihen needed to have further research conducted with Elders. Several meetings with the inclusionary group reported that some traditionalists could support a communal law as a community member while others voiced non-acceptance of any membership law not under the Great Law, as a law not under the Great Law would jeopardize our treaty rights as citizens under the Mohawk nation.

Use of the final working document/consultation tool on entitlement and residency with the 3 perspectives groups had three outcomes:

1. Fourteen basic principles agreed to by consultation participants (Table 1).
2. Identification of outstanding issues (Table 1).
3. Two membership perspectives: custom code and traditional membership.

*Kahnawà:ke Membership Law Project
Document Summary Report*

Table 1: The Three Perspectives Group Agreement for Basic Principles and Outstanding Issues.

Basic Principles	Outstanding Issues
<p>Membership code will not be based on calculation of blood.</p> <p>All Onkwehon:we or Shatehahtinekwenshihen members who currently reside in the community are entitle to rights, privileges and must have responsibilities.</p> <p>Mohawk values and responsibilities should be instilled in our children.</p> <p>Culture, language and responsibilities are very important.</p> <p>A new identity card or passport can be issued to members.</p> <p>Members should make a pledge.</p> <p>Those who are neither Onkwehon:we nor Shatehahtinekwenshihen who do not reside in the community are not entitled.</p> <p>Non-natives who currently reside in the community, before 1981, should be granted the privilege of residency.</p> <p>Non-natives who are granted residency should have appropriate responsibilities and should not be entitled to rights or privileges as members,</p> <p>No new non-natives can reside in the territory.</p> <p>The land is very important. Non-native should not hold title to land.</p> <p>Traditional people should have a place in this code.</p> <p>The community is not prepared to accept the traditional concept of membership but can see it as a goal.</p> <p>Native, or aboriginal from other nations who fit the criteria of Onkwehon:we or Shatehahtinekwenshihen should have to go through a process.</p>	<p>Onkwehon:we or Shatehahtinekwenshihen members who live away. Are they willing to fulfill responsibilities? Should they have the opportunity to accept these responsibilities?</p> <p>Those who are neither Onkwehon:we or Shatehahtinekwenshihen and reside in the community and are on Mohawk Registry – do they have rights? Residency?</p> <p>Those who are neither Onkwehon:we or Shatehahtinekwenshihen and do not reside in the community and are on the Mohawk Registry.</p> <p>Traditional People – acceptance of their process. Will it include those that are neither Onkwehon:we or Shatehahtinekwenshihen ?</p> <p>Non-natives who reside in the community after 1981.</p> <p>Other natives on the Mohawk Registry who are Onkwehon:we or Shatehahtinekwenshihen who live away and those who are not Onkwehon:we or Shatehahtinekwenshihen on the Mohawk Registry, who currently reside in the community.</p> <p>Onkwehon:we or Shatehahtinekwenshihen who marry out. Do they have rights? Residency? Suspension or loss?</p> <p>Composition of Membership Board.</p>

Consultants agree that the community will not accept a clan system of membership but supports a continuing process to educate and revise a code according to a traditional view. Findings are presented to develop a membership code based on custom, principles of agreement and outstanding issues. Identified values written in the spring 1996 Summary # 1 should also be incorporated into a membership code.

2.1 Identified Needs

Consultants often added or repeated recommendations derived from the participant feedback. These were reported as concerns related to the draft code discussion paper. The consultant recommendations have been placed in one of 5 categories of needs.

Kahnawà:ke Membership Law Project
Document Summary Report

Table 2: Part 2- 1996 Consultation Feedback Needs, located at the back of this summary, groups recommendations into needs statements.

Membership issues need to be resolved and may be turned over to the discretion of a membership board. Peace and harmony is a goal for this code. A code can be a means to strengthen and support the Okwehon:we way of life with relevant, practical and measurable objectives for each member to become a part of that process. A community declaration can be the intent. Residency is reported as a privilege and not specific to membership entitlement. Land control is an issue that linked closely to membership.

Communication and education of the community about the code are integral to gaining support on membership. The community must be prepared to defend a membership code if some persons were to challenge decisions made under a new code. Consultation participants were not aware of their rights on many levels. The consultants feel that if key people can accept a code then the community may readily sanction it. It is reported that the ultimate goal of the code is to give the community a guarantee of sovereignty and protection within our own form of government. The application of the Great Law into the code can be perceived as a transition to traditional ways. Because Kanien'kéha has specific meanings easily lost in English translation, Kanien'kéha should be used first in any consultation.

The consultants identify all the work done they did for consultation and state the importance of their involvement in the drafting of a membership document. The consultants state that the two consultations could now be analysed to incorporate the thinking of elders.

2.2 The Custom Code

Further discussions with key people and discussions from the community meeting held in November, identified varied descriptions of blood quantum. Also identified was a custom code on membership that existed in the community. Description by Elder participants of the Custom Code in the report is provided in the box below.

Custom Code

Onkwehon:we is a person of two Onkwehon:we parents or one Onkwehon:we parent and one Shatehahtinekwenshihen parent (influenced by Mohawk culture).

Shatehahtinekwenshihen is a person of one Onkwehon:we parent and one non-native parent(influenced by two cultures where decision to follow Mohawk culture or non-native culture must be made).

Iahten teionnokweonwe is a person who is non-native.

It was instilled to marry Onkwehon:we and those who married out (Onkwehon:we or Shatehahtinekwenshihen) were expected to leave[the community]. Children of mixed marriages (Shatehahtinekwenshihen), in order to follow the culture, were expected to marry back in. Elders knew who was Onkwehon:we and if not asked who the parents were.

Kahnawà:ke Membership Law Project
Document Summary Report

Additional points that described the Custom Code include:

- The Custom Code is passed on today in some families,
- Non-natives have always been part of this community (captured or through provision of services),
- This custom appears to have broken down after the 1950's with apparent factor being the influx of non-native women through marriage to a Mohawk, and the Indian Agent giving Native status.
- It related to deterioration of our language spoken at home.

The term “marries out” is reported to need more clarification. The report discussed the Indian Act overriding this custom without community consultation on who was a status Indian. There is emotion tied to membership and many decisions that were and are presently being made based on who is “status” and not who is Onkwehon:we.

The report states that Elders see revival of this custom on membership as the only solution to not only resolve who is Onkwehon:we but to build back up the language and culture of Kahnawà:ke. Consultants believe that the weakened language contributed to the meaning of Shatehahnekwenshihen (between two cultures) may have possibly led to the concept of 50% blood quantum.

3. Consultation Outcome

Feedback from the exclusionary and moderate perspectives is reported under sections of the *1996 Communal Law on Membership* as the consultation tool (proposed draft code/discussion paper). Participant feedback given was written under these sections below. Other sections not in this list did not have feedback and was stated to be accepted.

- Title
- Definitions in this Membership Code
- Membership Entitlement
- Residency Privileges
- Loss of Membership
- Delegation of Authority
- Membership board
- Appeals Process
- Regulations and Administration of the Membership Code
- Enactment and Amendment of the Membership Code

Reported was that the preamble should reflect code concepts and state the intent to move towards a more traditional or clan system of membership. This document should be titled code and definitions should reflect concepts of custom. Include definitions for Kahnawà:ke, Membership Board, Membership List, Native, Residency, Onkwehon:we, Shatehahnekwenshihen and Iahten teionnokweonwe. MCK should be referred to as the Mohawk Government of Kahnawà:ke. Some flexibility is necessary to respond to the present situations for those living in the community – section on residency and entitlement should be based on custom. There will be loss of membership. A membership board could be advised by Elders in the community. Appeals should not overrule a board

Kahnawà:ke Membership Law Project
Document Summary Report

decision. The community should be involved in drawing up guidelines, be informed of those applying for membership and be presented with the code for ratification by three public meetings. *Table 3: Part 2 – 1996 Consultation Outcomes* groups consultant recommendations and specific feedback for the membership law process and structure derived from the consultation participant feedback.

4. Discussion

The title of this report is written differently in the report's acknowledgements and is titled, "*Report on the Consultation on the Kahnawà:ke Communal Law on Membership: Phase II.*" *Membership Task Force (July 1996). Report on the Consultation on the Kahnawà:ke Communal Law on Membership*, is now being referred to in this report as Phase I, not identified as Phase 1 – it is not good practice and confusing to re-name something retroactively.

Part 1 describes its purpose to "define common ground...for the foundation of a communal law." The *Report on the Consultation on the Kahnawà:ke Communal Law on Membership* produced a communal law so the purpose of the consultation is confusing as it that changed mid-way to focus on determination of a Custom Code. In part 1, it would have been useful to know if the participants in strategy 1 also participated in strategy 2 to assess if participation in both strategies had an outcome of more informed decision-making. It was not clearly described in the report who was the "Membership Committee" who facilitated the protest letters. Communication strategy not described for Part 1, only referencing the mail out of a brochure. Part 1 analysis of consultation of the radio call-in show and the information session were only categorized with no statements related to the law or purpose/objectives of the consultation therefore should not be referred to as analysis but to a grouping of feedback into categories.

Part 2 report was structured inconsistently with concepts disorganized making it difficult to follow consultation method descriptions. Constant modification of the tool used in part 2 (the discussion tool on entitlement and residency) made consultation basically non-comparable between the groups consulted and therefore the feedback is linked to varied tools, not only one for consistency. It was not described how the key people were selected, therefore reproducing this "type" of key people for subsequent consultation is not possible. We do not know how many people participated in part 2. Use of pictorial diagrams appeared useful to clarify the custom code. The discussion papers included in this report, located in appendix 2, are worth reading to broaden a traditional concept understanding. Key words/phrases derived from the feedback gathered provide conceptual grouping in no particular order as listed below.

enforcement	custom code
membership Board	no clan system
Council of Elders to advise membership board	residency vs entitlement
community ratification with 3 meetings	council of elders
peace & harmony	public records office
residency separate from membership entitlement	Land
membership office separate from MCK	membership and responsibilities

3. Summary Report: Membership Task Force (December 1999). Final Report on the Thirty Day Process – Custom Code on Membership

Summary Structure

1. Introduction
2. Consultation Methods
3. Consultation Feedback
 - 3.1 Identified Needs
 - 3.2 Consultation Outcomes
4. Discussion

1. Introduction

A *Custom Code on Membership* is an outcome document produced from 3 years of community consultation conducted by a consultation group that changed its name from Information Task force to Membership Task Force/ Kahnawà:ke Community Consultation Service. This *Custom Code on Membership (Code)* is stated in the consultant's report (dated December 3, 1999) to have been developed by Elders. The Code was released by the Mohawk Council of Kahnawà:ke to the community in February of 1999.

Eight months following the release of the Custom Code on Membership, the Kahnawà:ke Community Consultation Service(consultants) was contracted by the Mohawk Council of Kahnawà:ke to conduct a final stage of community consultation for ratification of the *Code* that was developed from consultations conducted in 1996. Though a series of community meetings, feedback gathered was used to produce a final version of the *Code* that underwent a 30-day community review to obtain community acceptance and approval from the Mohawk Council of Kahnawà:ke (MCK).

This summary report groups feedback into tables with data that is directly derived from the report's content and summarizes feedback for easy reference and comparison. The tables are intended to facilitate action-planning and groups feedback into categories of justice, community, education, process-structure and political areas. Feedback is not written in the exact wording as in the report.

The *Custom Code on Membership* was the document used as the base for the development of the present 2003 *Kahnawà:ke Membership Law*.

2. Consultation Methods

Table 1: 1999 Consultation Method Description located at the end of the summary, describes the methodology used by the Kahnawà:ke Community Consultation Service. A process of 3 Elders meetings gathered feedback and revised the *Code*. The revised *Code* was brought jointly by the Consultant Team and the MCK to a series of 3 community meetings to gather feedback. A total of six meetings were held prior to a community review. The consultants identified a location open for 3 days per week for 30 days to receive feedback on the draft *Custom Code on Membership*. A recording form was used to collect feedback. Communication methods were not reported.

The MCK determined that the ratification of the *Code* would be obtained through a 30-day community review conducted by the consultant team. The 30-day community review held October 4 to November 3, 1999, concluded with 31 participants providing feedback and the MCK approving the outcome version of the *Code*.

3. Consultation Feedback

3.1 Identified Needs

Report data is grouped into *Table 2:1999 Consultation Feedback Needs*, located in the back of the summary, with the data being directly derived from the report's content. The table summarizes feedback for easy reference and comparison and is intended to facilitate action-planning. The data information is placed into categories of justice, community, education, process-structure and political areas. Data is not always written in the exact wording as in the report.

The majority of the feedback gathered through the 30-day review documented areas such as identification of the detrimental effects of the Indian Act and this community's continuing with Indian Act thinking; emphasis of equality for membership criteria; discrimination of children of mixed marriages. This feedback is represented by 45% (14/31) of the participants.

Feedback such as leave those who received membership and rights through the Indian Act and those who have been adopted without being impacted by the *Code* and that every Mohawk impacted by the Indian Act and the Mohawk Law (1984) be given opportunity to return to the community if desired.

It is stated that membership is becoming administrative and not Nation building; a membership law should include recognition of traditional structures and/or consult with more traditional people to ensure a membership law will fall under the Great Law that will find fairness and just solutions to membership issues. This feedback is represented by 35% (11/31) of participants.

Kahnawà:ke Membership Law Project
Document Summary Report

Feedback such as residency for non-natives, weak enforcement (mentioned several times in the report), and being born Kanien'kehá:ka will never lose privilege and benefits, are represented by 23% (7/31) of the participants. Reported are many emotions linked to membership that have persisted through generations

3.2 Consultation Outcomes

Table 3: 1999 Consultation Outcomes located at the end of the summary, presents specific feedback for a membership law. The feedback is clear and reflective of previous consultations held in the community in 1996/97. Consistency in the desires and thoughts of the community members who participated in consultations for those whose membership was taken through the Indian Act should be given process to return is evident.

Blood quantum continues to be identified as a membership criterion as is four great-grandparents. The report does state there is a desire for a more inclusive approach supported by statements of:

- offer membership entitlement to those living elsewhere,
- allow those wishing to transfer back to Kahnawà:ke to do so,
- allow residency for non-natives married to a Mohawk,
- allow Native students from other communities to be able to live in the community during their course of study.

The report stated that definitions in the *Code* require improved descriptions. Defining a Mohawk has two diverse perspectives influenced by religion and the Indian Act. One definition is strong for Mohawk ancestry and one is supporting being a citizen of the Mohawk Nation under the Great Law, a person of good character, who promotes the language and culture, and may be of Kanien'kehá:ka ancestry. A description is in the report of the Indian Act's impacts on our culture and therefore identity resulting from the strength of religion and the Indian Act implementation in our community. The functions of clans in society was lost. The Indian Act strongly influenced the community to perceive women who married non-natives differently from men who did the same. Divisions in the community need to be resolved and have closure to allow the community to move forward and build a stronger Nations, is stated in the report conclusion.

It was referenced more than once in the report of two outstanding issues. These involved a membership process that could be used to reinstate Native women who married non-natives prior to 1981, and the position of the Traditional people on how a clan system could be used for membership criteria.

Consultant recommendations stated that the *Code* should be used to develop a community membership law; that women who lost status prior to 1981 through marriage should be eligible to apply[reinstate]; that discussions be undertaken with the Longhouses on a clan system process and to clarify the relationship between the clan system and *Custom Code*

Kahnawà:ke Membership Law Project
Document Summary Report

For adoption by the community. The Mohawk Council accepted the 30-day review process as community ratification of the *Code*.

4. Discussion

The 30-day community review was a simple process that seemed to meet the needs of the review process. Generally, the report structure is fragmented and clear links to concepts were difficult to make. The report is written with many omitted areas that would have enhanced understanding of the concepts and allowed effective reference in the development of related documents. Omissions that could have enhanced this report include:

- Description of meeting dates with Elders and the community for final development of the *Code*, number of participants at these 6 Elder/community meetings is not written so reference of “the community” cannot be stated with any degree of confidence.
- Feedback gathered in the final 6 meetings is not reported therefore one is unable to see what re-shaped the February 1999 version of the *Code*.
- Communication approaches were not reported therefore analysis of effectiveness of communication approaches related to numbers of participants cannot be made by any reader nor ideas shared of an effective communication approach.

This method of reporting should not be copied in the future. The actual number of community review was small @ 31, so it is not advised to make reference to this report’s findings as coming from “the community” rather reference with a statement such as “participants in the 30-day community review of the draft *Custom Code on Membership* supported.....” for example.

Statements by consultants is that the recommendations have taken into consideration the consultations beginning in 1996 but omitting any specific references to the consultation reports makes it difficult to link to consultation participant feedback to developing sections of the *Code*.

Key words/phrases derived from the feedback gathered in the consultation provide conceptual grouping in no particular order as listed below.

enforcement	community approval
consistent application	never lose rights if born Mohawk
inform youth	accountability and fairness
equality	traditional = inclusive
non-native residency	blood quantum
non-native ownership of Native lands	adoption and children

4. Summary Report: Mohawk Council of Kahnawà:ke, Membership Department. (October 2007). A Review of the Kahnawà:ke Membership Law

Summary Structure

1. Introduction
2. Membership in Kahnawà:ke
 - 2.1 What Determines Who is an Indian by Way of the Indian Act?
 - 2.2 What Determines Who is a Indian by Way of Kahnawà:ke?
3. The 2003 Kahnawà:ke Membership Law (KML)
 - 3.1 KML Enforcement
 - 3.2 Members of Kahnawà:ke who are not INAC Status Indian
 - 3.3 Other Membership Issues
 - 3.4 Council of Elders
4. MCK Membership Department Administration Services
 - 4.1 Options for being Registered as an Indian
5. Community Level Issues
6. Conclusion and Recommendations
7. Identified Issues
8. Discussion

1. Introduction

Following 3 years of implementation of the Kahnawà:ke Membership Law (KML), the Mohawk Council of Kahnawà:ke (MCK) Membership Department and Social Development Unit Director undertook a review of the KML to highlight issues and concerns related to its administration and implementation. The Membership Registrar had the most direct and most frequent interaction with the Council of Elders members, the membership applicant process, the applicants, Membership Department staff, Mohawk Council of Kahnawà:ke management, Council Chiefs and MCK Units or department staff, and general community members. The experience of the Membership Registrar is a valuable reference in this document.

A slow progression is what describes the evolution of community effort represented by the Mohawk Council of Kahnawà:ke to develop and implement a system for determining membership in the community. The KML was enacted in 2004. A full review was not performed, as with any document, implementation time is necessary to see clearer a document's operational strengths and weaknesses. This report is referenced to be Part 1 and plans for continued review by the Membership Department or the Social Development Unit Director are not indicated.

*Kahnawà:ke Membership Law Project
Document Summary Report*

This report is sectioned to include:

- Membership environment description of membership structure in the community and in Canada, with reference to MCK administrative processes.
- Operational issues related to the implementation of the KML.
- Recommendations to address KML operational issues identified.
- Attachment of 2 appendices (Statistical references for membership and a history brief of membership Kahnawà:ke).

2. Membership in Kahnawà:ke

The membership environment section identified confusion between status Indian (Indian Act via Indian and Northern Affairs Canada (INAC)) and membership under Kahnawà:ke Membership Law. The difference between the Kahnawà:ke Kanien'kehá:ka Registry and the Indian Act Registry is reported to be unclear. The report references members or individuals who may be confused or unclear and offers a detailed description of Indian status.

Membership in Kahnawà:ke was solely determined by the Indian Act until 1981, when several developments not only set process to determine membership, but complicated registries, community perception of who could be an Indian as well as communications among community members.

2.1 What Determines Who is an Indian by Way of the Indian Act?

Canada, with its Indian Act administered through Indian and Northern Affairs Canada (INAC), identifies who is an Indian since the Indian Act's implementation in 1876. INAC, following Indian Act criteria, maintains an Indian Register that lists those persons registered as status Indians in Canada. Dates of marriage and gender play a large factor in the registration of individuals under the Indian Act. Native men entering non-native marriages and their children born prior to April 17, 1985, acquired Indian status. Any person registered as a status Indian with INAC must be placed on a specific First Nation community listing. A "general" list under INAC system is intended for those enfranchised prior to 1951 for living away from the community for more than 5 years or those who have two native community affiliations (until one community is chosen) are placed on the list. Because our community did not proceed with any approval or acceptance of our membership code/law with Canada, the Indian Act continues to apply and INAC guidelines continues to place Indian Act status Indians affiliated with our community on Kahnawà:ke's list.

1985 is a critical year in the evolution of membership when gender bias was removed from the Indian Act criteria with implementation of Bill C-31 (June 28, 1985), which was an act to amend the Indian Act to ensure gender equality. Bill C-31 components include:

- Indian women who lost Indian status were reinstated including first generation children, and non-Indian women did not gain status through marriage to an Indian man.

Kahnawà:ke Membership Law Project
Document Summary Report

- Membership rights would be given back to people who were enfranchised (those who lost Indian status through the Indian Act and removed from Canada's Indian Register along with any rights and benefits from Canada).
- The right to control membership with Minister of Indian Affairs approval was given to Indian communities.
- Eligibility criteria for Indian status was now determined from both male and female descent.

The B.C. Supreme Court decision (McIvor case) decided that Bill C-31 needed to reinstate rights of women and their children beyond first generation women, as was done with males. Concern is stated regarding the action of the Federal government and the extent of corrective measures to be taken.

Following 1985, our community was left with many non-Indian women who had acquired Indian status through marriage to Indian men and many generations of those male children of these marriages registered as Indians. Stemming from these changes in membership criteria in Canada, it is clear that there exists disparity between the Indian Register of INAC and the Kahnawà:ke Kanien'kehá:ka Registry of the KML.

2.2 What Determines Who is a Indian by Way of Kahnawà:ke?

Kahnawà:ke's membership list changed names, changed criteria, and is considered by this community as independent from the INAC Indian Register. It was influenced by many decisions and community consultations on how to identify who is Kanien'kehá:ka.

A *Custom Code* has been described but a time interval has not. The report references similarities with the *Custom Code* and the 1951 Indian Act's short lived double mother clause. In the *Custom Code*, gender was not a determining criteria as anyone who married non-Indian for two generations in a row had to leave the community and was no longer considered a Kanien'kehá:ka. Children of mixed marriages could not be considered Kanien'kehá:ka until marriage to an Onkwhonwe. The report referenced evidence that this *Code* was biased against women, similar to the Indian Act.

Membership criteria was identified on May 22, 1981, with a *Moratorium* on mixed marriages that disallowed any Mohawk marriage (or cohabitation/living in common-law) to non-Indians and the adoption of non-Indians. Those who did enter a mixed relationship were deprived of benefits and privileges from the community. The *Mohawk Registry* was created at this time and held the names of those who were registered with Canada through INAC. Those who were 50% Mohawk blood quantum were added to the Mohawk Registry and those who married non-Indians were taken off the Mohawk Registry.

In 1984, membership criteria fell under the *Mohawk Law* that determined that anyone added to the Mohawk Registry were required to meet a 50% blood quantum criteria and required all to present themselves at a community meeting to be considered a member. It identified those children who fell within 5% of the 50% blood quantum as Beneficiaries, entitled to benefits and privileges from the MCK until they reached 18 years old.

*Kahnawà:ke Membership Law Project
Document Summary Report*

All Beneficiaries could still access benefits under the Indian Act.

The **2003 Kahnawà:ke Membership Law (KML)** came into force September 27, 2004 and has the current membership criteria. The KML has less focus on blood quantum and more on *rebuilding ancestry and family ties*. It details specific circumstances for membership, formation of a Council of Elders and a Membership Review Council for implementation of the KML. The KML identifies the Kahnawà:ke Kanien'kehá:ka Registry (KKRegistry) to replace the 1981 Mohawk Registry with outlined process to transfer of persons from the Mohawk Registry onto the KK Registry or the non-member resident list.

3. The 2003 Kahnawà:ke Membership Law (KML)

The KML amendment process ensured that the community, the Elders or Chief & Council can invite change and if the community was willing, implement the change. Prior to the enactment (September 27, 2004) of the KML, the Council of Elders (selected on May 15, 2004) proposed 12 amendments. Presently, in 2010, there are 7 amendments to the KML, with 3 available on the MCK website.

Potential impacts to the community of persons who would be potentially listed on the KK Registry or Non-Member Resident List (estimated by a Canadian Executive Service Organization (CESO) Consultant) over a period of 9 years (starting in 2003) would be approximately 3500, yet this was not planned for in the implementation of the KML. As well, left out of planning was the exercise to review MCK department polices and services, like the Land Allotment, Housing and Water and Sewer.

3.1 KML Enforcement

Complete and effective KML implementation is hindered because of an enforcement issue. The Peacekeepers are identified as the sole authority to enforce the KML and the Court of Kahnawà:ke is identified as the sole authority to hear and decide offences. But the Court of Kahnawà:ke has no authority under the KML therefore the Peacekeepers have no venue where charges can be filed and heard. If there was a system in place that gave legal authority for community law enforcement, these types of offences under the KML could occur:

- those living on the Territory and who are not listed on the KK Registry,
- non-members residents holding lands thereby whose permission to live in Kahnawà:ke can be revoked through eviction or arrest or the levying of fines,
- members who live with or rent accommodations to non-members could face suspension from the KK Registry.

Some non-member residents are also Indian Act status Indians with Kahnawà:ke cited as their affiliated community. This is complicated and can lead to MCK legal liabilities with financial consequences if these non-natives yet status Indians are not included on the KK Registry.

3.2 Members of Kahnawà:ke who are not INAC Status Indian

The KML states that a spouse is recognized as Onkwehonwe regardless if the spouse is from the USA or Canada. Canada's criteria for status Indian applies only to Onkwehon:we from Canada. Marriage to an Onkwehon:we from the USA will give children half rights. So a USA Onkwehon:we married to a Mohawk can be on the KK Registry but not have status as an Indian in Canada or a status card. It is impossible at this time due to government policy to access a Social Insurance Number or health card without a status card or immigration document. Membership is complicated by those who marry USA Onkwehon:we as well poses limits on Indians we want to marry. This will impact our men and women in the future with membership rights and limits our rights to choose.

3.3 Other Membership Issues

Beneficiaries who do not meet the current membership criteria but retain right to receive benefits until they are 18 years old, will at that time need to apply to the Council of Elders for membership. The last child listed as a beneficiary will turn 18 years old in 2018. A problem is the differing of opinions between the Membership Registrar and the Council of Elders, who have overturned Registrar decisions. The KML must have a clear process step to place beneficiaries until after 2018.

A clear inconsistency in the KML is evident as it relates to the lineage determined by other Native communities that is not consistent with the determination of the lineage in the KML. A section must be included to accept of the determination of other Native communities, respecting their membership methods as we expect others to respect ours.

3.4 Council of Elders

The report describes the Council of Elders behaviour and treatment of applicants as well as relationships with the Membership Department staff as less than desirable and not aligned with the KML purpose as described in its preamble. Several points include:

- Complaints received regarding decisions and conduct during hearings (families not all given the same decision for membership, with the questioning being considered as prying into personal lives),
- No public statement for decision rationale and non-recording of discussion points leading to membership decisions therefore no demonstration of being accountable to the community or demonstration of consideration of Membership Review Council instructions,
- Confidence by the Council of Elders (COE) for accepting members is broken down related to weak or no Law enforcement and therefore impossibility to remove them from the KK Registry once they are on,

*Kahnawà:ke Membership Law Project
Document Summary Report*

- No appeal mechanism or “redress” with authority is written into the KML for decisions made by the COE which is an expected standard for public documents; it is possible that the Court of Kahnawà:ke could be a solution,
- Two separate legal representations exist for the COE (drafting and assessing decision) and for the MCK(development, amendment drafting or law interpretations) – it is sensible to have one legal representation for all aspects of MCK, including the COE business for consistency and legal efficiency in courts as necessary.

The working relationship between the COE and the MCK Membership Department has deteriorated over time not only related to the points above but related to the poor description in the KML of expected roles and responsibilities. There is clear disparity on process interpretation of membership criteria between these two entities.

4. MCK Membership Department Administration Services

It was evidently determined as part of this review that the administration services of the Membership Department would be included in the report to ensure clarity in its role and responsibilities to the reader when assessing how it interacts with the Kahnawà:ke Membership Law (KML).

Historically, the Department existed since the early 1970’s to administer the Indian Act process. Changes occurred with the 1981 Moratorium Mohawk Registry, with the passing of the Mohawk Law in 1984 and with the criterion of 50% Mohawk blood quantum being a key determinant for membership. The Mohawk Registry was automated in the 1980’s creating a new position and in 2003 another position was added with the enactment of the KML. Presently in 2009, there are 4 employees in the MCK Membership Department. The following columns identify benefits a member listed on the KK Registry receives from INAC and from Kahnawà:ke through the Mohawk Council of Kahnawà:ke.

INAC Benefits

Status cards	Equipment
Housing	Dental
Education	Social assistance
Prescription medicine	
Medical transport	
Economic development	

Kahnawà:ke Kanien’kehá: ka Registry Benefits

Status cards
Housing
Education
Land allotment
Water & sewer
Voting and holding office

Services the Membership Department provides include:

- Issues status cards to members on the Kahnawà:ke Kanien’kehá:ka Registry.
- Automates services with a membership database with added security with a photo attached to membership information correspondence.

*Kahnawà:ke Membership Law Project
Document Summary Report*

- Applies the KML to persons registered only with INAC once notified by INAC.
- Applies the Indian Act criteria and registers persons with INAC as an Indian in Canada.
- Applies the KML and registers persons as a Kanien'kehá:ka of Kahnawà:ke on the KK Registry.
- Provides information on available processes for membership registration.

Additions to the KK Registry is the responsibility of the Membership Registrar and decisions are subject to review of the Council of Elders who maintain the Kahnawà:ke Kanien'kehá:ka Registry. Those who do not meet KML criteria, may apply to the Council of Elders as a member or non-member resident.

4.1 Options for being Registered as an Indian

Other options for registration for Traditional persons include being registered with:

- Kahnawà:ke,
- Kahnawà:ke and Canada (for Canada, a Traditional Birth Certificate issued by the recognized Mohawk Nation Council of Chiefs is needed),
- Kahnawà:ke and Health & Welfare (Traditional Birth Certificate or a Quebec Birth Certificate needed).

Clarification is offered in the report to distinguish between instatement (never been on any registry before) and reinstatement (status was taken away and now are re-applying for membership). It is important to note that it is reported inaccurate assumptions by individuals that instatement/reinstatement is only at the community level and is a necessary community education point.

5. Community Level Issues

Several community level issues are reported that require discussion not only with the general community but among the political body and the MCK Departmental authorities. The desired outcome is problem oriented solutions and clarification of terminology. Other issues include:

- Blood quantum being perceived by the COE as the criteria for determining membership by consistently citing the term “full” and not “has four or more Kanien'kehá:ka great-grand-parents.”
- Perceived clarity issue relating to the KML interpretation of being a Kahnawà:ke and being Kanien'kehá:ka as the descriptor of the identity of who is a member. The distinction between these terms is necessary for consistent application of the KML.
- The role of clan identification in the KML needs to be clarified and discussion at the community level needs to occur to remind of the varied clans that make up our community, not just the 3 clan identities (Turtle, Bear and Wolf).

Kahnawà:ke Membership Law Project
Document Summary Report

- The issue of citizenship (not linked to services) and membership (linked to services) is an unclear issue and one of debate within the community. This is an issue to be discussed further within the political realm and brought to the community.
- The USA criterion for blood quantum is a threat to our membership evolution and is a political issue requiring negotiation and agreement.

6. Conclusion and Recommendations

Kahnawà:ke has many conflicting opinions regarding membership. Few of our community would actually fit into the strictest mode of lineage calculation as evidenced by the application of strict blood quantum consideration, clan association and ties to the community. The current law stresses administrative processes and the incorporation of our traditional values and practices must find way within procedural requirements of a modern law that will replace the Indian Act as stated in the Kahnawà:ke Membership Law preamble. It is therefore recommended in the report to:

1. Commission an independent review committee to investigate processes, actions and authorities of the Council of Elders reported and develop amendments to its structure, selection and administration.
2. Form a working group to address sections of the KML that are unclear, processes to develop and enact regulations and develop communal appointment and terms of office through regulation.
3. Form a working group to address the issue of enforcement that will include tools and processes necessary with outcome of new legislation.
4. Undertake discussions with the Federal government on our jurisdiction related to our membership law.
5. Establish a formal network of communication for all efforts on citizenship, border crossing including the Office of the Council of Chiefs and MCK Membership Department.
6. Set example by MCK to follow the membership law.
7. Ensure consistency exists with the Election Law and the membership law.

The appendix has interesting information for the reader that includes 2007 membership/population statistics, and a history compilation of Kahnawà:ke's membership issues.

7. Identified Needs

This summary groups report data with data directly derived from the report's content and summarizes statements and views written in this report for easy reference and comparison. *Table 1: Identified Issues*, located in the back of the summary, is intended to facilitate action-planning and groups information into categories of justice, community, education, process-structure and political areas. Data is not always written in the exact wording as in the report.

Kahnawà:ke Membership Law Project
Document Summary Report

8. Discussion

This report gives readers a viewpoint that highlights with examples and clear descriptions, the operational challenges that could and did result with negative impacts for many involved with the KML. These challenges need to be addressed and responded to with action planning. Use of *Table 1* can facilitate further discussion on information written in the report. Recommendations are clearly linked to the report content and are achievable and relevant.

The following points are identification of actions and/or key messages to consider:

- Action to consider: Community education and/or discussion forums that include distinguishing between the membership registry listings and criteria for membership by the Kahnawà:ke law compared to the Indian Act.
- Action to consider: Political initiation of community discussions on seeking recognition by Canada of our membership law and our registry. A question to consider is, “Will Canada’s recognition provide our community with more membership determination authority?”
- Key message: Comprehensive implementation planning creates potential of stronger success.
- Action to consider: Negotiated acceptance by Canada of our Membership Law to clarify the complication described above though Canada’s recognition of a Kahnawà:ke Mohawk as those on the KK Registry. Address legal liability potential for MCK by offering fee for service for community programs and benefits for those non-member residents listed on the INAC Indian Registry. This action may avoid the Canadian Charter of Rights and Freedoms, section 15 violation.
- Action to consider: document a comparison table of expected roles and responsibilities, level of authority, relation to the KML and relationships among membership entities to be used as a communication tool that is updated regularly. This can be a reference for anyone with questions on the KML and MCK Membership department functions.

Key words/phrases derived from the feedback gathered in the consultation provide conceptual grouping in no particular order as listed below.

Enforcement
Developed Justice System
Identity clarification for membership in Mohawk Nation or as a citizen.
Varied Nations with varied clans in the community
Determination of adoption lineage
COE process, structure and needs
Appeal process
Roles/relationship of COE and MCK Membership Department
Political intervention so that Canada recognizes our jurisdiction with the KML and of Natives from either side of the border
No use of blood quantum for membership determination
Communication
KML implementation not in support of the preamble sentiment

5. Summary Report: Organizational Development Services. (April 2008). Council of Elders Operational Review

Summary Structure	
1.	Introduction
2.	Consultation Methods
2.1	Participant Data
3.	Consultation Outcome
3.1	Operational Framework Elements
3.2	Consultation Feedback
3.2.1	Council of Elders
3.2.2	Developmental Requirements
3.2.3	Policy and Procedure Support
4.	Identified Needs
5.	Report Conclusions
6.	Discussion

1. Introduction

The Council of Elders were suspended in September of 2007 by the Mohawk Council of Kahnawà:ke. The Council of Elders (COE) review conducted is the number one recommendation identified in the 2007 MCK Membership Department review of the Kahnawà:ke Membership Law (KML)report. The Organizational Development Services (consultants) was contracted by the Mohawk Council of Kahnawà:ke(MCK)to conduct a review of the COE. The MCK, as project sponsor, had no authority over the review project as a requirement by the consultants. This project was conducted during a time period of 5 months.

The purpose was to examine the framework the COE operates under and determine what fosters or impedes the COE alignment to the framework, as well as any impacts and recommendations to improve operations. Objectives reported include to:

- evaluate the COE,
- analyze operations,
- appraise the structure, controls, procedures, processes to identify operational areas in need of positive improvement,
- identify problems, quantify effects of the current situation of operations and in doing so identify impacts.

Consultants reported challenges with access of relevant documents and the time required becoming familiar with the documents in preparation for interview. Contact lists for participants were not always up to date, and the additional time necessary to conduct interviews because of having to accommodate emotional venting by participants were also challenges identified by consultants. Racism, discrimination and identity confusion are terms used to describe membership under the KML.

2. Consultation Methods

The consultant team was made up of nine project team members, six of whom functioned as field researchers and collected respondent feedback. A consent form and project information was used for respondents. The method was designed to be qualitative and process oriented. Respondents were contacted by phone and confidentiality of respondents was maintained by coding data and ensuring data was stored in a secure location. Consultations were conducted primarily one to one using an interview questionnaire with specific questions for applicants, COE/Membership Review Council, Chief & Council/key informants and MCK Membership Department staff. The consultants provided community updates as part of a work plan.

Planning and research, conducting of interviews in December 2007, feedback analysis and writing a final report describes the basic project components. *Table 1: 2008 Consultation Method Description*, located in the back of the summary, groups the approach used for quick reference to consultation design used for this review.

2.1 Participant Data

The population frame was those involved with the Kahnawà:ke Membership Law and a sample of those who went through the process of applying for membership with the COE. Participation for the applicant group used random sampling. The target population were made up of 7 groups of people.

Seventy participants were interviewed, which represented 82% of the sample target population. The highest participation came from the applicants, representing 41% of interviews, with 20% of participants being from the Council of Elders group and 19% being from Chief & Council.

Table 1. Target group respondents in descending order of participation

Target Group	Percent as a respondent
Applicants under the KML	41% (n=29)
Council of Elders member	20% (n=14)
Chief & Council (past and present)	19% (n=13)
Membership Department staff	9% (n=6)
Key Informants	4% (n=3)
Custom Code development Elders	4% (n=3)
Membership Review Council	3% (n=2)

3. Consultation Outcomes

Table 2: 2008 Consultation Outcomes, located in the back of the summary, groups the outcomes of this review report. The table lists the recommendations made by the consultant team and translates respondent feedback into recommendations to facilitate action planning. Generally the feedback from respondents who participated in the data

*Kahnawà:ke Membership Law Project
Document Summary Report*

collection interviews involved evaluating and identifying actions that responds to COE members turnover, practical training using knowledge and skill application exercises, organizing information packages for applicants and Membership Department/others and ensuring COE work planning to avoid a workload that will overwhelm members. It is necessary to have a law that can be enforced with defined consequence supported by the community and community organizations. Going through the KML and the COE process has no enforcement and not going through the KML and the COE process has no consequence.

3.1 Operational Framework Elements

The review included an inventory and audit of the COE operations to determine if a framework existed, what it entailed and how well developed it was. Nine framework elements (used report headings) surfaced during the inventory:

- | | |
|-------------------------------|-------------------------|
| 1. Structure | 6. Tools |
| 2. Roles and Responsibilities | 7. Accountability |
| 3. Policies and Procedures | 8. Goals and Objectives |
| 4. Authority | 9. Training |
| 5. Relationships | |

Consultants described the COE alignment to the KML framework as not full, evidenced by non-consistent practices, no respect for principles and no communications with the community who appointed them. Consultants stated that identifying impediments to alignment is necessary in order to develop plans and strategies to deal with them effectively. Failure to do this can result in a lack of confidence in a group’s ability to remain true to the mandate entrusted to them. In essence, COE operations do not correspond to the intent of the mandate. There is not enough of explanation provided on the evolution of the KML that leads to varied understanding by people. Review of some historical documents can lead one to believe that the KML and regulations have some elements that do not respect the will of the people. Impediments to alignment with the framework elements were reported. Table 2 below groups impediments into 2 columns. One identifies membership points from previous community consultation documents read by the consultant team and the second column identifies how it is part of the Kahnawà:ke Membership Law. Consultants state that if the sentiment of the community is sceptical towards the law, this will limit desire to be part of the COE or participate in the membership process.

Table 2: Examples of KML Areas That Need Explanation

Pre- Law Development Consultation Concepts	Current Content of the KML
Community not prepared to return to a clan system	Clan is a membership condition/criteria
Law should not determine citizenship(Nation function)	Applicants are required to seek alignment with a clan (Confederacy citizenship requirement)
Desire for an inclusive process not based on blood quantum	Opinion of respondents state the KML criteria is exclusive and blood quantum based though guised differently (counting great grandparents)

*Kahnawà:ke Membership Law Project
Document Summary Report*

There is discussion in this report of issues that continually arose during interview. These involved conflicts over Kanien'kehá:ka traditions vs. blood quantum/Indian Act mentality. It is a historical fact that this community is made up of not just Kanien'kehá:ka people but those from neighbouring Nations and those who were non-native. Though there is not hard evidence, there is no such person existing today who is "pure blood." The imposition of the Indian Act across Canada and its assimilative policies dictating membership based on blood quantum/lineage for all native communities seems to have permanently changed the view on the Haudenosaunee adoption traditional and inclusive mentality. Information on identify formation is discussed on page 56 of the report.

There is genuine concern for the protection and preservation of community resources as respondents often stated the protection of entitlements and resources was one of the key reasons why the KML was instituted. There seems to be a scarcity mentality strongly tied to the membership issue that feeds the fear that a surge of new members accepted under the KML will lead to a collective loss in the amount of community resources. Entitlements of members are identified in section 15.1 of the Law and are listed below.

Table 3: Entitlements of Kahnawà:ke Membership Identified in The KML

Reside in the Territory
Participate in selection of Kahnawà:ke leaders
Seek and hold leadership position
Own and transfer to other members, interests in lands within the Territory
Receive education services
Own and operate a business
Receive housing assistance
Receive services from social, health, welfare and economic departments or programs for the MCK
Be buried within the Territory

3.2 Consultation Feedback

This section groups the feedback about the Council of Elders, its relationships, functions and tools used during the COE existence. Much of the feedback in this section is also identified as impediments related to the COE alignment to the framework elements.

