

Council of Elders Operational Review

April 2008



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1. EXECUTIVE SUMMARY

The Mohawk Council of Kahnawake (MCK) has enacted the Kahnawake Membership Law (KML) and a Council of Elders (CoE) to operate within this law. The need for an operational review of the Council of Elders was in response to the report released by the MCK Membership Department entitled "A Review of the Kahnawake Membership Law". The first recommendation was that an independent review of the Council of Elders is commissioned.

The CoE Review project undertaken by Organizational Development Services was conducted between December 2007 and April 2008. The purpose of the review was to examine the framework the CoE operates under and determine what fosters or impedes CoE alignment to the framework, impacts and recommendations to improve operations.

Sixty-nine (69) individuals participated in the review. The groups consulted through interview: CoE (past & current), Elders involved in the development of the Custom Code, Membership Review Committee (MRC), Chief & Council (past & current), SDU Membership Department staff, applicants under the KML {members (granted, denied), non member residents (granted)}, key informants (includes support for applicants).

Findings of this report are presented under the following findings:

⇒ Nine (9) framework elements:

<i>Structure</i>	<i>Authority</i>	<i>Accountability</i>
<i>Roles & Responsibilities</i>	<i>Relationships</i>	<i>Goals & Objectives</i>
<i>Policies and Procedures</i>	<i>Tools</i>	<i>Training</i>

⇒ How aligned the CoE is to these framework elements

⇒ Impediments to CoE alignment

⇒ Developmental requirements

⇒ Impact of application and hearing process

A more comprehensive framework is required to support the operations of the CoE. The CoE operations are not fully aligned to the current framework, part of this has been attributed to the CoE not having all the competencies necessary to operate under their framework as well as a very weak orientation for new members. There is confusion with roles and responsibilities and conflict attributed to criteria that allows for use of discretion versus objective measures. Blood quantum measurement is evident in CoE deliberations and is contrary to the spirit of the law. Key principles

such as consensus and compassion are not being respected. Major concerns such as: the inadequate criteria for CoE member selection, the permanency of their terms and the lack of accountability undermine confidence towards the CoE. The experience of going through the KML-CoE hearing process is described as stressful, insensitive, unfair and having the potential to harm those involved.

There are critical elements in the operations of the CoE that are not working well and have led to the primary recommendation of concluding the appointments of the current CoE; until such time that the framework they operate under is further developed to address the deficiencies noted in this report. The remaining recommendations are directed at improving this framework.

The community seems to have a limited grasp of the KML and the work of the CoE. Community members have to have a sound understanding of both, in order to support and more fully engage in the CoE, their processes and enforcement of the KML. This must somehow be addressed before recruitment efforts are launched to re-establish an effective CoE in the future.

2. THE PROJECT

INTRODUCTION

The topic of membership in Kahnawake has had a very long and eventful history with shifts from the traditional Kanien'keha:ka system to the Indian Act system to the control by the Mohawk Council of Kahnawake (MCK) Membership Department, and finally leading up to the current version of the Kahnawake Membership Law (KML) enacted by Mohawk Council Resolution (MCR) #51/2003-2004, coming into force through MCR #41/2004-2005, and amended by MCR (no number) 2007-2008.

The Social Development Unit (SDU) is an amalgamation of programs located under the MCK operations. The Kahnawake Membership Department and the Registrar's Office are located within the SDU.

A body to be known as the Council of Elders (CoE) was enacted by the KML and established in May 2004 to:

- ⇒ Review decisions made by the Registrar pursuant to the KML
- ⇒ Review and decide applications (conduct hearings) for membership instatement, reinstatement and non-member residency as described in the KML
- ⇒ Review and decide applications to suspend or revoke a person's membership or to suspend permission to be a non-member resident
- ⇒ Enact Regulations to accompany the KML
- ⇒ Oversee the functions of the Registrar

This report presents an operational review of the CoE. An operational review is an evaluation of a body including analysis of its operations, and appraisal of the structure, controls, procedures, processes, etc. that it uses. An operational review is most beneficial in the following instances:

- ⇒ Identifying operational areas in need of positive improvement
- ⇒ Pinpointing the causes (not the symptoms) of problems
- ⇒ Quantifying the effect of the present situation on operations (impact)

- ⇒ Developing recommendations as to alternative courses of action to correct the situation
- ⇒ Identifying practices geared to continuous improvements

BACKGROUND

Organizational Development Services (ODS) is a First Nations Training and Consulting service working with First Nation communities, organizations and groups. It has been in existence since 1993 and has a core staff of four persons. ODS has also established an experienced group of human resources that are bridged into projects as needed.

The ODS project team for this report was:

- ⇒ Rheena Diabo - Project Manager
- ⇒ Dale Jacobs - Field Researcher
- ⇒ Arthur Diabo - Field Researcher
- ⇒ Kareen Diabo - Field Researcher
- ⇒ Alison McGregor – Computer Operator
- ⇒ Christine Loft - Project Coordinator
- ⇒ Winnie Taylor - Field Researcher
- ⇒ Cynthia White Jacobs - Field Researcher
- ⇒ Ida LaBillois Montour - Field Researcher

In October 2007, ODS was approached to conduct an independent review of the Council of Elders (CoE) operating under the Kahnawake Membership Law (KML).

This independent review project stems from a report that was released in October 2007 by the MCK's Social Development Unit (SDU)/Membership Department entitled 'Review of the Kahnawake Membership Law'. This report highlighted issues and concerns of the Membership Department in regard to specific elements of the Membership Law in Kahnawake and its application including the workings of the CoE. The claims and concerns of community members received by the Membership Department in regards to the CoE, their decisions and their conduct cited in the report included:

- ⇒ Decisions made have shown some inconsistencies (i.e. siblings with same lineage having conflicting decisions), leading to allegations of bias and favoritism
- ⇒ Belief that the real reasons for unfavorable decisions are not publicly stated
- ⇒ Poor conduct during hearings of applicants including unnecessary prying into personal lives, dismissive treatment and harmful statements made

- ⇒ Lack of clarity over roles and responsibilities
- ⇒ Lack of transparency and not answerable to the community
- ⇒ Breakdown in relations between the CoE and the Membership Department
- ⇒ Decisions overturned on beneficiary status children placed on the registry by the Registrar
- ⇒ Lack of an appeal mechanism or redress regarding CoE decisions. Membership Review Council has no real mechanism to overturn CoE decisions and is limited to suggesting an applicant be reconsidered by the CoE
- ⇒ CoE have differing interpretations of the definition of a Kanien'kehá:ka great-grandparent (insistence of inserting the word "full" when interpreting the clause "has 4 or more Kanien'kehá:ka great-grandparents"¹), which is perceived as blood quantum criteria
- ⇒ Direct contradiction between the actions of the CoE and the spirit of the preamble to the law

A number of recommendations were presented in the report, the first being '*that Chief and Council commission an independent review committee to further investigate the processes, actions and authorities of the CoE with the intent of substantiating the community claims identified in this report and develop amendments addressing its structure, selection and administration*'. The decision to conduct this review followed a meeting between the MCK and the CoE on September 5th 2007. The KML review report was presented and the activities of the CoE were subsequently suspended.

After careful consideration of the requirements to carry out an independent operational review, ODS agreed to take on the project. This review was designed with a balanced approach not based on the specific complaints noted above, but building in methodology and guiding questions that sought **not only the weaknesses but also the strengths of the operations**. Identifying what is working well along with root causes of problems provides the best information for making recommendations on what changes are needed. The intent was to hear from all perspectives on the issues. The project team wanted to ensure that this review would not become a rubber stamp of the previous review report conducted by the SDU.

Preliminary project work began on November 16, 2007. A contract between the SDU and ODS was entered into on December 17, 2007. In order for the review to remain as

independent and transparent as possible, ODS was responsible for managing the review, keeping the community updated and providing a report on the outcomes of the review. The MCK financially sponsored the work though it did not oversee the project. A project steering committee was not established.

The focus of this review was specifically the CoE and not the KML as a whole. *However the reader must appreciate that it is nearly impossible to look at the CoE in isolation; the assessments for this reason include references to and opinion on the KML, its development and implementation in so far as the impact they have on the operations of the CoE.*

TERMS OF REFERENCE

The following Terms of Reference (TOR) are based on the information provided to ODS when requested to develop these TOR. They were open to review and revision, though they were not changed through the course of the project.

1. The project will be identified as an Operational Review with the Focus on the Kahnawake Membership Law Component Dealing with the Council of Elders
2. The review will not be overseen by a steering committee (project authority), once contracted, ODS will operate independent of the MCK and SDU
3. The scope of the review will cover:
 - Identify Council of Elders structure, authorities, accountability, roles & relationships, goals, objectives, policies and procedures
 - Assess alignment of Council of Elders to structure, authorities, accountability, roles & relationships, goals, objectives, policies and procedures
 - Identify any impediments to alignment
 - Identify any developmental requirements
 - Identify any social impacts stemming from current process

¹ 10.1 (b) of the Kahnawake Membership Law, amended by MCR# 2007-2008.

- Consultation with those involved in the development of the Kahnawake Membership Law and those involved in implementing the Kahnawake Membership Law (this will include Mohawk Council Chiefs)
 - Consultation with applicants (those denied, approved, pending and incomplete)
4. The review will include the following major activities:
 - Communications to regularly inform the community of the project
 - Research/literature review
 - One on One interviews
 - Validation Activities
 5. The time line for the review is approximately 3 ½ months. The start date will be November 12, 2007 with a target end date of March 7, 2008.
 6. The consultant team will ensure complete transparency with the community and media on the project status. The project will practice transparency in terms of methodology and activities planned but all interviews will respect confidentiality of respondents
 7. The project team will provide a final report to SDU

METHODOLOGY

The project used a multi-method approach combining literature searches/reviews, interviews, audit and inventory of documentation in relation to the CoE operations. The approach was qualitative and process oriented. Using the research questions already identified in the project terms of reference (from the scope of the review), the project team developed an information matrix/project framework, inventory/audit tools, and interview questions for the various groups of respondents.

Work Plan

The planned review activities fell within 4 phases:

Project Start Up: Development of communications plan, literature review, design interview tools, test interview tools, promote project with media

Interviews & Validation: Coordinate and administer 85 interviews, data entry, conduct validation of interview data

Compilation & Analysis: Compile interview and literature review data, analyze data

Final Report: Prepare final report with findings from interviews and literature review, present final report

Communications

The promotion and community awareness efforts for this project were handled primarily by ODS for the purposes of transparency. The MCK released a press release on November 8, 2007 announcing that it had contracted ODS to conduct an independent review, this release included the project terms of reference and a brief description of ODS. ODS followed in late November with an advertisement placed in the Eastern Door newspaper entitled "Council of Elders Review underway", this communication outlined the interview process, the ODS team members, the intent of the project and encouraged community participation should they be contacted to take part. See Appendix B, for the project communications distributed.

Upon submission of this report, ODS would be responsible for preparing a project status update to the community and also for preparing a presentation of the results.

Research & Literature Review

Research activities included searches for information key to establishing concrete references and/or definitions needed to form an opinion on issues. ODS was dependent on the Registrar's office to secure copies all of the documents and materials related to the operations of the CoE. We were unable to secure any documents directly from the CoE as they had been suspended during the time of this review. Internet and library searches were carried out for information not included within the CoE or KML resource materials. See Appendix C, for a listing of material reviewed by ODS.

Interviews

The primary source of information for this review was interviews with different groups of respondents. The original number of interviews projected and targeted for this review was 85. This number was determined by including all of those involved in implementing the membership law; CoE members, SDU/Membership Department staff, Mohawk Council Chiefs as well as a representative sample of applicants who have gone through the KML process. See interview information Table 1.0 on the next page for more detail on the data groups.

Interview tools were developed for 5 main categories of respondents, and sub-categories emerged within these categories (see Appendix D, for all interview questions). Lists of potential interview names (to remain confidential) were provided to the project team by the Registrar's office. Random sampling was used for the different categories of applicants as they were the only groups whose size required it. An attempt was made to interview an equal number of applicants denied and applicants accepted, to try to avoid a skew in the data. Potential respondents were contacted by telephone, and asked to participate in an interview. All respondents were provided with and signed participant consent forms that outlined important project information (i.e. purpose of the study, protection of privacy, voluntary participation, etc.).

One on one interviews were conducted with respondents from each group. The vast majority of interviews were carried out in person, at a mutually agreeable meeting place (offices, homes, designated meeting rooms). A very small number of interviews were carried out over the phone; this was usually only done for applicants who lived away from Kahnawake. Every effort was made to inform and approach as many potential interviewees within the designated timeframe.

Every attempt was made to secure 85 interviews. When the numbers of individuals who refused to participate and who could not be reached increased, the sample was expanded by selection of additional names. A total of 18 additional names were randomly selected from the applicant groups that had alternates available (applicants granted and applicants denied). This increased the selection pool from 85 to 103. There was also a small number of individuals who called requesting to be interviewed (in response to seeing the project advertisement in the Eastern Door).

Completed interviews were coded for data entry and stored in a secure location to protect the confidentiality of respondents.

Table 1.0: Interview Information Table

The following table outlines the various groups interviewed, completion rate and percentage of target completed.

Interview Tool used/ Data Group	Number of interviews completed	Percentage of target completed
COUNCIL OF ELDERS		
Council of Elders (Present)	10/13	77%
Council of Elders (Past)	4/7	57%
Membership Review Committee	2/3	67%
ELDERS CUSTOM CODE		
Original elders group that developed Custom Code	3/7	43%
CHIEF AND COUNCIL / KEY INFORMANTS		
Chief & Council (Present)	10/12	83%
Chief & Council (Past term)	3/4	75%
Key Informants (support for applicant & other)	3*	-
SDU/MEMBERSHIP STAFF		
Staff	6/6	100%
APPLICANTS		
Applicants granted	14/18	78%
Applicants denied	8/18	44%
Non-member resident granted	6/9	67%
Suspended members	1/4	25%
Outstanding files	0/2	0%
TOTAL	69/85	81%

* no target number was established, we agreed to interview all who were noted in interviews as having key information or who indicated an interest in participating.

The total number of interviews completed was 69. Based on the original target of 85 interviews, this number represents a high percentage of interviews completed (81%).

In addition to the interviews, 1 focus group was carried out. ODS was approached by a group of individuals who requested the opportunity to participate in the consultation process. This group was accommodated and a focus group was conducted based on the applicant questions (as some of the individuals in the group had participated in a KML hearing process).

Validation Activities

The project team carried out an inventory (listing) and audit (review) of the structural components that the CoE operates under. A number of validation activities (phone calls, verification) were required to determine:

- ⇒ if the contact information for respondents was correct
- ⇒ if the documents we were working with (KML, Regulations) were the correct/most recent versions
- ⇒ if the dates reported were correct
- ⇒ if items being reported during interviews could be confirmed by the review of available documentation on the KML and CoE (i.e. list of questions used in hearings)

CHALLENGES TO THE PROJECT

As with all research projects we encountered some limitations and challenges to the work. The following outlines the challenges the project team encountered during the course of the review:

- ⇒ A key challenge to the project could have been the perceived bias of the research team. These potential biases were: 1) all ODS research team members are currently members of the Kahnawake community themselves; it challenged them to remain neutral to the subject matter as membership affects each individual and their families. 2) A participant noted the research team could be confronted on the current membership criteria in terms of either their own lineage or the lineage of their significant others. This suggested that possible preconceived notions could exist

within the review process. Taking this into account, the research team did acknowledge and discuss at length the potential bias at the onset of the project to ensure this would be considered and mitigated throughout the review process and report writing.

