

 Wula na kinu
THIS IS WHO WE ARE

Community Members Document

A document for community members explaining the entire process

PREAMBLE

Our identity as a Nation is grounded in our family roots and connections. When Mi'kmaq interact, the first things we ask are questions like *tami wetapeksin*, *wenik kujjewijik*, and *wenik kikmaq*? When we ask the question of who is a Mi'kmaw, and who is an heir of our Treaties and Aboriginal Rights, the answer must come from our culture, our history, and our heritage. A process to identify rights-holders must reflect our understandings, our definitions and our ways of identifying who is L'nu and what it means to be L'nu.

For Mi'kmaq, who we are is straight forward. "Wula na kinu" means exactly that, "This is who we are". And this is what this enrollment process is grounded in, our identity, our concepts, our culture. These questions are the way we connect to one another and identify Mi'kmaw people.

Importantly, we do not want to re-create the *Indian Act* or replicate its processes of recognition. A part of recognition as a Nation means defining who we are, and protecting our Rights and our homeland, Mi'kma'ki. We have become accustomed to government processes that are not within our control, but government processes are not our identity. Our identity is a reflection of the world around us. We are cyclical people – everything is interconnected.

This Enrollment Process is not a citizenship code or process. Rather, it is about identifying who are the beneficiaries or holders of Aboriginal and Treaty rights in the province of Nova Scotia. While non-Mi'kmaq people who participate in our events, live in our communities, or are in relationships with Mi'kmaq, may be generally considered or defined to be "community members", they are not Mi'kmaq for the purpose of accessing Aboriginal Rights. As self-governance progresses, the Mi'kmaq may develop a citizenship process which acknowledges or includes this broader community, we are not at that stage yet. This Enrollment Process is not intended to interfere with non-Mi'kmaq participation or engagement in our community, but to define who is properly a Mi'kmaq rights-holder in Nova Scotia.

In the last year, Nova Scotia Mi'kmaq and the Assembly of Nova Scotia Mi'kmaw Chiefs have agreed that the criteria and procedural components for the Nova Scotia Mi'kmaq Enrollment Process reflects their thoughts and views. They have agreed that they would prefer to pilot the Nova Scotia Mi'kmaq Enrollment Process ("process") to determine how the process would work at a procedural and practical level. A pilot is critical for creating trust in the work. This pilot includes eligibility requirements for issuing of Harvester Identification Cards to individuals who are Non-Status or are registered Status Indians on the Atlantic General List (those who do not have a status card to one of the 13 Nova Scotia Mi'kmaq Bands) to harvest renewable resources under provincial jurisdiction (wildlife, freshwater fish, plants and trees). Based on this direction, the Assembly unanimously approved a resolution on April 25th, 2019 for the pilot to start in August 2019.

INTRODUCTION

Purpose

The purpose of this document is to provide community members all the details about the Nova Scotia Mi'kmaq Enrollment Process – what is the criteria, how the criteria will be assessed, how the process will work and what happens if an application is not accepted.

Exercising Aboriginal and Treaty Rights

In 1985, the Supreme Court of Canada recognized that the Mi'kmaq Nation possess a treaty right to hunt. This legal case was later followed by other major legal decisions which established that the Mi'kmaq have various Aboriginal and Treaty Rights, which include the right to hunt and fish.

Today, Mi'kmaq exercise their Aboriginal and Treaty Rights throughout Atlantic Canada. But it is important to note that only the Mi'kmaq can lawfully exercise Mi'kmaq Aboriginal and Treaty Rights. This is because Mi'kmaq Aboriginal and Treaty Rights derive from our inherent Mi'kmaq rights based on our pre-occupation as the first people of Mi'kma'ki. Mi'kmaq Aboriginal and Treaty Rights are not given to us by the federal or provincial government and they do not derive from the *Indian Act*. They are inherent rights.

What is the Enrollment Process?

The Enrollment Process has been developed by the 13 Mi'kmaq communities of Nova Scotia, through the Assembly of Nova Scotia Mi'kmaq Chiefs and the Grand Council as directive following the signing of the Nationhood Proclamation on October 1st, 2008. The enrollment process will determine who is an heir of Mi'kmaq Treaties and Aboriginal Rights and Title, meaning who are the Mi'kmaq individuals who can exercise Aboriginal and Treaty Rights in the province of Nova Scotia.

We need a process to make sure that the people who are exercising Aboriginal and Treaty Rights are Mi'kmaq, and that the Nova Scotia Mi'kmaq Nation recognizes these people as Mi'kmaq.

How the Process was Created

The Assembly has heard from many community members who have concerns about the Indigenous and Northern Affairs Canada (INAC) registration ('status') policy set out in the *Indian Act*. Many Mi'kmaq feel that this policy took away individual First Nations' traditional processes of nationhood, and homogenized First Nations as a single group. Section 6 of the *Indian Act*, in particular, has negatively impacted individuals, especially prejudicing women and making identity an issue of blood quantum.

Some of the first work on Nova Scotia Mi'kmaq identity began in 2001 with the Nova Scotia Mi'kmaq Beneficiaries Project. In 2008, the *Mi'kmaq of Nova Scotia Nationhood Proclamation* asserted the Nationhood of the Mi'kmaq Nation in Nova Scotia as a part of Mi'kmaq self-determination and as a first step towards Mi'kmaq governance in Nova Scotia.

In the same year, the Assembly of Nova Scotia Mi'kmaw Chiefs commissioned a report on Mi'kmaq identity.

- Kwilmu'kw Maw-klusuaqn is based on five pillars and is focused on the implementation of Mi'kmaq Treaty and Title Rights and Aboriginal Rights in Nova Scotia. One of the five pillars is “to revive, promote and protect a healthy Mi'kmaq identity”.

The Kwilmu'kw Maw-klusuaqn Negotiation Office (KMKNO), under the direction of the Assembly, has been conducting research and engaging with Nova Scotia Mi'kmaq community members since 2008 toward these goals.

- Engagement on the Enrollment Process was conducted from 2008-2018. Engagement included: community sessions, think-tanks, symposiums, youth conferences, regional discussions, Nationhood conferences, meetings with the Grand Council, news articles, social media outreach, individual meetings, focus groups and webinars.

Indian Status and being Mi'kmaq

Beginning in 1867, most Mi'kmaq people, but not all, were registered under the *Indian Act* as a “Status Indian”. The Indian status system was established by the federal government who developed their own “criteria” to determine who qualified to be registered as an “Indian”. This process took away the Mi'kmaq Nation's ability to determine who their Mi'kmaq people were, based on their own Mi'kmaq criteria, such as family lineage, community, language and other cultural values. These are the concepts that our people would have used to determine who was Mi'kmaq, prior to contact with non-natives and the *Indian Act* Indian status system.

We know that being a status Indian registered under the *Indian Act* is not the same as being Mi'kmaq. We also know that when we look at our Treaties and our Rights, who can exercise these rights is not about Indian status but about who is “Mi'kmaq”. What this now means is that we need to determine who is Mi'kmaq BEYOND Indian status under the *Indian Act* to ensure that all Mi'kmaq individuals are able to exercise their Aboriginal and Treaty Rights.

Why do we need an Enrollment Process?

The 13 Nova Scotia Mi'kmaq communities have genuine concerns about the wellbeing of our territory and homeland, including who are exercising Mi'kmaq Aboriginal and Treaty Rights and how they are exercising these rights. We know that there are people who do not follow Mi'kmaq harvesting concepts, such as Netukulimk, when exercising their rights.

The Nova Scotia Mi'kmaq leadership want to make sure that rights are being exercised by the Mi'kmaq, and in doing so, resources are being protected and used properly, ensuring resources are there for future generations.

In order to do this, we need to first identify who the Mi'kmaq rights-holders are. This will require the re-building of our governance structure by identifying who are the individual Mi'kmaq who have a lawful right to exercise Mi'kmaq Aboriginal and Treaty Rights. This is what this work is about.

What is the Enrollment Process based on?

