



Algonquins of Ontario

Item 5d_MOTION 20210420-01

Special Resolution of the Algonquin Negotiation Representatives on the Algonquins of Ontario Enrolment and Appeal Board

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Seconded by: Lynn Clouthier

I. Preamble

WHEREAS negotiations with the governments of Canada and Ontario towards a modern-day treaty with the Algonquins of Ontario (Treaty) are reaching a critical point requiring decisions by the Algonquins of Ontario on vitally important issues;

AND WHEREAS the beneficiaries of the Treaty must be Aboriginal rights-bearing Algonquins;

AND WHEREAS to progress with the Treaty negotiations, the Algonquin Negotiation Representatives (ANRs) who are elected in the future ANR elections must be representative of, and must take instructions from, only Aboriginal rights-bearing Algonquin beneficiaries;

AND WHEREAS the ANRs adopted the Special Resolution of the Algonquin Negotiation Representatives on the Proposed Beneficiary Criteria - Motion 20200122-01 on January 22, 2020 (Special Resolution of January 22, 2020) establishing eligibility criteria that will ultimately be subject to ratification;

AND WHEREAS proposed beneficiaries have been, and continue to be, enrolled based on the certification of Applicants by the Enrolment Officer pursuant to the Special Resolution of January 22, 2020;

AND WHEREAS the Special Resolution of January 22, 2020 contemplates there being a further process for enrolment involving the establishment of both an enrolment board, with the power to

consider additional and alternative evidence relevant to the enrolment of Applicants, and an appeal board to address appeals and protests arising from enrolment decisions;

AND WHEREAS the ANRs, having fully considered the further phase of the enrolment process, now wish to establish the Algonquin Enrolment Board and to establish the Algonquin Tribunal;

AND WHEREAS it is understood that, subject to any subsequent adverse decision made by the Algonquin Enrolment Board or the Algonquin Tribunal, those who satisfy the proposed beneficiary criteria set out in the Special Resolution of January 22, 2020 will qualify to vote in future ANR elections, will be eligible to participate in ratification of an Algonquins of Ontario Constitution and the ratification of the Treaty, and will be beneficiaries of the Treaty, once ratified;

AND WHEREAS the proposed Treaty between the Algonquins of Ontario and governments of Canada and Ontario is still subject to negotiation and, once finalized, will need to be ratified by the parties to the Treaty;

THEREFORE BE IT RESOLVED that the ANRs hereby establish the Algonquin Enrolment Board and the Algonquin Tribunal as follows:

II. Definitions and Interpretation

1. In this Resolution,
 - a) “AOO Consultation Office” means the office that provides administrative support to the Algonquins of Ontario;
 - b) “ANR” means an individual who holds office as an Algonquin Negotiation Representative;
 - c) “AOPFN” means the Algonquins of Pikwakanagan First Nation;
 - d) “Advisory Member” means an individual who is a lawyer and a member in good standing of the Law Society of Ontario;
 - e) “Algonquin Ancestor” has the same meaning as that prescribed in Article 1 of the Special Resolution of January 22, 2020;

- f) “Appellant” means a person who has filed an Enrolment Appeal pursuant to Article 28;
- g) “Board” means the Algonquin Enrolment Board;
- h) “Board Chairperson” means a Board Member appointed Chairperson pursuant to Article 25;
- i) “Board Member” means a person who has been appointed to the Board, other than the Advisory Member;
- j) “Enrolled” means having one’s name added to the Enrolment List;
- k) “Enrolled Person” means a person whose name has been placed on the Enrolment List by the Enrolment Officer;
- l) “Enrolment Appeal” means the form set out in Appendix 1;
- m) “Enrolment Criteria” means the criteria prescribed in Article 2.1 of the Special Resolution of January 22, 2020;
- n) “Enrolment List” means the list maintained by the Enrolment Officer of the names of persons who meet the Enrolment Criteria, other than by virtue of being a member of the AOPFN;
- o) “Enrolment Protest” means the form set out in Appendix 2;
- p) “Interested Person” means any person who may be directly affected by a decision made by the Board or the Tribunal;
- q) “Oral History” means information that is said to have been passed down from one generation to another (including subsequent generations) by some means other than by way of written document;
- r) “Participant” means a person who has registered to participate in a proceeding before the Tribunal;
- s) “Protester” means a person who has filed an Enrolment Protest pursuant to Article 42;