- ⇒ There were differing versions of how and why the CoE and their activities were suspended. The project team at hire was advised a meeting took place between the MCK and the CoE with both groups agreeing that a review was in order. During interviews with CoE members, the research team was advised that the CoE did not have a say in the suspension of their activities, some feeling it “came out of the blue”. CoE members had heard of complaints in relation to hearings but not of the degree presented to them in the meeting. They were informed of their suspension and about a planned review of the CoE. As a consequence the research team found themselves in contact with CoE members who were skeptical and mistrustful of the project. This required more effort to secure interviews.
- ⇒ Initial delays in receiving documents consequently held up tool design, inventory and audit activities. This shifted the interview phase into two holiday seasons (Christmas & March break) where respondents’ availability for interviews and validation activities were limited. As a result other phases of the project were extended which in turn conflicted with other ODS commitments.
- ⇒ Some reference documents provided to the research team were not user friendly. For example the CoE Members Orientation binder given to the research team (the same that is provided to new CoE Members) contained documents that were poorly copied so words and sentences are illegible, leaving room for interpretation/ misunderstanding.
- ⇒ A significant amount of time was required for all project members to become well acquainted with project documents essential to formulating an opinion on the operations of the CoE. This demanded a sound understanding of the KML, the research and development leading up to the law, as well as how the SDU/Registrar functions influence and interface with the CoE during these processes:
 - Application Process
 - Hearing Process
 - Registering of Decisions

- ⇒ Access was limited to some of the randomly selected respondents in the applicant categories as contact information for many was incorrect or outdated. As a result, alternate names had to be selected and contacted. This took considerably more time than originally anticipated for the field research.
- ⇒ Reasons for refusal to participate were sometimes provided. For some past applicants there was a fear that participation in the review could possibly influence the decision on future membership applications.
- ⇒ Respondents often needed to vent on their experiences going through the KML process. This caused many interviews to go beyond the time initially projected for interviews and data entry.
- ⇒ Some respondents were preoccupied with “fixing the law” through this review. Interviewers had to continually redirect questions to keep respondents on track and focused on the operations of the CoE and not the KML.
- ⇒ Access to information was limited for verification purposes. CoE meeting/hearing minutes were not available to the project team for review. Minutes are archived by the recording secretary at the Registrar’s office and can only be released by the CoE. The CoE were suspended and therefore unable to meet to release the minutes. As a result the assessments of this review are based on what has been individually reported on the hearings and not what could be confirmed by what was documented in minutes.

3. FINDINGS

The CoE, as a collective, demonstrated a solid work ethic and a passion to serve Kahnawake in their functions as a council. From interviews with CoE members it became clear there is a deep love of the community and a strong commitment to protect it against further erosions by outside governments. Individually, members had differing opinions about how the law is supposed to do this. Collectively, there is frustration among CoE members and the community in not being able to resolve this difference of opinion. A shared conviction by CoE members interviewed (past and present) is that the community does not have an appreciation of the challenges the table faces in carrying out their work. Individual members believe they have carried out their responsibilities to the best of their abilities and shared both shock and disillusionment over the suspension of their council.

The findings of this review are presented in a manner intended to provide insight into the possible missing pieces/disconnects, as well as identifying clear areas of CoE operations that can be enhanced. As with any system, there is always room for improvement.

Well functioning bodies (boards, committees, councils, etc.) organize and operate under a basic conceptual structure which can be viewed as a framework (think of the frame of a house). This framework is usually represented by such things as: the body’s constitution, by-laws/regulations, policies and procedures, terms of reference, vision, values, mission/purpose, philosophy, goals and objectives.

This review included an inventory and audit of CoE operations to determine if a framework existed, what it entailed, and how well developed it was. Nine (9) framework elements surfaced during the inventory:

Council of Elder FRAMEWORK ELEMENTS		
Structure	Authority	Accountability
Roles & Responsibilities	Relationships	Goals & Objectives
Policies & Procedures	Tools	Training

Other elements deemed relevant to the review were a determination of:

- ⇒ How aligned the CoE was to the framework elements
- ⇒ What were the impediments to alignment for the CoE
- ⇒ What are the developmental requirements of the CoE
- ⇒ What impacts did the application and hearing process have

The following sections present the findings of the review by element. Some issues will be presented repeatedly as they have relevance to more than one element.

STRUCTURE

The current structure of the CoE is represented by what exists in:

- ⇒ the Kahnawake Membership Law (KML)
- ⇒ the 7 Regulations developed and enacted under this law
- ⇒ the informal procedures/processes/tools noted during the review

There is a preamble to the KML providing the setting and/or tone; explaining its intent.

The preamble usually serves as the foundation and guide for the implementation of a law.

Although the purpose of the law is clear...

To provide the criteria and procedures for:

- a) *identifying those persons who are members at birth of the Kanien'kehá:ka of Kahnawake and establishing the entitlements and responsibilities associated with membership,*
- b) *determining the membership of persons who are entitled to apply for membership of the Kanien'kehá:ka of Kahnawake and establishing the entitlements and responsibilities associated with membership,*

c) determining those persons who are eligible to be non-member residents of Kahnawake and establish their privileges and obligations

interviews across all groups indicated there is a range of driving forces influencing both the **decision making** at the CoE table and the **expectations** of people involved in the process.

The following comments made about the purpose of the KML during interviews demonstrate the range of interpretations possibly influencing its implementation:

“To build up the Nation:

“To prevent diminishment of Mohawk bloodlines”

“To prevent a case society in Kahnawake”

“To establish citizenship”

“Not to be like the Indian Act, to be fair to everyone”

“To protect our cultural identity”

“To get our native people back and get the non-natives out”

While some of these driving forces are reflected in the preamble of the KML, others are not. The variance gives insight, to the possible sources of reported conflict which have emerged.

The base structure for the CoE is contained within the KML. Other parts to the structure have been developed in stages (regulations, procedures, tools). The amount of development corresponded to the amount of time the CoE was able to devote to these activities during administrative meetings in addition to the meetings reserved for hearings.

In regards to the CoE's operation within the KML, the reported structure weaknesses (what needs improvement) are:

- ⇒ No organizational chart has been developed that presents a clear picture of the CoE structure. Having such a tool would help all understand the various parties, their relationships and responsibilities to each other.

- ⇒ It is unclear where the Membership Review Council (MRC) fits in the structure as they are not a true appeal body.
- ⇒ Formal, comprehensive and consistent orientation to the CoE role is non-existent for new members.
- ⇒ The number of members on the CoE (not less than 9 and not more than 15) was constantly cited as too high. The size of the CoE was often noted as intimidating to applicants and their supporters. The number of CoE members that must be present for quorum according to Regulation No. 1 is seven. There was some difficulty with meeting quorum resulting in hearings being cancelled. It was reported the large number of CoE members impacts the amount of discussion time required to gain input from all members, resulting in a decision making process that can be draining.

Respondents expressed being uncomfortable with how CoE members were appointed. There are concerns about the lack of a screening process. There is sentiment that the competencies required of those making life-changing decisions for others are not adequate on the current CoE. The concerns include:

- ⇒ The criteria for becoming a CoE member is meeting the definition of “elder” outlined in the KML; being “an adult person who is a member of the Kanien’kehá:ka of Kahnawake and who has gained and continues to hold the trust, respect and confidence of the Kanien’kehá:ka of Kahnawake and who has a good knowledge of the customs and Kanien’kéha of the Kanien’kehá:ka of Kahnawake”, indicating a willingness to serve and going through the CoE selection process. The current criteria is too general and needs to be better defined for screening and appointment of CoE members.
- ⇒ Qualifications/competencies need to be established that ensure CoE members are capable in their roles and responsibilities
- ⇒ A more formal system is needed to select members. A common opinion was that more effort is put into hiring people for a job than what went into selecting the people who would be deciding on others’ lives. Questions were raised about what the hidden agendas are for some of the CoE members. An example shared by more than one respondent was in the case of a particular CoE member being overheard to say their intent of being on the Council was to ensure “so & so” would not get on the

membership list. This type of comment has direct bearing on the level of confidence the community has on the fairness of the process

- ⇒ There are no terms (length of appointment with a start and end date) for being a CoE member identified in the regulations. Regulation 1.2 outlines that a CoE member will hold office until: *a) he or she resigns; b) he or she, for any reason, is unable to perform his or her duties under the law; or c) until he or she is removed in accordance with section 1.29.* The result is the understanding that a CoE member can remain on the Council for as long as they would like. A recurring statement from interviews was “they shouldn’t be there for life.” Regulation 1.29 outlines a removal process if a CoE member no longer meets the criteria established for being a member of either council, involving the need for 100 signatures on a petition. In the opinion of the review team, the removal process is quite burdensome compared to the selection process and most community members would not engage in it to remove a member.

The physical set up for hearings before the CoE is not designed to be a welcoming, supportive environment. Key items noted:

- ⇒ The lighting in room is harsh
- ⇒ Seating is in an adversarial set up, with the placement of an applicants’ chair across the table from the CoE members
- ⇒ The placement of the lineage tool/family tree on the wall behind the applicant makes the person feel they are in the spotlight
- ⇒ Applicants reported waiting in isolation with little understanding of what is going to take place and sometimes hearing yelling or witnessing other applicants leaving the room in tears. This obviously increases the anxiety of the person waiting for their turn
- ⇒ The opening process was inconsistent from hearing to hearing where roles and steps may or may not have been explained prior to questioning. This can be attributed partly to the rotation of the presiding elder (chairperson)
- ⇒ Some applicants observed unfriendly facial expressions and body language of some members of the CoE (i.e. no eye contact at all or crossed arms) and some reported the appearance of disinterest on the part of the CoE (side bar conversations between CoE members, seeming preoccupied or appearing to be sleeping during a hearing). Most important in this finding is that some members themselves are truly unaware

that they come across this way and/or demonstrate a poor appreciation of how important interpersonal effectiveness (people skills) are for the work of the CoE

AUTHORITIES

The authorities for the CoE stem from the KML enacted by the Mohawk Council Resolution (MCR) #51/2003-2004 on November 10, 2003. The law came into force on September 27, 2004 through MCR #41/2004-2005 and amended on April 2, 2007 by MCR (no number) 2007-2008. While section 8 of the KML is specific to the CoE, there are other sections of the law that note additional authorities. The appointment of CoE members is decided by the community as represented by the general support from those in attendance at a community meeting (individual community members in attendance along with the MCK Chiefs who are present when these meetings take place).

The following are the specific authorities of the CoE as described in Section 8.3 of the KML:

The CoE will:

- a) *Review decisions made by Registrar pursuant to KML*
- b) *Review and decide applications for instatement, reinstatement or for permission to be a non-member*
- c) *Review and decide applications to suspend or revoke a person's membership or to suspend or revoke a person's permission to be a non-member resident*
- d) *Enact regulations as provided in the Kahnawake Membership Law*
- e) *Oversee the function of the Registrar*

The authority of the CoE to "oversee the functions of the Registrar" has not been described sufficiently. The Registrar function as a result seems to have two supervisors, the Director of the SDU as the original supervisor and the CoE, which can be considered a second, based on the above authority delegated in the KML. In the event of a dispute between the two supervisors it is unclear which has final authority over the Registrar. Neither the KML nor the regulations specify further on this.

A Membership Review Council (MRC) was established as a mechanism of appeal. Their specific duties are outlined in Section 9.4. Their sole authority is to review decisions made by the CoE and make recommendations. They have no authority to enforce their recommendations. They are not empowered to settle other disputes within the KML or with the Registrar's function.

In addition to the authorities (a-e) above, Section 11 of the KML affords the CoE with the authority to decide on the acceptability of a person's great grandparent and on any conditions to acceptance they deem appropriate.

KML section 11.5 states *"In the event of a dispute, the Council of Elders will decide whether a person's great-grandparents(s) were, for the purposes of this law, a Kanien'kehá:ka"*. This clause allows for the use of discretion by the CoE as a collective. There is conflict; as personal beliefs, biases and interpretations, of what constitutes being Kanien'kehá:ka (i.e. "full", "half", or somewhere between), compete. This has led to different outcomes in decisions based on who is at the table. There is no concrete definition or criteria noted for being Kanien'kehá:ka allowing for individual interpretation on the information provided. Some have referred to a discussion paper included in the orientation binder, it does not seem to be consistently supported or used by all members.

"A meeting went so well and a bunch of decisions were yes... Only a week later it was changed to all no's, don't know how that happened"

There is a perceived double standard during the CoE process of decision making. The most common reason cited was in the instances where two siblings from the same parents can have different results. As noted, there is the flexibility by the CoE to use their discretion with individual variables in addition to the basic 4 great grandparent acceptance criteria (i.e. looking at things the person has done in the past, criminal records, who the individual is married to/living common law with). Respondents in general felt it is not fair to allow this use of discretionary powers rather they preferred that a very clear set of criteria applied equally would better serve the decision making.

Section 11.7 of the law states: "The application of persons mentioned in section 11.4 and 11.6 will be carefully reviewed by the CoE. Notwithstanding section 15.1, in the event the application is approved, the Council of Elders may impose such reasonable conditions, limitations or restrictions on the member that they deem appropriate". This clause allows conditions to be placed on an applicant, approved for membership or non-resident status. Again there seems to be inconsistent practices among the cases. Some are required to reapply each year in order to maintain membership status, while others perceived to be in

the same situation do not have the same conditions placed on them. The lack of reporting and transparency by the CoE does not provide the applicants, their supporters and the community at large an understanding on the rationale for these CoE decisions; so the result is the appearance of discrimination by the CoE.

ACCOUNTABILITY

It is commonly accepted that you are accountable to the people who appoint you. Accountability includes being answerable not only for the decisions you make but also for the way you conduct yourself under the framework provided to you, especially if there are clear expectations indicated for this.

CoE members were appointed during community meetings by the people who attend these meetings. It stands to reason the expectation would be the CoE reports to the people who appointed them. This could include using the same venue unless they had developed another way of reporting under their regulations. This is not the case. The extent of reporting on CoE activities has been the provision of notices of applications and hearing dates in the Eastern Door. There has been no public/formal reporting to community members by the CoE since their inception in terms of the procedures, amendment, statistics, budgets and accomplishments (i.e. in an annual report format). All other boards and committees in Kahnawake are required to provide some form of report as part of their accountability.

“We were never truly accountable to the community”

There are critical components in the preamble to the KML that govern the CoE. The review demonstrated that most members are not appreciative of the implications these components have on the application of the law and how they are suppose to operate. Two examples are presented below.

The preamble to the KML states *“the rights on which this Law is based are collective rights belonging to the Kanien’kehá:ka of Kahnawake. However, **the application of this Law will respect the fundamental human rights of all individuals** in accordance with the principles of dignity and compassion inherent in **Kanien’kehá:ka culture, values and Traditional Law** and in accordance with **International principles of human rights and natural justice**”*. We were unable to determine if the CoE is operating in accordance with *Kanien’kehá:ka culture, values and Traditional Law* as these were not defined in any of the documents provided to our team for this review.

Applying what had been reported in interviews we attempted to assess whether the CoE is operating in accordance with International principles of Human Rights (elaboration on the principles from the United Nations are provided at the back of this report in Appendix A). It is the opinion of the project team that the CoE was not aware that there are specific principles involved and so no particular attention was given to them.

International Principles of Human Rights
Universality and Inalienability
Indivisibility
Interdependence & Interrelatedness
Equality and Non-discrimination
Participation and Inclusion
Accountability and Rule of Law

The preamble to the KML further notes the application of this Law will be “in accordance with...Natural Justice”, again this is not described/defined. The resource material in Appendix A offers some explanation on the philosophy of natural justice. It is unclear whether all CoE members are aware of and understand the principles of Natural Justice.

The CoE is accountable to uphold the KML in its entirety. The CoE also had the responsibility to enact its own regulations for implementing the KML. Seven regulations were drafted with legal assistance and enacted on various dates.

The CoE must perform their duties in accordance with the provisions of the KML and the Regulations. The following areas of accountability were reviewed:

- a) *They are to submit an annual budget to the MCK*

An annual budget is allocated to the CoE to cover basic expenses such as honorariums for attending meetings; there were no records that indicated the CoE themselves submit an annual budget to the MCK.

