

Band Assembly Bill 10-04-33-03

A Bill amending Title 9 MLBSA §§ 1-30 in regard to the Nay Ah Shing School Board and its respective powers and duties.

The District II Representative introduced the following Bill on the 17th day of July, 2003.

This Education Ordinance represents the law pertaining to the Nay Ah Shing School Board. Prior Title 9 MLBSA §§ 1-30 are repealed and replaced in their entirety by this Ordinance.

PREAMBLE: The Mille Lacs Band of Ojibwe Indians believes that its children are its most precious resource as they represent the future of the Band. In the quest to provide a quality education for their children, the Band recognizes that the Nay Ah Shing Schools require a School Board that is responsive to the needs of the children. It is the intent of this law to provide clear direction for the Nay Ah Shing School Board so that it may fulfill its mission to provide a quality education for the Mille Lacs Band of Ojibwe children.

Chapter 1

Section 1. Consolidated Nay-Ah-Shing School Board

A Commission to be known as the Nay Ah Shing school board is hereby chartered and authorized as an independent subdivision of the Executive Branch of tribal government with those powers as delegated by the Band Assembly.

Section 2. Membership and voting

The Consolidated Nay-Ah-Shing School Board shall be five-member board; with each member having the title of Board Member, with the exception of the leader whose title shall be Chairperson. Each Board Member shall have one vote at regular and special meetings with the exception of the Chairperson who shall vote in the case of a tie vote.

Section 3. Election of members

Each Board Member shall be elected, two from District I, one from District II and one from District III. The Chairperson shall be elected from an at large voting position.

Section 4. Terms of office

The term of office for each Board Member shall be four years. The positions will be staggered with two members (Districts I and III) being elected in June 1990, and every four years thereafter, and the Chairperson and two other members (Districts I and II) being elected in June, 1992, and every four years thereafter.

Section 5. Eligibility for Board membership

- a) Any Board Members elected by the residents of a district or the Chairperson shall be an enrolled member of the Mille Lacs Band of Ojibwe Indians and at least twenty-one years as of the date of certification of candidates by the Joint Session
- b) Any Board Member elected or appointed must reside for at least one year prior to the primary election within the voter districts.

Section 6. Removal from office

Any Board Member may be removed from office for just cause as determined by 3 MLBSA § 25.

Section 7. Vacancies

- a) In the event that a Board Member resigns or is removed as a Board Member or is otherwise unable to complete his/her term as a Board Member or there is otherwise a vacancy the vacancy shall be filled by appointment.
- b) The District Representative from the District where the vacancy occurs shall provide the Chief Executive with the names of two eligible persons from which the Chief Executive shall nominate one person to fill the vacancy that is subject to ratification of the Band Assembly.
- c) If a District Representative does not submit the names of two eligible persons to the Chief Executive within thirty (30) days of a vacancy, the Chief Executive shall appoint an individual to complete the term.
- d) In the event that the vacancy occurs in the Chair position, the Chief Executive shall make the nomination that is subject to the ratification of the Band Assembly.
- e) In the event the Chief Executive fails to nominate a person to fill a vacancy for the Chair position within thirty (30) days of a vacancy, the Secretary/Treasurer shall appoint an individual to complete the term.

Section 8. Powers and duties of the Nay-Ah-Shing School Board

- a) The Consolidated Nay-Ah-Shing School Board shall have power to establish educational policy for the benefit of Band members and non-Band members attending a Band school.
- b) They shall prepare a uniform system of records for the Band's school(s).
- c) They shall have general supervision over all Band 0-12 School Programs and shall establish policy for:
 - (1) approval of requests for any educational, scientific research;
 - (2) minimum criteria for passage to succeeding grades and graduation;
 - (3) appropriate student conduct and disciplinary procedures;

- (4) any satellite/expanded services for Band 0-12 School Programs;
- (5) the preparation and authorization of educational grants and contracts related to all Band 0-12 School Programs;
- (6) the employment and termination of all Band 0-12 School employees or the regulation of the behavior of said employees through authorized personnel policies; and
- (7) the implementation of rules and regulations for any Band 0-12 School education-related subject-matter statute.

(d) The Nay Ah Shing School Board shall have jurisdiction over all 0-12 School employees.

Section 9. Educational state of the Band report and needs assessment

The Consolidated Nay-Ah-Shing School Board shall annually prepare an Educational State of the Band report to the Chief Executive and the Band Assembly no later than August 1 of each year and biannually conduct a needs assessment into all areas of its jurisdiction. By August 1 of each year, the Commissioner of Education and Nay Ah Shing School Board shall concur on appropriate levels for academic achievement, culture and language, and staffing for the upcoming year.

