

# Mille Lacs Band Statutes Annotated

Amendments received through: October 3, 2011

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## TITLE 9 - EDUCATION

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### CHAPTER 1

#### CONSOLIDATED NAY-AH-SHING SCHOOL BOARD

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### Historical and Statutory Notes

The Introduction and Preamble to Band Ordinance 33-03 (this Chapter) provide:

“This Education Ordinance represents the law pertaining to the Nay Ah Shing School Board. Prior Title 9 MLBSA §§ 1-30 are repealed and replaced in their entirety by this Ordinance.”

“**PREAMBLE:** The Mille Lacs Band of Ojibwe Indians believes that its children are its most precious resource as they represent the future of the Band. In the quest to provide a quality education for their children, the Band recognizes that the Nay Ah Shing Schools require a School Board that is responsive to the needs of the children. It is the intent of this law to provide clear direction for the Nay Ah Shing School Board so that it may fulfill its mission to provide a quality education for the Mille Lacs Band of Ojibwe children.”

The Title of Band Ordinance 31-11 is “An Ordinance amending Title 9 of the Mille Lacs Band Statutes Annotated entitled Education in order to change the supervisory authority of the Nay-Ah-Shing School Board and to entrust the Commissioner of Education with the task of the day-to-day supervisory authority over all Education employees.”

The Preamble to Band Ordinance 31-11 provides: “The Band Assembly of the Mille Lacs Band of Ojibwe believes it is in the best interest of the Band to provide a quality education for the children. It is the intent of this law to provide clear direction to the School Board and to the Commissioner of Education so that they may fulfill the mission of providing a quality education for all children attending the Nay-Ah-Shing schools.”

Section I.1 of Band Ordinance 31-11 provides: “This Education Ordinance represents the law pertaining to the Nay-Ah-Shing School Board. Prior Title 9 MLBSA §§ 8, 10, 15, 18, 19, and 28 are repealed and replaced by this Ordinance. Sections 29 and 30 are renumbered as Sections 28 and 29.”

Section I.2.(3) of Band Ordinance 31-11 provides in part: “Section 15 (**Powers and duties of Commissioner of Education**) is amended to authorize the Commissioner with day-to-day supervisory authority over all Nay-Ah-Shing department employees.”

Section I.3 of Band Ordinance provides: “The amendments to Title 9 of the Mille Lacs Band Statutes Annotated are included as an attachment to this Bill and referenced as Exhibit A.”

## **§ 1. Consolidated Nay-Ah-Shing School Board**

A Commission to be known as the Nay Ah Shing school board is hereby chartered and authorized as an independent subdivision of the Executive Branch of tribal government with those powers as delegated by the Band Assembly.

### **Historical and Statutory Notes**

**Source:**

Band Ordinance 33-03, § 1

## **§ 2. Membership and voting**

The Consolidated Nay-Ah-Shing School Board shall be five-member board; with each member having the title of Board Member, with the exception of the leader whose title shall be Chairperson. Each Board Member shall have one vote at regular and special meetings with the exception of the Chairperson who shall vote in the case of a tie vote.

### **Historical and Statutory Notes**

**Source:**

Band Ordinance 33-03, § 2

## **§ 3. Election of members**

Each Board Member shall be elected, two from District I, one from District II and one from District III. The Chairperson shall be elected from an at large voting position.

### **Historical and Statutory Notes**

**Source:**

Band Ordinance 33-03, § 3

## **§ 4. Terms of office**

The term of office for each Board Member shall be four years. The positions will be staggered with two members (Districts I and III) being elected in June 1990, and every four years thereafter, and the Chairperson and two other members (Districts I and II) being elected in June, 1992, and every four years thereafter.

### **Historical and Statutory Notes**

**Source:**

**§ 5. Eligibility for Board membership**

(a) Any Board Members elected by the residents of a district or the Chairperson shall be an enrolled member of the Mille Lacs Band of Ojibwe Indians and at least twenty-one years as of the date of certification of candidates by the Joint Session.