- b) *They are to maintain records of their proceedings, any decisions they make and the rationale for those decisions*

A major cause for concern is the perceived lack of accountability in the maintenance of minutes of all decisions for historical purposes. It has been reported that the recording of minutes is inconsistent (minutes exist for every meeting, yet some lack the detail of the intense discussions and rationale for decisions that have taken place) and there is concern that if the proceedings of these hearings are not properly recorded it will be a lost resource, particularly the importance of maintaining accurate reasons for decisions. Further Regulation #3 sections 35 - 37 also note the responsibility of the CoE to document and provide copies of their meeting minutes to the registrar. Their minutes are not accessible to the people who appointed them and there is no proof that records exist for **all** the proceedings or rationale used to make decisions. In the event a review of decision is needed, the lack of documented discussion and decision-making provides for a poor review.

- b) *They are to consult with the Registrar before enacting Regulations establishing the forms required for the purpose of the Registrar's office*

This has been done.

- c) *They must provide copies of all Regulations to the MCK for approval before coming into effect*

This has been done. However, the most recent versions of the Regulations are not centrally located or easily accessible.

- d) *They are to provide copies of all Regulations to the Registrar and distribute copies to members of the Kanien'kehá:ka of Kahnawake and to non-member residents*

Copies have been provided to the Registrar, but they have not (to the project team's knowledge) been distributed widely in the community.

- e) *They are to respect the fundamental human rights of all individuals in accordance with the principles of dignity and compassion inherent in Kanien'kehá:ka culture, values and Traditional Law and in accordance with international principles of human rights and natural justice*

The reported conduct of some CoE members in meetings and decision making does not respect the above. Further, Section 8.5 of the KML states that "*The Council of Elders, in*

performing its duties, conducting its meetings and making its decisions will respect the principles of fairness, dignity of the person, compassion and consensus that are consistent with the traditions and customs of the Kanien'kehá:ka of Kahnawake". Based on this description of how the CoE are to carry out their work, the following question was asked of all groups of respondents: "To your knowledge does the CoE conduct its meetings and make its decisions based on: a) respect for the principles of fairness, b) dignity of the person, c) compassion, d) consensus, e) consistence with the traditions an customs of the Kanien'kehá:ka of Kahnawake?"

The chart below represents the opinion and experience of 4 categories of respondents (Applicants, Council of Elders, Chiefs & Key Informants, & Membership Staff). Percentages indicated are based on the total number of respondents who provided an answer to the questions.

	Respect for the principles of fairness	Dignity of the person	Compassion	Consensus	Consistence with the traditions and customs of the Kanien'kehá:ka of Kahnawake
Yes	33%	34%	24%	43%	32%
No	48%	42%	49%	30%	42%
Sometimes/ Yes & No	11%	13%	11%	3%	5%
Not sure/Don't know	2%	3%	8%	15%	6%
No comment	6%	8%	8%	9%	15%
Total number of responses	64	62	60	61	62

The CoE has been challenged by its own members during meetings about the lack of respect for the principles, values and original intent of the law. A sentiment shared by more than one member of the CoE was that the use of compassion was not practiced consistently.

"We cannot afford compassion, compassion is what got us into this mess in the first place"

By the comments shared during interviews, it is clear that there is a poor understanding of compassion and how to apply it for some members of the CoE. A definition of compassion is: *the sympathetic consciousness of other's distress combined with the desire to alleviate it.* The desire to alleviate applicants' distress doesn't require applicants to be accepted, but this seems to be how some members of the CoE understand it. There

is a way to refuse applicants while maintaining compassion. The application process is anxiety provoking and the report has indicated the hearings do not always go smoothly due to lack of preparation and an unwelcoming environment; these are two examples of the CoE's lack of compassion towards applicants. Comments indicate an insensitivity to the state of distress of applicants i.e. "*Some of the people who came before us acted like it was the end of the world – they were crying and shaking*". These types of comments also demonstrate that some CoE members do not appreciate the value/importance of membership to applicants, for some the rejection may feel like the end of the world.

Documents reviewed do not provide a definition of consensus for the CoE. For the purpose of this review, a definition of consensus: *group solidarity in sentiment and belief, general agreement, unanimity*. Regulation 3 notes the principle of consensus will govern discussions and decisions of the CoE. It appears the practice has changed from when the CoE first began operating to its current practice of voting in all of its decisions (each member must orally indicate whether he or she approves or disapproves). Within the regulations for decision making a motion can pass with approval of 2/3 of those members in attendance. There are different understandings/opinions of consensus within the CoE. The CoE spends a lot of time in discussion prior to making their final decisions. When there is a lot of debate and time spent and the case is very challenging, there is a reported practice of "wearing down" members who do not necessarily agree with the group. Some CoE members have shared that there were times they really did not agree to the decision but went along due to the pressures put on them. These practices indicate that the spirit of consensus building is not truly practiced during decisions and raise the concerns of competencies lacking at the table to secure a true consensus.

The KML and Regulations allowed for a high degree of transparency (ex. all meetings are open to Kanien'keha:ka of Kahnawake unless the Council otherwise directs, all meetings will be recorded); yet the current practices do not support the same degree of transparency. This is contrary to the expectations of the community noted in the community consultations used as the basis for the KML. Considering the many reported inconsistencies in the practices and application of the principles governing CoE operations, confirms their processes do not always respect the KML.

ROLES & RESPONSIBILITY

Clearly defined roles and responsibilities ensure that work gets done by all parties and prevents conflict by clearly delineating specific duties in collaborative efforts. The KML outlines general roles and responsibilities of CoE members but needs to be more detailed. There are some key functions noted in the regulations for the Presiding Elder (chairperson), Secretary and Treasurer of the CoE and these can also benefit from more detail.

As noted earlier a major issue is the confusion between the functions of the CoE and the membership department (the Office of the Registrar and the SDU Director).

The Registrar's position was established in the early seventies and evolved within the Kahnawake Membership Department (KMD). The KMD is located under the SDU and the administrative functions of the Registrar were established long before the KML and the CoE. When the KML was enacted it provided for the position of a Registrar as well.

As with any newly mandated entity that shares responsibilities with existing ones there were overlaps and role confusion. The overlaps were not addressed immediately and led to disorder, frustration, resentment, mistrust and conflict. The CoE's reported attempts at role clarification between themselves and membership staff were not successful. This was in part due to requests for information not being realized and in part due to the manner in which they were handled by some CoE members (demands for documentation versus requests).

It is not clear who is responsible for orientation of new CoE members, the CoE or the Registrar's Office. Orientation is reported to be haphazard and has deteriorated from the original CoE to the current CoE. A more comprehensive orientation was provided to original CoE members compared to what is provided to newer members (a binder). Responsibility for orientation is not cited in any of the documents reviewed.

The rotation of Presiding Elder (rotating chair) has not been an effective practice. It was reported there are some members who rarely had the opportunity to chair while others have had to bear the burden of chairing repeatedly. It was also reported the competencies, abilities and experience in chairing is not the same for all CoE members. Some members were more effective at chairing than others and this affected the outcome of hearings and meetings. As a result some meetings were well run (hearings were smoother with a good chair that was able to maintain control and order) others were

described by those attending as a “free for all” i.e. people cutting each other off or taking up most of the discussion time. This behavior is contrary to what is expected of the CoE. The effectiveness of the Presiding Elder was reportedly higher in the earlier days of operation when training was still fresh in their minds, and so easier to apply.

Further while the Regulations do provide definitions or descriptions of the CoE Secretary position and the “Recording Secretary” (currently clerical staff of the Registrars’ office) there is no clear delineation of roles and duties between the two. As a result most recording responsibilities of the CoE are carried out by the Recording Secretary.

The KML outlines the roles of the Office of the Registrar and the role of the CoE in processing individuals under the age of 18. If applying the law as it stands for membership (is a member at birth, sections 10.1 & 10.2) seems to be the responsibility of the Registrar, while the Application Process/Members (every child eligible to be a member at birth, sections 11.1, 11.2, & 11.3) seem to be the responsibility of the CoE. The KML states the CoE has the authority to review decisions made by the Registrar, but it does not note they have authority to overturn them. It was reported the CoE had given direction to the Registrar to remove names of individuals under the age of 18 from the registry.

The project team was unable to speak further to the role confusion as the Office of the Registrar was determined as unnecessary for this review by the SDU when developing the terms of reference. An inventory and comparison of roles and responsibilities between the Registrar’s office and the CoE was therefore not possible.

Initially, applicant background packages (bios) were prepared by the recording secretary and sent in advance to CoE members. CoE members had the responsibility to read and prepare for hearings; it became clear some members were not meeting their obligations in preparing for hearings. These members would pose questions on information that had been included in the packages. In some instances new members had not been well oriented to the process and were unprepared in terms of what they were supposed to do.

Applicants were asked if they are aware of the roles and responsibilities of the CoE the KML. Most applicants were not fully aware of the roles and responsibilities of the CoE. The majority either said no or were not really sure about their responsibilities beyond hearing cases. For those who did state they knew about the specific roles and responsibilities it was because they made it their business to read the KML and kept up with the media (Eastern Door, cable TV) discussion on membership. The most common understanding of the roles and responsibilities was that the CoE members work within the KML to review

applications, and decide on applicants, making their decisions by vote. It was noted that they are supposed to treat all applicants with respect, and dignity.

Applicants were asked whether they were aware of the roles and responsibilities of the Registrar within the KML. The majority responded no, they were not aware. Of these people, they could not provide any examples of responsibilities of the registrar and some confusion was expressed whether the term Registrar meant a person or an office. Of those who responded, yes they were aware - the following are the roles and responsibilities mentioned:

- ⇒ Provides membership application packages and processes applications in accordance with policy and procedures
- ⇒ Guides applicants through the process
- ⇒ Supplies band cards and keeps track of Kahnawake band members
- ⇒ Handles administration of the Kahnawake Membership Law
- ⇒ Acts as liaison between the public and CoE
- ⇒ Acts as secretary to the CoE

RELATIONSHIPS

All boards, committees or councils need to have sound relationships both internal and external that assist them in realizing their mandate. Healthy working relationships need to be nurtured and require an investment in time and effort to achieve.

If we look at the Preamble to the KML it suggests a collaborative approach working together toward a common goal. The relationships for the CoE extend to each other, applicants & their supports, the Membership Department-Office of the Registrar, MCK Chiefs and the community at large (including local media).

The CoE enacted an amendment to the original version of the law, section 8.1 stating “ There is hereby established a body to be known as the Council of Elders **empowered by the Mohawk Council of Kahnawake**, through the enactment of this law”, replaced by the amendment stating “ There is hereby established a body to be known as the Council of Elders **appointed by the community**, through the enactment of this law”. The MCK demonstrated both respect and confidence in the

CoE by honoring and enacting this amendment. Yet several respondents noted the MCK liaison Chiefs have not been afforded the same confidence/respect by the CoE based on their treatment at meetings, eventually being refused permission to sit in on meetings. It is stated in Regulation No 1, section 1.1. that "The Mohawk Council can appoint two (2) ex-officio (see Section 5 for definition) members from Council to act as liaison to the CoE". However, there is no further description of what ex-officio members' roles and responsibilities are. Normally, ex-officio members of boards and committees have exactly the same rights and privileges as do all other members, including the right to vote. There is a need for a better definition of ex-officio to establish a common understanding of the capacity these members have with the CoE otherwise it adds to the confusion.

Since the implementation of the CoE in 2004, there has been a steady CoE member turnover (the number of members that had to be replaced in a given time period) resulting in approximately 7 past members who have resigned from or left the CoE for various reasons (some made public and others not). A high degree of turnover on a committee/board/council is usually attributed to broader problems within the role itself or inability to resolve prolonged conflict. Turnover is a major factor influencing the effectiveness of committees/boards/councils.

Respondents were asked “*What do you believe have been the contributing factors to turnover within the Council of Elders?*” The following lists the top responses in ascending order.

“Hard core individuals and groups should be discouraged from clashing with each other”

Perceived Contributing Factors to Council of Elders Turnover

- ⇒ Difficulty with other individuals on the CoE: strained working relationship, disagreement/differences of opinion, clashes of personality, power struggles and personal/political agendas
- ⇒ Frustration over process and application of the KML not being what they expected, structure, tools etc. not in place to do an effective job on the CoE
- ⇒ Personal ethics/difficulty with making tough decisions that affect people’s lives
- ⇒ Disagreement with the KML and its application, inability to effect change to the KML
- ⇒ Internal Issues with the CoE lack of direction/leadership, communication breakdown, quorum issues, lack of consistency/precedent in decision-making, tolerance of cliques (there were several references to a “Gang of Five”) and a negative atmosphere
- ⇒ Discrepancies/problems with the KML itself: unclear interpretation of four great grandparents, unclear roles and responsibilities for CoE & membership staff, lack of enforceability
- ⇒ Conduct and behavior of some CoE members toward applicants, lack of respect
- ⇒ Public scrutiny and pressure
- ⇒ No selection or screening of CoE members led to people being unprepared
- ⇒ Effects on personal life/family
- ⇒ Lack of support from community
- ⇒ Not feeling the process is fair
- ⇒ CoE not honoring intent of the law
- ⇒ Medical/health related reasons

Past attempts to resolve conflict at the CoE table were not reported to be successful, there did not appear to be a will for resolution and members seemed to be stuck in their views. Even if compelling evidence was presented the decisions often remained the same, and as a result people did not feel heard. This demonstrates there is limited competency at the CoE table to manage and resolve conflict in a meaningful way.

The CoE is required to work closely with the Registrar's Office, reportedly this was working well in the beginning (first two years) but the relationship has since deteriorated. Some of this can be credited to the lack of clarity noted in the roles, and part can be attributed to the manner in which things were handled. It was noted that one CoE member in particular seemed to have a bias toward the Registrar and demonstrated a lack of respect when dealing with the Registrar. It is clear that since certain members have left (members who were reported to have played a key role in maintaining good relations) the relationship with the Registrar's office has suffered.

The relationship of the CoE with applicants was assessed. Applicants were asked if they had personal contact with the CoE and to describe their experience. A very small number of applicants did not have personal contact as they were either not required or chose not to attend a hearing. For those who did have contact with the CoE it was typically during a hearing. While a good portion of applicants who were approved membership or non-member residence reported being treated well/respectfully during their hearing this contrasted with the individuals who had their membership denied, in which case there were many more accounts of negative experiences. Of note is the fact that even though some applicants felt that the hearing itself "went OK" overall, the common adjectives used to describe the process **regardless of the decision outcome** were awkward, unpleasant, intimidating, degrading and judgmental. The feeling of judgment was described by most as the pressure one is under to answer the questions asked by CoE members.

Applicants were asked a question about their contact with the MCK membership department (Registrar's office), and to describe their experience. In describing their personal contact with the Registrar's office, experiences varied depending on the individual and the timeframe of contact. While some did not actually see anyone in person (i.e. they had applications dropped off and picked up by someone else), the majority mentioned phone calls for information and going to get application forms and dropping off applications and other documents. Most applicants described the experience as normal/pleasant, although a small number felt the experience was negative at the time (i.e. due to perceived insensitive treatment). While some noted that membership staff were very helpful and provided tips to help with the membership application process, others cited difficulties such as membership staff not being able to answer certain questions or not being informed of what would happen at the hearing (i.e. that they could bring support, etc).

Public relations seem to be an overlooked and poorly understood element of CoE responsibility in terms of community relationships. This is based, in part, on the opinion

that the community does not appreciate the difficult work they do. However, our review indicates the CoE has done little to assist the community in having an appreciation of this work. Effective communication is central to healthy public relations. This requires more than just an exchange of information, but also an understanding, acceptance and practice of individual CoE responsibility toward that information and its use. As noted previously, the CoE has not reported to the community on its activities on a regular basis. The community receives notices of names of applicants and dates of hearings but nothing about the outcomes. The CoE had also refused to meet with an interest group in the community who wanted to better understand the law and the CoE hearing process. The CoE has held the opinion that if they were not receiving complaints, then everything must be okay. These practices do not contribute to good public relations. In order to build better communication and relationship with the community a public relations plan can be considered.