Section 10. Hearings

The Consolidated Nay-Ah-Shing School Board shall have the power to hold subject matter public hearings for just cause.

Section 11. Bylaws

The Consolidated Nay Ah Shing School Board shall adopt a set of bylaws establishing its rules of procedure and other internal governance matters within 90 days of passage of this Act. Said Bylaws shall be ratified by Band Assembly.

Section 12. Responsibility for unacceptable performance of duties

In exercising any powers granted, each Board Member shall not be immune from any responsibility that results from willful, knowledgeable and unacceptable performance of their duties.

Section 13. Meetings

The Consolidated Nay-Ah-Shing School Board may meet up to twice a month with an agenda prepared in advance by the Chairperson. The Chairperson shall give at least twenty-four hour notice for any Special meetings.

Section 14. Powers reserved to Band Assembly

Any and all powers not specifically listed are reserved to the Band Assembly.

Section 15. Powers and duties of Commissioner of Education

The Commissioner of Education shall have general and day-to-day supervisory authority over all non Nay Ah Shing School department employees and the power and duty to:

- a) Attend regularly scheduled and special School Board Meetings;
- b) Negotiate and execute contracts with individuals and funding agencies of the United States or any private foundations for any education related matters;
- c) Exercise the day-to-day administration of all education activities including supervisory authority over any and all Education employees, subject to review by the School Board in the case of Band 0-12 School employees;
- d) Authorize the expenditure of all education funds under his/her jurisdiction, provide the School Board with a copy of each budget and notify the Board of all expenditures and budget modifications, and be accountable for the lawful disbursement of such funds;
- e) Recommend the employment, discipline or termination of education employees, other than 0-12 School employees, for just cause to the Administration Policy Board or the Nay Ah Shing School Board depending on which program supervises the employee;
- f) Open or close school sessions for just cause;
- g) Issue Commissioner's Orders on any subject matter within his/her jurisdiction pursuant to the authority conferred by Band statute;
- h) With the School Board, determine annual student achievement standards;
- i) Report to School Board on matters of concern to the Board; and
- j) Forward budget requests, in consultation with School Board.

Section 16. Local Indian Education Committees

All local Indian Education Committees shall be disbanded with powers transferred to the Nay-Ah-Shing School Board upon the date of enactment of this statute. Authorities granted by the Mille Lacs Reservation Business Committee to said Committees are hereby revoked and rescinded.

Section 17. Admission to Nay-Ah-Shing School

All schools under the jurisdiction of the Band which are supported by band revenue or any funds of the United States shall admit any enrolled member of the Band who is of school age and has not been expelled from any other school for violation of federal law. Notwithstanding the provision of any law to the contrary, the conduct of all pupils attending a Band sanctioned school shall be governed by a single set of reasonable rules and regulations established by the School Board. The School Board shall establish a

single set of reasonable admission standards that shall contain uniform minimum school age entrance requirements.

Section 18. Compulsory attendance of school age pupils

- a) Every child between the chronological age of six and sixteen year of age shall attend a Band School or Public School of the State of Minnesota, during the entire time that the school is in session during the school year. Nay Ah Shing School shall be in session no less than one hundred and eighty (180) instructional days. 25 CFR, Part 36, Subpart C, Section 36.20(b). Any student between sixteen and eighteen years of age who seeks to withdraw from school, and the student's parent or guardian must (1) attend a meeting with school personnel to discuss the educational opportunities available to the student, including alternative educational opportunities, and (2) sign a written election to withdraw from school.
- b) It shall be the duty of the School Board or its designee to determine the legitimacy of all absences from school for any pupil. Excuses for absence shall be determined from uniform standards established by the School Board.
- c) The School Board or its designee shall by registered mail notify the parents or guardians of any pupil who is unexpectedly absent from school. On the fifth unexcused absence from school the School Board shall by registered mail notify the parents or guardians to appear before the School Board for a formal hearing into the matter. Upon the continuation of unexcused absences or upon failure of the parents or guardians to appear before the School Board, the School Board shall request that the appropriate Social Services agency file a civil complaint (Child Protection Petition) in a court of competent jurisdiction.
- d) Any person who is found guilty of civil violations of this section shall be subject to a fine not to exceed One Hundred (\$100.00) dollars. Continued civil violation shall subject the person to contempt of court and an additional fine.
- e) For purposes of this section, parents or legal guardians shall be deemed liable for the truancy of minors under their direct supervision in any court of competent jurisdiction.

