

KAHNAWÀ:KE MEMBERSHIP LAW

FIRST HEARING – Meeting #10

Golden Age Club

22, Enniskó:wa/March 2016

6:00 PM– 8:30 PM

RECORD OF DISCUSSION

FACILITATORS:

Ron Skye
KellyAnn Meloche

CHIEFS IN ATTENDANCE:

Grand Chief Joseph Norton
Chief Rhonda Kirby
Chief Robert Patton, Jr.
Chief Clinton Phillips

RESOURCE PEOPLE:

Chief Kahsennenhawe Sky-Deer (Lead)
Alexis Shackleton
Shari Lahache
Arlene Beauvais
Chief Arlene Jacobs
Kevin Fleischer
Leslie Skye

RECORDER:

Kim Beauvais

6:00 P.M. **OPENING** – Leslie Skye

6:05 P.M. **INTRODUCTION/MEETING GUIDELINES** – Kahsennenhawe Sky-Deer

6:10 P.M. **KAHNAWÀ:KE MEMBERSHIP LAW AMENDMENTS:**

- **THE DEFINITION OF ‘GREAT GRAND PARENT’(continued discussion)**
- **SEC.15 APPLICATION PROCESS/APPROVED KAHNAWÀ:KE RESIDENTS**
- **SEC.16 ENTITLEMENTS OF KANIEN’KEHÁ:KA OF KAHNAWÀ:KE**
- **ANY RELEVANT/RELATED DEFINITIONS** - Kahsennenhawe Sky-Deer

8:25 P.M. **NEXT STEPS** – Kahsennenhawe Sky-Deer

8:30 P.M. **CLOSING** – Kahsennenhawe Sky-Deer

An update from last meeting held on March 8th, 2016 was given: A lot of negative press and feedback came about after the decision that was made at the last meeting. The wording of the press release wasn't quite what was decided upon, but we won't wordsmith right now. To confirm: the decision that was made to append Section 14.7 stands. If someone has an issue, they should be here. There is a mandatory review after 5 years. Once the law is in place a year **if** there is a mistake that was made, community members can bring it forward and have it reviewed.

Q: Was 14.5 and 14.6 passed?

A: Yes

Comment: There's no way you can pass Section 14.7 if you read it right. There's a discrepancy. Sections 14.5 and 14.6 completely contradict 14.7.

A: If someone adopted a child before 2003 then it doesn't apply.

A: This was already passed at a prior meeting. There is a mandatory review in 5 years. We have to move on.

Definition:

"Kanien'kehá:ka Great Grandparent" means a great grandparent who

- 1) has Kanien'kehá:ka lineage or
- 2) was a Mohawk on the Mohawk Registry or
- 3) was/is a member or recognized as a Kanien'kehá:ka of Kahnawà:ke on the Kahnawà:ke Kanien'kehá:ka Registry.

Comments

- Great-grandparents - In the current preamble, it states that this law is intended to reflect the values and principles described by the Elders of our community in their 1999 statement on membership titled Entsitewaha'a:rahne. The definition of "Indigenous lineage", goes directly against the recommendations of the elders who stated that 3 Great grandparents would be accepted as valid lineage. The concept of counting great grandparents however, continues to be another way of measuring blood quantum: We would suggest that One Kanien'kehá:ka parent should be sufficient in determining lineage.
- Kanien'kehá:ka great grandparent: who determines this?
- Kanien'kehá:ka great grandparent maybe improves clarity by adding to 2) was listed as a Mohawk on the Mohawk Registry.

DISCUSSION:

Explanation: Four out of eight should be Onkwéhonwe. It has to be blood quantum - perhaps 25% as a minimum. The deliberation suggested 50%. Persons on the registry between 1981 and 2003 remain.

Comment: The people here agreed to 50% for Kanien'kehá:ka lineage because at that time blood quantum was used.

