



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 the public 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 recently hired preference eligible employee is not succeeding in his position. There is no formal training program for the position. Does the Preference Law require the employer to afford training opportunities under these circumstances and if so, what is required?

MERO Response: Without additional facts, the MERO can not provide a definitive response. The following guidance is not all inclusive.

Generally, an employer is required to provide the following training opportunities:

- (1) Preference in admission to an existing training program;
- (2) Additional training beyond that offered non-preference eligible individuals regardless of the existence of a training program if:
 - (a) The preference eligible individual is not succeeding and
 - (b) An objective assessment would reasonably conclude that enhanced training may appreciably benefit the employee’s ability to achieve the core competencies of the position.

If additional training is required, an employer must make reasonable, good faith efforts to provide effective training. In no event may any training opportunities be less than those afforded non-preference eligible individuals.

Generally, the following is not required of an employer with respect to the employment opportunity of training:

- (1) Developing a formal training program where one does not otherwise exist;
- (2) Excusing a preference eligible employee from demonstrating a level of personal responsibility required of all similarly situated employees;
- (3) Continuing training efforts where the preference eligible employee has demonstrated a lack of capacity for success or additional training would otherwise be futile;
- (4) Providing training that would utilize an unreasonable amount of the employer’s resources;
- (5) Abandoning uniform enforcement of reasonable, non-discriminatory workplace rules and policies.