GOALS & OBJECTIVES

Successful boards, committees and councils share common goals and objectives. Most respondents had difficulty citing any formal goals or objectives of the CoE. Some reported there are no plans, goals or objectives. Yet the preamble to the KML clearly notes “the Law is a step toward the **goal** of completely replacing foreign laws and authorities that have been imposed upon us... This Law is a declaration of our resolve to unite our strengths to achieve this **common goal**”. This is an example of how some of those involved with the law are unable to demonstrate an understanding of key elements and apply them appropriately.

It is understood that the day to day work involved in the preparation, conducting and follow up to hearings does not necessarily require goals and objectives, as noted by CoE members “our goal was just to get through the list”. There is difficulty in planning for how many hearings will be attempted at the beginning of each year. Some respondents reported that the CoE should have goals to work towards but there is usually no time to do planning due to the back log of applications to be heard.

There are however, areas that planning would be of benefit to the CoE such as for training or evaluation of key elements of their operations (tools, processes, recruitment). Case examples of situations that could be avoided with better planning and preparation:

- ⇒ The case of an applicant not being informed prior to traveling long distance to Kahnawake that qualifications to be a member were not met due to current marriage status (as significant time and money was spent to gather background info and fly in to attend a meeting)
- ⇒ The cases of applicants who felt their time was wasted in attending hearings that were cancelled when the CoE did not meet quorum

Respondents noted the following areas for improvement that could be considered as a basis for future goals and objectives.

- ⇒ Because there really were no goals and objectives developed or identified, there is a need for more direction. This can come from planning and follow up mechanisms to track the status of goals and objectives.
- ⇒ It was mentioned that the CoE needed to be open-minded, fair and unprejudiced, in other words establishing concrete ways to ensure more objectivity at the table.
- ⇒ The process for communicating with applicants needs to be more efficient especially in regards to decisions made. Applicants wanted to know the status of their decision as soon as possible, possibly with a phone call and then followed up with the formal letter.

The Registrar attempted to assist the CoE in planning. A draft action plan outlining operational and administrative objectives with specific tasks and activities was developed and presented by the Registrar. An effort was made to separate the specific responsibilities of all involved (CoE, Registrar, Recording Secretary, CoE Secretary, Presiding Elder, Treasurer, CoE Ex-officio). The draft plan was not accepted by the CoE.

POLICIES & PROCEDURES

Effective policies and procedures share these common traits:

Clear	Equitable	Sound	Enforceable
Useful	Guide	Affordable	Adaptable

The KML and Regulations serve as the source of policies and procedures for the CoE. There were seven KML regulations developed, each enacted on various dates within 2004 and 2005.

Within the KML and Regulations are **broad** procedures. Respondents noted there needs to be more tools that guide the CoE in their work and more detail and consistency in the procedures and processes that exist. A prime example would be the establishment of a standard procedure that requires CoE members to prepare for hearings; the purpose would be to prevent asking unwarranted questions.

There are basic criteria outlined within the KML for the application process that cover Members, Adopted children and Non member residents. A set of standardized questions for applicants was also developed to assist the CoE in determining if the criteria had been met. The chart below outlines the range of criteria for applicants and the questions developed for use during hearings.

General Criteria (to be satisfied for application process)	Standard Questions for the Applicant
1. Direct lineage as defined as: <ul style="list-style-type: none"> ▪ Children born of one member and the other parent who has indigenous lineage ▪ is a non-member resident with some Kanien'keha:ka or Indigenous lineage ▪ Has four (4) or more Kanien'kehá:ka/Indigenous great grandparents 2. Is identified as having, or is willing to avail themselves of the established Kahnawake process of seeking a Kanien'kehá:ka clan, and 3. Who is not on another Indigenous community membership list 4. Speaks, or is committed to learning Kanien'keha 5. Respects mother earth 6. Has and maintains ties with the community of	1. Welcome applicant and introduce CoE 2. Ask applicant to verify his/her lineage 3. For those of us who may not know you. Would you please tell us something about yourself and what brings you to this table at this time? 4. What is your marital status? Are you married or living in a common-law relationship with anyone? 5. Is your partner Native or Non-Native? 6. Do you own any land or property? 7. Are you currently employed? 8. Where do you live?

Kahnawake	9. Do you have any children? If so, what are their ages? Is the father/mother native?
7. Honors the customs and traditions, and must comply with the codes, laws and regulations of the Kanien'keha:ka of Kahnawake	10. What are your expectations should you become a member?
8. Is committed to raising their children to honor the customs, traditions, codes, laws and regulations of the Kanien'kehá:ka of Kahnawake and must be committed to having their children learn Kanien'keha	11. What have you done to try to learn about our culture?
9. Is attending an educational facility in or near the Territory	<i>The chair should advise the applicant there is a penalty for any and all misinformation.</i>
10. Is a member of a liturgical society established with the territory	

* person not born of 2 members, person with indigenous lineage, adopted children and non-member resident

Any questioning of applicants by CoE members along the lines of these two sources would be deemed an acceptable and normal part of the procedures during a hearing. However, questions have been asked that would not be considered as part of the standard questions for the applicant; nor are they part of the general criteria for application process. In the opinion and interpretation of respondents the following types of questions reported to have been asked of applicants during hearings, were deemed irrelevant to the criteria and/or crossed boundaries of a personal nature:

- ⇒ Are you under a doctor's care?
- ⇒ Do you have a boyfriend/girlfriend (whom are you dating)?
- ⇒ Do you have a criminal past?
- ⇒ Did you think of whom you are going to marry?
- ⇒ Do you plan to have children (and with whom)?
- ⇒ Will you be coming back to apply for your children?
- ⇒ Did you ever have an affair? (and other questions of a sexual nature)
- ⇒ Do you speak French?

Further, the necessity of some questions, used to interview applicants, is debatable. In many cases the questions asked were considered by applicants to be disrespectful or dismissive. The project team could find little justification/value in this line of questioning as it relates to the general criteria.

The following points provide further insight into areas respondents highlighted as requiring procedural or policy support:

- ⇒ There are no procedures located in the documentation provided that outline how investigations should be conducted in the event an applicants “questionable character” becomes an issue or any way to determine/validate lineage from other Nations or communities.
- ⇒ CoE Regulation No. 6 mentions “*In camera*” sessions but does not outline how they are governed. The CoE reportedly conducts “*In camera*” sessions without the presence of the recording secretary, it is unclear how these sessions are conducted and whether they are documented. A common understanding of “*In camera*” sessions also known as executive sessions which are a common point of order during board meetings, where information is provided **that is not reflected in the regular minutes**, nor available to the general public. Some topics that may be discussed during in camera sessions include personnel decisions, financial decisions or other sensitive issues related to the organization. However, most boards have policies that govern how these In Camera Sessions take place. An example *In Camera* policy is provided at the back in Section 5.
- ⇒ The meeting space used is intimidating and many feel that it in no way feels **welcoming or reflects the culture of Kahnawake**. Some respondents suggested establishing practices that are more inviting such as: sitting in circle, offering smudging or changing the locations to various places within the community may help lessen the anxiety felt by applicants and better reflect the intent of the law.

A majority of respondents felt the criteria for CoE membership needs to be further developed and defined. The definition of an “Elder” as stated in section 4.1 of the KML is *“an adult person who is a member of the Kanien’kehá:ka of Kahnawake and who has gained and continues to hold the trust, respect and confidence of the Kanien’kehá:ka of Kahnawake and who has a good knowledge of the customs and Kanien’kéha of the*

Kanien'kehá:ka of Kahnawake". While this definition describes some basic components that are required, many respondents felt that this was not enough criteria to base selection, it is too vague and should be developed into a much more comprehensive profile that ensures CoE members will have the competencies needed to carry out the work.

In addition to the Elders definition, the CoE selection process at a public meeting is problematic. Respondents felt the public forum for selection doesn't allow for proper screening as comments concerning the suitability of that elder to serve or any objections to having that elder serve will not always be voiced. The question raised was, *will community members who have critical opinions of proposed CoE members come forward with their concerns / key information that could influence a decision to appoint a member?* Most CoE members were reportedly appointed without any questions being asked of them. Some respondents noted that they had apprehension with some of the CoE members who were being appointed, but did not feel comfortable standing before a crowd to raise their concerns.

All respondents were asked about the type of competencies/qualifications that CoE members should have. The following list presents what respondents expected of members of the CoE. This list can contribute to the development of a competency profile for the CoE. Items are listed in ascending order by most often mentioned.

EXPECTED COMPETENCIES/QUALIFICATION/CHARACTERISTICS
OF A COUNCIL OF ELDER MEMBER

- ⇒ Objective/fair/open minded/unbiased (no agendas/personal baggage re: membership)
- ⇒ Good reputation/respected in the community/upstanding citizen
- ⇒ Knowledgeable of people and the community (i.e. history of families in Kahnawake)
- ⇒ From/grew up in Kahnawake and currently lives in the community
- ⇒ Compassionate/understanding/caring
- ⇒ Mature/over 50 years of age*
- ⇒ Members of Kahnawake themselves, living under/applying the same standards to their lives as applicants (not violating the law themselves)
- ⇒ Educated (basic high school or further formal education)

- ⇒ Respectful of people (applicants), the community and the law
- ⇒ Has life experience (i.e. living, working, raising a family)
- ⇒ Have families themselves/be parents/grandparents
- ⇒ No criminal record
- ⇒ Has a healthy lifestyle/is a positive role model
- ⇒ Good mind/mentally fit
- ⇒ Knowledgeable of traditional ways (longhouse spirituality, culture, Great Law)
- ⇒ Strong interpersonal/communication skill (able to listen, express opinion)
- ⇒ Real desire/interest in taking on the responsibility and participating in the CoE activities
- ⇒ Experience in and comfort with decision making
- ⇒ Willing to learn/participate in training and development activities
- ⇒ Ability to understand, support and apply the Membership Law & philosophy
- ⇒ Able to work well in a group/get along well with others (practice conflict resolution)
- ⇒ Patient/not impulsive/takes time to think and make decisions
- ⇒ Uses diplomacy & tact in dealing with people (respecting dignity of the person)
- ⇒ Speaks or willing to learn to speak Kanien'kéha
- ⇒ Honesty
- ⇒ Previous board/committee experience

*To a majority being an elder meant actually recognizing by age (50+) and status, for others this could be a person at any age as long as they meet the other criteria. A few felt strongly that all ages and different backgrounds should be represented on the CoE to make for a better-rounded group.

A follow up question was asked of all respondents: "*How would you make sure that potential CoE members have these competencies?*" The following lists the top responses in procedural order.

WAYS TO ENSURE POTENTIAL COUNCIL OF ELDERS MEMBERS HAVE THESE COMPETENCIES

- ⇒ Developing a comprehensive competency profile/criteria for CoE member selection
- ⇒ Developing terms of reference for CoE seats including defined terms with a trial probation period. Seats may be staggered in alternating years to ensure continuity of knowledge.
- ⇒ Designing an application process that would consist of submitting an application form, filling out a competency checklist based on what the applicant feels they have, a CV, and a letter of intent outlining their experiences and reasons for wanting to be on the CoE.
- ⇒ Setting up a selection committee (possibly made up of community members, membership staff and current CoE members) that would be responsible for prescreening the application package for completeness and match to the competency profile, ensuring a background check is carried out and conducting personal interviews with applicants similar to the hearing process that membership applicants must go through. This would include questioning around the same social standards that applicants are held to. It would also serve as a screening process for negative attitudes and biases.
- ⇒ Nomination and election process for seats. Posting the names and background info in public places prior to holding a special community meeting set aside just for CoE members (similar to candidates night) to respond to public questions.
- ⇒ Possibility of appointing individuals to unfilled seats based on respected elder status & dedication to community
- ⇒ Developing a comprehensive orientation process for new members on their roles, responsibilities and relationships with other CoE members & membership staff with a probationary period where they participate in the hearings but are not active in the decisions
- ⇒ Building in a performance evaluation process for CoE members that would ensure active participation (CoE members to voice their opinions, ask questions and have their attendance tracked). This process would include accountability measures and resulting consequences. There must be clear terms of dismissal in the case a CoE member fails to meet their responsibilities (i.e. lack of attendance, conduct and behavior, complaints, etc.)

TOOLS

Every board, committee and council uses a range of tools to assist them in their operations. The tools are borrowed, adapted or created based on what is needed for the work at hand.

There are several tools and resources that have been developed for and by the CoE.

An orientation binder is provided to each new CoE member. This binder is approximately 425 pages in size. It is cumbersome and not user friendly in terms of quickly orienting a new member. Although it was intended to provide a meaningful and useful tool, the following items outline its limitations:

- ⇒ There is no introduction to the reader with an explanation on how to use the binder
- ⇒ There are many research/background documents and reports from 1981 to 2004 included in the binder. The intent of including these documents is to ensure new CoE members have an appreciation and understanding of the evolution of the KML and that all CoE members are provided with the same information. An examination of these resources reveal conflicting information that can lead to confusion for new members about the intent of the law and can raise questions about whether the law truly reflects the will of community members as documented in reports of different consultations in the evolution of the KML. Respondents noted that new CoE members may have little time to become acquainted with **all** the material in the binder before their first few sessions.
- ⇒ The binder lacks a lead document that clearly presents a historical overview, explaining the consultations, adjustments and evolution of the KML for new CoE members (allowing them to review these historical documents with a sense of context)
- ⇒ The binder has a table of contents at the front, which helps to locate information in a general manner, there is no index that would assist users to quickly and efficiently locate specific information or dated reference material.
- ⇒ A sample of the lineage chart to be used in hearings is not presented or explained
- ⇒ Some sample forms and letters (i.e. templates for record of decisions, letters to inform applicant of decisions), used by the CoE and Registrar for hearings are not included for reference

- ⇒ The standard questions for applicants developed for hearings is not located in the binder
- ⇒ Some of the documents are photocopied poorly and in some cases the text is illegible
- ⇒ Older versions of key documents were included in the sample copy of the binder reviewed by the project team. It was unclear whether certain regulations had been enacted, as there were no dates on some of the documents. When attempting to verify if these regulations had been passed, some confusion was encountered and a check was made with MCK Legal to ensure that the project team was working with the most recent version. It is essential that each CoE member has the most up to date copies of all documents they will have to reference/use.

As the binder is a core tool to orient new members, the above limitations can hinder the effectiveness of the CoE as they prevent a shared understanding of the law and its application.

The definitions developed within the KML and the regulations are also considered to be tools that the CoE must use. It is clear that certain definitions of section 4.1 of the KML are not defined well enough, resulting in being open to individual interpretation. An example is the definition provided for Kanien'kehá:ka lineage: "*means direct descent from a Kanien'kehá:ka ancestor, verified by proof acceptable to the registrar, the CoE or the membership review council*". The wording used within this definition brings up further questions such as what is meant by a *Kanien'kehá:ka ancestor* and *proof acceptable*. Lineage should pertain to one's family line, it demonstrates relationship to ancestors and is **not necessarily representative of blood quantum**. This understanding of lineage does not seem to be used by all CoE members. Interviews indicated the interpretation of these terms have varied at the CoE table.

The client lineage chart (family tree indicating an individual's ancestry up to three generations) was noted as an effective tool. Respondents did report when an individual's lineage chart is reviewed, the focus seems to be more on the blood quantum of relatives in preceding generations rather than if they have familial connections to the community extending back over generations. The CoE has authority to determine this, but in reviewing the documents that exist we could not find set criteria established to determine if a person qualifies as a Kanien'keha:ka. The orientation binder includes information on the Custom Code which has set out certain criteria, but the KML and regulations do not refer

to the Custom Code as a resource for criteria. Some CoE members still seem to be using the criteria from this source as they have no other to work from.