The Enrollment Process is based on the inherent rights of the Mi'kmaq to determine their own identity in accordance with their customs and traditions, as recognized under the Canadian Constitution and the *United Nations Declaration of the Rights of Indigenous Peoples* (UNDRIP). Our identity as a nation is grounded in our family roots and connections. When Mi'kmaq interact, the first things we ask are questions like *tami wetapeksin* ("which district do you belong?"), *wenik kujjewijik* ("who is your family?") and *wenik kikmaq* ("who are your parents?"). Any Mi'kmaq process MUST reflect our understandings, our definitions and our ways of identifying who is L'nu and what it means to be L'nu. This process is framed around Mi'kmaq understandings of our identity – not federal or provincial government, European, or western understandings.

What this Process is NOT doing:

- It is NOT the *Indian Act* and does not address who is an Indian under the *Indian Act*.
- It is NOT about resource management and enforcement.
- It does NOT apply to all of Mi'kma'ki.

Instead, this process focuses on identifying who is Mi'kmaq for the purposes of exercising Aboriginal and Treaty rights in the province of Nova Scotia.

What is the purpose of the Harvester Identification Card?

The Nova Scotia Mi'kmaq Enrollment Process will be piloted for the administration of the harvester identification cards to access provincial resources.

- Individuals with a status card to one of the thirteen Mi'kmaw bands (specifically: Acadia, Annapolis Valley, Bear River, Glooscap, Sipekne'katik, Millbrook, Pictou Landing, Paqtnkek, Potlotek, Eskasoni, Membertou, We'koqma'q, Wagmatcook) will **not** need to apply for a harvester identification card. These individuals will continue to use their status cards.
- Individuals who do not have a status card (Non-Status Nova Scotia Mi'kmaw) and Nova Scotia Mi'kmaw who are on the Atlantic General List must apply for a harvester identification card. These individuals will have to meet the eligibility criteria within the Nova Scotia Mi'kmaq Enrollment Process.

- Only band members of the thirteen Mi'kmaq bands and successful applicants through the Pilot may harvest renewable resources under provincial jurisdiction (wildlife, freshwater fish, plants and trees) as a Nova Scotia Mi'kmaq Rights-holder in the Province of Nova Scotia.

Who will the Harvester Identification Card apply to?

The Pilot is limited in scope to harvesting renewable resources under provincial jurisdiction (wildlife, freshwater fish, plants and trees). This means that successful applicants can utilize their harvester identification card to access provincial resources. The Nova Scotia Mi'kmaq Enrollment Process will be utilized for this pilot.

RIGHTS AND RESPONSIBILITIES

With Rights come Responsibilities. The Mi'kmaq have occupied Atlantic Canada since time immemorial. As the First Peoples of Mi'kma'ki, we have a special relationship to our lands and our Mi'kmaq teachings that we are the caretakers of Mi'kma'ki. While Nova Scotia is our homeland and we have been here since time immemorial, it does not give us the right to abuse the land, air and waterways. As Mi'kmaq, we have an inherent duty to protect our home and ensure its wellbeing; not just for ourselves, but for future generations.

It is our Right as Mi'kmaq to exercise our Treaty and Aboriginal Rights, but we have to recognize that access to our Rights also has responsibilities. If a Mi'kmaw of Nova Scotia is not practicing Netukulimk, or is behaving in a way that is differing to their Mi'kmaq responsibilities, an individual may be restricted in their ability to exercise their Rights. The potential management of Rights will be addressed and developed in future management policies, guidelines and/or regulations.

The first step in managing our resources and creating a Mi'kmaq process of enforcement based on Netukulimk is to first establish who is entitled to exercise Mi'kmaq Aboriginal and Treaty Rights. This will be achieved through a Mi'kmaq Rights Enrollment Process.

“YOU’VE GOTTA BE MI’KMAQ TO BE MI’KMAW”

The creation of the Nova Scotia Mi'kmaq Enrollment Process is not about creating further divisions between families and within our Nation. It is about creating a governance structure that ensures our traditional values and understanding of our Nationhood is at its core. In a community session over the years, a community member described what it means to be Mi'kmaq in terms that we – as Mi'kmaq – all understand: “you’ve gotta be Mi'kmaq, to be Mi'kmaw”. The section called “Eligibility Criteria” is about breaking down that understanding and creating clear language about what it means to be Mi'kmaq.

Criterion is needed to protect our resources and land: Individuals are claiming Mi'kmaq Rights who are not Mi'kmaq. **A Mi'kmaq of Nova Scotia is an individual eligible to exercise Mi'kmaq Aboriginal and Treaty Rights in Nova Scotia.**

- At this stage, and until we get direction from leadership and the Nova Scotia Mi'kmaq Nation, band status cards will continue to be accepted. However, not all Mi'kmaq have status cards, so we need this process for Mi'kmaq without status cards and to protect against individuals who are illegitimately claiming and exercising rights that are not Mi'kmaq.

This section will present the “Eligibility Criteria” from the procedures document, and then break down what it is that criteria actually means and how the Enrollment Committee will look at those details, based on what is it that community members have said it means to be Mi'kmaq.

The Enrollment Eligibility Criteria

TO BE ELIGIBLE:

A Mi'kmaw of Nova Scotia is an individual eligible to exercise Mi'kmaw Aboriginal and Treaty Rights. To be eligible to be enrolled as a Mi'kmaw of Nova Scotia, an applicant must meet **both** of the following criteria:

A. Familial Connection, established by one of three methods:

- The applicant has Mi'kmaw of Nova Scotia Ancestry, meaning the applicant can demonstrate their ancestry to a Mi'kmaw of Nova Scotia family; or
- The applicant was adopted before the age of 18, under laws recognized in Canada or in accordance with Mi'kmaq custom, by an individual who can establish Nova Scotia Mi'kmaq Ancestry under (i); or
- The applicant is the biological or adopted child of an enrolled Mi'kmaw of Nova Scotia; and,

B. Acceptance by the Nova Scotia Mi'kmaq Nation

nations, but it is used to reflect the Mi'kmaq understanding that a child does not necessarily have to be born to a Mi'kmaw to be accepted and viewed as Mi'kmaq. For this reason, we use the term “familial connection” instead of “ancestry”, as the English word “ancestry” does not translate and explain Mi'kmaq concepts of family and connection in the same way.

The Mi'kmaq explain **ancestry** through concepts like *tami wetapeksin*, *wenik kikmaq*, *wenik kujjewijik*, and *tami tleyawin*. It is about your relations – who is your family, what are your roots and to whom you are related. This is what “familial connection” means and these Mi'kmaq concepts are what will be used when looking at a person's application.

To demonstrate that a person is Mi'kmaq, an applicant needs to provide proof of two elements:

1. ancestral connection on at least one side of the family, and
2. present-day connection to at least one Nova Scotia Mi'kmaq family.

This means that a person has been raised or born Mi'kmaq.

For example, the following groups of individuals would NOT meet the elements of this process and would not be accepted as a Mi'kmaq of Nova Scotia:

- a person married to a Mi'kmaq; or
- in a relationship with a Mi'kmaq; or
- is viewed as a community member (someone living on a Mi'kmaw band/area but with no Mi'kmaq ancestry).

1. ANCESTRY

The Enrollment Committee will consider the following **factors** in assessing Nova Scotia Mi'kmaq Ancestry:

- The applicant must demonstrate in their application that at least one side of their family (maternal or paternal) has Nova Scotia Mi'kmaq Ancestry, meaning that a person has to demonstrate that either their mother or their father is Mi'kmaq.
- The applicant must demonstrate an ancestral connection after 1871. As Nova Scotia Mi'kmaq have stated, “just because your great, great, great, great grandparent was Mi'kmaw, that doesn't make you Mi'kmaw”, therefore this date provides a protection against individuals claiming they have Rights in Nova Scotia when their ancestry connection only existed several hundred years ago.
- The Enrollment Committee will not accept documentation dated prior to 1871 as proof of Nova Scotia Mi'kmaq Ancestry, unless that documentation is accompanied by proof of ancestry records dating from after 1871.

