



THE MILLE LACS BAND OF
OJIBWE INDIANS

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Office of the Solicitor General

Opinion of the Solicitor General

No. 42-19

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Title 4 MLBSA § 18 reads the Solicitor General shall have 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. (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 MLBSA § 18 (d) and shall have the force of law subject to the conditions stated in § 18 (d) (2).

Title 3 MLBSA § 29 states should there be any doubt as to the proper interpretation of any part of this title, or of 2 MLBSA Chapter 1, the Speaker of the Assembly or the Band Assembly as an entity may submit such question to the Solicitor General, who shall give his or her written Opinion thereon, and such Opinion shall be binding unless annulled in whole or in part, by the Court of Central Jurisdiction, or amended by the Band Assembly pursuant to the enactment of the law. The Exterior Legal Counsel of the Band shall, on request, assist the Solicitor General in the proper interpretation of this or any other Band statute upon official request of the Band Assembly. On July 25, 2019, the Band Assembly requested an interpretation of the definition of the composition of the Band Assembly and formal public hearings as stated in 3 MLBSA § 16 (a) in regards to proposed amendments to MLBSA Titles 1 and 5.

Title 3 MLBSA § 16 (a) states the Band Assembly shall conduct formal public hearings on any bill which alters, amends or repeals Titles 1, 3, 4 and 5, Chapter 1 of Title 2 and Subchapters I to III of Chapter 3 of Title 24 of the Mille Lacs Band Statutes Annotated. The Band Assembly may conduct public hearings on any or all other bills at their discretion. Public hearings shall be held in all appropriate districts of the Mille Lacs Reservation prior to the time that the Band Assembly seeks to formally act upon said bill. Additionally, each bill shall be posted in a conspicuous location for ten calendar days after said bill has been introduced at a public hearing. This provision shall not apply to any bill on which no

public hearing has been held. Title 3 MLBSA § 30 dictates the Solicitor General or the Exterior Legal Counsel and the Court of Central Jurisdiction, whichever is applicable, shall liberally construe the provisions of this title, or of 2 MLBSA Chapter 1, so as to provide for the full force and effect of the purposes therein stated. The requirement for formal public hearings in order to amend the Titles 1, 3, 4 and 5, Chapter 1 of Title 2 and Subchapters I to III of Chapter 3 of Title 24 of the Mille Lacs Band Statutes Annotated is evidence of the significance of those laws.

The Mille Lacs Band Statutes are unclear on what constitutes a formal public hearing. Typically, advanced notice of the hearing would occur, a record of the hearing would be created, and public comments would be accepted. Advanced notice of the hearing and the proposed amendments were disseminated to the public via the Legislative Facebook page, published in the Inaajimowin, and available at Legislative office. The proposed amendments were also available at the hearings in the communities. Notice of the hearings was provided, however, future practices could include other methods of dissemination, such as mailings or information provided in conjunction with per capita distributions. It is my understanding a limited written record was created of the hearings. Video recording, transcripts, or detailed minutes would ensure a robust record of the hearings for the public and elected officials to reference in the future. The proposed amendments were posted for the required 10 days after the hearings. Given the standard in Title 3 MLBSA § 30, the formal public hearing requirement was likely met.

Title 3 MLBSA § 4 states the Band Assembly shall be comprised of the popularly-elected Secretary-Treasurer who shall be the Speaker, and the popularly elected District Representatives from each of the three districts within the territorial jurisdiction of the Reservation. At first glance it would appear the entire Band Assembly would need to be present to comply with Title 3 MLBSA § 16 (a) at the formal public hearings. However, Title 3 MLBSA § 8 (a) (3) states the District Representatives shall have the following individual authority in the exercise of legislative powers of Band government: to chair public hearings on any proposed law within their appropriate district. It is my opinion based on the standard set forth in Title 3 MLBSA § 30 that the Band Assembly complied with the purpose of Title 3 MLBSA § 16 (a) in this instance.



Caleb Dogeagle
Solicitor General

8/1/19

Date of Issuance