Comment: Fifty percent (50%) was agreed to. One person said it had originally been 50 plus 1%.

Comment: There is concern about the persons who had acquired status.

A: Persons who had acquired status would not be counted as having lineage.

Comment: Would dates help to clarify things? For example: this is from 1981 to 2003, this is from 2003 on with today's law, and this is prior to 1981. Prior to 1981 would include everyone. Does that clarify things?

A: No.

Comment: At the last meeting there was agreement on 50%.

A: It was still at the discussion stage, it hadn't been completed. There was no consensus.

Let's put it out there, but be cautioned that there will be a lot of people in this community who won't meet the criteria if we are this strict (at 50%). We will be going back more than three (3) generations and this will discredit a lot of people.

The discussion at the last meeting was about who would qualify as Kanien'keha:ka great grandparents. There were three headings, and if the great grandparent fell into one of the headings then they qualify. The 50% issue came up as one of the potential criteria along with being on the Mohawk Registry or the KKR. What would be suitable or acceptable for the great-grandparents?

Comment: It seems that we are now also trying to get a definition of Kanien'kehá:ka lineage. If you add a blood quantum into that definition, there are other sections within the law that will have to be looked at.

Comment: There was a suggestion to only consider grandparents, as it would be easier to verify.

A: We have had consensus on going back to great-grandparents for a few meetings, so we are not going to go back to change it to grandparents.

Suggestion to change 1) to read Kanien'kehá:ka lineage of 50% or more.

Is that acceptable to everyone? Yes

2) **Was on the Mohawk Registry. No objection? There was no conclusion to the acceptance of this criterion.**

Q: To be on the Mohawk Registry or the KKR they have to be 50%?

A: They have to have four (4) great-grandparents. That is why we are trying to determine what the criteria are to determine who is eligible to be a member based on their great-grandparents. What do they (the great-grandparents) have to possess? Help us to define that, because that was a problem with the Council of Elders. They started putting blood quantum to people and now you had to be one hundred percent (100%). It became a big problem. There was no definition in the law for a great-grandparent.

Q: What happens if a great-grandparent does not meet the requirement?

A: There won't be that many people with 4 great-grandparents having only 25%.

Comment: There's a very important time in our history. In 1952 when D.I.A. decided that a whole lot of people could live here, they were put on the list and married in. That's why we have a variety of names here and the situation we're in now. If you have to go back in time, it can be very tricky. If you have someone with 80% now, their great-grandparents might have been 0% if you go back.

Comment: That assumes that they all marry back in. What if they don't all marry back in? It can dwindle.

Comment: Over time if they marry back in wouldn't that work itself out?

Comment: We wanted to get away from blood quantum completely and be more inclusive by saying 4 out of 8 great-grandparents. In doing so, the great-grandparent definition wasn't clear. What are the criteria for a great-grandparent? To go back in their generation, we had to use blood quantum all over again. What is the cut off and what is sufficient blood quantum to say these people qualify as a great-grandparent?

A: Predominantly is more than half. Someone who runs for Council has to have 50%. In terms of living here and having benefits, there is the possibility that you can have less than 50% and be on the KKR, but not through acquired rights.

Q: If someone is third generation now and is 80% and their great-grandparent is only 30% now you're going back 3 generations, so now they won't be eligible to be on the KKR?

A: Yes, that's correct but they won't be eligible only if they're applying now.

A: This is for discussion; the list could have six or seven requirements. It's open for discussion.

Q: What is the rationale behind Membership putting out that there should be 25%?

A: It was a proposal for having a minimum, after it was brought up that there was nothing in place. It was so open.

A: There were instances where some people had very minimal ties to the community and could have been one of the great-grandparents. The way the law is written now, you couldn't say no if someone is listed that has very small ties to the community. In the future we knew it could be questioned and if it went to a tribunal, it couldn't be overturned. If they have a slight tie to the community, then they are considered to be from the community. That's why that number was brought forward. We sat down and tried to figure out how we could say this, if we use three great-grandparents, we are going back six generations.