3.2.1 Council of Elders

Established in May 2004 to:

- Review the Membership Registrar decisions under the KML;
- Conduct hearings of reviewed applications for membership, instatement, reinstatement and non-member residency;
- Review/decide applicants to suspend, revoke membership or suspend non-members residency;
- Enact regulations under the KML;
- Oversee functions of the Registrar.

Kahnawà:ke Membership Law Project
Document Summary Report

It is reported that the collective COE had solid work ethic and a passion to serve the community, to protect it from outside governments. But the COE had differing opinions as how the KML can protect us from outside governments. It is reported that application of the KML was not consistent, had wide variance in interpretation of the law evidence for weaknesses in enforcement. Reported is that the COE does not honour the intent of the law and that it disregards the principles of the KML in performance of its duties, making its decisions and in the conduct of its meetings. It was stated that the community does not appreciate the challenges of being on the COE. Interview data analysis reveals wide variations in what the KML purpose is. Definitions require further refinement to avoid open interpretations.

a) Relationships

The COE has relationships with:

- Its members
- Applicants and their support
- Membership Department and Registrars Office
- MCK Chiefs
- Community and local media

Reported was a steady turnover of members with about 7 members resigning. The turnover is stated to be a major influence on the COE function. Larger concepts include problems with KML application, personal and public challenges, and group structure and dynamics. Respondents cited many negative points that contributed to the turnover that included:

- Difficulty working together,
- Process/tools/application of the Kahnawà:ke Membership Law gave perceived inability to effect any change with varied interpretations of the law itself,
- Personal challenges with decisions,
- COE structure and leadership,
- Communications and decision consistency,
- COE conduct and behaviour,
- Public scrutiny and pressure,
- Weak selection process (of the COE),
- Effects on personal life, health and family.

The role of the COE related to the *Membership Registrar* is not clear or effective – it appears the Membership Registrar has 2 supervisors which makes final authority unclear. The report references the need to perform an inventory and comparison of roles and responsibilities between the Registrar and the COE. The *Membership Review Council* (MRC) has no authority to enforce recommendations made to the COE. The utility of the MRC came under serious question.

It is reported that *applicants* with positive experiences (granted membership) gave positive response related to treatment while applicants who were refused (not granted membership) gave negative response to treatment during hearings, like feeling awkward, describing the experience as unpleasant, intimidating, degrading and judgemental.

Kahnawà:ke Membership Law Project
Document Summary Report

Common to respondents was the experience of feeling stressed and not being aware of what to expect, discomfort with having so much of their private lives reviewed, nervous/intimidated due to the atmosphere, the number of COE members and feeling anxious for the outcome decision. Applicant interaction with the Registrar is described as normal and pleasant with exception of not being very informative regarding the COE process. Applicants interviewed were not clear on the roles of the COE. Use of an applicant kit that describes criteria, the hearing process (expectations), follow-up practices and outline of the process to seek affiliation to a clan should be developed.

Although the original KML was amended to change the COE from “appointed by the community” to “empowered by MCK” the relationship of the COE with the MCK *Liaison Chief* was not respectful or collaborative. Faith and trust was not allowed to develop among the MCK, the COE and the Membership Department since inception of the Council of Elders.

Community impacts referenced in the report noted that conflict and division were outcomes of some decisions of the COE, with opinions expressed as unfair, weak public relations to present facts, non-enforcement of the law, media stories sometimes damaging, sentiment that the community has no say once decisions by the COE have been made and little to no visible accountability to the community demonstrated. Some described community impact as social trauma that affects the collective, especially considering the future children that will be affected.

b) Functions

The interview data identified several areas that weakened the effective functioning of the COE. The appendix section includes appendices A through D. Appendix A is useful reference to read. The following list describes weak areas identified in the respondent feedback:

- Lack of an organizational chart to identify roles and responsibilities;
- Role and structure description for the Membership Review Council;
- Lack of consistent orientation (started with comprehensive then deteriorated to providing a binder);
- Too many Elders on the council;
- COE appointments lacked screening and required competencies with criteria being too general;
- Apparent non-recognition of own body language during interactions;

- Unsuccessful conflict resolution attempts;
- Able to have varied and personal interpretation of membership criteria related to determining great grandparents but seem to have discretion as a collective;
- Inconsistent practices with having some re-apply for membership annually;
- Lack of transparency and reporting of decision rationale or for decisions overall (communications with community, inconsistent minutes/recordings of proceedings);
- Not required to submit a budget to the MCK;
- COE must use consensus (regulation # 3) yet practice is described as voting with references to pressuring other COE members to agree;
- Support staff roles not clear (recording and COE secretary);

Kahnawà:ke Membership Law Project
Document Summary Report

- COE authority not always clear related to the Membership Registrar;
- Provision of applicant biographies and background information was not always read by the COE to prepare for hearings;
- Being required to process all of the backlog of applicants that deterred any long-term goal planning with failure to project the amount of time required to deal with the backlog;
- The COE was combined with an incomplete law that required them to develop their own regulations.

Suggestions for improvement to some weak areas listed above were identified in the respondent feedback:

- Establish qualifications/competencies (profile) to ensure capability for COE responsibilities;
- Determine a COE application process – application form, competency checklist, curriculum vitae, letter of intent outlining experiences and reasons for wanting to on the COE;
- Terms of reference with defined terms, including a probation period;
- Determine a formal system to select COE that includes recruitment that does not use a public forum not conducive to screening or voicing suitability objections;
- Define terms of service with a staggering of seats;
- Align the selection and removal of the COE to be more comparable;
- Ensure a public relations plan that includes not only notifying the public of applicants but including decisions made. As well, organize an applicant call method prior to formal correspondence of COE decisions;
- Establish a training and operations evaluation process with appropriate planning and preparation, and provision of concrete ways to be objective;
- Consider page 34 of the report summarizing KML general criteria for applicants and a list of standard questions for the hearing formatted as a checklist as a useful example of a tool for the COE. A list of questions not to ask applicants as well clearer lineage criteria relevance. Questions that are appropriate to specific examples is indicated as a need in the report;
- Clarify the definition of an Elder – more criteria to base selection;
- Establish a COE selection committee (community members, Membership Department staff, current COE members).

c) Tools

A section of this report discussed tools used for and by the COE. Generally tools could use further development to ensure they are effective and efficient and respect the spirit of the law is stated in the report. A tool used is an orientation binder of 425 pages that was cumbersome, of poor quality, and not user friendly. It is stated that the existing orientation binder needs to be developed further. Limitations cited to the orientation binder used for the COE are listed below.

- that instructions for binders use was not included,
- included was very much background information, documents and reports from 1981 to 2004 that could be conflicting and difficult to read with some not being the most updated versions,
- not included was any lead historical document or overview describing the consultations held for the evolution of the KML,
- no index to locate specific documents,
- lineage chart used for hearing not included or explained,
- not included were sample forms, letters used by the COE/Registrar, or standard questions for applicant in hearings.

*Kahnawà:ke Membership Law Project
Document Summary Report*

3.2.2 Developmental Requirements

This section of the summary report groups respondent feedback into areas that need development to improve the functioning and capacity of the COE. The competencies for efficient functioning, the training areas to enhance capacity and suggestions related to improvements in conducting the hearings are summarized. Use of an organization chart that presents all the parties involved in the KML is identified as a development requirement.

a) Competencies

In all interviews, opinions were asked of what competencies/qualifications/characteristics are required to function as a COE member. Feedback identified competencies for a person to be a member of the Council of Elders is listed in Table 4 below.

Table 4: Respondent Feedback: Competencies to be an Effective Member of the Council of Elders

Knowledge & Skill	Objective Characteristics	Personal Characteristics
Knowledgeable of people in the community (history of families)	Objective, fair	Good reputation
Educated with minimum of high school	Open-minded and mentally fit	Respected in the community
Strong interpersonal skills	Unbiased	Upstanding citizen
Strong communication skills (listening, expression)	Compassionate	Grew up here
Comfortable in/experienced with decision-making	Understanding	Currently lives here
Able to understand and apply the KML	Caring and patient	Mature and over 50 years old(maybe vary age to round out the group)
Able to work well in groups (conflict resolution)	Good mind	No criminal record
Diplomacy and tact with people(respect the dignity of the person)	Knowledgeable of traditional ways (culture, Great Law)	Demonstrate self application of criteria – respect criteria
Speaks or is willing to speak Mohawk	Real desire/interest to take on responsibility and participate in the COE	Life experiences (work, family)
Previous board or committee experience	Willing to learn/participate in training and development	

b) Training

Training was a question included in all interview questionnaires except for applicant interviews. It was stated that training of the COE was useful at inception of the COE. A gap between the first set of COE members with training and orientation and subsequent members grew. There was no refresher training that would reconnect members with key issues. Respondents recommended that a mandatory orientation or core course be

*Kahnawà:ke Membership Law Project
Document Summary Report*

provided with regular refresher courses given. Topics recommended to include in training are listed under knowledge or skill headings in Table 5 below.

Table 5: Respondent Topic Suggestions for Regular COE Training

Knowledge	Skill
Board governance training	How to work with people
Legal perspective of human rights	Interpersonal skill development
Comprehensive orientation, understanding and interpreting law	Sensitivity training (body language)
Roles and responsibilities of the COE and others	Experiential training using actual case scenarios of hearings conducted with use of actual tools.
Policies and procedures	Conducting effective meetings
Professionalism	Decision-making
Ethics in practice (conduct and behaviour)	Consensus building
Understanding Haudenosaunee, Kanien'keha:ka and community traditions	
History of membership	
How to be non-judgemental and objective	
Public relations – knowledge and value for relationships, partnerships, and for building and maintaining relationships	
How other First Nations approach membership	

Consultants state to develop a method for determining training needs and a schedule for training of new COE members along with annual refresher courses for the COE as a whole. Consultants identify core competencies, based on their experience in governing body training, that would be required of all COE members in order to meet their obligations (page 52 of the report) including demonstration of genuine interest and ability to adapt to other perspectives, are listed in Table 6 below.

Table 6: Core Competencies for COE Members
Recommended by Consultants

Leadership skills	Conducting investigations
Chairing skills	Designing and developing policy
Facilitating skills	Interpersonal effectiveness
Communication skills	Interviewing
Participating in meetings	Operating objectively
Collaborative problem -solving	Providing feedback
Conflict resolution and management	Critical thinking

c) Hearings

The lineage chart used in hearings is reported as effective. Reported areas to improve the conducting of hearings include:

- Improve environment with better lighting and seating set up to be less intimidating;
- Do not isolate applicants prior to hearing;

Kahnawà:ke Membership Law Project
Document Summary Report

- Provide a summary to applicants of what to expect;
- Consistent introduction and procedure description;
- Consistent chairperson/longer term for chairperson;
- Clear procedures to prepare for hearings;
- Not to include questions relating to plans to access entitlements like land.

3.2.3 Policy and Procedure

Reported was a staged development for regulations, procedures and tools that corresponded to the time available from the COE to work on these – mainly administrative meetings were held. It is reported that operational policies and procedures need to be developed for the KML and the COE. Policies and procedures are necessary for many areas including:

- How to conduct investigations for “questionable character” applicants;
- How to determine or validate lineage from other Natives or communities;
- How to govern and record “in camera” sessions;
- Procedure for:
 - ✓ COE member application process that includes procedure to pre-screen applicants using a competency profile,
 - ✓ Conducting a background check,
 - ✓ Conducting COE applicant interviews modeled after an actual COE hearing, using COE standards and expectations.
 - ✓ Procedure for a COE nomination/election process with posting of names and background information,
 - ✓ holding a community meeting similar to candidate’s night with a community question period,
 - ✓ Appointment for unfilled COE seats;
- Comprehensive orientation process;
- Working relationships and shared responsibilities between all parties involved;
- Performance evaluation process to ensure understanding of expectations for participation and conduct.

4. Identified Needs

Much of the respondent feedback and consultant statements have been grouped in *Tables 3(a) & 3(b): 2008 Consultation Feedback Needs*, located at the end of the summary. Four heading were used. Implementation needs contain feedback that can be placed into an implementation plan to respond to challenges identified for COE function and implementation of the KML. Communication needs directly relate to areas that require a communication plan and/or public relations. Community needs groups concepts that need community clarification and enhancement of concept comprehension. Feedback grouped in the Process-Structure heading is mostly directed at components in the KML that has identified need for further clarification and/or development. The Tables 3(a) & 3(b) offer quick reference to the feedback to facilitate action planning in a time efficient manner.

5. Report Conclusions

The Council of Elders concept was envisioned with good intent. Key elements for the structure of the COE should have been in place and not left to develop while the COE was expected to operate. The KML has a weak framework and lack definitions of key elements of the law. Regulations provide a major weakness in the application of the KML related to accountability for those involved.

The COE competencies need to correspond with the KML based on their functions and responsibilities. Opinions from previous consultations may not be always sufficient to establish criteria – a concrete assessment of knowledge, skill sets and attitudes is essential to the work.

Lineage is not well understood and is strongly based on blood quantum and not on affiliation. Clear criteria and definitions will ensure non-racist decision-making. A table on page 63 provides comparison of our traditional mindset and Indian Act mindset to offer a viewpoint of the differing mindsets gleaned from the respondent feedback.

The majority of the people consulted during the development of the KML clearly indicated they did not support blood quantum criteria. Reference to the use of international human rights principles is difficult and creates COE conflict as the KML is not written for all people, and by its very nature is exclusionary. Although the review was not seeking opinion on the KML, respondents provided opinion indicting their disillusionment with the Law.

The COE requires additional support and resources to resume its basic operations. Willingness to let go of negative aspects of membership history must occur to get on with the business of membership in Kahnawà:ke.

Table 7: Recommendations from the COE Review Project Team

Conclude appointments of the current COE members.
Establish mechanisms for accountability, evaluation for mandate fulfillment and methods of intervention before enacting the next COE appointments.
Ensure a fully functional KML by use of the framework elements identified in this report.
Establish an appeal process in the KML.
Removal of the COE should be comparable to the one that selects them, no more burdensome.
Reduce the number of COE members.

*Kahnawà:ke Membership Law Project
Document Summary Report*

6. Discussion

Who is responsible for the implementation and monitoring of the COE and the KML? Required here is someone to be responsible for the efficiency of the COE and for tracking

amendment needs of the KML. Only three regulations were posted on the website and seven were approved – all of the regulations should be available for public viewing.

The COE needs a process for selection with a strong structural base from which to operate. A job description, the use of diagrams for learning and reference could be useful, as well as criteria checklists and many case examples to apply training concepts. The words competency and transparency [of the COE] is emphasized by repeatedly being written in the report, which could have been because it was a repeated theme emerging from data analysis or for emphasis by report writer(s). In any case, it is worth keeping in the forefront of any action planning as a result of this report. The COE cannot function in isolation. The 9 framework elements would work well as headings for action and implementation planning. The Membership Law requires operational review, clarifications and modification to its structure, most importantly to the Council of Elders functions and responsibilities. This review has provided respondent feedback from relevant groups and is linked to areas that need to be worked on and can function as a base for effective action planning.

Key words/phrases derived from the feedback gathered in the consultation provide conceptual grouping in no particular order as listed below.

Transparency	Non-native ancestry part of the community
Orientation and training	Blood quantum
Planning	Indian Act mentality
Competency	Incomplete law
Enforcement	Recruitment
Belonging	Racism/discrimination
Communication	COE regular evaluation

Kahnawà:ke Membership Law Project – Summary Report Data Tables

Data Gathering Approach

Document Reference: Information Task Force. (July 1996). Report on the Consultation on the Kahnawà:ke Communal Law on Membership

Project Sponsor: Mohawk Council of Kahnawà:ke, Intergovernmental Relations Team

Goal: 1. Conduct consultation, 2. Implement consultation process, 3. Provide summary report to Dr Alfred for Law development, 4. Write report.

Timeframe: Four months in Spring – March to June 1996

Table 1: Consultation Method Description

Methodology	Consultation Approach	Population Frame	Description : Target Population	Sample Population Interviewed	Communication Approaches
<p><i>Research & Analysis</i> (reference as critique in report – produced a developmental history). <i>Planning</i> (strategic work plan produced; conducted interview with Dr Gerald Alfred on the communal law draft; defined roles and target population; construct consultation process and timeframe). <i>Support Resource Organization</i> (hired support staff 1. Researcher, part-time, 2. Assistant Recorder, part time, 3. Secretary, full-time). <i>Location Logistics</i> (flexible to the choice of participants).</p>	<p><i>Data collection tool developed</i> (recording form – confidentiality maintained with reference #. Form used to record participant #, membership category and feedback to section of the communal law discussed). <i>Test group used</i> (formed to test presentation approach and modify following test group feedback). <i>Data Gathering Method</i> (individual and small group interview using a discussion paper/condensed communal law draft of Dr. Alfred’s). <i>Actual Approach</i> 1. Introductory question posed followed by presentation of a development history on membership. “Do you agree we need a law on membership?” Nominal responses were not recorded in the report; 2. Presentation of discussion paper (condensed version of the draft Mohawks of Kahnawà:ke Communal Law on Membership), asking questions and stimulating discussions on draft law sections. Presentation of a membership comparison paper with pre and post 1981 Mohawk Law case examples.</p>	<p>1995 Community Resource Directory Previous contact list held by the consultants. Step-by-Step class list. Personal invitations to persons known by consultants. Random requests to persons not known to consultants. Community organizations.</p>	<p>Kahnawà:ke residents on the Mohawk Registry or Federal List. Included those identified as C-31 and Mohawks living off the reserve. Target groups: <ul style="list-style-type: none"> • Elderly • Youth • C-31 • Longhouse • Off reserve members </p>	<p>280 people participated in the consultation. 93% were contacted by the consultants for participation; 72% from the Mohawk Registry (1 non-native women participated); 65% were female; 63% were individual interviews. 46% were between the ages of 35 – 59 years; Youth (between 15 – 24 years) were represented by 12 % of participants; Elders (over 60 years) were represented by 18 % of participants; Longhouse represented by 5%.</p>	<p>General mail out of discussion paper; K103 radio for a 3 person panel discussion on blood quantum, 1981 Moratorium, and membership board formation; K103 PSA, advertising, party line talks show for consultation promotion; MCK newsletter article; <i>Eastern Door</i> publication of the discussion paper. General Spokesperson: Dr Gerald Alfred.</p>

Consultation Outcomes Summary

Document Reference: Information Task Force. (July 1996). Report on the Consultation on the Kahnawà:ke Communal Law on Membership

Table 3: 1996 Consultation Outcomes

Outcome	Recommendations by Consultant Team	Specific Feedback for Membership Law Process and Structure
<p>June 1996 Draft Mohawks of Kahnawà:ke Communal Law on Membership reflecting data from the 1996 consultation with introduction of native lineage and removal of blood quantum membership criteria, replacement of Mohawk Registry with membership List, requirement of 2 grandparents who are Mohawk, creation of non-member residents and no further loss of rights if a Mohawk who marries a Non-Indian;</p> <p>Statement for a need for a membership law ;</p> <p>Statement for a need to move towards identifying and including traditional values to form a membership law;</p>	<p>MCK to continue planning and implementation of goals;</p> <p>Research component requires more time than allotted;</p> <p>Provide choices to participants in terms of interview location and time of day/evening;</p> <p>Qualitative data collection and analysis need skilled interviewers and analysts;</p> <p>Private setting needed for participant expression on membership issues.</p>	<ul style="list-style-type: none"> ▪ Membership can mean (1) members of Kahnawà:ke under MCK, (2) member of a clan, (3) member of the Mohawk Nation (4) citizenship. These need to be analyzed for incorporation in the law; ▪ No deletions from the Mohawk Registry – a “Mohawk is a Mohawk.” (this was <u>repeated</u> in 4 other feedback areas); ▪ Clarify definition for traditional adoption; ▪ Do not include cohabitation for marriage in definitions; ▪ Use of blood quantum not fully supported – lesser emphasis; ▪ No rights or privileges to non-natives; ▪ Responsibilities need to be linked to rights of members; ▪ Consider membership entitlement decision-making using lineage, culture, language, customs, values, sense of community, traditional perspective; ▪ Inclusive membership approach is supported to a greater degree (clan/citizen/adoption/non-native residency/lineage). ▪ Non-native living here for a long-time should be allowed residency- unclear for residency of non-natives post 1981; ▪ Non-native should not have residency if divorced from the Mohawk and have no children = no ties; ▪ Residency can be granted using a process for members not living here (in Kahnawà:ke) for a long-time and for Natives from elsewhere; ▪ Those who are members under either the Indian Act/Mohawk Law, should be automatically accepted following notification and agreement; ▪ Structure a membership board through election with final decision through consensus – Members cannot be non-native, and should be mature/respectable/fair/responsible; No MCK on the board. Board should be directly responsible for the membership list and should develop administrative regulations and guidelines with a process to include community input. ▪ Appeals process with community tribunal or community justice institution with no option to take (an appeal) to outside courts; MCK not to be involved; ▪ Enactment of the law should include presentation of the draft law to the community 3 times to reach consensus;

1996 Consultation Feedback

Document Reference: Information Task Force. (July 1996). Report on the Consultation on the Kahnawà:ke Communal Law on Membership

Table 2: 1996 Consultation Feedback Needs

Justice Needs	Community Needs	Education Needs	Process-Structure Needs	Political Needs
<p>Recognize Mohawk Law implementation inconsistencies and form action response;</p> <p>Address weak enforcement using the 1984 Mohawk law as example;</p> <p>Blend the Great law with a new membership law;</p> <p>Send strong community messages that membership issues are dealt within the community and not outside courts.</p> <p>Involve traditional people in all levels of law ratification, and in participation on the membership board (stated more that once in the report).</p>	<p>Communicate population statistics;</p> <p>Recognize and respond to the strong negative emotions and recognition of prejudice against women and children linked to Indian Act membership process;</p> <p>A public apology to acknowledge prejudice and guilt.</p> <p>Promote incorporation of a membership law into community organization policies.</p>	<p>Compile history of membership and share with community to give understanding of present membership situation.</p> <p>Education on comparison of the Indian Act and Great Law to enhance general understanding.</p> <p>Compare and contrast Mohawk identity and membership.</p> <p>Describe and compare the terms law, code and policy.</p>	<p>Include method for traditional people to have public registration;</p> <p>Separate the Membership Department from MCK to encourage registration of traditional people;</p> <p>Separate residency from membership with a structured process;</p> <p>Create a public records office;</p> <p>Clarify rights and privileges of membership and include aboriginal and human rights;</p> <p>Develop ratification process options for community consultation and discussion.</p>	<p>Incorporate direction of the MCK Intergovernmental Relations Team into the law;</p> <p>Provide stricter policy on land allotment;</p> <p>Promote positive image of MCK;</p> <p>Structure a plan to address Federal government recognition of our membership direction.</p> <p>Be reminded of objectives not to make community level laws under the authority of the Mohawk nation and Iroquois Confederacy</p>

PART 1: 1996 Data Gathering Approach

Document Reference: **Information Task Force. (January 1997). Report on the Consultation on Membership: Phase II.**
 Project Sponsor: Mohawk Council of Kahnawà:ke, Intergovernmental Relations Team (IRT)
 Goal: 1. Design and implement a process to educate the community and to provide a mechanism for community feedback, 2. Analyze feedback and make necessary changes to the law, 3. Assist and facilitate in the ratification of the law.
 Timeframe: **PART 1** - two months in Summer/Fall – August to October 1996

Table 1: Part 1- 1996 Consultation Method Description

Methodology	Consultation Approach	Population Frame	Description : Target Population	Sample Population Interviewed	Communication Approaches
<p><i>Research</i> (community membership and other reports – identified areas for community information and to package education and communication tools). <i>Planning</i> Identify process to educate the community with: (Information on the spring 1996 consultation strategy; Address why community views changed from blood quantum to a liberal view; How the proposed draft law was written). Support Resource Organization (Mohawk speaker to translate, clarify and discuss during community consult sessions).</p>	<p><i>Strategy 1 - Community Education:</i> Brochure designed by consultants for general mail out. (Description of community view on membership from consultation feedback of spring 1996; the March 1996 discussion paper with community concerns and edits to the draft law; history review). Use of community media and four Community Information Sessions. <i>Strategy 2 - Community Consultation:</i> Brochure used as a discussion resource to gain input on proposed draft 1996 Communal Law on Membership.</p>	<p>Community of Kahnawà:ke</p>	<p>10 % of the spring 1996 consultation participants randomly selected (n=26); Key people selected (n=29); Selected participants consulted over a 1 month period.</p>	<p>Strategy 1: n=31 participants for information sessions. Strategy 2: n= 55 participants in community consultation (Invited key people = 30 and volunteer participants = 25). Total participants combined for Strategy 1 & 2 = 86.</p>	<p>General mail-out of brochure. K103 radio call-in talk shows (2) Community Information Sessions (4)</p>

PART 1: 1996 Consultation Outcomes Summary

Document Reference: Information Task Force. (January 1997). Report on the Consultation on Membership: Phase II.

Table 2: Part 1- 1996 Consultation Outcomes

Outcome	Recommendations by Consultant Team	Specific Feedback for Membership Law Process and Structure
<p>October 30, 1996 a preliminary report recommend to the IRT to use key people and elders to continue dialogue on 3 sections of the draft law that was approved by IRT. Consultants concluded participants expressed fear related to: the premature passing of a law not clearly defined and that there was too much broad interpretation variability in the draft law given to the [Membership] Board making it easy to become a member;</p> <p>October 1996, a Membership Committee sent protest letters to consultants and the MCK, signed by 332 community members listed on the Mohawk Registry, that voiced their objection to the removal of the 50% blood quantum membership criteria and to the removal of the 1981 Moratorium membership criteria. A second letter asked for a response and proposed a public meeting to take place.</p> <p>Acceptance of the preliminary report by the IRT resulted in objectives for the consultation being changed.</p>	<p>An October 1996 preliminary report presented to the IRT identified the following needs:</p> <ul style="list-style-type: none"> a) Recommend the work plan and project goals are adjusted to address fears by acknowledging community direction, allow informed decision making and continue dialogue with key representatives and Elders on 3 main sections of the draft law (entitlement, residency and Membership Board). b) Informally write sections of the draft law. 	<p>Strengthen enforcement of the law.</p> <p>Community group objection (membership committee) to the removal of the 50% blood quantum membership criteria and to the removal of the 1981 Moratorium on mixed marriages from the <i>June 1996 Communal Law on Membership</i>,</p>

Kahnawà:ke Membership Law Project – Summary Report Data Tables

PART 2: 1996 Data Gathering Approach

Document Reference:

Information Task Force. (January 1997). Report on the Consultation on Membership: Phase II.

Project Sponsor:

Mohawk Council of Kahnawà:ke, Intergovernmental Relations Team

Goal:

1. Promote on-going dialogue with key representatives of 3 perspectives (exclusionary, moderate, inclusionary) in 3 sections of the law (Entitlement, Residency, Membership Board)
2. Define common ground and progress to the point of consensus of all groups.

Timeframe:

PART 2: three months in Fall/Winter, November 1996- January 1997

Table 1: Part 2- 1996 Consultation Method Description

Methodology	Consultation Approach	Population Frame	Description : Target Population	Sample Population Interviewed	Communication Approaches
<p><i>Research</i> (read Dr Alfred book, “Heeding the Voices of our Ancestors”; access technical input from McGill professors on research methods used; develop discussion tool/paper with comparison of 3 <u>perspectives</u> (Exclusionary, Moderate, Inclusionary on membership) Focus on entitlement, residency and membership board;. Selects sections of a proposed membership code).</p> <p><i>Planning</i> (consultation discussions to be conducted in Mohawk; Consultation to be conducted with resource people, elders and historians to verify and cross-check information gathered by consultants).</p>	<p>Develop a working document that would consult with key people from each <u>perspective</u> on entitlement and residency. (Document constantly being revised incorporating group feedback as this was received – a final working document was distributed to key people to validate and share feedback from the 3 <u>perspective</u> groups).</p> <p>A discussion paper package was compiled for consultation use. Sessions are planned for:</p> <ol style="list-style-type: none"> 1. Exclusionary key people groups to discuss blood quantum (reference one meeting). 2. Moderate key people group (not reported to have occurred but referenced in discussion paper). 3. Inclusionary key people group to discuss clans and the Great Law (reference several sessions). <p>Use of pictorial diagrams to clarify a membership code based on custom.</p>	<p>Key people of Kahnawà:ke selected from each <u>perspective</u>.</p>	<p>Key people previously participating in the 1996 consultations to represent a cross-section of viewpoints within each <u>perspective</u>, to gather feedback for community categories (traditional, Mohawk law members, Indian Act Indians, Natives from other communities and non-natives).</p>	<p>Number of elders participating in sessions was not quantified and was not reported. Not reported was if the community categories were used for participants.</p>	<p>Community meeting on November 19, 1996.</p> <p>A communication plan was developed and but not included in the report.</p> <p>“Series of public service announcements, information session, talk shows and flyers using local media.”</p> <p>Reference to further information on communication strategies to read other reports.</p> <p>Reporting to Project Sponsor though a liaison of the IRT.</p>

PART 2: 1996 Consultation Outcomes Summary

Document Reference: Information Task Force. (January 1997). Report on the Consultation on Membership: Phase II.

Table 3: Part 2 - 1996 Consultation Outcomes

Outcome	Recommendations by Consultant Team	Specific Feedback for Membership Law Process and Structure (Input by consultation participants from the exclusionary and moderate perspectives on membership)
<p>-Identification of a community custom code that determined membership. -Four different interpretations of 50% blood quantum criteria; -Identify 2 community perspectives on membership (1) custom code and (2) Inclusionary/traditional membership; -Ancestry charts for 6 examples of how a membership code based on Kahnawà:ke custom would define a member; -Draft code with input from exclusionary & moderate perspectives; A reference package of discussion papers as consultation resource.</p>	<p>Not to incorporate a clan system as the majority of the community will not accept a clan system of membership.</p> <p>Support a continued process to educate and revise a code according to traditional view</p> <p>Membership code to be based on custom.</p> <p>More discussion with elders and community regarding statement “marries out.”</p> <p>Incorporate the basic principles of agreement list of 14 points into sections of the code or guidelines after resolution is found for the 8 outstanding issues related to the proposed Code on Membership.</p> <p>Code should be written in Mohawk.</p>	<ul style="list-style-type: none"> • Incorporate values identified in Phase 1/ July 1996 Report into a code; • Submit specific sections of the proposed draft code/discussion paper based on custom and principles of agreement in respect to input from exclusionary and moderate perspectives. This describes 3 types of members: Onkwehon:we (Mohawk); Shatehahtinekwenshihen (Mohawk and non-native parent);Iahten teionnokwehonwe (non-native); • Incorporate/interpret membership law on custom code as told by elders: Marry Onkwehon:we. If an Onkwehon:we/ Shatehahtinekwenshihen does not marry another Onkwehon:we, they leave the community. All children from this union are encouraged to “marry in;” • Following enactment of the Code, application of the code is by a membership board for membership rights and residency privileges; • List of definitions to be aligned to reflect code concept and change MCK to Mohawk Government of Kahnawà:ke; • Exceptions for membership entitlement and residency privileges in accordance to the present situation; • Loss of membership by: (a) renounce own membership (b) on the membership list under erroneous/fraudulent circumstance with proof and (c) responsibility as member is not fulfilled; • More discretion for the delegation of authority by MCK to recommend alternate choice of works from “shall” to “may” delegate an independent authority. • A Membership Board (with members who are mature and have qualities to implement the code fairly and consistently and who have communication processes with elders) may be advised by a Council of Elders; The Membership Board will be responsible to apply the code in granting membership rights and residency privileges which may be completely separate form each other; • For the appeals process, the role of the tribunal must be to ensure that due process was used in decision-making by the [Membership] Board and not be able to overrule a decision by the [Membership] Board; • A form of consultation and sanction by the community for guideline development for the membership code; Publicize names of applicants; categorize new members appropriate to the code; • Enactment and amendment of the membership code should use a process of presentation to the community via 3 public meetings for final ratification; • New code should supersede any law on membership.

PART 2: 1996 Consultation Feedback

Document Reference: Information Task Force. (January 1997). Report on the Consultation on Membership: Phase II

Table 2: Part 2- 1996 Consultation Feedback Needs

Justice Needs	Community Needs	Education Needs	Process-Structure Needs	Political Needs
<ul style="list-style-type: none"> • Avoid 1984 Mohawk Law influencing a code on membership that gives degrees of eligibility to those on Mohawk Registry more than others; • Members who sell or give non-members land are identified as violators related to responsibilities linked to residency and membership; • Ratification of a code be in a form of agreement reached by consensus of the community; • Develop enforcement approaches as necessary to remove people from the community or remove entitlement to lands. This can use concepts of self-policing, personal/organizational responsibilities and reinforcement related to family values. • A justice institution that supports enforcement of communal laws and a mechanism for appeals. 	<ul style="list-style-type: none"> • Use objective based approach to help community strengthen the Onkwehon:we way of life; • Emphasize responsibilities of membership to strong link to control of lands; • Strive for lifestyle with peace and harmony so we will have a society with stronger connection to tradition; • Consistent consultation opportunities to build trust over time and encourage informed decisions – use Mohawk speakers to translate concepts using “Onkwehon:we thinking.” • Increase community awareness of assertion of jurisdiction that may affect implementation and integrity of communal laws so the community can support the enforcement and defend our laws. 	<ul style="list-style-type: none"> • Improve awareness of rights under (a) Federal law; (b) Code on membership; (c) Universal/human rights; (d) Mohawk Nation Citizen and (e) Treaty rights; • Necessity of a position of self-government or self determination established by MCK; • Responsibilities that are linked to communal law and implementation related to jurisdiction; • Traditional lifestyle with presentation of realistic choices to make decisions on establishment of a tradition lifestyle; • Research and compile documentation related to history of membership; • Present specific law sections in a choice-consequence format so that understanding of political implications can be understood; • Present to community organizations how a code on membership can affect their operational policies and support with the reflection of the code on their policies; 	<ul style="list-style-type: none"> • Membership board has no authority to deal with outstanding issues – involve the community; • Membership board will interpret the code with goals of peace and harmony; • Use the Information Task Force in re-drafting of the 1996 membership draft; • Those on the Mohawk Registry may make legal claim for membership as acquired rights – need a process; • Identify responsibilities linked to residency and right of membership; • Residency not specific to membership entitlement; • Suggest a fluid evolution of the code on Membership as it should always reflect where the community is in terms of accepting and implementing traditional ways; • Continue research and interview / data gathering related to custom code on membership; • Establish a public records office where community statistics are made available through a public registry. This includes organization of a confidential registry system for paternal information for those of child bearing years; • Consider a separate membership office from the MCK – will ease the registration of traditional people to be part of community statistics. 	<p>The community needs political support to defend a membership code if decisions under the code are challenged in courts.</p> <p>Explore and respond with an action plan for the potential of residency for persons as outcome of Seigneurie land claims;</p> <p>There is a response need to establish a clear separation between identify of culture and politics because of the Canadian government policies bombarding the community;</p> <p>Assure the community that a membership code will not negatively impact territorial issues and rights and claims of the Mohawk Nation.</p>

1999 Data Gathering Approach

Document Reference: **Membership Task Force. (December 1999). Final Report on the Thirty Day Process – Custom Code on Membership.**
 Project Sponsor: Mohawk Council of Kahnawà:ke
 Goal: Use a 30 Day review process for the ratification of the Custom Code on Membership (CCM)
 Timeframe: One month in Fall – October – November 1999

Table 1: 1999 Consultation Method Description

Methodology	Consultation Approach	Population Frame	Description : Target Population	Sample Population Interviewed	Communication Approaches
<p><i>Custom Code on Membership</i> (CCM) was released to the community in February 1999. Kahnawà:ke Community Consultation Services is organized to receive community feedback 3 workdays / week for the duration of 30 days. Appointment could be made available. A recording form was designed to collect feedback (name, date, objection or recommendation to specific sections of the Code).</p>	<p>Prior to a 30-day community review period on the CCM, final consultation meetings were organized:</p> <ul style="list-style-type: none"> (a) Three Elder’s meetings held to gather feedback and accept edits to the <i>Custom Code on Membership</i> document were done; (b) Three community meetings held jointly by Mohawk Council of Kahnawà:ke and the Elders. <p>(dates of these meetings were not recorded but can be stated with confidence that these occurred between February and September 1999).</p> <p>Use a recording form for feedback collection.</p>	<p>General community of Kahnawà:ke</p>	<p>Any community member of Kahnawà:ke who chose to participate in the 30 - day review period.</p>	<p>A total of 31 community members gave feedback to the Kahnawà:ke Community Consultation Services.</p>	<p>Communication methods used for this process were not reported.</p> <p>The Longhouse position on citizenship was reported to be published in the <i>Eastern Door</i> on October 8, 1999.</p>

1999 Consultation Outcomes Summary

Document Reference: Membership Task Force. (December 1999). Final Report on the Thirty Day Process – Custom Code on Membership.

Table 3: 1999 Consultation Outcomes

Outcome	Recommendations by Consultant Team	Specific Feedback on the <i>Custom Code</i> for Membership Law Process and Structure
<p>Approval by Mohawk Council of Kahnawà:ke of the <i>Custom Code on Membership</i> (CCM) following the 30-day community review period.</p>	<p>The CCM be passed and used as the foundation to develop a community membership law.</p> <p>Women who married non-native men previous to 1981 should be eligible to apply for full membership.</p> <p>Discussion needs to be organized between traditional people for the 3 Longhouses to work on a process to combine the clan system and custom code to operate in parallel until a clan system can be further developed. (explore acceptance under citizenship and bring information to the community).</p> <p>Clarify relationship between the clan system and <i>Custom Code</i> and have this adopted by the community.</p>	<p>Clause 1(6) to state that any Kanien'kehá'ka who marries a Kanien'kehá'ka and lives away, is entitled to membership; all future generations are eligible to apply provided they meet the <i>Custom Code</i> criteria.</p> <p>Clause I(7) to state that Kanien'kehá'ka can transfer back provided they meet the <i>Custom Code</i> criteria.</p> <p>Section III to state that persons adopting Onkwehon:we from other communities must attempt to provide documentation of the child's ancestry.</p> <p>Section IV (1) to include a clear clause for Onkwehon:we attending school in the surrounding area may live in the community.</p> <p>Clarify definition for “maintain ties,” “respect for mother earth,” “clan,” “jeopardize or harm the community,” and “respect customs and traditions.”</p> <p>Reinstate into the <i>Code</i> as membership criteria a 50% blood quantum.</p> <p>Four great grandparents be the criteria (reference is made to the 1997 petition with 400 signatures, and may be the October 1996 letters of protest signed by 332 Mohawk on the Registry).</p> <p>The section pertaining to non-natives needs to be clear to avoid pick and choose – be objective.</p> <p>Have a clause to clarify membership eligibility for children born to Native women married to a non-native before 1981.</p>

1999 Consultation Feedback

Document Reference: Information Membership Task Force. (December 1999). Final Report on the Thirty Day Process – Custom Code on Membership.

Table 2: 1999 Consultation Feedback Needs

Justice Needs	Community Needs	Education Needs	Process-Structure Needs	Political Needs
<p>*Enforcement weakness to be addressed and responded to because mixed marriages after 1981 still remain living in the community and law enforcement ability supports consistent application of the <i>Code</i>.</p> <p>Hold a referendum on this <i>Code</i>;</p>	<p>Acknowledge social impact that is noted regarding loss of children of mixed marriages that had to leave the community; Emphasize if born Kanien'kehá'ka always to have benefits and privileges.</p> <p>Develop/deliver an education approach for traditional process for membership to improve overall community trust, confidence and understanding.</p>	<p>Youth sector is missing – must be informed (of the <i>Custom Code on Membership</i>).</p> <p>Share process for the clan system and the concept of citizenship to move toward acceptance.</p>	<ul style="list-style-type: none"> • Equal treatment in the <i>Code</i> for Mohawk men and women who married non-natives prior to 1981; • Non-natives married can have residency to give the children a chance (to marry a Mohawk) – allow single parent families to get benefits; • If an Mohawk marries a non-native there should be no loss of benefits for the Mohawk; • A more traditional perspective that promotes more inclusiveness be incorporated into the <i>Code</i> - the <i>Code</i> is described as exclusive; • Do not bother those who have been given status from the Indian Act and consider those who have been adopted; • The clan system and the Great Law to be incorporated; • Process necessary for non-members owning land; • Process in an Onkwehon:we adoption from another community needs clarity on how to determine 3 generation Native ancestry – imply this role for Social Services; • Case by case is too subjective and leaves room to pick and choose (members who apply); • Clarify accountability expectation of the working group (it is a burden to choose who is a Mohawk and can have bias); • Ensure fairness in selecting Elders(this is not evident) – a clear process is needed; 	<ul style="list-style-type: none"> • Suggest to implement the <i>Code</i> and those who have been impacted by the Indian Act/Mohawk law be given opportunity to be a member; • All non-native with no ties be removed (from community or membership list) before <i>Code</i> implementation; • Confirm with a resolution the reference “any agreements made by the MCK would be null and void if not approved by the people(from a previous draft of the <i>Code</i>); • Mohawks transferring back to the community should be facilitated.

* Enforcement identified many times in the consultation data.