The type of evidence (proof) that will be looked at under this includes:

- Evidence that the applicant's or ancestor's family name can be verified as Mi'kmaq. For example, some names like Gould or Googoo are undoubtedly tied to Mi'kmaq families. Surnames like Muise or McDonald are names that are also commonly found in non-Mi'kmaq families.
- Photographic proof that the family member was/is a Mi'kmaw, when combined with other evidence.
- Oral testimony from individuals interviewed by the Enrollment Committee.
- Official records, such as baptismal, marriage, or census records, which state that the applicant or their ancestor was an "Indian", "Micmac" or "Mi'kmaw".
- Whether the applicant and/or their ancestor was born in, or resided in, an area that is recognized as a traditionally Mi'kmaq settlement.
- The Enrollment Committee must consider and weigh all of the available documentary and other evidence presented by the applicant, to determine whether the applicant's ancestors are in fact Mi'kmaq, on a balance of probabilities (more likely than not).

What about people adopted by Mi'kmaq families?

As said, the term "ancestry" in English does not properly translate to reflect the Mi'kmaq understanding of how we define our Nationhood. In the context of adopted children (legal and customary), Mi'kmaq have explained that as long as a person was raised as a Mi'kmaq and participated in the Mi'kmaq Nation, "blood shouldn't count". Grand Captain Antle Denny furthers this statement in explaining that historically when a Mi'kmaw family adopted children, those children were accepted as part of Mi'kmaq society.

When assessing an application, if a child has been adopted by a Mi'kmaq family they must demonstrate:

- adoption must have occurred under laws recognized by Canada, or through a Custom Mi'kmaq Adoption (see *Ankwe'aq Mi'kmaq Custom Adoption Protocol*);
- they were adopted prior to turning 18 (eighteen).

Does this mean my step child can apply under this process?

Leadership and community have been clear, there is a difference between non-Mi'kmaq children adopted by Mi'kmaq families versus someone who is in a relationship with a non-Mi'kmaq that has children. There are several factors that have to be assessed in these latter cases. The Enrollment Committee will assess in all adoption cases that the adoption was in good faith, with the intention of raising the child within the family and as a part of the Nation and culture. This includes the following scenarios:

- legal adoption – meaning a Mi'kmaw family legally adopts a child;
- custom adoption – an Indigenous child raised by a Mi'kmaw family;

- non-Mi'kmaq raised as Mi'kmaq – meaning individuals who as minors were brought up and raised Mi'kmaq who may not have been formally adopted (and are now adults).

In the case of minors, parents will have to provide proof of adoption, either legal or custom.

What about Mi'kmaq children who have been adopted out into foster care or the child welfare system?

The process requires individuals to make applications when they reach age 18. When the children are still a minor, they would fall under this parent(s). However, there are cases where we have Mi'kmaq children who have been adopted out. In these special circumstances, their guardians can make an application for them even though they are under the age of 18 to ensure that the child still has a connection to their Nation and can exercise their Rights.

2. PRESENT DAY CONNECTION

Being a Mi'kmaw of Nova Scotia does not simply mean an applicant can present evidence that somewhere within their family tree or lineage, they had one blood relative who was Mi'kmaq. Connected to the “ancestry” element above, an applicant must demonstrate that they are connected to and/or a part of at least one Nova Scotia Mi'kmaw family presently. Even if an applicant can demonstrate Mi'kmaw heritage from a historical time point, an applicant must still demonstrate their current and continued connection to a Nova Scotia Mi'kmaw family. Examples of **evidence** may include:

- Photographs of participation in family events or functions
- Letters of support from family members

Sometimes the proof provided in the application may not be enough. At the same time, paper applications can be daunting. The way Mi'kmaq culture works is oral-based. We learn about one another through conversation. If the Enrollment Committee needs to verify more information after an application is received, they may conduct an interview with the applicant. This interview is not meant to be overwhelming or intimidating, but as said, is more about having a conversation with the person to learn about their family ties.

Our family is at the core of our identity. There are people in our nation and within our families who know family history, connection and family trees. While the Enrollment Committee will be selected based on a number of factors including their knowledge of families across Nova Scotia, there will only be one Enrollment Committee for the entire province. The Enrollment Committee may not always know all the history for each area,

band and/or family. In such cases, with the permission of the applicant, an Advisory Committee may be established composed of people with this history to further verify information (for more information on the Enrollment Committee and Advisory Committee please see these sections to follow).

There are special situations where a person may not have a present-day connection to the Nation. The Enrollment Committee will waive the requirement of “a present-day connection to at least one Nova Scotia Mi'kmaq family” if the Enrollment Committee is satisfied, on a balance of probabilities (more likely than not), that special circumstances exist which explain the individual's disconnection from their Nova Scotia Mi'kmaq family. Special circumstances may include, but are not limited to:

- residential schools;
- the “Sixties Scoop”;
- the child-welfare system;
- Mi'kmaq children adopted out;
- domestic or intimate-partner violence or abuse;
- gender-based discrimination under the *Indian Act*;
- reasons related to personal characteristics such as gender, disability, family or marital status; or
- other impacts of colonialism.

Does everyone have to submit all of this information?

This process is currently only for individuals who do not have a status card (Non-Status Nova Scotia Mi'kmaq) and Nova Scotia Mi'kmaq who are on the Atlantic General List. Applicants must meet the eligibility criteria and provide the materials requested. Successful applicants will then be issued a Harvester Identification Card to harvest renewable resources under provincial jurisdiction (wildlife, freshwater fish, plants and trees) as a Nova Scotia Mi'kmaq Rights-holder in the Province of Nova Scotia.

Individuals with a status card to one of the thirteen Mi'kmaq bands (Acadia, Annapolis Valley, Bear River, Glooscap, Sipekne'katik, Millbrook, Pictou Landing, Paqtnkek, Potlotek, Eskasoni, Membertou, We'koqma'q, Wagmatcook) will **not** need to apply for a harvester identification card. These individuals will continue to use their status cards.

ACCEPTANCE

Acceptance means the Nova Scotia Mi'kmaq Nation accepts an individual as a Mi'kmaw of Nova Scotia. Mi'kmaq customs, traditions and practices connect many aspects of Mi'kmaq life. Even if a person hunts, makes baskets, attends powwows, and harvests sweet grass, this does not mean a person is L'nu pursuant to Mi'kmaq customs, traditions and practices. This criterion connects to the element of "present-day connection". Its purpose is to provide protections around the process and close any gaps. If the process was ONLY about ancestry and family connection, individuals may be able to argue that they are Mi'kmaq when their ancestral connection was from several hundred years ago. Going back to the statement, "you gotta be Mi'kmaq to be Mi'kmaw" – only the Mi'kmaq know who is a part of their families and their nation. This is not only stated by our Elders and our leaders, but it is a central component of the United Nations Declaration on the Rights of Indigenous Peoples. No one has the right to say who is a member of our nation except for us. The concept of "acceptance" within this process reflects that understanding.

So how will acceptance actually be assessed?

