

Title

KAHNAWÀ:KE JUSTICE SYSTEM

K.R.L.

[Enacted by MCR #

SECTION I

PREAMBLE

Preamble

We, the Kanien'kehá:ka of Kahnawà:ke (hereinafter "People"), are and have always been Sovereign. We have our land, laws, government, language, culture and spirituality. Our lives are governed by respect for our traditions that are built upon the values and principles of peace, power, righteousness, harmony, respect and a good mind. It is our responsibility and right to govern our affairs in our own way. It is our inherent right and that of our children and future generations to govern ourselves, with which no one can interfere.

In order to maintain peace and harmony in the Mohawk Traditional Territory of Kahnawà:ke (hereinafter "Territory") the Kahnawà:ke Justice System, is hereby established through the Kahnawà:ke Justice Act (hereinafter "Act") and shall conform to the will of the People and applies to all within the jurisdiction of Kahnawà:ke.

This Act may be interpreted so as to allow for the creation of any forum needed to address existing and future laws.

It is the will of the People that this Act be paramount to and prevail over any other judicial system if there is any inconsistency between this Act and another, except as specifically provided for by a particular Kahnawà:ke legislative act.

It is the will of the People that individual and collective rights and responsibilities be kept in balance for the benefit and protection of all as provided for by this Act. In keeping with the principles of balance and harmony, the use of Skén:nen Aonsón:ton (Restorative Justice) shall be the first recourse to resolving conflict. This Act shall ensure the right to seek redress and remedy including appeal before the Court of Kahnawà:ke and any other Court or Tribunal that has been legally constituted and empowered or mandated by the laws of Kahnawà:ke.

Sanctioned by and respecting the will of the People, this law is passed on this ____ (day) of ____ (month), ____ (year) and shall come into effect immediately after its official publication or 30 days from the signature of confirmation that the Community Decision-Making Process was followed.

SECTION II - GENERALITIES

Jurisdiction for this Act

JURISDICTION FOR THIS ACT

1.1 We, the People, have the ultimate and exclusive power, right and jurisdiction, to maintain peace, order and justice. To this end, we hereby institute judicial forums within the Territory as an exercise of our sovereign rights.

Purpose

2. PURPOSE

2.1 This Act is the will of the People to institute judicial forums to adjudicate and interpret laws applicable to the Territory in order to maintain peace, order and justice.

Application

3. APPLICATION

3.1 This Act applies to all matters and acts committed on or involving any persons within the Territory.

3.2 It is the will of the People that this Act be exclusively interpreted by the judicial forums, including the Court of Kahnawà:ke and any other court or tribunal that has been legally constituted and empowered or mandated by the laws ratified by the People.

3.3 It is the will of the People that all laws adjudicated and decisions rendered by the judicial forums, including courts, administrative tribunals or other duly authorized entities be enforced by the Kahnawà:ke Peacekeepers, Inspectors, or any other persons and entities empowered or mandated by the laws of Kahnawà:ke.

Paramountcy

4. PARAMOUNTCY

4.1 This Act is paramount over any other law, act or regulation, issued from an authority outside of Kahnawà:ke and relating to or concerning the adjudication of laws applicable to and on the Territory.

SECTION II - FORUMS

Skén:nen
Aonsón:ton

5. SKÉN:NEN AONSÓN:TON “To become Peaceful Again”

- 5.1 Skén:nen Aonsón:ton Alternative Dispute Resolution (hereinafter SA/ADR) is a process within the Kahnawà:ke Justice System that is used to resolve conflict in a peaceful, non-adversarial way. The principles embodied in the process are a holistic approach to address conflict. This approach respects concepts historically used by Kanien'kehà:ka to resolve disputes and conflict.
- 5.2 To maintain balance and harmony, SA/ADR (restorative justice, mediation, peace-making circles, etc.) is the entry point for the Kahnawà:ke Justice System except when otherwise provided for in this Act.
- 5.3 All situations of conflict except as otherwise provided for in this Act, are eligible for SA/ADR, provided the parties are in agreement and the issue is determined to be appropriate for a Restorative Justice Forum (SA/ADR).
- 5.4 Exclusion of Legal counsel shall be the general rule, except where determined to be appropriate on a case-by-case basis when referred to Skén:nen Aonsón:ton by the Court of Kahnawà:ke in specific circumstances.
- 5.5 Skén:nen Aonsón:ton and the Court of Kahnawà:ke shall develop protocols on practice and procedures for the transfer of files from one process to another. These practices and procedures shall be made available to the general public. These practices and procedures must ensure the timely transmission of information as well as respecting individual rights and collective rights of the community.
- 5.6 Rules for transmitting information or evidence in the restorative justice forums shall be provided for in the protocol between SA/ADR and the Court of Kahnawà:ke or any other forum.