- t) “Public Posting” means making available by posting on such website or at such location(s) as may be designated by the ANRs;
 - u) “Reasonable Indication for Concern” means that the information presented to the Board or Tribunal in the prescribed form suggests that an Enrolled Person may not meet the Enrolment Criteria and that further review and consideration of the matter is warranted;
 - v) “Request for Tribunal Review” means the form set out in Appendix 3;
 - w) “Schedule of Algonquin Ancestors” means the schedule of Algonquin Ancestors as determined by the ANRs from time to time;
 - x) “Special Resolution of January 22, 2020” means the *Special Resolution of the Algonquin Negotiation Representatives on the Proposed Beneficiary Criteria* dated January 22, 2020;
 - y) “Tribunal” means the Algonquin Tribunal;
 - z) “Tribunal Chairperson” means a Tribunal Member appointed as Chairperson pursuant to Article 73; and
 - aa) “Tribunal Member” means a person who has been appointed to the Tribunal, other than the Advisory Member.
2. Words in the singular include the plural, and words in the plural include the singular.
 3. Where a word is defined, other parts of speech and grammatical forms of the same word have corresponding meanings.
 4. All capitalized terms not otherwise defined herein shall have the same meaning as prescribed by the Special Resolution of January 22, 2020.

III. Application of Enrolment Criteria and Assessment of Oral History

5. To determine whether a person meets Article 2.1(b)(iii) of the Enrolment Criteria, the Board or the Tribunal shall apply Approach A or Approach B as set out in the Special Resolution of January 22, 2020.

6. In doing so, the Board or Tribunal may consider evidence other than a document listed in the definition of either “Documented Presence” or “Documented Relationship”. The Board or Tribunal may rely on such evidence in its application of Approach A and Approach B to the extent that the Board or Tribunal finds, on a balance of probabilities, that the evidence on its own, or in conjunction with other evidence, is assessed as being worthy of belief in a manner that is equivalent to a document listed in “Documented Presence” or “Documented Relationship”.
7. For greater certainty, the term “evidence” as used in Article 6 includes Oral History.
8. When the Tribunal is asked to consider the probative value of evidence presented as Oral History, the Tribunal shall assess whether the Oral History is reliable and what weight is properly assigned to such Oral History by considering all the circumstances relevant to the Oral History and the matter that is sought to be proven by the Oral History, including:
 - a) the original source of the Oral History;
 - b) how the Oral History has been recorded and transmitted to others over time;
 - c) whether the person presenting the Oral History is a reasonably reliable source for the Oral History;
 - d) the degree to which the Oral History is known to members of the Algonquin Collective from which the Oral History is said to originate or otherwise relates; and
 - e) the degree to which the Oral History is corroborated by or consistent with other evidence that is available to the Tribunal.

IV. Teachings of the Seven Grandfathers

9. The spirit and intent of the Teachings of the Seven Grandfathers, which follow, shall inform all communications and dealings by, or before, the Board and the Tribunal:
 - a) Kwayakoziwin (Honesty): Honesty in facing a situation is to be brave;
 - b) Tabasenindizowin (Humility): Humility is to know yourself as a sacred part of Creation;
 - c) Manàdjìyàn (Respect): To honour all Creation is to have Respect;

- d) Sòngideyewin (Bravery): Bravery is to face the foe with integrity;
- e) Nibwàkàwin (Wisdom): To cherish knowledge is to know Wisdom;
- f) Sàgìhidiwin (Love): To know Love is to know peace; and
- g) Tebwewin (Truth): Truth is to know all of these things.

V. Algonquin Enrolment Board:

1) Establishment of the Algonquin Enrolment Board

a) Establishment

- 10. A board to be known as the “Algonquin Enrolment Board” is hereby established.
- 11. The ANRs shall appoint eleven Board Members as follows:
 - a) one Board Member shall be nominated for appointment by the ANR representing each of the following Algonquin Collectives: Antoine; Bonnechere; Greater Golden Lake; Kijicho Manito Madaouskarini; Mattawa/North Bay; Ottawa; Shabot Obaadjiwan; Snimikobi; and Whitney and Area; and
 - b) two Board Members shall be nominated for appointment by the ANRs representing the AOPFN.
- 12. Board Members shall be Enrolled Persons or members of the AOPFN.
- 13. In making appointments to the Board, the ANRs shall consider:
 - a) the need to have Board Members who have the necessary character and disposition to determine matters brought before the Board in a fair and objective manner; and
 - b) the goal of achieving a gender balance.

b) Quorum and Performance of Duties and Functions

- 14. Five Board Members constitute a quorum of the Board so long as one of the five Board Members present is a Board Member nominated by the ANRs representing the AOPFN and, when a quorum is present, that quorum may perform all of the Board’s duties and functions.

