

ALGONQUINS OF PIKWÀKANAGÀN MEMBERSHIP CODE

PURPOSE: To determine who will be a member in the Algonquins of Pikwàkanagàn.

In this Code, reference to the masculine includes the feminine, and references to the singular include the plural.

DEFINITIONS

“Applicant” means a person who has submitted an application to become a member of the Algonquins of Pikwàkanagàn.

“Appeal Board” means the Board established pursuant to this Code, except where the context demands otherwise.

“BCR” means Council Resolution.

“Code” means this Membership Code.

“Child” includes a child born in or out of wedlock and a legally adopted child.

“Consensus” means where a decision is required to be made under this Code by consensus, the decision making body shall make all reasonable efforts to secure unanimity, but failing this, the authority of the body may be exercised by a simple majority vote.

“Council” means the Council, as defined by the Custom Election Code of the Algonquins of Pikwàkanagàn.

“Dependant” means a person under the age of 18 years who has not withdrawn from, or a person 18 years of age or older, who is unable by reason of illness or disability to withdraw from the care and control of his parents or his legal guardian.

“Voter” means a person:

- a) whose name appears in the Membership Register and
- b) who has attained the age of eighteen (18) years.

“Indian Act” means the Indian Act, R.S.C. 1985, as amended from time to time.

“Member” means a person whose name appears in the Membership Register of the Algonquins of Pikwàkanagàn.

“Membership Register” means the list containing the name, date of birth and gender of every Member of the Algonquins of Pikwàkanagàn.

“Non-member” means a person whose name does not appear in the Membership Register and who is not entitled to have his name appear in the Membership Register.

“Pikwàkanagàn” means the land reserved for the use and benefit of the Algonquins of Pikwàkanagàn (otherwise known as Indian Reserve No. 39.)

“Referendum” means a vote to accept or not accept amendments.

“Registrar” means the person, usually the Manager of Lands, Estates & Membership, appointed by the Council by BCR to act as a Registrar pursuant to this Code.

“Spouse” means a person who is married to, or who co-habits with a member in a conjugal relationship which lasts longer than 5 years outside of marriage, and provides proof of such.

1. ENACTMENT AND AMENDMENT

1.1 Upon the enactment of this Code, every other or prior Membership Code, Law or provision dealing with Membership of the Algonquins of Pikwàkanagàn is hereby repealed.

1.2 This Code shall come into effect when it is accepted by a referendum of the Algonquins of Pikwàkanagàn voters.

1.3 Notwithstanding any other provisions of this Code but subject to Subsection 1.5, 6.2, and 6.3, no member who has the right to have his name entered on the Membership Register immediately prior to this Code coming into effect shall be deprived of that right by reason only of a situation that existed or an action that was taken before the Code came into effect.

1.4 Any member of the First Nation may propose changes to the Membership Code by submitting those changes to the Standing Committee of the Council on Lands, Estates and Membership. The Standing Committee shall, within 120 days from the receipt of the proposed changes, recommend the proposed changes to Council if, in the opinion of the Standing Committee, they are in the best interests of the First Nation. The Standing Committee shall also determine if the proposed changes are administrative changes or significant changes to the Code.

If the Standing Committee recommends to Council administrative changes to the Membership Code, then the Council shall mail the proposed changes to all Members of the Algonquins of Pikwàkanagàn. The mailing shall include a description of the amendment process and instructions how Members can challenge the proposed changes. Members may challenge proposed changes in writing, and such challenges must be received by Council within 30 days of Council mailing the proposed changes to the membership. If no challenge is received in time, then the changes will be effective if they are approved by Council resolution.

If Council receives a challenge to proposed administrative changes within the time limit, then Council shall call a meeting of Voters for the purpose of considering the proposed changes. Council shall give notice of the meeting that:

- a) is posted in the Administrative Office and at other prominent places in Pikwàkanagàn; and
- b) is mailed out to all Members over 18 years of age, on and off reserve, at least two weeks prior to the meeting.

If a majority of those present at the meeting of the Voters agree, by a show of hands, to the proposed changes, then the proposed changes to the Code shall take effect.