Administrative
Tribunals

6. ADMINISTRATIVE TRIBUNALS

- 6.1 When a petition is filed before the Administrative Tribunal in a private dispute, the matter shall be referred to Skén:nen Aonsón:ton for mandatory review and assessment. Skén:nen Aonsón:ton will make a determination if the matter is appropriate for a restorative justice forum. If agreed upon, the parties will be given the opportunity to resolve the issue in a restorative

forum. If a resolution cannot be reached, the matter will be referred back to the Administrative Tribunal for adjudication and decision.

- 6.2 The Administrative Tribunal, in public matters, is responsible to review decisions of the administrative and/or executive branch of government and where it is determined to be appropriate, provide redress.
- 6.3 The Administrative Tribunal will review and determine whether due process was followed, laws of natural justice were adhered to, ensure absence of bias, ensure the decision was reasonable, determine whether there was absence of jurisdiction, or, if there was a mistake at law. As a general rule, the Administrative Tribunal cannot replace a decision with its own subject to the power assigned to it by enabling legislation.
- 6.4 There will be one administrative tribunal with a pool of qualified, legally-trained and technical advisors. The composition of the hearing panel shall consist of three individuals selected from a resource pool with one individual having formal legal training. The two other members shall have the expertise as defined in the enabling legislation. Applicable regulations will identify the competencies of the individuals who will participate in the tribunal. Under exceptional circumstances there may only be a need for one adjudicator.
- 6.5 Rules of evidence and procedure of the Administrative Tribunal shall be provided for under this Act as, Regulations Respecting Administrative Tribunals.
- 6.6 No one assigned to the Administrative Tribunal can be removed unless he/she ceases to fulfill the required conditions, becomes permanently unable to complete his/her duties or is deemed unfit. Any interested person may make an application for removal with the Justice Commission.

*Court of
Kahnawà:ke*

7. COURT OF KAHNAWÀ:KE

- 7.1 The Court of Kahnawà:ke is the court of original general jurisdiction within the Territory in all civil, criminal and penal matters, it hears in first instance every matter not assigned exclusively to another Kahnawà:ke court or administrative tribunal by Kahnawà:ke Law.
- 7.2 Except for the Kahnawà:ke Court of Appeal, all other Kahnawà:ke courts, administrative tribunals, and private or public bodies established by Kahnawà:ke Law or established by another law but operating within the Territory are subject to the superintending and reforming power of the

Court of Kahnawà:ke.

7.3 The Court of Kahnawà:ke will have jurisdiction to hear appeals as prescribed by the present Act, or other Kahnawà:ke Law.

7.4 The Court of Kahnawà:ke shall have the power to decide on any particular matter, and will have authority to decide whether it has jurisdiction on any particular matter, this includes the exclusive authority to decide whether a law is applicable to the Territory.

*Composition of the
Court of
Kahnawà:ke*

8. COMPOSITION OF THE COURT OF KAHNAWÀ:KE

8.1 The Court of Kahnawà:ke shall be composed of a body of a minimum of three (3) appointed judges that will be competent to hear all matters within the Court's jurisdiction.

The courts and judges have all the powers necessary for the exercise of their jurisdiction.

They may, at any time and in all matters, whether in first instance or in appeal, issue orders to safeguard the rights of the parties, for such time and on such conditions as they may determine. As well, they may, in the matters brought before them, even on their own initiative, issue injunctions or reprimands, suppress writings or declare them libelous, and make such orders as are appropriate to deal with cases for which no specific remedy is provided by law.

8.2 To be eligible for consideration, a potential judge must be considered as having the requisite knowledge of law applicable to the Territory as approved by the Community Decision-Making Process (CDMP) or other community decision-making process.