15. The Board may exercise and perform all duties and functions incidental to its primary functions and duties described herein and shall do so in a manner that the Board deems advisable to achieve the fair and just determination of every proceeding on its merits that is proportionate to the nature and complexity of the issues in the proceeding.

c) Board Members

16. Each Board Member shall hold office for a term not exceeding three years. A Board Member's term may be renewed for one additional three-year term. After a period of not being a Board Member for at least two years, a former Board Member is eligible for re-appointment and subsequent renewal.
17. The ANRs may remove a Board Member by special resolution as defined in the *Terms of Reference for Algonquin Negotiation Representatives* dated September 26, 2005.
18. Board Members shall be paid such remuneration on a *per diem* basis as prescribed by the ANRs. In addition, Board Members are entitled to be paid reasonable travel and other expenses necessary to carry out their duties, which expenses shall be determined in the manner prescribed by the ANRs.
19. Board Members shall not participate as a candidate for election or hold office as an ANR or as a member of the Council of the AOPFN or be a Tribunal Member.
20. Board Members shall notify the Board Chairperson of any potential conflict of interest that may arise as a result of a Board Member's involvement in any matter that comes before the Board.
21. A person who has ceased to be a Board Member for any reason other than removal may, with the authorization of the Chairperson, perform and complete any duties or responsibilities that the person would otherwise have had if the person had not ceased to be a Board Member and that are in connection with any matter in which that person became engaged while holding office as a Board Member. A person so authorized is for that purpose deemed to be a Board Member.

d) Advisory Member

22. The ANRs shall appoint an Advisory Member to the Board.

23. The Advisory Member shall hold such term and be paid such remuneration as may be determined by the ANRs.
24. The Advisory Member shall provide legal advice to the Board from time to time and provide such other assistance and guidance as the Board Members may request. The Advisory Member may only participate in any deliberations, including a talking circle formed by the Board, when invited to do so by the Board Members. The Advisory Member is not to be counted as a Board Member for the purpose of establishing quorum, does not have a vote on any matter being decided by the Board and may not issue a decision on his or her own account.

2) Board Chairperson and Board Vice-Chairperson

25. The ANRs shall appoint a Board Chairperson and a Board Vice-Chairperson.
26. The Board Chairperson has supervision over, and direction of, the work of the Board including:
 - a) the allocation of work among the Board Members;
 - b) forming panels of Board Members to determine matters;
 - c) consideration of conflicts of interest of Board Members;
 - d) the conduct of the work of the Board and the management of its internal affairs;
 - e) the administration of any codes of conduct promulgated by the ANRs that apply to the Board; and
 - f) the preparation of reports to the ANRs on the conduct of the Board's work annually or from time to time as the circumstances may require.
27. In the event of the absence or incapacity of the Board Chairperson or if the office of the Board Chairperson is vacant, the Board Vice-Chairperson shall act as Chairperson and may exercise all the powers and perform all the duties and functions of the Chairperson.

3) Appeals for Enrolment

a) Enrolment Appeals

28. A person who has not been certified for enrolment by the Enrolment Officer may file with the Board an Enrolment Appeal requesting to be Enrolled.
29. An Enrolment Appeal must be in the form set out in Appendix 1 and include:
 - a) a clear and detailed statement of the substantive and factual grounds on which the Appellant states that the Appellant meets the Enrolment Criteria;
 - b) all information and documents (or copies thereof) relevant to determining whether the Appellant meets the Enrolment Criteria; and
 - c) an indication of whether the Appellant has applied for enrolment by making an application to the Enrolment Officer and, if so, the results of that application.
- b) Board's Initial Assessment, Potential Referral, and Invitation for Comment
30. The Board shall conduct an initial assessment of any Enrolment Appeal that it receives in consultation with the Enrolment Officer.
31. The Board shall refer to the Tribunal any Enrolment Appeal that:
 - a) is based on or requires determination of matters relating to the addition of a historical person to the Schedule of Algonquin Ancestors;
 - b) appears to require the consideration or assessment of Oral History; or
 - c) involves a sufficient number of Interested Persons or otherwise due to the nature of the matters at issue in the petition, such that the Board deems it prudent for the Enrolment Appeal to be determined by the Tribunal.
32. When referring an Enrolment Appeal to the Tribunal, the Board shall:
 - a) provide a report to the Tribunal:
 - i) stating the reason why the matter is being referred to the Tribunal; and
 - ii) notifying the Tribunal of:

- (1) any other Enrolment Appeal that may be related to the Enrolment Appeal that is the subject of the referral; or
 - (2) any other matter that may be relevant to the proper determination of the Enrolment Appeal; and
 - b) notify the Appellant that the Enrolment Appeal has been referred to the Tribunal and shall provide the Appellant the reasons for doing so.
33. In respect of an Enrolment Appeal that is not referred to the Tribunal, the Board:
- a) shall direct the Enrolment Officer to provide a report including any information that, in the opinion of the Enrolment Officer, may assist in the Board's determination of the Enrolment Appeal; and
 - b) may request that the Appellant provide any additional information that, in the initial assessment of the Board, may be missing from the Enrolment Appeal or would otherwise assist in the Board's determination of the Enrolment Appeal.
34. In the event that the Enrolment Officer provides a report or in the event that the Appellant provides additional information, such report or additional information shall be provided to the Appellant or the Enrolment Officer, as the case may be, for comment and reply on such timeline and in such manner as the Board deems appropriate in the circumstances.
35. If the Enrolment Officer can certify that the Appellant may be Enrolled pursuant to Approach A or Approach B as set out in the Special Resolution of January 22, 2020, the Enrolment Officer shall certify the enrolment of the Appellant in the manner prescribed by the Special Resolution of January 22, 2020 and the Board shall not consider the petition further.
- c) Determination of Enrolment Appeals
36. The Board shall convene to deliberate on the merits of an Enrolment Appeal that has been filed and in doing so shall have reference to:
- a) the materials on the record before it;
 - b) the Enrolment Criteria; and

- c) such other materials as the Board deems appropriate.
37. If, upon completion of its deliberations, the Board determines that the person meets the Enrolment Criteria, then the Board shall recommend to the Enrolment Officer that the person be Enrolled. If, upon completion of its deliberations, the Board determines that the person does not meet the Enrolment Criteria, then the Board shall dismiss the Enrolment Appeal. In either case, the Board shall provide reasons for its determination.
38. In the event that the Board recommends that the Appellant be Enrolled, the Board shall provide its recommendation and reasons, including any dissent, to:
- a) the Appellant;
 - b) the Enrolment Officer;
 - c) the ANRs; and
 - d) the AOO Consultation Office for Public Posting.
39. If no Request for Tribunal Review of the Board's recommendation that a person be Enrolled has been filed with the Tribunal within sixty (60) days of the Public Posting of the recommendation and reasons for enrolling the person, the Enrolment Officer shall Enrol the person.
40. Any Enrolled Person or member of the AOPFN may file a Request for Tribunal Review requesting that the Tribunal review the Board's recommendation that a person be Enrolled. Any such Request for Tribunal Review must be filed with the Tribunal within sixty (60) days of the Public Posting of the Board's recommendation and reasons.
41. In the event that the Board dismisses the Enrolment Appeal, the Board shall provide its determination and reasons, including any dissent, to the Appellant, the Enrolment Officer and the ANRs. The Appellant may file a Request for Tribunal Review requesting that the Tribunal review the Board's dismissal of the Enrolment Appeal. Any such Request for Tribunal Review must be made within sixty (60) days of the date on which the Board sent its decision to the Appellant.

4) Protest of Enrolment

a) Enrolment Protest

42. Any Enrolled Person or member of the AOPFN may protest the enrolment of any person already Enrolled by the Enrolment Officer by filing an Enrolment Protest with the Board.
43. An Enrolment Protest must be in the form set out in Appendix 2 and shall:
- a) identify the person who is the subject of the protest;
 - b) contain a clear and detailed statement of the substantive and factual grounds on which the Enrolment Protest is made;
 - c) include all information and documents (or copies thereof) relevant to an assessment of how the person who is the subject of the protest does not meet the Enrolment Criteria; and
 - d) include a processing fee which may be set at the discretion of the ANRs from time to time.

b) Initial Assessment and Potential Referral

44. Upon receipt of an Enrolment Protest, the Board shall conduct an initial review and assessment of the protest in consultation with the Enrolment Officer.
45. The Board shall refer to the Tribunal any Enrolment Protest that:
- a) is based on or requires determination of matters relating to the removal of an Algonquin Ancestor from the Schedule of Algonquin Ancestors;
 - b) appears to require the consideration or assessment of Oral History; or
 - c) involves a sufficient number of Interested Persons or otherwise due to the nature of the matters at issue in the protest, such that the Board deems it prudent for the Enrolment Protest to be determined by the Tribunal.
46. When referring an Enrolment Protest to the Tribunal, the Board shall:
- a) provide a report to the Tribunal:

- i) stating the reason why the matter being referred to the Tribunal; and
 - ii) notifying the Tribunal of:
 - (1) any other Enrolment Protests that may be related to the Enrolment Protest that is the subject of the referral; or
 - (2) any other matter that may be relevant to the proper determination of the Enrolment Protest; and
 - b) notify the Protester that the Enrolment Protest has been referred to the Tribunal and shall provide the Protester the reasons for doing so.
 - c) Determination of Reasonable Indication for Concern and Further Submissions
47. For Enrolment Protests that are not referred to the Tribunal, the Board shall determine whether the Enrolment Protest discloses a Reasonable Indication for Concern.
48. If the Board determines that the Enrolment Protest does not disclose a Reasonable Indication for Concern, then the Board shall dismiss the Enrolment Protest and provide reasons for doing so.
49. If the Board determines that the Enrolment Protest discloses a Reasonable Indication for Concern, the Board shall:
- a) direct the Enrolment Officer to provide a report including any information that, in the opinion of the Enrolment Officer, may assist in the Board's determination of the matter;
 - b) having regard to the nature of the Enrolment Protest, provide notice of the Enrolment Protest to any Interested Person together with a copy of the Enrolment Protest and the Enrolment Officer's report, if any, and invite submissions from such Interested Persons;
 - c) subject to the need to protect personal information, provide a copy of any report received from the Enrolment Officer and submissions from any Interested Person to the Protester and invite the Protester to make any additional submissions;

- d) provide a copy of any further submissions from the Protester to the Enrolment Officer and to any Interested Person and invite the Enrolment Officer and any Interested Person to provide any additional submissions or documents in response; and
- e) provide such additional opportunity to the Protester, the Enrolment Officer and any Interested Person as the Board deems appropriate in the circumstances to make submissions or provide documents to assist in the determination of the Enrolment Protest.

d) Determination of Enrolment Protests

50. The Board shall convene to deliberate on the merits of the Enrolment Protest that has been filed and in doing so shall have reference to:

- a) the materials on the record before it;
- b) the Enrolment Criteria; and
- c) such other materials as the Board deems appropriate.

51. Upon completion of its deliberations, the Board shall either:

- a) grant the Enrolment Protest on the grounds that the person who is the subject of the Enrolment Protest does not meet the Enrolment Criteria and recommend to the Enrolment Officer that the person be removed from the Enrolment List; or
- b) dismiss the Enrolment Protest.

52. In either case, the Board shall provide reasons for its determination.

53. The Board shall provide its determination and reasons, including any dissent, to:

- a) the Protester;
- b) any Interested Person;
- c) the Enrolment Officer;
- d) the ANRs; and

- e) the AOO Consultation Office for Public Posting.
- 54. If no Interested Person has filed a Request for Tribunal Review with the Tribunal within sixty (60) days of the Public Posting of the recommendation to remove a person from the Enrolment List, any person identified by the Board in its recommendation shall be removed from the Enrolment List by the Enrolment Officer.
- 55. A Protester may seek a review of any determination to dismiss the Enrolment Protest, including for reasons that the Enrolment Protest failed to disclose a Reasonable Indication for Concern by filing a Request for Tribunal Review with the Tribunal. Any such Request for Tribunal Review must be filed with the Tribunal within sixty (60) days of the Public Posting of the Board's determination.
- 56. An Interested Person may seek a review of any recommendation by the Board that a person be removed from the Enrolment List by filing a Request for Tribunal Review with the Tribunal. Any such Request for Tribunal Review must be filed with the Tribunal within sixty (60) days of the Public Posting of the Board's recommendation.
- 57. In the event that the Board recommends that a person be removed from the Enrolment List and it is not successfully reviewed, the Board shall refund the filing fee to the Protester.

VI. Algonquin Tribunal

1) Establishment of the Algonquin Tribunal

- a) Establishment
- 58. A tribunal to be known as the "Algonquin Tribunal" is hereby established.
- 59. The ANRs shall appoint eleven Tribunal Members as follows:
 - a) one Tribunal Member shall be nominated for appointment by the ANR representing each of the following Algonquin Collectives: Antoine; Bonnechere; Greater Golden Lake; Kijicho Manito Madaouskarini; Mattawa/North Bay; Ottawa; Shabot Obaadjiwan; Snimikobi; and Whitney and Area; and
 - b) two Tribunal Members shall be nominated for appointment by the ANRs representing the AOPFN.
- 60. Tribunal Members shall be Enrolled Persons or members of the AOPFN.

