



THE MILLE LACS BAND OF OJIBWE INDIANS

Office of the Solicitor General

SOLICITOR GENERAL OPINION 31-05

*annulment dated
2-3-05*

Dear Secretary Treasurer Weyaus:

You requested a Solicitor General's Opinion on the following question: Can the Chief Executive suspend an appointed official without salary and without informing Band Assembly?

INTRODUCTION

In your request, you omitted any reference to a particular commissioner or appointed official. You provide no reason why the commissioner or appointed official received a suspension. The answers to these questions are critical to a full and complete analysis and answer to your question: Which commissioner and why he or she were disciplined are critical distinctions essential to this analysis.

There is a distinction between executive officers and appointed officials. All executive officers are appointed, but not all appointed officials are executive officers. The executive officers of the Band consist of the Chief Executive, Commissioner of Administration, Assistant Commissioner of Administration, Commissioner of Natural Resources, Commissioner of Education, Commissioner of Corporate Affairs, Commissioner of Human Services, and Commissioner of Community Development. This opinion is limited to the Chief Executive's authority over executive officers.

DISCUSSION

The Chief Executive may discipline executive officers. The source of her authority is implied from Band Statutes. All executive political authority of the Band is vested in the Executive Branch of government. The leader of the Executive Branch is the Chief Executive. 4 MLBSA § 2. Unless otherwise specified by Band Statute, all Executive Branch authority shall be exercised by the Chief Executive. *Id.* Here, as the leader of the Executive Branch of government the Chief Executive supervises all executive officers. Therefore, as the leader of the Executive Branch, the Chief Executive has authority to discipline her executive officers. Her authority includes the ability to suspend Executive Officers without pay. However, the Chief Executive's authority is limited. The Chief Executive cannot remove or indefinitely suspend Executive Officers from their posts.

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CONCLUSION

Therefore, the Chief Executive has some limited authority to discipline executive officers.

Dated this 6 day January, 2005.



John S. Swimmer
Solicitor General