8.3 When a position becomes available, the Justice Commission makes a call for applications for judges.

a) All applications will be screened by the Kahnawà:ke Justice Commission to ensure that they meet the necessary requirements. The names and backgrounds of eligible candidates will be published and brought forth to the community for public review for a 30 day period. Within 60 days of publication, the Community Decision-Making Process (CDMP) will be used to choose judges (candidates must be present to answer questions).

b) Upon selection by the community, the Justice Portfolio Ratsénhaienhs will swear in the selected judges (by public pledge to the community) within 10 days at a public ceremony (to be recorded and broadcast via a community television channel; and/or the MCK website; and/or Community Decision-Making Process website; and/or other media determined as suitable for this purpose). Each judge must, before taking up duties, make a solemn oath, that the powers conferred will be exercised impartially, independently, conscientiously, and judicially.

8.4 The three selected judges shall select a lead judge amongst themselves. The lead judge will have same responsibilities as his/her peers plus the administrative functions as attributed to him/her by Regulation.

8.5 The judges of the Court shall hold office for life or until the first of the following events: retirement, resignation, incapacity or removal.

8.6 Judges may not retire or resign while they are involved in an active file. Other cases shall be assigned to newly appointed judges.

8.7 The following shall be considered incompatible functions with the role of judge:

a) No judge may be currently employed in the Public Service of the Mohawk Council of Kahnawà:ke.

b) No judge may act as legal counsel, barrister, notary, police officer or advocate within the Mohawk Territory of Kahnawà:ke.

c) No presiding judge may be a current Chief the Mohawk Council of Kahnawà:ke.

8.8 Judges are immune from prosecution under civil, penal and criminal law for acts completed within the scope of their mandate.

8.9 The Court may appoint such other officers as may be required for the function of the Court (bailiff, court officers).

9. PRESIDING COURT OF KAHNAWÀ:KE JUDGE(S)

In criminal matters, one judge will hear each case, unless the present Act or other Kahnawà:ke law specifies that three judges shall hear the case.

*Presiding Court of
Kahnawà:ke
Judge(s)*

9.2 The Court Clerk shall assign court dates to the judge. A judge may refuse an assignment if there is sufficient reason to believe that a conflict, or appearance of conflict of interest exists, or, for any other reason deemed to be in the interest of justice.

9.3 If a party to a case considers that there may be a reason why a judge should not hear their case, they may request that the judge in question be removed. Should there be the removal of a judge, the lead judge (if the request concerns the lead judge, the Justice Commission) shall select a replacement to hear the case. Should a conflict still exist, a replacement judge is appointed by a judge from the Kahnawà:ke Court of Appeal.

*Removal of and
other Sanctions
against Judges*

10. REMOVAL OF AND OTHER SANCTIONS AGAINST JUDGES

10.1 No judge may be removed from office, or otherwise sanctioned for their conduct without a full and impartial investigation conducted by the Justice Commission in accordance with the rules set forth in the Regulations.

10.2 The decision of the Justice Commission resulting from the investigation mentioned in s.10.1 will be published.

10.3 The decision of the Justice Commission may be appealed within thirty (30) days of the decision to the Kahnawà:ke Court of Appeal.

SECTION III - COURT OF KAHNAWÀ:KE HEARINGS

SESSIONS OF THE COURT OF KAHNAWÀ:KE

*Sessions of the
Court of
Kahnawà:ke*

11.1 The hearings of the Court shall be conducted on a sessional basis.

11.2 All sessions are open to the public unless otherwise closed by the judge using his/her discretion.

11.3 Sessions shall be conducted in Kanien'kéha and/or English. In the interest of justice, translation services will be provided by the Court for penal and criminal matters.

11.4 In civil matters, the party requesting translation services shall bear the costs of those services.

12. RULES OF EVIDENCE & PROCEDURE AND ADMINISTRATIVE MATTERS OF THE COURT OF KAHNAWÀ:KE

12.1 The Kahnawà:ke Justice Commission may identify the need for and to adopt, adapt and amend such rules of procedure as have been identified as necessary for the conduct of the court:

- a) admissibility and introduction of evidence;
- b) giving notice;
- c) summoning and compelling witnesses attendance and testimony;
- d) the production and service of documents;
- e) all forms of discovery;
- f) the option of being judged by judge or jury for indictable offenses;
- g) contempt of court;
- h) the powers and functions of the court clerk and judge in chambers;
- i) taking and preserving evidence;
- j) pre-hearing conferences;
- k) imposition of time limits and delays;
- l) the making of tariffs and costs or civil, penal and criminal matters
- m) frivolous and vexatious actions and procedures;
- n) right to be heard;
- o) cross examination of witnesses;
- p) confidentiality and closed hearings;
- q) non-judicial days;
- r) any other rule of evidence or procedure;
- s) seizures;
- t) recognition and accreditation of legal representation in criminal, penal and civil matters;
- u) judicial ethics.

