

## **WORKING DRAFT OF THE CONSTITUTION OF THE LAC DU FLAMBEAU OJIBWE**

### **WORKING DRAFT PREAMBLE**

We the Ojibwe Anishinaabeg of Waswaagoning, formally known as the Lac du Flambeau Band of Lake Superior Chippewa Indians, grateful to our Creator for our existence, eternally affiliated with the Great Ojibwe Nation of North America, affirm the inherent rights of self-government, preserving and strengthening the sovereignty of our Tribe and the Ojibwe Nation, to secure, honor, and protect the rights, and ongoing existence of our tribal members and our descendants, reinforce our foundations of economic, cultural, political, and social systems necessary for our future generations, and guarantee our self-evident and inherent right to utilize and protect our natural resources, do hereby amend and revise this Constitution.

### **DRAFT ARTICLE I – TERRITORY & JURISDICTION**

#### **DRAFT SECTION 1. TERRITORY.**

The territory of the Waswaaganing Ojibwe shall include all land, air, water, minerals, and natural resources, both surface and subsurface within the original confines of the Lac du Flambeau Reservation of the Treaty dated September 30, 1854 and shall extend to all land, air, water, minerals, and natural resources both surface and subsurface, acquired thereafter by the Tribe or its citizens, on the United States for the benefit of the Tribe or its citizens.

#### **DRAFT SECTION 2. JURISDICTION.**

The jurisdiction of the Waswaaganing Ojibwe shall extend to all territory set forth in Section 1 of this Article and to all persons and activities therein. Additionally, the Waswaaganing Ojibwe shall have extra-territorial jurisdiction over all activities and people for the purpose of protecting the rights of Waswaaganing Ojibwe as guaranteed by the 1837, 1842, and 1854 Treaties entered into with the United States.

### **WORKING DRAFT ARTICLE II - MEMBERSHIP**

**Section 1. Current Members.** Any person who is currently enrolled as a Lac du Flambeau Chippewa Indian at the time of the ratification of this Constitution shall be a member of this Nation.

**BLOOD QUANTUM MEMBERSHIP Section 2. Future Members.** Any person of one-eighth (1/8) Lac du Flambeau Chippewa blood and who is not enrolled in any other Tribe may be enrolled as a Lac du Flambeau Chippewa Indian.

Or

**DECENDANCY MEMBERSHIP Section 2. Future Members.** Any person born to an enrolled tribal member, who can prove decendancy to any Great Lakes Chippewa Band or the Lac du Flambeau Band) and who is not enrolled in any other Tribe.

Or

**TRIBAL MEMBERSHIP Section 2. Future Members.** Any person born to at least one enrolled tribal member shall be eligible for enrollment as a Lac du Flambeau Ojibwe tribal member.

Or

**Descendant Membership Entitlement.** Any person who is a blood descendant of a member of the Lac du Flambeau Band of Lake Superior Chippewa Indians shall be entitled to membership in the Waswaaganing Ojibwe Nation.

**Section 3. Enrollment Process.** All persons gaining membership subsequent to the ratification of this Constitution, in accordance with ARTICLE IV of the Constitution and the Membership Ordinance shall be members of the Tribe.

**Section 4. Restrictions.** Any person enrolled in any other Indian Tribe shall not be a member of the Lac du Flambeau Band.

DRAFT ARTICLE IV MEMBERSHIP

**Section 1.** Any person who is officially listed on the Lac du Flambeau Tribal roll on the date of the ratification of this constitution shall be a member of the Lac du Flambeau Ojibwe Nation.

**Section 2.** Any person who is a blood descendant of a Lac du Flambeau Ojibwe Native shall be eligible for membership in the Lac du Flambeau Ojibwe Nation. For purposes of Section 2, the meaning of "descendant" shall be a person who can, by means of DNA testing at his or her own expense, now prove that he or she is a blood descendant of or related by blood to a Lac du Flambeau Ojibwe Native.

