



THE MILLE LACS BAND OF  
*OJIBWE INDIANS*

43408 Oodena Drive, Onamia, MN 56359  
Phone (320)532-7894 Fax (320)532-7836

Office of the Solicitor General

---

**Opinion of the Solicitor General**

**No. 49-25**

**November 5, 2025**

Title 4 MLBS § 18 assigns to the Solicitor General the following responsibilities, obligations and authority on behalf of the Non-Removable Mille Lacs Bands of Chippewa Indians: (d) To interpret all laws and executive, legislative, secretarial and commissioner's orders and policies on behalf of the Non-Removable Mille Lacs Bands of Chippewa Indians; (1) all said interpretations shall be titled in the form of Opinion of the Solicitor General, be consecutively numbered, dated as to the date of issuance, and contain the official seal of the Band, and (2) all said opinions of the Solicitor General shall have the force of law and shall be binding until annulled by the Court of Central Jurisdiction or amended pursuant to legislative order of the Band Assembly. This opinion is issued pursuant to the authority conferred upon the Solicitor General in 4 MLBS § 18(d) and shall have the force of law subject to the conditions stated in § 18(d)(2).

On October 29, 2025, the Band Assembly passed Resolution 21-04-64-25 requesting a Solicitor's Opinion on the following questions:

- 1) Whether the Commissioner of Administration's immediate family member serving as a Band executive officer constitutes an impermissible potential, perceived, or actual conflict of interest.
- 2) Whether the Commissioner of Administration's immediate family member serving as a Band executive officer gives rise to unfair employment or business practices pursuant to 6 MLBS § 1157.
- 3) Whether the Commissioner of Administration's immediate family member serving as a Band executive officer violates Band law or Mille Lacs Band of Ojibwe Personnel Policy and Procedures.
- 4) Given the Commissioner of Administration's complex responsibilities, role as chief of staff, and considerable authority to act on behalf of the Chief Executive, does it defy "sound

judgment and common sense” to nominate and ratify a Commissioner of Administration whose immediate family member serves as a Band executive officer?

- 5) What formula, factors, or test should a Commissioner of Administration employ to determine whether a potential decision or action affecting their commissioner family member or the department the family member oversees, constitutes an impermissible potential, perceived or actual conflict of interest; an unfair employment or business practice; or otherwise violate Band law or policy?

### **Summary**

The Commissioner of Administration nominee is an immediate family member of the current Commissioner of Community Development. 4 MLBS § 10 provides that the Commissioner of Administration shall act as the Chief of Staff within the Executive Branch of Government and have the following authority:

- a) To act in the absence of any other commissioner.
- b) To act by and with the advice and consent of the Chief Executive.
- c) To sign by authorization all vouchers and expenditures of appropriated funds of the Executive Branch pursuant to the provisions of Band statute.
- d) To represent the interests of the Chief Executive in matters before the Band Assembly upon the direction of the Chief Executive.
- e) To be responsible for the preparation of the biennial budget for the Executive Branch of Band government and for the submission of said budget to the Band Assembly no later than September 1 of each odd numbered year.
- f) To exercise all authority conferred pursuant to the provisions of any Band statute and any authority conferred by the Chief Executive.
- g) To delegate to the Assistant Commissioner of Administration any of the authority contained herein or in 4 MLBS § 7 during the absence of the Commissioner of Administration or other executive officer.

The brief summary is that there is no actual conflict of interest, violation of Band law or violation of Band personnel policy created by this situation, but there could be perceived or potential conflicts of interest. Strict adherence to the letter and intent of Band law and policies by the Chief Executive and the Commissioner of Administration in executing their duties would eliminate any potential conflicts of interest, and thus prevent any violations of Band law and policy.

### **Analysis**

- 1) Whether the Commissioner of Administration’s immediate family member serving as a Band executive officer constitutes an impermissible potential, perceived, or actual conflict of interest.

There are several sources of Band law and policy that address employee conflicts of interest. The Band's ethics code, at 6 MLBS § 1156, addresses conflicts of interest as follows:

It is the duty of all Mille Lacs Band officials to pursue and protect the best interests, needs, and welfare of the Band. Their personal interests or interests of their friends, immediate family, or businesses shall be subordinated to the larger, best interests of the Band. Basic honesty, sound judgment and common sense are requisite for avoiding conflicts of interest and perceived conflicts of interest.

