

A Summary of the Kanaka Bar Membership Rules

The Membership Rules are separated into twelve (12) different sections:

1. Object and Interpretation
2. Membership
3. Membership Application
4. Maintenance of the Membership List
5. Establishment of Membership Committee and Appeal Board
6. Application Procedure
7. Appeal Procedure
8. Loss of Membership
9. Benefits
10. Amendment Procedure
11. Coming into Force
12. Delegation of Power

Collectively, these sections establish the rules that govern membership in Kanaka Bar. Each of these sections are briefly reviewed below.

1. Object and Interpretation

The object of the Membership Rules is to protect and enhance the cultural integrity, social harmony and economic stability of Kanaka Bar and to exercise and protect the aboriginal and inherent rights of Kanaka Bar.

The Interpretation Section provides a list of definitions that are used throughout the Membership Rules. In legal drafting, the use of definitions is required to ensure precision in the language that's used and to ensure that everyone is aware of exactly what is being discussed.

When you encounter words in the Membership Rules that begin with a capitalized letter, they are a defined term. Review the Interpretation Section to identify the definition for such term.

2. Membership

This section establishes who can become a Member of Kanaka Bar.

All 'Status Indians' under the *Indian Act* who have been assigned a '704' number (pursuant to the Act) will remain Kanaka Bar Members.

All persons who are entitled to become a Member of Kanaka Bar either through operation of the *Indian Act* (which at one point in time had provisions that eliminated people from Membership), or because they are Lineal Descendants of Members (either living or deceased), or because they are a Status Indian who is either under eighteen years old and adopted by a Kanaka Bar Member, married to a Kanaka Bar Member or a former Member that wishes to transfer back, are entitled to apply for Membership.

Any person may be granted Honorary Membership, but such membership does not carry with it any benefits; it is merely symbolic.

No dual membership. As a result, on the occurrence of a marriage where one spouse is from another membership, the newly married couple can each individually elect whether to become a Kanaka Bar Member or not, but they cannot become a member of each membership. Where a child born to a Kanaka Bar Member is adopted out of Kanaka Bar, they will be deemed to be a Member of Kanaka Bar until they reach eighteen (18) at which time they can choose whether or not to remain.

3. Membership Application

This section establishes the application procedure for becoming a Member. A person must apply to the Membership Committee with proof of entitlement to Membership. The Membership Committee must assess each applicant to determine if they are entitled to membership. If a person meets the requirements set forth in these Membership Rules, then the Membership Committee must grant Membership.

4. Maintenance of the Membership List

This section establishes who maintains the Membership List. Ultimately, it is Chief and Council who are responsible for the List, but they can delegate this responsibility to a Membership Clerk and/or the Membership Committee.

5. Establishment of Membership Committee and Appeal Board

Within sixty (60) days of these Rules being passed, Council must appoint the Membership Committee which will consist of Chief, one (1) Councilor and three (3) Kanaka Bar Members. Such Members will rotate quarterly.

The Appeal Board will consist of the remaining Council and the legal counsel appointed by the Appeal board.

6. Application Procedure

This section describes how applications for Membership are handled. All applications will first be submitted to the Membership Clerk who will assess the validity of the documents for compliance with the Membership Rules (the Membership Clerk has 21 days, extendable for an extra seven days if necessary to carry out this assessment). The Membership Clerk will then forward to the Membership Committee the application with their assessment for the Membership Committee to review, which will be completed within seventy days. The Membership Committee will then make their decision and inform the applicant.

7. Appeal Procedure

Applicants who feel like they have lost their Membership, had their application rejected, or are being unduly delayed by the Membership Clerk and/or Committee may appeal to the Appeal Board. They may

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submit further evidence for the Appeal Board to consider, but the Appeal Board is only allowed to review the application for compliance with the Membership Rules. If the person meets the criteria, they must be granted Membership – if they do not, they will not be granted Membership. All decisions of the Appeal Board are final.