The Enrollment Committee will consider a combination of the following **factors** in assessing whether an applicant meets the Acceptance criterion for eligibility:

- the applicant's participation, contribution, or ties to the Nova Scotia Mi'kmaq Nation, including an applicant's ties to one or more of the following Mi'kmaq band and/or area:
 - Acadia;
 - L'sitkuk (Bear River);
 - Potlotek;
 - Eskasoni;
 - Glooscap;
 - Membertou;
 - Millbrook;
 - Paqtnkek;
 - Pictou Landing;
 - Sipekne'katik;
 - Wagmatcook;
 - We'koqma'q;
 - Other known historic Mi'kmaq settlement areas (such as, but not limited to Shelburne, Springhill, New Germany, North Sydney, Middleton, Liverpool, Cook's Cove);
- knowledge of the person by members of the Nova Scotia Mi'kmaq Nation;
- the degree of knowledge of or familiarity with Mi'kmaq culture, customs, lifestyles, and history;
- the degree of knowledge of the Mi'kmaq language;

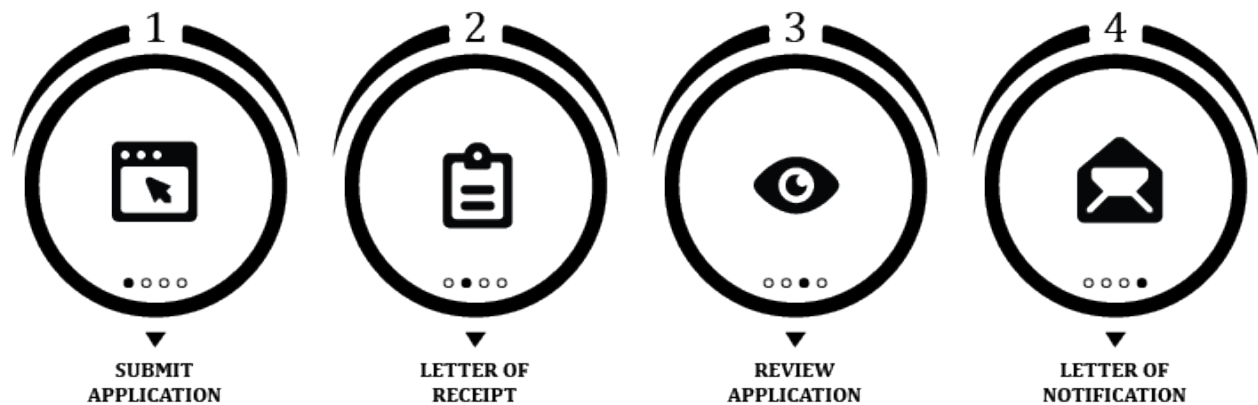
- where and how the applicant was raised, and how this factor may have impacted the applicant's ability to demonstrate the above factors.
- In cases where evidence of Acceptance is not strong and/or verification cannot be confirmed through the establishment of an Advisory Committee, the Enrollment Committee must examine:
 - the impacts of colonialism, including residential schools, the Sixties Scoop, or the child welfare system, and how these factors may have impacted the applicant's acceptance by the Nova Scotia Mi'kmaq Nation (as discussed above);
 - any reasons related to personal characteristics of the applicant, such as gender, disability, family or marital status, that may have impacted the applicant's acceptance, including but not limited to domestic or intimate-partner violence or abuse and gender-based discrimination under the *Indian Act*, and how these factors may have impacted the applicant's acceptance by the Nova Scotia Mi'kmaq Nation.

In assessing whether an applicant meets the Acceptance criterion for eligibility, the Enrollment Committee will consider and weigh any combination of available documentary and oral evidence. **Evidence** includes any combination of:

- Letter(s) of support from a family member and/or member of the Nova Scotia Mi'kmaq Nation.
- Oral evidence or other verification provided to the Enrollment Committee by an Advisory Committee.
- Oral evidence provided by the applicant or other individuals interviewed by the Enrollment Committee (e.g., regarding participation by the applicant in the Nova Scotia Mi'kmaq Nation, or knowledge of language, customs or history).
- see also other sections that discuss evidence

Note: the applicant's consent is required before the Enrollment Committee may discuss their application and/or eligibility with a third party, including Advisory Committees. Should the applicant decline to provide their consent, the Enrollment Committee may request further information from the applicant, and/or base its decision on the documentary information submitted by the applicant. The applicant has the right to review the evidence from the Advisory Committee, if one is required, and evidence provided to the Committee and reviewed by them.

HOW WILL APPLICATIONS BE ASSESSED AND WHAT IS THE APPLICATION PROCESS?



Completing an Application

An applicant must fill out an application form and supporting documents. The following supporting documents are required as part of the applicant's application package. The application will be considered incomplete if this supporting documentation is not included.

- Copy of long-form birth certificate;
- copy of government-issued photo identification;
- identification photo;
- completed Family Tree;
- any other supporting documentation designated as "required" in any rules or procedures established by the Enrollment Committee.

In addition to the required supporting documentation, applicants are encouraged to include additional evidence to support their applications, including but not limited to any combination of the following:

- Evidence of a Mi'kmaq family name. In some cases, family name alone may be determinative. However, where a family name is commonly associated with both Mi'kmaq and non-Mi'kmaq families, the Enrollment Committee will examine other supporting evidence in combination with the family name.
- Vital Statistics Records (e.g., birth certificate, marriage certificates showing parents' marriage, death records).
- Letter(s) of support from family members.
- Letter(s) of support from members of the Nova Scotia Mi'kmaq Nation.
- Court Orders or Court documents.

- Church records (e.g., for birth, baptism, marriage, and death). Among evidence presented prior to 1908, Parish records will be weighted the highest.
- Census records. (For every year except 1891, enumerators were told to record the racial origin of each individual. Note: not all Mi'kmaw were recorded in census records).
- Historical photographs. (While historical photographs alone will not be adequate to establish Nova Scotia Mi'kmaq Ancestry, they may be accepted in combination with other evidence).
- Completion of Genealogy.
- Adoption Records.
- Status Cards.
- Statutory declarations of the applicant or other individuals.

In assessing whether the applicant meets the Eligibility Criteria, the Enrollment Committee must consider and weigh all available documentary and oral evidence.

Other Considerations by the Enrollment Committee

- **Written Consent for supplement evidence:** With the prior written consent of the applicant, the Enrollment Committee may conduct interviews to supplement the documentary evidence provided by the applicant (e.g., regarding participation by the applicant in the Nova Scotia Mi'kmaq Nation). In such cases the Enrollment Committee will also consider the oral evidence provided by the applicant or other individuals interviewed.
- **Cannot disclose who the father is:** Where an applicant's Familial Connection is through the paternal line, and the applicant is unable to establish or unwilling to disclose the identity of their parent, grandparent or ancestor, the Enrollment Committee may consider any combination of available evidence to establish whether it is more possible than not that the unknown or unstated parent, grandparent or ancestor was Mi'kmaw.
- **Historical Records cannot clearly verify Mi'kmaq ancestry:** When historical records (e.g., parish records) are provided, which do not indicate whether a person was Mi'kmaw, the Enrollment Committee will consider a variety of factors to assess whether the record can establish that the individual was Mi'kmaw on a balance of probabilities, including the names of the parents, and the location of the birth/baptism/death/marriage/record as cross-referenced with their proximity to known Mi'kmaq settlements at the time of the documentation.

- **Balance of probabilities:** The Enrollment Committee must evaluate whether the available oral and documentary evidence, considered as a whole, establishes that the applicant meets the Eligibility Criteria on a balance of probabilities (more likely than not).
- **Reasons given when application rejected:** If, in rejecting an Application, the Enrollment Committee places more or less weight on certain evidence due to its quality, credibility, or verifiability, the Committee will be required to explain this in its reasons for decision.

APPLICATION PROCESS

1. STEP ONE: SUBMIT APPLICATION

A person wishing to be enrolled as a Mi'kmaw of Nova Scotia who does not have an eligible status card from one of the thirteen bands, must submit the application form and all supporting documentation to the Enrollment Officer.

- Applicants must be 18 years of age or older – except in the case of children who have been adopted out; in such cases, their legal guardian can complete an application for them.
- Minor children under the age of 18 years will be enrolled under their parent's Application until they reach 18 years of age, at which time they must submit their own Application.
- In the case of an adult applicant under a legal disability or incapacity, the applicant's legal guardian or representative may submit an Application on their behalf.
- An applicant may appoint a representative, in writing, to make enquires or submissions on their behalf about their Application.

2. STEP TWO: SCREENING OF APPLICATION

The Enrollment Officer will issue a Letter of Receipt to the applicant within one week of receiving a completed Application. Note: Applications submitted electronically may be processed more quickly than faxed or paper applications.

Incomplete applications

The Enrollment Officer shall screen all Applications upon receipt to ensure:

- all sections of the Application Form are completed; and
- all **required** supporting documents are included.