Other tools identified by respondents include the standard questions for applicants that were developed by the CoE (presented previously in the policies and procedures section of this report). This tool was identified as working well when the questions were adhered to. Others reported that this tool could still use some work to make sure the questions asked of applicants were most relevant and appropriate.

In general, respondents felt that all of the tools employed by the CoE could use further development to ensure they are effective and efficient resources that respect the spirit of the law.

TRAINING

Training for boards, committees and councils can provide a common base to work from, allowing for team building and creating a sense of shared knowledge. It provides members with useful resources/tools and methods to apply in the work they conduct.

The original training set provided to CoE at their inception was acknowledged as being very useful and applied during their early meetings. The lack of training and orientation for subsequent new members created a gap between those that had the training and those that did not. The result was a different understanding of critical aspects of their role, and how the KML is applied. There were also no refresher courses provided for veteran members that would assist them in reconnecting with key resources. Many respondents recommended there should be a mandatory orientation/core course, a comprehensive course and regular refresher courses. The training topics suggested by respondents for CoE members include:

- ⇒ How to work with people, interpersonal skills development, sensitivity training that extends to understanding body language (their own and others)
- ⇒ Board/Governance training
- ⇒ Understanding Human Rights from a legal perspective
- ⇒ Comprehensive orientation, understanding and interpreting the law, roles and responsibilities, policies and procedures

- ⇒ Experiential Training (incorporating real life scenarios already encountered by the CoE and applying the theory)
- ⇒ Conducting effective meetings (hearings, administrative)
- ⇒ Professionalism
- ⇒ Ethics in practice (conduct & behavior)
- ⇒ Decision making and consensus building
- ⇒ Understanding our Haudenosaunee, Kanien'kehá:ka and community traditions/history in regards to membership (where we were and why we are where we are today)
- ⇒ How to be non judgmental
- ⇒ Public Relations (knowing and valuing the importance of relationships/partnerships, how to build and maintain them)
- ⇒ How other First Peoples are approaching membership (what can we learn from them)

ALIGNMENT TO FRAMEWORK

Alignment speaks to how **in tune** operations, decisions and direction of a group is to their mandate. Every board, committee or council can have a well structured framework with all the right tools, however if members do not take time to verify if they are truly aligned to the framework, it is very easy for a group to go off track. An effective board, committee or council adopts practices that help monitor how well aligned they are to their mandate and framework.

The KML and regulations are used by the CoE to carry out its work, it is clear however, that the CoE is **not fully aligned** to the framework of the KML based on what has come out in earlier sections of this report. There are inconsistencies in the practices at the table of the CoE that indicate they are not respecting the principles they are required to operate under nor have they kept the community that appointed them informed.

IMPEDIMENTS TO ALIGNMENT

Clearly identifying impediments to alignment is necessary in order to develop plans and strategies to deal with them effectively. Failure to address impediments to alignment can result in a lack of confidence in a group's ability to remain true to the mandate entrusted to them. In essence their operations do not correspond to the intent of the mandate.

Confusion was created in the transitional period from the early membership consultations and the eventual passing of the KML in its final form. There are still many individuals who feel that the original intent of the work, the time and effort that went into it and ultimately the findings of the consultations (on membership), have not been fully respected. Based on our review of the historical reports, provided in the binder, there is evidence to support this view. This could result in a limited pool of people to recruit to the CoE. Meaning if the sentiment of community members in general, is skeptical towards the law it will limit their desire to be a part of the CoE or for their family members to go through the KML process.

There is not enough explanation provided on the evolution of the KML which can lead to a different understanding by all parties. The following are some examples:

- ⇒ The first community consultation clearly indicated the community is not prepared to return to the clan system yet it has become a condition/criteria to membership
- ⇒ Documents indicate the KML should not determine citizenship (this is a Nation function) yet the law requires applicants to agree to seek alignment with a clan (a citizenship requirement within the confederacy)
- ⇒ The community consultations indicated the majority of people wanted an inclusive process not based on blood quantum. Many respondents reported that the current KML process in their opinion is exclusive and blood quantum based though guised differently
- ⇒ If a CoE member believes they represent and must respect the will of the people, after reviewing **some** of the historical documentation it could lead to the belief that the KML and regulations have some elements that do not respect this will

The following impediments regularly surfaced in interviews and in some form or fashion were presented earlier in the report:

- ⇒ a lack of a full understanding of the law and regulations by all parties (MCK, CoE, Community)
- ⇒ the lack of detailed competency based criteria to select CoE members (related directly to their roles and responsibilities)
- ⇒ the lack of clearly defined roles, relationships and authorities of individual CoE members and as a collective and in relation the Kahnawake Membership Department, MCK and the community and the methods of accountability toward each other
- ⇒ the lack of time to devote to further training and development of the CoE
- ⇒ the lack of faith and trust that has been allowed to develop between parties since the inception of the CoE (i.e. between the CoE, Membership staff, and MCK chiefs)
- ⇒ the clear disregard for the principles in the KML by the CoE in performing its duties, conducting its meetings and making its decisions
- ⇒ the failure to project the amount of time required of members to deal with
- ⇒ a back log of work the CoE was presented with (community members who had been waiting in limbo for years)
- ⇒ combined with an incomplete law (that required them to develop their own regulations)
- ⇒ created unrealistic work expectations of members who had other responsibilities (family, work, health, education)

“CoE, MCK and Membership Department all seem to be working independently of each other”

Ultimately the sentiment most shared by respondents was the CoE was thrown in to implement a law that was not ready. As written the law allows for different interpretations.

A major concern of CoE members was the enforceability of the KML. The reach of the law at this time extends only so far as the processing of applications that come to the CoE table. **Although it is outlined in the law (Section 27) there are no mechanisms in place to truly enforce the KML across the community**, i.e. via the Peacekeepers and Kahnawake court system. A clear example is the suspension and revocation of membership described in section 20.1 of the KML. According to the law: *A member who a) married, or marries, a non-indigenous person after May 22, 1981 or b) commenced or*

commences, after May 22, 1981, a common-law relationship with a person who has no Kanien'kehá:ka or Indigenous lineage, will have their entitlement to receive any of the benefits and services to which they would otherwise be entitled as a member of the Kanien'kehá:ka of Kahnawake, suspended for so long as they remain married or in a common law relationship with the non-indigenous person. The difficulty with this section of the law is that there is no way to enforce, unless an application form to suspend or revoke a person's membership is submitted and signed by 10 members. It is clear that there are many cases of individual members living in the community who are violating this section of the law with no consequences.

The difficult situation established is a double standard whereby the CoE are forced to make decisions about applicants including consideration of this section of the law, possibly resulting in the rejection of individuals from the Kahnawake Mohawk Registry based on the grounds of marrying or living common law with a non-native person, while there are a number of individuals who may be doing the same thing, yet are not affected as they do not go before the CoE.

Another issue that continually arose during interviews was the conflict over Kanien'kehá:ka traditions vs. Blood quantum/Indian Act mentality in Kahnawake. It is well known that historically, Haudenosaunee traditions allowed for a "melting pot" where peoples of other nations were taken in under the Haudenosaunee Nations including the Kanien'kehá:ka. In times of wars, traditions allowed for the dead to be symbolically replaced through raids intended to seize captives to replace lost compatriots. This was common practice resulting in incorporation of people from many different Native Nations. Haudenosaunee communities were strengthened by incorporating conquered peoples and remolding them into their society thus naturalizing them as full citizens. These people were adopted and educated as their own children, without distinction. These people grew up within the society, forgetting their own nations and fully assimilating into the ways of the village. Just as this tradition was a common part of Haudenosaunee history pre-contact, it continued as the Nations and individual communities evolved post-contact when local non-native peoples were captured and adopted in the same way. This practice is well known in the historical accounts of Kahnawake's beginnings as a Christian community made up of not just Kanien'kehá:ka people but those from other neighboring Nations. It is also well-known and quite common place in Kahnawake for families to have historical record and family trees that note ancestors who were rescued/stolen from Albany or other locales as young children.

A bit of information that may help to put the blood quantum issue in perspective in Kahnawake is the opinion of some respondents on whether any community members of “pure blood” still exist. There is a commonly held belief that no such people exist today in Kahnawake (though there is no hard evidence). An interesting finding from the literature review that helps to explain how this opinion may have developed: *“The Iroquois of St. Regis, Caughnawaga, and other agencies can hardly boast an Indian of pure blood. According to the Almanac Iroquois (written in 1906), the blood of Eunice Williams, captured at Deerfield, Massachusetts in 1704, and adopted and married within the tribe, flows in the veins of 125 descendents at Caughnawaga; Silas Rice, captured at Marlboro, Massachusetts, in 1703, has 1,350 descendents; Jacob Hill and John Stacey captured near Albany in 1755, have respectively 1,100 and 400 descendents.”*²

The imposition of the Indian Act across Canada and its assimilative policies dictating membership based on blood quantum / lineage (i.e. double mother clause) for all Native communities seems to have permanently changed the view on the Haudenosaunee adoption tradition and inclusive mentality. The long term effects on Kahnawake included a shift away from inclusion and into the legacy of entrenched racism and discrimination that continues today as evidenced by the continuous references to blood quantum and lineage as the key determinants of membership. An example of the confusion and disagreement over the traditional clan practice is the comment that “once you marry out you lose your clan”.

There is a genuine community concern for the preservation of Kanien’kehá:ka identity. There is fear of the erosion of culture, language and bloodlines. There are resources available to First Nations people. These are the basis for having a membership law. Kahnawake is deciding who can be a recognized community member based on key criteria of lineage/bloodline.

At the same time the community has acknowledged the heavy outside influence of the Indian Act that was imposed upon it, the consequence being **some deeply rooted beliefs in our collective conscience**. The strongest example is the persistent notion of blood quantum in our vocabulary. While there is definitely a difference of opinion on the issue, it is clear that non-native ancestry is part of the fabric of Kahnawake’s population and history. At the same time there is a strong prejudice that has developed based on blood quantum ideology that makes it second nature to describe people in terms of being “full”, “half” or “a quarter”. This is so common since practically all Kahnawakehro:non know

² J. Pathfinder Ewing, Native American Spirituality: Freedom Denied or Blood Quantum, Native America’s Dirty Little Secret. <http://www.manataka.org/page1965.html>.

exactly what is meant by these terms. Even when respondents were consciously aware of trying to avoid using “Indian Act” thinking, they were hard pressed to describe people in any other way.

Although it has been stated the community is trying to move away from the Indian Act system including the use of blood quantum - the preamble to the KML states “we recognize that we have been harmed by foreign governments’ attempts to undermine our will and ability to survive by dividing our community. We reject the imposition of the Indian Act and of other foreign laws that have presumed to define the principles upon which the membership of our community will be determined”, it was reported by many respondents that we have not moved very far at all. Many felt the use of “counting grandparents” is not much better/different and is really blood quantum in disguise (considering if the membership requirement is interpreted as having 4 great grandparents of “full” Kanien’kehá:ka descent this is equal to saying a person is “half” or 50%). The result is different classes of people within the community with different status.

There is a huge body of writing and research on the topic of blood quantum, particularly from the US Native Nations who have also defined and determined their membership rolls based on blood quantum principles (not from their own traditions but based on resource allocation and requirements of the US government). It is very important to note that from an anthropological perspective, there is only one modern human population that still so rigidly determines its membership on blood quantum - Native peoples (this is a post contact phenomenon). Any other population composition is based on personal identification with the group (i.e. self identification as black, Latino, etc.). The reasons for much of this persistence of blood quantum is found within the structures/systems that Native peoples find themselves living with such as the reservation set up and the government financial support of programs. In other words people with Native ancestry have the most at stake to gain or lose just by their affiliation with a “band” or “tribe”. These systems, in essence, are based on materialistic values and are very far removed from commonly held values among Native people.

There is genuine concern for the protection and preservation of community resources as respondents often stated the protection of entitlements and resources was one of the key reasons why the KML was instituted.

Entitlements of members of the Kanien’kehá:ka of Kahnawake are clearly identified in section 15.1 of the Law, including the following entitlements and privileges with regards to benefits and services:

- ⇒ To reside within the territory
- ⇒ To participate in selection of Kahnawake leaders
- ⇒ To seek and hold a leadership position
- ⇒ To own and transfer to other members, interests in lands within the territory
- ⇒ To receive education services
- ⇒ To own and operate a business
- ⇒ To receive housing assistance
- ⇒ To receive services from social, health, welfare and economic departments or programs of the Mohawk Council of Kahnawake
- ⇒ To be buried on land within the territory

There seems to be a scarcity mentality (defined as disconnectedness, guarding of material possessions, and the need for more now) strongly tied to the membership issue. This mentality feeds the fear that a surge of new members accepted under the KML will lead to a collective loss in the amount of community resources. This is characterized by the belief that there is not enough to go around (land, education dollars, housing loans, and other benefits) and an unwillingness to “divide the pie” any further with people who do not fit the KML membership criteria. The persistence of a scarcity mentality is understandable considering the actual reality of limited resources and threatened budget cuts the community faces. Respondents noted this scarcity mind frame goes against our traditional values (acceptance, connectedness and belonging) and allows racism and prejudice to flourish, as some people are deemed as potential burdens to the community. This finding is in line with a commonly accepted social psychology theory that limited resources lead to conflict between groups and results in increased prejudice and discrimination (when resources such as land are scarce, members of the in-group feel more threatened by members of the out-group and will show more prejudice toward the latter).

Respondents shared that all applicants for membership coming to a hearing before the CoE should be spared being asked questions regarding their plans to access entitlements, as it is known that should they be approved all members are entitled to such services. One example given to the project team was the question “*Are you going to ask for land?*”. This question was reported to make applicants feel like they are going to be a burden on the community. What is the true purpose of this question? What relevance would a yes or no answer have on the decision of the CoE? Applicants could state “no” in their interview

(would this make them more acceptable to the CoE?) and then once accepted go ahead and ask for land citing unforeseen factors that changed their circumstances and this would be valid. If they answered yes (would this make them less acceptable to the CoE?). By allowing these questions to be part of the process, applicants and their supporters are given the impression that decisions are being weighed considering if they will be a perceived drain on the community's resources. The question is understandable but it does not support the intent of the law to get away from the Indian Act which was based on a scarcity mentality.

DEVELOPMENTAL REQUIREMENTS

The items below represent developmental requirements identified by the project team and supported by the opinion of respondents. The list is in no order of importance.

- ⇒ Clearly define the working relationship between the Coe and SDU specifying duties of all parties. Clarify what “oversee the function of the Registrar” means for the CoE and ensure this does not create a conflict with the direct line supervisor within the Social Development Unit or the existing job description of the Registrar. The Membership Department has to interface with the CoE for the preliminary activities, application, review and registering of decisions so it is essential **all** know the roles and responsibilities in each of these areas,
- ⇒ Develop an organizational chart that presents all the parties involved in the KML
- ⇒ Develop a standardized process (step by step flowchart) of the application procedure for applicants to follow
- ⇒ Develop a kit for applicants that provides clear information on the criteria that will be used to form a decision on their application (eligibility and ineligibility), the hearing process (what to expect, what are their rights), what is the usual follow up to a hearing, and an outline of the established Kahnawake process of affiliation in seeking a Kanien'kehá:ka clan

- ⇒ Develop a standardized process for welcoming and interviewing applicants that reflects the spirit and principles of the KML
- ⇒ Develop a standardized method of completing record of decisions and discussions
- ⇒ Develop a comprehensive orientation for new CoE members
- ⇒ Develop the existing orientation binder further as noted in Tools section
- ⇒ Develop a method for determining training needs and a schedule for training of new CoE members along with annual refresher courses for the CoE as a whole
- ⇒ Develop clear and accurate definitions and examples for items that are currently open to interpretation by the CoE within the KML such as: *Kanien'keha:ka*, *Kanien'kehá:ka ancestor*, *Kanien'kehá:ka lineage*, *proof acceptable*, *consensus*, *elder*, *principles of fairness*, *dignity of the person*, *consistent with the traditions and customs of the Kanien'kehá:ka of Kahnawake*, *has and maintains ties with the community*, *positive contribution to the community*. This list is not exhaustive and other definitions maybe required.
- ⇒ Develop operational policies and procedures for the CoE that define the working relationship and shared responsibilities between all parties involved
- ⇒ Develop a less burdensome process of removing a CoE member when they do not meet their responsibilities
- ⇒ Further develop the responsibilities of the CoE members in particular those with special responsibilities: Presiding Elder, secretary, treasurer
- ⇒ Develop a recruitment and selection process for CoE members with criteria that reflect the importance of the position as well as the competencies needed to do the job. The project team reviewed the functions required of a CoE member within the KML and regulations. Based on these functions and our experience in training governing bodies, we identified the following core competencies that would be required of any CoE member in order to meet their obligations.