8. Loss of Membership

This section establishes how a person can lose Membership in Kanaka Bar. First, all Members have the right to cease to be a Member by providing notice to the Membership Committee explaining that they no longer wish to be a Member. Secondly, if a person became a Member of Kanaka Bar based on false or misleading information, the Membership Committee may terminate such persons Membership, after giving them an opportunity to be heard.

9. Benefits

A person who ceases to be a Member also ceases to receive any share of Kanaka Bar funds, programs or services.

10. Amendment Procedure

This section establishes how to amend the Membership Rules. If 1/3 of Electors sign and present a petition to Council, or if Council unanimously agrees to an amendment, then Council will hold a meeting whereby the majority of Electors present may vote for the amendment.

11. Coming into Force

These Rules will come into force on the day the Electors consent to them.

12. Delegation of Power

This section delegates authority over Membership issues to Council, the Membership Committee and the Appeals Committee.

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MEMBERSHIP RULES OF KANAKA BAR INDIAN BAND

These Amended and Restated Membership Rules of Kanaka Bar Indian Band (the "Rules") were approved by membership and came into full force and effect on January 24/2013.

WHEREAS:

- A. The *T'eqt'aqtn'mux* (crossing place people) are an Nlaka'pamux Nation community with indigenous rights, responsibility and authority over land and resource use within their traditional caretaker area. Today, the *T'eqt'aqtn'mux* are known as the Kanaka Bar Indian Band ("Kanaka Bar");
- B. Section 10 of the *Indian Act*, S.C. 1985, c. 27 (the "Act") provides that a Band may assume control of its membership if it establishes membership rules for itself in writing and receives the consent of its members;
- C. On June 8, 1987, Kanaka Bar filed membership rules with the federal government (the "1987 Rules");
- D. Kanaka Bar wishes to amend and restate the 1987 Rules as set out herein; and
- E. Kanaka Bar is committed to the transparency of its rules and policies both within and outside of its membership and intends that the Membership Rules be made widely available for public review.

NOW THEREFORE, Kanaka Bar enacts as follows:

ARTICLE 1 OBJECT AND INTERPRETATION

- 1.1 **Object.** The object of the Rules is to:
 - (a) protect and enhance the cultural integrity, social harmony and economic stability of Kanaka Bar; and
 - (b) exercise and protect the aboriginal and inherent rights of Kanaka Bar.
- 1.2 **Definitions.** In these Rules:
 - (a) "Appeal Board" means the appeal board created pursuant to section 5.2 of these Rules;
 - (b) "Band" has the same meaning as in the Act;
 - (c) "Band Office" means the office of Kanaka Bar from time to time;
 - (d) "Child" includes a child born in or out of wedlock, a legally adopted child and a child adopted in accordance with the custom of Kanaka Bar;
 - (e) "Conflict of Interest" has the same meaning as in the Kanaka Bar Governance Code;
 - (f) "Council" means the Council of Kanaka Bar chosen according to the Election Code;

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- (g) "Election Code" means the election code of Kanaka Bar from time to time;
- (h) "Elector" has the same meaning as in the Election Code;
- (i) "Indian" means a person who is registered or entitled to be registered as an Indian within the meaning of the Act;
- (j) "Lineal Descendant" means a person who is lineally descended from a Kanaka Bar member;
- (k) "Marriage" means either a legal or common law union between two people;
- (l) "Member" means a member of Kanaka Bar as determined in accordance with the Rules;
- (m) "Membership Clerk" means a person appointed by Council to perform the duties of registrar of Members;
- (n) "Membership Committee" means the Membership Committee created pursuant to section 5.1 of these Rules;
- (o) "Membership List" means a list maintained by the Membership Clerk of the Members; and
- (p) "Minister" means the Minister of Aboriginal Affairs and Northern Development Canada, or any other Minister of the federal government performing similar functions.

Use of words denoting the male gender is deemed to include the female gender.

When the word "including" is used in the Rules, it will not be construed as limited to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not language such as "without limitation" or "but not limited to" is used with reference thereto.