Comment: What we're looking at right now is the definition of one great-grandparent first.

Q: When the original Council of Elders was in existence, when you were talking about lineage did you only go back to the great-grandparents? How far did they (C.O.E.) want to go back?

A: We started at the four great-grandparents. We wanted to go back as far as we could keep track of, as far as we could. The late Ida Goodleaf used the church records to identify the person. The church does not identify the person's blood quantum whatsoever, it just tells you who the parents were, who the grandparents and great-grandparents were. Blood quantum had to be used to identify a person, possibly from one-hundred fifty years prior.

Q: So based upon that, was someone who was 25% accepted to be a great-grandparent or did they have to be at least half?

A: They had to be at least half, a quarter was questionable. It depends on how far you go back. You could find out that the person that was said to have half, was only a quarter, and vice versa. You could find out that the person did not have a single drop of blood.

Q: If someone has 4 great-grandparents who are only 25% and they all married out, the great-grandchild would only have 6.25%. If the same person married back in they have 81.25%. It doesn't make sense that someone whom is 6.25% and someone whom is 81.25% are just as qualified.

A: Using that scenario, if they continued marrying out, they would not qualify to be on the list if you are just applying now because the four great-grandparents are only 25% - that is, if we set it at 50%. If they keep marrying out they won't have the two indigenous parents, so they would eliminate themselves.

Suggestion: To add somewhere, perhaps another category is needed - that anyone who doesn't have the 4 great-grandparents but they continuously marry back in, and their lineage increases, that they would be eligible as well.

A: Something that perhaps should be explicit is that if you're a product of a mixed marriage, and you marry a non-native and have children, then they're automatically disqualified for recognition. So then it makes a generation cut off. If I'm a product of a mixed marriage, I know it's my responsibility to marry back in or my children are automatically disqualified from being recognized.

Q: Did we ever come to a consensus on the definition of a slight tie? It was up for discussion a few meetings ago and it seems that it never got resolved. How do you measure ties to the community?

A: The definition for "Community ties" was read aloud.

Comment: It was felt that these definitions were vague, as there were people who are married to non-native people and have brought their children here. So those children who are completely non-native grow up here and are establishing their community ties.

A: "Community ties" go along with the lineage and the other criteria. There has to be a lineage component. It is not stand alone.

If 25% is off the table, does 50% have to be the standard for #1? What is the minimum? What is acceptable?

Q: How far back do the church records go?

A: About 1735.

Comment: There is concern about the word "minimum". We're already down to four out of eight great-grandparents. The new Council of Elders said that four great-grandparents had to be full. Now you're going to 50%, it should be 50% plus one, 51% with no minimum about it. Suggestion that three great-grandparents should be full and the 4th should be 50%.

A: It depends on how far back in their genealogy you want to go.

Q: Are there any statistics on how many people will we gain if we use 25%? Or how many are you going to lose? If you took people off that were less than 50% what would the membership roll look like?

A: You can't go back and take someone off who is already on the Registry; it would only be for someone applying now and in the future.

Comment: We would be losing people.

Comment: Old CIS cards used to have what your percentage was. There were a lot of people that were below the limit. Maybe out of fairness for current people on the Registry, the great-grandparents should have 30% (blood quantum), as a compromise. You would still have enough Kanien'kehá:ka lineage to bring that third generation back in.

Q: Are we going back 6 generations to check the great-grandparents for each applicant to establish the lineage of their great-grandparents?

A: No, you only need one of the three criteria to qualify.

Comment: The 50% threshold may be a little high. If a person is a product of a mixed marriage, automatically having four great-grandparents not counted and has only one of the four remaining great-grandparents with less than 50% (blood quantum), they will not be eligible to be recognized.

Proposal: Criterion #1 should be 30% (blood quantum) verifiable by the registrar.

