



**MERO**

**MASHANTUCKET EMPLOYMENT RIGHTS OFFICE**

**RESPONSE TO PUBLIC INQUIRY**  
**UNDER THE**  
**MASHANTUCKET PEQUOT TRIBAL**  
**AND NATIVE AMERICAN PREFERENCE LAW**

The following Response to Public Inquiry under Title 33, M.P.T.L., as amended, (“Preference Law”) provides employers with the benefit of the MERO’s interpretive guidance relating to a specific public inquiry. This response is based solely on the facts presented below. The reader is expected to be familiar with the terminology utilized in the law and procedures manual.

**Public Inquiry:** The employer is subject to the Preference Law. A temporary position was created by the absence of a regular full-time employee. The employer filled the temporary position in compliance with the Preference Law and a Tribal member in good standing who lives near the Mashantucket Pequot Tribal Reservation was the successful candidate. Thereafter, the regular employee voluntarily decided not to return to work. The employer wishes to fill the regular full-time position. Is the employer required to post or otherwise advertise the position or may the position be filled with the Tribal member who was originally hired only for the temporary position?

**MERO Response:** Any open employment position that must be filled in compliance with the Preference Law (hereinafter “Preference Position”) is required to be properly publicized. If an employer pre-selects an individual of the highest preference category to fill an open position, the position generally need not be publicized beyond the individual selected to fill the position. Therefore, when the Tribe is the employer, prior to a position being offered to a member in good standing of the Mashantucket Pequot Tribe, generally the position need not be posted or advertised. Under other circumstances, including a Tribal employer’s desire to award a position to a lower tier preference eligible individual, the position must be publicized in a manner reasonably designed to reach preference eligible individuals.

When the employer is not the Tribe, a position that is offered to a Native American who is a member of a federally recognized Indian tribe living on or near a reservation generally is not required to be posted or otherwise advertised.

In the scenario presented, the employer is not required to post or otherwise advertise the position offered to the Tribal member. Further, the employer is permitted to limit publicizing the opening to a Tribal member to whom it offers the position regardless of whether that Tribal Member is employed by the employer.