**Section 3.** Any person of Ojibwe blood proven by DNA testing at the expense of such person, may be adopted as a member of the Lac du Flambeau Ojibwe Nation, provided that such person has resided within the exterior boundaries of the Lac du Flambeau Ojibwe Nation continuously for a minimum of five years immediately prior to the date of application, or who has been married to a member of the Lac du Flambeau Ojibwe Nation for a minimum of five years immediately prior to the date of application, or that such person has been legally adopted by a member of the Lac du Flambeau Ojibwe Nation, and further provided that approval for adoption shall be determined by a sixty percent (60%) affirmative vote of the general membership at an annual meeting of that body.

**Section 4.** No person admitted to membership in the Lac du Flambeau Ojibwe Nation shall be a member of any other Tribe, Band, Community, Pueblo, or Nation of Indigenous Native Americans.

**Section 5.** Any person who is a member of the Lac du Flambeau Ojibwe Nation shall enjoy equally all of the rights accorded to any other member of the Lac du Flambeau Ojibwe Nation.

**Section 6.** All descendant applications for membership in the Lac du Flambeau Ojibwe Nation shall be approved by a majority vote of the General membership at an annual meeting of that body.

**Section 7.** The Legislative Branch of the Lac du Flambeau Ojibwe Nation shall promulgate procedural rules for the orderly processing of applications for membership, in accordance with the terms of ARTICLE II, Membership.

**Section 8.** No person who is a member of the Lac du Flambeau Ojibwe Nation shall be banished from the Nation or removed from the membership roll, provided, however, that the membership of persons who have submitted false or fraudulent applications may be nullified by adjudication in the Lac du Flambeau Tribal Court, said Court guaranteeing due process to a person so charged.

**DRAFT**

## **SEPARATION OF POWERS, ARTICLE III**

Our Tribal Council is currently the sole governing body of our Tribe. We operate a multi-million dollar operation, with all the departments, programs, enterprises, and tribal court. All of these parts of government are under the jurisdiction of our Tribal Council.

Most of you know how much pressure is on the Council just to take care of the immediate needs of our people. Most of the time, there just is no time to think about progress, about planning for the future, about increasing our employment.

By creating different BRANCHES OF GOVERNMENT, and by assigning duties and responsibilities to each BRANCH, we can begin to move forward and do the planning and implementation of new industries, expansion of our gaming, new education opportunities for our members and families, and expanded health care for all of our members.

BUT, when we create these separate BRANCHES, we also have to divide the governmental powers between them. The way this works is:

The LEGISLATIVE BRANCH makes the laws. They also settle BRANCH disputes. And they also oversee all of the Tribal committees, commissions, etc.

The EXECUTIVE BRANCH is in charge of all the Departments, all of the programs, the enrollment, and the finance divisions. They run these operations according to the laws that are passed by the LEGISLATIVE BRANCH.

The CORPORATE BRANCH handles all of the "enterprises" of the Tribe. They oversee the store, the gas station, the smoke shop, the Casino, the camp ground, just about everything the Tribe owns that brings in money.

The JUDICIAL BRANCH handles all of the court cases. They also have the sole right to "interpret the Constitution". They make sure that the laws of our Tribe are upheld.

## **BALANCE OF POWER**

If we have this "SEPARATION OF POWERS" then it stands to reason that there must also be what is called "A BALANCE OF POWERS". This is very important, because we don't need one BRANCH overing on another BRANCH, or one individual or set of individuals starting little groups and forming

mini-dictatorships.

We have all seen too many times these groups in operation, and it has cost our Tribe years of non-progress, and put us in the hole for untold millions of dollars. Never again can we allow this to happen.

### HOW DOES BALANCE OF POWER WORK?

First of all, we establish our GENERAL COUNCIL, which is made up of all of us tribal members. We as the General Council, establish our CONSTITUTION, which gives the Tribal members the ULTIMATE POWER over every BRANCH.

The GENERAL COUNCIL has the power to oversee everything done in our BRANCHES of government. This alone creates a real balance of power.