Proposal: Criterion #1 should be 50% or more.

OUTCOME:

There is no clear agreement on either 30% or 50%. The membership unit has agreed to make charts for the next meeting showing the impacts of the different percentage scenarios going back three generations. It was requested that they should also show the number of people who will become recognized under each criterion. The Federal Government recognizes 10, 671 Mohawks of Kahnawà:ke. We only have over 6,400 on the KKR, so there is a discrepancy population of about 4,300 with Mohawk of Kahnawà:ke band cards out there. The population on the reserve is about 7,500, meaning we have about 1,100 here that don't meet our criteria.

It was noted that it is almost impossible to get rid of blood quantum.

CONSENSUS REACHED:

No consensus was reached on the definition of Kanien'kehá:ka Great Grandparent.

APPLICATION PROCESS/APPROVED KAHNAWÀ:KE RESIDENTS

~~15.1 14.1 All p~~ Persons who are not eligible to be recognized as a Kanien'kehá:ka of Kahnawà:ke ~~that who wish to reside within the Territory must apply~~ The following persons are eligible to apply to the Registrar Council of Elders for permission to be an Approved Kahnawà:ke Resident ~~and must meet the following criteria, verified by proof acceptable to the Registrar non-member resident:~~

- a) a person who has some Kanien'kehá:ka lineage and,
 - I) who has and maintains family ties within the community of Kahnawà:ke, and
 - II) who can demonstrate that they have ~~has~~ made or can make a positive contribution to the community of Kahnawà:ke,
- b) a person who has Indigenous but no Kanien'kehá:ka lineage and is married to, or living in a common law relationship with, a recognized Kanien'kehá:ka of Kahnawà:ke,
 - ~~I) married to, or living in a common law relationship with, a member, or~~
 - ~~II) working within the Territory, or~~
 - ~~III) attending an educational facility in or near the Territory,~~
- c) a person with no Kanien'kehá:ka or Indigenous lineage who was adopted as a child prior to the enactment of this Law by a Kanien'kehá:ka of Kahnawà:ke member or members and:
 - I) has reached his or her age of majority,
 - II) has been normally resident within the community of Kahnawà:ke since the date on which he or she was adopted, and
 - III) has and maintains family ties within the community of Kahnawà:ke,
- d) a person with no Kanien'kehá:ka or Indigenous lineage who, prior to the enactment of this Law on November 10, 2003, was raised in the community of Kahnawà:ke, is ordinarily resident in Kahnawà:ke and who maintains Ffamily ties with the community.,
- ~~e) a member of a liturgical society established within the Territory.~~

Related Definitions

No related definitions.

Comments

Sect. 15.1 should have criteria repeated with all of Sect. 15.2 plus no criminal record as per a background check.

DISCUSSION:

It was felt that there is a conflict between Sections 14.5, 14.6 and 14.7 (adoptions) and Section 15 (residency).

A: Section 14.6 deals with a child who is adopted after the enactment of this Law in November 2003. There is a cut off of November 2003. If they were adopted after 2003, according to the decisions of the last few meetings, they have to leave. There may be a mix up between membership and the right to reside here.

Comment: The preamble to Section 15.1 should add that the applicant should have no criminal record and that a criminal background check be conducted on these people.

A: Currently in the regulations that a criminal background check will be done for anyone who applies to be an approved Kahnawà:ke resident or a member.

Q: Do the Regulations say that if the person has a criminal background, their application will be void? If not, it should say something in the law. The criminal criteria should be in the law itself, not in the regulations.

Comment: We haven't seen the regulations. At whose discretion is what types of criminal offences are considered acceptable (tobacco for example), the Registrar's?

A: Agreed, in terms of drafting and legal development, you can't have things in regulations that are not permitted in the law. If the law says these are five requirements that the Registrar can look at, then those are the five requirements. If there is a criminal background component, it can't be tucked away in Regulations; it has to be in the law. If that can be a ground for refusal for residency, it should be in the law. How this is applied by the Registrar can be set out in the Regulations.