The definitions in the Kanaka Bar Governance Code and Election Code shall have the same meaning when used in the Rules. In the event of a conflict between the Governance Code, the Rules and the Election Code, the following priority shall govern: (1) Membership Rules; (2) Election Code; and (3) Governance Code.

ARTICLE 2 MEMBERSHIP

2.1 **Membership Eligibility.** The following persons are entitled to become a Member and be enrolled on the Membership List:

- (a) A status Indian under the Act who has been assigned a '704' number pursuant to the Act as of the date hereof;
- (b) all persons entered or entitled to be entered on the Membership List immediately prior to the coming into force of these Rules, including all persons entitled to be restored to the Membership List pursuant to section 6(1)(c) of the Act, namely;
 - (i) persons who lost Indian status and Band membership under the so-called "double-mother" rule;

- (ii) Indian women who lost Indian status and Band membership by marriage to a non-Indian man;
 - (iii) persons whose names were deleted from the Membership List because of protest by Kanaka Bar that his or her father was not Indian; and
 - (iv) persons who lost Indian status and Band membership through involuntary enfranchisement;
- (c) persons entitled to be restored to the Membership List as of June 28, 1987 by operation of section 11(2) of the Act, namely:
- (i) persons who voluntarily enfranchised themselves from Kanaka Bar membership pursuant to sections 12(1)(a)(iii) and 109(1) of the former Act;
 - (ii) persons whose names were removed from Kanaka Bar membership pursuant to section 13 of the *Indian Act*, R.S.C. 1927, c. 98 due to five (5) years of residence or more in a foreign country without the permission of the Minister; and
 - (iii) persons whose names were removed from Kanaka Bar membership pursuant to section 111 of the *Indian Act*, R.S.C. 1906, c.81 upon becoming a doctor, lawyer, minister, or otherwise acquiring a university degree; and
- (d) all persons born to natural parents one of whom is or, if no longer living, was a Member, a Lineal Descendant or otherwise if living would be entitled to be a Member; or
- (e) a status Indian under the Act who is:
- (iv) married to a Member through custom or Marriage;
 - (v) eighteen (18) years or younger and adopted by a Member either legally or in accordance with Kanaka Bar custom; or
 - (vi) a former Member who wishes to transfer back to Kanaka Bar membership, providing he or she undertakes to withdraw his or her membership in any other Band, if any.

2.2 Honorary Membership. The Membership Committee may from time to time bestow honorary membership to an individual not otherwise entitled to enrolment on the Membership List. For certainty, honorary membership does not entitle the holder to be listed on the Membership List or to any benefits afforded to Members from time to time.

2.3 Effect of Marriage. Where a Member marries a member of another Band:

- (a) that Member shall elect to remain a Member or transfer to the Band of the spouse and must notify the Membership Committee accordingly in writing; and
- (b) the spouse may elect to become a Member by providing written notice to the Membership Committee.

2.4 Effect of Adoption out of Kanaka Bar. Subject to section 2.5, a child born to a Member who is adopted out of Kanaka Bar shall be deemed to be a Member until reaching the age of eighteen (18)

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years, at which time they may choose whether or not to remain a Member by notifying the Membership Clerk.

2.5 **No Dual Membership.** Notwithstanding any other provision of the Rules, no person may be a Member at the same time he or she is a member of another Band and a person ceases to be a Member if he or she voluntarily becomes a member of another Band immediately upon becoming a member of that other Band.

ARTICLE 3 MEMBERSHIP APPLICATION

3.1 **Evidence Required.** Persons who are not on the Membership List and who wish to apply to become a Member must provide independent documentary evidence in a form acceptable to the Membership Committee demonstrating that such applicant meets the criteria set out in Article 2.

3.2 **No Discretion.** The Membership Committee must reject any application for Membership if it determines the applicant does not meet the requirements of being a Member as set out in Article 2.

3.3 **No Rights of Membership until Approved.** No rights of membership shall be deemed to exist until the applicant's application to become a Member has been approved in accordance with the Rules and the applicant's name has been entered on the Membership List.