The following specific activities relating to conflicts of interest are prohibited by the Ethics Code, 6 MLBS § 1157:

- Misusing public office or position for private or personal gain (§ 1157(a))
- Attempting to make or influence Mille Lacs Band or political subdivision decisions outside official processes (§ 1157(b))
- Voting or participating in official decisions in matters where the official has a personal or economic interest greater than that of other Mille Lacs Band members or employees (§ 1157(c))
- Improperly using Band resources for private or personal gain (§ 1157(f))
- Practicing or supporting unfair employment or business practices, such as but not limited to nepotism, harassment or retaliation (§ 1157(g))
- Improperly using their position to coerce or attempt to coerce anyone in order to further their personal interests or the interests of immediate family (§ 1157(h)).

In addition, the Senior Executive Staff Policies at 6 MLBS § 1007 require that senior executive staff appointees of tribal government shall not use their appointed position for their own personal financial benefit or financial benefit of family members, and appointed officials of tribal government shall not order the preparation of any type of check in which they or an immediate family are to be the payee.

Band personnel policies address conflicts of interest as well:

Employees have an obligation to conduct business within guidelines that prohibit actual or potential conflicts of interest or the appearance of a conflict. An actual or potential conflict of interest occurs when an employee is in a position to influence a decision that may result in a personal gain for that employee or for a relative as a result of Mille Lacs Band's business dealings. For the purposes of this policy, a relative or family member is defined as the employee's spouse, biological or adopted child, members of the same household, or the mother, father, sister, or brother of the employee.

Personnel Policy and Procedure Manual ("PPPM") at 17. The "Hiring of Relatives" section of the Personnel Policy and Procedures states:

Because the employment of family members in the same area of an organization could lead to conflicts in the workplace, family members of persons currently employed by the Mille Lacs Band may be hired only if:

*They will not be working directly for or supervising a family member; and*

*They will not be working directly above the family member's immediate superior or directly for the family member's immediate subordinate.*

Mille Lacs Band employees should not be transferred into a direct reporting relationship with family members absent special circumstances. If the family relationship between direct reports is established after employment, the individuals concerned will mutually recommend, subject to Band approval, which person is to be transferred. If the parties cannot agree upon the transfer, or the Band cannot accommodate the parties' decision for any reason, the Band will have the authority to make any personnel decisions to avoid the direct reporting relationship of family members. If it is not possible to transfer either party to an available position, the Band has the right to terminate one of the parties without following the progressive discipline policy in this Manual. For the purposes of this paragraph, "Band" shall be defined as the Commissioner or Elected Official responsible for oversight of the conflicted employees. In other cases where a conflict or the potential for conflict arises, even if there is no supervisory relationship involved, either party may be separated by reassignment. See 6 MLBSA § 1157(g). For the purposes of this policy, family member means a spouse, biological or adopted child, members of the same household, or the mother, father, sister, or brother of the employee.

PPPM at p. 16 (emphases in original). The Business Ethics and Conduct section states:

The Mille Lacs Band's reputation for integrity and excellence requires careful observance of the spirit and letter of all applicable laws and regulations, as well as a scrupulous regard for the highest standards of conduct and personal integrity. All employees owe a duty to the Mille Lacs Band, Band members and other employees to act in a way that will merit the continued trust and confidence of the public. The Mille Lacs Band will comply with all applicable laws and regulations and expects its Commissioners, Directors, Officers and employees to conduct business in accordance with the letter, spirit and intent of all relevant laws and to refrain from any illegal, dishonest or unethical conduct. In general, use of good judgment, based on high ethical principles, will guide you in regard to lines of acceptable conduct. If a situation arises where it is difficult to determine the proper course of action, the matter should be discussed openly with your immediate supervisor and, if necessary, with Human Resources for advice, consultation and/or mediation. Compliance with this policy of business ethics and conduct is the responsibility of every Mille Lacs Band employee. Disregarding or failing to comply with this standard of business ethics and conduct could lead to disciplinary action, up to and including termination of employment.

PPPM at p. 15.

