



Mashantucket Pequot  
Tribal Nation

## MASHANTUCKET EMPLOYMENT RIGHTS OFFICE

### A Guide to Providing Preference to Members of Federally Recognized Tribes

#### *For businesses near the Mashantucket Pequot Tribe's Reservation*

Provided here is general guidance for those employers near the Mashantucket Pequot Tribe's reservation that afford preference in employment opportunities to members of federally recognized tribes (also referred to herein as "Native Americans").

Under Tribal law, employers afford preference in employment opportunities on the Tribe's reservation.<sup>1</sup> In support of the Tribe's commitment to advancing employment opportunities for Native Americans, certain employers near the Tribe's reservation also afford preference in employment opportunities.

Title VII, the Federal non-discrimination law, specifically recognizes that businesses operating near the reservation of a Tribe with federal recognition may afford employment preference to members of federally recognized tribes pursuant to a publicly announced employment practice. See, 42 U.S.C. §2000e-2(i).

Below represents a potential approach to affording preference in filling open positions.

#### **A. Publicly announce a preference employment practice.**

1. **Include a preference statement in each posting.** Whether the employer is advertising through its own website, a third-party website, a newspaper, the radio, a sign on location, or otherwise, it may wish to include a preference statement to publicly announce its preference employment practice.
  - a. **For positions for which preference is afforded.** A statement indicating that preference will be afforded should appear in a posting, such as, "Members of federally recognized tribes receive preference in hiring."
  - b. **For positions for which preference is not afforded.** There may be certain positions for which the employer does not afford preference, such as "key" positions. To best manage the expectations of Native American applicants, the employer may wish to make clear in its posting that preference will not be afforded, with a statement such as, "Members of federally recognized tribes will be considered equally with all other applicants."
2. **Notify the MERO of open positions.** If the employer wishes to have its employment opportunities distributed to local Native Americans, posting information, such as a link to an existing posting, may be forwarded to the MERO at MERO@mptn-nsn.gov.

#### **B. Determine who is a member of a federally recognized tribe.**

1. **Provide an opportunity to self-identify.** Ways by which applicants and employees may be provided the opportunity to identify themselves as Native American include:
  - a. Providing the MERO's Self-Identification Form (Form 33-2500), available on its website, which may be printed, or embedded or linked in a web-based application.
  - b. Adding one or more questions to the employer's application.
  - c. Adding a directive in a job posting to self-identify on the application, resume or cover letter to be considered for preference, but do not discriminate against Native Americans by imposing a higher application hurdle than for non-Native applicants.
2. **Check the list of federally recognized tribes.** To determine if an identified tribe is federally recognized, refer to the listing periodically published in the Federal Register.
3. **Request proof if in doubt.** An employer may request reasonable documentation or make reasonable inquiry of the tribe's clerk or other tribal authority to confirm a claim of tribal membership.

#### **C. If a Native American applicant meets the minimum qualifications of the position, make an offer of hire.**

Disclaimer: The information provided is intended to be accurate but general information. The MERO makes no representations as to whether the information provided meets the requirements of any applicable laws outside the MERO's jurisdiction or any applicable contractual commitments. The reader is encouraged to seek the advice of their legal counsel. Nothing herein constitutes or should be relied upon or regarded as legal advice.

<sup>1</sup> This guidance does not address compliance with the requirements of the Tribe's Native American Preference Law, Title 33.