

## IMPORTANT NOTICE

The following document does not include any changes to requirements or procedures introduced as a result of COVID-19. Please see the MERO Home Page for the most recent information, including modifications to time limits and procedures in response to the processing delays associated with the pandemic.

As of this writing, the following notices related to the COVID-19 pandemic were posted on the MERO Home Page:

- **Know Your Preference Rights During the COVID-19 Response (07-17-20)** – Provides individuals with information about preference rights and modifications to processes due to COVID-19.
- **MERO Order Regarding Preference Law Deadlines (07-08-20)** – Addresses the relaxation of certain time requirements under the Preference Law.
- **MERO Procedural Modifications in Response to COVID-19 (07-28-20)** – Provides updated information about the MERO's procedural modifications in response to COVID-19

Please address any questions to the MERO Director at:

[MERO@mptn-nsn.gov](mailto:MERO@mptn-nsn.gov)

860-396-6508 (Office)

860-608-1409 (Mobile)



Mashantucket Pequot  
Tribal Nation

## MASHANTUCKET EMPLOYMENT RIGHTS OFFICE

### Information for Claimants

#### Under Title 33, the Mashantucket Pequot Tribal and Native American Preference Law

#### **Overview of the Law**

The Mashantucket Pequot Tribal and Native American Preference Law (“Preference Law”) generally requires the Mashantucket Pequot Tribe (hereinafter “Tribe”) and non-Tribal employers of five (5) or more employees working on the Mashantucket Pequot Tribe’s Reservation to provide preference in hiring, transfer, promotion, training and retention, including in any reorganization or layoff, if the individual required to receive preference meets the minimum necessary qualifications of the position.

Tribal employers are required to provide employment preference first to MPTN Members, then to their Spouses and Adopted Children, and third to Native Americans. Non-Tribal employers are required to provide preference to members of federally recognized Indian tribes who live on or near a reservation. Preference policy statements must be included in job announcements, advertisements and relevant personnel policies or postings.

Some additional benefits provided when the Tribe is the employer are as follows:

- MPTN Members and their Spouses and Adopted Children receive at least two (2) days advance notice of posting or advertising of employment positions.
- MPTN Members and their Spouses and Adopted Children receive preference in shift assignments for open positions and preference to maintain their shifts during shift reassignments.
- MPTN Members, their Spouses and Adopted Children, and Native Americans receive cultural opportunities, which are accommodations for cultural convictions unique to an individual’s tribal or Native American culture, unless providing an accommodation causes the employer hardship.

Employers are prohibited from suspending or terminating an employee in retaliation for filing a claim under the law.

#### **Representation by an Attorney**

**The MERO Director represents the law and is not an attorney for a claimant or an employer.** A claimant is not required to retain an attorney to file a claim or participate in a MERO proceeding. However, a claimant has a right at any time to be represented by an attorney of his or her own choosing and at his or her own cost.

## **Right to File Claim**

An individual who believes that the Mashantucket Pequot Tribe or a non-Tribal employer has violated the Preference Law may file a claim. An individual who files a claim is referred to as a “claimant” and the employer against which a claim is made is referred to as a “respondent” or “employer.”

## **180 Days to File a Claim**

A claim of a violation of the Preference Law must be filed within 180 days of the event claimed to be a violation.

## **Where to File a Claim**

### **When the Employer is the Tribe**

If the Tribe is the employer, the claim must be filed with the Office of Native American Preference (ONAP) in accordance with ONAP’s policies and procedures. ONAP may be reached as follows:

- **Joshua Carter** at 860-396-2265 or [joshcarter@foxwoods.com](mailto:joshcarter@foxwoods.com).
- **Steven Thomas** at 860-312-325 or [stthomas@foxwoods.com](mailto:stthomas@foxwoods.com).

**Important:** A claim may be filed with the MERO within 15 calendar days of the date of the ONAP decision. A claimant may file a claim with the MERO if:

- (1) the claimant disagrees with the ONAP decision or
- (2) the ONAP decision includes a statement of employer noncompliance with the law.