61. In making appointments to the Tribunal, the ANRs shall consider:
- a) the need to have Tribunal Members that possess the necessary character and disposition to determine matters brought before the Tribunal in a fair and objective manner; and
 - b) the goal of achieving a gender balance.
- b) Quorum and Performance of Duties and Functions
62. Five Tribunal Members and the Advisory Member constitute a quorum of the Tribunal so long as one of the five Tribunal Members present is a Tribunal Member who was nominated for appointment by the ANRs representing the AOPFN and, when a quorum is present, that quorum may perform all of the Tribunal's duties and functions.
63. The Tribunal may exercise and perform all duties and functions incidental to its primary functions and duties described herein and shall do so in a manner that the Tribunal deems advisable to achieve the fair and just determination of every proceeding on its merits that is proportionate to the nature and complexity of the issues in the proceeding.
- c) Tribunal Members
64. Each Tribunal Member shall hold office for a term not exceeding three years. A Tribunal Member's term may be renewed for one additional three-year term. After a period of not being a Tribunal Member for at least two years, a former Tribunal Member is eligible for reappointment and subsequent renewal.
65. The ANRs may remove a Tribunal Member by special resolution of the ANRs as defined in the Terms of Reference for Algonquin Negotiation Representatives dated September 26, 2005.
66. Tribunal Members shall be paid such remuneration on a *per diem* basis as prescribed by the ANRs from time to time. Tribunal Members are entitled to be paid reasonable travel or other expenses necessary to carry out their duties, which expenses shall be determined in the manner prescribed by the ANRs.
67. Tribunal Members shall not participate as a candidate for election or hold office as an ANR or as a member of the Council of the AOPFN or be a Board Member.

68. Tribunal Members shall notify the Tribunal Chairperson of any potential conflict of interest that may arise as a result of a Tribunal Member's involvement in any matter that comes before the Tribunal.
69. A person who has ceased to be a Tribunal Member, for any reason other than removal, may, with the authorization of the Chairperson, perform and complete any duties or responsibilities that the person would otherwise have had if the person had not ceased to be a Tribunal Member and that are in connection with any matter in which that person became engaged while holding office as a Tribunal Member, and a person so authorized is, for that purpose, deemed to be a Tribunal Member.

d) Advisory Member

70. The ANRs shall appoint an Advisory Member to the Tribunal.
71. The Advisory Member shall hold such term and be paid such remuneration as may be determined by the ANRs.
72. The Advisory Member shall provide legal advice to the Tribunal from time to time and provide such other assistance and guidance as the Tribunal Members may request. The Advisory Member may only participate in any deliberations including a talking circle formed by the Tribunal when invited to do so by the Tribunal Members. The Advisory Member is not to be counted as a Tribunal Member for the purposes of establishing quorum, does not have a vote on any matter and may not issue a decision on his or her own account.

2) Chairperson and Vice-Chairperson

73. The ANRs shall appoint a Tribunal Chairperson and a Tribunal Vice-Chairperson.
74. The Tribunal Chairperson has supervision over and direction of the work of the Tribunal including:
- a) the allocation of work among the Tribunal Members;
 - b) forming panels of Tribunal Members to hear and determine matters;
 - c) the consideration of conflicts of interest of Tribunal Members;
 - d) the conduct of the work of the Tribunal and the management of its internal affairs;

- e) the administration of any codes of conduct promulgated by the ANRs that apply to the Tribunal;
 - f) presiding over any hearing of the Tribunal;
 - g) making, in consultation with the Advisory Member, such scheduling and other procedural orders necessary to secure a fair and just determination of every proceeding on its merits in a manner that is proportionate to the nature and complexity of the issues in the proceeding; and
 - h) the preparation of reports to the ANRs on the conduct of the Tribunal's work annually or from time to time as the circumstances may require.
75. In the event of the absence or incapacity of the Tribunal Chairperson or, if the office of the Tribunal Chairperson is vacant, the Tribunal Vice-Chairperson shall act as Chairperson and may exercise all of the powers and perform all of the duties and functions of the Chairperson.
- 3) Determination of Appeals, Protests and Reviews**
- a) Matters to be Heard and Determined
76. The Tribunal has jurisdiction to hear and determine:
- a) Enrolment Appeals and Enrolment Protests referred to the Tribunal by the Board;
 - b) Requests for Tribunal Reviews of Enrolment Appeals granted or dismissed by the Board;
 - c) Requests for Tribunal Reviews of Enrolment Protests granted or dismissed by the Board; and
 - d) such other matters as may be referred to the Tribunal by the ANRs or may be necessary to carry out its functions under this Special Resolution.
77. Any matter brought to the Tribunal for determination shall be heard and be determined as a new proceeding, but this does not preclude the Tribunal from considering decisions made by other decision-making bodies including with respect to past enrolment processes.

b) Form of Tribunal Reviews

78. Any Request for Tribunal Review must be in the form set out in Appendix 3 and must:
- a) include the decision that is the subject of the requested review; and
 - b) provide a clear and detailed statement of the substantive and factual grounds on which the review is being sought.
79. Upon a Request for Tribunal Review being brought, the Board shall refer to the Tribunal all materials that were on the record when the Board made the decision that is the subject of the review.