- ⇒ Leadership Skills (able to lead the group through challenging issues and decisions maintaining a healthy process for discussions and decision making that contributes to development and confidence of members)
- ⇒ Chairing Skills (able to keep table on track, engage all members opinion and to synthesize discussions and foster consensus decisions)
- ⇒ Facilitating Skills (able to secure all participants in discussion, exploration of opinions/biases/beliefs/principles to arrive at a decision without any **undue** influence)
- ⇒ Communication Skills (non-verbal communication, active listening, conversing, presenting, writing)
- ⇒ Participating in meetings (fully engaged in discussions and decisions)
- ⇒ Collaborative Decision Making (builds upon group's knowledge, understanding to come to a point of agreement)
- ⇒ Collaborative Problem Solving (generates ideas and adapts to new information in order to work through challenges)
- ⇒ Conflict Resolution & Management (identifies conflicts and seeks ways to address it that is acceptable to all parties)
- ⇒ Critical Thinking
- ⇒ Interviewing
- ⇒ Operating objectively
- ⇒ Providing feedback
- ⇒ Conducting Investigations
- ⇒ Designing and developing Policy
- ⇒ Interpersonal Effectiveness (an essential quality in working with others successfully) demonstrated by the following abilities:
 - Willingness to reveal self to others
 - Feels what the other person is feeling
 - Describes versus evaluates
 - Expresses positive side – compliment
 - Views the other as equal
 - Confident in what they have to convey
 - Communicates togetherness
 - Manages dialogue fairly

- Demonstrates genuine interest
- Can adapt to the other's perspective

Based on what was reported during interviews these abilities are not consistently demonstrated by the CoE. The weakness seems to be especially apparent in CoE members in demonstrating interpersonal skill sets when interacting with applicants.

IMPACTS STEMMING FROM CURRENT PROCESS

A number of questions were asked about the impacts of the current KML process to different groups including applicants, members of the CoE, Membership department staff and the community in general.

Impacts to Applicants

A question was asked about social impacts to applicants using the KAHNAWAKE MEMBERSHIP LAW process. The most common response was the recognition that new members would be entitled to resources, services and benefits (i.e. water & sewer, land, housing loans, RAP programs, non-insured health coverage, education, etc.) like everyone else. An increase in Kahnawake's recognized population was seen as equaling an increase on demands for resources. Some viewed this as a burden to our community resources.

"If I had to do it over I would not...it was humiliating ...I resent that I had to prove who I was"

When applicants were asked to describe the experience of going through the KML process, both the positive and negative aspects were mentioned; often the qualification of either positive or negative depended on the individual applicant's experience. For the majority of applicants, contact with the CoE was limited to facing them during a hearing. Those who were accepted as members or non-member residents reported a mixture of different experiences (the silver lining being that they were accepted) though generally they had a more positive encounter during a hearing. Those denied as members or non-member residents generally had a far more negative experience, with this group reporting feeling much more judged and "grilled" with questions. There were some who reported the opposite case, finding a positive side to being denied (i.e. getting to come to Kahnawake and meet family they did not know) and finding negatives in the process even when ultimately the individual was accepted. A number made comments that the process is cold and not in line with our culture, while a few commented that things were generally

respectful and friendly. Others stated that, in retrospect, they would never go through the process again or would not want their family to have to go through it.

Some commonalities of the experience across all categories of applicants were reports of feeling stressed/unsure of what to expect, feeling very judged and “put in the spotlight” going through the process, discomfort with having so much of their private lives reviewed/ the personal questions asked, feeling anxious of the outcome, nervous/intimidated due to the atmosphere and the number of CoE members.

In addition to some questions being asked, that were considered by applicants to be inappropriate/irrelevant, some comments were reported to be made in poor taste. Another observation was that many times it was not what was said but how it was said- the use of tone, body language and visible attitudes toward them.

“It was a degrading process, very judgmental... every part of who you are was picked at... you are made to feel less than”

For those, who had their membership granted, most reported feeling very happy to be accepted and recognized as part of the community. For those who were accepted as community members, there is pride in this recognition as it creates a sense of belonging and impacts their sense of identity. Membership was viewed by some as an exclusive club.

For applicants who had their membership denied, most were not satisfied with the end result (being denied) and questioned the decisions. Many reported now seeing how flawed the law is. They reported seeing the impact on their families and their lives (feeling much more disconnected and no longer feel valued as a person trying to live in the community). Some report devastating impacts to their sense of identity. A few had considered appealing the decision but were concerned that the same body will make the same decision.

For applicants who had non-member residency granted, the experience was smoother and they were generally happy with the decision, though some were disappointed that they had to resort to non-member status since they really wanted membership but knew they would not get it.

On a psychological level there is a high degree of stress, fear and anxiety associated with the process of applying and waiting for a decision. This can be a traumatic and weighty time for an individual as stress can have long term impacts on a person’s health and well being.

Some respondents shared they are aware of many individuals that chose not to make an application. They attributed their decision to hearing about the negative aspect of cases and decisions for others who have gone through the process or simply being in disagreement over the process and decision making body.

Divisions are created within families as family backgrounds and history is called into question and especially when different family members have opposing opinions. There is concern for the impact on children who are not accepted and will be expected to leave the community when they reach the age of 18. The decisions rendered have a long lasting impact not only on the applicant but on their children and future generations. Concern was raised for children who hear the topic discussed in their homes and may develop negative attitudes about other children and families in Kahnawake.

Racism and discrimination (both overt and covert) figure prominently in much of the discussion of the impact on individuals and the community. Discrimination can be seen in the case of "C31's" who are accepted as members but who some view as a drain on our resources. Racism can be seen on the way that people of mixed ancestry are viewed by some in the community; resulting in some people feeling lesser than or ashamed of being less than or of having non-native ancestry or not "looking Indian enough".

Finally, identity confusion has been created as a result of some membership decisions made to date, there are some who believe that the KML determines whether an individual applicant is native or not. There are strong feelings associated with this tying of membership to identity because degree of "Indianess" has been based on blood quantum. For some the experience of rejection is a deep cut into everything they value (their families, community, sense of belonging and their aspirations, which are deeply connected to the community). Others recognize that this law does no more than determine access to certain recognized rights and privileges in Kahnawake, and that it is up to the individual to define themselves as they so choose ("nobody has the right to tell me what I am").

The following information on identity formation is presented to offer some insight into the confusion about the possible impacts the KML process has on an applicant's identity.

IDENTITY

An individual's identity defines who they are as a person. Identity is created through the following processes:

You note how the people you interact with respond to you and seek feedback on how they perceive you and view yourself as others view you. From the reflections of others you develop a clear and accurate picture of yourself. When others view you as a worthwhile, valuable person, you tend to view yourself similarly.

You incorporate into yourself characteristics that you admire in other people. If a person you admire is hardworking, you try to be hardworking.

In your relationships with other people, you develop social roles that become part of your self-definition. It is within your relationships that you discover who you are as a person. The more other people confirm you, indicate that you are normal, healthy and worthwhile, the stronger your identity tends to be.³

Based on this explanation on how identity is developed, it is clear that although the KML did not intend to determine who is Native and who is not; the process and criteria suggest otherwise. The potential for negative impact on identity is more so if the hearing process is not well facilitated and the conduct and behavior of CoE members toward the applicant is experienced as disrespectful when the decision is being made to confirm or disconfirm a person. Importantly, the decisions that determine an applicant's belonging are based on some **criteria applicants have no control over** i.e. lineage/blood quantum of relatives (parents, grandparents, great grandparents) and affiliation with a clan.

³ Reaching Out, Interpersonal Effectiveness and Self Actualization, David W. Johnson, Ninth Edition, Pearson-Allyn and Bacon.

Further impact is the unsettled state people are put in wondering if they belong to the community or not. Belonging is a key need to human motivation and development. Bonding and relatedness are key components of all theories on human motivation (see Maslow's hierarchy of Need in resources). Most theories show that as the need to belong is met humans are motivated to excel to other levels of development. The question raised here is: in removing a person's sense of belonging are we seriously impeding their motivation to grow and develop?

Impacts to Members of the Council of Elders

Members of the CoE are obviously impacted by the positions they hold and the serious decisions they make. A large number of responses indicated that there is a predominately negative impact to CoE members past and present, with comments that they are viewed negatively in the community and are subject to a lot of criticism, mostly from the individuals and their supporters who are unhappy with the decisions made. Part of this finding stems from the opinion of CoE members who note they have been represented more negatively in the press/media and this casts them in a bad light leading to community biases and ill will toward them. CoE members hold positions that leave them open to being ostracized in public due to the very nature of the work they do and the difficult decisions called for. Some reported being approached in public places, singled out for questioning or verbal attacks. Others noted that the community has difficulty in distinguishing between the individual CoE member and the collective body, resulting in all CoE members painted with the same brush, even if they are personally opposed to a certain decision made, or if they have no complaints against them. CoE members feel personally judged in the community as a consequence to the judgment role they play, a common observation was that they are now scrutinized for their own life choices.

They did report a positive impact of being a CoE member such as the sense of accomplishment from accepting members and helping people to feel they belong and there is recognition that CoE members are viewed as brave to do this difficult work. While these words of appreciation are sometimes heard, it is more often the case that CoE members get little thanks, support or encouragement from the community on the role they play in carrying out the membership law.

It's been said that anyone willing to take on the public duty of being a member of the CoE must have "thick skin" and "big shoulders" to carry the responsibility. It is difficult to have to reject an applicant and the personal stories heard are weighty. Some CoE members

past and present have experienced difficulty in having to stand by the decisions made despite personal troubles with their own families and friends. For some it has resulted in strong feeling of guilt and frustration with the process, especially considering parts of the law that are not clear or agreed upon, and a feeling of not being able to serve the community as well as they can considering issues like lack of enforceability of the law. For some CoE members this has created a sense of detachment from the community for fear of public attacks or questioning, as it is especially difficult to live in the same community as applicants and their families. Applying the KML process have caused some past and present CoE members to feel disillusioned with their role.

Very few respondents have noted the process as a positive experience. This includes CoE members as well as applicants who have been approved. For those who have been refused it has been reported as a devastating experience. The community is feeling very frustrated and disappointed in laws that cannot be enforced (there is not a lot of community knowledge/education as to the reasons for lack of enforceability before a law is implemented thereby gaining community understanding and support). As a result the CoE is on the receiving end of the community's frustration over lack of enforcement.

From the comments made during interviews and using the definitions of racial prejudice and racial discrimination in section 5, it appears there is both racial prejudice and discrimination taking place covertly in the hearing process for membership.

Impacts to Membership Staff

The impact to staff of the Membership Department has mostly to do with the stress raised because roles and responsibilities and relationship between the CoE, Membership Department and the Director of the SDU have not been fully spelled out. The frustration of some CoE members (conduct and behavior) has been directed at Membership Department staff making for strained work relationship. Membership is an already stressful work environment.

Community Impact

The most common responses were that it caused conflict and divisions based on opinions within families and throughout the community. There has grown a lack of faith in the process due to:

- ⇒ Opinions of unfairness for some decisions rendered
- ⇒ Hearsay about discussions that took place during decision making, that has not been addressed via public relations practices
- ⇒ Non-enforcement of the law
- ⇒ The local media and press reports on the topic of membership have sometimes been damaging
- ⇒ The sentiment that the community has no say or recourse once decisions are made
- ⇒ Little to no visible accountability to the community i.e. regular updates to inform about the status of the membership application process (i.e. number who have gone through process, number of CoE meetings held, number who have been accepted or denied in a given timeframe)

Some described the community impact as social trauma that affects the collective, especially considering the future children that will be affected. There is fear over the membership process that has led to distrust of the law, the CoE and the MCK.

Regardless of the outcome for the applicant (positive or negative decision) the process has been reported as a negative experience that has left some people embittered and resentful just for having to go through such a process. The rejection of individuals as members has resulted in the designation of some people to an inferior status within the community (those not good enough), especially noticeable if these people choose to stay within the community in contravention of the law or those who avoid the application process for fear they will not be accepted.

The acceptance of new members and the reinstatement of members causes our membership to increase and also shows a split in the mindset - with some having positive feelings about welcoming people into our community (joy in seeing the pride on their faces), but on the other hand it has brought concern for some over the potential influx of people that may impact/put a strain on our community resources. At the same time others saw the potential for bringing in new people with qualifications and skills to enhance the community. Concern was also raised about people who were not accepted as members and who may have brought valuable attributes to the community (losing good people).

Finally, it was recognized that the membership issue is very much tied to many community interests such as the Seigneurie land claim, and border crossing rights. There is a very strong tie of the membership issue to ongoing citizenship debates (Kahnawake members as citizens of the Mohawk Nation and of the Haudenosaunee confederacy vs. being citizens of Canada, etc). There have been a small number of court cases against the MCK refuting the membership law; this affects all community members as it sets a tone in the community perhaps even creating fear that lessens people's willingness to sit on the CoE.

Public attention and media on the membership issue has raised the public consciousness but not necessarily an understanding of the KML & CoE.

SECTION 4. CONCLUSION & RECOMMENDATIONS

CONCLUSION

The CoE was a well intentioned concept by those who envisioned how the membership law could work. The people involved in the development of the CoE intended it to be a well functioning body yet there were key elements that should have been in place and not left to development while the CoE was expected to operate. The MCK had good intentions and faith in the community to enact their own laws. The CoE members themselves had good intentions towards the community, however the individual members had different interpretations about their roles and responsibilities in the course of carrying out their mandate and **there are different mindsets within the CoE.**

The competencies of CoE members need to correspond with those required by the law, its regulations, policies or procedures. This means the competencies should not only be based on the opinion of community members but should be determined in terms of **factual competencies based on their functions and responsibilities.** Specifically what knowledge, skills and attitudes are required to ensure the processes and activities carried out under the law by the CoE respects the guiding principles.

Traditionally Kanien'kehá:ka ways indicate that "everyone has a voice", yet the name "Council of Elders" does not support everyone having a voice. Many respondents indicated maturity as an essential quality for a CoE member, noting a bias for people 50 and over, making the assumption that people under 50 are not mature enough for the work. It is the experience of the project team (based on extensive work on governance) that this is far from the truth in this community. Age does not guarantee maturity or wisdom and it is the youth of the community that will have to live with the results of the KML. Also for consideration, opinions (from community consultation) **may not always be sufficient to establish all the criteria** needed for committees, councils or boards. It requires **concrete assessment** of the knowledge, skill sets and attitudes essential to the work.

There are clear indicators of racism existing within the CoE. Comments made during interviews indicate blood quantum is still entrenched in the thinking and attitudes of those involved in decision making. Lineage is not well understood and is strongly based on blood quantum and not affiliation. Racism seems to be prevalent in the community so the

question arises, how does the selection of those who will be determining membership ensure that the decisions made are not racist? Or what can be built into the CoE that will counteract racist influence. The answer is **clear criteria and definitions** that allow no room for subjective opinions of decision makers.