But, we also require that all laws passed by the LEGISLATIVE BRANCH MUST BE SIGNED INTO LAW BY THE PRESIDENT OF THE TRIBE BEFORE THEY BECOME LAW.

The EXECUTIVE BRANCH administers the laws, and must operate within the framework of our Constitution. If they don't, the GENERAL COUNCIL won't be too kind at their next meeting.

The same goes for the CORPORATE BRANCH. Whatever they do must be approved by the Tribal President. And some things must also be approved by the Legislature.

The JUDICIAL BRANCH must operate under review powers of the GENERAL COUNCIL. They can get stepped on too, if they start acting funny.

All in all, if we keep on our toes, we can and we will make it work. So, if things are run according to H-O-Y-L-E\* we won't have to lock ourselves in the enrollment department any more. And we won't have to get irate and set up a new village down by Tomahawk River. And everybody will live happily ever AFTER.

Honor

Our

Youth,

Leaders, and

Elders

# EXECUTIVE BRANCH

## Section 1. Establishment.

1. There is established the Executive Branch of Government of the Lac du Flambeau Ojibwe Nation, such Branch to be comprised of two members, being the President and the Vice-President of the Nation, who shall be elected in accordance with the election laws of this Constitution, and who shall serve four-year terms of office.

2. There shall be established the Office of Enrollment and Records. The office of Enrollment and Records shall be administered by a person appointed by the President subject to approval by the Legislature,

There shall be established the Office of Finance. The Office of Finance shall be administered by a person appointed by the President subject to the approval by the Legislature.

## Section 2. Enumerated Powers.

(a) The Executive Branch shall have the authority to administer the affairs of the Lac du Flambeau Ojibwe Nation, in accordance with this Constitution and under rules, ordinances, and laws enacted from time to time by the Legislative Branch of this government.

(b) The Executive Branch shall have the authority to administer the finances of the Lac du Flambeau Ojibwe Nation in accordance with this Constitution, such finances to include all revenues from any source, be they gross or net in nature, trust or non-trust in nature.

(c) The executive Branch shall have the authority to administer the offices of Enrollment and Records of the Lac du Flambeau Ojibwe Nation, with oversight authority over all records necessary for the governance of the Nation, in accordance with this Constitution.

(d) The Executive Branch shall have the authority to administer the affairs of the Legal Department of the Nation in accordance with this Constitution, provided, that the affairs of the Attorney General of the Nation shall be subject only to oversight powers of the Nation General Council.

(e) The President of the Lac du Flambeau Ojibwe Nation shall have veto power over any enactment by the Legislative Branch, and further provided that any veto may be overturned by an affirmative vote of two thirds (2/3) of the Legislative Branch, and further provided that any act of the Legislative Body must be signed or vetoed by the Tribal President within twenty days after passage by the Legislative Branch, and further provided that no action by the Tribal President within twenty days on any official act of the Legislature shall render such act immediately effective.

(f) The Executive Branch shall have the authority to challenge the constitutionality of any act of the Legislative Branch, provided that the highest tribunal of the Nation's Judiciary shall have the sole jurisdiction to render a decision on such petition, such decision to be rendered within sixty days after a proper petition has been filed with the Judiciary, such decision to be final and non-reviewable, and further provided that inaction by the highest tribunal within sixty days shall constitute malfeasance of office by that tribunal, and such inaction by the highest tribunal shall render the challenge reviewable by the General Council, at the next regularly scheduled gathering of the General Council, or at a specially convened gathering for that and other business of the General Council.

(g) When utilizing Tribal General Funds, the Executive Branch shall have the authority to hire or contract all positions in the Tribal governmental infrastructure, provided that hiring and contract practices shall guarantee Tribal preference.

## Section 2. Restrictions on Executive Powers.

(a) The Executive Branch shall take no actions designed to restrict or otherwise deny the rights to free speech, freedom

of movement, right to bear arms, right to gather for subsistence purposes, rights to peaceable assembly, rights to vote, and any other rights of any Tribal member, in accordance with this Constitution.

