



**THE MILLE LACS BAND OF
OJIBWE INDIANS**

Executive Branch of Tribal Government

EXECUTIVE ORDER 146-02

**AN EXECUTIVE ORDER CLARIFYING THE DISTRIBUTION OF AUTHORITY IN
THE EDUCATION DIVISION AND REQUIRING COMPLIANCE WITH EXECUTIVE
BRANCH BUDGETARY LIMITATIONS**

- WHEREAS,** 4 MLBSA § 2 states that all Executive Branch authority, unless otherwise specified by Band statute, shall be exercised by the Chief Executive, and 4 MLBSA § 7(d) authorizes the Chief Executive to regulate the performance of the duties of executive officers, and;
- WHEREAS,** 4 MLBSA § 4 identifies the Commissioner of Education as an executive officer and 9 MLBSA § 1 identifies the Nay-Ah-Shing School Board as an independent subdivision of the Executive Branch of tribal government, and;
- WHEREAS,** for many years there has been confusion in the Education division regarding the distribution of authority between the Commissioner of Education and the Nay-Ah-Shing School Board in Band Statute, and;
- WHEREAS,** with the issuance of Solicitor's Opinion 98-21 the Office of Solicitor General tried to clarify the relationship between the Commissioner of Education and the Nay-Ah-Shing School Board but this Opinion was annulled by the Band Assembly, and;
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- WHEREAS,** the Chief Executive on August 5, 2002 issued Executive Order 145-02, an order rescinding Executive Order 108-93, because the latter Order served to confuse the statutory relationship between the Nay-Ah-Shing School Board and the Commissioner of Education, and;
- WHEREAS,** 9 MLBSA §8 describes the powers and duties of the Nay-Ah-Shing School Board, and the Chief Executive has determined that these powers and duties, and those described in other sections of 9 MLBSA primarily involve the promulgation of educational policies and rules, and
- WHEREAS,** 9 MLBSA § 16 describes the powers and duties of the Commissioner of Education to include "day-to-day administration of all education activities including supervisory authority over any and all employees," and grants the Commissioner "the authority to authorize the expenditure of all education funds under his jurisdiction," and;
- WHEREAS,** 9 MLBSA § 16 requires the Commissioner of Education to "recommend the employment, discipline or termination of any education employee for just cause,"

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but the provision does not explicitly state which governmental body shall receive such recommendations, creating further confusion for Band employees and administrators, and;

WHEREAS, the Chief Executive has determined that the current state of confusion in the Education Department is unacceptable and detrimental to the effective operation of that Department, and;

WHEREAS, the Chief Executive has determined that it is necessary and prudent for all Executive Branch Departments to limit all performance-based salary increases to four percent (4%).

NOW THEREFORE BE IT ORDERED, that the Education Division shall henceforth comply with the following:

1. The Nay-Ah-Shing School Board shall exercise all powers and duties granted them by Band Statute, specifically those found at 9 MLBSA §§ 8-14, and 17-25, and any other applicable provision. They shall have general supervision over all Band education-related facilities and promulgates policies and rules as authorized by Band Statute. The School Board shall not exercise any duty or responsibility properly delegated to the Commissioner of Education by Band Statute.
2. The Commissioner of Education shall exercise all powers and duties granted by Band Statute, specifically those found at 9 MLBSA §§ 14, 16, 19, and any other applicable provision. Specifically, the Commissioner shall be responsible for day-to-day administration of all education activities, including supervisory authority over any and all employees. The Commissioner shall also have the authority to authorize the expenditure of all education funds under the Commissioner's jurisdiction and be accountable for their lawful disbursement. The Commissioner may also do all things deemed by the Commissioner as desirable in the preservation or protection of education facilities or educational matters through the issuance of Commissioner's Orders. The Commissioner of Education shall not exercise any duty or responsibility properly delegated to the Nay-Ah-Shing School Board by Band Statute.
3. Henceforth, and until such time as this Order is rescinded or the relevant provisions of Band Statute are amended, the Commissioner of Education, in the exercise of supervisory authority over any and all Education Division employees, shall recommend the employment, discipline or termination of any Education Division employee to the Administration Policy Board.
4. The Administration Policy Board, pursuant to its authority under 4 MLBSA § 8, shall consider the employment, discipline or termination of any Education Division employee as it would any other Band employee.

5. Neither the Commissioner of Education nor the Nay-Ah-Shing School Board shall authorize any performance-based salary increases in excess of the amount set annually by the Administration Policy Board for such increases.

Dated this 22 day of August, 2002

Melanie Benjamin
Melanie Benjamin, Chief Executive

Expiration Date: None

APPROVED AS TO FORM AND EXECUTION

Mary Al Balber
Mary Al Balber
Solicitor General

OFFICIAL SEAL OF THE BAND