In the event the Enrollment Officer considers an Application to be incomplete, the Enrollment Officer must notify the applicant in writing:

- that their Application is incomplete,
- identifying the missing information or documentation,
- requesting that the missing information or documentation be submitted to the Enrollment Officer within 30 days,
- that their Application may be rejected if the missing information is not provided within 30 days; and
- that they may request additional time to provide the missing information if necessary.

If the Application remains incomplete after the expiry of the time period provided for submitting the missing information, the Enrollment Officer will recommend to the Enrollment Committee that the Application be rejected, and outline the reasons for that recommendation.

3. STEP THREE: REVIEW OF APPLICATION

The Enrollment Officer shall forward Applications to the Enrollment Committee for review. The Enrollment Committee will review the Application, including supporting documentation, to determine whether the applicant meets the Eligibility Criteria.

- **Pitewey-Time:** When the Enrollment Committee is not satisfied that the documentation provided in support of the Application is sufficient to allow the Enrollment Committee to determine whether the applicant meets the Eligibility Criteria, the Enrollment Committee may:
 - request additional documentary evidence from the applicant and/or
 - have a conversation with the applicant (“Come have Pitewey With Us”); and/or
 - establish an Advisory Committee to verify an applicant’s eligibility.
- The Enrollment Committee shall conduct conversations in person or via video/web conference (e.g., Skype). Conversations may not be conducted by telephone conference unless reasonably required to accommodate a disability of the applicant.

- The Enrollment Officer shall schedule p̓itewey-time. While reasonable efforts shall be made to accommodate the availability of applicants. Applicants are expected to make themselves available for p̓itewey-time. Conversations should be scheduled at least 30 days in advance. The date, time and location of the conversation must be communicated in writing to the applicant.
- The Enrollment Committee shall maintain a record, including notes or audio-recordings, of all conversations conducted and of Advisory Committee meetings. A summary of the information obtained by the Enrollment Committee through p̓itewey-time shall be shared with the applicant. The applicant will be provided 30 days to respond to that information, before the Enrollment Committee makes a decision on their Application.

Circumstances in which the Enrollment Committee may consider it necessary to have p̓itewey-time with the applicant and/or establish an Advisory Committee include:

- to verify Acceptance;
- to verify the applicant's degree of knowledge of or familiarity with Mi'kmaq culture, customs, lifestyles, history and language;
- to determine whether "special circumstances" exist to explain the applicant's disconnection from their present-day Nova Scotia Mi'kmaq Family, or to verify those circumstances;
- to determine whether any personal or special circumstances exist that may have affected the applicant's acceptance by the Nova Scotia Mi'kmaq Nation or to verify those circumstances.

The Enrollment Officer shall ensure the Enrollment Committee has obtained the applicant's written consent for any necessary conversations.

4. STEP FOUR: NOTICE OF DECISION

The Enrollment Committee will make a decision on the Application and issue a Letter of Decision. A Letter of Decision will be one of the following:

- a) Letter of Approval: Advising the applicant of the date of their approval as a member of the Nova Scotia Mi'kmaq Nation, and enclosing the applicant's Nova Scotia Mi'kmaq Identification Card.
- b) Letter of Rejection: Advising the applicant that they have been refused enrollment as a member of the Nova Scotia Mi'kmaq Nation, and providing reasons for the decision of the Enrollment Committee. Letters of Rejection shall include an explanation of the applicant's options to: apply for reconsideration, appeal the decision, or reapply after two years (see "Options when Refused Enrollment", below).

SUMMARY OF NOTICES PROVIDED TO APPLICANT

An applicant will receive written notice at different points in the Application Process:

- 1) Notice that their Application is incomplete (if applicable) – step 2
- 2) Confirmation of receipt of their Application – step 2
- 3) Request for additional information, documentation, or consent to conduct interviews with third parties (if applicable) – step 3
- 4) Notice of interview date and time (if applicable) – step 3
- 5) Disclosure of summary of information obtained through interviews and Advisory Committee members, with opportunity to respond (if applicable) – step 3
- 6) Notice of Decision – step 4

With the prior written consent of the applicant, notices and correspondence will be sent to the applicant by email. Alternatively, notices and correspondence may be sent by regular mail. Applicants are responsible for ensuring their contact information with the Enrollment Office is up to date.

OPTIONS WHEN REFUSED ENROLLMENT

When the Enrollment Committee issues a Letter of Rejection, the applicant has four options:

1. accept the negative decision of the Enrollment Committee (do nothing); or
 2. request that the Enrollment Committee reconsider its decision; or
 3. appeal the decision of the Enrollment Committee to the Appeals Board, or
 4. reapply after the least of two years.
2. Request for Reconsideration: An applicant who has been refused enrollment as a Mi'kmaw of Nova Scotia by the Enrollment Committee may, within 30 days of receiving the Letter of Rejection, submit additional information to the Enrollment Committee and request that it reconsider its decision based on the additional information. The Enrollment Committee shall consider the applicant's original Application, any information obtained through interviews conducted during the original Application Process, and any new information submitted by the applicant with their request for reconsideration, and shall either:
- confirm its original decision to reject the Application, or
 - vary its original decision and enroll the applicant.

Applicants shall receive written notice of the reconsideration of the Enrollment Committee, which will include reasons for the decision.

Reconsideration decisions of the Enrollment Committee may be appealed within 30 days to the Appeals Committee.

3. **Appeals:** An applicant can choose to appeal their application through a separate appeals process. The purpose of the Appeals Process is to provide a fair opportunity to individuals to have their eligibility for Enrollment as a Mi'kmaw of Nova Scotia reviewed again from the beginning by an impartial decision-maker (please see the section on appeals for more details on this process).
4. **Reapplication:** Alternatively, applicants may reapply for enrollment after two years at the least from the date of the reconsideration decision.

Applicants may reapply for enrollment after the least of two years have passed since the later of: a Letter of Rejection or reconsideration decision of the Enrollment Committee, or an appeal decision of the Appeals Committee.

Applicants may only reapply for enrollment only once.

NOTE: With Rights come Responsibilities. Mi'kmaq identity is not about accessing benefits. It is important to Nova Scotia Mi'kmaq that individuals of the Nation know their culture and are a part of their society. When an applicant is advised in a decision of the Enrollment Committee to establish a stronger connection to the Nation and/or Mi'kmaq culture, the onus remains on the applicant to demonstrate how they meet the Eligibility Criteria, including Acceptance, should they decide to request reconsideration or reapply.

REMOVAL FROM ENROLLED LIST

What does removal from Enrolled list mean?

An individual whose name is removed from the Enrolled List will cease to be enrolled as a Mi'kmaw of Nova Scotia and will no longer be entitled to the rights and privileges flowing from their Rights of status.

An individual will be removed from the Enrolled List where:

- satisfactory evidence has been provided that an individual has died;
- upon demonstration that the individual was enrolled as a Mi'kmaw of Nova Scotia as a result of an error or on the source of false information; or
- upon written request by an individual, in the prescribed form, to renounce their status as a Mi'kmaw of Nova Scotia.

An individual shall receive notice of the removal of their name from the Enrolled List.

Before a person is removed from the list the individual shall receive notice:

- that their enrollment is under review,
- of the reasons the Enrollment Committee has for believing that person should be removed from the Enrolled List; and
- of their right to make submissions to the Enrollment Committee in respect of their removal from the Enrolled List.

Minors: Minors who were enrolled under a parent's Application will remain on the Enrolled List until they reach the age of eighteen, unless their parent's removal is to correct an error or enrollment on the basis of false information.

People who no longer want to be Mi'kmaq: An individual who no longer want to be enrolled as a Mi'kmaw of Nova Scotia may be reinstated to the Enrolled List if they submit a fresh Application through the Enrollment Process.

An individual who is removed from the Enrolled List will receive written reasons for the decision of the Enrollment Committee, and may appeal their removal to the Appeals Committee in accordance with the *Enrollment Appeals Process*.