The inconsistencies within the application process has bred a lack of confidence in the CoE, many of the inconsistencies can be linked to the weak KML framework (regulations not fully developed, unclear roles and responsibilities, weak selection process and criteria for CoE members). Confidence is further weakened by the lack of accountability by the CoE, the varying competencies of the CoE, conduct and behavior of some members. These issues combined to have a fostered the poor relationships that currently exist. The lack of definition for key elements of the law and regulations provides for a major weakness in the application of the KML and accountability for those involved

The intent of the KML was to take further steps away from the Indian Act and return to more traditional Kanien'kehá:ka ways of determining who belongs to the community and is entitled to the associated privileges of being a member. The project team wishes to demonstrate a comparison of the differing mindsets encountered.

Considering the chart below, one may come to the conclusion that Kahnawake has not moved as far from the Indian Act as envisioned in the preamble to the KML.

Areas of Focus	Kanien'kehá:ka Mindset	Indian Act Mindset
Process for Admittance	Welcoming	Bureaucratic
View of Entitlement	Inclusive	Exclusive
Resource Mentality	There is Enough to go Around	There is not Enough to go Around
Basis for Membership	Quality & Contribution of the Person and Lineage	Blood Quantum of the Person
Rights	Based on the Collective	Based on the Individual
Membership Focus	Nation	Community/Band
Accountability	To the Collective	To the Government
Democratic Practice	Direct	Representative
Decision Making	Consensus	Majority Vote
Sharing of Resources	Take What You Need	Take What You Can Get

The Indian Act has caused considerable damage to the community by imposing a racist method of measuring entitlement. The imposition of the Indian Act for such a long period of time has thoroughly entrenched the concept of blood quantum in Kahnawake. It is not known how long it will take the community to recover from this. It is important for the community to realize the challenges this presents to determining membership so it is able to explore meaningful ways to work through these challenges. Blood quantum does not appear to have been a method used to determine membership within a clan or community (pre Indian Act), based on the information noted in the community consultations and the literature we have reviewed. The majority of people consulted in the development of the KML clearly indicated they did not support blood quantum criteria.

The notion of respecting international human rights principles (noted in the preamble of the KML) is very difficult because the KML is not a law written for all people, but rather is specific to one community and by its very nature is exclusionary. Being in accordance with these principles may create conflicts for the CoE in their functions.

The enacting of the CoE is reported to have been premature. Governing entities in Kahnawake have either had their mandates issued from the MCK or evolved from a grass roots movement later mandated by MCK. Further, in the case of the CoE, they have been appointed by the community (removing the MCK in this function) during a community meeting. The community meetings, as a forum, are not suited for developmental activities as they do not provide ample time, resources, nor the understanding needed to create frameworks vital to support the bodies they appoint. They are also a poor forum for screening and selection of CoE members.

Although we were not seeking opinion on the KML, many respondents provided them indicating their disillusionment with the KML. We offer a short insight into feedback given to the project team on the KML. There was dissatisfaction with parts of the community consultation on membership, particularly the focus on elders and not youth input. Some felt that this caused an imbalance as it was perceived very few people had a say to begin with, and that since it is the youth who will have to live with the impact of this law on their families and generations yet to be born, they should have been more involved.

The KML was passed under MCK resolution after a community process of acceptance that respondents did not feel was adequate. As a result, there does not seem to be a sense of ownership and the community does not appear to have a true appreciation of:

- ⇒ the law that has been enacted
- ⇒ the challenges to its enforcement
- ⇒ each community member's responsibility

A community survey was conducted in August 2006 by the MCK with approximately 273 community members taking part. Of the 51 identified issues, one of the top ten was **debate/explore/clarify Citizenship versus Membership** (97 individuals mentioned this item). This supports our notion that there is confusion and a lack of understanding of the KML within the community. Many individuals do not realize the impact this law may have on the community until it effects them personally, it may be to everyone's benefit to receive a copy of their own lineage chart to be sure that the information is accurate and to be aware of where they stand in the implementation of the KML.

The conditions/environment of the CoE meetings and hearings over the last three and a half years has created a fracturing of the council and has led to inappropriate ways of dealing with others internally and externally. There seems to be a lack of respect for

authority and applicants. Attitudes toward cooperation and collaboration are poor. Mutual respect is low. There are valid reasons for the lack of trust that has developed, however the CoE are doing a disservice to the applicants and themselves when they allow this mistrust to be used as an excuse for not taking responsibility to work through problems.

The CoE at present does not have the comprehensive framework in place nor the management capacity to mend itself, and so requires additional support and resources to resume its basic operations. Individuals must accept that the final responsibility for CoE effectiveness lies with the willingness of all parties to let go of the negative aspects of membership history (i.e. Indian Act) and get on with the business of membership in Kahnawake. The challenge now falls to the CoE, membership staff, Chief and Council and ultimately the community to find **concrete** ways and means to carry out the work.

RECOMMENDATIONS

The project team would like to present the following recommendations with the intent to improve the function of the CoE within the KML. We recommend....

1. Conclude the appointments of the current CoE members. The intention of this recommendation is to allow the community to complete key elements of the KML framework that a CoE (as a body) needs to operate **effectively**. Without prejudice to any member of the CoE (past or present) meaning this will not exclude them from becoming future CoE members once a more meaningful selection process is established. It is critical that this is handled in a respectful and thankful manner as these community members have invested a great deal of themselves in attempting to carry out their roles in the KML. We further recommend including those interested in future activities related to the further development of the KML framework. This could involve participation in specialized focus groups, working groups or committees struck up to complete the framework. It is acknowledged there is the potential for strong reaction to this recommendation and if handled poorly can result in compromising the future of a CoE in terms of recruitment.
2. Until such time the community is able to demonstrate they have the capacity to ensure people they appoint are accountable, the MCK as the sponsoring body must establish:

- ⇒ the mechanisms for accountability
- ⇒ methods for evaluation of mandate fulfillment
- ⇒ methods of intervention

before enacting the next CoE appointments.

3. Ensure the KML is fully functional through a well designed **comprehensive** framework (9 elements outlined in this report) that supports the CoE operations. The framework would ensure the CoE have **all** the:

- ⇒ Tools
- ⇒ Resources
- ⇒ Competencies
- ⇒ Training

involved in carrying out their work.

4. Ensure there is an appeal process for applicants dissatisfied with the decisions of the CoE. The appeal process would include authority to change decisions on applications. Criteria would need to be established for:

- ⇒ screening appeals to determine validity
- ⇒ reviewing decisions by the CoE (should be same criteria used by CoE)

The utility of the MRC came under serious question: a common sentiment *why have a review process (MRC) that has no teeth?* Authority of a separate body to overturn CoE decisions would provide a check and balance for the process, possibly resulting in more credibility and confidence of both applicants and the community.

5. The process to remove the CoE should be comparable to the one that selects them, no more burdensome. Most community meetings where CoE members were appointed had less than 100 people in attendance yet 100 signatures are

needed to remove them. If the recommended selective criteria and clear guidelines on conduct and behavior of CoE members is established this should be the basis for reviewing complaints and making decisions on their removal. The guidelines on conduct and behavior should be included in the *commitment to community* document signed by all members upon appointment.

6. Reduce the number of CoE members. Currently section 8.3 of the law states “The Council of Elders will consist of not less than nine (9) and not more than fifteen (15) Elders”. The number is extremely intimidating to applicants and was one of the most noted items that were not working well. It is an accepted practice of most boards in the community to operate with between 9-10 members. It is well known this number presents a challenge for quorum and discussion, the CoE by having a greater number has increased these challenges. Another option could be maintaining a CoE with 15 members, organized into smaller working groups (3 groups of 5 members each) these groups would have the authority to review, hear and decide applications. The feasibility of this is contingent on clear, objective criteria and definitions on which to screen and base decisions (allowing no room for discretion).

APPENDICES

APPENDIX A: RESOURCES

APPENDIX B: PROJECT COMMUNICATION

APPENDIX C: LIST OF MATERIALS REVIEWED

APPENDIX D: INTERVIEW TOOLS

APPENDIX A

RESOURCES

Appendix A: Resources

RACIAL PREJUDICE

The word **prejudice** refers to prejudgment: making a decision before becoming aware of the relevant facts of a case or event. The word has commonly been used in certain restricted contexts, in the expression 'racial prejudice'. Initially this referred to making a judgment about a person based on their race, before receiving information relevant to the particular issue on which a judgment was being made; it came, however, to be widely used to refer to any hostile attitude towards people based on their race. Subsequently the word has come to be widely so interpreted in this way in contexts other than those relating to race. The meaning now is frequently "any unreasonable attitude that is unusually resistant to rational influence". Race, gender, ethnic, sexual identity, age, and religion have a history of inciting prejudicial behavior. Source: wikipedia

RACIAL DISCRIMINATION:

In general, **discrimination** is the discernment of qualities and recognition of the differences between things. In the case of discrimination against people this means the prejudicial treatment of different groups of people based on certain characteristics. Discrimination on grounds such as race or religion is generally illegal in most Western democracies, while discriminating between people on the grounds of merit is usually lawful. The latter is more commonly referred to as "differentiating." When unlawful discrimination takes place, it is often described as discrimination *against* a person or group of people. Racial discrimination differentiates between individuals on the basis of real and perceived racial differences. Source: wikipedia

MASLOW'S HIERARCHY OF NEEDS



Maslow's Hierarchy of Needs

Maslow's Hierarchy of Needs is an unproven but widely accepted theory on human motivation. The theory suggests that once a set of needs are met that a human being becomes motivated to move toward meeting the next level of needs. A person begins with meeting their most basic needs (survival) moves to establishing safety and then to relationships and belonging as these are met they move on to achieving things that feed their self esteem and eventually lead to achieving their full potential. Research in other cultures indicates that the social needs may come before others.

IN CAMERA SESSIONS

In camera is from the Latin word for "chamber". In our modern context it means "in private". The word "camera" means a chamber in which light cannot enter. In other words, in camera refers to a closed session of the Board. Used properly and no more often than absolutely necessary, the closed session of the Board is necessary and useful. Unfortunately, these closed sessions are misunderstood and misused by the very boards that meet in camera.

An in camera session is simply a session of the board where only board members and possibly also specifically chosen others may attend. All other staff and guests are excused. For example, when the board discusses changes to the CEO's salary, the CEO may be excused. In some cases of conflict of interest a board member may ask (or be asked) to be excused so that no possible perception of impropriety can result.

Except for the absence of an individual or several individuals there is no difference between an in camera session and an open session. There is an agenda. The same decision-making process takes place. Decisions are made and recorded in minutes. The Board has the same fiduciary responsibility they have at any other time. Their liability for acting responsibly is the same.

Boards get themselves into trouble with poor process and are most likely going to do it in an in camera session. There is a lot of misunderstanding about what such a session is and how it is to be used. Every board should have a policy to define a closed session and to determine when and how one should be conducted.

SAMPLE POLICY

Meeting Format

Board of Directors meetings shall be divided into two components, the first being an open session followed by an in-camera session for items deemed confidential. The open session and in-camera sessions shall have separate agendas.

The open session shall include the education session and other items deemed public by the Chair. The Board may entertain a motion at any time to move in-camera, if deemed necessary. Any item that is moved from an open to an in-camera session must meet the exception noted below and must be approved by a motion passed in accordance with the Board's rules of procedure.

In Camera Sessions

In-camera sessions may be held at the beginning and the end of the public segment of each Board meeting. Only those persons authorized by the Board to remain at the in-camera session of the meeting will be permitted to remain. Other persons will be excused from the in-camera portion of the meeting.

In-camera sessions will be held to discuss items of a confidential nature, including but not limited to: the security of the property of the _____, personal matters about an identifiable individual (including _____), a proposed or pending acquisition of _____ for purposes, employment issues, labour relations, litigation or potential litigation affecting the _____, the receiving of advice that is subject to solicitor-client privilege, audit outcomes.

In addition to in-camera sessions, the elected members of the Board of Directors will periodically have a "closed in-camera" meeting following an in-camera session of the Board and the secretary will continue as such unless the Chair decides otherwise.

EX-OFFICIO

The common definition/understanding of "Ex-officio" is a Latin term meaning "by virtue of office or position."⁴ Ex-officio members of boards and committees, therefore, are persons who are members by virtue of some other office or position that they hold. For example, if the bylaws of an organization provide for a Committee on Finance consisting of the treasurer and three other members appointed by the president, the treasurer is said to be an ex-officio member of the finance committee, since he or she is automatically a member of that committee by virtue of the fact that he or she holds the office of treasurer.

Without exception, ex-officio members of boards and **committees have exactly the same rights and privileges as do all other members, including, of course, the right to vote.** There are, however, two instances in which ex-officio members are not counted in determining the number required for a quorum or in determining whether or not a quorum is present.

INTERNATIONAL HUMAN RIGHTS PRINCIPLES

Human rights are universal and inalienable; indivisible; interdependent and interrelated. They are universal because everyone is born with and possesses the same rights, regardless of where they live, their gender or race, or their religious, cultural or ethnic background. Inalienable because people's rights can never be taken away. Indivisible and interdependent because all rights – political, civil, social, cultural and economic – are equal in importance and none can be fully enjoyed without the others. They apply to all equally, and all have the right to participate in decisions that affect their lives. They are upheld by the rule of law and strengthened through legitimate claims for duty-bearers to be accountable to international standards.

Universality and Inalienability

Human rights are universal and inalienable. All people everywhere in the world are entitled to them. The universality of human rights is encompassed in the words of Article 1 of the Universal Declaration of Human Rights: "All human beings are born free and equal in dignity and rights."

Indivisibility

Human rights are indivisible. Whether they relate to civil, cultural, economic, political or social issues, human rights are inherent to the dignity of every human person. Consequently, all human rights have equal status, and cannot be positioned in a hierarchical order. Denial of one right invariably impedes enjoyment of other rights. Thus, the right of everyone to an adequate standard of living cannot be compromised at the expense of other rights, such as the right to health or the right to education.

Interdependence and Interrelatedness

Human rights are interdependent and interrelated. Each one contributes to the realization of a person's human dignity through the satisfaction of his or her developmental, physical, psychological and spiritual needs. The fulfillment of one right often depends, wholly or in part, upon the fulfillment of others. For instance, fulfillment of the right to health may depend, in certain circumstances, on fulfillment of the right to development, to education or to information.

Equality and Non-discrimination

All individuals are equal as human beings and by virtue of the inherent dignity of each human person. No one, therefore, should suffer discrimination on the basis of race, colour, ethnicity, gender, age, language, sexual orientation, religion, political or other opinion, national, social or

⁴ Source: <http://www.robertsrules.com/faq.html#2>

geographical origin, disability, property, birth or other status as established by human rights standards.

Participation and Inclusion

All people have the right to participate in and access information relating to the decision-making processes that affect their lives and well-being. Rights-based approaches require a high degree of participation by communities, civil society, minorities, women, young people, indigenous peoples and other identified groups.

Accountability and Rule of Law

States and other duty-bearers are answerable for the observance of human rights. In this regard, they have to comply with the legal norms and standards enshrined in international human rights instruments. Where they fail to do so, aggrieved rights-holders are entitled to institute proceedings for appropriate redress before a competent court or other adjudicator in accordance with the rules and procedures provided by law. Individuals, the media, civil society and the international community play important roles in holding governments accountable for their obligation to uphold human rights.

Source: United Nations Population Fund
<http://www.unfpa.org/rights/principles.htm>

NATURAL JUSTICE

Natural justice is a legal philosophy used in some jurisdictions in the determination of just, or fair, processes in legal proceedings. The concept is very closely related to the principle of natural law (Latin: *jus natural*) which has been applied as a philosophical and practical principle in the law in several common law jurisdictions, particularly the UK and Australia.

According to Roman law certain basic legal principles are required by nature, or so obvious that they should be applied universally without needing to be enacted into law by a legislator. The assertion in the United States' Declaration of Independence, "We hold these truths to be self-evident," expresses some of this sentiment. The rules or principles of natural justice are now regularly applied by the courts in both common law and Roman law jurisdictions. Natural justice operates on the principles that man is basically good, that a person of good intent should not be harmed, and one should treat others as one would like to be treated.