SECTION V - COURT OF KAHNAWÀ:KE DECISIONS

13. FORM

13.1 All decisions must be in writing.

13.2 Decisions taken by a panel of three judges must be by the majority of judges. There can be no abstentions and judgments must be written by, or

in the name of the majority and, as the case may be, the dissenting judge.

*Sentencing &
Interlocutory
Orders*

14. SENTENCING AND INTERLOCUTORY ORDERS

- 14.1 Judges have the authority to render any and all sentences that are prescribed by the laws applicable to the case before the Court, or other remedies.
- 14.2 The judges of the Court of Kahnawà:ke have the power to decide applications for contempt of court.
- 14.3 In conformity with the rules of procedure developed pursuant to Section 12.1 of the present Act, judges have the authority to render any and all interlocutory orders deemed necessary in the interests of justice, including, but not limited to injunction and subpoena orders.

**SECTION VI - APPEALS FROM THE COURT OF KAHNAWÀ:KE IN
CRIMINAL MATTERS**

*Jurisdiction for
Appeals in
Criminal Matters*

15. JURISDICTION FOR APPEALS IN CRIMINAL MATTERS

- 15.1 Appeals in criminal matters from judgments of the Court of Kahnawà:ke rendered pursuant to Canadian Criminal Code shall be heard by the court of competent jurisdiction.
- 15.2 In Criminal matters, an appeal to the Kahnawà:ke Court of Appeal may lie in accordance with applicable Criminal Law to the Territory.

**SECTION VII - APPEALS FROM THE COURT OF
KAHNAWÀ:KE IN PENAL MATTERS**

*Jurisdiction for
Appeals in Penal
Matters*

16. JURISDICTION FOR APPEALS IN PENAL MATTERS

- 16.1 The Kahnawà:ke Court of Appeal shall have exclusive jurisdiction to hear appeals of judgments emanating from penal matters of the Court of Kahnawà:ke that are rendered pursuant to Kahnawà:ke Law.
- 16.2 In penal matters, an appeal to the Kahnawà:ke Court of Appeal is only allowed with permission of a judge of the Kahnawà:ke Court of Appeal.

- 16.3 One appellate judge shall hear appeals from final judgments from the Court of Kahnawà:ke in penal matters as assigned by the lead judge.

SECTION VIII - APPEALS IN CIVIL MATTERS

17. JURISDICTION FOR APPEALS IN CIVIL MATTERS

- 17.1 Appeals from Court of Kahnawà:ke final judgments shall be heard by the Kahnawà:ke Court of Appeal.
- 17.2 An automatic appeal lies to the Kahnawà:ke Court of Appeal in the following instances:
- a) from any final judgment of the Court of Kahnawà:ke, except in a case where the value of the object of the dispute in appeal is less than \$ 50 000;
 - b) from any judgment or order taken regarding Membership;
 - c) from any final judgment rendered in matters of contempt of court;
 - d) from any final judgment rendered in matters concerning confinement in an institution or psychiatric assessment;
 - e) from any final judgment in the following matters: tutorship of minors or absentees, declaratory judgments of death, tutorship councils, protective supervision and the homologation of mandates given by a person in anticipation of their incapacity;
 - f) from any final judgment of the Court of Kahnawà:ke regarding land.
- 17.3 Any other final judgment of the Court of Kahnawà:ke may be appealed with permission of a judge of the Kahnawà:ke Court of Appeal;
- 17.4 One appellate judge shall hear appeals from final interlocutory judgments from the Court of Kahnawà:ke as assigned by the lead judge.

18. COMPOSITION OF THE KAHNAWÀ:KE COURT OF APPEAL

- 18.1 The Kahnawà:ke Court of Appeal shall be composed of a pool of judges that will be competent to hear all matters within the Court's jurisdiction. This pool of judges may include judges from the Court of Kahnawà:ke and judges of other Mohawk communities.