2007 Identified Issues by the MCK Membership Department

Document Reference: Mohawk Council of Kahnawà:ke. Membership Department. (October 2007). A Review of the Kahnawà:ke Membership Law
Project Sponsor: Mohawk Council of Kahnawà:ke Social Development Unit
Goal: Conduct a review to highlight issues and concerns related to administration and implementation of the Kahnawà:ke Membership Law (KML).
Timeframe: Fall 2007

Table 1: 2007 Identified Issues

Justice Needs	Community Needs	Education Needs	Process-Structure Needs	Political Needs
<ul style="list-style-type: none"> Enforcement of the KML is necessary: Identifies Peacekeepers as the sole authority to enforce the Law and identifies the Court of Kahnawà:ke with the sole jurisdiction to hear and decide offense yet the Court of Kahnawà:ke has not authority to hear community Law (the Peacekeepers need to have a venue where charges are filed and heard). We need a developed Justice System. Under a developed Justice System: The chiefs would defend the rights of the community under the KML; Non-members residents under KML cannot have land in their name(eligible for residency only) so violations of the KML would have residency privilege revoked; Members who cohabitare or rent to non-members will have their membership suspended from the Kahnawà:ke Kahnien'kehá'ka Registry; Enforcement under a developed Justice System would however situate MCK in a position of legal liability as many non-member residents are also status Indians with Kahnawà:ke cited as their home community, therefore have acquired rights. 	<p>Reconcile how the terms Kanine'kehá'ka(from the Mohawk Nation) and Kahnawakehró:non (from Kahnawà:ke) are referenced in the KML to narrow interpretations and clarify application.</p> <p>Discussion and debate need to occur to address the issue if the KML will have purpose to identify a citizen of the Mohawk Nation or as a member of the community to be linked to services and benefits;</p>	<p>Acknowledge/present the historical facts that we originate from many Nations evidenced by the different clans of Kahnawakehró:non;</p> <p>Present the terminology for all to have common reference for Haudenosaunee, Kanienkehá'ka, and Iroquois confederacy.</p> <p>Clarify that status cards are issued by INAC to all Indians living in Canada.</p>	<ul style="list-style-type: none"> Address the issue that other Native communities may have weaker methods that determine a child's lineage (when a child is to be registered in our community); It is necessary to ensure the Council of Elders(COE) in the KML provide consistent and respectful treatment to applicants (complaints received by the Membership Department with allegations of bias and favouritism); The COE must have clear and observable process that demonstrates accountability to the community, and that includes records of discussion on membership applications to demonstrate transparency; Required is meaningful redress mechanism n the Law for COE decisions – an appeal process(as the Membership Review Council is given no authority to overturn COE decisions, only provide instruction for decision re-consideration); Clarify the roles and relationships between the COE and the MCK Membership Department (currently both have variation with law interpretations and the resources are unbalanced with 15 COE for applicant decisions and 1 Membership Registrar for Kahnawà:ke Kahnien'kehá'ka Registry additions); Include a section related to Beneficiaries status; 	<p>Indians must be Canadian to be considered for INAC status – consequence is inherent when a Mohawk marries an American Indian (and is considered to be non-native) so their child is half. If that child marries an American Indian, their children will have no rights and will not be eligible for membership but in fact has very strong lineage. If the American Indian is given residency in Kahnawà:ke, they can be on the Kahnawà:ke Kahnien'kehá'ka Registry but will not have INAC status therefore is considered Canadian. This requires political intervention as many of our people marry native from across the border.</p>

2007 Identified Issues from the MCK Membership Department

Document Reference: Mohawk Council of Kahnawà:ke. Membership Department. (October 2007). A Review of the Kahnawà:ke Membership Law

Table 1: 2007 Identified Issues

Justice Needs	Community Needs	Education Needs	Process-Structure Needs	Political Needs
<p>Have the same legal council for both the Council of Elders and the MCK so the MCK can defend the Law in court as necessary (presently the Council of Elders has its own legal representation (mainly for decisions) and the MCK has its own legal representation (for law development, amendment, interpretation));</p> <p>Determine criteria for Kanien'kehá'ka great grandparents without use of blood quantum reference of “full” to narrow interpretation of the Law;</p> <p>Set up a working group to address the enforcement needs of the KML;</p> <p>MCK should be an example organization for all employees to respect the KML;</p> <p>The Election Law needs to be amended to be consistent with the KML.</p>	<p>Community visioning on membership;</p>		<p>Review composition and selection of the COE;</p> <p>Reflect traditional values and practices with procedural requirement of modern law in the KML;</p> <p>Formal communication network needs to be established with the MCK Membership Department for all areas involved with citizenship, border crossing, political actions and negotiations.</p> <p>Narrow existing and conflicting requirements of departments and services with membership requirements under the KML (e.g. land allotment, housing services, water & sewer services).</p>	<p>-Federal negotiations for agreement for us to continue as a people, as North American Indians and have reciprocal status though marriage;</p> <p>-The United States blood quantum requirements may threaten border crossing rights therefore agreements must be made so that the US border crossing needs will be aligned with our determination of membership;</p> <p>-Process, roles and responsibilities for the COE as a whole entity;</p> <p>Complete review of the COE – authorities, structure and administration;</p> <p>-Set up a working group to review the KML for amendment with the Interim Legislative Coordinating Committee and Community Decision Making Process;</p> <p>-Engage in federal government discussion with the goal of recognition of the jurisdiction of the KML;</p>

Kahnawà:ke Membership Law Project – Summary Report Data Tables

2008 Data Gathering Approach

Document Reference: **Organizational Development Services. (April 2008). Council of Elders Operational Review**
 Project Sponsor: Mohawk Council of Kahnawà:ke (without authority over project)
 Goal: Examine the framework the Council of Elders (COE) operates under and determine what fosters or impedes the COE alignment to the framework, and impacts and recommendations to improve operations.
 Timeframe: Five month in Winter-Spring – December 2007 to April 2008.

Table 1: 2008 Consultation Method Description

Methodology	Consultation Approach	Population Frame	Description : Target Population	Sample Population Interviewed	Communication Approaches
<p>Multi-method approach combining literature searches/reviews, interviews, audit and inventory of documentation related to COE operations.</p> <p><i>Planning & Research</i> Developed an information matrix/project framework, inventory/audit tools and interview questions for varied respondents; varied research activities to form opinion on issues – report Appendix C lists materials reviewed.</p> <p><i>Interviews</i> List of names compiled for random sampling for applicants group; Consent form designed with project information outlined; Validation of information carried out for respondent contact information, if documents and reference dates were up to date, and respondent reference to specific documents.</p> <p><i>Analysis</i></p> <p><i>Final Report</i></p>	<p>Qualitative and process oriented;</p> <p>Contact by phone to request participation. Interview conducted primarily one on one with one group formed upon request – participants signed a consent form.</p> <p>Confidentiality of identity of respondents was ensured with interview tool coding and storage in a secure location;</p> <p>Interview tool used for persons who are placed in categories.</p>	<p>Those involved in implementing the <i>Membership Law</i> and a sample of applicants who have gone through the KML process.</p>	<p>Council of Elders members (past and present),</p> <p>Elders involved in the development of the <i>Custom Code on Membership</i>,</p> <p>Membership Review Council,</p> <p>Chief & Council (past and current),</p> <p>Social Development Unit Membership Department Staff,</p> <p>Applicants under the KML, (granted/denied)</p> <p>Non-members residents, (granted)</p> <p>Key informants.</p>	<p>A total of 70 people were interviewed from these categories:</p> <p>29 Applicants 14 COE 13 Chief & Council 6 Membership Department Staff 3 Elders/custom code development 3 Key informants 2 Membership Review Council</p>	<p>MCK press release on November 8, 2007 with announcement of the project (terms of reference and description of Organizational Development Services);</p> <p>Community updates through the <i>Eastern Door</i> articles</p>

2008 Consultation Outcomes Summary

Document Reference: Organizational Development Services. (April 2008). Council of Elders Operational Review

Table 2: 2008 Consultation Outcomes

Outcome	Recommendations by Consultant Team	Respondent feedback translated into recommendations
<p>COE framework identified to be made up of 9 elements(structure, roles & responsibilities, policies & procedures, authority, relationships, tools, accountability, goals & objectives, training)</p> <p>Regulation # 3 identifies consensus but current process is described as voting. Quantitative data revealed of 61 respondents:</p> <ul style="list-style-type: none"> • 45% respondents chose “NO” to the COE making decision based on respect for principles of fairness/dignity of person/compassion/consistency with customs and traditions; • 43% chose “YES” to the COE making decision based on consensus; <p>Action oriented recommendations;</p> <p>Specific components to COE operations were described for selection, structure and authorities, competencies, training, roles/responsibilities/relationships, policies & procedures and areas for education and awareness.</p>	<ul style="list-style-type: none"> • Conclude appointments of the current COE members; • Methods for accountability mechanisms, mandate fulfillment evaluation and methods for intervention be developed before enacting the next COE appointments; • Develop a comprehensive framework using the 9 elements identified in the report to support the COE operations and ensure the COE has the tools, resources, competencies and training necessary to carry out their work; • Ensure an appeal process with authority to change COE decisions be developed and one that screens appeals for validity and reviews COE decisions; • Develop a process to remove COE members to be less burdensome and more comparable to the one that selects the COE. • Reduce the number of COE members or restructure into work groupings. 	<ul style="list-style-type: none"> • Examine factors identified in the report that contributed to COE member turnover frequency and identify responses solutions; • Provide conflict resolution training workshops for all involved in the process and administration of the KML using practical examples for learning experience; • Ensure an application package includes description of COE process and applicant expectations – a resource sheet with the same information needs to be presented and available for Membership Department support and administrative employees so that questions from potential applicants may be addressed with accurate and consistent information; • The backlog of applications require clear work plans to avoid the COE being overwhelmed (KML outlines clearly the membership status of a person is handled by the Membership Registrar and not the COE). Work distribution must be carried out with clear indicators for work load distribution; • A historical presentation of the evolution of membership in Kahnawà:ke is necessary for the COE members as background reference and base knowledge; • Collaborative work projects that involve COE, MCK and Membership Department staff will assist in the development of collaborative relationship necessary for long-term function of KML process; • Need a law that can be enforced with defined consequence that is supported by the community and community organizations;

Action Outcomes Identified from 2008 Consultation Feedback

Document Reference: Organizational Development Services. (April 2008). Council of Elders Operational Review

Table 3a: 2008 Consultation Feedback Needs

Implementation Needs	Communication Needs	Community Needs	Process-/Structure Needs
<ul style="list-style-type: none"> • Clearly identify the supervisor of the Membership Registrar (COE or SDU Director) • Clarify who is responsible for the COE orientation and who will structure the orientation to include discussion of the KML preamble to ensure understanding and establish frequency of re-orientation of current COE members; • Training/evaluation of operations(tools, processes, recruitment); • Establish COE decision correspondence with applicant by telephone first then with written correspondence; • Provide clear criteria that determines membership using lineage/ancestry with little room for subjective interpretation by COE members or others – use a checklist with rationale for each criterion. Include a list of appropriate questions to ask the applicant; • Organize mock hearings to assist in selection of appropriate venues to conduct hearings that is more welcoming – consider circle seating set-up to offer a more equalling atmosphere; • A COE member recruitment information package is necessary to be organized so that interested people can complete a self questionnaire to suitability for the roles and responsibilities of a COE member. A skill/experience list is necessary for self evaluation for this position; 	<ul style="list-style-type: none"> • Establish recurring task of informing the community of meeting outcome and new community members, to promote transparency and trust by the community; • An annual public relations plan is required to be developed in collaboration with the COE and administrative employees of the Membership Department using resources of the MCK; 	<ul style="list-style-type: none"> • Consultation in on law development focused on elder population – youth populations needs to be included. • Evident is a weak community sense of the ownership of the law and lack of understanding of the KML– this needs to be addressed; • Gather feedback to determine the definition of an Elder to sit on the COE; • Actions that create a forum for community discussion of fears related to the erosion of culture, language and bloodlines with new members being accepted – reinforce that non-native ancestry is part of the fabric of our population and history; 	<ul style="list-style-type: none"> • More detail needed in KML for roles and responsibilities (MCK-COE/Registrar-COE); • Identify alternative for consistency to a rotating chairperson and presiding Elder; • Further develop the responsibilities/tasks of the COE secretary and the recording secretary, presiding Elder and treasurer; • Address the COE overturning decision within the realm of the Membership Registrar; • Perform an inventory and comparison of roles & responsibilities of the Registrar’s Office and the COE; • Ensure a process for informing those who need to travel for a hearing exists when a meeting will not occur as planned – a process to contact COE at least 3 days prior to a hearing to confirm quorum is necessary; • Provide clear procedures for preparation for hearing/expectations by COE members; • Establish a process that determines/validates lineage of other Nations; • Selection of COE members should not be conducted in a public forum. Consider an election process as is the process of community boards; • Ensure a process of COE staggering of seats is established with clear duration of terms identified; • Establish an evaluation process for COE to ensure active participation – accountability measures and consequences that includes dismissal if not meeting responsibilities; • Write with improved clarity the definition for ancestor/acceptable proof/lineage /consensus/community ties or remove the definition;

Action Outcomes Identified from Consultation Feedback

Document Reference: Organizational Development Services. (April 2008). Council of Elders Operational Review

Table 3b: 2008 Consultation Feedback Needs

Implementation Needs	Communication Needs	Community Needs	Process/-Structure Needs
<ul style="list-style-type: none"> • Develop visual tools (flowcharts/diagrams) to enhance understanding of the processes to implement the KML and a standardized process to seek a clan. 		<ul style="list-style-type: none"> • Discussion/education session on entitlements using a list and how community resources can be shared (or not). • Discussion/presentation forums to address the Indian Act and its impacts on the community and membership perceptions and beliefs to assist in the move away from blood quantum thinking. 	<ul style="list-style-type: none"> • Regulations, work procedures, orientation, tools, training be established and prepared for incoming COE members who will not be expected to develop these but expected to recommend to an administrative body any amendments to improve effectiveness and efficiency; • Description with practical examples for principles of fairness, dignity of a person, positive contributions to the community; • Establish documentation requirements and processes that identify responsibilities for applications, correspondence and recording decisions; • Structure an appeal process for applicants; • Remove reference to International Human rights principles in the preamble of the KML – this is not a law for all people-consider extraction of relevant principles for our own purposes of the KML.

A 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 Kahnawa'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.

A Review of the Kahnawá:ke Membership Law

Table of Contents

1.0 Introduction

2.0 Membership Environment

2.1 Overview

- 2.1.1 The Indian Register and Indian Status
- 2.1.2 Bill C-31
- 2.1.3 Kahnawá:ke's Custom Code
- 2.1.4 Kahnawake Moratorium and Mohawk Law
- 2.1.5 Kahnawake Membership Law
- 2.1.6 Kahnawá:ke Kanien'kehá:ka Registry
- 2.1.7 Amendments

2.2 Administration

- 2.2.1 History of the Kahnawake Membership Department
- 2.2.2 Provision of Services
- 2.2.3 Status Cards
- 2.2.4 Affiliated Individuals Project
- 2.2.5 Automated Services
- 2.2.6 Added Security Features

2.3 Processes

- 2.3.1 INAC Status
- 2.3.2 Kahnawá:ke Kanien'kehá:ka Registry Status
- 2.3.3 Options for Traditional Persons
- 2.3.4 Instatement/reinstatement

3.0 Issues and Concerns

3.1 Specific Elements of the Law

- 3.1.1 Enforcement
- 3.1.2 Members Who Are Not Status Indians
- 3.1.3 Beneficiaries
- 3.1.4 Inconsistency Between Native Communities' Membership Requirements

3.2 Council Of Elders

- 3.2.1 Issues with the Actions and Decisions of the Council of Elders
- 3.2.2 Lack of Redress Regarding Decisions of the Council of Elders
- 3.2.3 Legal Representation
- 3.2.4 Working Relationship Between COE and the Membership Department
- 3.2.5 Lack of Transparency

3.3 Community Issues

- 3.3.1 Blood Quantum
- 3.3.2 Kahnawa'kehró:non vs. Kanien'kehá:ka
- 3.3.3 Clan Identification

3.4 Inter-Community Issues

- 3.4.1 Citizenship vs. Membership
- 3.4.2 Blood Quantum and Border Crossing

4.0 Conclusions and Recommendations

4.1 Specific Conclusions

- 4.1.1 Enforcement
- 4.1.2 Members Who Are Not Status Indians
- 4.1.3 Council Of Elders
- 4.1.4 Interpretation Issues
- 4.1.5 Citizenship Issues

4.2 General Conclusion

4.3 Recommendations

Appendices

- A. Statistics**
- B. Detailed History of Membership**
- C. Iroquois Caucus Citizenship Project**

A Review Of the Kahnawá:ke Membership Law

Prepared by: Membership Department
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October 2007

A Review of the Kahnawá:ke Membership Law

1.0 Introduction

The Kahnawá:ke Membership Law was enacted in 2003 with the hope of creating a new way of approaching Membership in our community. This was another step in Kahnawá:ke's evolution regarding membership. This evolution has not progressed rapidly, as proven by a passing of twenty-one years since the Moratorium of 1981, instead it has taken a slower approach to build understanding in our community. The Law was intended to focus less on blood quantum and address the eligibility of those who could be members and/or reside in the community through an increased emphasis on the rebuilding of their ancestry and family ties. It is a way of thinking that will develop our community for the future and, as the law is malleable, will be able to adjust to our changing needs.

In order to better serve the community, the Membership Department has drafted this review of the Kahnawá:ke Membership Law. Although amendments have already been made to the Law, it was felt by many that the Law should not be amended and only assessed after a period of a few years to allow it "some time to breathe". The need for the amendments was obvious and therefore did not require a full assessment of the Law before being drafted and passed. Since the law has been in existence for over three full years, it is 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 is Part 1 of the review. It provides an overview of the Membership situation, highlights specific issues and provides recommendations for improvement. It is divided into four major sections. Following this introductory section is a description of the environment surrounding Membership. This section provides an overview of Canada and Kahnawá:ke's membership structures including the administrative processes of the Membership Department. The third section highlights the major concerns and issues that have risen during the time period that this law has been in effect. The final section recommends future actions addressing these issues and concerns. There are also 3 appendices attached to this report. Appendix A provides a summary of key statistical information. Appendix B provides a detailed history of the membership issue in both Kahnawá:ke and Canada. Appendix C provides information on the Citizenship Initiative proposed by the Iroquois Caucus.

2.0 Membership Environment

2.1 Overview

There has always been confusion when it comes to the difference between Status Indians as defined by the Indian Act and administered by Indian and Northern Affairs Canada (INAC) and membership under Kahnawá:ke Law. Further, a misunderstanding of the difference between the Kahnawá:ke Kanien'kehá:ka Registry and the Indian Act Registry (INAC Listing) underscores this confusion. Individuals often do not know the difference between the two.

For example, many members assume that if a person is not on the Kahnawá:ke Kanien'kehá:ka Registry (formerly Mohawk Registry) then the individual must be a C-31 (one who received Indian Status under Bill C-31 of the Indian Act – which was passed in 1985 and addressed inequities in the Indian Act towards Native Women – see section 2.1.2). Or, when a member sees an individual they do not know using a band card at a shopping center for tax exemption they often assume that the person is non-Indian and should not have a card.

The following introduces to the environment surrounding membership and will help explain the difference between some of the processes, terms and activities associated with Indian Status and First Nation Membership in both Kahnawá:ke and Canada.

2.1.1 The Indian Register and Indian Status

The Indian Register is a confidential listing of all persons who are registered as Indians in Canada in accordance with the Indian Act (and classified as Status Indians). An individual must meet eligibility guidelines to be registered. Generally, before 1985, both parents were required to be Status Indians. Since then, one parent must hold full status.

Dates of marriage and gender play a large factor in the registration of individuals to the Indian Act. There are some instances where several generations of a family are able to register after having been away from the community, and after having married non-Indians during those generations. These families are the sons, grandsons and great-grandsons of men who left the community and were born prior to April 17, 1985. The non-native spouses of these men would acquire Indian Status, thus enabling their children to hold full status. An applicant in these circumstances is usually added to INAC's Kahnawá:ke listing as per INAC Policy, which attempts to place all Status Indians on a specific First Nation Community's listing. Although there is a "General" list under the INAC system, it is intended specifically for those enfranchised prior to 1951 for living away from the community for more than 5 years or those who have two community affiliations and are placed on the list until they make the decision of which community they would like to be registered.

This has caused confusion as Kahnawá:ke is in the unique position of never seeking approval from Canada for its membership law. This has created two disagreeing lists. For INAC, the guidelines of the Indian Act still apply in Kahnawá:ke. Therefore, Status Indians with affiliation to Kahnawá:ke are automatically placed on Kahnawá:ke's list.

2.1.2 Bill C-31

Bill C-31 was an Act to amend the Indian Act. On June 28, 1985, Parliament passed Bill C-31 to assure equality in the treatment of Indian women and their children. Before Bill C-31, Indian women who married non-Indian men were removed from Canada's Registry while non-Indian women who married Indian men were registered as status Indians and given all services and benefits through Department of Indian Affairs and the community. There were a few fundamental Principles to Bill C-31. They were to ensure that:

- Indian women were reinstated to the INAC Registry as well as their children (first generation only).
- INAC stopped giving non-Indian women acquired status through marriage to Indian men.
- Membership rights be restored to persons who lost them through enfranchisement.
- Indian bands have the right to control their own membership, if the Minister of Indian Affairs approves their Membership Code, and if they accepted all those who previously held status with their community.

In addition, at this point, the same eligibility criteria were now used to determine if a person was eligible for status regardless whether that individual was from a male or female line of descent.

Recently, the British Columbia Supreme Court made a decision (McIvor) that decided that Bill C-31 did not go far enough in reinstating the rights of women. It agreed with the argument that the line of descent should also include that of the mother but faulted Bill C-31's lack of fully addressing this situation. They determined that when Bill C-31 was applied, the eligibility criteria still prejudiced women because when they were applied to the historical female lines of descent, they stopped after the first generation of a woman who had lost status. This was not done when applied to the historical male lines of descent in the same situation

The area of concern for membership will be the reaction of the Federal Government. It can be assumed that they will appeal this decision. But, if the decision holds, the question remains as to whether it invalidates the law (Bill C-31) and to what extent will corrective measures be taken. The date utilized in any corrective measures will determine the extent of the numbers that will be added as Status Indians.

2.1.3 Kahnawá:ke's Custom Code

The Custom Code was developed within the community. It is unclear where the custom originated but it is very similar to the Indian Act's short-lived double mother clause. The

only real difference is that the Custom Code removes families from the community if there has been intermarriage to a non-Indian for two generations in a row. Gender does not play a role. The code identifies that individuals who were born of a native parent and a non-native parent could not be entitled to be a Kanien'kehá:ka at birth. It was only in their choice of a spouse, or their way of life that they may be able to be considered for membership. Their children may be born Kanien'kehá:ka but only if the child's other parent was born Kanien'kehá:ka. If both parents were half then the child would have to wait to see if they would want to be part of the community by marrying Onhkwehonwe. If there had been non-native lineage for two generations in a row then the person is no longer considered Kanien'kehá:ka, and a clan, if any, could be lost.

This code seems to have only applied to the women, as there is evidence in the community that this practice had little or no affect on the men's choices. In addition, this code had no impact upon an individual's rights to receive benefits under the Indian Act.

2.1.4 Kahnawá:ke Moratorium and Mohawk Law

On May 22, 1981, a moratorium was placed on all intermarriages to non-Indians and the adoption of non-Indians. Any Mohawk of Kahnawá:ke, male or female who married, co-habitated, or lived in a common-law relationship with a non-Indian, was deprived of benefits and privileges that derive from the Kahnawá:ke Mohawk Territory. After 1984's Mohawk Law, persons who were to be added to the Mohawk Registry had to meet the 50% blood quantum requirement to be considered. If individuals were not on the Mohawk Registry and wanted to be added they had to be accepted through a community meeting. Some children who did not meet the blood quantum but fell within a gray area of having a blood quantum between 45 to 49% were able to become Beneficiaries, thus entitling them to all services in the community until the age of eighteen. The authority of this moratorium was limited to denying those benefits and privileges that derive from the Mohawk Council of Kahnawá:ke such as receiving a land allotment and voting or running in community elections. An individual's rights to receive other benefits under the Indian Act such as medical services and education were only slightly affected by this moratorium. These services were still acquired from organizations independent of the MCK or located off-reserve. Often, such as with education, these individuals received more funding than those on the Mohawk Registry.

2.1.5 Kahnawá:ke Membership Law

The Kahnawá:ke Membership Law was enacted in 2003 and replaced the 1984 Mohawk Law. The Membership Law was intended to focus less on blood quantum and address the eligibility of those who could be members and/or reside in the community through an increased emphasis on the rebuilding of their ancestry and family ties. It was much more specific than the Moratorium with the inclusion of detailed clauses spelling out the requirements for memberships under different circumstances. It also included the formation of Council of Elders and a Membership Review Council to act as a decision board in weighing the eligibility of applicants for membership under the law. The

Council of Elders, and Membership Review Council, was selected on May 15, 2004 and work to educate the Elders on the Kahnawá:ke Membership Law began.

2.1.6 Kahnawá:ke Kanien'kehá:ka Registry

The Mohawk Registry was renamed the Kahnawá:ke Kanien'kehá:ka Registry with the enactment of the Kahnawá:ke Membership Law. The Mohawk Registry was created in 1981 (as a working tool of the Moratorium) and held the names of all people who were registered with Canada at that time. After that point any person who married a non-native would be removed from the Registry once it was made known to the Membership Department. Additions to the Mohawk Registry had to meet a 50% blood quantum percentage requirement.

On September 27th, 2004 the Kahnawá:ke Membership Law came into force and the Mohawk Registry was separated into different categories and renamed. Those who had native lineage and were on the Mohawk Registry became Members regardless of their meeting the criteria of a Member or not. Those who had Acquired Status were to be automatically placed on the Non-Member Resident list, but that only occurred after the passing of amendments in 2007. This applied to Acquired Status Women whose marriages were still intact or widows who still reside in the community. Beneficiaries were either confirmed as Members, if they met the criteria, or remain Beneficiaries until they reach the age of 18. If a beneficiary does not meet the criteria they will have to apply to the Council of Elders.

2.1.7 Amendments

The amendment process is an integral part of the Kahnawá:ke Membership Law. It ensures that the community, the Elders or Chief and Council can invite change and if the community is willing, can implement that change. The problem with the past law was that there was no room to grow.

While orienting the Council of Elders to the Kahnawá:ke Membership Law it became apparent that the Elders wanted to amend sections of the law prior to it coming into force. The Council of Elders went line by line and could foresee that there would be problems with its application. Through great discussion and debate the Council of Elders proposed 12 amendments.

In addition to the amendments and providing support to the Council of Elders the Membership Department was concerned about the possible impacts to the community. It became obvious that what was needed was an Impact Analysis and User Fee Study. The planning and preparation for the Kahnawá:ke Membership Law had not gone so far as to plan for the inclusion of new community members or non-member residents. CESO (Canadian Executive Service Organization) was contacted and contracted to complete these studies so that the MCK, as well as the other organizations within our community, were properly prepared to meet increasing needs. It was always assumed that the entire listing of Non-Members would be applying to the Kahnawá:ke Kanien'kehá:ka Registry.

Membership Department
Mohawk Council of Kahnawá:ke

Social Development Unit
October, 2007

With the listing as it was in 2003 it was estimated that there would be 9 years of 5 people per hearing and 2 hearings per week for a total of 77 meetings per year. The estimate has not met that realization and to date approximately 200 people have applied to the Council of Elders.

There are MCK policies that need to be amended to reflect changing Membership criteria. The Membership Law has been in place for two-years and there are conflicting requirements between Membership, Land Allotment, Housing services and Water and Sewer.

2.2 Administration

2.2.1 History of the Kahnawá:ke Membership Department

The Membership Department has been in existence since the early 1970's. At that time, there was one employee that administered an Indian Act process. This process shifted with the passing of the 1981 Moratorium. The passing of Mohawk Law in 1984 created the Membership Registry introducing blood quantum as a major criterion. In the late 1980's, 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 Membership Law. In 2004, the implementation of the Membership Law finalized the current composition of 4 employees by creating the position of Registrar.

2.2.2 Provision of Services

According to the Indian Act, a registered or status Indian is entitled to all services and benefits provided by INAC. This includes, receiving status cards, housing, education, 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 Kahnawá:ke Laws, only individuals on the Kahnawá:ke Kanien'kehá:ka 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, and own and operate a business. Status cards are only issued from the Membership Department to Members on the Kahnawá:ke Kanien'kehá:ka Registry. Individuals who are on the INAC Registry and not on the Kahnawá:ke Kanien'kehá:ka Registry are not entitled to services such as housing, education, land allotment, water & sewer, or voting.

2.2.3 Status Cards

There is a wide misconception when it comes to status cards. People believe that it is only Kahnawá:ke who obtains status cards, however, these cards are issued to over 500 Indian bands across Canada. The cards are all the same in color and size. INAC has recently begun issuing hard cards, which can only be obtained through INAC in Ottawa and at a few service centers. The Membership Department only issues cards to

individuals on the Kahnawá:ke Kanien'kehá:ka Registry. All other individuals receive their cards through INAC directly, at Lands and Estates, or the nearest service center to them.

2.2.4 Affiliated Individuals Project

A project was begun in the beginning of 2006, to contact all individuals who live off reserve and determine their affiliation with the community. This information would prove valuable if contact was required for consultation purposes. As well, it would enable the Membership Department to better calculate potential impacts on community membership statistics.

The Membership Department asked the community to contact our office and provide information in order to reach these individuals. We have been able to contact at least two thirds of these individuals and have found that for the first thousand people contacted there were a thousand more who were their descendants. Not all of these descendants are eligible as per Canada's requirements to be registered as Indians with status in Canada. Another interesting note was that when we contacted individuals with close contact with the community they were very suspicious of our motives. Those that were contacted with little or no contact with the community were more than happy to assist us in any way possible.

2.2.5 Automated services

The Membership Department works with Information Systems on the automation of the Kahnawá:ke Kanien'kehá:ka Registry. It is an ever-evolving database tailored to the needs of the Membership Department and the gathering of information for our community. All entries made onto this system strictly are entered according to the established documentation. With the importance of the information we are recording there is little room for error.

2.2.6 Added Security Features

There was a need to add security features to the documentation that the Membership Department provides. It was observed that some individuals were requiring letters of identification repeatedly and there was suspicion that the documents were being misused. Information Systems was requested to add a feature to the database and assisted on a moment's notice. It was requested that the photo of the individual be included on our records. This allows the Membership Department to know who an individual is in the event that the individual is unfamiliar. Their photo is embedded onto the letter being requested. After the incorporation of this security feature we noticed a sharp decrease in the suspicious activity and felt re-assured that we were protecting the integrity of our documents and credibility.

2.3 Processes

2.3.1 INAC Status

Every individual who holds a Registry Number is listed on the INAC Registry. To obtain a number, a person must meet the criteria of the Indian Act to be registered and **only Department of Indian Affairs can authorize the issuance of a Registry Number and Status Card.** Once registered, an individual is considered a Status Indian with a registry number and is entitled to benefits covered by the Department of Indian Affairs or National Health & Welfare. An individual has three options to be registered by INAC. They can either be registered through the:

- Kahnawá:ke Membership Department, or the
- Kahnawá:ke Service Center (Lands & Estates), or by going directly through
- INAC in person or through mail.

If an individual is registered on the INAC Registry other than through our office, it is determined whether or not that individual will go on the Kahnawá:ke Kanien'kehá:ka Registry when we receive notification from INAC. This is determined by applying the rules and regulations of the Kahnawá:ke Membership Law to the individual.

2.3.2 Kahnawá:ke Kanien'kehá:ka Registry Status

When an individual brings their documentation to the Membership Department they are submitting requests to two different entities. They are requesting to be registered as an Indian in Canada as well as a Kanien'kehá:ka in Kahnawá:ke.

It is then determined whether or not they meet the criteria set in the Kahnawá:ke Membership Law be a Member through section 10 or if they will be a non-member. Once it is determined an individual meets the criteria that individual is put on the Kahnawá:ke Kanien'kehá:ka Registry and they are entitled to all services and benefits provided by the Mohawk Council of Kahnawá:ke. These additions are the responsibility of the Membership Registrar and all decisions made are subject to the review of the Council of Elders who maintains the inclusions or removals from the Kahnawá:ke Kanien'kehá:ka Registry.

Depending on age and circumstances, a person who does not meet the criteria to be automatically placed on the Kahnawá:ke Kanien'kehá:ka Registry may apply to the Council of Elders to become a member or non-member resident.

2.3.3 Options For Traditional Persons

Individuals who are eligible to be registered have three options. They can register only with Kahnawá:ke, or they can register with Kahnawá:ke and Canada or they can register with Kahnawá:ke and Health and Welfare.

Traditional people have the option of using a locally issued traditional birth certificate or Quebec birth certificate if they plan on registering with Kahnawá:ke and Health and Welfare. If they plan on registering with Canada for a status number, then the Traditional birth certificate must be issued from the Mohawk Nation Council of Chiefs who has an agreement for acceptance of their documentation.

2.3.4 Instatement/Reinstatement

When individuals talk about instatement and reinstatement, it is often assumed that it is with Kahnawá:ke at the community level. However, there are two levels of instatement and reinstatement. Women who lost their status upon their marriage to a non-Native are reinstated at the INAC level (to regain status) through Bill C-31. Their children, who never had status, are instated (gain status) through Bill C-31. These individuals must also apply under the Kahnawá:ke Membership Law if they wish to be instated on the Kahnawá:ke Kanien'kehá:ka Registry.

Many individuals tend to assume that when an individual is not on the Kahnawá:ke Kanien'kehá:ka Registry, they are automatically a "C-31". This is not the case, there are many reasons why a person is removed or not put on the Kahnawá:ke Kanien'kehá:ka Registry. A reason why a person would have been removed could be due to marrying a non-Indian, male or female after the Moratorium of 1981. Once a person is removed, children born of that union would also not be eligible to be put on the Kahnawá:ke Kanien'kehá:ka Registry. They would be classified as affected by the Moratorium. As mentioned earlier in the report, the children born of a common-law relationship between a member and a non-Indian would allow the child to become a Beneficiary and eligible to services until the age of eighteen.

There are also many individuals who simply do not meet the criteria of having four or more great grandparents. Others are individuals who are married to non-Indians after 1981 and their marriages are still intact, and children who were adopted (either they are non-Indian or do not meet the criteria of establishing Kanien'keha/Indigenous lineage).

Individuals who lost their status through marriage after the Moratorium, and have ceased their relationship, can apply for reinstatement to the Kahnawá:ke Kanien'kehá:ka Registry through the Council of Elders. As well, others who have never been on the Registry can apply for instatement.

3.0 Issues and Concerns

The following section discusses some of the issues and concerns that have surfaced regarding Membership and the Kahnawá:ke Membership Law and is divided into four parts. The first part pertains to specific elements of the law. In other words, these are issues that arise from specific clauses or definitions in the law. The second part highlights issues associated with the workings of the Council of Elders. The third part identifies other issues that have arisen within the community related to the law. The fourth identifies issues that affect inter-community parameters and address the concept of citizenship as well as the area of membership.

3.1 SPECIFIC ELEMENTS OF THE LAW

3.1.1 Enforcement

The Kahnawá:ke Membership Law currently cannot be fully implemented without addressing the enforcement issue. The Law clearly states that the Kahnawá:ke Peacekeepers are the sole authority to enforce this law and that the Court of Kahnawá:ke has the sole jurisdiction to hear and decide offences (Section 27). The main problem at this time is the lack of authority at the Court of Kahnawá:ke. Without this authority, the Peacekeepers have no venue where charges can be filed and heard. In the spring of 2004, a mandate was given to Legal Services to establish a stand alone Court of Kahnawá:ke. This is still in process and it is currently with the Justice Commission.

If this court were to be established, there would be a great deal more movement on the Membership file at Council and there would be a great deal of pressure placed on the Chiefs to defend the right of the community to have created such a Law, as well as all Mohawk Laws. Theoretically, individuals who live on the territory without being listed as a member, or a non-member resident, could be charged with an offence and face a fine and/or imprisonment.

In addition, Non-Member Residents are not permitted by the Law to hold property in their name, as they are eligible for the services of residency but nothing else. Again, theoretically, Non-Member Residents who own property would be in violation of the law and their permission to reside in the community could be revoked. Enforcement actions taken against these individuals could be of a legal nature such as eviction or arrest or of a financial nature such as the levying of fines. Also, theoretically, members who co-habitate with or rent accommodations to non-members would face suspensions from the Kahnawá:ke Kanien'kehá:ka Registry..

One of the major issues that complicate the enforcement of the law is that many non-member residents are also Status Indians with Kahnawá:ke cited as their home community. Enforcement actions taken against these individuals could result in legal

actions taken against the MCK and potentially have financial consequences for the community.

3.1.2 Members Who Are Not Status Indians

Under the Membership Law, it is possible to attain membership but not qualify as a Status Indian of Canada. Sections of the law require that the spouse be Onkwewehonwe regardless of which side of the border they come from. This situation, although minimal in number at present, could have negative repercussions in the future.

A prime example of the future is evidenced through one family's status. A woman who married an American Indian had a child with half rights because only one parent has status. Then the child marries a Native American and has their child who has no right under the Indian Act to gain Indian Status despite the possibility of having full lineage. This type of situation is only going to increase in the future. If the family in question chooses to reside in Kahnawá:ke they could be Members on the Kahnawá:ke Kanien'kehá:ka Registry and only have the rights of a regular Canadian citizen.

In the past there were agreements with local Service Canada (through letters from the Membership Department) so that individuals without status (for whatever reason) would be addressed such as the "B" list for access to Health Benefits. A similar arrangement had been made for services such as the Social Insurance Number or Driver's License. Today, due to the changes of government policy it would be impossible for a Native American or a "B" list individual born in the United States, who is a Member of Kahnawá:ke to access a SIN or Health Card without an immigration document or a Certificate of Indian Status (Status Card). In some cases, such as Health, holding the actual Status Card is not required but meeting the qualifications for status must still be shown.

3.1.3 Beneficiaries

As indicated earlier in this report there was a status that was not provided for in the implementation of the Kahnawá:ke Membership Law. This applies to children who were designated with the status of beneficiary and are to receive the benefits of a Member until the age of 18. These children do not meet the current criteria to be a Member but their previous status will remain until they reach the age of majority. At such time they will have to make their application to the Council of Elders. The last child listed as beneficiary will reach the age of 18 in 2018.

The real problem in the Beneficiary designation is the result of differing opinions in the satisfying of criteria pertaining to lineage. Children who are seen as Beneficiaries and who meet the entitlements were placed as Members on the registry by the Registrar. Since the COE review all decisions, some of these children who met the requirements have had their decision overturned. Since originally these children were to be served as Members until the age of majority they have had to be brought back to the Beneficiary

list and will remain on that list until they reach the age of 18 and then they will have to apply to the COE table.

3.1.4 Inconsistency Between Native Communities' Membership Requirements

When it comes to lineage it appears that we are the most difficult on our own people. Other communities send their lineage information to our attention for the purposes of registering children in our community. In these cases, their method of calculating lineage and/or membership is accepted at face value. Theoretically, the lineage may be decidedly weaker than that used in Kahnawá:ke but consideration can be assessed only on the information given. This provides for an inconsistency in the law.

3.2 COUNCIL OF ELDERS

3.2.1 Issues with the Actions and Decisions of the Council of Elders

One very sensitive issue that must be noted and addressed is the inconsistent treatment of applicants by the Council of Elders. Numerous complaints have been received by the Membership Department from community members regarding the decisions of the Council of Elders as well as their conduct during hearings. The type of inconsistencies displayed is best illustrated by those instances where siblings have seen conflicting results. For one sibling, the lineage is accepted as sufficient yet for another with the same lineage, it is not. This has led to allegations of bias and favoritism.

Complaints by community members regarding conduct include assertions of unnecessary prying into personal lives as well as dismissive treatment and harmful statements made during hearings.

In addition, many community members insist that the real reasons for unfavorable decisions are not publicly stated. For example, the published reason may state a reason such as "no connection to the community or culture" while the applicant insists that this is obviously untrue and that the unstated reason "is personal history such as troubles in their past.

The lack of enforcement of the Kahnawá:ke Membership Law has caused a breakdown of confidence from the Council of Elders. The Council of Elders is now hesitant to include new members since there is no possibility of removing the individuals from the Kahnawá:ke Kanien'kehá:ka Registry. The Council of Elders have been reminded that this is not within their mandate but they feel an obligation to the community not to allow further erosion of our culture and bloodlines.

As a result of the issues cited, community confidence in the Council of Elders seems to be at a low point. One of the problems with community confidence can be traced to the fact that the Council of Elders is answerable to the community but at no point have they responded to community pressure. As well, instructions given to them by the

Membership Review Council regarding specific decisions have not been taken into consideration in any tangible way.

3.2.2 Lack of Redress Regarding Decisions of the Council of Elders

A follow-up issue that has surfaced regarding decisions by the Council of Elders is the lack of any meaningful redress mechanism in the Law regarding decisions made by the Council of Elders. Individuals are accustomed to having a venue for appeals to be made where a separate body has the authority to overturn decisions that the individual feels were made in error. This applies in most aspects of society from decisions made in Courts of Law to decisions made in the workplace by a supervisor. As indicated previously, the Membership Review Council is enacted by the Law to act as a redress mechanism but have no real authority to overturn decisions. They have the authority to provide instructions to the Council of Elders for re-consideration only.

When this situation is combined with the issues that the community members have had with decisions made by the Council of Elders, the level of frustration and dissatisfaction within the community has increased. It is possible that the Court of Kahnawá:ke could be a solution in this case. This must be explored in more detail considering the current limits of the Court of Kahnawake's authority.