Natural justice includes the notion of **procedural fairness** and may incorporate the following guidelines:

- A person accused of a crime, or at risk of some form of loss, should be given adequate notice about the proceedings (including any charges).
- A person making a decision should declare any personal interest they may have in the proceedings.
- A person who makes a decision should be unbiased and act in good faith. He therefore cannot be one of the parties in the case, nor have an interest in the outcome. This is expressed in the Latin maxim, *nemo iudex in sua causa*: "no man is permitted to be judge in his own cause".
- Proceedings should be conducted so they are fair to all the parties - expressed in the Latin maxim *audi alteram partem*: "let the other side be heard".
- Each party to a proceeding is entitled to ask questions and contradict the evidence of the opposing party.
- A decision-maker should take into account relevant considerations and extenuating circumstances, and ignore irrelevant considerations.
- Justice should be seen to be done. If the community is satisfied that justice has been done, they will continue to place their faith in the courts.

Source: http://en.wikipedia.org/wiki/Natural_justice

APPENDIX B

PROJECT COMMUNICATION

Appendix B: Project Communication

Council of Elders Review Underway

In late October Organizational Development Services (ODS) was approached to conduct an independent review of the Council of Elders (CoE), which operates under the Kahnawake Membership Law (KML). The review came about as a result of a report released by the Membership Department of the MCK's Social Development Unit (SDU). This report contains a recommendation to commission an independent review looking into the processes, actions and authorities of the CoE. The MCK met with the CoE to discuss the report and both agreed to the review.

ODS will be responsible for managing the review, keeping the community updated and providing a report on the outcomes of the review. The MCK is sponsoring this work though it will not be overseeing the project and no steering committee will be put in place in order to ensure the review remains independent of the SDU/MCK and as transparent as possible. The focus of this review is specifically the CoE and not the KML as a whole.

We would like to inform the community that the project started on November 16, 2007. We are currently conducting a literature review and developing interview tools.

Interviews will be done with former and current CoE members, MCK Membership Department staff, Chief & Council as well as a random sampling of people who have gone through the reinstatement process. If you are one of these people, you may be contacted to arrange for an interview with one of the project team members noted below. All interviews are voluntary and strictly confidential.

Interviews will tentatively begin the week of December 10, 2007 and will continue into the end of January 2008.

The ODS project team consists of eight members:



- Rheena Diabo (project manager)
- Dale Jacobs
- Arthur Diabo
- Karen Diabo
- Christine Loft (project coordinator)
- Winnie Taylor
- Cynthia White-Jacobs
- Ida LaBillois Montour

Project team members will carry identification cards confirming their role as an interviewer.

We are encouraging those contacted to participate. The intent of the review is to determine means of improving the function of the CoE in carrying out their duties within the KML. The different insights, opinions and perspectives we gather will provide clearer understanding and place us in the best position to make recommendations that will serve to improve CoE operations.

Those interested in obtaining a copy of the report that indicated the need for the review can access it at the Social Development Unit (at the Services Complex) or online at kahnawake.com (under Services >Public Documents: Membership Report - October 2007).

For more information you can contact Rheena Diabo or Christine Loft at 450-632-6880 or by e-mail at ods@kscskahnawake.ca.

APPENDIX C

LISTING OF MATERIALS REVIEWED

Appendix C: Listing of materials reviewed

The highlighted items represent those items included in the binder provided to new CoE Members for orientation.

- Kahnawake Membership Law April 2007 Version
- Kahnawake Membership Law pre- April 2007 Version
- Recommended Amendments to the Kahnawake Membership Law September 2005
- Kahnawake Membership Law Regulations # 1 to #6 versions 2003 & 2008
- Declaration of Commitment to Community – CoE
- Elders' Confidentiality Agreement
- Council of Elders Resolutions No. 01/2004/2005 #2, #3, May 2004
- Council of Elders Resolutions No. 02/2004/2005 #4, # 5 May 2004
- Associate forms to Regulation No. 5
- Council of Elders Resolutions No. 03/2004-2005 revoking Resolutions 01/2004/2005 and 02/2004-2005 Regulations #2, #3, #4, # 5 May 2004 and enacting amended Regulations #2, #3, #4, # 5
- Council of Elders Resolutions No. 04/2004-2005 revoking Resolutions No. 03/2004-2005 and enacting amended Regulations #2, #3, #4, # 5
- Council of Elders Resolutions No. 05/2004-2005 revoking Appendix D Resolution No. 04/2004-2005 and enacts Regulation No. 5 as Appendix "A"
- Council of Elders Resolutions No. 06/2004-2005 revoking Resolution No. 05/2004-2005 and enacts Regulation No. 5 as Appendix "A"
- Council of Elders Resolutions No. 07/2004-2005 enacts Regulation No. 6 as Appendix "A"
- Council of Elders Resolutions No. 08/2004-2005 enacts Regulation No. 7 as Appendix "A"
- Council of Elders Resolutions No. 09/2005-2006 repealing Regulation No. 3 and replaced with Appendix "A"
- Council of Elders Resolution No. 10/2005-2006 renunciation of membership
- Council of Elders Resolution No. 11/2006-2007 renunciation of membership
- Council of Elders Resolution No. 1/2007-2008 revoking Resolution No. 06/2004-2005 enacting Regulation No.5 as Appendix "A"
- Council of Elders Resolution No. 2/2007-2008 renunciation of membership
- Council of Elders Resolution No. 3/2007-2008 renunciation of membership
- Council of Elders Resolution No. 4/2007-2008 renunciation of membership
- Council of Elders Resolution No. 5/2007-2008 renunciation of membership
- Council of Elders Resolution No. 6/2007-2008 renunciation of membership
- Council of Elders Resolution No. 7/2007-2008 renunciation of membership
- Council of Elders Resolution No. 9/2007-2008 renunciation of membership
- Council of Elders Resolution No. 10/2007-2008 renunciation of membership
- Guide to Understand the Proposed Membership Law (no date)
- A Proposition of Kahnawake Communal Law on Membership June 1996
- Kahnawake Mohawk Law page 2 (no date)
- Letter from a council, December 11, 1984 (no letterhead)
- Moratorium (no date MCK letterhead)

- Kahnawake Membership Law 1984
- Memo to community with Discussion Paper (Information Task Force March 1996)
- Report on the Consultation of the Kahnawake Communal Law on Membership July 1996 Phase I
- Discussion Paper Mohawks of Kahnawake Communal Law on Membership March 1996
- Report on the Consultation of the Kahnawake Communal Law on Membership January 1997 Phase II
- Special Edition Onkwarihwa'shon:'a August 1997 presenting Custom Code & outstanding Membership Issues, and proposed community meeting structure, copy of Draft #5 Custom Code on Membership
- Summary Report Community meeting August 1997
- Declaration of Kanien'kehá:ka Membership of Kahnawake
- Terms of Reference Interim Membership Advisory Committee
- Onkwarihwa'shon:'a January 1999
- Draft 1 Kahnawake Elders Declaration on Kahnawake Membership February 1999
- Synopsis of the Custom Code July 1999
- Minutes Community Membership Meeting with Synopsis of Custom Code September 1999
- Final Report on Thirty Day Process-Custom Code on Membership December 1999
- Onkwarihwa'shon:'a Draft Membership Law Launched at Winter Community Meeting includes draft of law February 2003
- Onkwarihwa'shon:'a Membership Law Final Say notes changes to draft August 2003
- Report on the 30 Day Process on the Draft Kahnawake Membership Law and Draft Regulations – Kahnawake Community Consultation Service March 2003
- Action Plan – presented & drafted by the Registrar (no date)
- Questions used to interview applicants during hearings
- Outline of process for hearings
- International Principles of Human Rights
- Principles of Natural Justice
- Report on the Review of the Kahnawake Membership Law – Social Development Unit October 2007
- Reports of other First Nations in North America on their Membership practices/laws
- Royal Commission on Aboriginal Peoples - Membership

APPENDIX D

INTERVIEW TOOLS

Appendix D: Interview Tools

Council of Elders Review 07/08
Applicant Questions

1. Which category under the Kahnawake Membership Law did you apply for:
 Membership (inclusion on the Kahnawake Kanien'kehá:ka Registry) instatement or reinstatement
 Non-member resident

2. Did you have personal contact with the MCK Membership Department (Registrar's office)?
 Yes No Please describe your experience.

3. Did you have personal contact with the Council of Elders? Yes No
 Please describe your experience.

4. Are you aware of the roles and responsibilities of the Council of Elders within the Kahnawake Membership Law? Yes No Please explain.

5. Are you aware of the roles and responsibilities of the Registrar within the Kahnawake Membership Law? Yes No Please explain.

6. Did you attend a meeting (hearing) before the Council of Elders? Yes No
 What was the decision rendered or what is the status of your application?

- 7a. Describe your experience going through the Kahnawake Membership Law process from beginning to end (*procedures followed- who, when, etc.*)?

- 7b. Would you qualify your experience as: positive negative?
 What are the contributing factors to this judgement?

- 7c. What impact has this experience had on you?

8. In your opinion does the Council of Elders conducts its meetings and make its decisions based on:

	Yes/No	Examples/Explain further
Respect for the principles of fairness		
Dignity of the person		
Compassion		
Consensus		
Consistence with the traditions and customs of the Kanien'kehá:ka of Kahnawake		

9. In your opinion what competencies/qualifications/characteristics do you feel should be required to function as a member of the Council of Elders (based on the present structure, authority, accountability, roles, relationships, goals, objectives, policies and procedures)?

10. How would you make sure that potential Council of Elders members have these competencies?
11. In your opinion are there any developmental requirements (*things that need to be developed*) for the Council of Elders in carrying out their role within the Kahnawake Membership Law (i.e. in regards to their structure, accountability, relationships, procedures, etc.)?
12. In your opinion are there any social impacts (either positive or negative) to applicants using the Kahnawake Membership Law process? Please describe.
13. In your opinion are there any social impacts (either positive or negative) to members of the Council of Elders in applying the Kahnawake Membership Law process? Please describe.
14. What recommendations would you make for the improvement of the Kahnawake Membership Law process?
15. Additional comments: Do you have any more information you would like to share that would help us better understand the Council of Elders operation?

Council of Elders Review 07/08
Council of Elders/Membership Review Committee Questions

1. What was your role in the development of the Kahnawake Membership Law? Describe your experience.
2. What has been your experience with the implementation of the Kahnawake Membership Law Process?
3. In regards to the Council of Elders/Membership Review Committee's operation within the Kahnawake Membership Law, please identify for each area what is working well and what needs improvement.

Area	What is working well	What needs improvement (developmental requirements)
Structure		
Authorities		
Accountability		
Roles		
Relationships		
Goals		
Objectives		

Policies (Law)		
Procedures (Regulations)		
Tools		
Areas of Training		

4. In your opinion does the Council of Elders conducts its meetings and make its decisions based on:

	Yes/No	Examples/explain further
Respect for the principles of fairness		
Dignity of the person		
Compassion		
Consensus		
Consistence with the traditions and customs of the Kanien'kehá:ka of Kahnawake		

5. In your opinion what competencies/qualifications/characteristics do you feel should be required to function as a member of the Council of Elders (based on the present structure, authority, accountability, roles, relationships, goals, objectives, policies and procedures)?

6. How would you make sure that potential Council of Elders members have these competencies?

7a. What has been your experience working within the Kahnawake Membership Law process from beginning to end?

7b. Would you qualify this experience as: positive/ negative? What are the contributing factors to this judgement?

7c. What impact have these experiences had on you?

8. In your opinion are there any social impacts (either positive or negative) to applicants using the Kahnawake Membership Law process? Please describe.

9. In your opinion are there any social impacts (either positive or negative) to members of the Council of Elders in applying the Kahnawake Membership Law process? Please describe.

10. What do you believe have been the contributing factors to turnover within the Council of Elders?

11. What would you recommend for the improvement of the Kahnawake Membership Law process?

12. Additional comments: Do you have any more information you would like to share that would help us better understand the Council of Elders operation?

Council of Elders Review 07/08
Chief and Council/Key Informant Questions

1. What was your role in the development of the Kahnawake Membership Law? Describe your experience.
2. What has been your experience with the implementation of the Kahnawake Membership Law process?
3. In regards to the Council of Elders/Membership Review Committee's operation within the Kahnawake Membership Law, please identify for each area what is working well and what needs improvement.

Area	What is working well	What needs improvement (developmental requirements)
Structure		
Authorities		
Accountability		
Roles		
Relationships		
Goals		
Objectives		
Policies (Law)		
Procedures (Regulations)		
Tools		
Areas of Training		

4. To your knowledge does the Council of Elders conducts its meetings and make its decisions based on:

	Yes/No	Examples/explain further
Respect for the principles of fairness		
Dignity of the person		
Compassion		
Consensus		
Consistence with the traditions and customs of the Kanien'kehá:ka of Kahnawake		

5. In your opinion what competencies/qualifications/characteristics do you feel should be required to function as a member of the Council of Elders (based on the present structure, authority, accountability, roles, relationships, goals, objectives, policies and procedures)?
6. How would you make sure that potential Council of Elders members have these competencies?
- 7a. To your knowledge how have individuals experienced going through the Kahnawake Membership Law process from beginning to end?
- 7b. Would you qualify these experiences as: positive/negative? What are the contributing factors to this judgement?
- 7c. What impact have these experiences had on the community?
8. In your opinion are there any social impacts (either positive or negative) to applicants using the Kahnawake Membership Law process? Please describe.
9. In your opinion are any social impacts (either positive or negative) to members of the Council of Elders in applying the Kahnawake Membership Law process? Please describe.
10. What do you believe have been the contributing factors to turnover within the Council of Elders?
11. What would you recommend for the improvement of the Kahnawake Membership Law process?
12. Additional comments: Do you have any more information you would like to share that would help us better understand the Council of Elders operation?

Council of Elders Review 07/08
Membership Department Staff Questions

1. What was your role in the development of the Kahnawake Membership Law? Describe your experience
2. What has been your experience with the implementation of the Kahnawake Membership Law process?
3. Please describe your working relationship with the Council of Elders.
4. In regards to the Council of Elders/Membership Review Committee's operation within the Kahnawake Membership Law, please identify for each area what is working well and what needs improvement.

Area	What is working well	What needs improvement (developmental requirements)
Structure		
Authorities		
Accountability		
Roles		
Relationships		
Goals		
Objectives		
Policies (Law)		
Procedures (Regulations)		
Tools		
Areas of Training		

5. In your opinion are there any impediments (barriers) the Council of Elders faces in fulfilling its mandate? Please describe.

6. To your knowledge does the Council of Elders conducts its meetings and make its decisions based on:

	Yes/No	Examples/explain further
Respect for the principles of fairness		
Dignity of the person		
Compassion		
Consensus		
Consistence with the traditions and customs of the Kanien'kehá:ka of Kahnawake		

7. In your opinion what competencies/qualifications/characteristics do you feel should be required to function as a member of the Council of Elders (based on the present structure, authority, accountability, roles, relationships, goals, objectives, policies and procedures)?
8. How would you make sure that potential Council of Elders members have these competencies?
- 9a. To your knowledge how have individuals experienced going through the Kahnawake Membership Law process from beginning to end?
- 9b. Would you qualify this experience as: positive/negative? What are the contributing factors to this judgement?
- 9c. What impact have these experiences had on the community?
10. In your opinion are there any social impacts (either positive or negative) to applicants using the Kahnawake Membership Law process? Please describe.
11. In your opinion are there any social impacts (either positive or negative) to members of the Council of Elders in applying the Kahnawake Membership Law process? Please describe.
12. What are the impacts to you (as staff of the membership department) in applying the Kahnawake Membership Law process?
13. What do you believe have been the contributing factors to turnover within the Council of Elders?
14. What would you recommend for the improvement of the Kahnawake Membership Law processes (*that fall within the operations of the Council of Elders*)?
15. Additional comments: Do you have any more information you would like to share that would help us better understand the Council of Elders operation?

