

Title 37. Mashantucket Pequot Tribal Whistleblower Law

37 M.P.T.L. ch. 1 § 1

§ 1. Title

This law shall be known and may be cited as the Whistleblower Law.

37 M.P.T.L. ch. 1 § 2

§ 2. Purpose

The Tribal Council finds and declares that it is in the vital interest of the Mashantucket Pequot Tribal Nation that its government operates in accordance with law and without fraud, waste or mismanagement. If this interest is to be protected, tribal officials and employees must work in a climate where conscientious service is encouraged and disclosures of illegalities or improprieties may be made without reprisal or fear of reprisal.

37 M.P.T.L. ch. 1 § 3

§ 3. Reporting of information to the Office of Legal Counsel (OLC).

Investigation by OLC or other office as the OLC may designate as appropriate.

a. Protected Employee: Any person having knowledge of any matter involving corruption, unethical practices, violation of applicable laws or regulations, mismanagement, gross waste of funds, abuse of authority or danger to the public safety occurring in any tribal department or at any tribal enterprise, who transmits facts and information in his possession concerning such matter to the Office of Legal Counsel (OLC). The act of reporting shall be deemed protected conduct. No person shall have any cause of action under this Law unless the matter was reported to the OLC.

b. Investigation: The OLC, or other office as designated, shall review such matter and conduct an investigation into the matter as such office shall deem appropriate. OLC, or its designee, shall have power to question witnesses and require the production of any necessary books, papers or other documents, where necessary, for the purpose of investigation. Upon the conclusion of the investigation, the OLC, or its designee, shall, where necessary, report their findings to the Tribal Council.

c. Prohibited Conduct: No tribal officer or employee and no enterprise executive or employee shall take or threaten to take any personnel action against any Protected Employee in retaliation for such employee's good faith disclosure of information to the appropriate person under the provisions of Section 3(a) above.

d. Relief From Violation: If a Protected Employee alleges that a personnel action has been threatened or taken in retaliation for such employee's disclosure of information to the appropriate person under the provisions of Section 3(a) of this Law, the employee may file a complaint for the retaliatory action with the OLC who shall direct the matter to be investigated pursuant to Section 3(b) of this Law.

e. False Claims: Any employee of the tribal government, tribal enterprise or large tribal contractor, who is found to have, with knowledge, made false charges under Section 3(c) of this Law, shall be subject to disciplinary action by his/her employer up to and including dismissal.

37 M.P.T.L. ch. 1 § 4

§ 4. Remedies for Violation

a. In the event that any Protected Employee has been subject to Prohibited Conduct as described in Section 3(c) hereof, such employee shall have the following remedies:

(i) To the extent that the employee has been the subject of disciplinary action, as defined in 8 M.P.T.L. ch. 1 §1(h) the disciplined employee may raise such issue in an appeal taken pursuant to Title 8 and if the Court finds that the disciplinary action complained of is Prohibited Conduct, the Court may order reinstatement of the employee and/or award lost wages and benefits suffered by the employee;

(ii) In the alternative, a Protected Employee may institute an action in Tribal Court for any harm suffered by the employee as a result of such Prohibited Conduct, and as a remedy the Court may award actual damages for monetary losses, and in addition thereto the Court may fashion a remedy designed to restore the employee to any benefits or conditions of employment which the employee was deprived of by virtue of the Prohibited Conduct. Any cause of action instituted under this subsection shall, in the event of a Gaming Enterprise employee, be brought in the same manner as a tort claim under Title 4, and, in the event of a non-Gaming Enterprise employee, be brought in the same manner as a tort action to which the Tribe is a party under Title 12.

(iii) An action under Section 4(a)(ii) above must be instituted within one (1) year of the Prohibited Conduct. If an employee has asserted Prohibited Conduct in a proceeding described in Section 4(a)(i) above, they are barred from instituting an additional action under Section 4(a)(ii).

37 M.P.T.L. ch. 1 § 5

§ 5. Waiver of Sovereign Immunity

The Tribe hereby waives its sovereign immunity from suit against the Tribe and the Gaming Enterprise for actions in the Tribal Court, founded upon Prohibited Conduct as defined herein. Nothing herein shall be construed as a waiver of the sovereign immunity from suit against the Tribe or the Gaming Enterprise in state or federal court, or in any action before any state or federal agency, or in any other forum or context.

Historical and Statutory Notes Derivation. Effective November 22, 2010 TCR112210-01 of 06 enacted the Mashantucket Pequot Tribal Whistleblower Law.