APPEALS

If an application is denied a person can bring their application to the Appeals Committee. The Appeals Committee will review the application again from the beginning as an impartial decision-maker. An independent committee of representatives appointed by the Assembly and Grand Council is responsible for administering the Appeals Process. Appeal Panels responsible for deciding appeals are appointed from among the members of the Appeals Committee.

Purpose of Appeals: The purpose of the Appeals Process is to provide a fair opportunity to individuals to have their eligibility for Enrollment as a Mi'kmaw of Nova Scotia reviewed again from the beginning by an impartial decision-maker.

Who will do the appeals?

Members of the **Appeals Committee** must be completely independent and impartial. This means members:

- shall not also be members of the Enrollment Committee;
- shall not be a Chief or Councillor;
- shall not be employed by or receive other remuneration of any kind from KMKNO or the Assembly, except the remuneration to which they are entitled as members of the Appeals Committee.

The Appeals Committee will be composed of 9-12 members, where at least six members must be appointed by Assembly and three of which must be Legal Appointees (have a legal background), and three members must be recommended by the Grand Council and appointed by the Assembly. Members of the Appeals Committee will hold their position for three years. From this Committee an Appeals Panel will be established to review an appeal. The **Appeals Panel** will consist of three (3) members of the Appeals Committee appointed by the Chair of the Appeals Committee, which shall be composed of:

- one Legal Appointee, who shall be the Chair of the Appeal Panel.
- one Assembly appointee; and
- one Grand Council appointee.

No member of the Appeals Committee shall hear any appeal in which they have a real or apparent conflict of interest.

General Procedures of the Appeals Committee: Appeals shall be decided by majority vote of the Appeal Panel. The Appeals Committee shall meet as frequently as required for the performance of their duties. Quorum for any meetings of the Appeals Committee shall be seven (7) members. The Appeals Committee may establish terms of reference and rules of procedure for the administration and hearing of appeals not inconsistent with this *Enrollment Appeals Process*, including rules for conducting proceedings, the use of videoconferencing, written submissions, and time limits. Any such rules of procedure shall be available to the public.

Decisions Subject to Appeal

The Appeals Committee has exclusive jurisdiction to hear and decide appeals from decisions of the Enrollment Committee which:

- rejected an Application for Enrollment;
- denied a request for reconsideration;
- rejected a Reapplication for Enrollment; or
- removed an individual from the Enrolled List.

How can I make an appeal?

An appeal must be initiated by the individual (“appellant”) who is the subject of the decision under appeal.

- Where an appellant is under a legal disability, the appellant’s legal guardian or representative may submit a Notice of Appeal on the appellant’s behalf.

What is the time frame that I can submit my appeal?

The appellant may initiate an appeal by submitting a completed Notice of Appeal to the Appeal Officer within 30 days of receipt of:

- a Letter of Rejection;
- a reconsideration decision; or
- notice of their removal from the Enrolled List.

What information do I have to include in my appeal?

The Notice of Appeal shall include:

- a copy of the written reasons by the Enrollment Committee for the decision to be appealed;
- a summary of the grounds of appeal;
- if applicable, a summary or list of any new or additional information or documentary evidence the appellant intends to rely upon, which was not included in the Application;

- if applicable, a list of any witnesses the appellant intends to call at the oral hearing of the appeal;
- whether the appellant elects to proceed by way of an oral hearing or Appeal in Writing;
- where the appellant requests that the appeal proceed as an Appeal in Writing, the appellant shall include, with the Notice of Appeal, copies of any new or additional information or documentary evidence upon which the appellant relies in support of the appeal.
- whether the appellant will be represented at any appeal hearing and, if so, the name and contact information for their authorized representative;
- the appellant's preferred language for the appeal proceedings;
- if applicable, any accessibility needs for the appellant or any witnesses to be called by the appellant;
- whether the appellant is requesting a closed hearing and, if so, a detailed explanation and any supporting documentation justifying that request.

What if I don't get my application within 30 days?

The Appeals Committee may, in exceptional circumstances, grant an appellant an additional period of not more than 30 days to file a Notice of Appeal.

Incomplete Appeals

The Appeal Officer shall verify that the Notice of Appeal is complete. In the event of an incomplete Notice of Appeal, the Appeal Officer shall notify the appellant in writing:

- that their Appeal is incomplete;
- identifying the missing information; and
- requesting that the missing information be submitted to the Appeal Officer within 10 days.

If a Notice of Appeal remains incomplete after the expiry of the time period provided, the appeal will not be accepted and the appellant will be notified.

What happens once my appeal is received?

Upon receipt of a completed Notice of Appeal, the Appeal Officer shall:

- notify the appellant in writing that their Notice of Appeal has been received;
- request a copy of the appellant's Application file from the Enrollment Officer; and
- provide the Chair of the Appeals Committee with a copy of the Notice of Appeal together with any supporting documentation.

Upon receiving the Notice of Appeal, the Chair of the Appeals Committee shall:

- appoint an Appeal Panel to hear the appeal, taking into account the language of the proceeding and any real or apparent conflict of interest of any member(s) of the Appeals Committee;
- issue a decision to the appellant regarding any request for a closed hearing under s. 29 of the Appeals Process, if applicable; and
- schedule a date for an oral hearing, unless the appellant has asked to proceed by way of an Appeal in Writing.

The appellant is entitled to at least 30 days' written notice of the date for the hearing of their appeal.

Procedure for Hearing of the Appeal

The appeal shall proceed by way of an oral hearing, unless the appellant requests that the appeal proceed as an Appeal in Writing. The appellant may present evidence, call witnesses, and make oral and/or written submissions to the Appeal Panel in support of the appeal. The Appeal Panel may ask questions of the appellant or any witnesses called by the appellant.

Public Hearings

Appeals shall be open to the public, unless the appellant requests that the appeal be closed to the public and the Chair of the Appeals Committee determines that the privacy interests of the appellant outweigh the public interest in the appeal.

The Appeal Officer shall publish notice of all appeal hearings that are open to the public at least two weeks in advance of the hearing, on the website of the Appeals Committee or by other comparable means.

Evidence on Appeal

An appeal shall proceed as a re-hearing in which the appellant may introduce new or additional supporting information or evidence, including witness testimony.

The Appeal Panel shall consider and weigh all of the evidence placed before it on the appeal, including:

- any new or additional information or evidence adduced by the appellant; and
- the information and evidence contained in the original Application file.

The Appeals Committee and any Appeal Panel are not bound by strict rules of evidence and may admit and consider evidence that would be excluded in a court of law, except by reason of privilege, and shall give such evidence the weight and consideration it considers appropriate, taking into account its quality and reliability.

Enrollment Committee

Members of the Enrollment Committee do not have the ability to make submissions or introduce evidence at the appeal hearing, but may attend the hearing of the appeal, even if the hearing is closed to the public.

Third parties such as Advisory Committee members do not have the ability to make submissions at the appeal hearing or to introduce evidence unless called as a witness by the appellant.

Will the appeal process be offered in Mi'kmaq?

An appellant can choose to have the appeal hearings conducted in either English or Mi'kmaq. In the event that one or more members of the Appeal Panel are not fluent in either Mi'kmaq or English, the Appeal Officer shall arrange for a qualified interpreter for the duration of the oral hearing or for the translation of documents in an Appeal in Writing.

Right to Representation

The appellant may be represented at the appeal hearing by legal counsel or another representative authorized by the appellant.

Decisions of the Appeal Panel

In deciding the appeal, the Appeal Panel shall apply the Eligibility Criteria in the *Enrollment Process*, and any applicable guidelines or policies adopted by the Enrollment Committee, including the *Enrollment Committee Handbook*.

The Appeal Panel may:

- dismiss the appeal on the basis that the appellant does not meet the Eligibility Criteria; or
- allow the appeal on the basis that the appellant meets the Eligibility Criteria, and order that the Enrollment Officer:
 - enroll the appellant as a Mi'kmaw of Nova Scotia, or
 - restore the appellant to the Enrolled List – if the appellant had been removed.