The powers and duties of Commissioner of Administration include (a) acting in the absence of any other commissioner; (b) acting by and with the advice and consent of the Chief Executive; (c) signing by authorization all vouchers and expenditures of appropriated funds of the Executive

Branch pursuant to the provisions of Band statute; (d) representing the interests of the Chief Executive in matters before the Band Assembly upon the direction of the Chief Executive; (e) being responsible for the preparation of the biennial budget for the Executive Branch of Band government and for the submission of said budget to the Band Assembly no later than September 1 of each odd numbered year; (f) exercising all authority conferred pursuant to the provisions of any Band statute and any authority conferred by the Chief Executive; and (g) delegating to the Assistant Commissioner of Administration any of the authority contained herein or in 4 MLBS § 7 during the absence of the Commissioner of Administration or other executive officer. 4 MLBS § 10.

Based on these statutes and policies, there is no actual conflict of interest created by the Commissioner of Administration being the spouse of the Commissioner of Community Development. As stated in the PPPM, with regards to the hiring of relatives, it is permissible for spouses to work together so long as one spouse is not working directly for or supervising the other spouse, and one spouse will not be working directly above the other spouse's immediate superior or directly for the spouse's immediate subordinate. Under Band statutes, all Commissioners stand on equal footing in that all are immediately subordinate to the Chief Executive. *See* 4 MLBS § 2 (Chief Executive is leader of Executive Branch and exercises all Executive Branch authority); *id.* § 7 (executive officers regulate the performance of all persons employed within their subject matter jurisdiction). Thus, while it would be impermissible to appoint a Commissioner who is the immediate family member of the Chief Executive, it is not impermissible hiring-of-relatives for two Commissioners to be family members.

I cannot conclude that no perceived conflict of interest exists. Whether a perceived conflict of interest exists is somewhat intangible, because individuals unfamiliar with Band statutes and policies could certainly perceive conflicts of interest where none exist. This is the hardest question to answer because perception can be inaccurate and there is always the potential that someone perceives the situation incorrectly.

The potential for a conflict to arise is possible, but can be avoided. Careful planning by the Chief Executive when delegating authority to the Commissioner of Administration under 4 MLBS § 10(f) would avoid such potential conflicts, which is more fully discussed below. There is also a potential conflict of interest under 4 MLBS § 10(c) and 6 MLBS § 1007(b) if the Commissioner of Administration signs off on a voucher or expenditure that has the effect of ordering the preparation of a check in which the Commissioner of Community Development is a payee. *See also* 6 MLBS § 1109(b)(6), (d)(6) (authorizing Chief Executive or Commissioner of Administration or designee to sign travel-expense authorizations for Executive Branch officials). This can also be avoided through internal checks-and-balances including the Chief Executive signing off on such authorizations, vouchers and expenditures when they directly involve the Commissioner of Community Development.

- 2) Whether the Commissioner of Administration's immediate family member serving as a Band executive officer gives rise to unfair employment or business practices pursuant to 6 MLBS § 1157.

Unfair employment or business practices are not clearly defined in the Ethics Code, but 6 MLBS

§ 1157(g) gives nepotism,<sup>1</sup> harassment or retaliation as examples of such unfair practices.

As discussed above, nepotism is not at issue here because there is no familial relationship between the Chief Executive and the prospective Commissioner of Administration, and the familial relationship between Mrs. Burr and the Commissioner of Community Development is not nepotistic because neither one is subordinate to the other and neither one is making the hiring decision about the other, and the situation is not expressly prohibited by the PPPM. Thus, it would be difficult to say that this gives rise to an unfair employment practice so long as the Chief Executive avoids delegating supervisory or direct-report authority over the Commissioner of Community Development to the Commissioner of Administration.

In terms of unfair business practices, it appears that Band statutes and the PPPM view “business practices” as relating to Band employees’ relationships with outside firms. *See* PPPM at 17 (citing to Title 7 MLBS procurement rules). Thus, no business practices are potentially implicated by this situation. To the extent that “business practices” as used in this section involves internal financial conflicts of interest relating to the Commissioner of Administration approving vouchers/expenditures that will result in direct payment or reimbursement to the Commissioner of Community Development, those conflicts are avoided by careful planning and delegation by the Chief Executive as discussed herein.

- 3) Whether the Commissioner of Administration’s immediate family member serving as a Band executive officer violates Band law or Mille Lacs Band of Ojibwe Personnel Policy and Procedures.