3.2.3 Legal Representation

The Council of Elders has its own legal representation for drafting and assessing decisions. Yet, the MCK legal representatives are utilized for assisting in future development and drafting of amendments or interpretations of the law. This raises the question as to why there is separate representation from MCK. This is especially relevant when MCK must defend the Law and the Council of Elders in court actions. It would seem more appropriate to have the same representation (MCK Legal) for all activities.

3.2.4 Working Relationship Between the Council of Elders and the Membership Department

The working relationship between the Council of Elders and the Membership Department has deteriorated as a result of many of the instances cited above as well as a lack of clarity within the law to their respective roles and responsibilities including that of the Registrar.

Process related questions are being asked by the Council of Elders as to how the Membership Department and the Registrar evaluate individuals and that all interpretations should be more in line with the Council of Elders' interpretations (for example, the definition of a Kanien'kehá:ka great-grandparent).

There is also a lack of clarity regarding the perceived role of the Membership Registrar relating to Section 10 Membership Entitlements. The COE is also questioning the rationale of having a Council of Elders with 15 individuals to decide on applications

when the additions of individuals per section 10 of the law (primarily children and those who are registering late) is decided upon by one individual (the Registrar).

Administrative questions are also being asked. The Council of Elders want to know what the scope of responsibilities is for the recording secretary in the drafting of key documents, the responsibilities of the Membership Registrar as well as the Director of the Social Development Unit.

3.2.5 Lack Of Transparency

Through decisions made by the Council of Elders, a lack of transparency and accountability has become an issue at this table. The COE has decided to operate in a manner that leaves no record of their discussions regarding an individual's application. During these discussions, the recorder is turned off and the Membership Registrar and Recording Secretary are asked to leave the room. Once their discussion is ended, the Recording Secretary is asked to return to record their decision and reasons for Schedule "A" of the decision document. The discussion is lost for further reference by the Secretary to the Council of Elders and reasons taken into consideration during the discussion is not recorded.

This process along with the concern expressed by many community members that the real reasons for unfavorable decisions are not publicly stated has created an environment lacking in transparency and accountability.

3.3 COMMUNITY ISSUES

3.3.1 Blood Quantum

The issue of blood quantum has surfaced as part of the deliberations by the Council of Elders. Many of the clauses regarding Membership include in its criteria the following stipulation: "has four (4) or more Kanien'kehá:ka great-grandparents". While the Law does not specify blood quantum, there has been an insistence by the Council of Elders of inserting the word "full" when interpreting this clause. The insertion of this term has therefore dictated a blood quantum consideration, which has also led to much confusion, frustration and dissatisfaction within the community.

3.3.2 Kahnawa'kehró:non vs. Kanien'kehá:ka

A confusing aspect that has surfaced in interpretations of the law by either community members or the Council of Elders is the concept of Kahnawa'kehró:non (someone from Kahnawá:ke) vs. Kanien'kehá:ka (someone from the Mohawk Nation). Theoretically, the law deals with Membership which many interpret as identifying someone who is Kahnawa'kehró:non. Technically, the law usually cites Kanien'kehá:ka which implies we are dealing with a member of the Mohawk Nation. Often, the two terms cannot be reconciled within one individual.

Historically, there were many people who were absorbed into our social fabric. As a community we always adopted and incorporated to keep our numbers up. We have to remember that today when there are issues with the lineage of their great grandchildren. People we adopted are no longer being considered Kanien'kehá:ka. They would, without a doubt, be considered Kahnawa'kehró:non but not Kanien'kehá:ka.

Therefore, some (either COE members, Chief and Council and/or community members) interpret a person as qualifying for membership because they are clearly Kahnawa'kehró:non or, in other words, someone from Kahnawá:ke. While others (from these same groups) interpret that same person as not qualifying because they are not Kanien'kehá:ka. This has led to further confusion in the administration of the law. This issue is further explored in the next section, which discusses the issue of citizenship vs. membership.

3.3.3 Clan Identification

Clan identification has also been cited by many as a possible solution but taken within the historic origins of Kahnawá:ke, it presents new problems for membership especially when utilizing the criterion of being Kanien'kehá:ka. There are individuals that still carry a clan but have not been part of the community for generations. As well, there are people living in the community with excellent blood quantum and lineage but no clan affiliation.

As a community it must be acknowledged that we originate from many people. At the turn of the 1900's we were 22 different Indian Nations living in one community. Until the 1950's we were the Iroquois of Kahnawá:ke. At some point, the community's thinking changed to identifying ourselves as Kanien'kehá:ka. The traditional clans of the Kanien'kehá:ka (Mohawk) are turtle, bear and wolf. Yet, because of our origins, we have many community members born to a clan different from these. For example, the person responsible for the Haudenosaunee cards and passports has stated that the Snipes of Kahnawá:ke would be listed as Onondagas if ever applying for that identification.

3.4 INTER-COMMUNITY ISSUES

3.4.1 Citizenship vs. Membership

Citizenship is being discussed a great deal. It is viewed by many as the answer to the problems of the Membership Law. Usually, Citizenship is viewed as something different than Membership. Membership is about accessing services in the community. Citizenship is not necessarily tied to services.

A person who is not a Member could be a Mohawk affiliated with the community. Many insist that the Membership debate is a nation building exercise. The argument often cited is that it should be less about entitlement to services and more about identity and culture and survival. In this argument, the Mohawk affiliated to the community but not a member, could be perceived as a Citizen.

This has remained a divisive issue within the community. In fact, there has been political effort made towards reaching an agreement with our other sister communities as to who is a Mohawk (see Appendix C for an example). This is a citizenship debate. It is still something that must be defined by the communities of the Mohawk Nation and the Iroquois Confederacy. Yet, this effort further muddles the current membership debate.

It must also be noted that the previous discussed issue of clan identification would also be implicated in the Citizenship issue.

3.4.2 Blood Quantum and Border Crossing

Border Crossing has been identified as a major concern of the community (as shown in a recent MCK Communications Survey). Within this context, the issue of blood quantum again needs to be addressed. The blood quantum requirements of the United States can be very difficult to achieve for families who have married non-Indians. The future of the community and its historic ties to the United States for work and military service is being threatened.

4.0 Conclusions and Recommendations

4.1 SPECIFIC CONCLUSIONS

4.1.1 Enforcement

It is clear that the Kahnawá:ke Membership Law can never be fully implemented without a firm legal base in the area of enforcement. Since the Law states that the Court of Kahnawá:ke has the sole jurisdiction to hear and decide offences, efforts must begin as soon as possible to develop the tools necessary that would enable the Court of Kahnawá:ke to assume its prescribed role.

4.1.2 Members Who Are Not Status Indians

This issue is extremely complicated in that, in many cases, we are dealing with United States-born Indians. Therefore, discussion with the Federal Government must be undertaken with the attempt to reach agreements so that we can continue as a people and not just as a “status”. As part of this discussion we must realize that INAC would bring in other departments such as Immigration and Justice because of the “Canadian citizenship” implications. An integral part of this negotiation will be the continued provision of services to this population.

4.1.3 Council Of Elders

Although this is a sensitive area, it must be stated that problems have arisen with the workings of the Council of Elders. This includes numerous complaints from community members over conduct, lack of clarity over roles and responsibilities, a breakdown in relations with the Membership Department, a lack of an appeal mechanism in the process and disagreements over interpretations of the law. As well, too many community members have expressed their anger and resentment towards the actions of the group. There seems to be a direct contradiction between the actions of the COE and the spirit of the preamble to the Law. Since this issue area involves the Council of Elders who are not a normal part of the MCK administrative structure, addressing this issue would have to be initiated through Chief and Council.

It is clear that decisions taken regarding a person’s membership need to be honest and transparent and the need for a more formal recognition of this in the process must be addressed. An effort must be made to review the sections of the Law regarding the processes and authorities of the Council of Elders with the intent of improving and clarifying the concerns cited above including the development of specific amendments. A process must be instituted that ensures that this function is more directly answerable to the community with a valid redress mechanism or appeal process. A complete review of the roles and responsibilities of the COE must be undertaken. This must include the processes and regulations of the Law. Considerations must include developing clearer

definitions of roles, improved processes and a review of the composition and selection process used in selecting members of the COE.

Since this issue area involves the Council of Elders who are not a normal part of the MCK administrative structure, addressing this issue would have to be initiated through Chief and Council.

4.1.4 Interpretation Issues

Interpretation of issues such as the great-grandparents criteria, blood quantum implications, whether a person is Kahnawá:ke (someone from Kahnawá:ke) vs. Kanien'kehá:ka (someone from the Mohawk Nation) has led to further confusion in the administration of the law. Plus, as previously cited, the difference in interpretation has also been a major component in some of the issues with the Council of Elders. It is apparent that an effort must be made to address those areas of the Law where a lack of clarity has led to different interpretations amongst those administering the Law and the community at-large.

4.1.5 Citizenship Issues

Since citizenship is often cited as a solution to our membership problems, this area must be more fully explored. The numerous undertakings through the Iroquois Caucus or through the Border Crossing Initiative must be reconciled with our membership discussion. There has to be a more clearly defined approach to Citizenship. There also has to be some consensus within the community as to what Citizenship is (especially when compared to Membership) and whether it is the answer to our Membership issue. There needs to be a community vision and education within the community so that discussion on the complex issues may occur and proper direction given.

Addressing the Border Crossing issue will have direct implications on the Blood Quantum and Citizenship areas. Future negotiations and meetings discussing this topic must be analyzed with a view to its impact on the Membership Issue.

4.2 GENERAL CONCLUSION

When it comes to Membership, the Kahnawá:ke community has many conflicting opinions. Each family has its own idea of what being a member of the community really means. Few of our community would actually fit into the strictest mode of lineage calculation as evidenced by the application of strict blood quantum consideration, clan association and ties to the community. Our oral history and tradition often contradict the actions taken during the history of membership administration in that if the community were truly traditional, not many would be refused through the Council of Elders or Chief and Council's past methods.

There has been a regeneration of culture in our community. More have begun learning about our language and traditions. Efforts are being made to incorporate this in our

identity defining practices (i.e. the Membership Law). Yet, with the current Membership Law, we are stressing administrative processes as well as hard and fast rules based on blood quantum over tradition and culture. To continue to survive in the face of Canada's attempts to completely assimilate or extinguish the Indians of this country through the Indian Act and other "programs", we must find ways to better incorporate our traditional values and practices with the procedural requirements of a modern law.

As part of this general conclusion, it must be stated that 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. Therefore, 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.

4.3 Recommendations

- It is recommended that Chief and Council commission an independent review committee to further investigate the processes, actions and authorities of the Council of Elders with the intent of substantiating the community claims identified in this report and develop amendments addressing its structure, selection and administration.
- It is recommended that a working group be formed of individuals from Membership, the Council of Elders, Justice, Legal Services, OCC and Chief and Council to specifically address those sections and clauses within the Law that have proven to be unclear and revise legislation for submission to the ILCC process. Such activities would include:
 - Development of clear definitions and roles and responsibilities
 - Revision of the process used to develop and enact Regulations
 - Development of a communal appointment process and terms of office through Regulation.
- It is recommended that a working group be formed of individuals from Membership, Justice, Legal and Chief and Council to specifically address the issue of enforcement and develop those tools and processes necessary including new legislation.
- It is recommended that discussions with the Federal Government be undertaken to reach agreement on and recognition of the jurisdiction of the Kahnawá:ke Membership Law.
- It is recommended that a formal network of communications be established for all efforts related to the issues of citizenship and Border Crossing that includes the Office of the Council of Chief and Membership.

- It is recommended that the results of all future negotiations and meetings discussing the issues of Citizenship and Border Crossing be discussed with the Membership Department in order to assess its impact on the Membership Issue.
- It is recommended that the MCK set the example and ensure that its employees follow the law.
- It is recommended that the Election Law be consistent with the Membership Law.

Appendix A

Statistics - (Spring 2007)

Canada's Statistics concerning Kahnawá:ke

9531 individuals are registered with Kahnawá:ke under the Indian Act.

Kahnawá:ke's Statistics

6154 Members registered on the Kahnawá:ke Kanien'kehá:ka Registry

72 Non Member Residents *9 through application

4 Members Suspended

3301 Non Members – this number will be further reduced with the implementation of the recently approved amended changes to the Kahnawá:ke Membership Law.

Applications to the Kahnawá:ke Membership Law

135 Member applications heard and accepted.

14 applications for either Member or Non-Member Resident denied.

4 individuals are Members who are Suspended.

There are 8 Non-Member Residents.

There has been 1 renunciation

There have been 4 transfers to another community.

There are 22 incomplete files.

Section 10.1 Eligibility

There have been 162 children, or newly registered individuals who have met the criteria to become members at birth.

There have been 9 children who have had their decision overturned by the Council of Elders, 7 have yet to be determined.

Appendix B

The history of Kahnawá:ke and the Membership Issue is a long one.

Canada's Indian Act History

In 1850 the Canadian Government attempted to define the term Indian. This definition was; any person who was by birth or blood, any person who was reputed to belong to a band or body of Indians or any person who married an Indian or was adopted by Indians. Both Indian men and women who married non natives passed acquired status to their non-native spouse and their children were given Indian status.

By 1857 the first legislation was passed regarding Enfranchisement. This meant that an Indian was voluntarily able to give up Indian status; their spouse and children were automatically included in this request.

In 1869 an Indian Woman who married a non-Indian man now lost status on marriage and the children of that marriage were not entitled. If an Indian woman married an Indian man of another band then her membership would be transferred to the band of her husband.

In 1876 if a person lived away from the community and was considered to have foreign residency for a period of five years they could then be enfranchised. As well being educated in a professional study could enfranchise an Indian.

In 1918 Indians who lived away from the community could be enfranchised, this would include a spouse and any children. The enfranchisement went on to include unmarried women and widows the children of unmarried women would not be included unless specifically on the enfranchisement order but minor children of widows were automatically included.

In 1951 the Indian Register was created. Every community had its band list posted. Community members were able to lodge protests against additions, deletions or omissions. After a protest the decision of the Registrar was final but could be appealed in the courts with the judge's decision final. If a person was added or deleted the names of his wife and children were also included.

It is also at this time that registration eligibility was further defined. These further definitions included the illegitimate male children of Indian men, the legitimate children of Indian Men, the illegitimate children of Indian Women were registered unless it could be proven that their father was non-Indian. And the wife or widow of an eligible Indian was also eligible to be registered.

1951 was also the year of the double –mother clause. An Indian born of a marriage entered into after September 4th 1951 lost entitlement to be registered at the age of 21 if his mother and paternal grandmother were not entitled to registration as Indians before their marriages.

Kahnawá:ke's Membership History

Between 1940 and 1981 the community had declared that it had intentions of controlling its own membership. It asserted that the right to assert jurisdiction over Nationality and Membership were inherent. In 1981 the Moratorium and 1984's Mohawk Law were the first steps toward asserting that jurisdiction and the work to further define Membership was begun. In 1996 a task force was established to begin the process of community consultation.

The consultation process consisted of;

1. Meetings held between the task force and the community,
2. Information from the Task Force concerning the consultation,
3. Consultations with Kanien'kéha speaking elders of the community
4. A report on the custom of the community
5. A draft law for discussion
6. A process of three meetings in which comments and changes were made to the draft law incorporating the community's concerns.
7. Revised draft document from the Elders and MCK
8. February 1999 draft MCK has 30 day process for comments beginning on Oct 4 and ending on November 3, 1999
9. Law tabled on Dec 3, 1999
10. MCR 82-99/00 dated March 13, 2000 supported the draft Custom Code, Entsitewaharahne
11. As presented on November 29, 1999 and adopted the guiding principles and recommendations and directed the IRT to undertake drafting of a law and regulations and the development of recommendations for the purpose of the implementations.
12. The law was then sent to a Drafting Committee
13. Discussions were held between the drafting committee, community members and the elders.
14. The drafting committee submitted a draft Law and regulations number 1 to MCK in May 2002.

The enacting process involved;

1. An MCR in which requirements were set out that needed to be complete before the law was enacted. These requirements were to receive final comments from the community, draft the official version in Kanien'kéha, review the draft law with Kahnawá:ke Elders and present an implementation plan.

In August on 2002 the Law was sent to the Justice commission for review and recommendations, which were provided in February of 2003. Revisions were then made based on the recommendations and public notice was made on the final draft of the Law on February 25, 2003.

On the evening of February 25, 2003 a community meeting was held to request input from the community. This input was received along with other comment until March 27th. Another draft was released for 30 days notification for comments and questions and ended on September 10, 2003. There were minor changes and the law was enacted on October 28, 2003.

2011 Membership Survey Results

3 Surveyors Randomly called 360 phone numbers in the Kahnawake Directory. Each surveyor was working independently and neutrally and was responsible for 120 surveys each. Comments are all below.

1. Currently in the 2003 Kahnawà:ke Membership Law determines who is a Kanien'kehá:ka of Kahnawà:ke and who can receive services administered by the Mohawk Council of Kahnawà:ke. The criteria says:

Must be identified as a Kanien'kehá:ka of Kahnawà:ke at birth

Must be born of 2 members, or born of 1 member and the other parent being one of the 5 nations (Seneca, Oneida, Onondaga, Cayuga, Tuscarora)

Must have 4 or more Kanien'kehá:ka Great Grandparents

Must have a clan or will get a clan affiliation following a process

What do you think about the membership criteria for family bloodline?

300 of 360 responded

- **Keep criteria as described above – no change in the current Membership Law.** 138 (46%)
- Keep criteria as described above but use 50%_Mohawk blood quantum instead of Great-Grandparents. 42 (14%)
- Keep criteria as described above but use *three* Great-Grandparents instead of four. 80 (27%)
- Keep criteria as described above but use *two* Great-Grandparents instead of four. 40 (13%)

2. Currently in the 2003 Kahnawà:ke Membership Law, a person who has Indigenous lineage or who has little or no Kanien'kehá:ka lineage may apply to be confirmed as a member if the person is married or living in a common law relationship with a member.

Do you agree with these criteria?

330 of 360 replied

- Totally/Somewhat/Agree: 150 (45%)
- Somewhat Disagree/Totally Disagree: 180 (55%)
- Totally Agree: 36 (11%)
- Somewhat Agree: 81 (24.5%)
- Agree: 33 (10%)
- Somewhat Disagree: 52 (16.5%)
- Totally Disagree: 128 (39%)

2a. Do you agree that being married and living in common law relationship are equal conditions to be considered for membership?

339 of 360 responded

- Yes: 88 (26%)
- No: 251 (74%)

b. If a person who has Indigenous lineage gained membership through marriage to a Kanien'kehá:ka of Kahnawà:ke, should membership for that person be kept when the marriage dissolves?

326 of 360 responded

- Yes 111 (34%)
 - No 215 (66%)
-

3. Do you think if non-natives consistently become part of the community, that over time this will give the Federal government enough power to take away our reserve and Mohawk status?

333 of 360 responded

- Yes 282 (85%)
 - No 51 (15%)
-

4. Currently in the 2003 Kahnawà:ke: Membership Law, a member who *adopts a child* who has no Kanien'kehá:ka or Indigenous lineage, that child is not eligible for membership.

Do you agree with this?

333 of 360 responded

- **Totally/Somewhat/Agree:** 214 (64%)
 - **Somewhat/Totally Disagree:** 119 (36%)
 - Totally Agree: 101 (30%)
 - Somewhat Agree: 60 (18%)
 - Agree: 53 (16%)
 - Somewhat Disagree: 66 (20%)
 - Totally Disagree: 53 (16%)
-

5. Currently in the 2003 Kahnawà:ke Membership Law, an adopted child who has 4 or more Kanien'kehá:ka Great-Grandparents and normally resides in the Territory, at age 18 years must reaffirm a Member's Pledge within a year of turning 18 years old or their membership can be revoked.

299 of 360 responded

- I agree with the statement above, at 18 years a Member's Pledge must be made to keep membership – *no change* in the current Membership Law. 69 (23%)
 - When an adopted child with 4 Kanien'kehá:ka Great-Grandparents turns 18 years old, the person will make an *application* for membership as an adult member. 54 (18%)
 - When an adopted child with 4 Kanien'kehá:ka Great-Grandparents turns 18 years old, the person will present themselves to the Council of Elders and *request* adult membership. 50 (17%)
 - When an adopted child with 4 Kanien'kehá:ka Great-Grandparents turns 18 years old, the person will *notify* the Membership Registrar and request to be placed on the Registry and be issued a band card. 126 (42%)
-

6. Currently in the 2003 Kahnawà:ke Membership Law, a person is eligible to apply for permission to be a non-member resident if the person has *some* Kanien'kehá:ka lineage, maintains family ties and has made positive contribution to the community.

Who do you think should be eligible to apply for non-member residency?
Please check one option that best matches your opinion on eligibility for non-member residency.

286 of 360 responded

- As above, the person must have some Kanien'kehá:ka lineage, maintain family ties and has made positive contribution to the community to be a non-member resident – no change in the current Membership Law. 188 (66%)
- As above, but make a change so that any person with or without some Kanien'kehá:ka lineage who is married to a member can apply to be a non-member resident. 61 (21%)
- As above, but make a change so that any person with or without some Kanien'kehá:ka lineage who is living in a common law relationship with a member can apply to be a non-member resident. 37 (13%)

7. Currently in the 2003 Kahnawà:ke Membership Law, membership criteria refers to “community ties.”

Of 360 participants, the amount who responded is unknown.

- What would best describe “community ties” to you? Please check **all** options that best describe what you think “community ties” mean.
 - Having your own biological child. 226
 - Being an adopted child raised in Kahnawà:ke. 200
 - Work in the community for more that 10 years. 123
 - Having biological family in the Kahnawà:ke (parent, sister, brother, aunt or uncle for example). 272
 - Married to a Mohawk who is a member. 195
 - Living in a common law relationship with a Mohawk who is a member. 98
-

8. The Kahnawà:ke Membership Law should allow all non- natives married to a member to live in Kahnawà:ke. Do you agreement with this statement? Please circle your level of agreement.

339 of 360 responded

- **Totally/Somewhat/Agree:** 76 (22%)
 - **Somewhat/Totally Disagree:** 263 (78%)

 - Totally Agree: 22 (6%)
 - Somewhat Agree: 31 (9%)
 - Agree: 23 (7%)
 - Somewhat Disagree: 83 (24%)
 - Totally Disagree: 180 (53%)
-

9. Currently in the 2003 Kahnawà:ke Membership Law, the Council of Elders is appointed by the community and is a group made up of not less than 9 and not more that 15 Elders.

317 of 360 responded

Please check one option best matches your opinion on how many people should make up the Council of Elders.

Keep the number: 197 (62%)

Lower the number: 118 (37%)

- Keep the same number, 9-15 Elders – no change in the current Membership Law. 132 (42%)
 - Lower the number to 5 – 9 Elders, with one extra to be an alternate. 67 (21%)
 - Lower the number to 5 – 7 Elders, with one extra to be an alternate. 51 (16%)
 - Keep the same number (9-15 Elders) but have the Council of Elders be divided into small groups to make membership decisions on a rotating basis. 67 (21%)
 - No Council of Elders: 1
-

10. Currently in the 2003 Kahnawà:ke Membership Law, the definition of an *Elder* for the Council of Elders refers to being an adult, a registered member, one who has community trust, respect and confidence and has knowledge of our customs.

Should there be more or other requirements to be on the Council of Elders to make decision on membership based on the Membership Law? Please check one option best matches your opinion.

315 of 360 responded

- Yes, being on the Council of Elders should have requirements besides what is currently described above. 219 (70%)

- No, you could be on the Council of Elders if you want to, if the community does not disagree. 96 (30%)

10a. Should the Council of Elders be selected by an election?

300 of 360 responded

- Yes 225 (75%)
- No 75 (25%)

10b Should the Council of Elders serve for a limited number of years?

- Yes 201 (67%)
- No 99 (33%)

10c. If yes how many years?

See comments

11. If the Kahnawà:ke Membership Law allowed non-natives to live in the community, should there be any requirements for residency? Please check all that you think should be required for non-natives to live here.

Unknown # of respondents of 360 participants

- Be married to a Mohawk member. 172
- Be required to pay fees for residency services. (Residency services may apply to school bus services, snow removal and road maintenance, and land use fees for example. Fees, for example, can be used to lower the MCK annual community maintenance costs). 116
- Should leave the community when the person is no longer married to the Mohawk. 165
- Should live here until any biological children reach the age of 18 years. 101
- Should have residency criteria (contribute to the community, volunteer for example) identified by the Council of Elders. 117
- Kahnawà:ke is not for non-natives. 207

12. Have you ever been told that if you marry or live with a non-native that you would not be able to live in Kahnawà:ke with the non-native?

330 of 360 responded

- Yes 289 (80%)
- No 41 (20%)

Comments separated by categories

(# indicates which question the comments refer to)

- If they have 4 great grandparents, why does it matter that they were adopted? 5
- What happens to that person? – very touchy. 4
- If that child is raised by us, then it is part of us. 4
- can't call themselves a Mohawk 4
- Shouldn't even ask. 5
- The child will/would be raised here, brought up w/our culture/traditions & then once they become an adult, they would be told that they 'don't belong' that is inhuman. 4
- Child should stay on list at 18 if they fit the 4 great grandparents automatically. 5
- Either you're born Indian or you're not. Can't answer it. Doesn't make sense to me. 5
- They already are a member. 5
- It's their right. Shouldn't have to go through a process. Go at 18 and get band #. 5
- Should just automatically receive band #. 5
- Can't answer. 5
- What difference does it make if the adopted child grandparents are members? 5

Adoption/Children Comments

- I think you would have to be adopted into the Longhouse or MCK through a process that could grant you membership. 1
- Culturally speaking when we adopted a child they became our family and are now community members, or part of the nation. There were guidelines to the rights that the person had we need to revisit those guidelines and find a way to use them. That individual is raised in a Kanien'kéha house hold then they need to be acknowledging as one.However, again that does not mean that if an individual who is on the band list marries or common law with a non-native who has children can adopt them so that they get the rights. Only if the adoptive parents are both on the band list would the adopted child be eligible. 4
- Yes they are still a part of community 4
- I think they should have status. 4
- What if a member can't find a child of Indigenous lineage? 4
- Should be allowed up to 18 then reapply. 4
- Very sensitive issue. 4
- They should marry w/in the community. 4
- Becomes family 4
- If he's adopted & brought up as Native, he should be considered Native. 4
- Adoption is adoption. You are disconnected from your past. 4
- Adoptive non-native children should not be included on our membership list and should not benefit from being a resident of Kahnawake. 1
- What is this? Member's Pledge. 5
- Question does not make sense. A pledge to who? When you're named in Longhouse, you're accepting your responsibility as a Kanienkehaka person. 5
- How do we know their lineage? Some fathers don't even sign for them. Hard to confirm. 5
- It's not fair – should be done automatically. 5
- I agree with the statement above, at 18 years a Member's Pledge must be made to keep membership – no change in the current Membership Law. 5
- Only if they have little to no native ancestry. 5
- What is the Member's Pledge? They should stay on the membership list because they're native. 5
- Should be automatic. 5
- If you're non-native, you're non-native. You can't give someone lineage through adoption. 4
- Should be able to gain membership until 18 at least 4

Questionnaire on Membership in Kahnawà:ke and the 2003 Kahnawà:ke Membership Law

- Very tough question. 4
- Being an adopted child raised in Kahnawà:ke. 7
- I somewhat agree on the assumption that the child is white. 4
- If the child is native regardless of nation, they should be adopted and become a member. 4
- Depends on a case by case basis. 4
- You can have a couple that adopts Cree children. My concern is the other natives. If you're native, you're native. 4
- Don't like the scope to include just 6 nations. 4
- When it comes to a child, I have a problem, if I had to, I'd adopt a native child. 4
- The Great Law says when you adopt someone, you forget about their past. 4
- I don't know. 4
- If a baby is living here, growing up here, probably learning the language, they should be kept here. But if they marry out, they're out. It's their choice. 4
- Maybe they should have membership up until 18. 4
- If he's adopted and brought up as native, he should be considered native. 4
- If I adopted a child, I would raise the child with native values but after 18, they would lose their rights. 4
- If that child is non-native, they should be raised as a non-native. Should bring that child and raise that child in non-native society in their culture. 4
- A child should be Mohawk if they're adopted and they should be raised as a Mohawk. 4
- If you raise a child native, that child is native. 4
- It depends on how they are brought up. If they're brought up in the culture, they should be allowed to be a member. 4
- Adoption is adoption. You are disconnected from your past. 4
- Child is already here. Shouldn't throw them out. It's mean. I would agree to a limited membership. 4
- Can't call themselves a Mohawk. 4
- If child is legally adopted and accepted by the band. 4
- I don't think it's right. If that child is already Mohawk why should they have to reaffirm? 5
- They are already Indian, just leave it alone. They're here! 5
- Once they are adopted and meet the requirements, they should not have to reaffirm at 18 years. 5
- How do we know their lineage? Some fathers don't even sign for them. Hard to confirm. 5
- They are equal in the lineage equation, they just happen to be adopted through no choice of their own. 5
- They should already be allowed to remain a member as they meet all the criteria. 5
- Why do they have to ask to be a member? You are who you are when you are born. 5
- If they are native, it's not necessary – they are native. 5
- It's not fair – should be done automatically. 5
- They shouldn't have to re-apply because they already meet the current criteria. 5
- They should stay on the Registry no matter what. They're still the same person as they were at 10. 5
- Once you're native, you're native. They can't take that away from you. You shouldn't have to beg. 5
- If they meet the criteria why should they go through this process. 5
- They should stay on the membership list because they're native. 5
- Child should stay on the list at 18 if they fit the 4 great grandparents automatically. 5
- Only if they have little to no native ancestry. 5
- But make it harder for them to become a member to make sure they appreciate being a member. 5
- It still should be automatic if they meet the criteria. 5
- I think if they're accepted as a member with 4 great grandparents, they should not have to present themselves again at 18. 5
- Whatever currently applies. 5
- Why do they have to make a membership application? 5

Questionnaire on Membership in Kahnawà:ke and the 2003 Kahnawà:ke Membership Law

- Why do they have to wait until 18? You're not more or less Indian at 18. 5
- They shouldn't have to do anything for membership as they already qualify. 5
- If they are native, adopted, should not be singled out. 5
- If they're native, they're registered, they shouldn't have to apply for membership. 5
- It should be automatic. 5
- If they already meet the criteria, why do they have to reapply? 5
- They are already a member. 5
- They should just automatically be put on. 5
- If a child is on the band list and fits the criteria they should not have to jump through hoops to maintain status. 5
- Not if the child is non-native. 7
- Very vague question. 7
- If they're native. 7
- It depends on who the mother and father are, if they're Mohawk and not white. 7
- Kind of tricky – native automatically. 7
- If you're native. 7
- If they are native. 7
- It's a family tie. It depends on how the child is raised, and if they are native. 7
- If you're raised here, you're part of the community. A child is innocent. 7
- Depends on how long they've been here. 7
- If they are raised by Mohawk people. 7
- Depends if the child is non-native. 7
- Only if Mohawk or from another reserve. 7
- If the child is Mohawk, yes. 7
- If the child is native, yes. 7

Blood Quantum

- Should be 75% Mohawk blood quantum. 1
- I am completely against the family bloodline. I think if a person was born here, they're from here. Your home is your home. I am a Mohawk woman. Nobody is going to take that away from me. Then I married a Mohawk 1
- I don't see too many people whose great grandparents who are full blooded Mohawk. 1
- I don't believe in the 50%. I don't agree with any of the choices. The names of the fathers may not be so. Bloodline doesn't make sense. Who am I to change the Great Law of Peace? 1
- Other natives okay. Leary of people without First Nations bloodline. 2

Community Ties

- Not all of the above are equal in weight is you're trying to measure the tie. 7
- Community ties – Mohawk woman who married non-native prior to the current law should automatically be given back their status. 7
- The question doesn't define 'community tie'. 7
- Not qualified enough. 7
- If you're from Kahnawake. 7
- With a Mohawk? On the Registry? 7
- If both parents are Mohawk. 7
- At least if the child is 50%. 7
- Have community ties to a degree – but that degree has to be determined. 7
- A little tricky. 7
- If they're Indian, yes. 7
- Yes, if you're native. 7
- With a Mohawk? It's not specific, not descriptive enough. 7
- As long as one is native. 7
- Does that mean if you don't have any children, you don't have a tie to the community? 7

Questionnaire on Membership in Kahnawà:ke and the 2003 Kahnawà:ke Membership Law

- By somebody that's native. 7
- If they're native, yes. 7
- It depends if the Indian is the mother. 7
- Don't see how this relates. If I have a child, how does that related to the community? 7
- By a Mohawk? 7
- Not if the child is non-native. 7
- Very vague question. 7
- If they're native. 7
- It depends on who the mother and father are, if they're Mohawk and not white. 7
- Kind of tricky – native automatically. 7
- If you're native. 7
- If they are native. 7
- It's a family tie. It depends on how the child is raised, and if they are native. 7
- If you're raised here, you're part of the community. A child is innocent. 7
- Depends on how long they've been here. 7
- If they are raised by Mohawk people. 7
- Depends if the child is non-native. 7
- Only if Mohawk or from another reserve. 7
- If the child is Mohawk, yes. 7
- If the child is native, yes. 7
- I worked in Montreal for 10 years. It was my job. I didn't have ties to Montreal. 7
- Only if they're Mohawks. 7
- Convolutated. MCK attorneys work in community and KMHC doctors and nurses. It's a link not a tie. 7
- Does that apply to me as an Onkwehón:we? If I worked in Chateauguay, I would not have a community tie to Chateauguay. 7
- Not clear, is it for native or non-native? 7
- If they live here. 7
- If you're native. 7
- Depends on job – not if you're working in a cigarette factory or selling drugs. Has to be a professional positive contribution example – teacher. 7
- It depends on what they're doing. If they're here to take advantage of the community, then No, but if they're contributing then I would say Yes, if they're bringing something to the community. 7
- That depends on the situation, only if they're from the community. 7
- If the person has a tie to the community. 7
- Only if the person is native. 7
- Only if they are native. 7
- I don't believe that just because a person works in Kahnawake deserves the title of having ties. I would not be considered a Chateauguay resident or having ties because I worked there or went to school there. Many people continue to work here to avoid taxes and to work under the table, they are already cutting corners. For those working on the books, it is their choice to work here, if they want to live closer to their job and avoid traffic, move to Chateauguay of another surrounding community. Yes there are many people who have contributed to our community, but the reality is that people can contribute where ever they choose because they want too, not to receive added incentives. 7
- Think that it depends on what the person bring to the community. 7
- Whatever is decided someone has to monitor and look at if they start to stir up trouble etc. Then they would have to be asked to leave. Somehow this has to be built into it. Don't see that incorporated in this. 7
- Community Ties “not sure what exactly would define what this tie would be....can't answer this question. 7
- So much room for anyone to just come and live here. Should just stand firm on the laws already set. Keep going back to starting over, starting over. Why do they keep doing this? 7
- Not if you didn't grow up here. 7

Questionnaire on Membership in Kahnawà:ke and the 2003 Kahnawà:ke Membership Law

- You can have a family in Kahnawà:ke but never been here, so no community ties – no relationship. 7
- Again, to a degree but that degree has to be determined. 7
- Native only. 7
- Is a tie but needs to have a commitment to the community. 7
- With lineage. 7
- No, if I have a family member in Chateauguay, doesn't make me have a community tie to Chateauguay. 7
- But if you're brought in from the U.S., you don't have the understandings of what being on reserve means. 7

Elders Council

- Not so much the question of not sitting there – as the people themselves and the criteria for selection. 9
- There's no explanation on the numbers. Why 9 to 15? 5 to 9? 5 to 7? What's the rationale? It would help! 9
- The town should be run by the clan mothers. 9
- Too many people, nobody will agree on anything. Always going to be friction. 9
- With a proviso that they can't be related, immediate family, no siblings. 9
- Only 3 to 4 people should be on the council of Elders. 9
- Don't agree. How can these people judge people like me? If they don't like you, you can be sure you won't get on. Some of them were prejudiced. The questions weren't relevant. Would the background of these people (elders) be questioned? 9
- Not interested in numbers, I am interested in the qualifications of the ones on the Council of Elders. 9
- Why do they have an Elder's Committee? 9
- What happens when they die? 9
- Should only be 5 on the Council of Elders with 1 as an alternate. 9
- Should be divided up in 3 clans of 2 members = 6 people until consensus is reached, plus 1 war chief. 9
- The more opinions there are, the harder it's going to be to make a decision. 9
- Much easier to reach a consensus with a smaller group. 9
- Even lower if possible. Too many people, too much emotion. 9
- Small groups of 4 or 5 – not an inquisition. 9
- What does this mean? It's not clear. 9
- It's like a traditional decision-making process – clan process 9
- Lower the number to 9 – 12 elders. 9
- I don't believe in the Council of Elders. Are they picking and choosing? Everything is already in place at the Longhouse. 9
- The 'customs' is very vague. 9
- I don't believe the Council of Elders should exist or have somebody else judging you. 9
- Objectivity. 10
- Have the language. 10
- Minimum age of 35 or 40. If you want youth, change the name. 10
- They should be a mix of elders, adults and youth – broader range of ages. 10
- They should not have a child who has a white father, on a case by case basis for the good of the town. 10
- Need to have some life experience and children themselves. They need to have trust/respect/confidence/compassion in the people they are making decisions on. This needs more careful consideration. 10
- Should be able to speak Mohawk, have an I.Q. test. 10
- Should be more specific on who should be an elder – the criteria. When you say 'elder', it implies more matured and defined. At least 50 years old and has gone through a lot of life and have more life experience. 10

Questionnaire on Membership in Kahnawà:ke and the 2003 Kahnawà:ke Membership Law

- Elder should be over 30 years old.10
- Emotional intelligence.10
- Important to state in writing why they want to be an elder. Elder should be 35 and over. Membership is too important to be taken lightly. No hidden agendas. 10
- Have a criminal background check. Respect how? Trust? Lack of definition. How can someone be totally non-biased? What are the parameters? A certain age - 50 plus. 10
- Should know who and what they are talking about. Age should be not too young or too old – 20 to 70. Can't be racist. Should all have the same mind.10
- Add customs and laws.10
- Should be some youth in there – just because a person is an elder doesn't mean they're wiser.10
- Should be a mix of people between 35 and 50, owns a home, is responsible, has a job, is a family man, has family ties.10
- Have an open mind. Keep their personal feelings out of it.10
- An education, worldly experience, having been outside of the community, have community experience ex: sitting on a board, being part of the Longhouse.10
- Should have more knowledge of our past laws and the community and the people.10
- Should have mostly a native family without children or grandchildren who married out.10
- Shouldn't have their own agenda. If they don't like you, you don't get in. Should be at least 50 years and a family person EX: mother or grandmother. Have to judge the personality.10
- Have a clan, keep updated, be older and have knowledge of the history of how this began.10
- Certain level of education.10
- Know more about the community, more knowledgeable of who people are, more history, how things were run before, how decisions are made based on the old ways.10
- Elder should be at least 50 years old. We have to have a common definition of what an elder is. Must have knowledge of our community and traditional ways. Should not have personal vendettas.10
- An elder is biological. Around 49 years and using the medicine wheel concept of 7. 10

Questionnaire on Membership in Kahnawà:ke and the 2003 Kahnawà:ke Membership Law

- Age requirement – 3 yrs + option to run again. 10
- Already broke this one (respect, trust)! 10
- Add another box 10:
- Change the membership law to eliminate the Council of Elders. 10
- Yes, being on the Council of Elders should have requirements besides what is currently described above. 10
- Depends on the changes that are implemented in the membership law. 10
- Age requirement – not too young, not too old. 10
- The younger ones don't know as much about the community at 18. Don't know the families. 10
- Must be an "elder". 10
- Age should be past 50 at least 10
- Elder should be more than 18 yrs. (40 yrs) and someone married to Kanien'kehaka from Kahnawake. Not a non-native. Someone should have understanding of our laws. 10
- A resume of what they've been doing in the community, good citizen, people know you. 10
- Not have an agenda. 10
- Change to over 50 to 60 that knows the community, only 2 to 3 of the Council of Elders to be between 50-60 years. 10
- Person must have gone through self discovery/self awareness, personal development, psychology, spiritual, physical emotion. Have to be healed and have to be well. 10
- Need healthy minds and healthy hearts. Membership isn't the issue – it's community pain and emotional damage. 10
- Should be an educational process. Must be living here, sense of community. Open minded and unbiased. 10
- Being 18 doesn't make you an elder. Should be 40+. 10
- For Elder, should be 18 year old --- 35 + 10
- Age is one – should set age requirement. 10
- Age limit – not too young, not too old. 10
- Age / not 18 – 45 for example too young. 10
- Important to state in writing why they want to be an elder. Elder should be 35 years + over. Membership is too important to be taken lightly. No hidden agendas. 10
- Must be defined – community trust, respect and confidence. How to measure this? 10
- Elder – at least 30 yr. 10
- Because you won't get any applicants to run. 10
- Community to decide. 10
- In an open forum appointment. 10
- Doesn't guarantee you'll get the right people. 10
- Should be staggered, alternating terms. 10
- No council of Elders! 10
- As long as you are capable & want to and fair. 10
- Change name to something generic like "Membership Committee" 10
- Obviously until able. 10
- As long as they are willing & able. 10
- Serve until able. 10
- Someone recognized y the community, shows leadership skills, a role model, has experience, someone who the people have confidence in.
- Older people – 65 years plus.10
- Should have a cultural aspect, of our culture. 10
- Have more knowledge of community. All have to say who they are. Both parents should be Mohawk, who their parents are. Should be full blooded. Why do they want the job? 10
- Should have a good mind (Kanikonrhiio), come to 1 mind. 10
- Should be able to live in harmony in the community. 10
- Should be a good person and live like that and be recognized in the community as a good and just person. 10
- Elder should be 50 plus. 10

Questionnaire on Membership in Kahnawà:ke and the 2003 Kahnawà:ke Membership Law

- Trust, respect and has community confidence – how is it measured? 10
- An elder should be 50 plus. 10
- Background check. Have a standard as far as morals and good character, good references, should be living in Kahnawake so they know what's going on. Age requirement should be at least 50 years. 10
- Minimum age of 35 years to be an elder. 10
- Age should be 50, or having lived in the community for 50 years. 10
- Should have psychological testing – should be of sound mind. Elder should be 30 to 60 years old. 10
- An elder is someone who knows the families, the people. They need to look at people according to their family tree – some are there to crucify people. No personal agendas. 10
- They should live in Kahnawake. 10
- Elder should not be only 18, should be 65 or older. They should know our history, laws and have been here for many years. 10
- Should be someone who is not prejudiced. 10
- Minimum age to be considered an elder – 60 years plus. 10
- Add if you have education – reading skills, experience, board training. Age requirement should be at least over 30 years. 10
- Age requirement should be at least 60 plus. Must have knowledge of community and families with no hidden agenda. 10
- Change to over 50 or 60 that knows the community. 10
- Just 2 or 3 of the Council of Elders should be between 50 and 60. 10
- These should have compassion. The process is nerve-wracking. Give them criteria. Maybe give them some lessons on how to treat people. 10
- A resume of what they've been doing in the community, a good citizen, people know you, not have an agenda. 10
- Put age to 20 plus. 10
- Elder should be more than 18 years – more than 40 years old. Be married to Kanien'kehaka from Kahnawake. Not a non-native. Someone who has understanding of our laws. 10
- Age should be past 50 at least. 10
- Elder should be at least 30 years. 10
- Being 18 doesn't make you an elder. Should be 40 plus. 10
- For elder, should be more than 18 years old – 35 plus. 10
- Elder should be over 40 – mature. 10
- Elder should be 30 years and over at least. 10
- Should be an educational process. Must be living here. Have a sense of community, open-minded and unbiased. 10
- Person must have gone through self discovery / self awareness/ personal development / psychological, spiritual, physical, emotional, like Kiti Gan Zibi / Maniwaki or Traditional Healing Akwesá:sne or go to a retreat. Have to be healed and have to be well. Need healthy minds and healthy hearts. Membership isn't the issue – it's community pain and emotional damage. 10
- The younger ones don't know as much about the community at 18. Don't know the families. Should be 30 plus. 10
- Background screening process, no hidden agenda, for the best interest of the community. 10
- Sanity being one. Have to be a fair, decent person. Good track record of being honest and respectful. You need people to speak on your behalf that are trustful, honest and a decent person. 10
- Should be knowledgeable of what the Indian Act did to us. Should know the families / family histories. Should be old enough to know who's who. Should be 50 +. 10
- They should be firmer in their laws. 10
- Just because you're an elder, doesn't mean you grow sweet. 10
- Must be defined – community trust, respect and confidence – how to measure this? 10
- As long as they are healthy. 10
- It has to be more than just attending 1 band meeting or no objections that is becomes automatic. 10

Questionnaire on Membership in Kahnawà:ke and the 2003 Kahnawà:ke Membership Law

- Hopefully there will be screening and eligibility requirements and a large voice by community. 10
- Should be something more structured. But if you have a big family, you can get in, which is not right. 10
- They should be screened. Some one who is understanding and has knowledge of the people going before them. 10
- Some new opinions, new ideas. 10
- If there are more than 7 candidates. 10
- I don't know. 10
- Probably wouldn't hurt. Person should really want to be on the Council of Elders. 10
- By secret ballot. 10
- Have a panel of Longhouses and MCK to make decisions on membership for the Council of Elders. 10
- Because they could stack the deck and be unfair. 10
- Turns in to a popularity contest. 10
- Should be more publicity to recruit elders, make it more appealing, more information. 10
- Just a waste of time and money. 10
- Community to decide. 10
- Doesn't guarantee you'll get the right people. 10
- It is very difficult to get large groups of people together because of the many different commitments. 9
- Need to have enough of a mix of people with knowledge of our community. 9
- What is an Elder, that should be decided. Not a 20 year old who doesn't know anybody. 9
- 2 years 46 (Q 10)
- 3 years 25 (Q10)
- 4 years 22 (Q10)
- Tricky question and not very good for the survey. Much discussion could be had with this question to give a more clear answer.10
- The previous panel consisted of self-appointed persons, many of whom were egotistical, mentally unstable or just plain dumb. Based on the criteria above less than half actually fit the bill. Resolve how you're going to recruit trustworthy individuals.10
- Way too many people on the Council of Elders. Should have some sort of process, many people were not acting in a good manner. They should have been thrown off.10
- The criteria should be very strict many of the previous council were a joke and a disgrace on how they treating people who would stand before them.10
- Not sure because not enough people really want to be put in that position.10
- Hard to find good people. 10
- Training should be intensive and to all. Maybe some sort of testing on their mental stability. 10
- I stood before them and was treated very respectful but know that was not everyone's experience. 10
- It should be followed I know that a few people were allowed to become members and they did not meet the criteria. Which is unfair to others who weren't. 10
- Consistency is important in making the decisions, not always black and white. Decisions should be based on the criteria. 10
- 10B – Should the COUNCIL OF ELDERS serve for a limited number of years?
- YES: [85]
- 3 years.
- 4 years.
- 3 years.
- 3 to 4 years.
- 4 years.
- 3 years.
- 5 years staggered.
- 2 years.
- 2 to 4 years.
- 2 to 3 years, 3 tops.