1.5 If the Standing Committee recommends significant change to the Membership Code, then a Referendum, as described below, must be held to decide if the changes are to be made.

1.6 This Code may be amended by a referendum in which 50% plus one (1) of the total numbers of voters who have voted are in favour of the amendment. However, notice shall always include a minimum of 40 days advance notice by written posting in a prominent place at the Administration Office and all referendum procedures to be relied upon at any such referendum must be fixed and made publicly available 30 days before any such referendum. In any referendum on a Membership matter, the vote shall be carried out in a manner consistent with this Subsection. Every voter shall be entitled to a vote. The Council shall make Rules of Notice and Procedures for Referendum by BCR.

1.7 Where a protest was registered prior to this Code coming into effect, and was not resolved at the time the Code came into effect, that protest shall be resolved in accordance with the provisions of the Membership criteria in effect at the time the protest was registered. In the event that the person is qualified to be registered as a member of the Algonquins of Pikwàkanagàn in accordance with the provisions of that Code, the Registrar may add his name to the Membership Register if he is entitled to be registered in accordance with the provisions of this Code.

2. THE REGISTRAR

2.1 The Registrar shall be appointed by the Council by resolution for a term specified in the BCR, and may be removed at any time during his term by the Council by BCR.

2.2 The Registrar shall make an annual written report to Council, on the number of Members added during that year, and shall make any recommendations with respect to the Code or its administration.

2.3 The Registrar and the Appeal Board members shall establish rules of procedure for hearing appeals and reviewing applications and shall post them in the Algonquins of Pikwàkanagàn Administration Office,

2.4 The Registrar shall not be a member of the Council or of the Appeal Board.

3. ELIGIBILITY

- 3.1 Subject to Section 4, the following persons are eligible to be Members:
- a) Members or those persons who had the right to be members, on the day immediately before the Membership Code comes into effect;
 - b) Any child born after this Code comes into effect, who is registered, or entitled to be registered, as a status Indian under the Indian Act, and who has at least one parent who is/ was a member of the Algonquins of Pikwàkanagàn
 - i) at the time of that child's birth; and,
 - ii) at the time of that parent's own birth.
 - c) those persons who have applied for, and been granted membership pursuant to this Code.
- 3.2 Persons who had the right to be member on June 27, 1987 are entitled to have their names added to the membership list by the Registrar.
- 3.3 Any member of the Algonquins of Pikwàkanagàn shall automatically lose membership if they become a member of any other First Nation.

4. ADOPTION

- 4.1 Subject to Section 3, and notwithstanding Subsection 4.2, where a member has adopted a child who is:
- a) a member of another First Nation and is registered or entitled to be registered as a status Indian under the Indian Act; or
 - b) registered as an Indian in accordance with the provisions of the Indian Act.

The Member may make application on the child's behalf to the Registrar for membership for the child as described in Section 10.

- 4.2 Where a member of another First Nation adopts a member child, the member child will cease to be a member of the Algonquins of Pikwàkanagàn upon his registration as a member of the other First Nation.
- 4.3 Subject to Subsection 4.2, no member of the Algonquins of Pikwàkanagàn shall lose membership or eligibility to membership if adopted by a non-member.
- 4.4 For the purposes of this Code, only legally effective adoptions will be recognized.
- 4.5 Membership in the Algonquins of Pikwàkanagàn gained through the operation of Section 4.1 cannot be used to support any other memberships under subsection 3.1(b).

5. RIGHTS AND BENEFITS OF MEMBERS OF THE ALGONQUINS OF PIKWÀKANAGÀN

- 5.1 Rights and benefits which status members may be eligible to apply for include:
- a) Residency
 - b) Land Possession
 - c) Housing
 - d) Political rights: voting, holding office
 - e) Education
 - f) Social Assistance
 - g) Medical benefits

6. MEMBERSHIP REGISTER

- 6.1 There shall be a Membership Register maintained in the Algonquins of Pikwàkanagàn Administration Office.
- 6.2 The names in the Membership Register immediately prior to this Code coming into effect shall constitute the Membership Register.