c) Initial Assessment, Determination of Schedule, and Provision of Notice

80. The Tribunal shall conduct an initial assessment of any matter brought to it in consultation with the Enrolment Officer.
81. When conducting its initial assessment, the Tribunal may conduct any preliminary inquiry it deems necessary in the circumstances and in doing so the Tribunal may invite submissions from any person and may request specific information from any person.
82. In the case of an Enrolment Protest referred to the Tribunal or a Request for Tribunal Review of the Board's finding that the Enrolment Protest does not disclose a Reasonable Indication for Concern, the Tribunal shall first determine whether the Enrolment Protest discloses a Reasonable Indication for Concern. If the Tribunal determines that the Enrolment Protest does not disclose a Reasonable Indication for Concern, then the Tribunal shall dismiss the protest or review.
83. The Tribunal has the discretion to dismiss any matter that it does not have jurisdiction to consider pursuant to this Special Resolution and may do so by using a summary procedure.
84. The Tribunal may refer any matter back to the Board on the grounds that it was not properly referred to the Tribunal.
85. The Tribunal shall invite the Enrolment Officer to prepare a report providing comments on the Enrolment Appeal, Enrolment Protest, or the Request for Tribunal Review, as the case may be, which report shall be put on the record.

86. The Chairperson, in consultation with the Advisory Member, shall set a schedule for the proceeding and shall make a Public Posting of the proceeding and the schedule.
87. The notice and schedule shall provide such information as deemed appropriate in the circumstances by the Chairperson, in consultation with the Advisory Member, including:
- a) the date by which Interested Parties may register as Participants in the proceeding;
 - b) how Participants may access the record of the proceeding;
 - c) the date by which Participants in support of the relief sought in the proceeding may file submissions and documents and information they believe to be relevant to the proceeding;
 - d) the date by which Participants in opposition of the relief sought in the proceeding may file responding submissions and documents and information they believe to be relevant to the proceeding;
 - e) the date by which the Enrolment Officer may provide any additional report commenting on any information, document or submission provided by the Participants;
 - f) the date by which Participants may file any additional submissions in response to the Enrolment Officer's additional report, if any; and
 - g) notification that a hearing will be scheduled at a date, time and place as the Tribunal shall advise.
88. The Chairperson, in consultation with the Advisory Member, may make such amendments, additions or variations to any schedule as the circumstances may require.
- d) Conduct of the Hearing
89. The Chairperson shall advise the Participants, and shall make a Public Posting, of the date, time, and place of the hearing.
90. Hearings before the Tribunal shall be conducted as informally and expeditiously as the circumstances and considerations of fairness may permit.

91. In scheduling the hearing, the Chairperson may allot or limit the time available for Participants to make oral submissions.
92. Absent leave of the Tribunal, the Participants are prohibited from filing any new materials at the hearing.
93. Participants in support of the relief sought in the proceeding will be the first to make submissions, followed by the Enrolment Officer and subsequently followed by the Participants opposed to the relief sought in the proceeding.
94. Participants in support of the relief sought in the proceeding and the Enrolment Officer may make brief submissions in reply.
95. Any Tribunal Member or the Advisory Member may ask questions or seek such clarification as they may deem appropriate.
96. The Tribunal may invite such additional submissions or change the order of proceeding at the hearing as the circumstances may require.

e) Deliberation and Determination

97. The Tribunal shall convene to deliberate on the merits of the Enrolment Appeal, Enrolment Protest, or Request for Tribunal Review, as the case may be, that has been received and in doing so shall have reference to:
 - a) the materials on the record before it;
 - b) the Enrolment Criteria; and
 - c) such other materials as the Tribunal deems appropriate.
98. Upon completion of its deliberations, the Tribunal shall issue its determination and reasons for its determination.
99. If the determination is not with respect to a matter that involves a historical person being added to, or an Algonquin Ancestor being removed from, the Schedule of Algonquin Ancestors, then the Tribunal shall issue such order as is appropriate in the circumstances, which order may:

- a) identify the persons, or class of persons, who are to be Enrolled on the basis that such persons meeting the Enrolment Criteria;
 - b) identify the persons, or class of persons, who are to be removed from the Enrolment List on the grounds that such persons do not meet the Enrolment Criteria; or
 - c) provide instructions to the Enrolment Officer that are appropriate in the circumstances.
100. If the determination is with respect to a matter that involves a historical person being added to, or an Algonquin Ancestor being removed from, the Schedule of Algonquin Ancestors, then the Tribunal shall issue such order as is appropriate in the circumstances and shall:
- a) identify the historical person who should be added to the Schedule of Algonquin Ancestors; or
 - b) identify the Algonquin Ancestor who should be removed from the Schedule of Algonquin Ancestors.
101. The Tribunal shall provide its determination, reasons for its determination and any accompanying order or recommendation to:
- a) the Participants;
 - b) the Enrolment Officer;
 - c) the Algonquin Negotiation Representatives; and
 - d) the AOO Consultation Office for Public Posting.
102. Upon a determination being made pursuant to Article 100(a), the Enrolment Officer shall consider applications for Enrolment from individuals who rely on the historical person added to the Schedule of Algonquin Ancestors to satisfy Article 2.1(b)(ii) of the Enrolment Criteria.