(b) The Executive Branch shall take no actions to discipline or terminate employment of any person, without documented just cause, and shall initiate no actions to discipline or terminate any person without guaranteeing due process to such person.

(c) Any action of the Executive Branch may be challenged by members of the Nation on the basis of constitutionality, provided that such challenge shall be in the form of a petition signed by a minimum of one hundred and twenty-five (125) adult Tribal members, and such petition to be filed with the Judiciary, and further provided that the highest tribunal of the Judiciary shall have the sole jurisdiction to render a decision on such petition, within sixty days after proper submission of said petition, such decision to be final and non-reviewable, and further provided that inaction by the highest tribunal within sixty days shall constitute malfeasance of office of that tribunal, and such inaction shall render the challenge reviewable by the General Council, at the next regularly scheduled gathering of the General Council, or at a specially convened gathering for that and other business of the General Council.

# **LEGISLATIVE BRANCH**

## **Section 1. Establishment**

- A. There is hereby established the Legislative Branch of the Lac du Flambeau Ojibwe Nation. The Legislative Branch shall consist of nine Adult members of the Nation, all of whom shall be over the age of twenty-five years (25), and who have met the pre-qualifications for office, as outlined under ARTICLE IV, NOMINATIONS AND ELECTION.
- B. At the first formal session of the Legislature within ten days after ratification of this Constitution, and thereafter on the anniversary date of every even numbered year, the Legislature shall select a Chairperson and a Recording Secretary.
- C. Each legislator shall serve a four-year term of office, in accordance with provisions under ARTICLE IV, NOMINATIONS AND ELECTION, of this Constitution.
- D. Legislators shall be remunerated at rates determined by the Nation's General Council, and legislators shall hold no other employed or contracted position during their tenure in office.
- E. Legislators shall be required to either place all private business interests in non-conflict trust status or otherwise legally dispose of any such holdings, prior to taking office as a legislator.

## **Section 2. Enumerated Powers.**

The Legislative Branch of the Lac du Flambeau Ojibwe Nation shall have the following enumerated powers to create laws, ordinances, regulations, and such other rules of governance deemed necessary to regulate or otherwise control the actions of this Nation and its members, and any other persons or entities legally coming under the jurisdiction of this Nation, provided that all actions of the Legislative Branch are subject to review by the Tribal membership General Council, and further subject to judicial review by the Judicial Branch of this Nation, and further provided that all enactments of the Legislative Branch shall not be effective until signed by the President of the Nation, who shall also have veto powers over any such enactments, provided that any veto may be overridden by a two-thirds majority vote of the Legislative Branch:

- A. To enact laws to establish a police force to be administered under the direction of the Executive Branch, and to promulgate ordinances under which the police force shall operate, including the power to establish rules of comity, full faith and credit, and cooperative agreements with such other jurisdictions deemed necessary for the proper administration of law and order within the jurisdiction of this Nation.
- B. To enact laws establishing and regulating taxes, and any other fees, licenses, or permits necessary for the proper governance of this Nation.
- C. To enact laws regulating the commerce and all commercial activity within the



jurisdiction of this Nation.