- 6.3 The Registrar shall:
- a) Record the name of every person who has been granted membership.
 - b) Delete any person's name who has renounced or transferred their membership, or obtained it fraudulently.
- 6.4 The Registrar shall record in the Membership Register the name of every person who is entitled to be registered in accordance with the provisions of this Code.
- 6.5 Notwithstanding anything else in this Code, the Registrar shall release to the existing members a preliminary ruling on all additions or deletions to the Membership Register. All such rulings will remain preliminary for 30 days, during which time the membership may make written representations to the Registrar about the decision. If, as a result of these representations, the Registrar is considering changing his or her decision, the affected parties will be given copies by the Registrar of the relevant representations, and allowed 14 days to make responding written representation to the Registrar. Once those are received, or the time period has passed, the Registrar shall make his or her final decision.

7. RENOUNCING MEMBERSHIP

- 7.1 A member may renounce their membership by the submission of a written statement in such form as the Registrar may, from time to time, determine. A renunciation is effective on the date the renunciation is registered with the Department of Indian and Northern Affairs.
- 7.2 No person may renounce membership on behalf of any other person, except that a parent or legal guardian may renounce membership on behalf of a child or of an individual of whom he has legal custody.

8. ALGONQUIN DESCENT

- 8.1 Those persons who are registered as status Indians in accordance with the Indian Act and who are of Algonquin descent have not secured membership through subsection 3.1. (a) or (b), and who are not, and have never been members of any other First Nation, may make an application for membership to the Registrar.

9.0 TRANSFERS FROM OTHER FIRST NATIONS

- 9.1 A member of another First Nation, who is also registered as an Indian in accordance with the provisions of the Indian Act, may apply to become a Member of the Algonquins of Pikwàkanagàn. It shall be conditional of acceptance as a Member that the applicant shall renounce membership in the other First Nation.

10.0 APPLICATION PROCESS

- 10.1 A completed application for membership for each applicant shall be made to the Registrar.
- 10.2 The Registrar may, from time to time, create and set the form for all Applications for Membership in the Algonquins of Pikwàkanagàn. Any form so created shall contain the following minimum information about the applicant:
- a) The name, mailing address, date of birth, marital status, membership of applicant;
 - b) The name of the applicant's spouse if applicable;
 - c) The names of the applicant's dependent children; if any;
 - d) Individual or family ties to a member of the community;
 - e) Reasons for wanting to be a member;
 - f) Copy of marriage certificate or declaration of common law relationship;
 - g) Proof of registration under the Indian Act;
 - h) Proof of Algonquin Ancestry;
 - i) A Police Information Check from Country of residence.
 - j) Whether the member or child has been adopted.

11. DECISION

- 11.1 Within thirty (30) days after the filing of a properly completed application, the Registrar shall make a decision with respect to the application or submit the application to the Appeal Board for a decision.

- 11.2 In determining whether an application for membership should be granted, the Registrar shall make his decision based on what he believes is in the best interests of the existing membership of the Algonquins of Pikwàkanagàn. In making this decision, the following factors shall be taken into consideration:
- a) Whether that the applicant is a spouse or dependant of a member of the Algonquins of Pikwàkanagàn;
 - b) Whether the applicant has a criminal record;
 - c) Whether the applicant has ties to the community;
 - d) Whether the applicant is of Algonquin descent.
- 11.3 Provided the necessary requirements are met, all applications for membership to transfer into Pikwàkanagàn shall be referred to the Appeal Board for a decision.
- 11.4 The application shall be processed by the Registrar and written justification provided to the applicant of any decision resulting in one of the following:
- a) granting the applicant membership into the Algonquins of Pikwàkanagàn conditional on an appeal period during which members may appeal the decision; or
 - b) not granting the applicant membership into the Algonquins of Pikwàkanagàn; or
 - c) referring the application to the Appeal Board for a decision; or
 - d) provided the necessary requirements are met, all applications for transfers shall be referred to the Appeal Board for a decision.
- 11.5 Once a month, the Registrar shall post the Membership Register in the Administration Office.
- 11.6 Appeals and applications for review of a decision made by the Appeal Board pursuant to Subsection 11.3 and 11.4 shall be made in the same manner as appeals and applications for review concerning a decision or actions of the Registrar, except that no member of the Appeal Board shall take part as a member in any appeal or review of a decision of a panel of which he was a member.

