

Governance Pilot Project: Wabigoon Lake Ojibway Nation

The Wabigoon Lake Ojibway Nation's governance project was developed and guided by a philosophy of self-determination and community-based solutions that combine Anishnaabe principles with mainstream Canadian approaches. The community's governance planning process is guided by traditional principles and concepts that ensure governance mechanisms ultimately created will be a "good fit" for the community and its members. The draft bylaw developed by Wabigoon Lake would create an impartial Community Tribunal Board to hear and decide upon appeals and grievances filed by First Nation members against Wabigoon Lake First Nation. It is proposed that the bylaw be enacted under the *Indian Act* Guidelines for the Tribunal Board are clearly delineated in the draft bylaw.

The tribunal process involves three consecutive stages:

- In the first stage "conciliation facilitation", the Community Tribunal Board facilitates a process to guide the parties towards a mutually acceptable resolution of their dispute. If no satisfactory resolution is reached, a request for mediation will be accepted and processed.
- In the second stage, the Board acts as a third party mediator, helping to clearly define the issues and assist in reaching a resolution acceptable to both parties.
- The third stage involves arbitration.

With authority granted to it under the bylaw, the Community Tribunal Board will arbitrate a fair decision that is supported by factual information. At this level, the Board may also seek legal assistance to ensure that a fair decision is reached. Persons who wish to put a matter before the Community Tribunal Board can choose to begin the appeal process at any of the three stages of conciliation, mediation or arbitration. The parties contribute to the process by putting forward the names of persons whom they believe would be able to act as a conciliator, mediator or arbitrator. If the person selected is not a board member, both parties share the costs of retaining the selected person's services.

The Community Tribunal Board is to be comprised of between five (5) and ten (10) community members elected to sit as members of the board. At least one representative from the community's youth, female, male and Elder populations must be elected. To ensure there is sufficient capacity and expertise among board members, the bylaw requires that they receive training in conflict resolution and are provided with board-related training upon election.

The decision making process of the Tribunal focuses on facilitating resolution of disputes and disagreements in a manner that maintains harmony within the community and produces decisions mutually acceptable to both parties. Only after conciliation and mediation efforts have been exhausted will the Board arbitrate a decision on behalf of the two parties in dispute. If any of the parties are not satisfied with an arbitrated decision, the Tribunal Board process has a built in appeal procedure.

Attached as appendices to the draft bylaw are pertinent pieces of information regarding dispute resolution and decision making processes. These include a statement of the roles and responsibilities of the Board, confirmation of the independence and impartiality of the Board, a Board Code of Conduct, and conflict of interest. These documents provide

further insight into the proposed appeal and redress mechanism, and give life to the Community Tribunal Board dispute resolution process.

Through its governance project, Wabigoon Lake also initiated a process for the election of Tribunal Members. The First Nation sent out nomination and election packages, received nominations, and produced and mailed out a candidate list to eligible voters.

Excerpted from *First Nations Governance Pilot Projects: Challenge and Innovation. A Final Report Prepared for the National Centre for First Nations Governance* by Carleton University Centre for Community Innovation. February 2005.