- D. To enact laws regulating the scope of activities of all private legal entities contracted or otherwise hired or employed by this Nation,, or of such private legal entities operating within the legal infrastructure of the Judicial Branch of this Nation.
- E. To enact laws designed to protect and preserve the natural and human resources of this Nation, such laws to include the regulation and disposition of all lands, mineral resources, air, and waterways under the jurisdiction of this Nation, such laws to include the powers of condemnation for public purposes or to protect the political integrity, economic security, health. Welfare and safety of this Nation.
- F. To enact laws designed to regulate the domestic relations of all inhabitants voluntarily or involuntarily coming under the jurisdiction of this Nation.
- G. To enact laws designed to regulate the orderly process of membership to this Nation in accordance with the constitutional provisions in ARTICLE II, MEMBERSHIP, of this Nation.
- H. To enact laws designed to legally prohibit the entry of, or to effect the legal removal of persons or entities from the territory of this Nation who are not members of this Nation, such persons or entities who pose a threat to the orderly governance of this Nation.
- I. To enact laws designed to establish and regulate the use of a Tribal General Fund and to establish a Tribal General Fund Ordinance, said ordinance to allow for the annual appropriations and adjustments to the Tribal General Fund, provided that all annual appropriations, and adjustments thereof in excess of twenty percent, shall be subject to approval of the Tribal membership General Council during an annual or special meeting of that body.
- J. To enact laws regulating the control, use, and disposition of any funds coming under the jurisdiction and control of this Nation from any source not designated as Tribal General Funds.
- K. To enact laws designed to protect the rights of and regulating the use and disposition of any resources, natural, realty, financial, or personal, entrusted to this Nation by law or design, of any minor child, or any other individual adjudicated to be non compos mentis, such laws to include persons temporarily or permanently declared to be mentally disabled by competent judicial authority.
- L To enact laws designed to regulate the use of, control of, possession of, and

disposition of all weapons, weapons of mass destruction, explosive devices, vehicles whether land-use, water-use, or airborne, or a combination thereof, and of any person or entity within the territorial jurisdiction of this Nation who has possession or control of such weapons, vehicles, and devices.

M. To enact laws designed to regulate the possession of, use of, control of, and disposition of alcoholic beverages, controlled substances, illegal substances, including paraphernalia associated with the use, manufacture, or distribution of such substances within the territorial jurisdiction of this Nation.

N. To enact laws designed to establish subordinate boards, committees, commissions, chartered organizations or groups, to delegate certain powers thereto, and to regulate the activities of all such entities, provided that membership of any group or entity established as a functional sub-entity of the Legislative Branch shall be limited to members of this Nation.

O. To enact laws establishing and regulating the activities of an Educational System for members of this Nation, and for other persons voluntarily subjecting themselves to the jurisdiction of this Nation for such purposes.

P. To enact laws designed to establish and regulate the activities of a Social Services System for this Nation.

Q. To enact laws designed to establish and regulate the activities of a Health Care System for this Nation.

R. To enact laws designed to regulate the possession of, control of, and disposition of all pets, including animals, fish, birds, or other non-human living things, by persons within the territorial jurisdiction of this Nation.

S. To enact laws designed to regulate the gathering rights and gathering activities of persons within the territorial jurisdiction of this Nation.

T. To enact laws not inconsistent with this Constitution which are designed to effectuate any of the foregoing powers.

U. The Legislative Branch may exercise such other powers delegated to the Legislative Branch by means of a constitutional amendment duly adopted for delegation of such powers.

### **Section 3. Restrictions.**

A. The Legislative Branch shall enact no law restricting or denying the rights of persons or entities under the territorial jurisdiction of this Nation, such rights described in ARTICLE VII, BILLS OF RIGHTS, of this Constitution.

B. The Legislative Branch shall enact no law denying the inherent rights of members of this Nation to hunt, fish, or gather for subsistence purposes within the territorial jurisdiction of this Nation, provided, however that the Legislative Branch may enact laws prohibiting gathering, hunting, fishing, or otherwise taking of certain species endangered, overharvested, or otherwise depleted due to natural or unnatural causes.

C. The Legislative Branch shall enact no law designed to encumber, mortgage, sell, or otherwise dispose of any land of this Nation, whether it be Tribal land, Tribal Trust land, or Fee land.

D. The Legislative Branch shall enact no law designed to waive the sovereignty or sovereign immunity of this Nation.

## **CORPORATE BRANCH**

### **Section 1. Establishment.**

There is established the Corporate Branch of the Nation, consisting of seven Adult Tribal members, appointed by the President, and subject to approval by the Legislature. The Corporate Branch shall have the power to manage the various enterprises of the Nation, provided that all enactments or decisions of the Corporate Branch shall be approved by the President of the Nation, who shall have veto power over any such actions, such veto power which can be overridden by a majority vote of the Corporate Branch and a majority vote of the Legislative Branch, and provided that any and all actions of the Corporate Branch are subject to review by the Tribal Membership General Council.