19. KAHNAWÀ:KE COURT OF APPEAL HEARINGS

- 19.1 Appeals shall be heard by one judge, except where the present Act or other Kahnawà:ke law specifically provides that another number of judges shall hear an appeal.
- 19.2 The lead judge shall select the judge to hear a matter. A judge may refuse an assignment to a case if there sufficient reason to believe that a conflict or appearance of a conflict of interest exists, or for any other reason deemed to be in the interests of justice.
- 19.3 No judge may participate in the decision of any case in which he has previously taken part as agent, counsel or advocate for one of the parties or in any other capacity.
- 19.4 No judge may take part in any case where there is a conflict of interest, including, but not limited to, family and economic ties. Should there be a conflict of interest, the lead judge will select a replacement to hear the case.

20. DECISIONS OF THE KAHNAWÀ:KE COURT OF APPEAL

- 20.1 All decisions must be delivered in writing.
- 20.2 If a law provides that a decision be heard by a panel of judges, the decision taken must be by the majority. There can be no abstentions and judgments must be written by, or in the name of, the majority and, as the case may be, the dissenting judge.
- 20.3 Unless a Kahnawà:ke Law specifies otherwise, all decisions of the Kahnawà:ke Court of Appeal are final and without appeal.

SECTION IX - OTHER

21. REMUNERATION AND BUDGET FOR JUDGES OF THE COURT OF KAHNAWÀ:KE

- 21.1 The remuneration of Judges, adjudicators and technical resource people shall be fixed by Executive Order of the Mohawk Council of Kahnawà:ke.

The Court Administration shall incorporate this expense into its annual budget, as well as any additional expense, to make functional, other forums to address requirements identified within a Kahnawà:ke Law for the administration of Justice.

21.2 Remuneration for operational personnel shall be in accordance with the Mohawk Council of Kahnawà:ke Personnel Policy Salary grid.

*Ratsénhaienhs/
Ietsénhaienhs
Responsible for
Law*

22. RATSÉNHAIIENHS/ IETSÉNHAIIENHS RESPONSIBLE FOR LAW

22.1 The Justice Portfolio Ratsénhaienhs/Ietsénhaienhs is responsible for the administration of the present law.

Amendments

23. AMENDMENTS

23.1 This Law may be amended in accordance with the established procedure under the Community Decision-Making Process. This Act may not be amended to affect the hearing of cases being heard at the time of the amendment.

Coming into Force

24. COMING INTO FORCE

24.1 Further to the will of the Kanien'kehá:ka of Kahnawà:ke, this Act is enacted on _____ by MCR No:___/2012-2013. The provisions of this Act come into force on the dates set out in MCR No:___/2012-2013 or on such later dates as are set out in subsequent resolutions of the Kahnawa'kehró:non Ratitsénhaienhs.

History

25. HISTORY

Being created.

*Transitional
Measures*

26. TRANSITIONAL MEASURES

All laws of general application which are not inconsistent with the present Act continue to be in force within the Territory until such time as they are repealed, amended or adapted.

Gender

27. **GENDER**

Any reference to he/him/ratsénhaienhs is meant to include she/her/ietsénhaienhs.

Defintions

28. **DEFINITIONS**

Abstention

Abstention - to withhold one's vote.

Adjudication

Adjudication - the act of a court or administrative tribunal in making an order or decree.

Adjudicator

Adjudicator - one who sits in judgment or who pronounces by judicial sentence in the administrative tribunal

Administrative Tribunal

Administrative tribunal - an adjudicator or panel of adjudicators, charged with reviewing decisions of the administrative branch of government and where appropriate to correct an error or fault.

Admissibility

Admissibility - that which can be accepted or allowable.

Appeal

Appeal - an application or proceeding for review by a higher court.

Appellate

Appellate - pertaining to appeals.

Bias

Bias - influence in an unfair way, having preference for or against.

Civil

Civil - pertains to legal proceedings involving private individuals, corporate entities or government, which have as their purpose the ordering of compensation for damage to one's property or person; the mandatory execution of an obligation.

Community Decision-Making Process (CDMP)

Community Decision-Making Process (CDMP) - Process by which the community reaches consensus on community laws as indicated by MCED # 14/2005-2006 signed on May 30, 2005.

Contempt of Court

Contempt of court - willful disobedience to or open disrespect for the rules or orders of a court or legislative body.

Court

Court - a place where justice is administered, a court duly constituted for the hearing and determination of cases.

Court of Appeal

Court of appeal – a court whose jurisdiction is to review decisions of a lower court or agencies.