12. CONFLICTS OF INTEREST AND BIAS

- 12.1
- a) Neither the Registrar nor any member of the Council or of the Appeal Board shall take part in any decision or review of the status or application of any person where the applicant or person in respect to whom the decision is to be made, or by whom any appeal or protest has been made, is that person's son, daughter, sister, brother, parent, grandparent, grandchild, spouse, son-in-law, daughter-in-law, step-parents or step-children, step-brother and step-sister.
 - b) Where the Registrar is barred from making a decision as a result of the operation of this Section, the Chief of the Algonquins of Pikwàkanagàn shall make the decision in the Registrar's place. If the Chief is also barred, the Council shall by BCR appoint one of its members to make the decision.

13. APPEAL BOARD

- 13.1 The Council shall appoint volunteer members to the Appeal Board by BCR, which will consist of members of the Algonquins of Pikwàkanagàn. A Board hearing shall consist of three (3) members, to hear appeals pursuant to Section 6 and Section 11 and make decisions pursuant to Section 8 & 9.
- 13.2 The Council shall appoint members to the Appeal Board for alternating terms of three and five years to ensure continuity.
- 13.3 The Appeal Board members and Registrar shall make rules of procedure governing the hearing of appeals and shall keep records of the proceedings.
- 13.4 A decision by the Board Members requires the support of at least two members.
- 13.5 No person shall be both a member of the Council and either a member of the Appeal Board or the Registrar.
- 13.6 Council may remove a member of the Appeal Board with a recommendation and justification provided by the remaining members of the Appeal Board.

14. APPEALS

- 14.1 Any decision of the Registrar may be appealed by either the applicant or any member of the Algonquins of Pikwàkanagàn, within six months of the decision being made.
- 14.2 Any member, any person who has applied for membership or any person who has applied on behalf of another person for membership, may appeal to the Appeal Board:
- a) if he believes that the Registrar or any other official or administrator of the Algonquins of Pikwàkanagàn has acted unfairly, or failed to act in the administration of this Code;
 - b) if he believes that in dealing with an application for membership, the provisions of the Code were not applied or were applied improperly; or
 - c) if he believes that in any proceeding or hearing that there was a denial of a full and fair opportunity to be heard, or a denial of due process.
- 14.3 The Board shall be governed and decide by the terms and provisions of the Code.

15. PROCESS FOR APPEALS

- 15.1 Appeals must be in writing and shall contain the name of the person making the appeal, the reasons for the appeal, the date of the appeal, and what section of the Code is being appealed.
- 15.2 The Appeal Board shall consider every appeal within sixty days from receipt of the appeal.
- 15.3 In dealing with any appeal, the Appeal Board shall notify the appellant, the person affected not less than fourteen days before the date of the hearing of the appeal.
- 15.4 A person who has appealed to the Appeal Board may appear before the Board in person or may choose to be represented by another person.
- 15.5 In any hearing, the Board shall ensure that each party is informed of the matters in question and has full disclosure of relevant facts, and the Board shall hear both sides fully and fairly.
- 15.6 In deciding an appeal under this Code, the Appeal Board may:
- a) Direct that a person's name be added or be removed from the Membership Register or the Inactive records;
 - b) Direct any employee or official of the Algonquins of Pikwàkanagàn to perform any administrative task pursuant to the Code;
 - c) Direct the Registrar to hold a new hearing or conduct new proceedings in respect to any application; or
 - d) Direct the application be decided by the membership.
- 15.7 The decisions of the Appeal Board are given to all parties, to the Council, and to the Registrar in writing.
- 15.8 The membership's decision will be final and is an exercise of our inherent right to self-government. These decisions are not subject to any appeal, judicial review or consideration by any other court.

16. REVOKING MEMBERSHIP

- 16.1 The Appeal Board may revoke any membership if that membership was granted under corrupt, fraudulent or false information.