Questionnaire on Membership in Kahnawà:ke and the 2003 Kahnawà:ke Membership Law

- Can't go on forever with no limits, 2 to 3 years.
- 3 years.
- 5 years.
- 2 years.
- 3 to 4 years.
- There should be a term limit.
- There should be a limit of the number of years.
- 4 years.
- 3 years.
- Rotating terms, one year on, one year off.
- 3 years.
- 2 terms of 3 years each.
- 2 years then re-election.
- 3 or 4 years, then sit out for a few years. If they suffered a debilitating illness that affects the mind, they should be asked to step down.
- 4 years.
- 4 to 5 years.
- Minimum of 5 years, staggered terms.
- 3 years, staggered terms.
- 3 years.
- A probation period of 3 years, but at any point they could be removed.
- 5 to 10 years.
- 4 years.
- 5 years.
- 3 or 4 years.
- 2 years.
- 4 years.
- 3 to 5 years.
- 2 years.
- 3 years.
- I don't know.
- 3 years.
- 2 terms.
- 3 to 5 years.
- 3 years.
- There are benefits for rotating people because you get new ideas.
- Depending on their age, every 3 years.
- 3 years, staggered terms with an option for renewal for continuity.
- Every 3 years.
- 3 years.
- 1 year.
- 2 years.
- 5 years.
- 3 years.
- As long as they are healthy.
- 2 years.
- Maximum 3 years, no more than 2 terms.
- 2 years.
- 3 or 4 years.
- On a rotating basis for 3 years.
- 5 years.
- Should be a limit – at least 2 to 3 years.
- 3 to 4 years.
- 10 years.
- 3 to 5 years.

Questionnaire on Membership in Kahnawà:ke and the 2003 Kahnawà:ke Membership Law

- Every 4 years.
- 2 years.
- 6 years. ○ If they don't have children, they should leave. 8
- 3 years max.
- But have requirements.
- 3 years.
- 4 years.
- 2 years.
- 2 or 3 years.
- 9 years.
- For 3 years.
- Maybe for only 5 years.
- Should be staggered, alternating terms.
- They should run for as long as they keep getting elected.
- Should be a decision for themselves.
- The more experience, the better.
- As long as they are healthy.

Enforcement of the law

- How many times do we have to go through this...1981 1984 and many still are living here. Feel very frustrated because now don't even care no matter what you say, someone has to enforce this law who??? PK'sMCK...?? 1
- Need to know who will enforce this...we currently have many people living here that should not be here. 1
- Who will be responsible for enforcing the law? What about the ones living here now working for MCK, KSCS, Tewa? By allowing them to work and live here we are saying it is okay. Another issue is the school system...again allowing them to go to school. I realize it is the children and it is not their fault but law is law, right? 1
- Everyone should know about Membership, we still have men and women having children with non-natives and what happens, NOTHING. They go to school here, go to daycare etc. It is a big joke, the young people don't care and don't realize how hard it will get when we have to pay taxes, etc. I hope that I am not here to witness this. MCK is trying hard but afraid to enforce and community needs to back them up. 1
- I hope they can really make the changes this time, wonder what they could do different for people to understand? 1
- In the case of death of the native or break in relationship, the non-native should be asked to leave and it should be enforceable. They should not be entitled to inherit any land or property. 6
- Why is this even a question? Who put it there? This is what gets us to keep going back and back. We have a law just enforce it and follow it. NO exceptions. 8
- I am frustrated with this questions. Many people worked so hard to bring awareness in the community and so if 300 people agree to having all non-natives live here is it okay. I don't think so. 8
- It depends. If they have children, yes. 8
- All the time! 12
- Of course, my family is Onkwehón:we and the only people who do not tell their children this are NON NATIVE. 12
- That's how I was brought up. 12
- But parents never said don't. It was an unspoken rule, we just knew. 12
- You marry out, you're out. 12
- More directed at my sister, and her friends. Heard it in all families. 12
- I did! 12
- And I teach my children that. 12
- I am a non-native. 12
- I was told I would lose my rights, never that I would be able to live here. 12

Questionnaire on Membership in Kahnawà:ke and the 2003 Kahnawà:ke Membership Law

- My family has never said this but I do hear it around town. 12
- Was just told not to marry a white man. 12
- Not me personally, but my son has. 12
- Depend on when they got married. 8
- NO! NO! NO! We have been stifled enough by non natives, they would be taking advantage of our rights and avoiding paying their dues to their government. 8
-
- Never told that & from seeing what other people were doing. I thought that men & woman had the same rights! 12
- If they choose to stay - why not? 2b
- They are Native so why not. 2b
- You can't take away something you already gave! It shouldn't be given in first place. 2b
- If they are of good standing to our community. 2b
- If meet criteria for being indigenous. 2b
- Isn't this the same as a person who lost their spouse? 2b
- Only Indigenous (50%) 2b
- It depends – if they have children 2b
- Depending on death, depending on divorce. 2b
- Should reapply 2b
- What of the children of the union? 2b
- Maybe can apply afterwards or depending on divorce/age/death??? 2b
- The whole thing is very delicate. You can't help who you fall in love with. Marriage strengthens the line. 6
- What is common law criteria? 6
- As long as it's not a white person. 7
- Because you have children. 7
- But if you're white, this isn't your community. 7
- Not if you're not living here. 7
- If a Mohawk marries a white woman or man – too many variables. 7
- But not for non-natives married to a member. 7
- Not clear. Does this refer to a man or woman? Differences are man staying and woman has to go. 7
- Not if they're white. 7
- But not a non-native. 7
- It depends on if they have children. 7
- Don't believe anyone should be marrying non-natives from off reserve. 7
- But only if they are married to Mohawks. 7
- Native or non-native? 7
- If you're both native. 7
- If children are involved. 7
- Non-native will learn the culture. 7
- That depends if that person is living in town, if they're married to someone from town but not living in town. It could be a community tie. 7
- 53 survey respondents said 'It has already been answered many many times or NO they don't belong here. 8
- Would have liked to see a question on common law here. 8
- As long as it's not a white person. 7
- What is the criteria for common law? 7
- It depends on how long, more than 10 years. 7
- But if you're white, this isn't your community. 7
- If there are children involved. 7
- Not clear. Does this refer to a man or woman? Differences are man staying and woman has to go. 7
- Not if they're white. 7
- Depends on the duration of the relationship. 7

Questionnaire on Membership in Kahnawà:ke and the 2003 Kahnawà:ke Membership Law

- If one is non-native, it's not a community tie. 7
- We will always fight that from happening. 3
- Will never happen. 3
- I hope not. 3
- If 0 Mohawks exist, how can we be "Mohawks of Kahnawake"? 3
- It depends on if they have children. 7
- Only for the duration of the relationship. 7
- If you're both native. 7
- If children are involved. 7
- If they can contribute to the community, yes. 8
- Should have a responsibility attached. 8
- My core belief – people should stop bringing non-natives to the community. 8
- Only if they don't have the rights, man or woman. 8
- That person who marries a non-native should go live where the non-native lives. 8
- If the non-native works for our community, our children, they should be allowed to have residency rights. On a case by case basis. 8
- But without membership. 8
- If it were my own kids who married someone from Chateauguay, they would have to move to Chateauguay. But I wouldn't love my kids or grandkids any less. 8
- Should be determined on a case by case basis and looked at very carefully. 8
- Process should be set up, shouldn't be automatic. 8
- I don't know about this – along time ago, if a non- native woman married a native, and the man died, the non-native women had to sell. 8
- The men do it, why not the women? 8
- The ones who are here from 1981 – yes. Anybody else new now, they are both out. They should make considerations for non-native people who are helping community members. But once relationship dissolves or native person passes, the non-native should leave. 8
- I truly believe in building lineage. I pray for consistency right across the board in any changes to be made. No one is 100%. Where do you start the new line? The law should apply to everyone, male and female. 8
- If they don't have children, they should leave. 8
- If they have children, they should stay. 8
- It depends. If they have children, yes. 8
- I wasn't allowed to live here and I'm Mohawk and now we're going to allow non-natives to live here? 8
- Should be subject to review – should have the option of eviction, shouldn't be a blanket statement. 8
- If the non-native becomes a member, they should not be allowed to own anything. 8
- Why is this question on here? Of course I disagree. Goes back to Traditional. People should be going back to the Longhouse. 8
- The council should have been on top of the 1982 memorandum and we would not have had to send out letters. The law should have been up held. 12

General Comments

- Can't make a decision. 1
- Not sure what should be done 1
- Think that this is so hard to make a decision 1
- None of these options matches my opinion 1
- So difficult to answer because we are all touched by this subject in one way or another!1
- Waste of time!!!! 1
- I think it's useless. It's all talk but nothing is done. 1
- History on TV was really dull. 1
- I don't know. 3

Questionnaire on Membership in Kahnawà:ke and the 2003 Kahnawà:ke Membership Law

- Do not agree with this portion of the statement 2
- Has to have lineage. 2
- Three (lineage) options to answer 2
- There needs to be much more research into whether one of the above or something different is suitable for the community. 1
- Confusing 2
- If you are common law, it is easier to get out of the marriage. Then if you have membership, you can do things on your own. 2
- Should separate answers – make it a choice (with little or no above) 2
- If children are involved. 7
- Criminal record review. 7
- That depends if that person is living in town, if they're married to someone from but not living in town, it could be a community tie. 7
- Being accepted and welcomed by the members of the community. 7
- You are a recognized member of Kahnawake or are a recognized (as in can prove) membership from another Native community and you have a child or are living with or married to a recognized member of Kahnawake. 7
- All of the above should be held with equal regard. Any one of these is acceptable. 7
- Accumulation of all above. 7
- Having your own biological child. 7
- If Native 7
- By someone that's Native. 7
- By a Mohawk 7
- Don't see how it relates? If I have a child, how does that relate to the community? 7
- Until 18 yrs. 7
- If you are Mohawk or Native. 7
- If the child is native yes. 7
- Depends on how long they've been here. 7
- There is a lot of objectivity that needs to be had in making decisions on who could stay here and who should leave. People have to really think.
- Too difficult to answer.
- If the child is Mohawk yes. 7
- Native only and indigenous. 7
- Not if the child is non-native. 7
- Work in the community for more that 10 years. 7
- If the person has a tie to the community. 7
- If they live here. 7
- Having biological family in the Kahnawà:ke (parent, sister, brother, aunt or uncle for example). 7
- Not if you didn't grow up here. 7
- But if you're brought up in U.S. you don't have the understandings of what being on reserve means. 7
- Must have indigenous lineage. 7
- Should know history culture language 7
- A person could have immediate family, but have no communication. 7
- All of the above as long as they have intent to maintain and pass on our culture & language. 7
- There should be a residency by-law. Countries have a process for new residents and we should have the same. 8
- But only if they have positive intent of learning our way and passing it forward. 8
- Always have changes – what happens to people already here? 8
- Why is this question on here? Of course I disagree. Goes back to traditional. People should be going back to the Longhouse. 8
- only if Native?? 7
- Meet criteria - membership 7
- Apply & meet criteria. No undesirables. 8
- Very hard decision. 1

Questionnaire on Membership in Kahnawà:ke and the 2003 Kahnawà:ke Membership Law

- Section needs to change – not sure. 1
- I don't believe in the 50%. I don't agree with any of the choices. Who am I to change the Great Law of Peace? The names of the fathers may not be so. Bloodline doesn't make sense. 1
- I am forced to get a Quebec birth certificate for my son, can't afford to send him to our own school with traditional document. I am traditional and don't agree with the process. Are you working with Longhouse? 1
- I don't agree with any of the above. I know of people who have been accepted on both sides. I would prefer to see a survey and fill it out myself. 1
- Not going to have anyone if have to go to far. 1
 - Differentiate between little or no. 2
- You need a starting point before you can start making exceptions. 1
- All this info comes from church documents, so there's a possibility of a margin of error. Hard to confirm. 1
- I think anyone who is born a Mohawk, they will always be a Mohawk. 1
- All this info comes from church documents so there is a possibility of a margin of error. Hard to confirm. 1
- I wasn't allowed to vote so I went to the church and got my records back to 1735. My mother was Mohawk and my father was non-native. 1
- No answer – not sure if they contributed to the community – there are a lot of givers and takers. 2
- This is such a hard questions because this affects my family and don't want to see my sister-in-Law have to leave. She doesn't have anywhere to go we are her family. 2
- There is no membership law at the point because it was not voted on or ratified. 2
- Only Indigenous – 50% plus 2
- Use "resident" instead of member. 2
- I don't know. (10) 3
- It would be a special case to inherit status. 3
- Can't take our status away from us. 3
- Don't know. 3
- I don't know. 3
- Is there a precedent in Canada? Has it already happened? 3
- As long as we raise our kids in our Kanien'kehaka culture, then we can never lose it. 3
- Part of the community, does it mean resident or membership? Should be better defined. 3
- I don't know. 4
- I don't know. 4
- Don't want to comment. 5
- What is a member's pledge? 5
- I don't believe in oaths. 5
- Either you're born Indian or you're not. Can't answer it. Doesn't make sense to me. 5
- I think question 1 should be resolved before this can be answered. 6
- Define 'positive contribution'. Is very subjective. 6
- I don't get this law stuff. 6
- If you're talking about Mohawk people, yes to all options. If non-aboriginal, then, it's a gray area. All they have is a physical and emotional tie, but not ancestral language and cultural ties. 7
- I don't know. 8
- I truly believe in building lineage. I pray for consistency right across the board in any changes to be made. No one is 100%. Where do you start the new line? The law should apply to everyone, male and female. 8

Great Grandparents

- 5 great grandparents (15) 1
- The criteria as above is fine, however better details need to be given to the community that the 4 great grandparent on the registry does not mean 50% blood quantum. 1
- A clearer explanation that the 4 great grand parents do not need to be 100% they could be 30% but were recognized by the registry. 1

Questionnaire on Membership in Kahnawà:ke and the 2003 Kahnawà:ke Membership Law

- I think that we should just keep it the same with 4 great-grandparents we should start to re-build that is the message to send out. Not keep starting over. 1
- I don't agree with 4 great grandparents. Suppose you marry a native from other than from the 5 nations? Being native should count, not native from Africa, Mexico, etc. 1
- They are already native since they have 4 great grandparents. 5
- I assume that if the child had 4 or more great grandparents that they will automatically become a member. 5
- If they already have 4 Kanien'kehaka Great Grandparents, why do they have to reapply? 5

Losing Membership

- Some of our own people don't belong here for what they do and don't do. What about the law for convicts etc. 2
- On consideration that they are living up to Kahnawake standards.2
- Child is already here. Shouldn't throw them out. It's mean. I would agree to a limited membership. 4
- If I adopted a child, I would raise the child with native values but after 18, they would lose their rights. 4
- Maybe they should have membership up until 18. 4
- I don't think it's right. If that child is already Mohawk why should they have to reaffirm? 5
- They are already Indian, just leave it alone. They're here! 5
- Once they are adopted and meet the requirements, they should not have to reaffirm at 18 years. 5
- How do we know their lineage? Some fathers don't even sign for them. Hard to confirm. 5
- They are equal in the lineage equation, they just happen to be adopted through no choice of their own. 5
- They should already be allowed to remain a member as they meet all the criteria. 5
- Why do they have to ask to be a member? You are who you are when you are born. 5
- If they are native, it's not necessary – they are native. 5
- It's not fair – should be done automatically. 5
- They shouldn't have to re-apply because they already meet the current criteria. 5
- They should stay on the Registry no matter what. They're still the same person as they were at 10. 5
- Once you're native, you're native. They can't take that away from you. You shouldn't have to beg. 5
- If they meet the criteria why should they go through this process. 5
- They should stay on the membership list because they're native. 5
- Child should stay on the list at 18 if they fit the 4 great grandparents automatically. 5
- Only if they have little to no native ancestry. 5
- But make it harder for them to become a member to make sure they appreciate being a member. 5
- It still should be automatic if they meet the criteria. 5
- I think if they're accepted as a member with 4 great grandparents, they should not have to present themselves again at 18. 5
- Whatever currently applies. 5
- Why do they have to make a membership application? 5
- Why do they have to wait until 18? You're not more or less Indian at 18. 5
- They shouldn't have to do anything for membership as they already qualify. 5
- If they are native, adopted, should not be singled out. 5
- If they're native, they're registered, they shouldn't have to apply for membership. 5
- It should be automatic. 5
- If they already meet the criteria, why do they have to reapply? 5
- They are already a member. 5
- If a child is on the band list and fits the criteria they should not have to jump through hoops to maintain status. 5
- If they already have 4 Kanien'kehaka Great Grandparents, why do they have to reapply? 5

Marriage Comments

- I would agree that native women who lost their status by marrying a non-native should be allowed to come back without their husband. Non-native women shouldn't be here. 1
- If there are children involved it becomes more complicated. 2
- If the union breaks, will they still be a member? 2
- I always take for the underdog – women's rights. 2
- If you are common law, it is easier to get out of the marriage/union than if you have membership, you can do things on your own. 2
- Indigenous only. 2
- But children should be considered. 2
- What if there are children from this union? 2
- It depends if they have children. 2
- If they have children, they should have full rights until children are 18.2
- The non-native people keep it, so why shouldn't a native?2
- It depends on how long they've been together and if there are kids involved.2
- If they have at least 3 great grandparents.2
- If you were married only. 2
- Must be married to get here or nothing. 2
- What is meant by 'common law?' What is the criteria? 2
- Definition of common law needs to be determined and other considerations Ex: Canadian government determines you are common law if you have a child. 2
- I am not sure. 2
- Question is vague – question sounds like you could be married to anyone. 2
- Depends on how many years they've been living together and if there's children. 2
- Shouldn't be a deterrent. 2
- If they stay together for a least 5 years and are both native. 2
- Only if they are native. 2
- If it's to a native. 2
- But it has to be a native. 2
- Only if they are native. 2
- As long as they are native. 2
- If they are Indian. 2
- Only if they're native. 2
- If you have no lineage, I don't agree with that. 2
- It's not fair. 2
- If they have no lineage, they should not apply. 2
- A non-native should not be allowed to be Indian. 2
- Native only, not white people. 2
- How do you determine the other person's lineage? 2
- Native from another nation is more desirable. 3
- Residency contingent on marriage. 6
- Non-Indian woman marries a native, she gets to live on the reserve, own a house and has status (has same status as her husband) and her children whereas the Indian woman married a non-native and is not even being looked at. At this point, we should be recognized as native and be able to come home with our husband and children (6.1). 6
- Only if has lineage. 2
- If only native of some kind. 2
- But the % must meet our criteria or higher. 2
- Only if indigo lineage not non-natives at all 2
- A non-native should not be allowed to be Indian. 2
- How do you determine the other person's lineage? 2
- If Native 2
- If they are both Native 2

Questionnaire on Membership in Kahnawà:ke and the 2003 Kahnawà:ke Membership Law

- If Native 2
- Depends on the person's relationship with the community. 2b
- Living in a common law relationship with a Mohawk who is a member. 7
- If both are Native only 2
- If both Native 2
- If they have kids 2
- Only the children who are part-native Ex. Restigouche. 2
- Should be married legally! 2
- People who married before the 1981 moratorium should not be affected but the one afterwards knew what the consequences of marrying out were! 7
- Married to a Mohawk who is a member. 7

Married to a Mohawk member:

- As long as it's not a white person. 7
- Because you have children. 7
- But if you're white, this isn't your community. 7
- Not if you're not living here. 7
- If a Mohawk marries a white woman or man – too many variables. 7
- But not for non-natives married to a member. 7
- Not clear. Does this refer to a man or woman? Differences are man staying and woman has to go. 7
- Not if they're white. 7
- But not a non-native. 7
- It depends on if they have children. 7
- Don't believe anyone should be marrying non-natives from off reserve. 7
- But only if they are married to Mohawks. 7
- Native or non-native? 7
- If you're both native. 7
- If children are involved. 7
- Non-native will learn the culture. 7
- That depends if that person is living in town, if they're married to someone from town but not living in town. It could be a community tie. 7

Living in a common law relationship with a Mohawk member:

- As long as it's not a white person. 7
- What is the criteria for common law? 7
- It depends on how long, more than 10 years. 7
- But if you're white, this isn't your community. 7
- If there are children involved. 7
- Not clear. Does this refer to a man or woman? Differences are man staying and woman has to go. 7
- Not if they're white. 7
- Depends on the duration of the relationship. 7
- If one is non-native, it's not a community tie. 7
- It depends on if they have children. 7
- Only for the duration of the relationship. 7
- If you're both native. 7
- If children are involved. 7
- Duration of Membership
- If they have been here for more than 7 years...they should stay. 2
- If they have been here for 1-2 years definitely no they should leave. 2

Non Member Residents

- The person with little or no Kanien'kehaka lineage shouldn't be able to apply for membership. 2

Questionnaire on Membership in Kahnawà:ke and the 2003 Kahnawà:ke Membership Law

- Don't see a problem with non-natives being residents but not membership. 2
- Deceased, divorced, separated – you're French, you're French. You're black, you're black. 2
- Based on circumstance if person continues to live here or not. 2
- This is not a straight forward yes no answers, there is a need for more detail. I believe that a person who has proven/supported indigenouness lineage would be entitle to maintain their membership in Kahnawake, however if there is no lineage or lineage that does not meet our membership criteria then it needs to be dissolved. 2
- What happens if they are older and lived here for 50 – 60 years? 2
- I don't believe anyone who has no lineage ought to be allowed to live on reserve. No exceptions. 6
- I think question 1 should be resolved before this can be answered. 6
- This is a difficult question because some of the non-natives contribute more to the community, but I guess they need to feel a part. 6
- They have to have at least 1 parent that is native. 6
- All people who have no Kanien'kehaka or Indigenous lineage should be required to apply for non-member residency. 6
- It gets me confused – it says 'member' and 'resident'. I believe they are two different things. 6
- Residency contingent on marriage. 6
- Non-Indian woman marries a native, she gets to live on the reserve, own a house and has status (has same status as her husband) and her children whereas the Indian woman married a non-native and is not even being looked at. At this point, we should be recognized as native and be able to come home with our husband and children (6.1). 6
- There has to be a special process for non-natives, would have to be set up. 6
- All should apply. It a security for the community. 6
- Shouldn't have the benefits of living here tax-free. 6
- I would add that if a person is physically or mentally challenged, they should have a medical exemption where medical care is needed 24/7 or supervision. 6
- I don't get this law stuff. 6
- All are okay. Non-member residency should be renewed every 3 years – not permanent. 6
- I still firmly believe that the more non-natives we allow to live here, we're going to end up like Kanehsatà:ke. 6
- Don't believe there should be non-member residents. They're occupying space and taking advantage of the economy. 6
- Please define what is positive contribution. 6
- Don't agree with the criteria 'without Kanien'kehaka lineage' 6
- The whole thing is very delicate. You can't help who you fall in love with. Marriage strengthens the line. 6
- What is common law criteria? 6
- Don't agree with the criteria 'without Kanien'kehaka lineage' 6
- In some cases, it is for humanitarian reasons. Ex: the non-native is a caregiver and demands nothing from the MCK. 6
- In the case of death of the native or break in relationship, the non-native should be asked to leave and it should be enforceable. They should not be entitled to inherit any land or property. 6
- Can't answer it. If you have Indian blood and Indian relatives, then why can't they live here? 6
- Define 'positive contribution'. Is very subjective. 6
- If you have Indian blood and Indian relatives, then why can't they live here? 6
- Please define what is positive contribution. 6
- As long as not a white person. 7
- Define positive contribution? Very subjective. 6
- Add another box: 6
- Only native persons from other communities who can prove and match our membership criteria can reside on the territory. 6
- With some lineage. 6
- It's the same thing. 6
- Only with lineage 6

Questionnaire on Membership in Kahnawà:ke and the 2003 Kahnawà:ke Membership Law

- Should not give the choice of 'without' some lineage. 6
- Especially if they have children 6
- Can't answer it. 6

Non-Natives

- The big issue is non-native 1
- If they are non-native, they should not have rights. 2
- Because the non-native would get what the native woman lost. 2
- If I choose to fall in love with a non-native, I would move to where they come from. 2
- Should depend on the character of the person. 2
- Why ask this question?? Of course they should leave and why should they keep their membership status, the men should not have been here in the first place. 2
- Too many variables to be cut and dry. 2
- It would depend on how long they stayed in the community. 2
- Many "non-natives" contribute more to this community. 2
- Don't agree with 'non-native' part of the question. Indigenous should include other natives. 2
- Non-native would learn the culture. 7
- Very emotional – can't answer. 11
- Laws always changing – this is complicated. 11
- Be married to a Mohawk member. 11
- or Common Law 11
- or common-law acceptable too. 11
- Depending on age & how long been married. 11
- Be required to pay fees for residency services. (Residency services may apply to school bus services, snow removal and road maintenance, and land use fees for example. Fees, for example, can be used to lower the MCK annual community maintenance costs). 11
- Would be the start of taxation. 11
- But also non-native doctors, teachers, etc should pay residency fee) 11
- Should leave the community when the person is no longer married to the Mohawk. 11
- Death or Divorce 11
- or Common Law 11
- Only if there are no children involved. 11
- Unless they have children 11
- Children inherit the home but the non native parent is still here. Each situation is different. Why boot them out? Have to have some compassion. 11
- Should live here until any biological children reach the age of 18 years. 11
- If divorced or widowed, if still married can't ask that person to leave. 11
- And their spouse passes. 11
- If in charge of child – have custody. 11
- Should have residency criteria (contribute to the community, volunteer for example) identified by the
Council of Elders. 11
- Too many here already. 11
- They have our jobs. 11
- Should be put in law, not ideas from C of Elders. 11
- They should have to sign a paper with witnesses agreeing to all these requirements. 11
- Don't think it's the council of elders' place. Can't make someone do something they don't want to do. They should be encouraged not made to. 11
- Preferably. 11
- Economically, if we say this, no one will come here. 11
- Once you let that happen, what happens to our bloodline? Have to have two parents with a clan. 11
- Tricky, it's true but don't want Kahnawake to be a ghetto. 11
- Request permission to live here. 11

Questionnaire on Membership in Kahnawà:ke and the 2003 Kahnawà:ke Membership Law

- There should absolutely not be non-natives living on the territory. 11
- Apply annually for residency permit if allowed however Kahnawake is not for non-natives. 11
- No non-natives. If you choose outside persons (society) to marry, you should move there! 11
- In our community there are undesirables, such as drug dealers & crime involvement who should be asked to leave. Not the person who adheres to all the laws of the community. 11
- Have to take a class on our history, culture, introduction and agree to maintain and teach it to their children if any. 11
- Background check, letter of reference, explanation of how they would like to contribute to the community. 11
- Not for non natives w/out community ties. 11
- If no ties to the community, they shouldn't live here. 11
- People should be given an orientation – what's required expected. 11
- If they are going to be here and be required to go by our criteria, we should be fulfilling that criteria first. (ex: Eunice Williams) 11
- Very hard to answer. 11
- Don't agree. Talks about people who are totally non-native. 2
- believe that is why the Indian act was created 3
- Back 350 yrs ago, a few no natives would join our community, however I believe that if it were to come to a point where close to 50% or more of the residence we no longer recognized by our membership criteria I can see the gov't saying that the majority of residence are not indigenous and therefore you can no longer be recognized as a First Nation reserve and we would now be seen as a municipality, subjected to all taxes and lose all benefits as First Nations peoples. 3
- I really think the Indian Act was created for this purpose (10) 3
- Not sure where this question comes from but I think that was the purpose of the Indian Act. 3
- I believe it is possible over time, maybe that was their intention to cause all these problems knowing that the women raise the children. Knowing that the men were away so all these children of white mothers would be raised white. That doesn't sound very nice but it is true. 3
- It could become a problem but unsure! 3
- For sure, we'll lose out! Got to protect what you have. 3
- Well isn't this what we are trying to avoid. 3
- Think about it...what do you think? 3
- If that child is non-native, they should be raised as a non-native. Should bring that child and raise that child in non-native society in their culture. 4
- You can have a couple that adopts Cree children. My concern is the other natives. If you're native, you're native. 4
- I somewhat agree on the assumption that the child is white. 4
- This is a difficult question because some of the non-natives contribute more to the community, but I guess they need to feel a part. 6
- Non-Indian woman marries a native, she gets to live on the reserve, own a house and has status (has same status as her husband) and her children whereas the Indian woman married a non-native and is not even being looked at. At this point, we should be recognized as native and be able to come home with our husband and children (6.1). 6
- Don't agree with the criteria 'without Kanien'kehaka lineage' 6
- In some cases, it is for humanitarian reasons. Ex: the non-native is a caregiver and demands nothing from the MCK. 6
- Don't believe there should be non-member residents. They're occupying space and taking advantage of the economy. 6
- I still firmly believe that the more non-natives we allow to live here, we're going to end up like Kanehsatà:ke. 6
- There has to be a special process for non-natives, would have to be set up. 6
- Not if the child is non-native. 7
- It depends on who the mother and father are, if they're Mohawk and not white. 7
- Not if they're white. 7
- But not a non-native. 7
- As long as it's not a white person. 7

Questionnaire on Membership in Kahnawà:ke and the 2003 Kahnawà:ke Membership Law

- If a Mohawk marries a white woman or man – too many variables. 7
- NO! NO! NO! We have been stifled enough by non natives, they would be taking advantage of our rights and avoiding paying their dues to their government. 8
- But not for non-natives married to a member. 7
- As long as it's not a white person. 7
- But if you're white, this isn't your community. 7
- Not if they're white. 7
- If one is non-native, it's not a community tie. 7
- If you're both native. 7
- 53 people said 'It has already been answered many many times or NO they don't belong here. 8
- Why is this even a question? Who put it there? This is what gets us to keep going back and back. We have a law just enforce it and follow it. NO exceptions. 8
- I am frustrated with these questions. Many people worked so hard to bring awareness in the community and so if 300 people agree to having all non-natives live here is it okay. I don't think so. 8
- If they can contribute to the community, yes. 8
- Should have a responsibility attached. 8
- My core belief – people should stop bringing non-natives to the community. 8
- Only if they don't have the rights, man or woman. 8
- That person who marries a non-native should go live where the non-native lives. 8
- If the non-native works for our community, our children, they should be allowed to have residency rights. On a case by case basis. 8
- But without membership. 8
- If it were my own kids who married someone from Chateauguay, they would have to move to Chateauguay. But I wouldn't love my kids or grandkids any less. 8
- Should be determined on a case by case basis and looked at very carefully. 8
- Process should be set up, shouldn't be automatic. 8
- I don't know about this – along time ago, if a non- native woman married a native, and the man died, the non-native women had to sell. 8
- The men do it, why not the women? 8
- The ones who are here from 1981 – yes. Anybody else new now, they are both out. They should make considerations for non-native people who are helping community members. But once relationship dissolves or native person passes, the non-native should leave. 8
- I truly believe in building lineage. I pray for consistency right across the board in any changes to be made. No one is 100%. Where do you start the new line? The law should apply to everyone, male and female. 8
- If they don't have children, they should leave. 8
- If they have children, they should stay. 8
- It depends. If they have children, yes. 8
- I wasn't allowed to live here and I'm Mohawk and now we're going to allow non-natives to live here? 8
- Should be subject to review – should have the option of eviction, shouldn't be a blanket statement. 8
- If the non-native becomes a member, they should not be allowed to own anything. 8
- Why is this question on here? Of course I disagree. Goes back to Traditional. People should be going back to the Longhouse. 8

Other Aboriginals/Indigenous Comments

- What happens if you marry outside of the 5 Nations? 1
- My daughter's father is from out West? What about her? 1
- If someone is married to a Cherokee, Navajo, etc. They are being tossed out the window, completely overlooked. 1
- 5 nations or anyone aboriginal, first nations not sure what the correct terminology 1

Questionnaire on Membership in Kahnawà:ke and the 2003 Kahnawà:ke Membership Law

- Is it just 5 nations? Wasn't aware of that, thought it was for any Onkwehón:we person. 1
- I don't agree with 4 great grandparents. Suppose you marry a native from other than from the 5 nations? Being native should count, not native from Africa, Mexico, etc. 1
- Kind of convoluted. What if they are Seminole from Florida? Indigenous should not be limited to a certain geographic area – should include American Indians. 2
- Definition of Indigenous should be expanded. 2
- There are other aboriginals living in Kahnawà:ke Ex: Cree, Micmac, Sioux – they should be accepted. 2
- Indigenous should include all native nations. 2
- Don't agree with the definition of Indigenous. Should include all natives.2
- Why just 5 nations, why not all Indigenous people? 2
- Don't agree with 'non-native' part of the question. Indigenous should include other natives. 2
- Do they have to give up their rights on their reserve?2
- They're still Indian. 2
- Only the children who are part Native, ex: Restigouche 2
- Other natives okay. Leary of people without First Nations bloodline. 2
- Definition of Indigenous needs to be expanded. 4
- You can have a couple that adopts Cree children. My concern is the other natives. If you're native, you're native. 4
- Don't like the scope to include just 6 nations. 4
- Can't answer it. If you have Indian blood and Indian relatives, then why can't they live here? 6

Survey Comments

- Don't agree with this question – don't see how lowering the number of great grandparents would make a difference. 1
- I don't agree with any of the above. I know of people who have been accepted on both sides. I would prefer to see a survey and fill it out myself. 1
- This section / question needs to be changed – not sure. 1
- This should be 2 questions: For Indigenous – somewhat agree. For no Kanien'kehaka – totally disagree. 2
- No specific enough. 2
- It sounds like 2 questions. 2
- Isn't this the same as the person who lost their spouse?2
- Don't understand it. 2
- This is a loaded question! 3
- I don't want this Survey being used for the decision making process. 1
- Discussions have to take place, not over the phone. 1
- What kind of question is that and does it really belong in this survey. 3
- A lot of assumptions can be made from this question. 3
- Likert scale used for this survey is not appropriate. 4
- Question does not make sense. A pledge to who? A pledge to what? When you're named in the Longhouse, you're accepting your responsibility as a Kanien'kehaka person. 5
- I don't agree with the tactics for this procedure. It's done in a condescending manner. 5
- Don't agree with any of the options. 5
- Sorry but this question totally doesn't make sense. 5
- I don't understand should be worded properly. 5
- Much too wordy 5
- Why is this question even a part of this survey 5
- Stupid Question, poorly written, I could have done a better job with this question and survey. Questions are too leading, should ask for my opinion. 5
- Again, stupid question, where do these questions come from, no they don't belong here no matter what. 6
- Should be 2 questions – answer more than 1. 6
- It's a dumb question. 6

Questionnaire on Membership in Kahnawà:ke and the 2003 Kahnawà:ke Membership Law

- Should have been a 2-part questions – should have been worded differently – one ‘with’ and one ‘without’. 6
- This is really confusing. Was the survey looked at by poll professionals like Ipsos Reid? Really complicated. Too hard to follow. 6
- Don’t agree with these options. 6
- It’s the same thing. 6
- Question doesn’t make sense. 6
- It’s the same thing. 6
- Not clear, is it for native or non-native? 7
- Question’s purpose is not clear, therefore, cannot answer with confidence. 7
- Community Ties “not sure what exactly would define what this tie would be....can’t answer this question. 7
- What is the point of this question? 8
- Unclear – are the ones that are here now or starting tomorrow? 8
- Although it was mentioned that these will be randomly selected, I believe that the phone interviewing job should be contracted out to ensure accuracy of the results.
- This questionnaire should be made easily assessable to all in the community. i.e. putting a copy in everyone’s mailbox or placing them in the Eastern Door.
- Traditional Membership/Clans
- You either have one or you don’t. 1
- Have a problem with clans – you can be a non Onkwehón:we and get a clan. 1
- I don’t agree with all 4 criteria. 1
- What we follow is you are what your mother is. I believe on going through the matrilineal line. 1
- The clan. What happens if they don’t get a clan? 1
- I am Traditional and don’t agree with the process. Are you working with the Longhouse? I am forced to get a Quebec birth certificate for my son. I can’t afford to send him to our own school without traditional document. 1
- How can you get a clan? If you’re not born from a woman who has a clan, you can’t get a clan. I have a book on clanology. 1
- Culturally speaking when we adopted a child they became our family and are now community members, or part of the nation. There were guidelines to the rights that the person had we need to revisit those guidelines and find a way to use them. That individual is raised in a Kanien’kéha house hold then they need to be acknowledging as one.However, again that does not mean that if an individual who is on the band list marries or common law with a non-native who has children can adopt them so that they get the rights. Only if the adoptive parents are both on the band list would the adopted child be eligible. 4
- The Great Law says when you adopt someone, you forget about their past. 4
- Why is this question on here? Of course I disagree. Goes back to Traditional. People should be going back to the Longhouse. 8

Council of Elders Operational Review

April 2008



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TABLE OF CONTENTS

Section 1: EXECUTIVE SUMMARY.....	1
Section 2: THE PROJECT	3
Introduction.....	3
Background	4
Terms of Reference	6
Methodology.....	7
Challenges to the Project.....	11
Section 3: FINDINGS	14
Structure	15
Authorities.....	19
Accountability	21
Roles & Responsibilities	26
Relationships.....	28
Goals & Objectives	32
Policies & Procedures.....	33
Tools	40
Training.....	42
Alignment to Framework.....	43
Impediments to Alignment.....	44
Developmental Requirements.....	50
Impacts Stemming from Current Process	53
Section 4: CONCLUSION & RECOMMENDATIONS	61
Conclusion	61
Recommendations.....	65
Section 5: APPENDICES	68
Appendix A. Resources.....	70
Appendix B. Project Communication	75
Appendix C. List of Materials Reviewed	77
Appendix D. Interview Tools.....	80



1. EXECUTIVE SUMMARY

The Mohawk Council of Kahnawake (MCK) has enacted the Kahnawake Membership Law (KML) and a Council of Elders (CoE) to operate within this law. The need for an operational review of the Council of Elders was in response to the report released by the MCK Membership Department entitled "A Review of the Kahnawake Membership Law". The first recommendation was that an independent review of the Council of Elders is commissioned.