### **Section 2. Qualifications.**

No person shall be eligible for selection as a member of the Corporate Branch unless he or she meets the following qualifications:

- (a) Is a member of the Nation, and is twenty-five (25) years of age or older;
- (b) Possesses business management experience of a minimum of three years, or has completed formal educational training in business management equivalent to an associates degree level;
- (c) Has not been convicted of a crime involving the misuse, misappropriation, embezzlement, or theft of money.

### **Section 3. Enumerated Powers.**

1. The Corporate Branch shall administer the corporate affairs of the Nation, and shall have oversight over all enterprises of the Nation including the Nation's gaming industry, subject to approvals and review outlined in Section 1 above.

2. The Corporate Branch shall have the power to negotiate and enter into contracts beneficial to the Nation, to employ or otherwise contract for corporate legal counsel, to institute training or other educational activities for the benefit of

the Nations's enterprise staff, and to arbitrate all conflicts arising within the several enterprises of the Nation, subject to approvals under Section 1 above.

**Section 4. Vacancies and Removal.**

Members of the Corporate Branch shall be removed from office and vacancies shall be filled in accordance with vacancy and removal provisions under ARTICLE V, VACANCIES AND REMOVAL.

**Section 5. Restrictions.**

The Corporate Branch is prohibited from entering into any contract or agreement which diminishes or waives the sovereignty of the Nation.

The Corporate Branch is prohibited from taking any action which violates this Constitution or which violates the rights of persons protected under the provisions of ARTICLE VII, BILLS OF RIGHTS of this Constitution.

The Corporate Branch is prohibited from making any contract or agreement which obligates tribal funds in excess of \$250,000.00 for any single agreement or contract, without first obtaining consultation and approval of the President of the Nation, meeting financial mandates as established by the Legislative Branch, and subject to the review of the Tribal membership General Council.

## **JUDICIAL BRANCH**

### **Section 1. Establishment.**

There is hereby established the Judicial Branch of the Lac du Flambeau Ojibwe Nation, which shall consist of eight Justices elected to eight-year terms, staggered, four justices being elected to four-year terms, and four justices being elected to eight-year terms in the initial election process. There is also established the elected position of Prosecuting Attorney and Clerk of Courts, both positions four-year terms.

The Judicial Branch of the Lac du Flambeau Ojibwe Nation shall have the following enumerated powers, subject to review by the Tribal membership General Council:

### **Section 2. Composition.**

There shall be a Tribal Trial Court and an Appeals Court of the Lac du Flambeau Ojibwe Nation, and such other courts of special jurisdiction and other forums of special jurisdiction for traditional dispute resolution as deemed necessary.

The Tribal Trial Court shall consist of one Chief Trial Judge and two Associate Trial Judges.

The Appeals Court shall consist of a panel of three Judges.

### **Section 3. Judicial Powers.**

The judicial power of the Lac du Flambeau Ojibwe Nation shall be vested in the Judiciary. The Judiciary shall have the powers to interpret and apply the Constitution and laws of the Lac du Flambeau Ojibwe Nation.

### **Section 4. Jurisdiction.**

The Tribal Trial Court shall have original and general jurisdiction over all cases and controversies, both criminal and civil, in law or in equity, including jurisdiction to hear and determine cases in probate, arising under the Constitution, laws, customs, and traditions of the Lac du Flambeau Ojibwe Nation, including all actions regarding Indian Child Welfare Laws which are applicable, and cases in which the Nation, or its officials and employees shall be a party. This grant of

jurisdiction shall not be construed as a waiver of the Tribe's sovereignty.