Court of Competent Jurisdiction

Court of competent jurisdiction - The Court which is designated by Kahnawà:ke law to adjudicate a particular matter (based on territory, person or subject matter) to the exclusion of any other Court.

Criminal

Criminal - pertains to legal proceedings involving private individuals, or corporate entities and the government, which have as their purpose the punishing of criminal wrongdoing.

Discovery

Discovery - compulsory disclosure of facts or documents

Dissenting Opinion

Dissenting opinion – on a panel of adjudicators it is the minority opinion that differs from the majority opinion.

Formal Legal Training

Formal legal training – means having completed an undergraduate degree in law at a recognized Northern American university.

Frivolous

Frivolous - of little or no weight, worth or importance.

Ietsénhaienhs

Ietsénhaienhs – an elected female chief of the Mohawk Council of Kahnawà:ke.

Injunction

Injunction - an instruction or order issued by a court to a party to an action especially to refrain from some act, such as causing a nuisance.

Interest of Justice

Interest of justice – means pursuing a course of action or conduct that is fair and equitable.

Interested Person

Interested person – means a person who has an interest or stake in the outcome of an issue or who has standing in a Court proceeding.

Interlocutory

Interlocutory – an order put in place during the course of an action as opposed to a final decision.

Interpret

Interpret – means the judicial pronouncement on the purpose, scope or intent of a legislative text.

Judge

Judge – a public official with the authority to hear cases in a court of law and pronounce judgment (includes appellate judges).

Judgment

Judgment - a judicial decision given by a judge or court that has a mandatory effect.

Jurisdiction

Jurisdiction - the right, power, or authority to administer justice.

Kahnawa'kehró:non

Kahnawa'kehró:non - persons legally-residing in the territory of Kahnawà:ke.

Kahnawà:ke Justice Commission

Kahnawà:ke Justice Commission - an appointed body whose mandate is to integrate traditional Mohawk principles into the Kahnawà:ke Justice System; assure fair and just resolution of conflict through the creation or modification of justice services; plan and implement prevention of conflict, violence and crime by developing relevant programs and to educate the public on justice initiatives and administer and order the justice system of Kahnawà:ke.

Kanien'kehá:ka (the People of the Flint)

Kanien'kehá:ka (the People of the Flint) of Kahnawà:ke - commonly referred to as the Mohawk People of Kahnawà:ke as defined by the Kahnawà:ke Membership Law K.R.L. c. M-1 in the definition of "Kahnawà:ke Kanien'kehá:ka Registry".

Legally-trained judge

Legally-trained judge - completed undergraduate degree in law at a recognized North American university and is a member in good standing of a North American Bar Association (find a place).

Mediation

Mediation - action in mediating between parties, as to effect an agreement or reconciliation.

Natural Justice

Natural justice - the assurance that the principles and procedures of fair and unbiased decision-making are followed and made in good faith.

Penal

Penal - pertaining to or involving punishment for crimes and offenses.

Private Dispute

Private dispute - between two (2) or more private individuals i.e. labour dispute, employer/ employee.

Public Matter

Public matter - between two (2) or more private individuals and the government or a government entity, for public order issues and private individuals (issuance of a permit: ABC, Landfill, etc.)

Ratitsénhaiens

Ratitsénhaiens - councilors or more than one elected chief of the Mohawk Council or Kahnawà:ke

Ratsénhaienhs

Ratsénhaienhs - an elected male chief of the Mohawk Council of Kahnawà:ke.

Redress

Redress - to provide a method or procedure to correct a perceived faulty administrative or judicial judgment.

*Skén:nen
Aonsón:ton*

Skén:nen Aonsón:ton - “To become Peaceful Again”, is the process within the Kahnawà:ke Justice System that is used to resolve conflict in a peaceful, non-adversarial way.

Subpoena

Subpoena - the usual writ for the summoning of witnesses or the submission of evidence, as records or documents, before a court or other deliberative body.

*Superintending &
Reforming Powers*

Superintending and reforming powers - are the Court of Kahnawake’s discretionary powers to judicially review and control the decisions and actions of lower Courts, tribunals, public and private bodies operating in the Territory.