(b) Any Board Member elected or appointed must reside for at least one year prior to the primary election within the voter districts.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 33-03, § 5

**§ 6. Removal from office**

Any Board Member may be removed from office for just cause as determined by 3 MLBSA § 25.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 33-03, § 6

**§ 7. Vacancies**

(a) In the event that a Board Member resigns or is removed as a Board Member or is otherwise unable to complete his/her term as a Board Member or there is otherwise a vacancy the vacancy shall be filled by appointment.

(b) The District Representative from the District where the vacancy occurs shall provide the Chief Executive with the names of two eligible persons from which the Chief Executive shall nominate one person to fill the vacancy that is subject to ratification of the Band Assembly.

(c) If a District Representative does not submit the names of two eligible persons to the Chief Executive within thirty (30) days of a vacancy, the Chief Executive shall appoint an individual to complete the term.

(d) In the event that the vacancy occurs in the Chair position, the Chief Executive shall make the nomination that is subject to the ratification of the Band Assembly.

(e) In the event the Chief Executive fails to nominate a person to fill a vacancy

for the Chair position within thirty (30) days of a vacancy, the Secretary/Treasurer shall appoint an individual to complete the term.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 33-03, § 7

### **§ 8. Powers and duties of the Nay-Ah-Shing School Board**

(a) The Consolidated Nay-Ah-Shing School Board shall have power to establish educational policy for the benefit of Band members and non-Band members attending a Band school.

(b) They shall prepare a uniform system of records for the Band's school(s).

(c) They shall have general supervision over all Band 0-12 School Programs and shall establish policy for:

- (1) approval of requests for any educational, scientific research;
- (2) minimum criteria for passage to succeeding grades and graduation;
- (3) appropriate student conduct and disciplinary procedures;
- (4) any satellite/expanded services for Band 0-12 School Programs;
- (5) the preparation and authorization of educational grants and contracts related to all Band 0-12 School Programs; and
- (6) the implementation of rules and regulations for any Band 0-12 School education-related subject-matter statute.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 33-03, § 8; Band Ordinance 31-11, § I.2.(1) and Exhibit A § 8

### **§ 9. Educational state of the Band report and needs assessment**

The Consolidated Nay-Ah-Shing School Board shall annually prepare an Educational State of the Band report to the Chief Executive and the Band Assembly no later than August 1 of each year and biannually conduct a needs assessment into all areas of its jurisdiction. By August 1 of each year, the Commissioner of Education and Nay

Ah Shing School Board shall concur on appropriate levels for academic achievement, culture and language, and staffing for the upcoming year.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 33-03, § 9

**§ 10. Hearings**

The Consolidated Nay-Ah-Shing School Board shall have the power to hold subject matter public hearings on education related topics.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 33-03, § 10; Band Ordinance 31-11, § I.2.(2) and Exhibit A § 10

**§ 11. Bylaws**

The Consolidated Nay Ah Shing School Board shall adopt a set of bylaws establishing its rules of procedure and other internal governance matters within 90 days of passage of this Chapter. Said Bylaws shall be ratified by Band Assembly.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 33-03, § 11

**§ 12. Responsibility for unacceptable performance of duties**

In exercising any powers granted, each Board Member shall not be immune from any responsibility that results from willful, knowledgeable and unacceptable performance of their duties.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 33-03, § 12

**§ 13. Meetings**

The Consolidated Nay-Ah-Shing School Board may meet up to twice a month with an agenda prepared in advance by the Chairperson. The Chairperson shall give at

least twenty-four hour notice for any Special meetings.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 33-03, § 13

**§ 14. Powers reserved to Band Assembly**

Any and all powers not specifically listed are reserved to the Band Assembly.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 33-03, § 14

**§ 15. Powers and duties of Commissioner of Education**

The Commissioner of Education shall have general and day-to-day supervisory authority over all Nay Ah Shing School department employees and the power and duty to:

- (a) Attend regularly scheduled and special School Board Meetings;
- (b) Negotiate and execute contracts with individuals and funding agencies of the United States or any private foundations for any education related matters;
- (c) Exercise the day-to-day administration of all educational activities including supervisory authority over any and all Education employees;
- (d) Authorize the expenditure of all education funds under his/her jurisdiction, provide the School Board with a copy of each budget and notify the Board of all expenditures and budget modifications, and be accountable for the lawful disbursement of such funds;
- (e) Oversee the employment, discipline or termination of Education employees according to the policies set forth in the Mille Lacs Band Personnel Policy Manual;
- (f) Open or close school sessions for just cause;
- (g) Issue Commissioner's Orders on any subject matter within his/her jurisdiction pursuant to the authority conferred by Band statute;
- (h) With the School Board, determine annual student achievement standards;

- (i) Report to School Board on matters of concern to the Board; and
- (j) Forward budget requests, in consultation with School Board.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 33-03, § 15; Band Ordinance 31-11, § I.2.(3) and Exhibit A § 15

**§ 16. Local Indian Education Committees**

All local Indian Education Committees shall be disbanded with powers transferred to the Nay-Ah-Shing School Board upon the date of enactment of this Chapter. Authorities granted by the Mille Lacs Reservation Business Committee to said Committees are hereby revoked and rescinded.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 33-03, § 16

**§ 17. Admission to Nay-Ah-Shing School**

All schools under the jurisdiction of the Band which are supported by Band revenue or any funds of the United States shall admit any enrolled member of the Band who is of school age and has not been expelled from any other school for violation of federal law. Notwithstanding the provision of any law to the contrary, the conduct of all pupils attending a Band sanctioned school shall be governed by a single set of reasonable rules and regulations established by the School Board. The School Board shall establish a single set of reasonable admission standards that shall contain uniform minimum school age entrance requirements.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 33-03, § 17; Band Ordinance 31-11, Exhibit A § 17

**§ 18. Compulsory attendance of school age pupils**

(a) Every child between the chronological age of six (6) and sixteen (16) years of age shall attend a Band School or Public School of the State of Minnesota, during the entire time that the school is in session during the school year. Nay-Ah-Shing School shall be in session no less than one hundred and eighty (180) instructional days. 25 C.F.R., Part 36, Subpart C, Section 36.20(b). Any student between sixteen (16) and eighteen (18) years of age who seeks to withdraw from school, must have the student's

parent or guardian (1) attend a meeting with school personnel to discuss the educational opportunities available to the student, including alternative educational opportunities, and (2) the student's parent or guardian must sign a written election giving permission to withdraw from school.

(b) It shall be the duty of the School Board or its designee to determine the legitimacy of all absences from school for any pupil. Excuses for absence shall be determined from uniform standards established by the School Board.

(c) The School Board or its designee shall by registered mail notify the parents or guardians of any pupil who is unexpectedly absent from school. On the fifth unexcused absence from school the School Board shall by registered mail notify the parents or guardians to appear before the School Board for a formal hearing into the matter. Upon the continuation of unexcused absences or upon failure of the parents or guardians to appear before the School Board, the School Board shall request that the appropriate Social Services agency file a civil complaint (Child Protection Petition) in a court of competent jurisdiction.

(d) Any person who is found guilty of civil violations of this section shall be subject to a fine not to exceed One Hundred (\$100.00) dollars. Continued civil violation shall subject the person to contempt of court and an additional fine.

(e) For purposes of this section, parents or legal guardians shall be deemed liable for the truancy of minors under their direct supervision in any court of competent jurisdiction.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 33-03, § 18; Band Ordinance 31-11, § I.2.(4) and Exhibit A § 18

### **§ 19. Obligations of the Nay-Ah-Shing School Board**

The Nay-Ah-Shing School Board shall have the following duties and obligations under this Chapter:

(a) to establish rules relating to qualifications of essential personnel, course of study or training, methods of instruction and training, size of classroom, equipment, supervision of pupils, parent consultation and any other rules or standards within its statutory authority;

(b) to provide a free education to all children attending any Band 0-12 School;

(c) to furnish free textbooks to all pupils;

(d) to establish a cultural and language educational program;

(e) to ensure that each student can converse in the native language of Ojibwe upon high school graduation;

(f) to establish curriculum to incorporate Band history as well as the history of other tribes in the United States;

(g) to establish curriculum to incorporate an understanding of the Band government structure;