103. Upon a determination being made pursuant to Article 100(b), the Enrolment Officer shall undertake a review of the Enrolment List to identify those individuals who no longer meet Article 2.1(b)(ii) of the Enrolment Criteria and shall:
- a) remove the names of those individuals from the Enrolment List: and
 - b) provide the names of those individuals to the Tribunal Chairperson.
104. Upon being provided the names of individuals by the Enrolment Officer pursuant to Article 103, the Tribunal Chairperson shall notify those individuals that they have been removed from the Enrolment List and are no longer Enrolled.
105. In the event that the Tribunal makes an order that a person be removed from the Enrolment List or that an Algonquin Ancestor be removed from the Schedule of Algonquin Ancestors, the Tribunal shall direct that any filing fee paid by the Protester who initiated the Enrolment Protest be refunded to the Protester.

VII. General Matters

106. Any proceeding, hearing, or meeting of the Board or Tribunal shall be opened and closed with the recitation of a traditional Algonquin prayer, which may be recited by a Tribunal Member or Board Member or such other person as may be designated by the Board Chairperson or Tribunal Chairperson.
107. Deliberations of the Board and the Tribunal shall be conducted using a traditional talking circle.
108. The Board Chairperson or the Tribunal Chairperson may, from time to time, invite an Algonquin Elder to provide guidance on forming a talking circle or to conduct a smudging ceremony.
109. Deliberations of the Board and the Tribunal shall be kept confidential.
110. The Board, Tribunal and the Enrolment Officer shall endeavour to treat personal information with all due care and discretion and, in the preparation of reports, reasons, and the record of proceedings, hearings or meetings shall endeavour to redact personal information where appropriate. In the event that a redaction is necessary in order to protect personal information that is not essential to a decision, the Board, Tribunal or

Enrolment Officer shall provide an explanation of why the redaction was made and, if possible, a description of the information redacted.

111. Board Members, Tribunal Members and Advisory Members shall be required to take the following oath:

I, [name], do solemnly and sincerely swear/affirm that I will truly and faithfully and to the best of my skill and knowledge execute and perform the duties that devolve upon me as a [Algonquin Enrolment Board Member / Algonquin Tribunal Member / Advisory Member] in an objective, impartial and fair manner and in a manner that accords with the Teachings of the Seven Grandfathers.

112. The Board or Tribunal may instruct their respective Advisory Members to assist in any matter at the discretion of the Board or Tribunal, including with respect to drafting communications, providing administrative support, or providing legal opinions. Any legal advice provided by the Advisory Member to the Board or Tribunal is privileged.

113. Any requirement to provide notice pursuant to this Special Resolution may be provided by:

- a) electronic means;
- b) directing the person receiving notice to a website that contains the information for which notice is given;
- c) Public Posting; or
- d) such other means as prescribed by the ANRs.

114. Any hearing or meeting contemplated by this Special Resolution may, at the discretion of the Board Chairperson or the Tribunal Chairperson, be conducted via electronic means, including by telephone conference or electronic communication platform.

VIII. Further Proceedings

115. The determinations and orders of the Tribunal are binding and conclusive and are not subject to further review.
116. The Board or the Tribunal, as the case may be, may dismiss an Enrolment Appeal or an Enrolment Protest on the grounds that the matter has already been determined by the Tribunal pursuant to this Special Resolution or is deemed to be frivolous and vexatious.

117. Notwithstanding Article 115 and Article 116, an Enrolment Appeal or an Enrolment Protest may be brought with respect to the same matter or person in the event that the Board or Tribunal, as the case may be, finds that the Enrolment Appeal or the Enrolment Protest is based on new evidence that:
- a) could not reasonably have been adduced at the original hearing of the matter by the Board or Tribunal;
 - b) is relevant in that it bears on a decisive or potentially decisive issue with respect to an enrolment or protest;
 - c) is reasonably capable of belief; and
 - d) is such that, if believed, it could reasonably, when taken with the other evidence adduced before the Board or Tribunal, be expected to have affected the result.
118. For the purposes of Article 117, “new evidence” that would allow for a reconsideration of a matter already determined does not include interpretive information such as academic papers or expert reports unless such analysis is based on a source document or other factual evidence that meets the requirements of Article 117.

Approved by ANRs

Approved: 14

Opposed: 2

Abstain: 0

Absent: 0

Non-Voting Alternates: 0