The CoE Review project undertaken by Organizational Development Services was conducted between December 2007 and April 2008. The purpose of the review was to examine the framework the CoE operates under and determine what fosters or impedes CoE alignment to the framework, impacts and recommendations to improve operations.

Sixty-nine (69) individuals participated in the review. The groups consulted through interview: CoE (past & current), Elders involved in the development of the Custom Code, Membership Review Committee (MRC), Chief & Council (past & current), SDU Membership Department staff, applicants under the KML {members (granted, denied), non member residents (granted)}, key informants (includes support for applicants).

Findings of this report are presented under the following findings:

⇒ Nine (9) framework elements:

<i>Structure</i>	<i>Authority</i>	<i>Accountability</i>
<i>Roles & Responsibilities</i>	<i>Relationships</i>	<i>Goals & Objectives</i>
<i>Policies and Procedures</i>	<i>Tools</i>	<i>Training</i>

⇒ How aligned the CoE is to these framework elements

⇒ Impediments to CoE alignment

⇒ Developmental requirements

⇒ Impact of application and hearing process

A more comprehensive framework is required to support the operations of the CoE. The CoE operations are not fully aligned to the current framework, part of this has been attributed to the CoE not having all the competencies necessary to operate under their framework as well as a very weak orientation for new members. There is confusion with roles and responsibilities and conflict attributed to criteria that allows for use of discretion versus objective measures. Blood quantum measurement is evident in CoE deliberations and is contrary to the spirit of the law. Key principles

such as consensus and compassion are not being respected. Major concerns such as: the inadequate criteria for CoE member selection, the permanency of their terms and the lack of accountability undermine confidence towards the CoE. The experience of going through the KML-CoE hearing process is described as stressful, insensitive, unfair and having the potential to harm those involved.

There are critical elements in the operations of the CoE that are not working well and have led to the primary recommendation of concluding the appointments of the current CoE; until such time that the framework they operate under is further developed to address the deficiencies noted in this report. The remaining recommendations are directed at improving this framework.

The community seems to have a limited grasp of the KML and the work of the CoE. Community members have to have a sound understanding of both, in order to support and more fully engage in the CoE, their processes and enforcement of the KML. This must somehow be addressed before recruitment efforts are launched to re-establish an effective CoE in the future.

2. THE PROJECT

INTRODUCTION

The topic of membership in Kahnawake has had a very long and eventful history with shifts from the traditional Kanien'keha:ka system to the Indian Act system to the control by the Mohawk Council of Kahnawake (MCK) Membership Department, and finally leading up to the current version of the Kahnawake Membership Law (KML) enacted by Mohawk Council Resolution (MCR) #51/2003-2004, coming into force through MCR #41/2004-2005, and amended by MCR (no number) 2007-2008.

The Social Development Unit (SDU) is an amalgamation of programs located under the MCK operations. The Kahnawake Membership Department and the Registrar's Office are located within the SDU.

A body to be known as the Council of Elders (CoE) was enacted by the KML and established in May 2004 to:

- ⇒ Review decisions made by the Registrar pursuant to the KML
- ⇒ Review and decide applications (conduct hearings) for membership instatement, reinstatement and non-member residency as described in the KML
- ⇒ Review and decide applications to suspend or revoke a person's membership or to suspend permission to be a non-member resident
- ⇒ Enact Regulations to accompany the KML
- ⇒ Oversee the functions of the Registrar

This report presents an operational review of the CoE. An operational review is an evaluation of a body including analysis of its operations, and appraisal of the structure, controls, procedures, processes, etc. that it uses. An operational review is most beneficial in the following instances:

- ⇒ Identifying operational areas in need of positive improvement
- ⇒ Pinpointing the causes (not the symptoms) of problems
- ⇒ Quantifying the effect of the present situation on operations (impact)

- ⇒ Developing recommendations as to alternative courses of action to correct the situation
- ⇒ Identifying practices geared to continuous improvements

BACKGROUND

Organizational Development Services (ODS) is a First Nations Training and Consulting service working with First Nation communities, organizations and groups. It has been in existence since 1993 and has a core staff of four persons. ODS has also established an experienced group of human resources that are bridged into projects as needed.

The ODS project team for this report was:

- ⇒ Rheena Diabo - Project Manager
- ⇒ Dale Jacobs - Field Researcher
- ⇒ Arthur Diabo - Field Researcher
- ⇒ Kareen Diabo - Field Researcher
- ⇒ Alison McGregor – Computer Operator
- ⇒ Christine Loft - Project Coordinator
- ⇒ Winnie Taylor - Field Researcher
- ⇒ Cynthia White Jacobs - Field Researcher
- ⇒ Ida LaBillois Montour - Field Researcher

In October 2007, ODS was approached to conduct an independent review of the Council of Elders (CoE) operating under the Kahnawake Membership Law (KML).

This independent review project stems from a report that was released in October 2007 by the MCK's Social Development Unit (SDU)/Membership Department entitled 'Review of the Kahnawake Membership Law'. This report highlighted issues and concerns of the Membership Department in regard to specific elements of the Membership Law in Kahnawake and its application including the workings of the CoE. The claims and concerns of community members received by the Membership Department in regards to the CoE, their decisions and their conduct cited in the report included:

- ⇒ Decisions made have shown some inconsistencies (i.e. siblings with same lineage having conflicting decisions), leading to allegations of bias and favoritism
- ⇒ Belief that the real reasons for unfavorable decisions are not publicly stated
- ⇒ Poor conduct during hearings of applicants including unnecessary prying into personal lives, dismissive treatment and harmful statements made

- ⇒ Lack of clarity over roles and responsibilities
- ⇒ Lack of transparency and not answerable to the community
- ⇒ Breakdown in relations between the CoE and the Membership Department
- ⇒ Decisions overturned on beneficiary status children placed on the registry by the Registrar
- ⇒ Lack of an appeal mechanism or redress regarding CoE decisions. Membership Review Council has no real mechanism to overturn CoE decisions and is limited to suggesting an applicant be reconsidered by the CoE
- ⇒ CoE have differing interpretations of the definition of a Kanien'kehá:ka great-grandparent (insistence of inserting the word "full" when interpreting the clause "has 4 or more Kanien'kehá:ka great-grandparents"¹), which is perceived as blood quantum criteria
- ⇒ Direct contradiction between the actions of the CoE and the spirit of the preamble to the law

A number of recommendations were presented in the report, the first being '*that Chief and Council commission an independent review committee to further investigate the processes, actions and authorities of the CoE with the intent of substantiating the community claims identified in this report and develop amendments addressing its structure, selection and administration*'. The decision to conduct this review followed a meeting between the MCK and the CoE on September 5th 2007. The KML review report was presented and the activities of the CoE were subsequently suspended.

After careful consideration of the requirements to carry out an independent operational review, ODS agreed to take on the project. This review was designed with a balanced approach not based on the specific complaints noted above, but building in methodology and guiding questions that sought **not only the weaknesses but also the strengths of the operations**. Identifying what is working well along with root causes of problems provides the best information for making recommendations on what changes are needed. The intent was to hear from all perspectives on the issues. The project team wanted to ensure that this review would not become a rubber stamp of the previous review report conducted by the SDU.

Preliminary project work began on November 16, 2007. A contract between the SDU and ODS was entered into on December 17, 2007. In order for the review to remain as

independent and transparent as possible, ODS was responsible for managing the review, keeping the community updated and providing a report on the outcomes of the review. The MCK financially sponsored the work though it did not oversee the project. A project steering committee was not established.

The focus of this review was specifically the CoE and not the KML as a whole. *However the reader must appreciate that it is nearly impossible to look at the CoE in isolation; the assessments for this reason include references to and opinion on the KML, its development and implementation in so far as the impact they have on the operations of the CoE.*

TERMS OF REFERENCE

The following Terms of Reference (TOR) are based on the information provided to ODS when requested to develop these TOR. They were open to review and revision, though they were not changed through the course of the project.

1. The project will be identified as an Operational Review with the Focus on the Kahnawake Membership Law Component Dealing with the Council of Elders
2. The review will not be overseen by a steering committee (project authority), once contracted, ODS will operate independent of the MCK and SDU
3. The scope of the review will cover:
 - Identify Council of Elders structure, authorities, accountability, roles & relationships, goals, objectives, policies and procedures
 - Assess alignment of Council of Elders to structure, authorities, accountability, roles & relationships, goals, objectives, policies and procedures
 - Identify any impediments to alignment
 - Identify any developmental requirements
 - Identify any social impacts stemming from current process

¹ 10.1 (b) of the Kahnawake Membership Law, amended by MCR# 2007-2008.

- Consultation with those involved in the development of the Kahnawake Membership Law and those involved in implementing the Kahnawake Membership Law (this will include Mohawk Council Chiefs)
 - Consultation with applicants (those denied, approved, pending and incomplete)
4. The review will include the following major activities:
 - Communications to regularly inform the community of the project
 - Research/literature review
 - One on One interviews
 - Validation Activities
 5. The time line for the review is approximately 3 ½ months. The start date will be November 12, 2007 with a target end date of March 7, 2008.
 6. The consultant team will ensure complete transparency with the community and media on the project status. The project will practice transparency in terms of methodology and activities planned but all interviews will respect confidentiality of respondents
 7. The project team will provide a final report to SDU

METHODOLOGY

The project used a multi-method approach combining literature searches/reviews, interviews, audit and inventory of documentation in relation to the CoE operations. The approach was qualitative and process oriented. Using the research questions already identified in the project terms of reference (from the scope of the review), the project team developed an information matrix/project framework, inventory/audit tools, and interview questions for the various groups of respondents.

Work Plan

The planned review activities fell within 4 phases:

Project Start Up: Development of communications plan, literature review, design interview tools, test interview tools, promote project with media

Interviews & Validation: Coordinate and administer 85 interviews, data entry, conduct validation of interview data

Compilation & Analysis: Compile interview and literature review data, analyze data

Final Report: Prepare final report with findings from interviews and literature review, present final report

Communications

The promotion and community awareness efforts for this project were handled primarily by ODS for the purposes of transparency. The MCK released a press release on November 8, 2007 announcing that it had contracted ODS to conduct an independent review, this release included the project terms of reference and a brief description of ODS. ODS followed in late November with an advertisement placed in the Eastern Door newspaper entitled "Council of Elders Review underway", this communication outlined the interview process, the ODS team members, the intent of the project and encouraged community participation should they be contacted to take part. See Appendix B, for the project communications distributed.

Upon submission of this report, ODS would be responsible for preparing a project status update to the community and also for preparing a presentation of the results.

Research & Literature Review

Research activities included searches for information key to establishing concrete references and/or definitions needed to form an opinion on issues. ODS was dependent on the Registrar's office to secure copies all of the documents and materials related to the operations of the CoE. We were unable to secure any documents directly from the CoE as they had been suspended during the time of this review. Internet and library searches were carried out for information not included within the CoE or KML resource materials. See Appendix C, for a listing of material reviewed by ODS.

Interviews

The primary source of information for this review was interviews with different groups of respondents. The original number of interviews projected and targeted for this review was 85. This number was determined by including all of those involved in implementing the membership law; CoE members, SDU/Membership Department staff, Mohawk Council Chiefs as well as a representative sample of applicants who have gone through the KML process. See interview information Table 1.0 on the next page for more detail on the data groups.

Interview tools were developed for 5 main categories of respondents, and sub-categories emerged within these categories (see Appendix D, for all interview questions). Lists of potential interview names (to remain confidential) were provided to the project team by the Registrar's office. Random sampling was used for the different categories of applicants as they were the only groups whose size required it. An attempt was made to interview an equal number of applicants denied and applicants accepted, to try to avoid a skew in the data. Potential respondents were contacted by telephone, and asked to participate in an interview. All respondents were provided with and signed participant consent forms that outlined important project information (i.e. purpose of the study, protection of privacy, voluntary participation, etc.).

One on one interviews were conducted with respondents from each group. The vast majority of interviews were carried out in person, at a mutually agreeable meeting place (offices, homes, designated meeting rooms). A very small number of interviews were carried out over the phone; this was usually only done for applicants who lived away from Kahnawake. Every effort was made to inform and approach as many potential interviewees within the designated timeframe.

Every attempt was made to secure 85 interviews. When the numbers of individuals who refused to participate and who could not be reached increased, the sample was expanded by selection of additional names. A total of 18 additional names were randomly selected from the applicant groups that had alternates available (applicants granted and applicants denied). This increased the selection pool from 85 to 103. There was also a small number of individuals who called requesting to be interviewed (in response to seeing the project advertisement in the Eastern Door).

Completed interviews were coded for data entry and stored in a secure location to protect the confidentiality of respondents.

Table 1.0: Interview Information Table

The following table outlines the various groups interviewed, completion rate and percentage of target completed.

Interview Tool used/ Data Group	Number of interviews completed	Percentage of target completed
COUNCIL OF ELDERS		
Council of Elders (Present)	10/13	77%
Council of Elders (Past)	4/7	57%
Membership Review Committee	2/3	67%
ELDERS CUSTOM CODE		
Original elders group that developed Custom Code	3/7	43%
CHIEF AND COUNCIL / KEY INFORMANTS		
Chief & Council (Present)	10/12	83%
Chief & Council (Past term)	3/4	75%
Key Informants (support for applicant & other)	3*	-
SDU/MEMBERSHIP STAFF		
Staff	6/6	100%
APPLICANTS		
Applicants granted	14/18	78%
Applicants denied	8/18	44%
Non-member resident granted	6/9	67%
Suspended members	1/4	25%
Outstanding files	0/2	0%
TOTAL	69/85	81%

* no target number was established, we agreed to interview all who were noted in interviews as having key information or who indicated an interest in participating.

The total number of interviews completed was 69. Based on the original target of 85 interviews, this number represents a high percentage of interviews completed (81%).

In addition to the interviews, 1 focus group was carried out. ODS was approached by a group of individuals who requested the opportunity to participate in the consultation process. This group was accommodated and a focus group was conducted based on the applicant questions (as some of the individuals in the group had participated in a KML hearing process).

Validation Activities

The project team carried out an inventory (listing) and audit (review) of the structural components that the CoE operates under. A number of validation activities (phone calls, verification) were required to determine:

- ⇒ if the contact information for respondents was correct
- ⇒ if the documents we were working with (KML, Regulations) were the correct/most recent versions
- ⇒ if the dates reported were correct
- ⇒ if items being reported during interviews could be confirmed by the review of available documentation on the KML and CoE (i.e. list of questions used in hearings)

CHALLENGES TO THE PROJECT

As with all research projects we encountered some limitations and challenges to the work. The following outlines the challenges the project team encountered during the course of the review:

- ⇒ A key challenge to the project could have been the perceived bias of the research team. These potential biases were: 1) all ODS research team members are currently members of the Kahnawake community themselves; it challenged them to remain neutral to the subject matter as membership affects each individual and their families. 2) A participant noted the research team could be confronted on the current membership criteria in terms of either their own lineage or the lineage of their significant others. This suggested that possible preconceived notions could exist

within the review process. Taking this into account, the research team did acknowledge and discuss at length the potential bias at the onset of the project to ensure this would be considered and mitigated throughout the review process and report writing.

- ⇒ There were differing versions of how and why the CoE and their activities were suspended. The project team at hire was advised a meeting took place between the MCK and the CoE with both groups agreeing that a review was in order. During interviews with CoE members, the research team was advised that the CoE did not have a say in the suspension of their activities, some feeling it “came out of the blue”. CoE members had heard of complaints in relation to hearings but not of the degree presented to them in the meeting. They were informed of their suspension and about a planned review of the CoE. As a consequence the research team found themselves in contact with CoE members who were skeptical and mistrustful of the project. This required more effort to secure interviews.
- ⇒ Initial delays in receiving documents consequently held up tool design, inventory and audit activities. This shifted the interview phase into two holiday seasons (Christmas & March break) where respondents’ availability for interviews and validation activities were limited. As a result other phases of the project were extended which in turn conflicted with other ODS commitments.
- ⇒ Some reference documents provided to the research team were not user friendly. For example the CoE Members Orientation binder given to the research team (the same that is provided to new CoE Members) contained documents that were poorly copied so words and sentences are illegible, leaving room for interpretation/ misunderstanding.
- ⇒ A significant amount of time was required for all project members to become well acquainted with project documents essential to formulating an opinion on the operations of the CoE. This demanded a sound understanding of the KML, the research and development leading up to the law, as well as how the SDU/Registrar functions influence and interface with the CoE during these processes:
 - Application Process
 - Hearing Process
 - Registering of Decisions

- ⇒ Access was limited to some of the randomly selected respondents in the applicant categories as contact information for many was incorrect or outdated. As a result, alternate names had to be selected and contacted. This took considerably more time than originally anticipated for the field research.
- ⇒ Reasons for refusal to participate were sometimes provided. For some past applicants there was a fear that participation in the review could possibly influence the decision on future membership applications.
- ⇒ Respondents often needed to vent on their experiences going through the KML process. This caused many interviews to go beyond the time initially projected for interviews and data entry.
- ⇒ Some respondents were preoccupied with “fixing the law” through this review. Interviewers had to continually redirect questions to keep respondents on track and focused on the operations of the CoE and not the KML.
- ⇒ Access to information was limited for verification purposes. CoE meeting/hearing minutes were not available to the project team for review. Minutes are archived by the recording secretary at the Registrar’s office and can only be released by the CoE. The CoE were suspended and therefore unable to meet to release the minutes. As a result the assessments of this review are based on what has been individually reported on the hearings and not what could be confirmed by what was documented in minutes.

3. FINDINGS

The CoE, as a collective, demonstrated a solid work ethic and a passion to serve Kahnawake in their functions as a council. From interviews with CoE members it became clear there is a deep love of the community and a strong commitment to protect it against further erosions by outside governments. Individually, members had differing opinions about how the law is supposed to do this. Collectively, there is frustration among CoE members and the community in not being able to resolve this difference of opinion. A shared conviction by CoE members interviewed (past and present) is that the community does not have an appreciation of the challenges the table faces in carrying out their work. Individual members believe they have carried out their responsibilities to the best of their abilities and shared both shock and disillusionment over the suspension of their council.

The findings of this review are presented in a manner intended to provide insight into the possible missing pieces/disconnects, as well as identifying clear areas of CoE operations that can be enhanced. As with any system, there is always room for improvement.

Well functioning bodies (boards, committees, councils, etc.) organize and operate under a basic conceptual structure which can be viewed as a framework (think of the frame of a house). This framework is usually represented by such things as: the body’s constitution, by-laws/regulations, policies and procedures, terms of reference, vision, values, mission/purpose, philosophy, goals and objectives.

This review included an inventory and audit of CoE operations to determine if a framework existed, what it entailed, and how well developed it was. Nine (9) framework elements surfaced during the inventory:

Council of Elder FRAMEWORK ELEMENTS		
Structure	Authority	Accountability
Roles & Responsibilities	Relationships	Goals & Objectives
Policies & Procedures	Tools	Training

Other elements deemed relevant to the review were a determination of:

- ⇒ How aligned the CoE was to the framework elements
- ⇒ What were the impediments to alignment for the CoE
- ⇒ What are the developmental requirements of the CoE
- ⇒ What impacts did the application and hearing process have

The following sections present the findings of the review by element. Some issues will be presented repeatedly as they have relevance to more than one element.

STRUCTURE

The current structure of the CoE is represented by what exists in:

- ⇒ the Kahnawake Membership Law (KML)
- ⇒ the 7 Regulations developed and enacted under this law
- ⇒ the informal procedures/processes/tools noted during the review

There is a preamble to the KML providing the setting and/or tone; explaining its intent.

The preamble usually serves as the foundation and guide for the implementation of a law.

Although the purpose of the law is clear...

To provide the criteria and procedures for:

- a) *identifying those persons who are members at birth of the Kanien'kehá:ka of Kahnawake and establishing the entitlements and responsibilities associated with membership,*
- b) *determining the membership of persons who are entitled to apply for membership of the Kanien'kehá:ka of Kahnawake and establishing the entitlements and responsibilities associated with membership,*

c) determining those persons who are eligible to be non-member residents of Kahnawake and establish their privileges and obligations

interviews across all groups indicated there is a range of driving forces influencing both the **decision making** at the CoE table and the **expectations** of people involved in the process.

The following comments made about the purpose of the KML during interviews demonstrate the range of interpretations possibly influencing its implementation:

“To build up the Nation:

“To prevent diminishment of Mohawk bloodlines”

“To prevent a case society in Kahnawake”

“To establish citizenship”

“Not to be like the Indian Act, to be fair to everyone”

“To protect our cultural identity”

“To get our native people back and get the non-natives out”

While some of these driving forces are reflected in the preamble of the KML, others are not. The variance gives insight, to the possible sources of reported conflict which have emerged.

The base structure for the CoE is contained within the KML. Other parts to the structure have been developed in stages (regulations, procedures, tools). The amount of development corresponded to the amount of time the CoE was able to devote to these activities during administrative meetings in addition to the meetings reserved for hearings.

In regards to the CoE's operation within the KML, the reported structure weaknesses (what needs improvement) are:

- ⇒ No organizational chart has been developed that presents a clear picture of the CoE structure. Having such a tool would help all understand the various parties, their relationships and responsibilities to each other.

- ⇒ It is unclear where the Membership Review Council (MRC) fits in the structure as they are not a true appeal body.
- ⇒ Formal, comprehensive and consistent orientation to the CoE role is non-existent for new members.
- ⇒ The number of members on the CoE (not less than 9 and not more than 15) was constantly cited as too high. The size of the CoE was often noted as intimidating to applicants and their supporters. The number of CoE members that must be present for quorum according to Regulation No. 1 is seven. There was some difficulty with meeting quorum resulting in hearings being cancelled. It was reported the large number of CoE members impacts the amount of discussion time required to gain input from all members, resulting in a decision making process that can be draining.

Respondents expressed being uncomfortable with how CoE members were appointed. There are concerns about the lack of a screening process. There is sentiment that the competencies required of those making life-changing decisions for others are not adequate on the current CoE. The concerns include:

- ⇒ The criteria for becoming a CoE member is meeting the definition of “elder” outlined in the KML; being “an adult person who is a member of the Kanien’kehá:ka of Kahnawake and who has gained and continues to hold the trust, respect and confidence of the Kanien’kehá:ka of Kahnawake and who has a good knowledge of the customs and Kanien’kéha of the Kanien’kehá:ka of Kahnawake”, indicating a willingness to serve and going through the CoE selection process. The current criteria is too general and needs to be better defined for screening and appointment of CoE members.
- ⇒ Qualifications/competencies need to be established that ensure CoE members are capable in their roles and responsibilities
- ⇒ A more formal system is needed to select members. A common opinion was that more effort is put into hiring people for a job than what went into selecting the people who would be deciding on others’ lives. Questions were raised about what the hidden agendas are for some of the CoE members. An example shared by more than one respondent was in the case of a particular CoE member being overheard to say their intent of being on the Council was to ensure “so & so” would not get on the

membership list. This type of comment has direct bearing on the level of confidence the community has on the fairness of the process

- ⇒ There are no terms (length of appointment with a start and end date) for being a CoE member identified in the regulations. Regulation 1.2 outlines that a CoE member will hold office until: *a) he or she resigns; b) he or she, for any reason, is unable to perform his or her duties under the law; or c) until he or she is removed in accordance with section 1.29.* The result is the understanding that a CoE member can remain on the Council for as long as they would like. A recurring statement from interviews was “they shouldn’t be there for life.” Regulation 1.29 outlines a removal process if a CoE member no longer meets the criteria established for being a member of either council, involving the need for 100 signatures on a petition. In the opinion of the review team, the removal process is quite burdensome compared to the selection process and most community members would not engage in it to remove a member.

The physical set up for hearings before the CoE is not designed to be a welcoming, supportive environment. Key items noted:

- ⇒ The lighting in room is harsh
- ⇒ Seating is in an adversarial set up, with the placement of an applicants’ chair across the table from the CoE members
- ⇒ The placement of the lineage tool/family tree on the wall behind the applicant makes the person feel they are in the spotlight
- ⇒ Applicants reported waiting in isolation with little understanding of what is going to take place and sometimes hearing yelling or witnessing other applicants leaving the room in tears. This obviously increases the anxiety of the person waiting for their turn
- ⇒ The opening process was inconsistent from hearing to hearing where roles and steps may or may not have been explained prior to questioning. This can be attributed partly to the rotation of the presiding elder (chairperson)
- ⇒ Some applicants observed unfriendly facial expressions and body language of some members of the CoE (i.e. no eye contact at all or crossed arms) and some reported the appearance of disinterest on the part of the CoE (side bar conversations between CoE members, seeming preoccupied or appearing to be sleeping during a hearing). Most important in this finding is that some members themselves are truly unaware

that they come across this way and/or demonstrate a poor appreciation of how important interpersonal effectiveness (people skills) are for the work of the CoE

AUTHORITIES

The authorities for the CoE stem from the KML enacted by the Mohawk Council Resolution (MCR) #51/2003-2004 on November 10, 2003. The law came into force on September 27, 2004 through MCR #41/2004-2005 and amended on April 2, 2007 by MCR (no number) 2007-2008. While section 8 of the KML is specific to the CoE, there are other sections of the law that note additional authorities. The appointment of CoE members is decided by the community as represented by the general support from those in attendance at a community meeting (individual community members in attendance along with the MCK Chiefs who are present when these meetings take place).

The following are the specific authorities of the CoE as described in Section 8.3 of the KML:

The CoE will:

- a) *Review decisions made by Registrar pursuant to KML*
- b) *Review and decide applications for instatement, reinstatement or for permission to be a non-member*
- c) *Review and decide applications to suspend or revoke a person's membership or to suspend or revoke a person's permission to be a non-member resident*
- d) *Enact regulations as provided in the Kahnawake Membership Law*
- e) *Oversee the function of the Registrar*

The authority of the CoE to "oversee the functions of the Registrar" has not been described sufficiently. The Registrar function as a result seems to have two supervisors, the Director of the SDU as the original supervisor and the CoE, which can be considered a second, based on the above authority delegated in the KML. In the event of a dispute between the two supervisors it is unclear which has final authority over the Registrar. Neither the KML nor the regulations specify further on this.

A Membership Review Council (MRC) was established as a mechanism of appeal. Their specific duties are outlined in Section 9.4. Their sole authority is to review decisions made by the CoE and make recommendations. They have no authority to enforce their recommendations. They are not empowered to settle other disputes within the KML or with the Registrar's function.

In addition to the authorities (a-e) above, Section 11 of the KML affords the CoE with the authority to decide on the acceptability of a person's great grandparent and on any conditions to acceptance they deem appropriate.

KML section 11.5 states *"In the event of a dispute, the Council of Elders will decide whether a person's great-grandparents(s) were, for the purposes of this law, a Kanien'kehá:ka"*. This clause allows for the use of discretion by the CoE as a collective. There is conflict; as personal beliefs, biases and interpretations, of what constitutes being Kanien'kehá:ka (i.e. "full", "half", or somewhere between), compete. This has led to different outcomes in decisions based on who is at the table. There is no concrete definition or criteria noted for being Kanien'kehá:ka allowing for individual interpretation on the information provided. Some have referred to a discussion paper included in the orientation binder, it does not seem to be consistently supported or used by all members.

"A meeting went so well and a bunch of decisions were yes... Only a week later it was changed to all no's, don't know how that happened"

There is a perceived double standard during the CoE process of decision making. The most common reason cited was in the instances where two siblings from the same parents can have different results. As noted, there is the flexibility by the CoE to use their discretion with individual variables in addition to the basic 4 great grandparent acceptance criteria (i.e. looking at things the person has done in the past, criminal records, who the individual is married to/living common law with). Respondents in general felt it is not fair to allow this use of discretionary powers rather they preferred that a very clear set of criteria applied equally would better serve the decision making.

Section 11.7 of the law states: "The application of persons mentioned in section 11.4 and 11.6 will be carefully reviewed by the CoE. Notwithstanding section 15.1, in the event the application is approved, the Council of Elders may impose such reasonable conditions, limitations or restrictions on the member that they deem appropriate". This clause allows conditions to be placed on an applicant, approved for membership or non-resident status. Again there seems to be inconsistent practices among the cases. Some are required to reapply each year in order to maintain membership status, while others perceived to be in

the same situation do not have the same conditions placed on them. The lack of reporting and transparency by the CoE does not provide the applicants, their supporters and the community at large an understanding on the rationale for these CoE decisions; so the result is the appearance of discrimination by the CoE.

ACCOUNTABILITY

It is commonly accepted that you are accountable to the people who appoint you. Accountability includes being answerable not only for the decisions you make but also for the way you conduct yourself under the framework provided to you, especially if there are clear expectations indicated for this.

CoE members were appointed during community meetings by the people who attend these meetings. It stands to reason the expectation would be the CoE reports to the people who appointed them. This could include using the same venue unless they had developed another way of reporting under their regulations. This is not the case. The extent of reporting on CoE activities has been the provision of notices of applications and hearing dates in the Eastern Door. There has been no public/formal reporting to community members by the CoE since their inception in terms of the procedures, amendment, statistics, budgets and accomplishments (i.e. in an annual report format). All other boards and committees in Kahnawake are required to provide some form of report as part of their accountability.

“We were never truly accountable to the community”

There are critical components in the preamble to the KML that govern the CoE. The review demonstrated that most members are not appreciative of the implications these components have on the application of the law and how they are suppose to operate. Two examples are presented below.

The preamble to the KML states “*the rights on which this Law is based are collective rights belonging to the Kanien’kehá:ka of Kahnawake. However, **the application of this Law will respect the fundamental human rights of all individuals** in accordance with the principles of dignity and compassion inherent in **Kanien’kehá:ka culture, values and Traditional Law** and in accordance with **International principles of human rights and natural justice**” . We were unable to determine if the CoE is operating in accordance with *Kanien’kehá:ka culture, values and Traditional Law* as these were not defined in any of the documents provided to our team for this review.*

Applying what had been reported in interviews we attempted to assess whether the CoE is operating in accordance with International principles of Human Rights (elaboration on the principles from the United Nations are provided at the back of this report in Appendix A). It is the opinion of the project team that the CoE was not aware that there are specific principles involved and so no particular attention was given to them.

International Principles of Human Rights
Universality and Inalienability
Indivisibility
Interdependence & Interrelatedness
Equality and Non-discrimination
Participation and Inclusion
Accountability and Rule of Law

The preamble to the KML further notes the application of this Law will be “in accordance with...Natural Justice”, again this is not described/defined. The resource material in Appendix A offers some explanation on the philosophy of natural justice. It is unclear whether all CoE members are aware of and understand the principles of Natural Justice.

The CoE is accountable to uphold the KML in its entirety. The CoE also had the responsibility to enact its own regulations for implementing the KML. Seven regulations were drafted with legal assistance and enacted on various dates.

The CoE must perform their duties in accordance with the provisions of the KML and the Regulations. The following areas of accountability were reviewed:

- a) *They are to submit an annual budget to the MCK*

An annual budget is allocated to the CoE to cover basic expenses such as honorariums for attending meetings; there were no records that indicated the CoE themselves submit an annual budget to the MCK.

- b) *They are to maintain records of their proceedings, any decisions they make and the rationale for those decisions*

A major cause for concern is the perceived lack of accountability in the maintenance of minutes of all decisions for historical purposes. It has been reported that the recording of minutes is inconsistent (minutes exist for every meeting, yet some lack the detail of the intense discussions and rationale for decisions that have taken place) and there is concern that if the proceedings of these hearings are not properly recorded it will be a lost resource, particularly the importance of maintaining accurate reasons for decisions. Further Regulation #3 sections 35 - 37 also note the responsibility of the CoE to document and provide copies of their meeting minutes to the registrar. Their minutes are not accessible to the people who appointed them and there is no proof that records exist for **all** the proceedings or rationale used to make decisions. In the event a review of decision is needed, the lack of documented discussion and decision-making provides for a poor review.

- b) *They are to consult with the Registrar before enacting Regulations establishing the forms required for the purpose of the Registrar's office*

This has been done.

- c) *They must provide copies of all Regulations to the MCK for approval before coming into effect*

This has been done. However, the most recent versions of the Regulations are not centrally located or easily accessible.

- d) *They are to provide copies of all Regulations to the Registrar and distribute copies to members of the Kanien'kehá:ka of Kahnawake and to non-member residents*

Copies have been provided to the Registrar, but they have not (to the project team's knowledge) been distributed widely in the community.

- e) *They are to respect the fundamental human rights of all individuals in accordance with the principles of dignity and compassion inherent in Kanien'kehá:ka culture, values and Traditional Law and in accordance with international principles of human rights and natural justice*

The reported conduct of some CoE members in meetings and decision making does not respect the above. Further, Section 8.5 of the KML states that "*The Council of Elders, in*

performing its duties, conducting its meetings and making its decisions will respect the principles of fairness, dignity of the person, compassion and consensus that are consistent with the traditions and customs of the Kanien'kehá:ka of Kahnawake". Based on this description of how the CoE are to carry out their work, the following question was asked of all groups of respondents: "To your knowledge does the CoE conduct its meetings and make its decisions based on: a) respect for the principles of fairness, b) dignity of the person, c) compassion, d) consensus, e) consistence with the traditions an customs of the Kanien'kehá:ka of Kahnawake?"

The chart below represents the opinion and experience of 4 categories of respondents (Applicants, Council of Elders, Chiefs & Key Informants, & Membership Staff). Percentages indicated are based on the total number of respondents who provided an answer to the questions.

	Respect for the principles of fairness	Dignity of the person	Compassion	Consensus	Consistence with the traditions and customs of the Kanien'kehá:ka of Kahnawake
Yes	33%	34%	24%	43%	32%
No	48%	42%	49%	30%	42%
Sometimes/ Yes & No	11%	13%	11%	3%	5%
Not sure/Don't know	2%	3%	8%	15%	6%
No comment	6%	8%	8%	9%	15%
Total number of responses	64	62	60	61	62

The CoE has been challenged by its own members during meetings about the lack of respect for the principles, values and original intent of the law. A sentiment shared by more than one member of the CoE was that the use of compassion was not practiced consistently.

"We cannot afford compassion, compassion is what got us into this mess in the first place"

By the comments shared during interviews, it is clear that there is a poor understanding of compassion and how to apply it for some members of the CoE. A definition of compassion is: *the sympathetic consciousness of other's distress combined with the desire to alleviate it.* The desire to alleviate applicants' distress doesn't require applicants to be accepted, but this seems to be how some members of the CoE understand it. There

is a way to refuse applicants while maintaining compassion. The application process is anxiety provoking and the report has indicated the hearings do not always go smoothly due to lack of preparation and an unwelcoming environment; these are two examples of the CoE's lack of compassion towards applicants. Comments indicate an insensitivity to the state of distress of applicants i.e. "*Some of the people who came before us acted like it was the end of the world – they were crying and shaking*". These types of comments also demonstrate that some CoE members do not appreciate the value/importance of membership to applicants, for some the rejection may feel like the end of the world.

Documents reviewed do not provide a definition of consensus for the CoE. For the purpose of this review, a definition of consensus: *group solidarity in sentiment and belief, general agreement, unanimity*. Regulation 3 notes the principle of consensus will govern discussions and decisions of the CoE. It appears the practice has changed from when the CoE first began operating to its current practice of voting in all of its decisions (each member must orally indicate whether he or she approves or disapproves). Within the regulations for decision making a motion can pass with approval of 2/3 of those members in attendance. There are different understandings/opinions of consensus within the CoE. The CoE spends a lot of time in discussion prior to making their final decisions. When there is a lot of debate and time spent and the case is very challenging, there is a reported practice of "wearing down" members who do not necessarily agree with the group. Some CoE members have shared that there were times they really did not agree to the decision but went along due to the pressures put on them. These practices indicate that the spirit of consensus building is not truly practiced during decisions and raise the concerns of competencies lacking at the table to secure a true consensus.

The KML and Regulations allowed for a high degree of transparency (ex. all meetings are open to Kanien'keha:ka of Kahnawake unless the Council otherwise directs, all meetings will be recorded); yet the current practices do not support the same degree of transparency. This is contrary to the expectations of the community noted in the community consultations used as the basis for the KML. Considering the many reported inconsistencies in the practices and application of the principles governing CoE operations, confirms their processes do not always respect the KML.

ROLES & RESPONSIBILITY

Clearly defined roles and responsibilities ensure that work gets done by all parties and prevents conflict by clearly delineating specific duties in collaborative efforts. The KML outlines general roles and responsibilities of CoE members but needs to be more detailed. There are some key functions noted in the regulations for the Presiding Elder (chairperson), Secretary and Treasurer of the CoE and these can also benefit from more detail.

As noted earlier a major issue is the confusion between the functions of the CoE and the membership department (the Office of the Registrar and the SDU Director).

The Registrar's position was established in the early seventies and evolved within the Kahnawake Membership Department (KMD). The KMD is located under the SDU and the administrative functions of the Registrar were established long before the KML and the CoE. When the KML was enacted it provided for the position of a Registrar as well.

As with any newly mandated entity that shares responsibilities with existing ones there were overlaps and role confusion. The overlaps were not addressed immediately and led to disorder, frustration, resentment, mistrust and conflict. The CoE's reported attempts at role clarification between themselves and membership staff were not successful. This was in part due to requests for information not being realized and in part due to the manner in which they were handled by some CoE members (demands for documentation versus requests).

It is not clear who is responsible for orientation of new CoE members, the CoE or the Registrar's Office. Orientation is reported to be haphazard and has deteriorated from the original CoE to the current CoE. A more comprehensive orientation was provided to original CoE members compared to what is provided to newer members (a binder). Responsibility for orientation is not cited in any of the documents reviewed.

The rotation of Presiding Elder (rotating chair) has not been an effective practice. It was reported there are some members who rarely had the opportunity to chair while others have had to bear the burden of chairing repeatedly. It was also reported the competencies, abilities and experience in chairing is not the same for all CoE members. Some members were more effective at chairing than others and this affected the outcome of hearings and meetings. As a result some meetings were well run (hearings were smoother with a good chair that was able to maintain control and order) others were

described by those attending as a “free for all” i.e. people cutting each other off or taking up most of the discussion time. This behavior is contrary to what is expected of the CoE. The effectiveness of the Presiding Elder was reportedly higher in the earlier days of operation when training was still fresh in their minds, and so easier to apply.

Further while the Regulations do provide definitions or descriptions of the CoE Secretary position and the “Recording Secretary” (currently clerical staff of the Registrars’ office) there is no clear delineation of roles and duties between the two. As a result most recording responsibilities of the CoE are carried out by the Recording Secretary.

The KML outlines the roles of the Office of the Registrar and the role of the CoE in processing individuals under the age of 18. If applying the law as it stands for membership (is a member at birth, sections 10.1 & 10.2) seems to be the responsibility of the Registrar, while the Application Process/Members (every child eligible to be a member at birth, sections 11.1, 11.2, & 11.3) seem to be the responsibility of the CoE. The KML states the CoE has the authority to review decisions made by the Registrar, but it does not note they have authority to overturn them. It was reported the CoE had given direction to the Registrar to remove names of individuals under the age of 18 from the registry.

The project team was unable to speak further to the role confusion as the Office of the Registrar was determined as unnecessary for this review by the SDU when developing the terms of reference. An inventory and comparison of roles and responsibilities between the Registrar’s office and the CoE was therefore not possible.

Initially, applicant background packages (bios) were prepared by the recording secretary and sent in advance to CoE members. CoE members had the responsibility to read and prepare for hearings; it became clear some members were not meeting their obligations in preparing for hearings. These members would pose questions on information that had been included in the packages. In some instances new members had not been well oriented to the process and were unprepared in terms of what they were supposed to do.

Applicants were asked if they are aware of the roles and responsibilities of the CoE the KML. Most applicants were not fully aware of the roles and responsibilities of the CoE. The majority either said no or were not really sure about their responsibilities beyond hearing cases. For those who did state they knew about the specific roles and responsibilities it was because they made it their business to read the KML and kept up with the media (Eastern Door, cable TV) discussion on membership. The most common understanding of the roles and responsibilities was that the CoE members work within the KML to review

applications, and decide on applicants, making their decisions by vote. It was noted that they are supposed to treat all applicants with respect, and dignity.

