



THE MILLE LACS BAND OF  
**OJIBWE INDIANS**

*Legislative Branch of Tribal Government*

**RESOLUTION 20-01-12-22**

**A RESOLUTION REQUESTING AN OPINION OF THE SOLICITOR  
GENERAL ANALYZING EXECUTIVE ORDERS 2022-03 AND 2022-04**

- WHEREAS, the Mille Lacs Band Assembly (“Band Assembly”) is the duly elected legislative body of the Non-Removable Mille Lacs Band of Ojibwe (“Band”), a federally recognized Indian Tribe; and
- WHEREAS, pursuant to 3 MLBS § 3(d), the Band Assembly is empowered to adopt resolutions; and
- WHEREAS, pursuant to 4 MLBS § 6(e), the Band’s Chief Executive is empowered to “issue proclamations and executive orders on any subject matter within the Executive Branch of government pursuant to the authority conferred by Band Statute[;]” and
- WHEREAS, pursuant to 4 MLBS § 18(d), the Band’s Solicitor General is obligated to “interpret all laws and executive, legislative, secretarial and commissioner’s orders and policies on behalf of the [Band]” and “[a]ll 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
- WHEREAS, pursuant to 4 MLBS § 18(f), the Solicitor General is obligated to “advise and assist the Chief Executive, the Band Assembly or the Court of Central Jurisdiction in the achievement of a clear, faithful, and coherent expression of the laws and policies of the [Band] as prescribed by the standards of the office of Solicitor General in 4 MLBS § 19[;]”
- WHEREAS, on January 21, 2022, the Chief Executive issued Executive Order 2022-03 directing the Ne-Ia-Shing Clinics to Comply with the United States Department of Health and Human Services’ Interim Final Rule Titled “Medicare and Medicaid Programs; Omnibus COVID-19 Health Care Staff Vaccination[;]” and
- WHEREAS, on January 31, 2022, the Chief Executive issued Executive Order 2022-04 directing Mille Lacs Early Education to Comply with the United States Department of Health and Human Services’ Interim Final Rule Titled “Vaccine and Mask Requirements to Mitigate the Spread of COVID-19 in Head Start Programs[.]”

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NOW, THEREFORE, BE IT RESOLVED, that the Band Assembly hereby requests that the Solicitor General complete and submit an Opinion of the Solicitor General to the Clerk of the Band Assembly **no later than 10:00 AM on Friday, February 18, 2022**, providing thorough legal analysis of the following questions:

- (1) Does Executive Order 2022-03 violate affected Band members' constitutional rights, as protected by the United States Constitution, the Revised Constitution and Bylaws of the Minnesota Chippewa Tribe, the Indian Civil Rights Act, and Title 1 of Mille Lacs Band Statutes?
- (2) Under 6 MLBS § 1(a), which states that the Personnel Policy and Procedures Manual "is [to be] amended on an annual basis or, as needed, to comply with federal . . . law," does Executive Order 2022-03 violate the statutory language by imposing, without statutory amendment, additional personnel policies to remain compliant with federal law?
- (3) Is Executive Order 2022-03 "consistent with the provisions of Band statute" as required by 4 MLBS § 6?
- (4) Does Executive Order 2022-03 violate the Band's Personnel Policy and Procedures Manual, as adopted by 6 MLBS § 1(b)?
- (5) Under federal and Band law, does either the Chief Executive or Executive Branch constitute a "provider," "supplier," or "facility" for the purposes of the Interim Final Rule?
- (6) Under federal and Band law, does Ne-Ia-Shing Clinics constitute a "provider," "supplier," or "facility" for the purposes of the Interim Final Rule?
- (7) Under the Interim Final Rule titled "Medicare and Medicaid Programs; Omnibus COVID-19 Health Care Staff Vaccination," was Executive Order 2022-03 a proper exercise of the Chief Executive's authority when that Interim Final Rule explicitly directed "providers," "suppliers," and "facilities," rather than governmental bodies, to establish and implement the required policies?
- (8) Does Executive Order 2022-04 violate affected Band members' constitutional rights, as protected by the United States Constitution, the Revised Constitution and Bylaws of the Minnesota Chippewa Tribe, the Indian Civil Rights Act, and Title 1 of Mille Lacs Band Statutes?
- (9) Under 6 MLBS § 1(a), which states that the Personnel Policy and Procedures Manual "is [to be] amended on an annual basis or, as needed, to comply with federal . . . law," does Executive Order 2022-04 violate the statutory language by imposing, without statutory amendment, additional personnel policies to remain compliant with federal law?

- (10) Is Executive Order 2022-04 “consistent with the provisions of Band statute” as required by 4 MLBS § 6?
- (11) Does Executive Order 2022-04 violate the Band’s Personnel Policy and Procedures Manual, as adopted by 6 MLBS § 1(b)?

WE DO HEREBY CERTIFY that the foregoing resolution was duly concurred with and adopted at a regular session of the Band Assembly, in Legislative Council assembled, a quorum of legislators being present, held on the 9<sup>th</sup> day of February, 2022, at Nayahshing, Minnesota, by a vote of 3 FOR, 0 AGAINST, 0 SILENT.

IN WITNESS WHEREOF, we, the Band Assembly, hereunto cause to have set the signature of the Speaker of the Assembly.

**OFFICIAL SEAL OF THE BAND**



  
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Sheldon Boyd, Speaker of Assembly