CONSENSUS was reached to add to the introductory statement of Section 15.1; something to be formulated within the content of the law, by the drafting committee, that addresses the criminal background check and its applicability to residency. This should take into consideration how this is addressed in other laws for conformity.

Q: What is definition of "some Kanien'kehá:ka lineage" in Section 15.1 (a)?

A: Less than four (4) great grandparents and more than zero. This is just for residency not to become a member.

Q: That person would not be entitled to live here?

A: They would be entitled to live here as an approved non-member resident, and have been since 2003. They are just not entitled to all the other benefits.

Q: Why are they entitled to residency to begin with?

A: Because they are part of us, they're not 100% non-native.

Q: Are we considering the person that is 6.25% that was referred to earlier?

A: If they are a part of us and have been here all the while, we are not referring to non-native people who just come here.

Comment: Well, non-natives do come here to live.

A: They will have to apply now.

Q: Does anyone actually apply or ask for permission? Non-natives are here and no one does anything.

A: Yes they do come in. However the (2003) law is not fully in effect, since the Council of Elders does not exist, that process is in abeyance right now. As a result, there are no applications and it is not enforceable.

Comment: We already have a law in place. Do we not follow it?

A: Membership can't do it. The Council of Elders has been suspended.

Q: Once the law is enacted, how are you going to go about having people apply? What is the process used for those who are already here and have not made an application? Do you report them?

A: The process has been in place since 2003. These people do not come in.

Comment: A brief update of membership was laid out. Totally non-native people got letters stating they had to leave. The landlords got letters also. Native people living with non-natives also got letters. That's the process. Make your application after 30 days, if you don't then you're gone. How is it going to be enforced? Pressure will be put on the land owners. And the pressure will increase. The Peacekeepers will not be the ones to enforce the requests to leave at this point.

A: One idea is to conduct a door to door census.

Comment: There is concern that sections are being passed when the definition of great-grandparents has not been agreed upon. And you can't go forward without having the definition agreed upon.

A: People who don't meet the criteria to be a recognized Kanien'kehá:ka of Kahnawà:ke, should they not be allowed to reside here? Ask yourself that question.

Q: How minimal is "some" in Section 15.1 (a)?

A: We are trying to establish here what the minimum (blood quantum) threshold is.

Q: Who decides what the "some" is?

A: The registrar will decide. What's the some? What's the minimum? Go back to the definition of Kanien'kehá:ka lineage. It is: "direct descent from a Kanien'kehá:ka ancestor, verified by proof acceptable to the Registrar".

Q: Hypothetically, if you pass the law below 50% do I lose my rights when I apply for social security, and I get a letter that says I'm less than that?

A: If you are less than 50%, you would not get a letter.

Q: There is a question about how "community ties" are determined.

A: It will be in the regulations.

Comment: The regulations that are part of the 2003 Kahnawà:ke Membership Law should be an addendum to the law that is online. It will be verified that they are actually online.

OUTCOME:

Consensus was reached to make an addition to the preamble to Section 15. There was no consensus reached on Section 15.1 (a). People got hung up on "some" Kanien'kehá:ka lineage.

CONSENSUS REACHED:

Consensus was reached to add to the introductory statement of Section 15.1; something to be formulated within the content of the law, by the drafting committee, that addresses the criminal background check and it's applicability to residency. This should take into consideration how this is addressed in other laws for conformity.

There was no consensus reached on section 15.1(a).

Tuesday April 12th is the next KML meeting at the Golden Age Club beginning from Section 15.1 (a). Membership will prepare lineage charts to illustrate 25, 30 and 50% blood quantum for the purpose of concluding the great-grandparent definition.

Approved by:

Chief Kahsennenhawe Sky-Deer

Date

Alexis Shackleton,
Director of Client Based Services

Date