The answer to the second part of this question— whether this situation violates the Band’s Personnel Policy and Procedures—is no, as already discussed above.

The first part—whether this situation violates Band law—can also be answered in the negative, so long as both the Commissioner of Administration and the Chief Executive carefully adhere to statutory commands to avoid direct conflicts as discussed elsewhere herein.

- 4) Given the Commissioner of Administration’s complex responsibilities, role as chief of staff, and considerable authority to act on behalf of the Chief Executive, does it defy “sound judgment and common sense” to nominate and ratify a Commissioner of Administration whose immediate family member serves as a Band executive officer?

The fact that the Commissioner of Administration is the Executive Branch Chief of Staff does not, under the terms of the statutes, elevate the Commissioner of Administration over any other appointed commissioner (except maybe the Assistant Commissioner of Administration). Instead, all the Commissioners are equal in that they are supervised by the Chief Executive. However, the nature of the Commissioner of Administration’s role does create the potential for a conflict of interest to arise, although remote. This is because the Chief Executive could potentially delegate

---

<sup>1</sup> Nepotism is not defined in Band statutes. The common definition is the bestowal of official favors on one’s relatives, especially in hiring; specifically, the practice of unfairly giving the best jobs to members of one’s family when one is in a position power. *Black’s Law Dictionary* (12th ed. 2024).

interest to arise, although remote. This is because the Chief Executive could potentially delegate the Chief Executive's supervisory authority over the Commissioner of Community Development to the Commissioner of Administration if the Chief Executive is absent or unable to act for some reason. See 4 MLBS § 10(f). However, such a delegation would likely be a violation of Band statute and policy. See, e.g., 6 MLBS § 1157(g) (nepotism prohibited); Thus, because the Chief Executive must faithfully execute Band law and can only make policies consistent with Band statutes, 4 MLBS § 6(a), (m), and because a Commissioner can only perform duties lawfully assigned by the Chief Executive, 4 MLBS § 7(k), the Chief Executive could not lawfully delegate authority to the Commissioner of Administration that would create an unlawful or unethical conflict of interest under Band law.

Likewise, under 6 MLBS § 1007, senior executive staff appointees may not use their own appointed position for the financial benefit of family members nor may they authorize the preparation of any type of check in which they or an immediate family member are to be the payee. Although the Commissioner of Administration has authority to approve and/or sign off on certain vouchers and expenditures, including travel expense authorizations, the Commissioner of Administration should not exercise that authority over a family member if it would violate Band law. In any instance where such approval authority would involve preparation of a check in which the Commissioner of Community Development is a payee, the Commissioner of Administration could not lawfully exercise that authority. Instead, the Chief Executive or another appropriately-authorized official should handle those situations.

- 5) What formula, factors, or test should a Commissioner of Administration employ to determine whether a potential decision or action affecting their commissioner family member or the department the family member oversees, constitutes an impermissible potential, perceived or actual conflict of interest; an unfair employment or business practice; or otherwise violate Band law or policy?

All the laws and policies discussed above provide guidance on identifying conflicts of interest. The Senior Executive Staff policies at 6 MLBS 1007 and the ethics code at 6 MLBS 1157 provide additional insurance against actual conflicts in this situation. Thus, applicable "tests" are whether the Commissioner of Administration:

- (1) is being delegated or exercising authority that would result in the Commissioner of Administration directly supervising the Commissioner of Community Development (PPPM at p. 16); or
- (2) is exercising authority, either via statute or via delegated authority, that results in an order to prepare a check in which the Commissioner of Community Development is the payee (6 MLBS § 1007(b)); or
- (3) is using their position as Commissioner of Administration to coerce or attempt to coerce anyone to further the interest of the Commissioner of Community Development (6 MLBS § 1157(h)).

Band Assembly, acting in joint session, retains the authority to reprimand or suspend any appointed official who violates the Ethics Code, as well as any other remedies which may be available. 6 MLBS § 1162(a), (c). Thus, Band Assembly retains significant authority to ensure that the Ethics Code is followed in this situation.



Caleb Dogeagle  
Solicitor General

November 5, 2025

Date of Issuance



As to form and numbering according to MLBS Title  
25 § 4(f);



Reen Reinhardt  
Revisor of Statutes

Nov. 11, 2025

Date