Territory

Territory - means the original lands of the Mohawk people of Kahnawà:ke from time immemorial and now includes Indian Reserve No. 14; Tiowérotton - Doncaster; and the original lands designated as the Seigneurie of Sault Saint Louis; and includes:

- a) the lands now held under the mandate of the Mohawk People of Kahnawà:ke;
- b) any and all lands that may be added to the lands now held by the Mohawk People of Kahnawà:ke through the negotiation and resolution of land grievances, and
- c) any and all lands that may be added to the lands now held under the mandate of the Mohawk People of Kahnawà:ke as the result of any other means.

Tribunal

Tribunal - depending on the context this term could refer to an administrative decision-making body or a court of justice.

Vexatious

Vexatious - instituted without sufficient grounds and serving only to cause annoyance.

ANNEX 1: REGULATIONS

JUDICIAL ETHICS

- 1.1 A judge shall uphold the integrity and independence of the judiciary.

An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining and enforcing high standards of conduct, and shall personally observe those standards so that the integrity and independence of the judiciary will be preserved.

- 1.2 A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities

(a) A judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

(b) A judge shall not allow family, social, political or other relationships to influence the judge's judicial conduct or judgment.

(c) A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others; nor shall a judge convey or permit others to convey the impression that they are in a special position to influence the judge. A judge shall not testify voluntarily as a character witness.

(d) A judge shall not hold membership in any organization that practices invidious discrimination on the basis of age, race, creed, color, gender, sexual orientation, religion, national origin, disability or marital status. This provision does not prohibit a judge from holding membership in an organization that is dedicated to the preservation of religious, ethnic, cultural or other values of legitimate common interest to its members.

- i. This paragraph does not preclude legitimate advocacy when age, race, creed, color, sex, sexual orientation, religion, national origin, disability, marital status or socioeconomic status, or other similar factors are issues in the proceeding.

- ii. A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law.
- iii. A judge shall dispose of all judicial matters promptly, efficiently and fairly.
- iv. A judge shall not make any public comment about a pending or impending proceeding in any court within the Kahnawà:ke or its territories. The judge shall require similar abstention on the part of court personnel subject to the judge's direction and control. This paragraph does not prohibit judges from making public statements in the course of their official duties or from explaining for public information the procedures of the court.
- v. A judge shall not commend or criticize jurors for their verdict other than in a court order or opinion in a proceeding, but may express appreciation to jurors for their service to the judicial system and the community.
- vi. A judge shall not disclose or use, for any purpose unrelated to judicial duties, nonpublic information acquired in a judicial capacity.

(e) Administrative responsibilities

- i. A judge shall diligently discharge the judge's administrative responsibilities without bias or prejudice and maintain professional competence in judicial administration, and should cooperate with other judges and court officials in the administration of court business.
- ii. A judge shall require staff, court officials and others subject to the judge's direction and control, to observe the standards of fidelity and diligence that apply to the judge and to refrain from manifesting bias or prejudice in the performance of their official duties.

(f) Disciplinary responsibilities

- i. A judge who receives information indicating a substantial likelihood that another judge has committed a substantial violation of this Part shall take appropriate action.

- ii. A judge who receives information indicating a substantial likelihood that a lawyer has committed a substantial violation of the Code of Professional Responsibility shall take appropriate action.
 - iii. Acts of a judge in the discharge of disciplinary responsibilities are part of a judge's judicial duties.
- (g) Disqualification
- i. A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to, instances where:
 - (a) the judge has a personal bias or prejudice concerning a party or;
 - (b) the judge has personal knowledge of disputed evidentiary facts concerning the proceeding;
 - ii. the judge knows that:
 - (a) the judge served as a lawyer in the matter in controversy, or;
 - (b) a lawyer with whom the judge previously practiced law served during such association as a lawyer concerning the matter, or
 - (c) the judge has been a material witness concerning it;
 - iii. the judge knows that he or she, individually, or as a fiduciary, or the judge's spouse or minor child residing in the judge's household, has an economic interest in the subject matter in controversy, or in a party to the proceeding, or has any other interest that could be substantially affected by the proceeding;
 - (a) is a party to the proceeding;
 - (b) is an officer, director or trustee of a party to the proceeding;
 - (c) has an interest that could be substantially affected by the proceeding;
 - (d) is likely to be a material witness in the proceeding.

1.3 A judge shall so conduct extra-judicial activities as to minimize the risk of conflict with judicial obligations:

- (a) so that they do not:
 - cast reasonable doubt on the judge's capacity to act impartially as a judge;
 -

- detract from the dignity of judicial office, or;
- interfere with the proper performance of judicial duties and are not incompatible with judicial office.