### **Section 5. Powers of the Courts.**

(a) The Tribal Trial Court shall have the power to make findings of fact and conclusions of law. The Trial Court shall have the power to issue all remedies in law and in equity including injunctive and declaratory relief and all writs including attachment and mandamus.

(b) The Tribal Trial Court shall have the power to declare the laws of the Lac du Flambeau Ojibwe Nation void if such laws are not consistent with the Tribe's Constitution.

(c) The Appeals Court shall hear appeals allowed by the Tribal Court Code, Chapter 80. The jurisdiction shall be limited to a review of final order, sentences, and judgment of the trial court.

### **Section.6. Qualifications.**

(1) No person shall be eligible for election as a judge unless he or she:

(a) is at least 30 years of age;

(b) is of good moral character and integrity;

(c) has never been convicted of an offense termed a felony, unless pardoned for such felony by the Legislative Body of this Nation.

(d) has not been convicted of any other crime involving dishonesty or moral turpitude, unless pardoned for such crime by the Legislative Body of this Nation.

(e) is capable of preparing papers and conducting hearings incident to the offices of the Judge;

(f) has demonstrated current knowledge of the Lac du Flambeau Tribal Code and Ordinances and an understanding of the federal and state laws;

(g) Has a law degree, or has successfully completed the equivalent of four years of formal training in law, including successful completion of Tribal law courses.

(2) No person shall be eligible for election as a prosecuting attorney unless he or she has met the qualifications of (a), (b), (c), (d), (f), and (g) under Section 5, (1) above.

(3) No person shall be eligible for election as Clerk of Courts, unless he or she has met the qualifications of (a), (b), and (f), under Section 5, (1), above, and further,

has completed training equivalent to an Associates Degree, specializing in Indian Law and Tribal court Procedures.

#### **Section 7. Disqualification of Judges.**

A Trial judge shall be disqualified to sit on any case in which he or she has any direct interest, is or has been a pre-trial witness, or is so related to a party as to render it improper for him or her to preside at the trial proceedings. Upon disqualification, an alternate trial judge shall sit on the case.

An appellate judge shall be disqualified to hear the appeal in any case in which he or she has any direct interest, or has been a witness at trial, or is so related to a party as to render it improper for him or her to hear the appeal. Upon disqualification, the position of the appellate judge will be filled for the purpose of hearing the particular case by the other judges of the Court of Appeals.

#### **Section 8. Suspension and Removal.**

(1) A judge may be suspended from office upon written charges brought for his or her removal which recite good cause as defined by the Judicial Code of Ethics and/or Chapter 80. A hearing shall be held before the Lac du Flambeau Ojibwe Nation Judicial Commission as established by the Legislative Branch of the Lac du Flambeau Ojibwe Nation, within ten (10) working days of the judge's receipt of written notice of the charges, at which time the judge shall be provided with the opportunity to respond to the charges against him or her, including the presentation of the testimony of witnesses in his or her behalf. All findings of the Judicial Commission shall be presented to the Nation's Legislature within fifteen days after receipt of any written charges, who shall have the sole authority to sanction, remove, or exonerate a judge, such sanction, removal, or exoneration to be determined within thirty days after receipt of the findings of the Judicial Commission.

A judge may be removed only for good cause shown at the hearing, and; (a) a vote taken by secret ballot of a two-thirds (2/3) majority of the Judicial Commission recommending removal, at which at least four (4) members are present, and; (b) a vote taken by secret ballot of a two-thirds (2/3) majority of the Tribal Legislative Branch at a meeting convened for that purpose.

(2) Upon resignation, death, removal, or physical or mental incapacitation of a judge, the Lac du Flambeau Judicial Commission shall, within sixty (60) days,



recommend a replacement to the Lac du Flambeau Ojibwe Nation Legislative Branch. The Legislative Branch . shall vote by majority to appoint or deny appointment of any selected individual. If appointed, the selected individual shall serve out the remaining term of office for that position. If denied, the Judicial Commission shall repeat the process of selection.