Applicants were asked whether they were aware of the roles and responsibilities of the Registrar within the KML. The majority responded no, they were not aware. Of these people, they could not provide any examples of responsibilities of the registrar and some confusion was expressed whether the term Registrar meant a person or an office. Of those who responded, yes they were aware - the following are the roles and responsibilities mentioned:

- ⇒ Provides membership application packages and processes applications in accordance with policy and procedures
- ⇒ Guides applicants through the process
- ⇒ Supplies band cards and keeps track of Kahnawake band members
- ⇒ Handles administration of the Kahnawake Membership Law
- ⇒ Acts as liaison between the public and CoE
- ⇒ Acts as secretary to the CoE

RELATIONSHIPS

All boards, committees or councils need to have sound relationships both internal and external that assist them in realizing their mandate. Healthy working relationships need to be nurtured and require an investment in time and effort to achieve.

If we look at the Preamble to the KML it suggests a collaborative approach working together toward a common goal. The relationships for the CoE extend to each other, applicants & their supports, the Membership Department-Office of the Registrar, MCK Chiefs and the community at large (including local media).

The CoE enacted an amendment to the original version of the law, section 8.1 stating “ There is hereby established a body to be known as the Council of Elders **empowered by the Mohawk Council of Kahnawake**, through the enactment of this law”, replaced by the amendment stating “ There is hereby established a body to be known as the Council of Elders **appointed by the community**, through the enactment of this law”. The MCK demonstrated both respect and confidence in the

CoE by honoring and enacting this amendment. Yet several respondents noted the MCK liaison Chiefs have not been afforded the same confidence/respect by the CoE based on their treatment at meetings, eventually being refused permission to sit in on meetings. It is stated in Regulation No 1, section 1.1. that "The Mohawk Council can appoint two (2) ex-officio (see Section 5 for definition) members from Council to act as liaison to the CoE". However, there is no further description of what ex-officio members' roles and responsibilities are. Normally, ex-officio members of boards and committees have exactly the same rights and privileges as do all other members, including the right to vote. There is a need for a better definition of ex-officio to establish a common understanding of the capacity these members have with the CoE otherwise it adds to the confusion.

Since the implementation of the CoE in 2004, there has been a steady CoE member turnover (the number of members that had to be replaced in a given time period) resulting in approximately 7 past members who have resigned from or left the CoE for various reasons (some made public and others not). A high degree of turnover on a committee/board/council is usually attributed to broader problems within the role itself or inability to resolve prolonged conflict. Turnover is a major factor influencing the effectiveness of committees/boards/councils.

Respondents were asked “What do you believe have been the contributing factors to turnover within the Council of Elders?” The following lists the top responses in ascending order.

“Hard core individuals and groups should be discouraged from clashing with each other”

Perceived Contributing Factors to Council of Elders Turnover

- ⇒ Difficulty with other individuals on the CoE: strained working relationship, disagreement/differences of opinion, clashes of personality, power struggles and personal/political agendas
- ⇒ Frustration over process and application of the KML not being what they expected, structure, tools etc. not in place to do an effective job on the CoE
- ⇒ Personal ethics/difficulty with making tough decisions that affect people’s lives
- ⇒ Disagreement with the KML and its application, inability to effect change to the KML
- ⇒ Internal Issues with the CoE lack of direction/leadership, communication breakdown, quorum issues, lack of consistency/precedent in decision-making, tolerance of cliques (there were several references to a “Gang of Five”) and a negative atmosphere
- ⇒ Discrepancies/problems with the KML itself: unclear interpretation of four great grandparents, unclear roles and responsibilities for CoE & membership staff, lack of enforceability
- ⇒ Conduct and behavior of some CoE members toward applicants, lack of respect
- ⇒ Public scrutiny and pressure
- ⇒ No selection or screening of CoE members led to people being unprepared
- ⇒ Effects on personal life/family
- ⇒ Lack of support from community
- ⇒ Not feeling the process is fair
- ⇒ CoE not honoring intent of the law
- ⇒ Medical/health related reasons

Past attempts to resolve conflict at the CoE table were not reported to be successful, there did not appear to be a will for resolution and members seemed to be stuck in their views. Even if compelling evidence was presented the decisions often remained the same, and as a result people did not feel heard. This demonstrates there is limited competency at the CoE table to manage and resolve conflict in a meaningful way.

The CoE is required to work closely with the Registrar's Office, reportedly this was working well in the beginning (first two years) but the relationship has since deteriorated. Some of this can be credited to the lack of clarity noted in the roles, and part can be attributed to the manner in which things were handled. It was noted that one CoE member in particular seemed to have a bias toward the Registrar and demonstrated a lack of respect when dealing with the Registrar. It is clear that since certain members have left (members who were reported to have played a key role in maintaining good relations) the relationship with the Registrar's office has suffered.

The relationship of the CoE with applicants was assessed. Applicants were asked if they had personal contact with the CoE and to describe their experience. A very small number of applicants did not have personal contact as they were either not required or chose not to attend a hearing. For those who did have contact with the CoE it was typically during a hearing. While a good portion of applicants who were approved membership or non-member residence reported being treated well/respectfully during their hearing this contrasted with the individuals who had their membership denied, in which case there were many more accounts of negative experiences. Of note is the fact that even though some applicants felt that the hearing itself "went OK" overall, the common adjectives used to describe the process **regardless of the decision outcome** were awkward, unpleasant, intimidating, degrading and judgmental. The feeling of judgment was described by most as the pressure one is under to answer the questions asked by CoE members.

Applicants were asked a question about their contact with the MCK membership department (Registrar's office), and to describe their experience. In describing their personal contact with the Registrar's office, experiences varied depending on the individual and the timeframe of contact. While some did not actually see anyone in person (i.e. they had applications dropped off and picked up by someone else), the majority mentioned phone calls for information and going to get application forms and dropping off applications and other documents. Most applicants described the experience as normal/pleasant, although a small number felt the experience was negative at the time (i.e. due to perceived insensitive treatment). While some noted that membership staff were very helpful and provided tips to help with the membership application process, others cited difficulties such as membership staff not being able to answer certain questions or not being informed of what would happen at the hearing (i.e. that they could bring support, etc).

Public relations seem to be an overlooked and poorly understood element of CoE responsibility in terms of community relationships. This is based, in part, on the opinion

that the community does not appreciate the difficult work they do. However, our review indicates the CoE has done little to assist the community in having an appreciation of this work. Effective communication is central to healthy public relations. This requires more than just an exchange of information, but also an understanding, acceptance and practice of individual CoE responsibility toward that information and its use. As noted previously, the CoE has not reported to the community on its activities on a regular basis. The community receives notices of names of applicants and dates of hearings but nothing about the outcomes. The CoE had also refused to meet with an interest group in the community who wanted to better understand the law and the CoE hearing process. The CoE has held the opinion that if they were not receiving complaints, then everything must be okay. These practices do not contribute to good public relations. In order to build better communication and relationship with the community a public relations plan can be considered.

GOALS & OBJECTIVES

Successful boards, committees and councils share common goals and objectives. Most respondents had difficulty citing any formal goals or objectives of the CoE. Some reported there are no plans, goals or objectives. Yet the preamble to the KML clearly notes “the Law is a step toward the **goal** of completely replacing foreign laws and authorities that have been imposed upon us... This Law is a declaration of our resolve to unite our strengths to achieve this **common goal**”. This is an example of how some of those involved with the law are unable to demonstrate an understanding of key elements and apply them appropriately.

It is understood that the day to day work involved in the preparation, conducting and follow up to hearings does not necessarily require goals and objectives, as noted by CoE members “our goal was just to get through the list”. There is difficulty in planning for how many hearings will be attempted at the beginning of each year. Some respondents reported that the CoE should have goals to work towards but there is usually no time to do planning due to the back log of applications to be heard.

There are however, areas that planning would be of benefit to the CoE such as for training or evaluation of key elements of their operations (tools, processes, recruitment). Case examples of situations that could be avoided with better planning and preparation:

- ⇒ The case of an applicant not being informed prior to traveling long distance to Kahnawake that qualifications to be a member were not met due to current marriage status (as significant time and money was spent to gather background info and fly in to attend a meeting)
- ⇒ The cases of applicants who felt their time was wasted in attending hearings that were cancelled when the CoE did not meet quorum

Respondents noted the following areas for improvement that could be considered as a basis for future goals and objectives.

- ⇒ Because there really were no goals and objectives developed or identified, there is a need for more direction. This can come from planning and follow up mechanisms to track the status of goals and objectives.
- ⇒ It was mentioned that the CoE needed to be open-minded, fair and unprejudiced, in other words establishing concrete ways to ensure more objectivity at the table.
- ⇒ The process for communicating with applicants needs to be more efficient especially in regards to decisions made. Applicants wanted to know the status of their decision as soon as possible, possibly with a phone call and then followed up with the formal letter.

The Registrar attempted to assist the CoE in planning. A draft action plan outlining operational and administrative objectives with specific tasks and activities was developed and presented by the Registrar. An effort was made to separate the specific responsibilities of all involved (CoE, Registrar, Recording Secretary, CoE Secretary, Presiding Elder, Treasurer, CoE Ex-officio). The draft plan was not accepted by the CoE.

POLICIES & PROCEDURES

Effective policies and procedures share these common traits:

Clear	Equitable	Sound	Enforceable
Useful	Guide	Affordable	Adaptable

The KML and Regulations serve as the source of policies and procedures for the CoE. There were seven KML regulations developed, each enacted on various dates within 2004 and 2005.

Within the KML and Regulations are **broad** procedures. Respondents noted there needs to be more tools that guide the CoE in their work and more detail and consistency in the procedures and processes that exist. A prime example would be the establishment of a standard procedure that requires CoE members to prepare for hearings; the purpose would be to prevent asking unwarranted questions.

There are basic criteria outlined within the KML for the application process that cover Members, Adopted children and Non member residents. A set of standardized questions for applicants was also developed to assist the CoE in determining if the criteria had been met. The chart below outlines the range of criteria for applicants and the questions developed for use during hearings.

General Criteria (to be satisfied for application process)	Standard Questions for the Applicant
1. Direct lineage as defined as: <ul style="list-style-type: none"> ▪ Children born of one member and the other parent who has indigenous lineage ▪ is a non-member resident with some Kanien'keha:ka or Indigenous lineage ▪ Has four (4) or more Kanien'kehá:ka/Indigenous great grandparents 2. Is identified as having, or is willing to avail themselves of the established Kahnawake process of seeking a Kanien'kehá:ka clan, and 3. Who is not on another Indigenous community membership list 4. Speaks, or is committed to learning Kanien'keha 5. Respects mother earth 6. Has and maintains ties with the community of	1. Welcome applicant and introduce CoE 2. Ask applicant to verify his/her lineage 3. For those of us who may not know you. Would you please tell us something about yourself and what brings you to this table at this time? 4. What is your marital status? Are you married or living in a common-law relationship with anyone? 5. Is your partner Native or Non-Native? 6. Do you own any land or property? 7. Are you currently employed? 8. Where do you live?

Kahnawake	9. Do you have any children? If so, what are their ages? Is the father/mother native?
7. Honors the customs and traditions, and must comply with the codes, laws and regulations of the Kanien'keha:ka of Kahnawake	10. What are your expectations should you become a member?
8. Is committed to raising their children to honor the customs, traditions, codes, laws and regulations of the Kanien'kehá:ka of Kahnawake and must be committed to having their children learn Kanien'keha	11. What have you done to try to learn about our culture?
9. Is attending an educational facility in or near the Territory	<i>The chair should advise the applicant there is a penalty for any and all misinformation.</i>
10. Is a member of a liturgical society established with the territory	

* person not born of 2 members, person with indigenous lineage, adopted children and non-member resident

Any questioning of applicants by CoE members along the lines of these two sources would be deemed an acceptable and normal part of the procedures during a hearing. However, questions have been asked that would not be considered as part of the standard questions for the applicant; nor are they part of the general criteria for application process. In the opinion and interpretation of respondents the following types of questions reported to have been asked of applicants during hearings, were deemed irrelevant to the criteria and/or crossed boundaries of a personal nature:

- ⇒ Are you under a doctor's care?
- ⇒ Do you have a boyfriend/girlfriend (whom are you dating)?
- ⇒ Do you have a criminal past?
- ⇒ Did you think of whom you are going to marry?
- ⇒ Do you plan to have children (and with whom)?
- ⇒ Will you be coming back to apply for your children?
- ⇒ Did you ever have an affair? (and other questions of a sexual nature)
- ⇒ Do you speak French?

Further, the necessity of some questions, used to interview applicants, is debatable. In many cases the questions asked were considered by applicants to be disrespectful or dismissive. The project team could find little justification/value in this line of questioning as it relates to the general criteria.

The following points provide further insight into areas respondents highlighted as requiring procedural or policy support:

- ⇒ There are no procedures located in the documentation provided that outline how investigations should be conducted in the event an applicants “questionable character” becomes an issue or any way to determine/validate lineage from other Nations or communities.
- ⇒ CoE Regulation No. 6 mentions “*In camera*” sessions but does not outline how they are governed. The CoE reportedly conducts “*In camera*” sessions without the presence of the recording secretary, it is unclear how these sessions are conducted and whether they are documented. A common understanding of “*In camera*” sessions also known as executive sessions which are a common point of order during board meetings, where information is provided **that is not reflected in the regular minutes**, nor available to the general public. Some topics that may be discussed during in camera sessions include personnel decisions, financial decisions or other sensitive issues related to the organization. However, most boards have policies that govern how these In Camera Sessions take place. An example *In Camera* policy is provided at the back in Section 5.
- ⇒ The meeting space used is intimidating and many feel that it in no way feels **welcoming or reflects the culture of Kahnawake**. Some respondents suggested establishing practices that are more inviting such as: sitting in circle, offering smudging or changing the locations to various places within the community may help lessen the anxiety felt by applicants and better reflect the intent of the law.

A majority of respondents felt the criteria for CoE membership needs to be further developed and defined. The definition of an “Elder” as stated in section 4.1 of the KML is *“an adult person who is a member of the Kanien’kehá:ka of Kahnawake and who has gained and continues to hold the trust, respect and confidence of the Kanien’kehá:ka of Kahnawake and who has a good knowledge of the customs and Kanien’kéha of the*

Kanien'kehá:ka of Kahnawake". While this definition describes some basic components that are required, many respondents felt that this was not enough criteria to base selection, it is too vague and should be developed into a much more comprehensive profile that ensures CoE members will have the competencies needed to carry out the work.

In addition to the Elders definition, the CoE selection process at a public meeting is problematic. Respondents felt the public forum for selection doesn't allow for proper screening as comments concerning the suitability of that elder to serve or any objections to having that elder serve will not always be voiced. The question raised was, *will community members who have critical opinions of proposed CoE members come forward with their concerns / key information that could influence a decision to appoint a member?* Most CoE members were reportedly appointed without any questions being asked of them. Some respondents noted that they had apprehension with some of the CoE members who were being appointed, but did not feel comfortable standing before a crowd to raise their concerns.

All respondents were asked about the type of competencies/qualifications that CoE members should have. The following list presents what respondents expected of members of the CoE. This list can contribute to the development of a competency profile for the CoE. Items are listed in ascending order by most often mentioned.

EXPECTED COMPETENCIES/QUALIFICATION/CHARACTERISTICS
OF A COUNCIL OF ELDER MEMBER

- ⇒ Objective/fair/open minded/unbiased (no agendas/personal baggage re: membership)
- ⇒ Good reputation/respected in the community/upstanding citizen
- ⇒ Knowledgeable of people and the community (i.e. history of families in Kahnawake)
- ⇒ From/grew up in Kahnawake and currently lives in the community
- ⇒ Compassionate/understanding/caring
- ⇒ Mature/over 50 years of age*
- ⇒ Members of Kahnawake themselves, living under/applying the same standards to their lives as applicants (not violating the law themselves)
- ⇒ Educated (basic high school or further formal education)

- ⇒ Respectful of people (applicants), the community and the law
- ⇒ Has life experience (i.e. living, working, raising a family)
- ⇒ Have families themselves/be parents/grandparents
- ⇒ No criminal record
- ⇒ Has a healthy lifestyle/is a positive role model
- ⇒ Good mind/mentally fit
- ⇒ Knowledgeable of traditional ways (longhouse spirituality, culture, Great Law)
- ⇒ Strong interpersonal/communication skill (able to listen, express opinion)
- ⇒ Real desire/interest in taking on the responsibility and participating in the CoE activities
- ⇒ Experience in and comfort with decision making
- ⇒ Willing to learn/participate in training and development activities
- ⇒ Ability to understand, support and apply the Membership Law & philosophy
- ⇒ Able to work well in a group/get along well with others (practice conflict resolution)
- ⇒ Patient/not impulsive/takes time to think and make decisions
- ⇒ Uses diplomacy & tact in dealing with people (respecting dignity of the person)
- ⇒ Speaks or willing to learn to speak Kanien'kéha
- ⇒ Honesty
- ⇒ Previous board/committee experience

*To a majority being an elder meant actually recognizing by age (50+) and status, for others this could be a person at any age as long as they meet the other criteria. A few felt strongly that all ages and different backgrounds should be represented on the CoE to make for a better-rounded group.

A follow up question was asked of all respondents: "*How would you make sure that potential CoE members have these competencies?*" The following lists the top responses in procedural order.

WAYS TO ENSURE POTENTIAL COUNCIL OF ELDERS MEMBERS HAVE THESE COMPETENCIES

- ⇒ Developing a comprehensive competency profile/criteria for CoE member selection
- ⇒ Developing terms of reference for CoE seats including defined terms with a trial probation period. Seats may be staggered in alternating years to ensure continuity of knowledge.
- ⇒ Designing an application process that would consist of submitting an application form, filling out a competency checklist based on what the applicant feels they have, a CV, and a letter of intent outlining their experiences and reasons for wanting to be on the CoE.
- ⇒ Setting up a selection committee (possibly made up of community members, membership staff and current CoE members) that would be responsible for prescreening the application package for completeness and match to the competency profile, ensuring a background check is carried out and conducting personal interviews with applicants similar to the hearing process that membership applicants must go through. This would include questioning around the same social standards that applicants are held to. It would also serve as a screening process for negative attitudes and biases.
- ⇒ Nomination and election process for seats. Posting the names and background info in public places prior to holding a special community meeting set aside just for CoE members (similar to candidates night) to respond to public questions.
- ⇒ Possibility of appointing individuals to unfilled seats based on respected elder status & dedication to community
- ⇒ Developing a comprehensive orientation process for new members on their roles, responsibilities and relationships with other CoE members & membership staff with a probationary period where they participate in the hearings but are not active in the decisions
- ⇒ Building in a performance evaluation process for CoE members that would ensure active participation (CoE members to voice their opinions, ask questions and have their attendance tracked). This process would include accountability measures and resulting consequences. There must be clear terms of dismissal in the case a CoE member fails to meet their responsibilities (i.e. lack of attendance, conduct and behavior, complaints, etc.)

TOOLS

Every board, committee and council uses a range of tools to assist them in their operations. The tools are borrowed, adapted or created based on what is needed for the work at hand.

There are several tools and resources that have been developed for and by the CoE.

An orientation binder is provided to each new CoE member. This binder is approximately 425 pages in size. It is cumbersome and not user friendly in terms of quickly orienting a new member. Although it was intended to provide a meaningful and useful tool, the following items outline its limitations:

- ⇒ There is no introduction to the reader with an explanation on how to use the binder
- ⇒ There are many research/background documents and reports from 1981 to 2004 included in the binder. The intent of including these documents is to ensure new CoE members have an appreciation and understanding of the evolution of the KML and that all CoE members are provided with the same information. An examination of these resources reveal conflicting information that can lead to confusion for new members about the intent of the law and can raise questions about whether the law truly reflects the will of community members as documented in reports of different consultations in the evolution of the KML. Respondents noted that new CoE members may have little time to become acquainted with **all** the material in the binder before their first few sessions.
- ⇒ The binder lacks a lead document that clearly presents a historical overview, explaining the consultations, adjustments and evolution of the KML for new CoE members (allowing them to review these historical documents with a sense of context)
- ⇒ The binder has a table of contents at the front, which helps to locate information in a general manner, there is no index that would assist users to quickly and efficiently locate specific information or dated reference material.
- ⇒ A sample of the lineage chart to be used in hearings is not presented or explained
- ⇒ Some sample forms and letters (i.e. templates for record of decisions, letters to inform applicant of decisions), used by the CoE and Registrar for hearings are not included for reference

- ⇒ The standard questions for applicants developed for hearings is not located in the binder
- ⇒ Some of the documents are photocopied poorly and in some cases the text is illegible
- ⇒ Older versions of key documents were included in the sample copy of the binder reviewed by the project team. It was unclear whether certain regulations had been enacted, as there were no dates on some of the documents. When attempting to verify if these regulations had been passed, some confusion was encountered and a check was made with MCK Legal to ensure that the project team was working with the most recent version. It is essential that each CoE member has the most up to date copies of all documents they will have to reference/use.

As the binder is a core tool to orient new members, the above limitations can hinder the effectiveness of the CoE as they prevent a shared understanding of the law and its application.

The definitions developed within the KML and the regulations are also considered to be tools that the CoE must use. It is clear that certain definitions of section 4.1 of the KML are not defined well enough, resulting in being open to individual interpretation. An example is the definition provided for Kanien'kehá:ka lineage: "*means direct descent from a Kanien'kehá:ka ancestor, verified by proof acceptable to the registrar, the CoE or the membership review council*". The wording used within this definition brings up further questions such as what is meant by a *Kanien'kehá:ka ancestor* and *proof acceptable*. Lineage should pertain to one's family line, it demonstrates relationship to ancestors and is **not necessarily representative of blood quantum**. This understanding of lineage does not seem to be used by all CoE members. Interviews indicated the interpretation of these terms have varied at the CoE table.

The client lineage chart (family tree indicating an individual's ancestry up to three generations) was noted as an effective tool. Respondents did report when an individual's lineage chart is reviewed, the focus seems to be more on the blood quantum of relatives in preceding generations rather than if they have familial connections to the community extending back over generations. The CoE has authority to determine this, but in reviewing the documents that exist we could not find set criteria established to determine if a person qualifies as a Kanien'keha:ka. The orientation binder includes information on the Custom Code which has set out certain criteria, but the KML and regulations do not refer

to the Custom Code as a resource for criteria. Some CoE members still seem to be using the criteria from this source as they have no other to work from.

Other tools identified by respondents include the standard questions for applicants that were developed by the CoE (presented previously in the policies and procedures section of this report). This tool was identified as working well when the questions were adhered to. Others reported that this tool could still use some work to make sure the questions asked of applicants were most relevant and appropriate.

In general, respondents felt that all of the tools employed by the CoE could use further development to ensure they are effective and efficient resources that respect the spirit of the law.

TRAINING

Training for boards, committees and councils can provide a common base to work from, allowing for team building and creating a sense of shared knowledge. It provides members with useful resources/tools and methods to apply in the work they conduct.

The original training set provided to CoE at their inception was acknowledged as being very useful and applied during their early meetings. The lack of training and orientation for subsequent new members created a gap between those that had the training and those that did not. The result was a different understanding of critical aspects of their role, and how the KML is applied. There were also no refresher courses provided for veteran members that would assist them in reconnecting with key resources. Many respondents recommended there should be a mandatory orientation/core course, a comprehensive course and regular refresher courses. The training topics suggested by respondents for CoE members include:

- ⇒ How to work with people, interpersonal skills development, sensitivity training that extends to understanding body language (their own and others)
- ⇒ Board/Governance training
- ⇒ Understanding Human Rights from a legal perspective
- ⇒ Comprehensive orientation, understanding and interpreting the law, roles and responsibilities, policies and procedures

- ⇒ Experiential Training (incorporating real life scenarios already encountered by the CoE and applying the theory)
- ⇒ Conducting effective meetings (hearings, administrative)
- ⇒ Professionalism
- ⇒ Ethics in practice (conduct & behavior)
- ⇒ Decision making and consensus building
- ⇒ Understanding our Haudenosaunee, Kanien'kehá:ka and community traditions/history in regards to membership (where we were and why we are where we are today)
- ⇒ How to be non judgmental
- ⇒ Public Relations (knowing and valuing the importance of relationships/partnerships, how to build and maintain them)
- ⇒ How other First Peoples are approaching membership (what can we learn from them)

ALIGNMENT TO FRAMEWORK

Alignment speaks to how **in tune** operations, decisions and direction of a group is to their mandate. Every board, committee or council can have a well structured framework with all the right tools, however if members do not take time to verify if they are truly aligned to the framework, it is very easy for a group to go off track. An effective board, committee or council adopts practices that help monitor how well aligned they are to their mandate and framework.

The KML and regulations are used by the CoE to carry out its work, it is clear however, that the CoE is **not fully aligned** to the framework of the KML based on what has come out in earlier sections of this report. There are inconsistencies in the practices at the table of the CoE that indicate they are not respecting the principles they are required to operate under nor have they kept the community that appointed them informed.

IMPEDIMENTS TO ALIGNMENT

Clearly identifying impediments to alignment is necessary in order to develop plans and strategies to deal with them effectively. Failure to address impediments to alignment can result in a lack of confidence in a group's ability to remain true to the mandate entrusted to them. In essence their operations do not correspond to the intent of the mandate.

Confusion was created in the transitional period from the early membership consultations and the eventual passing of the KML in its final form. There are still many individuals who feel that the original intent of the work, the time and effort that went into it and ultimately the findings of the consultations (on membership), have not been fully respected. Based on our review of the historical reports, provided in the binder, there is evidence to support this view. This could result in a limited pool of people to recruit to the CoE. Meaning if the sentiment of community members in general, is skeptical towards the law it will limit their desire to be a part of the CoE or for their family members to go through the KML process.

There is not enough explanation provided on the evolution of the KML which can lead to a different understanding by all parties. The following are some examples:

- ⇒ The first community consultation clearly indicated the community is not prepared to return to the clan system yet it has become a condition/criteria to membership
- ⇒ Documents indicate the KML should not determine citizenship (this is a Nation function) yet the law requires applicants to agree to seek alignment with a clan (a citizenship requirement within the confederacy)
- ⇒ The community consultations indicated the majority of people wanted an inclusive process not based on blood quantum. Many respondents reported that the current KML process in their opinion is exclusive and blood quantum based though guised differently
- ⇒ If a CoE member believes they represent and must respect the will of the people, after reviewing **some** of the historical documentation it could lead to the belief that the KML and regulations have some elements that do not respect this will

The following impediments regularly surfaced in interviews and in some form or fashion were presented earlier in the report:

- ⇒ a lack of a full understanding of the law and regulations by all parties (MCK, CoE, Community)
- ⇒ the lack of detailed competency based criteria to select CoE members (related directly to their roles and responsibilities)
- ⇒ the lack of clearly defined roles, relationships and authorities of individual CoE members and as a collective and in relation the Kahnawake Membership Department, MCK and the community and the methods of accountability toward each other
- ⇒ the lack of time to devote to further training and development of the CoE
- ⇒ the lack of faith and trust that has been allowed to develop between parties since the inception of the CoE (i.e. between the CoE, Membership staff, and MCK chiefs)
- ⇒ the clear disregard for the principles in the KML by the CoE in performing its duties, conducting its meetings and making its decisions
- ⇒ the failure to project the amount of time required of members to deal with
- ⇒ a back log of work the CoE was presented with (community members who had been waiting in limbo for years)
- ⇒ combined with an incomplete law (that required them to develop their own regulations)
- ⇒ created unrealistic work expectations of members who had other responsibilities (family, work, health, education)

“CoE, MCK and Membership Department all seem to be working independently of each other”

Ultimately the sentiment most shared by respondents was the CoE was thrown in to implement a law that was not ready. As written the law allows for different interpretations.

A major concern of CoE members was the enforceability of the KML. The reach of the law at this time extends only so far as the processing of applications that come to the CoE table. **Although it is outlined in the law (Section 27) there are no mechanisms in place to truly enforce the KML across the community**, i.e. via the Peacekeepers and Kahnawake court system. A clear example is the suspension and revocation of membership described in section 20.1 of the KML. According to the law: *A member who a) married, or marries, a non-indigenous person after May 22, 1981 or b) commenced or*

commences, after May 22, 1981, a common-law relationship with a person who has no Kanien'kehá:ka or Indigenous lineage, will have their entitlement to receive any of the benefits and services to which they would otherwise be entitled as a member of the Kanien'kehá:ka of Kahnawake, suspended for so long as they remain married or in a common law relationship with the non-indigenous person. The difficulty with this section of the law is that there is no way to enforce, unless an application form to suspend or revoke a person's membership is submitted and signed by 10 members. It is clear that there are many cases of individual members living in the community who are violating this section of the law with no consequences.

The difficult situation established is a double standard whereby the CoE are forced to make decisions about applicants including consideration of this section of the law, possibly resulting in the rejection of individuals from the Kahnawake Mohawk Registry based on the grounds of marrying or living common law with a non-native person, while there are a number of individuals who may be doing the same thing, yet are not affected as they do not go before the CoE.

Another issue that continually arose during interviews was the conflict over Kanien'kehá:ka traditions vs. Blood quantum/Indian Act mentality in Kahnawake. It is well known that historically, Haudenosaunee traditions allowed for a "melting pot" where peoples of other nations were taken in under the Haudenosaunee Nations including the Kanien'kehá:ka. In times of wars, traditions allowed for the dead to be symbolically replaced through raids intended to seize captives to replace lost compatriots. This was common practice resulting in incorporation of people from many different Native Nations. Haudenosaunee communities were strengthened by incorporating conquered peoples and remolding them into their society thus naturalizing them as full citizens. These people were adopted and educated as their own children, without distinction. These people grew up within the society, forgetting their own nations and fully assimilating into the ways of the village. Just as this tradition was a common part of Haudenosaunee history pre-contact, it continued as the Nations and individual communities evolved post-contact when local non-native peoples were captured and adopted in the same way. This practice is well known in the historical accounts of Kahnawake's beginnings as a Christian community made up of not just Kanien'kehá:ka people but those from other neighboring Nations. It is also well-known and quite common place in Kahnawake for families to have historical record and family trees that note ancestors who were rescued/stolen from Albany or other locales as young children.

A bit of information that may help to put the blood quantum issue in perspective in Kahnawake is the opinion of some respondents on whether any community members of “pure blood” still exist. There is a commonly held belief that no such people exist today in Kahnawake (though there is no hard evidence). An interesting finding from the literature review that helps to explain how this opinion may have developed: *“The Iroquois of St. Regis, Caughnawaga, and other agencies can hardly boast an Indian of pure blood. According to the Almanac Iroquois (written in 1906), the blood of Eunice Williams, captured at Deerfield, Massachusetts in 1704, and adopted and married within the tribe, flows in the veins of 125 descendents at Caughnawaga; Silas Rice, captured at Marlboro, Massachusetts, in 1703, has 1,350 descendents; Jacob Hill and John Stacey captured near Albany in 1755, have respectively 1,100 and 400 descendents.”*²

The imposition of the Indian Act across Canada and its assimilative policies dictating membership based on blood quantum / lineage (i.e. double mother clause) for all Native communities seems to have permanently changed the view on the Haudenosaunee adoption tradition and inclusive mentality. The long term effects on Kahnawake included a shift away from inclusion and into the legacy of entrenched racism and discrimination that continues today as evidenced by the continuous references to blood quantum and lineage as the key determinants of membership. An example of the confusion and disagreement over the traditional clan practice is the comment that “once you marry out you lose your clan”.

There is a genuine community concern for the preservation of Kanien’kehá:ka identity. There is fear of the erosion of culture, language and bloodlines. There are resources available to First Nations people. These are the basis for having a membership law. Kahnawake is deciding who can be a recognized community member based on key criteria of lineage/bloodline.

At the same time the community has acknowledged the heavy outside influence of the Indian Act that was imposed upon it, the consequence being **some deeply rooted beliefs in our collective conscience**. The strongest example is the persistent notion of blood quantum in our vocabulary. While there is definitely a difference of opinion on the issue, it is clear that non-native ancestry is part of the fabric of Kahnawake’s population and history. At the same time there is a strong prejudice that has developed based on blood quantum ideology that makes it second nature to describe people in terms of being “full”, “half” or “a quarter”. This is so common since practically all Kahnawakehro:non know

² J. Pathfinder Ewing, Native American Spirituality: Freedom Denied or Blood Quantum, Native America’s Dirty Little Secret. <http://www.manataka.org/page1965.html>.

exactly what is meant by these terms. Even when respondents were consciously aware of trying to avoid using “Indian Act” thinking, they were hard pressed to describe people in any other way.

Although it has been stated the community is trying to move away from the Indian Act system including the use of blood quantum - the preamble to the KML states “we recognize that we have been harmed by foreign governments’ attempts to undermine our will and ability to survive by dividing our community. We reject the imposition of the Indian Act and of other foreign laws that have presumed to define the principles upon which the membership of our community will be determined”, it was reported by many respondents that we have not moved very far at all. Many felt the use of “counting grandparents” is not much better/different and is really blood quantum in disguise (considering if the membership requirement is interpreted as having 4 great grandparents of “full” Kanien’kehá:ka descent this is equal to saying a person is “half” or 50%). The result is different classes of people within the community with different status.

There is a huge body of writing and research on the topic of blood quantum, particularly from the US Native Nations who have also defined and determined their membership rolls based on blood quantum principles (not from their own traditions but based on resource allocation and requirements of the US government). It is very important to note that from an anthropological perspective, there is only one modern human population that still so rigidly determines its membership on blood quantum - Native peoples (this is a post contact phenomenon). Any other population composition is based on personal identification with the group (i.e. self identification as black, Latino, etc.). The reasons for much of this persistence of blood quantum is found within the structures/systems that Native peoples find themselves living with such as the reservation set up and the government financial support of programs. In other words people with Native ancestry have the most at stake to gain or lose just by their affiliation with a “band” or “tribe”. These systems, in essence, are based on materialistic values and are very far removed from commonly held values among Native people.

There is genuine concern for the protection and preservation of community resources as respondents often stated the protection of entitlements and resources was one of the key reasons why the KML was instituted.

Entitlements of members of the Kanien’kehá:ka of Kahnawake are clearly identified in section 15.1 of the Law, including the following entitlements and privileges with regards to benefits and services:

- ⇒ To reside within the territory
- ⇒ To participate in selection of Kahnawake leaders
- ⇒ To seek and hold a leadership position
- ⇒ To own and transfer to other members, interests in lands within the territory
- ⇒ To receive education services
- ⇒ To own and operate a business
- ⇒ To receive housing assistance
- ⇒ To receive services from social, health, welfare and economic departments or programs of the Mohawk Council of Kahnawake
- ⇒ To be buried on land within the territory

There seems to be a scarcity mentality (defined as disconnectedness, guarding of material possessions, and the need for more now) strongly tied to the membership issue. This mentality feeds the fear that a surge of new members accepted under the KML will lead to a collective loss in the amount of community resources. This is characterized by the belief that there is not enough to go around (land, education dollars, housing loans, and other benefits) and an unwillingness to “divide the pie” any further with people who do not fit the KML membership criteria. The persistence of a scarcity mentality is understandable considering the actual reality of limited resources and threatened budget cuts the community faces. Respondents noted this scarcity mind frame goes against our traditional values (acceptance, connectedness and belonging) and allows racism and prejudice to flourish, as some people are deemed as potential burdens to the community. This finding is in line with a commonly accepted social psychology theory that limited resources lead to conflict between groups and results in increased prejudice and discrimination (when resources such as land are scarce, members of the in-group feel more threatened by members of the out-group and will show more prejudice toward the latter).

Respondents shared that all applicants for membership coming to a hearing before the CoE should be spared being asked questions regarding their plans to access entitlements, as it is known that should they be approved all members are entitled to such services. One example given to the project team was the question “*Are you going to ask for land?*”. This question was reported to make applicants feel like they are going to be a burden on the community. What is the true purpose of this question? What relevance would a yes or no answer have on the decision of the CoE? Applicants could state “no” in their interview

(would this make them more acceptable to the CoE?) and then once accepted go ahead and ask for land citing unforeseen factors that changed their circumstances and this would be valid. If they answered yes (would this make them less acceptable to the CoE?). By allowing these questions to be part of the process, applicants and their supporters are given the impression that decisions are being weighed considering if they will be a perceived drain on the community's resources. The question is understandable but it does not support the intent of the law to get away from the Indian Act which was based on a scarcity mentality.

DEVELOPMENTAL REQUIREMENTS

The items below represent developmental requirements identified by the project team and supported by the opinion of respondents. The list is in no order of importance.

- ⇒ Clearly define the working relationship between the Coe and SDU specifying duties of all parties. Clarify what “oversee the function of the Registrar” means for the CoE and ensure this does not create a conflict with the direct line supervisor within the Social Development Unit or the existing job description of the Registrar. The Membership Department has to interface with the CoE for the preliminary activities, application, review and registering of decisions so it is essential **all** know the roles and responsibilities in each of these areas,
- ⇒ Develop an organizational chart that presents all the parties involved in the KML
- ⇒ Develop a standardized process (step by step flowchart) of the application procedure for applicants to follow
- ⇒ Develop a kit for applicants that provides clear information on the criteria that will be used to form a decision on their application (eligibility and ineligibility), the hearing process (what to expect, what are their rights), what is the usual follow up to a hearing, and an outline of the established Kahnawake process of affiliation in seeking a Kanien'kehá:ka clan

- ⇒ Develop a standardized process for welcoming and interviewing applicants that reflects the spirit and principles of the KML
- ⇒ Develop a standardized method of completing record of decisions and discussions
- ⇒ Develop a comprehensive orientation for new CoE members
- ⇒ Develop the existing orientation binder further as noted in Tools section
- ⇒ Develop a method for determining training needs and a schedule for training of new CoE members along with annual refresher courses for the CoE as a whole
- ⇒ Develop clear and accurate definitions and examples for items that are currently open to interpretation by the CoE within the KML such as: *Kanien'keha:ka*, *Kanien'kehá:ka ancestor*, *Kanien'kehá:ka lineage*, *proof acceptable*, *consensus*, *elder*, *principles of fairness*, *dignity of the person*, *consistent with the traditions and customs of the Kanien'kehá:ka of Kahnawake*, *has and maintains ties with the community*, *positive contribution to the community*. This list is not exhaustive and other definitions maybe required.
- ⇒ Develop operational policies and procedures for the CoE that define the working relationship and shared responsibilities between all parties involved
- ⇒ Develop a less burdensome process of removing a CoE member when they do not meet their responsibilities
- ⇒ Further develop the responsibilities of the CoE members in particular those with special responsibilities: Presiding Elder, secretary, treasurer
- ⇒ Develop a recruitment and selection process for CoE members with criteria that reflect the importance of the position as well as the competencies needed to do the job. The project team reviewed the functions required of a CoE member within the KML and regulations. Based on these functions and our experience in training governing bodies, we identified the following core competencies that would be required of any CoE member in order to meet their obligations.

- ⇒ Leadership Skills (able to lead the group through challenging issues and decisions maintaining a healthy process for discussions and decision making that contributes to development and confidence of members)
- ⇒ Chairing Skills (able to keep table on track, engage all members opinion and to synthesize discussions and foster consensus decisions)
- ⇒ Facilitating Skills (able to secure all participants in discussion, exploration of opinions/biases/beliefs/principles to arrive at a decision without any **undue** influence)
- ⇒ Communication Skills (non-verbal communication, active listening, conversing, presenting, writing)
- ⇒ Participating in meetings (fully engaged in discussions and decisions)
- ⇒ Collaborative Decision Making (builds upon group's knowledge, understanding to come to a point of agreement)
- ⇒ Collaborative Problem Solving (generates ideas and adapts to new information in order to work through challenges)
- ⇒ Conflict Resolution & Management (identifies conflicts and seeks ways to address it that is acceptable to all parties)
- ⇒ Critical Thinking
- ⇒ Interviewing
- ⇒ Operating objectively
- ⇒ Providing feedback
- ⇒ Conducting Investigations
- ⇒ Designing and developing Policy
- ⇒ Interpersonal Effectiveness (an essential quality in working with others successfully) demonstrated by the following abilities:
 - Willingness to reveal self to others
 - Feels what the other person is feeling
 - Describes versus evaluates
 - Expresses positive side – compliment
 - Views the other as equal
 - Confident in what they have to convey
 - Communicates togetherness
 - Manages dialogue fairly

- Demonstrates genuine interest
- Can adapt to the other's perspective

Based on what was reported during interviews these abilities are not consistently demonstrated by the CoE. The weakness seems to be especially apparent in CoE members in demonstrating interpersonal skill sets when interacting with applicants.

IMPACTS STEMMING FROM CURRENT PROCESS

A number of questions were asked about the impacts of the current KML process to different groups including applicants, members of the CoE, Membership department staff and the community in general.

Impacts to Applicants

A question was asked about social impacts to applicants using the KAHNAWAKE MEMBERSHIP LAW process. The most common response was the recognition that new members would be entitled to resources, services and benefits (i.e. water & sewer, land, housing loans, RAP programs, non-insured health coverage, education, etc.) like everyone else. An increase in Kahnawake's recognized population was seen as equaling an increase on demands for resources. Some viewed this as a burden to our community resources.

"If I had to do it over I would not...it was humiliating ...I resent that I had to prove who I was"

When applicants were asked to describe the experience of going through the KML process, both the positive and negative aspects were mentioned; often the qualification of either positive or negative depended on the individual applicant's experience. For the majority of applicants, contact with the CoE was limited to facing them during a hearing. Those who were accepted as members or non-member residents reported a mixture of different experiences (the silver lining being that they were accepted) though generally they had a more positive encounter during a hearing. Those denied as members or non-member residents generally had a far more negative experience, with this group reporting feeling much more judged and "grilled" with questions. There were some who reported the opposite case, finding a positive side to being denied (i.e. getting to come to Kahnawake and meet family they did not know) and finding negatives in the process even when ultimately the individual was accepted. A number made comments that the process is cold and not in line with our culture, while a few commented that things were generally

respectful and friendly. Others stated that, in retrospect, they would never go through the process again or would not want their family to have to go through it.