ARTICLE 4 MAINTENANCE OF THE MEMBERSHIP LIST

4.1 **Maintenance.** The Membership List shall be maintained by the Chief and Council. The Chief and Council may delegate responsibility for maintenance of the Membership List to the Membership Clerk and/or the Membership Committee who shall report to the Chief and Council.

4.2 **Confidential.** The Membership List must be kept confidential by whomever is responsible for its maintenance and must not be disclosed to any other person (Chief and Council excluded) unless required by the Election Code, law or Kanaka Bar custom. Members may retrieve information about themselves or, if such Member is a parent of a child under their control, their child.

ARTICLE 5 ESTABLISHMENT OF MEMBERSHIP COMMITTEE AND APPEAL BOARD

5.1 **Appoint Committee and Clerk.** Within sixty (60) days after the coming into force of the Rules, Council must:

- (a) establish a Membership Committee consisting of the Chief, one (1) Councilor and three (3) Members to act in an advisory capacity and make recommendations to the Council; and
- (b) appoint a Membership Clerk.

The three (3) Members on the Membership Committee shall rotate quarterly.

5.2 **Appeal Board.** The Appeal Board shall consist of the Council (except for the Chief and Council member appointed to the Membership Committee) and the legal counsel appointed by Kanaka.

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5.3 **Conflict.** No member of the Membership Committee or the Appeal Board shall participate in any membership application decision where the member's participation would constitute a Conflict of Interest.

ARTICLE 6 APPLICATION PROCEDURE

6.1 **Submit Applications to Membership Clerk.** All applications to become a Member shall be submitted to the Membership Clerk on a form to be prescribed. The Membership Clerk shall assess the validity of the supporting documents for compliance with the eligibility criteria set out in Article 2 of these Rules.

6.2 **Forward to Membership Committee.** The Membership Clerk shall forward the application with the supporting documents and a brief report on its conformity with the Rules to the Membership Committee within twenty-one (21) days of receipt of such application. If the Membership Clerk requires an extension of time, the period for forwarding the application, supporting documents and brief report may be extended by seven (7) days by providing notice to the applicant of such extension.

6.3 **Membership Committee Evaluation.** The Membership Committee shall evaluate the eligibility of the applicant according to the Rules and accept or reject the application within seventy (70) days of receipt of such application from the Membership Clerk.

6.4 **Notice.** Within seven (7) days of the decision of the Membership Committee, the Membership Clerk shall provide notice in writing to an applicant of the acceptance or rejection of his or her application to become a Member along with information relating to the applicant's right to appeal to the Appeal Board.

6.5 **Confidential.** The Membership Clerk and the Membership Committee will keep all applications to become Members confidential and will not disclose such applications unless required by law or Kanaka Bar custom.

ARTICLE 7 APPEAL PROCEDURE

7.1 **Right to Appeal.** A person whose application to become a Member is rejected, lost or unduly delayed may appeal the decision or delay only once by writing to the Appeal Board in a form to be prescribed within thirty (30) days:

- (a) of receiving notice from the Membership Clerk of such rejection or loss; or
- (b) after the prescribed deadlines in Article 6 have passed.

7.2 **Further Evidence.** The applicant may submit additional documentary evidence in support of his or her appeal to the Appeal Board.

7.3 **No Discretion.** When reviewing an appeal, the Appeal Board must only consider whether an applicant meets the eligibility requirements set out in Article 2.

7.4 **Decision.** The Appeal Board must render a decision in writing and provide a copy of the decision to the applicant within thirty (30) days of receipt of the applicant's appeal application. The decision of

the Appeal Board shall be final. The Appeal Board is not required to provide written reasons for its decision.

7.5 **No Liability.** Neither Kanaka Bar nor any of its agents under these Rules shall be liable for any claim made against it by a person whose application to become a Member has been rejected.

ARTICLE 8 LOSS OF MEMBERSHIP

8.1 **Member's Right to Removal.** A person ceases to be a Member if he or she gives notice in writing to the Membership Clerk that he or she does not wish to be a Member.