To file a claim with the MERO against the Tribe, a completed and signed Claim of Violation Against Mashantucket Pequot Tribe form ([Form-33-1100A](#)) must be submitted to the MERO office. The form is available on the MERO website or from the MERO office.

### **When the Employer is Not the Tribe**

If the employer is not the Tribe, the claim must be filed with the MERO. However, before filing a claim with the MERO, an individual generally must use any complaint process provided by his/her employer. **Important:** A claimant should file a claim with the MERO before the end of the 180 days even if the claimant’s complaint to the non-Tribal employer is not yet resolved.

To file a claim with the MERO against a non-Tribal employer, a completed and signed Claim of Violation Against Non-Tribal Employer form ([Form 33-1100B](#)) must be submitted to the MERO office. The form is available on the MERO website or from the MERO office.

## **MERO Case Processing**

Once a claim is filed with the MERO, the employer is provided a copy of the claim by the MERO. Generally, the MERO will schedule a hearing to receive evidence and argument from the parties prior to making a decision. Certain cases, however, may be decided without a hearing. For additional information about case processing, please refer to the Procedures Manual.

## **Rights and Responsibilities of a Claimant During the MERO Case Processing**

A claim generally will be heard and decided by the MERO within 60 days of filing with the MERO.

### ***Full Disclosure***

A claimant is required to provide all information he/she believes supports his/her case, or is requested by the MERO. If a claimant does not submit information during the case processing that he/she was able to obtain, the claimant may be prohibited from submitting or having the information considered at a later point in time.

### ***Full Cooperation***

Claimants are required to cooperate fully with the MERO's processes. Full cooperation in the MERO's processes includes the following:

- Making yourself reasonably available to attend and fully participate in a MERO hearing;
- Providing complete and accurate information about your claims, including under oath, or otherwise as determined by the MERO;
- Providing witness contact information and securing witness cooperation, if requested;
- Providing all documentary and other evidence in your possession or reasonably available;
- Complying with MERO's deadlines for submission of information.

Failure or refusal to cooperate in the MERO's processes may include the following:

- Failing to respond to attempts to contact you;
- Withholding information or evidence relevant to the case;
- Failing to inform the MERO of a change of address or other contact information;
- Failing to attend and participate fully in a hearing;
- Interfering with the MERO's processes.

A claimant's failure to cooperate with the MERO may negatively affect the claim outcome. For example, if a claimant refuses to provide sworn testimony, the MERO could draw a negative inference that the claimant's account, if under oath, would not support the claim. If a claimant fails to provide available evidence in support of the claim, the MERO may dismiss the claim due to insufficient evidence of a violation.

### ***Familiarity with Law and Rules***

Claimants are responsible for reviewing and complying with the law, as well as any regulations, rules or manuals issued by the MERO.

### ***Service of Documents***

The claimant's claim will be served on the employer by the MERO. The parties to the case are responsible for serving the other party with any other documents that are filed with the MERO. For additional information, please refer to the Procedures Manual.

### ***Duty to Minimize Harm***

A claimant is required to make efforts to minimize the harm of an alleged violation. For example, if the claim is wrongful denial of employment or termination from employment, the claimant must search for employment elsewhere and accept reasonable employment offers. A claimant may be required to prove attempts to minimize harm and should keep records of his/her efforts.

### **Alternative Dispute Resolution**

The MERO encourages voluntary dispute resolution through mediation or conciliation. At any time during the proceedings, a party may request mediation/conciliation, peacemaking with the Tribe's Peacemakers, or assistance with settlement efforts from the MERO. Please contact the MERO for additional information.

### **Claim Determination**

The claimant and the respondent will be informed in writing of the MERO's decision.

### **Appeal of a MERO Determination**

A final MERO Director decision may be appealed to the Tribal Court. Appeal information is provided to the parties with the final MERO determination.

Before the Tribal Court, the MERO represents its decision and does not represent any individual or employer. Any party wishing to be represented may hire an attorney of the party's choice at the party's own cost at any time during MERO or Tribal Court proceedings.

**DISCLAIMER:** The information provided is intended to be accurate but general information. For full information about Preference Claims and case processing, please refer to Title 33, and any regulations, rules or manuals issued by the MERO. Nothing herein constitutes legal advice.