Some commonalities of the experience across all categories of applicants were reports of feeling stressed/unsure of what to expect, feeling very judged and “put in the spotlight” going through the process, discomfort with having so much of their private lives reviewed/ the personal questions asked, feeling anxious of the outcome, nervous/intimidated due to the atmosphere and the number of CoE members.

In addition to some questions being asked, that were considered by applicants to be inappropriate/irrelevant, some comments were reported to be made in poor taste. Another observation was that many times it was not what was said but how it was said- the use of tone, body language and visible attitudes toward them.

“It was a degrading process, very judgmental... every part of who you are was picked at... you are made to feel less than”

For those, who had their membership granted, most reported feeling very happy to be accepted and recognized as part of the community. For those who were accepted as community members, there is pride in this recognition as it creates a sense of belonging and impacts their sense of identity. Membership was viewed by some as an exclusive club.

For applicants who had their membership denied, most were not satisfied with the end result (being denied) and questioned the decisions. Many reported now seeing how flawed the law is. They reported seeing the impact on their families and their lives (feeling much more disconnected and no longer feel valued as a person trying to live in the community). Some report devastating impacts to their sense of identity. A few had considered appealing the decision but were concerned that the same body will make the same decision.

For applicants who had non-member residency granted, the experience was smoother and they were generally happy with the decision, though some were disappointed that they had to resort to non-member status since they really wanted membership but knew they would not get it.

On a psychological level there is a high degree of stress, fear and anxiety associated with the process of applying and waiting for a decision. This can be a traumatic and weighty time for an individual as stress can have long term impacts on a person’s health and well being.

Some respondents shared they are aware of many individuals that chose not to make an application. They attributed their decision to hearing about the negative aspect of cases and decisions for others who have gone through the process or simply being in disagreement over the process and decision making body.

Divisions are created within families as family backgrounds and history is called into question and especially when different family members have opposing opinions. There is concern for the impact on children who are not accepted and will be expected to leave the community when they reach the age of 18. The decisions rendered have a long lasting impact not only on the applicant but on their children and future generations. Concern was raised for children who hear the topic discussed in their homes and may develop negative attitudes about other children and families in Kahnawake.

Racism and discrimination (both overt and covert) figure prominently in much of the discussion of the impact on individuals and the community. Discrimination can be seen in the case of "C31's" who are accepted as members but who some view as a drain on our resources. Racism can be seen on the way that people of mixed ancestry are viewed by some in the community; resulting in some people feeling lesser than or ashamed of being less than or of having non-native ancestry or not "looking Indian enough".

Finally, identity confusion has been created as a result of some membership decisions made to date, there are some who believe that the KML determines whether an individual applicant is native or not. There are strong feelings associated with this tying of membership to identity because degree of "Indianess" has been based on blood quantum. For some the experience of rejection is a deep cut into everything they value (their families, community, sense of belonging and their aspirations, which are deeply connected to the community). Others recognize that this law does no more than determine access to certain recognized rights and privileges in Kahnawake, and that it is up to the individual to define themselves as they so choose ("nobody has the right to tell me what I am").

The following information on identity formation is presented to offer some insight into the confusion about the possible impacts the KML process has on an applicant's identity.

IDENTITY

An individual's identity defines who they are as a person. Identity is created through the following processes:

You note how the people you interact with respond to you and seek feedback on how they perceive you and view yourself as others view you. From the reflections of others you develop a clear and accurate picture of yourself. When others view you as a worthwhile, valuable person, you tend to view yourself similarly.

You incorporate into yourself characteristics that you admire in other people. If a person you admire is hardworking, you try to be hardworking.

In your relationships with other people, you develop social roles that become part of your self-definition. It is within your relationships that you discover who you are as a person. The more other people confirm you, indicate that you are normal, healthy and worthwhile, the stronger your identity tends to be.³

Based on this explanation on how identity is developed, it is clear that although the KML did not intend to determine who is Native and who is not; the process and criteria suggest otherwise. The potential for negative impact on identity is more so if the hearing process is not well facilitated and the conduct and behavior of CoE members toward the applicant is experienced as disrespectful when the decision is being made to confirm or disconfirm a person. Importantly, the decisions that determine an applicant's belonging are based on some **criteria applicants have no control over** i.e. lineage/blood quantum of relatives (parents, grandparents, great grandparents) and affiliation with a clan.

³ Reaching Out, Interpersonal Effectiveness and Self Actualization, David W. Johnson, Ninth Edition, Pearson-Allyn and Bacon.

Further impact is the unsettled state people are put in wondering if they belong to the community or not. Belonging is a key need to human motivation and development. Bonding and relatedness are key components of all theories on human motivation (see Maslow's hierarchy of Need in resources). Most theories show that as the need to belong is met humans are motivated to excel to other levels of development. The question raised here is: in removing a person's sense of belonging are we seriously impeding their motivation to grow and develop?

Impacts to Members of the Council of Elders

Members of the CoE are obviously impacted by the positions they hold and the serious decisions they make. A large number of responses indicated that there is a predominately negative impact to CoE members past and present, with comments that they are viewed negatively in the community and are subject to a lot of criticism, mostly from the individuals and their supporters who are unhappy with the decisions made. Part of this finding stems from the opinion of CoE members who note they have been represented more negatively in the press/media and this casts them in a bad light leading to community biases and ill will toward them. CoE members hold positions that leave them open to being ostracized in public due to the very nature of the work they do and the difficult decisions called for. Some reported being approached in public places, singled out for questioning or verbal attacks. Others noted that the community has difficulty in distinguishing between the individual CoE member and the collective body, resulting in all CoE members painted with the same brush, even if they are personally opposed to a certain decision made, or if they have no complaints against them. CoE members feel personally judged in the community as a consequence to the judgment role they play, a common observation was that they are now scrutinized for their own life choices.

They did report a positive impact of being a CoE member such as the sense of accomplishment from accepting members and helping people to feel they belong and there is recognition that CoE members are viewed as brave to do this difficult work. While these words of appreciation are sometimes heard, it is more often the case that CoE members get little thanks, support or encouragement from the community on the role they play in carrying out the membership law.

It's been said that anyone willing to take on the public duty of being a member of the CoE must have "thick skin" and "big shoulders" to carry the responsibility. It is difficult to have to reject an applicant and the personal stories heard are weighty. Some CoE members

past and present have experienced difficulty in having to stand by the decisions made despite personal troubles with their own families and friends. For some it has resulted in strong feeling of guilt and frustration with the process, especially considering parts of the law that are not clear or agreed upon, and a feeling of not being able to serve the community as well as they can considering issues like lack of enforceability of the law. For some CoE members this has created a sense of detachment from the community for fear of public attacks or questioning, as it is especially difficult to live in the same community as applicants and their families. Applying the KML process have caused some past and present CoE members to feel disillusioned with their role.

Very few respondents have noted the process as a positive experience. This includes CoE members as well as applicants who have been approved. For those who have been refused it has been reported as a devastating experience. The community is feeling very frustrated and disappointed in laws that cannot be enforced (there is not a lot of community knowledge/education as to the reasons for lack of enforceability before a law is implemented thereby gaining community understanding and support). As a result the CoE is on the receiving end of the community's frustration over lack of enforcement.

From the comments made during interviews and using the definitions of racial prejudice and racial discrimination in section 5, it appears there is both racial prejudice and discrimination taking place covertly in the hearing process for membership.

Impacts to Membership Staff

The impact to staff of the Membership Department has mostly to do with the stress raised because roles and responsibilities and relationship between the CoE, Membership Department and the Director of the SDU have not been fully spelled out. The frustration of some CoE members (conduct and behavior) has been directed at Membership Department staff making for strained work relationship. Membership is an already stressful work environment.

Community Impact

The most common responses were that it caused conflict and divisions based on opinions within families and throughout the community. There has grown a lack of faith in the process due to:

- ⇒ Opinions of unfairness for some decisions rendered
- ⇒ Hearsay about discussions that took place during decision making, that has not been addressed via public relations practices
- ⇒ Non-enforcement of the law
- ⇒ The local media and press reports on the topic of membership have sometimes been damaging
- ⇒ The sentiment that the community has no say or recourse once decisions are made
- ⇒ Little to no visible accountability to the community i.e. regular updates to inform about the status of the membership application process (i.e. number who have gone through process, number of CoE meetings held, number who have been accepted or denied in a given timeframe)

Some described the community impact as social trauma that affects the collective, especially considering the future children that will be affected. There is fear over the membership process that has led to distrust of the law, the CoE and the MCK.

Regardless of the outcome for the applicant (positive or negative decision) the process has been reported as a negative experience that has left some people embittered and resentful just for having to go through such a process. The rejection of individuals as members has resulted in the designation of some people to an inferior status within the community (those not good enough), especially noticeable if these people choose to stay within the community in contravention of the law or those who avoid the application process for fear they will not be accepted.

The acceptance of new members and the reinstatement of members causes our membership to increase and also shows a split in the mindset - with some having positive feelings about welcoming people into our community (joy in seeing the pride on their faces), but on the other hand it has brought concern for some over the potential influx of people that may impact/put a strain on our community resources. At the same time others saw the potential for bringing in new people with qualifications and skills to enhance the community. Concern was also raised about people who were not accepted as members and who may have brought valuable attributes to the community (losing good people).

Finally, it was recognized that the membership issue is very much tied to many community interests such as the Seigneurie land claim, and border crossing rights. There is a very strong tie of the membership issue to ongoing citizenship debates (Kahnawake members as citizens of the Mohawk Nation and of the Haudenosaunee confederacy vs. being citizens of Canada, etc). There have been a small number of court cases against the MCK refuting the membership law; this affects all community members as it sets a tone in the community perhaps even creating fear that lessens people's willingness to sit on the CoE.

Public attention and media on the membership issue has raised the public consciousness but not necessarily an understanding of the KML & CoE.

SECTION 4. CONCLUSION & RECOMMENDATIONS

CONCLUSION

The CoE was a well intentioned concept by those who envisioned how the membership law could work. The people involved in the development of the CoE intended it 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 MCK had good intentions and faith in the community to enact their own laws. The CoE members themselves 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 are different mindsets within the CoE.**

The competencies of CoE members need to correspond with those required by the law, its 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 the processes and activities carried out under the law by the CoE respects the guiding principles.

Traditionally Kanien'kehá:ka ways indicate that "everyone has a voice", yet the name "Council of Elders" does not support everyone having a voice. Many respondents indicated maturity as an essential quality for a CoE member, noting a bias for people 50 and over, making the assumption that people under 50 are not mature enough for the work. It is the experience of the project team (based on extensive work on governance) that this is far from the truth in this community. Age does not guarantee maturity or wisdom and it is the youth of the community that will have to live with the results of the KML. Also for consideration, opinions (from community consultation) **may not always be sufficient to establish all the criteria** needed for committees, councils or boards. It requires **concrete assessment** of the knowledge, skill sets and attitudes essential to the work.

There are clear indicators of racism existing within the CoE. Comments made during interviews indicate blood quantum is still entrenched in the thinking and attitudes of those involved in decision making. Lineage is not well understood and is strongly based on blood quantum and not affiliation. Racism seems to be prevalent in the community so the

question arises, how does the selection of those who will be determining membership ensure that the 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 of the 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 is 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 a fostered the poor relationships that currently exist. The lack of definition for key elements of the law and regulations provides 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. The project team wishes to demonstrate a comparison of the differing mindsets encountered.

Considering the chart below, one may come to the conclusion that Kahnawake has not moved as far from the Indian Act as envisioned in the preamble to the KML.

Areas of Focus	Kanien'kehá:ka Mindset	Indian Act Mindset
Process for Admittance	Welcoming	Bureaucratic
View of Entitlement	Inclusive	Exclusive
Resource Mentality	There is Enough to go Around	There is not Enough to go Around
Basis for Membership	Quality & Contribution of the Person and Lineage	Blood Quantum of the Person
Rights	Based on the Collective	Based on the Individual
Membership Focus	Nation	Community/Band
Accountability	To the Collective	To the Government
Democratic Practice	Direct	Representative
Decision Making	Consensus	Majority Vote
Sharing of Resources	Take What You Need	Take What You Can Get

The Indian Act has caused considerable damage to the community by imposing a racist method of measuring entitlement. The imposition of the Indian Act for such a long period of time has thoroughly entrenched the concept of blood quantum in Kahnawake. It is not known how long it will take the community to recover from this. It is important for the community to realize the challenges this presents to determining 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), based on the information noted in the community consultations and the literature we have reviewed. The majority of people consulted in the development of the KML clearly indicated they did not support blood quantum criteria.

The notion of respecting international human rights principles (noted in the preamble of the KML) is very difficult because the KML is not a law written for all people, but rather is specific to one community and by its very nature is exclusionary. Being in accordance with these principles may create conflicts for the CoE in their functions.

The enacting of the CoE is reported to have been premature. Governing entities in Kahnawake have either had their mandates issued from the MCK or evolved from a grass roots movement later mandated by MCK. Further, in the case of the CoE, they have been appointed by the community (removing the MCK in this function) during a community meeting. The community meetings, as a forum, are not suited for developmental activities as they do not provide ample time, resources, nor the understanding needed to create frameworks vital to support the bodies they appoint. They are also a poor forum for screening and selection of CoE members.

Although we were not seeking opinion on the KML, many respondents provided them indicating their disillusionment with the KML. We offer a short insight into feedback given to the project team on the KML. There was dissatisfaction with parts of the community consultation on membership, particularly the focus on elders and not youth input. Some felt that this caused an imbalance as it was perceived very few people had a say to begin with, and that since it is the youth who will have to live with the impact of this law on their families and generations yet to be born, they should have been more involved.

The KML was passed under MCK resolution after a community process of acceptance that respondents did not feel was adequate. As a result, there does not seem to be a sense of ownership and the community does not appear to have a true appreciation of:

- ⇒ the law that has been enacted
- ⇒ the challenges to its enforcement
- ⇒ each community member's responsibility

A community survey was conducted in August 2006 by the MCK with approximately 273 community members taking part. Of the 51 identified issues, one of the top ten was **debate/explore/clarify Citizenship versus Membership** (97 individuals mentioned this item). This supports our notion that there is confusion and a lack of understanding of the KML within the community. Many individuals do not realize the impact this law may have on the community until it effects them personally, it may be to everyone's benefit to receive a copy of their own lineage chart to be sure that the information is accurate and to be aware of where they stand in the implementation of the KML.

The conditions/environment of the CoE meetings and hearings over the last three and a half years has 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 toward cooperation and collaboration are poor. Mutual respect is low. There are valid reasons for the lack of trust that has developed, however the CoE are doing a disservice to the applicants and themselves when they allow this mistrust to be used as an excuse for not taking responsibility to work through problems.

The CoE at present does not have the comprehensive framework in place nor the management capacity to mend itself, and so requires additional support and resources to resume its basic operations. Individuals must accept that the final responsibility for CoE effectiveness lies with the willingness of all parties to let go of the negative aspects of membership history (i.e. Indian Act) and get on with the business of membership in Kahnawake. The challenge now falls to the CoE, membership staff, Chief and Council and ultimately the community to find **concrete** ways and means to carry out the work.

RECOMMENDATIONS

The project team would like to present the following recommendations with the intent to improve the function of the CoE within the KML. We recommend....

1. Conclude the appointments of the current CoE members. The intention of this recommendation is to allow the community to complete key elements of the KML framework that a CoE (as a body) needs to operate **effectively**. Without prejudice to any member of the CoE (past or present) meaning this will not exclude them from becoming future CoE members once a more meaningful selection process is established. It is critical that this is handled in a respectful and thankful manner as these community members have invested a great deal of themselves in attempting to carry out their roles in the KML. We further recommend including those interested in future activities related to the further development of the KML framework. This could involve participation in specialized focus groups, working groups or committees struck up to complete the framework. It is acknowledged there is the potential for strong reaction to this recommendation and if handled poorly can result in compromising the future of a CoE in terms of recruitment.
2. Until such time the community is able to demonstrate they have the capacity to ensure people they appoint are accountable, the MCK as the sponsoring body must establish:

- ⇒ the mechanisms for accountability
- ⇒ methods for evaluation of mandate fulfillment
- ⇒ methods of intervention

before enacting the next CoE appointments.

3. Ensure the KML is fully functional through a well designed **comprehensive** framework (9 elements outlined in this report) that supports the CoE operations. The framework would ensure the CoE have **all** the:

- ⇒ Tools
- ⇒ Resources
- ⇒ Competencies
- ⇒ 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
- ⇒ reviewing decisions by the CoE (should be same criteria used by CoE)

The utility of the MRC came under serious question: a common sentiment *why have a review process (MRC) that has no teeth?* Authority of a separate body 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, no more burdensome. Most community meetings where CoE members were appointed had less than 100 people in attendance yet 100 signatures are

needed to remove them. If the recommended selective criteria and clear guidelines on conduct and behavior of CoE members is established this should be the basis for reviewing complaints and making decisions on their removal. 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. Currently section 8.3 of the law states “The Council of Elders will consist of not less than nine (9) and not more than fifteen (15) Elders”. The number is extremely intimidating to applicants and was one of the most noted items that were not working well. It is an accepted practice of most boards in the community to operate with between 9-10 members. It is well known this number presents a challenge for quorum and discussion, the CoE by having a greater number has increased these challenges. Another option could be maintaining a CoE with 15 members, organized into smaller working groups (3 groups of 5 members each) 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).

APPENDICES

APPENDIX A: RESOURCES

APPENDIX B: PROJECT COMMUNICATION

APPENDIX C: LIST OF MATERIALS REVIEWED

APPENDIX D: INTERVIEW TOOLS

APPENDIX A

RESOURCES

Appendix A: Resources

RACIAL PREJUDICE

The word **prejudice** refers to prejudgment: making a decision before becoming aware of the relevant facts of a case or event. The word has commonly been used in certain restricted contexts, in the expression 'racial prejudice'. Initially this referred to making a judgment about a person based on their race, before receiving information relevant to the particular issue on which a judgment was being made; it came, however, to be widely used to refer to any hostile attitude towards people based on their race. Subsequently the word has come to be widely so interpreted in this way in contexts other than those relating to race. The meaning now is frequently "any unreasonable attitude that is unusually resistant to rational influence". Race, gender, ethnic, sexual identity, age, and religion have a history of inciting prejudicial behavior. Source: wikipedia

RACIAL DISCRIMINATION:

In general, **discrimination** is the discernment of qualities and recognition of the differences between things. In the case of discrimination against people this means the prejudicial treatment of different groups of people based on certain characteristics. Discrimination on grounds such as race or religion is generally illegal in most Western democracies, while discriminating between people on the grounds of merit is usually lawful. The latter is more commonly referred to as "differentiating." When unlawful discrimination takes place, it is often described as discrimination *against* a person or group of people. Racial discrimination differentiates between individuals on the basis of real and perceived racial differences. Source: wikipedia

MASLOW'S HIERARCHY OF NEEDS



Maslow's Hierarchy of Needs

Maslow's Hierarchy of Needs is an unproven but widely accepted theory on human motivation. The theory suggests that once a set of needs are met that a human being becomes motivated to move toward meeting the next level of needs. A person begins with meeting their most basic needs (survival) moves to establishing safety and then to relationships and belonging as these are met they move on to achieving things that feed their self esteem and eventually lead to achieving their full potential. Research in other cultures indicates that the social needs may come before others.

IN CAMERA SESSIONS

In camera is from the Latin word for "chamber". In our modern context it means "in private". The word "camera" means a chamber in which light cannot enter. In other words, in camera refers to a closed session of the Board. Used properly and no more often than absolutely necessary, the closed session of the Board is necessary and useful. Unfortunately, these closed sessions are misunderstood and misused by the very boards that meet in camera.

An in camera session is simply a session of the board where only board members and possibly also specifically chosen others may attend. All other staff and guests are excused. For example, when the board discusses changes to the CEO's salary, the CEO may be excused. In some cases of conflict of interest a board member may ask (or be asked) to be excused so that no possible perception of impropriety can result.

Except for the absence of an individual or several individuals there is no difference between an in camera session and an open session. There is an agenda. The same decision-making process takes place. Decisions are made and recorded in minutes. The Board has the same fiduciary responsibility they have at any other time. Their liability for acting responsibly is the same.

Boards get themselves into trouble with poor process and are most likely going to do it in an in camera session. There is a lot of misunderstanding about what such a session is and how it is to be used. Every board should have a policy to define a closed session and to determine when and how one should be conducted.

SAMPLE POLICY

Meeting Format

Board of Directors meetings shall be divided into two components, the first being an open session followed by an in-camera session for items deemed confidential. The open session and in-camera sessions shall have separate agendas.

The open session shall include the education session and other items deemed public by the Chair. The Board may entertain a motion at any time to move in-camera, if deemed necessary. Any item that is moved from an open to an in-camera session must meet the exception noted below and must be approved by a motion passed in accordance with the Board's rules of procedure.

In Camera Sessions

In-camera sessions may be held at the beginning and the end of the public segment of each Board meeting. Only those persons authorized by the Board to remain at the in-camera session of the meeting will be permitted to remain. Other persons will be excused from the in-camera portion of the meeting.

In-camera sessions will be held to discuss items of a confidential nature, including but not limited to: the security of the property of the _____, personal matters about an identifiable individual (including _____), a proposed or pending acquisition of _____ for purposes, employment issues, labour relations, litigation or potential litigation affecting the _____, the receiving of advice that is subject to solicitor-client privilege, audit outcomes.

In addition to in-camera sessions, the elected members of the Board of Directors will periodically have a "closed in-camera" meeting following an in-camera session of the Board and the secretary will continue as such unless the Chair decides otherwise.

EX-OFFICIO

The common definition/understanding of "Ex-officio" is a Latin term meaning "by virtue of office or position."⁴ Ex-officio members of boards and committees, therefore, are persons who are members by virtue of some other office or position that they hold. For example, if the bylaws of an organization provide for a Committee on Finance consisting of the treasurer and three other members appointed by the president, the treasurer is said to be an ex-officio member of the finance committee, since he or she is automatically a member of that committee by virtue of the fact that he or she holds the office of treasurer.

Without exception, ex-officio members of boards and **committees have exactly the same rights and privileges as do all other members, including, of course, the right to vote.** There are, however, two instances in which ex-officio members are not counted in determining the number required for a quorum or in determining whether or not a quorum is present.

INTERNATIONAL HUMAN RIGHTS PRINCIPLES

Human rights are universal and inalienable; indivisible; interdependent and interrelated. They are universal because everyone is born with and possesses the same rights, regardless of where they live, their gender or race, or their religious, cultural or ethnic background. Inalienable because people's rights can never be taken away. Indivisible and interdependent because all rights – political, civil, social, cultural and economic – are equal in importance and none can be fully enjoyed without the others. They apply to all equally, and all have the right to participate in decisions that affect their lives. They are upheld by the rule of law and strengthened through legitimate claims for duty-bearers to be accountable to international standards.

Universality and Inalienability

Human rights are universal and inalienable. All people everywhere in the world are entitled to them. The universality of human rights is encompassed in the words of Article 1 of the Universal Declaration of Human Rights: "All human beings are born free and equal in dignity and rights."

Indivisibility

Human rights are indivisible. Whether they relate to civil, cultural, economic, political or social issues, human rights are inherent to the dignity of every human person. Consequently, all human rights have equal status, and cannot be positioned in a hierarchical order. Denial of one right invariably impedes enjoyment of other rights. Thus, the right of everyone to an adequate standard of living cannot be compromised at the expense of other rights, such as the right to health or the right to education.

Interdependence and Interrelatedness

Human rights are interdependent and interrelated. Each one contributes to the realization of a person's human dignity through the satisfaction of his or her developmental, physical, psychological and spiritual needs. The fulfillment of one right often depends, wholly or in part, upon the fulfillment of others. For instance, fulfillment of the right to health may depend, in certain circumstances, on fulfillment of the right to development, to education or to information.

Equality and Non-discrimination

All individuals are equal as human beings and by virtue of the inherent dignity of each human person. No one, therefore, should suffer discrimination on the basis of race, colour, ethnicity, gender, age, language, sexual orientation, religion, political or other opinion, national, social or

⁴ Source: <http://www.robertsrules.com/faq.html#2>

geographical origin, disability, property, birth or other status as established by human rights standards.

Participation and Inclusion

All people have the right to participate in and access information relating to the decision-making processes that affect their lives and well-being. Rights-based approaches require a high degree of participation by communities, civil society, minorities, women, young people, indigenous peoples and other identified groups.

Accountability and Rule of Law

States and other duty-bearers are answerable for the observance of human rights. In this regard, they have to comply with the legal norms and standards enshrined in international human rights instruments. Where they fail to do so, aggrieved rights-holders are entitled to institute proceedings for appropriate redress before a competent court or other adjudicator in accordance with the rules and procedures provided by law. Individuals, the media, civil society and the international community play important roles in holding governments accountable for their obligation to uphold human rights.

Source: United Nations Population Fund
<http://www.unfpa.org/rights/principles.htm>

NATURAL JUSTICE

Natural justice is a legal philosophy used in some jurisdictions in the determination of just, or fair, processes in legal proceedings. The concept is very closely related to the principle of natural law (Latin: *jus natural*) which has been applied as a philosophical and practical principle in the law in several common law jurisdictions, particularly the UK and Australia.

According to Roman law certain basic legal principles are required by nature, or so obvious that they should be applied universally without needing to be enacted into law by a legislator. The assertion in the United States' Declaration of Independence, "We hold these truths to be self-evident," expresses some of this sentiment. The rules or principles of natural justice are now regularly applied by the courts in both common law and Roman law jurisdictions. Natural justice operates on the principles that man is basically good, that a person of good intent should not be harmed, and one should treat others as one would like to be treated.

Natural justice includes the notion of **procedural fairness** and may incorporate the following guidelines:

- A person accused of a crime, or at risk of some form of loss, should be given adequate notice about the proceedings (including any charges).
- A person making a decision should declare any personal interest they may have in the proceedings.
- A person who makes a decision should be unbiased and act in good faith. He therefore cannot be one of the parties in the case, nor have an interest in the outcome. This is expressed in the Latin maxim, *nemo iudex in sua causa*: "no man is permitted to be judge in his own cause".
- Proceedings should be conducted so they are fair to all the parties - expressed in the Latin maxim *audi alteram partem*: "let the other side be heard".
- Each party to a proceeding is entitled to ask questions and contradict the evidence of the opposing party.
- A decision-maker should take into account relevant considerations and extenuating circumstances, and ignore irrelevant considerations.
- Justice should be seen to be done. If the community is satisfied that justice has been done, they will continue to place their faith in the courts.

Source: http://en.wikipedia.org/wiki/Natural_justice

APPENDIX B

PROJECT COMMUNICATION

Appendix B: Project Communication

Council of Elders Review Underway

In late October Organizational Development Services (ODS) was approached to conduct an independent review of the Council of Elders (CoE), which operates under the Kahnawake Membership Law (KML). The review came about as a result of a report released by the Membership Department of the MCK's Social Development Unit (SDU). This report contains a recommendation to commission an independent review looking into the processes, actions and authorities of the CoE. The MCK met with the CoE to discuss the report and both agreed to the review.

ODS will be responsible for managing the review, keeping the community updated and providing a report on the outcomes of the review. The MCK is sponsoring this work though it will not be overseeing the project and no steering committee will be put in place in order to ensure the review remains independent of the SDU/MCK and as transparent as possible. The focus of this review is specifically the CoE and not the KML as a whole.

We would like to inform the community that the project started on November 16, 2007. We are currently conducting a literature review and developing interview tools.

Interviews will be done with former and current CoE members, MCK Membership Department staff, Chief & Council as well as a random sampling of people who have gone through the reinstatement process. If you are one of these people, you may be contacted to arrange for an interview with one of the project team members noted below. All interviews are voluntary and strictly confidential.

Interviews will tentatively begin the week of December 10, 2007 and will continue into the end of January 2008.

The ODS project team consists of eight members:



- Rheena Diabo (project manager)
- Dale Jacobs
- Arthur Diabo
- Kareen Diabo
- Christine Loft (project coordinator)
- Winnie Taylor
- Cynthia White-Jacobs
- Ida LaBillois Montour

Project team members will carry identification cards confirming their role as an interviewer.

We are encouraging those contacted to participate. The intent of the review is to determine means of improving the function of the CoE in carrying out their duties within the KML. The different insights, opinions and perspectives we gather will provide clearer understanding and place us in the best position to make recommendations that will serve to improve CoE operations.

Those interested in obtaining a copy of the report that indicated the need for the review can access it at the Social Development Unit (at the Services Complex) or online at kahnawake.com (under Services >Public Documents: Membership Report - October 2007).

For more information you can contact Rheena Diabo or Christine Loft at 450-632-6880 or by e-mail at ods@kscskahnawake.ca.

APPENDIX C

LISTING OF MATERIALS REVIEWED

Appendix C: Listing of materials reviewed

The highlighted items represent those items included in the binder provided to new CoE Members for orientation.

- Kahnawake Membership Law April 2007 Version
- Kahnawake Membership Law pre- April 2007 Version
- Recommended Amendments to the Kahnawake Membership Law September 2005
- Kahnawake Membership Law Regulations # 1 to #6 versions 2003 & 2008
- Declaration of Commitment to Community – CoE
- Elders' Confidentiality Agreement
- Council of Elders Resolutions No. 01/2004/2005 #2, #3, May 2004
- Council of Elders Resolutions No. 02/2004/2005 #4, # 5 May 2004
- Associate forms to Regulation No. 5
- Council of Elders Resolutions No. 03/2004-2005 revoking Resolutions 01/2004/2005 and 02/2004-2005 Regulations #2, #3, #4, # 5 May 2004 and enacting amended Regulations #2, #3, #4, # 5
- Council of Elders Resolutions No. 04/2004-2005 revoking Resolutions No. 03/2004-2005 and enacting amended Regulations #2, #3, #4, # 5
- Council of Elders Resolutions No. 05/2004-2005 revoking Appendix D Resolution No. 04/2004-2005 and enacts Regulation No. 5 as Appendix "A"
- Council of Elders Resolutions No. 06/2004-2005 revoking Resolution No. 05/2004-2005 and enacts Regulation No. 5 as Appendix "A"
- Council of Elders Resolutions No. 07/2004-2005 enacts Regulation No. 6 as Appendix "A"
- Council of Elders Resolutions No. 08/2004-2005 enacts Regulation No. 7 as Appendix "A"
- Council of Elders Resolutions No. 09/2005-2006 repealing Regulation No. 3 and replaced with Appendix "A"
- Council of Elders Resolution No. 10/2005-2006 renunciation of membership
- Council of Elders Resolution No. 11/2006-2007 renunciation of membership
- Council of Elders Resolution No. 1/2007-2008 revoking Resolution No. 06/2004-2005 enacting Regulation No.5 as Appendix "A"
- Council of Elders Resolution No. 2/2007-2008 renunciation of membership
- Council of Elders Resolution No. 3/2007-2008 renunciation of membership
- Council of Elders Resolution No. 4/2007-2008 renunciation of membership
- Council of Elders Resolution No. 5/2007-2008 renunciation of membership
- Council of Elders Resolution No. 6/2007-2008 renunciation of membership
- Council of Elders Resolution No. 7/2007-2008 renunciation of membership
- Council of Elders Resolution No. 9/2007-2008 renunciation of membership
- Council of Elders Resolution No. 10/2007-2008 renunciation of membership
- Guide to Understand the Proposed Membership Law (no date)
- A Proposition of Kahnawake Communal Law on Membership June 1996
- Kahnawake Mohawk Law page 2 (no date)
- Letter from a council, December 11, 1984 (no letterhead)
- Moratorium (no date MCK letterhead)

- Kahnawake Membership Law 1984
- Memo to community with Discussion Paper (Information Task Force March 1996)
- Report on the Consultation of the Kahnawake Communal Law on Membership July 1996 Phase I
- Discussion Paper Mohawks of Kahnawake Communal Law on Membership March 1996
- Report on the Consultation of the Kahnawake Communal Law on Membership January 1997 Phase II
- Special Edition Onkwarihwa'shon:'a August 1997 presenting Custom Code & outstanding Membership Issues, and proposed community meeting structure, copy of Draft #5 Custom Code on Membership
- Summary Report Community meeting August 1997
- Declaration of Kanien'kehá:ka Membership of Kahnawake
- Terms of Reference Interim Membership Advisory Committee
- Onkwarihwa'shon:'a January 1999
- Draft 1 Kahnawake Elders Declaration on Kahnawake Membership February 1999
- Synopsis of the Custom Code July 1999
- Minutes Community Membership Meeting with Synopsis of Custom Code September 1999
- Final Report on Thirty Day Process-Custom Code on Membership December 1999
- Onkwarihwa'shon:'a Draft Membership Law Launched at Winter Community Meeting includes draft of law February 2003
- Onkwarihwa'shon:'a Membership Law Final Say notes changes to draft August 2003
- Report on the 30 Day Process on the Draft Kahnawake Membership Law and Draft Regulations – Kahnawake Community Consultation Service March 2003
- Action Plan – presented & drafted by the Registrar (no date)
- Questions used to interview applicants during hearings
- Outline of process for hearings
- International Principles of Human Rights
- Principles of Natural Justice
- Report on the Review of the Kahnawake Membership Law – Social Development Unit October 2007
- Reports of other First Nations in North America on their Membership practices/laws
- Royal Commission on Aboriginal Peoples - Membership

APPENDIX D

INTERVIEW TOOLS

Appendix D: Interview Tools

Council of Elders Review 07/08
Applicant Questions

1. Which category under the Kahnawake Membership Law did you apply for:
 Membership (inclusion on the Kahnawake Kanien'kehá:ka Registry) instatement or reinstatement
 Non-member resident

2. Did you have personal contact with the MCK Membership Department (Registrar's office)?
 Yes No Please describe your experience.

3. Did you have personal contact with the Council of Elders? Yes No
 Please describe your experience.

4. Are you aware of the roles and responsibilities of the Council of Elders within the Kahnawake Membership Law? Yes No Please explain.

5. Are you aware of the roles and responsibilities of the Registrar within the Kahnawake Membership Law? Yes No Please explain.

6. Did you attend a meeting (hearing) before the Council of Elders? Yes No
 What was the decision rendered or what is the status of your application?

- 7a. Describe your experience going through the Kahnawake Membership Law process from beginning to end (*procedures followed- who, when, etc.*)?

- 7b. Would you qualify your experience as: positive negative?
 What are the contributing factors to this judgement?

- 7c. What impact has this experience had on you?

8. In your opinion does the Council of Elders conducts its meetings and make its decisions based on:

	Yes/No	Examples/Explain further
Respect for the principles of fairness		
Dignity of the person		
Compassion		
Consensus		
Consistence with the traditions and customs of the Kanien'kehá:ka of Kahnawake		

9. In your opinion what competencies/qualifications/characteristics do you feel should be required to function as a member of the Council of Elders (based on the present structure, authority, accountability, roles, relationships, goals, objectives, policies and procedures)?

10. How would you make sure that potential Council of Elders members have these competencies?
11. In your opinion are there any developmental requirements (*things that need to be developed*) for the Council of Elders in carrying out their role within the Kahnawake Membership Law (i.e. in regards to their structure, accountability, relationships, procedures, etc.)?
12. In your opinion are there any social impacts (either positive or negative) to applicants using the Kahnawake Membership Law process? Please describe.
13. In your opinion are there any social impacts (either positive or negative) to members of the Council of Elders in applying the Kahnawake Membership Law process? Please describe.
14. What recommendations would you make for the improvement of the Kahnawake Membership Law process?
15. Additional comments: Do you have any more information you would like to share that would help us better understand the Council of Elders operation?

Council of Elders Review 07/08
Council of Elders/Membership Review Committee Questions

1. What was your role in the development of the Kahnawake Membership Law? Describe your experience.
2. What has been your experience with the implementation of the Kahnawake Membership Law Process?
3. In regards to the Council of Elders/Membership Review Committee's operation within the Kahnawake Membership Law, please identify for each area what is working well and what needs improvement.

Area	What is working well	What needs improvement (developmental requirements)
Structure		
Authorities		
Accountability		
Roles		
Relationships		
Goals		
Objectives		

Policies (Law)		
Procedures (Regulations)		
Tools		
Areas of Training		

4. In your opinion does the Council of Elders conducts its meetings and make its decisions based on:

	Yes/No	Examples/explain further
Respect for the principles of fairness		
Dignity of the person		
Compassion		
Consensus		
Consistence with the traditions and customs of the Kanien'kehá:ka of Kahnawake		

5. In your opinion what competencies/qualifications/characteristics do you feel should be required to function as a member of the Council of Elders (based on the present structure, authority, accountability, roles, relationships, goals, objectives, policies and procedures)?

6. How would you make sure that potential Council of Elders members have these competencies?

7a. What has been your experience working within the Kahnawake Membership Law process from beginning to end?

7b. Would you qualify this experience as: positive/ negative? What are the contributing factors to this judgement?

7c. What impact have these experiences had on you?

8. In your opinion are there any social impacts (either positive or negative) to applicants using the Kahnawake Membership Law process? Please describe.

9. In your opinion are there any social impacts (either positive or negative) to members of the Council of Elders in applying the Kahnawake Membership Law process? Please describe.

10. What do you believe have been the contributing factors to turnover within the Council of Elders?

11. What would you recommend for the improvement of the Kahnawake Membership Law process?

12. Additional comments: Do you have any more information you would like to share that would help us better understand the Council of Elders operation?

Council of Elders Review 07/08
Chief and Council/Key Informant Questions

1. What was your role in the development of the Kahnawake Membership Law? Describe your experience.
2. What has been your experience with the implementation of the Kahnawake Membership Law process?
3. In regards to the Council of Elders/Membership Review Committee's operation within the Kahnawake Membership Law, please identify for each area what is working well and what needs improvement.

Area	What is working well	What needs improvement (developmental requirements)
Structure		
Authorities		
Accountability		
Roles		
Relationships		
Goals		
Objectives		
Policies (Law)		
Procedures (Regulations)		
Tools		
Areas of Training		

4. To your knowledge does the Council of Elders conducts its meetings and make its decisions based on:

	Yes/No	Examples/explain further
Respect for the principles of fairness		
Dignity of the person		
Compassion		
Consensus		
Consistence with the traditions and customs of the Kanien'kehá:ka of Kahnawake		

5. In your opinion what competencies/qualifications/characteristics do you feel should be required to function as a member of the Council of Elders (based on the present structure, authority, accountability, roles, relationships, goals, objectives, policies and procedures)?
6. How would you make sure that potential Council of Elders members have these competencies?
- 7a. To your knowledge how have individuals experienced going through the Kahnawake Membership Law process from beginning to end?
- 7b. Would you qualify these experiences as: positive/negative? What are the contributing factors to this judgement?
- 7c. What impact have these experiences had on the community?
8. In your opinion are there any social impacts (either positive or negative) to applicants using the Kahnawake Membership Law process? Please describe.
9. In your opinion are any social impacts (either positive or negative) to members of the Council of Elders in applying the Kahnawake Membership Law process? Please describe.
10. What do you believe have been the contributing factors to turnover within the Council of Elders?
11. What would you recommend for the improvement of the Kahnawake Membership Law process?
12. Additional comments: Do you have any more information you would like to share that would help us better understand the Council of Elders operation?

Council of Elders Review 07/08
Membership Department Staff Questions

1. What was your role in the development of the Kahnawake Membership Law? Describe your experience
2. What has been your experience with the implementation of the Kahnawake Membership Law process?
3. Please describe your working relationship with the Council of Elders.
4. In regards to the Council of Elders/Membership Review Committee's operation within the Kahnawake Membership Law, please identify for each area what is working well and what needs improvement.

Area	What is working well	What needs improvement (developmental requirements)
Structure		
Authorities		
Accountability		
Roles		
Relationships		
Goals		
Objectives		
Policies (Law)		
Procedures (Regulations)		
Tools		
Areas of Training		

5. In your opinion are there any impediments (barriers) the Council of Elders faces in fulfilling its mandate? Please describe.

6. To your knowledge does the Council of Elders conducts its meetings and make its decisions based on:

	Yes/No	Examples/explain further
Respect for the principles of fairness		
Dignity of the person		
Compassion		
Consensus		
Consistence with the traditions and customs of the Kanien'kehá:ka of Kahnawake		

- 7. In your opinion what competencies/qualifications/characteristics do you feel should be required to function as a member of the Council of Elders (based on the present structure, authority, accountability, roles, relationships, goals, objectives, policies and procedures)?
- 8. How would you make sure that potential Council of Elders members have these competencies?
- 9a. To your knowledge how have individuals experienced going through the Kahnawake Membership Law process from beginning to end?
- 9b. Would you qualify this experience as: positive/negative? What are the contributing factors to this judgement?
- 9c. What impact have these experiences had on the community?
- 10. In your opinion are there any social impacts (either positive or negative) to applicants using the Kahnawake Membership Law process? Please describe.
- 11. In your opinion are there any social impacts (either positive or negative) to members of the Council of Elders in applying the Kahnawake Membership Law process? Please describe.
- 12. What are the impacts to you (as staff of the membership department) in applying the Kahnawake Membership Law process?
- 13. What do you believe have been the contributing factors to turnover within the Council of Elders?
- 14. What would you recommend for the improvement of the Kahnawake Membership Law processes (*that fall within the operations of the Council of Elders*)?
- 15. Additional comments: Do you have any more information you would like to share that would help us better understand the Council of Elders operation?