The Appeal Panel shall provide written reasons for its decision to the appellant and the Enrollment Officer, within 30 days of the conclusion of the appeal hearing or of receiving a completed notice of an Appeal in Writing. Reasons for decision shall be issued in the language of the proceedings. In the event that the language of the proceedings in Mi'kmaq, a certified English translation of the reasons for decision shall also be issued.

All reasons for decision issued by an Appeal Panel shall be available to the public. In the case of an appeal that was closed to the public, the reasons for decision shall be redacted before publication so as not to identify the appellant. All decisions of the Appeal Panel are final and binding and are not subject to further appeal, subject to any right to seek legal review in the Nova Scotia Supreme Court.

Costs on Appeal

The appellant shall bear any costs resulting from their participation in an appeal, including any legal costs.

WHO WILL BE INVOLVED IN DECISION-MAKING

An Enrollment Committee will be established to review applications looking at a combination of factors (criteria) and proof (evidence). The group that will review applications. This committee will consist of Mi'kmaq representatives including youth, Elders, single parents, and Council member, and those living on and off -reserve. The Advisory Committee will be created in circumstances where further information is needed. The Advisory Committee will be made up of family representatives and will review the information provided by the applicant.

ENROLLMENT COMMITTEE

Prior to the beginning of the initial Enrollment period, the Assembly will establish an Enrollment Committee.

The Enrollment Committee shall consist of five (5) members, who may each represent one of the following groups:

- youth between the ages of 18 and 35;
- urban (off-reserve) residents;
- Elders;
- single parents; and
- the Grand Council.

SELECTION AND APPOINTMENT

The Assembly will issue a public call for applications to serve on the Enrollment Committee. Any Mi'kmaw from any of the representative groups listed under (a) to (d), above, wishing to serve on the Enrollment Committee, may submit an application in writing to the Assembly.

The Assembly, taking into consideration factors like merit, demography and geography, will appoint a lead member and an alternate member from each of the five representative groups, except that reserved for a representative of the Grand Council.

The Grand Council will recommend to the Assembly a lead member and an alternate member to the Enrollment Committee.

Future vacancies on the Enrollment Committee shall be filled according to this selection and appointment process.

TERM OF APPOINTMENT

Each member of the Enrollment Committee holds office for a term of one year. Members may be reappointed upon the expiry of their term, but no member shall serve on the Enrollment Committee for more three consecutive terms (three years).

CONDITIONS OF APPOINTMENT

All members of the Enrollment Committee shall swear an Oath of Office before a Justice of the Peace, Notary Public, or a duly appointed Commissioner of Oaths. The Oath of Office will include provisions on confidentiality and conflicts of interest.

Members of the Enrollment Committee:

- shall be Mi'kmaq;
- shall not be a Chief or Councillor;
- shall not be employed by or receive remuneration of any kind from KMKNO or the Assembly.

In the case of death, incapacity, resignation, or temporary absence of any lead member of the Enrollment Committee, the alternate member shall replace the lead member on the Enrollment Committee. The Assembly may then designate a new alternate member to fill any vacancy created on the Enrollment Committee.

Alternate members may attend Enrollment Committee meetings even when the lead member is present, but only as an observer.

POWERS

In assessing an Application, the Enrollment Committee may:

- interview the applicant;
- interview any other individual, including establishing an Advisory Committee, that the Enrollment Committee considers likely to have information necessary to decide the application;
- request that the applicant provide additional information or documentation that the Enrollment Committee considers necessary to decide the application.

The Enrollment Committee may:

- enroll an applicant; or
- refuse to enroll an applicant, if the Enrollment Committee is not satisfied that the applicant meets the Eligibility Criteria;
- remove an individual from the Enrolled List, if the Enrollment Committee is satisfied that an individual was enrolled due to error or on the basis of false information;
- approve the addition of a family name to the List of Family Names;
- remove an Advisory Committee member from their duties if the Enrollment Committee is satisfied that the Advisory Committee member has acted in bad faith, for an improper purpose, or has otherwise violated their Oath of Office.

Subject to the *Enrollment Process* and this *Handbook*, the Enrollment Committee may determine its own rules and procedures.

Subject to this *Enrollment Process*, the Enrollment Committee shall establish policies or guidelines for the purpose of managing and administering the Nova Scotia Mi'kmaq Enrollment Process, including in respect of:

- amendments to the *Enrollment Committee Handbook*;
- terms of Reference of the Enrollment Committee;
- procedures of the Enrollment Committee;
- the sponsorship of non-Nova Scotia Mi'kmaq residing in Nova Scotia by enrolled Mi'kmaq of Nova Scotia or Nova Scotia Mi'kmaq families;
- the establishment of Advisory Committees in verifying or confirming any aspect of an Application;
- terms and procedures for the Advisory Committees;
- identification, appointment, or removal for just cause of individuals on the Advisory Committees;
- the maintenance of, and procedures for adding to, the List of Family Names;
- maintenance of the Enrolled List;
- the making and updating of any forms or templates to be used by the Enrollment Office;
- the administration of any oath, solemn affirmation or declaration;
- supporting documentation or other evidence required or admissible to demonstrate eligibility as a Mi'kmaw of Nova Scotia;
- the roles, responsibilities, and coordination of other parties involved in verifying or confirming any aspect of an Application.

DUTIES

The Enrollment Committee will:

- appoint and direct the Enrollment Officer;
- consider and assess each Application or request for reconsideration based on the Eligibility Criteria;
- issue Letters of Decision to each applicant setting out its decision in respect of their application, and, if Enrollment is refused, include reasons for that decision;
- upon request, provide the applicant's Application file to the Appeals Committee;
- consider and assess requests for additions to the List of Family Names;
- consider and assess complaints about Advisory Committee members;
- keep confidential information provided by and about an applicant;
- report annually on the Enrollment Process to the Assembly; and
- exercise its powers and perform its duties in accordance with the *Enrollment Process* and the *Enrollment Committee Handbook*.

PROCEEDINGS

The **quorum** for a meeting of the Enrollment Committee is 5 members.

Meetings of the Enrollment Committee

The Enrollment Committee will meet as required to fulfill its duties.

Meetings will normally take place at the Enrollment Office premises.

In the case of inclement weather or other circumstances, the Enrollment Committee may meet by conference call or video conference.

Chairperson

At the first meeting of the Enrollment Committee in each calendar year, the Enrollment Committee must appoint from among themselves a chairperson who is responsible, during that calendar year, for:

- chairing all meetings of the Enrollment Committee, including interviews of applicants or other individuals;
- directing the Enrollment Officer;
- signing all decisions and orders of the Enrollment Committee.

Decision-making

- **Consensus or Majority Vote:** The Enrollment Committee will attempt to reach its decisions by consensus. If consensus is not possible on a particular matter, the Enrollment Committee must decide the matter by vote on a motion, in which case a motion passes if it is supported by a simple majority of the members of the Enrollment Committee who vote on the motion.

- **Abstentions:** In the case of abstention, the vote will not count.
- **Tied Votes:** If a vote of the Enrollment Committee is tied on the question of an applicant's entitlement to be enrolled as a Mi'kmaw of Nova Scotia, including:
 - whether an applicant meets the Eligibility Criteria, or
 - whether an individual should be removed from the Enrolled List;the vote is deemed to be a vote that the person should be, or continue to be, a Mi'kmaw of Nova Scotia.
- **Conflicts of Interest:** No member of the Enrollment Committee shall participate in any aspect of the decision-making process in respect of an Application or other matter in which they have a real or apparent conflict of interest. Immediately upon becoming aware of the potential conflict of interest, the member shall declare the conflict to the other members of the Enrollment Committee. The alternate member shall fulfill the duties of the lead member in respect of that matter.

ENROLLMENT OFFICER AND OFFICE

The Enrollment Committee will appoint an Enrollment Officer. The Enrollment Officer may:

- With the approval of the Enrollment Committee, hire and employ staff to provide administrative support to the Enrollment Committee and the Enrollment Officer;
- With the approval of the Enrollment Committee, lease premises for the Enrollment Office.