Section 19. Obligations of the Nay-Ah-Shing School Board

The Nay-Ah-Shing School Board shall have the following obligations under this Ordinance:

- (a) to establish rules relating to qualifications of essential personnel, course of study or training, methods of instruction and training, size of classroom, equipment, supervision of pupils, parent consultation and any other rules or standards within its statutory authority;
- (b) to provide a free education to all children attending any Band 0-12 School;
- (c) to furnish free textbooks to all pupils;
- (d) to establish a cultural language educational program; and
- (e) to ensure that each graduate can converse in the native language of Ojibwe upon graduation.

Section 20. Bequests, gifts and trusts

The School Board may receive, for the benefit of Indian children in any Band educational program, bequests, donations or gifts for any proper purpose and apply the same to the purpose designated.

Section 21. Records

The School Board shall keep records of all meetings and all transcripts thereof. Such records shall be prima facie evidence of the facts therein stated. They shall also keep records of student achievement, attendance and related issues. All such records shall be private and confidential and shall only be disclosed pursuant to a confidentiality policy adopted by the School Board.

Section 22. Health

The School Board shall establish a policy for physical examinations for all pupils enrolled at Band 0-12 grade schools. Employees of the School Board shall show freedom from contagious diseases in accordance with rules established by the Coordinator of Health Services. The Coordinator of Health Services shall be the Nurse Practitioner/Community Health Nurse at Ne-ia-shing Clinic. The Commissioner of Health & Human Services in conjunction with the School Board shall be responsible for the development of all health related rules, regulations and policies for the 0-12 grade school programs. The School Board shall adopt any such rule, regulation or policy recommended by the Commissioner of Health & Human Services unless they find compelling cause to reject such rule, regulation or policy.

Section 23. Sectarian materials or teaching

The School Board shall ensure that sectarian materials of any type are not provided to pupils that promote beliefs inconsistent with the cultural laws and traditions of the Band. They shall further ensure that all Band 0-12 grade school programs remain free of sectarian beliefs and political activism of any kind.

Section 24. In loco parentis

The School Board shall not assume parental rights for any child while such child is in attendance at Band school. Corporal punishment shall not be permitted as a form of discipline in any policy adopted by the School Board.

Section 25. Office of Management and Budget

The Office of Management and Budget shall retain financial responsibility for the general books of account for all education-related funds of the Band.

Section 26. Appropriations

The Band Assembly shall retain appropriation authority over all education-related funds. As required by Band Ordinance 23-99, appropriation requests shall be prepared on a biennial basis and forwarded to the Chief Executive for submission to the Band Assembly no later than September 1 of each odd-numbered year.

Section 27. Veto authority of Chief Executive

The Chief Executive may veto any official action of the School Board within five business days of receipt of any such policy, rule or regulation with concurrent ratification of such veto by the Band Assembly within ten business days. In the event of the Band Assembly's refusal to ratify any such veto, said action of the School Board shall be implemented. If the Band Assembly concurs with the Chief Executive's veto, the official action of the School Board shall fail to take effect. Upon receipt of notice of any such Executive veto, the Chairperson of the School Board shall appear before the Band Assembly to justify the School Board's official action to the Band Assembly. Such justification shall be submitted in writing at least one day before formal oral hearing before the Band Assembly.

Section 28. Appeals

The Administrative Policy Board shall hear all appeals of Nay Ah Shing School Board personnel decisions. If the School Board disagrees with the APB decision, the Board may appeal such decision to the Court of Central Jurisdiction.

Section 29. Solicitor General

- a) The Solicitor General shall represent the interest of the School Board in matters before the Court of Central Jurisdiction with the exception of those issues in which the interests of the Band override the interest of the School Board.
- b) Should there be any doubt as to the proper interpretation of any part of this Chapter, the Commissioner of Education shall submit such question to the Solicitor General, who should issue a written opinion thereon.

Section 30. Sovereign Immunity.

- a) Nothing in this chapter shall be construed as a waiver of sovereign immunity of the Mille Lacs Band of Ojibwe Indians in any State or Federal Court of competent jurisdiction.

Ordinance 33-03

Introduced to the Band Assembly on this
Seventeenth day of July in the year
Two Thousand Three.

Passed by the Band Assembly on this
Twenty-Fifth day of September in the year
Two Thousand Three.

Herb Weyaus
Herb Weyaus, Speaker of the Assembly

APPROVED

Date: 9-26-03

Melanie Benjamin
Melanie Benjamin, Chief Executive

Date: _____

Vetoed

FILED

Date: 9-26-03

John S. Swimmer
John Swimmer, Solicitor General

OFFICIAL SEAL OF THE BAND