(h) to establish college preparatory classes in the high school; and

(i) to establish curriculum to teach personal financial information and economics to students.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 33-03, § 19; Band Ordinance 31-11, § I.2.(5) and Exhibit A § 19

### **§ 20. Bequests, gifts and trusts**

The School Board may receive, for the benefit of Indian children in any Band educational program, bequests, donations or gifts for any proper purpose and apply the same to the purpose designated.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 33-03, § 20

### **§ 21. Records**

The School Board shall keep records of all meetings and all transcripts thereof. Such records shall be prima facie evidence of the facts therein stated. They shall also keep records of student achievement, attendance and related issues. All such records shall be private and confidential and shall only be disclosed pursuant to a confidentiality policy adopted by the School Board.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 33-03, § 21

### **§ 22. Health**

The School Board shall establish a policy for physical examinations for all pupils enrolled at Band 0-12 grade schools. Employees of the School Board shall show freedom from contagious diseases in accordance with rules established by the Coordinator of Health Services. The Coordinator of Health Services shall be the Nurse Practitioner/Community Health Nurse at Ne-ia-shing Clinic. The Commissioner of Health & Human Services in conjunction with the School Board shall be responsible for the development of all health related rules, regulations and policies for the 0-12 grade school programs. The School Board shall adopt any such rule, regulation or policy recommended by the Commissioner of Health & Human Services unless they find compelling cause to reject such rule, regulation or policy.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 33-03, § 22

**§ 23. Sectarian materials or teaching**

The School Board shall ensure that sectarian materials of any type are not provided to pupils that promote beliefs inconsistent with the cultural laws and traditions of the Band. They shall further ensure that all Band 0-12 grade school programs remain free of sectarian beliefs and political activism of any kind.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 33-03, § 23

**§ 24. In loco parentis**

The School Board shall not assume parental rights for any child while such child is in attendance at Band school. Corporal punishment shall not be permitted as a form of discipline in any policy adopted by the School Board.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 33-03, § 24

**§ 25. Office of Management and Budget**

The Office of Management and Budget shall retain financial responsibility for the general books of account for all education-related funds of the Band.

### **Historical and Statutory Notes**

**Source:**

Band Ordinance 33-03, § 25

### **§ 26. Appropriations**

The Band Assembly shall retain appropriation authority over all education-related funds. As required by Band Ordinance 23-99, appropriation requests shall be prepared on a biennial basis and forwarded to the Chief Executive for submission to the Band Assembly no later than September 1 of each odd-numbered year.

### **Historical and Statutory Notes**

**Source:**

Band Ordinance 33-03, § 26

### **§ 27. Veto authority of Chief Executive**

The Chief Executive may veto any official action of the School Board within five business days of receipt of any such policy, rule or regulation with concurrent ratification of such veto by the Band Assembly within ten business days. In the event of the Band Assembly's refusal to ratify any such veto, said action of the School Board shall be implemented. If the Band Assembly concurs with the Chief Executive's veto, the official action of the School Board shall fail to take effect. Upon receipt of notice of any such Executive veto, the Chairperson of the School Board shall appear before the Band Assembly to justify the School Board's official action to the Band Assembly. Such justification shall be submitted in writing at least one day before formal oral hearing before the Band Assembly.

### **Historical and Statutory Notes**

**Source:**

Band Ordinance 33-03, § 27

### **§ 28. Solicitor General**

(a) The Solicitor General shall represent the interest of the School Board in matters before the Court of Central Jurisdiction with the exception of those issues in which the interests of the Band override the interest of the School Board.

(b) Should there be any doubt as to the proper interpretation of any part of this Chapter, the Commissioner of Education shall submit such question to the Solicitor General, who should issue a written opinion thereon.

## **Historical and Statutory Notes**

**Source:**

Band Ordinance 33-03, § 29; Band Ordinance 31-11, § I.2.(6) & (7)

### **§ 29. Sovereign Immunity**

Nothing in this Chapter shall be construed as a waiver of sovereign immunity of the Mille Lacs Band of Ojibwe Indians in any State or Federal Court of competent jurisdiction.

**Source:**

Band Ordinance 33-03, § 30; Band Ordinance 31-11, § I.2.(8)