

ALGONQUINS OF PIKWÀKANAGÀN MEMBERSHIP CODE

PURPOSE: To determine who will be a member of 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 applied to become a member of the Algonquins of Pikwàkanagàn.

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

“BCR” means Council Resolution.

“Code” means 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.

“Dependent” means a person under the age of 18 years who has not withdrawn from, or a person 18 years of age or older, who is unable because of illness or disability to withdraw from the care and control of his parents or his legal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 Manager of Lands, Estates & Membership, appointed by the Council by BCR to act as a Registrar under this Code.

“Spouse” means a person who is married to, or who cohabitates with a member in a conjugal relationship for three years outside of marriage and provides proof of such. The duration changes to one year if the cohabitating couple is the parents of a child.

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 their name entered on the Membership Register immediately before 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 on 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 to consider the proposed changes. The 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 before 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 a 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 number 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 before this Code came into effect and was not resolved at the time the Code came into effect, that protest shall be resolved by the provisions of the Membership criteria in effect at the time the protest was registered. If the person is qualified to be registered as a member of the Algonquins of Pikwàkanagàn per 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 concerning 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 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 Pikwākanagān
 - i) at the time of that child's birth; and,
 - ii) at the time of that parent's birth.
 - c) those persons who have applied for, and been granted membership according to this Code.
- 3.2 Persons who had the right to be members 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 Pikwākanagān 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 under the provisions of the Indian Act.

The Member may make an 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 Pikwākanagān upon his registration as a member of the other First Nation.
- 4.3 Subject to Subsection 4.2, no member of the Algonquins of Pikwākanagān shall lose membership or eligibility to membership if adopted by a non-member.
- 4.4 In this Code, only legally obtained adoptions will be recognized.
- 4.5 Membership in the Algonquins of Pikwākanagān 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 PIKWĀKANAGĀN

- 5.1 Rights and benefits to which status members may be eligible to apply 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 A Membership Register shall be maintained in the Algonquins of Pikwākanagān Administration Office.
- 6.2 The names in the Membership Register immediately before this Code comes 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 under 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 thirty (30) days, during which time the member 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 a 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), who are not, and have never been members of any other First Nation, may apply 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 to 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, and membership of the 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 the marriage certificate or declaration of the common-law relationship;
 - g) Proof of registration under the Indian Act;
 - h) Proof of Algonquin Ancestry;
 - i) A Police Information Check from the Country of residence.
 - j) Whether the member or child has been adopted.

11. DECISION

- 11.1 Within thirty (30) days after filing a properly completed application, the Registrar shall decide on the application; or if the Applicant does not meet the membership criteria, the Registrar shall submit the application to the Appeal Board for a final decision.

- 11.2 To determine whether a membership application should be granted, the Registrar shall make their decision based on what they believe is in the best interests of the existing membership of the Algonquins of Pikwàkanagàn. In making this decision, the following criteria shall be taken into consideration:
- a) Whether the applicant is a spouse or dependent 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 requirements are met, all membership applications may be disputed within sixty days (60) days after the Registrar posted the decision, and shall be referred to the Appeal Board for an appeal 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 requirements are met, all applications for transfers shall be referred to the Appeal Board for a decision.
- 11.5 the Registrar shall post the Membership Register in the Administration Office once a month.
- 11.6 Appeals and applications for review of a decision made by the Appeal Board according 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 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 deciding a result of the operation of this Section, the Chief of the Algonquins of Pikwàkanagàn shall decide 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 under Section 6 and Section 11 and make decisions according to Sections 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 appeals hearing and 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, 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 decided 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 appealing, 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 (60) 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 (14) 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 under the Code;
 - c) Direct the Registrar to hold a new hearing or conduct new proceedings concerning any application; or
 - d) Direct the application to be decided by the membership.
- 15.7 The decisions of the Appeal Board are given to all parties, to the Council, and 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.