INDEPENDENT FROM KMKNO AND THE ASSEMBLY

Although Kwilmu'kw Maw-klusuaqn Negotiation Office (KMKNO) shall be responsible for the expenses of the Enrollment Office (e.g., cost of leasing premises for the Enrollment Office, salaries for the Enrollment Officer and staff), the Enrollment Office shall be independent from KMKNO.

DUTIES OF THE ENROLLMENT OFFICER

The Enrollment Officer shall:

- direct staff of the Enrollment Office;
- publish and maintain the List of Family Names and the Roster of Advisory Committee members;
- establish and maintain the Enrolled List;
- ensure the accuracy of the Enrolled List, and the List of Family Names, including promptly updating the Lists as necessary to:
 - implement decisions of the Enrollment Committee;
 - implement decisions of the Appeals Committee;

- update contact information for Nova Scotia Mi'kmaq;
- screen Applications for completeness and compliance with technical requirements;
- convey completed Applications to the Enrollment Committee for review and decision;
- process and send any notices required to be issued by the Enrollment Committee;
- process and send correspondence of the Enrollment Committee;
- Schedule the Enrollment Committee's interviews with applicants;
- oversee the logistics including administration, coordination and meetings of Advisory Committees, when required;
- update and publish forms as amended by the Enrollment Committee from time to time;
- publish the Enrollment Process, Eligibility Criteria, Enrollment Committee Handbook, and any rules or procedures established by the Enrollment Committee;
- process and issue Identification Cards;
- provide forms to applicants;
- respond to inquiries from the public regarding the Enrollment Process.

Carry out other duties as directed by the Enrollment Committee or as may be required for the proper administration of the Enrollment Process and the Enrolled List.

POWERS TO REMOVE INDIVIDUALS FROM ENROLLED LIST

The Enrollment Officer shall remove an individual from the Enrolled List upon:

- receiving proof of their death in the form of an official certificate of death; or
- receiving a request that an individual no longer wants to be enrolled as a Mi'kmaw of Nova Scotia.

What is the Enrolled List?

The Enrolled List is the list of all enrolled Nova Scotia Mi'kmaq. The Enrollment Officer is responsible for establishing, maintaining, and ensuring the accuracy of the Enrolled List.

- The Enrolled List shall record the name, date of birth, identification number, enrollment date and contact information for all enrolled Nova Scotia Mi'kmaq.
- On the fourth Tuesday of each month, the Enrollment Officer shall send a Confirmation of Update to the Enrollment Committee and the Appeals Board notifying of any changes to the Enrolled List during the previous month, including the reason for any additions or removals. If no updates were required, the Confirmation of Update will state "No change in list".

Confidentiality of The Enrolled List

The Enrolled List will be maintained in a secure location within the Enrollment Office. Access to the Enrolled List shall be limited to the Enrollment Committee and the Enrollment Officer. The Enrollment Officer may authorize staff of the Enrollment Office to access the Enrolled List if necessary, for the fulfillment of their duties as set out in this Handbook. The Enrollment Committee, Enrollment Officer, and Enrollment Office staff must protect the confidentiality of the information contained in the Enrolled List.

Exceptions to the duty of confidentiality are:

- the Enrollment Committee or the Enrollment Officer may disclose personal information of an applicant for the purpose of carrying out the procedures of the Enrollment Process, in which case they shall not disclose more information than is required to fulfill the objective of the disclosure;
- the Enrollment Officer may disclose or certify a Mi'kmaw of Nova Scotia's enrollment status to an official of a First Nation, provincial or federal government in connection with the recognition, protection, or advancement of the rights, privileges and benefits to which the beneficiary is or may be entitled by virtue of their enrollment;
- the Enrollment Officer may disclose the personal information of a Mi'kmaw of Nova Scotia to a third party, with that individual's prior written consent.

Any applicant or enrolled Mi'kmaw of Nova Scotia may submit a request to the Enrollment Officer for access to for their own personal information contained in:

- their own Application file; or
- the Enrolled List.

Any enrolled Mi'kmaw of Nova Scotia may make a request, in writing, to the Enrollment Officer to have their personal information contained in the Enrolled List be corrected or updated.

FAMILY NAMES & ADVISORY COMMITTEES

IDENTIFICATION OF FAMILY NAMES

Mi'kmaq identity is based on family relations. In day-to-day conversations, confirmation of Mi'kmaq identity is determined through questions about which family a person is connected to, and what area they are from. Family connection is established through family or surnames. There are specific family names that are identified as Mi'kmaq families. For many of these names, Nova Scotia Mi'kmaq have categorized and associated these to family names.

Why do applicants need to connect to a family?

Throughout the engagement process, Mi'kmaq were clear that decision-making must start with the family. Mi'kmaq were also clear that Mi'kmaq identity derives with the family so it is mandatory that at the heart of this process, family is involved. Accordingly, as part of the Familial Connection eligibility criterion, an applicant must demonstrate that they are connected to at least one of the Mi'kmaq clans or families recognized in Nova Scotia, through verification by a representative of their clan or family.

List of Family Names

Through a consultative process, KMKNO has developed a list family names to be used in assessing whether an applicant meets the "Familial Connection" criterion under the Enrollment Process. First, a historian compiled a list of Nova Scotia Mi'kmaq (family) surnames from historical records. Additional work on surnames was then conducted by Gerald Gloade at Mi'kmawey Debert and by Mi'kmaw Kina'matnewey. These lists were presented to membership clerks for the thirteen bands, who noted if any family names were missing.

The Enrollment Officer will maintain and publish the List of Family Names and update the list as required from time to time.

Additions to the List Family Names

Although every effort will be made to ensure that all family names are listed for all areas in Nova Scotia, there may be cases where a Mi'kmaq family name is omitted from the list. If this occurs, any individual member of that family may write a letter to the Enrollment Committee requesting that their family name be added to the list. The individual should include as much detail concerning their family tree, the geographic area(s) the family is connected to in Nova Scotia, and any other relevant information. The Enrollment Committee shall inquire into the request and may seek expert advice from Mi'kmaq historians for this purpose. The Enrollment Committee shall decide whether or not the name should be added to the List of Family Names and shall notify the individual of their decision, including written reasons. The decision of the Enrollment Committee shall be final and binding, and not subject to further appeal.

CREATION OF ADVISORY COMMITTEES

Mi'kmaq families are very large. A single family can be connected to more than one area in Nova Scotia. Family members may only have knowledge of the relatives in their own local area and/or band, and in some instances, it may be someone outside the family who is most knowledgeable of the family history and connections, such as Elders or membership clerks. These individuals are respected and viewed as objective sources of information to verify and validate acceptance and family connection. Advisory Committees will only be established on an ad hoc basis when the Enrollment Committee feels that further investigation is required to determine if an applicant meets the enrollment criteria. Appointees to an Advisory Committee will reflect the application and will be based on factors such as: family connection, geographic area, knowledge of the area and/or family the individual claims connection to. An Advisory Committee will be composed of no less than three and no more than seven individuals.

DUTIES OF AN ADVISORY COMMITTEE

Advisory Committee members shall be responsible for determining and validating an applicant's Acceptance – this includes present-day connection to a family and broader Acceptance by the Nova Scotia Mi'kmaq Nation.

Advisory Committee members shall be required to sign a confidentiality agreement.

COMPLAINTS PROCESS

An applicant who believes that an Advisory Committee member has denied family connection and/or acceptance in bad faith or for an improper purpose (e.g., based on a protected personal characteristic of the applicant), or has otherwise violated their oath of office, may make a formal complaint in writing to the Enrollment Committee. The Enrollment Committee shall inquire into the complaint. If the Enrollment Committee considers it necessary or practical to do so, the Enrollment Committee may appoint an independent investigator to investigate the facts underlying a complaint. If, after inquiring into the complaint, the Enrollment Committee is satisfied that the complaint is substantiated, the Enrollment Committee may remove the Advisory Committee member from their duties, and depending if that member's actions has swayed the outcome of decision by an Advisory Committee, may require the convening of another Advisory Committee meeting.