8.2 **False or Misleading Information.** If a person has become a Member on the basis of false or misleading information, the Membership Clerk will bring the matter to the attention of the Membership Committee who may terminate such person's membership based on proof of such reliance on false or misleading information after such person has had an opportunity to be heard by the Membership Committee.

8.3 **Deletion from Membership List.** The Membership Committee must delete from the Membership List those persons who have ceased to be Members.

ARTICLE 9 BENEFITS

9.1 **No Benefit.** A person who is not, or ceases to be, a Member for any reason is not entitled to receive any share of Kanaka Bar funds or benefit from any Kanaka Bar programs or services.

ARTICLE 10 AMENDMENT PROCEDURE

10.1 **Amendment Procedure.** The Rules may be amended if one third (1/3) of the Electors sign a petition ("**Amendment Petition**") and present it to Council which outlines the reasons for the proposed amendment, or if Council unanimously resolve to propose an amendment to the Electors ("**Amendment Resolution**"). Council shall, as soon as practicable after passing an Amendment Resolution, or within seven (7) days of receipt of the Amendment Petition, provide notice posted in the Band Office and on the Community Bulletin Board informing Electors of their right to vote on the proposed amendment ("**Amendment Meeting**"). The Amendment Meeting must take place no earlier than thirty (30) days and no later than forty-five (45) days from receipt of the Amendment Petition from the Electors. Notice of the Amendment Meeting must include the text of the proposed amendment.

If the proposed amendment receives approval of a majority of Electors at the Amendment Meeting the proposed amendment will be adopted.

ARTICLE 11 COMING INTO FORCE

11.1 **Into Force.** These Rules shall come into force on the day the majority of Electors consent to the amendment and restatement of the 1987 Rules.

ARTICLE 12
DELEGATION OF POWER

12.1 **Delegation.** Kanaka Bar hereby delegates to the Council, Membership Committee and Appeals Committee the authority to administer these Rules in a fair, impartial manner without discriminating on the basis of sex, religion, age or family and in accordance with the best interests of Kanaka Bar.

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**Kanaka Bar Indian Band
General Assembly - January 24, 2013**

S.No.	Print Name	Member (Yes or No)	Elector (Yes or No)	Signature
1	Patrick Mitchell	Y	Y	Patrick Mitchell
2	Zain Nayan	N	N	Zain Nayan
3	Danny Hance	✓	✓	Danny Hance
4	Roberta Samson	Y	Y	Roberta Samson
5	Karen Hance	Y	Y	Karen Hance
6	Kari Spinks	Y	Y	Kari Spinks
7	Jamett Goreson	Y	Y	Jamett Goreson
8	Stacy Hulbert	Y	Y	Stacy Hulbert
9	Heather Hulbert	Y	Y	Heather Hulbert
10	Don Hulbert	Y	Y	Don Hulbert
11	John W Garsick	Y	Y	John W Garsick
12	J. Deane	✓	✓	J. Deane
13	J Spinks	Y	Y	J Spinks
14	Greg Jmayo	Y	Y	Greg Jmayo
15	Madelynn Albert	N	N	Madelynn Albert
16	Dennis Hance	Y	Y	Dennis Hance
17	JR Hance	Y	Y	JR Hance
18	Donna E Hance	Y	Y	Donna E. Hance
19	Sonya Rose Williams	Y	Y	Sonya Rose Williams
20	Albert W. Mitchell	Y	Y	Albert W. Mitchell
21	Kenny Turnbull	N	N	Kenny Turnbull
22	Dora Hance	✓	✓	Dora Hance
23	Ernest Mitchell	N	N	Ernest Mitchell
24	Pauline J Mitchell	Y	Y	Pauline J Mitchell
25	Don Vander Griend	✓	X	Don Vander Griend
26	Theresa McIntyre	✓	Y	Theresa McIntyre

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S.No.	Name	Member (Yes or No)	Elector (Yes or No)	Signature
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