

CHAPTER 14

HEARINGS BEFORE THE GAMING COMMISSION

SECTION 1 GENERAL PROCEDURES: SERVICE

- A. All matters which, by virtue of Title XV of the Choctaw Tribal Code, the Tribal-State Compact, or these Regulations, which require a Commission hearing, or on which, the Commission, in its discretion, grants a hearing, shall be heard and conducted according to the following procedures.
1. All pleadings, notices, and other paper required by this regulation to be served may be served by personal delivery or certified mail.
 2. The unexcused failure of a party to appear at the hearing may constitute a default and an admission of any facts that may have been alleged by the opposing party. The Commission may take action based on such default or admission or on any other evidence without further notice to the defaulting party. If the Commission takes action based on an admission, the record must include the evidence upon which the action is based.
 3. If any person in proceedings before the Commission under this regulation disobeys or resists any lawful order or refuses to respond to a subpoena, or refuses to take the oath of affirmation as a witness, or thereafter refuses to be examined, or is guilty of misconduct during the hearing or so near the place thereof as to obstruct the proceeding, the Commission may certify the facts to the Tribal Court and request that the court issues an order directing the person to appear before the court and show cause why he should not be punished for contempt. The application for citation for contempt shall be served on the person cited to appear.
 4. Continuances of the hearing date provided by the Commission may be granted by the Chairman upon a showing of good cause by the party requesting the continuance.
 5. Unless required for the disposition of *ex parte* matters:
 - a. Neither a party nor his representative shall communicate, directly or indirectly, with any Commission member regarding any matter related to the hearing, except upon notice and opportunity to all parties to participate and upon the authority of the Chairman.
 - b. A Commission member shall not communicate, directly or indirectly, with any party or his representative regarding any matter related to the hearing, except upon notice and opportunity to all parties to participate and upon the authority of the Chairman.

- B. This Section does not preclude any Commission member from consulting with Gaming Commission counsel concerning any matter related to the hearing.

SECTION 2 CONDUCT OF HEARINGS BEFORE THE COMMISSION

Unless the Chairman reasonably determines that a different procedure is appropriate, any hearing before the Commission must be conducted in accordance with the following procedures:

- A. The hearing shall be conducted by the Commission members, with the Chairman presiding. The Chairman shall determine the order of presentation of evidence and the admissibility and relevance of evidence. The Choctaw Rules of Evidence shall not apply.
- B. The Chairman on his/her own accord, or at the request of an involved party, may determine that a hearing shall be recorded, and if so, by what means. Fees for transcripts shall be the actual costs of transcription and shall be paid in advance by the party filing the request for transcription.
- C. Each party shall be entitled to appear and represent himself or herself or be represented by counsel admitted to the Choctaw Tribal Courts or the Mississippi Bar, or, if applicable, by a lay advocate allowed to appear before the Choctaw Tribal Courts.
- D. Each party to the proceeding shall be allowed to examine witnesses and present evidence and testimony supporting his position and shall be subject to cross-examination by the representative or counsel of any other party.
- E. The Chairman or Commission members may question any party or any witness at any time. The Chairman may, in his/her discretion, authorize the issuance of a subpoena.
- F. Subsequent to the hearing, the Chairman, on behalf of the Commission, shall issue a final written decision.

SECTION 3 PATRON DISPUTE RESOLUTION

- A. Patrons with complaints against a gaming operation shall have as their sole remedy the right to file a petition for relief with the Commission. Any patron complaint must be submitted in writing to the Commission within ten (10) calendar days of the contested action. The Commission may, in its sole discretion, but is not required to, grant a hearing on a patron's written request for a hearing. If the Commission grants the request, it shall provide a time and place for said hearing and notify all parties of same. The hearing procedures set forth in Sections 1 and 2 of this Chapter shall apply. If the Commission does not grant a hearing on the patron's complaint, within a reasonable time following receipt of the complaint, the Commission shall, following an investigation if it deems such necessary, issue a written decision on the complaint. All Commission decisions on patron complaints will be final when issued. The Commission's decision shall constitute the complainant's final remedy.

- B. In lieu of, or in addition to, a hearing, the Chairman may order that the parties to a patron dispute covered by this section submit written arguments to the Commission.

SECTION 4 DENIAL, SUSPENSION OR REVOCATION OF GAMING LICENSE OR WORK PERMIT

- A. This Section shall govern the rights and responsibilities of the Commission and persons appearing before the Commission in regard to procedures for hearings on the Chairman's denial, suspension or revocation of a gaming license or work permit required for licensees or permittees under the Choctaw Gaming Commission Regulations.
- B. The Commission may deny an application for a gaming license or work permit or suspend or revoke a gaming license or work permit for any violations(s) of any provisions of Chapter 2, Section 1 of the Choctaw Gaming Commission Regulations; Tribal-State Compact, section 8.5; and/or Section 15-1-17 of the Tribal Code.
- C. A person aggrieved by the decision of the Chairman to deny an application or to suspend or revoke a gaming license or work permit may, within ten (10) working days of the denial, suspension or revocation, make a written request to the Commission for a hearing. In order for a person's request for a hearing to be considered, the request must actually be received by the Commission by the close of business on the tenth (10th) working day following the suspension or revocation of the gaming license or work permit.
- D. The Commission may, in its discretion, but is not required to, grant a hearing on a person's written request for a hearing on the denial, suspension, or revocation of a license or permit.
- E. Following receipt of a written request for a hearing under this Section, the Commission shall respond within a reasonable time granting or denying the request for a hearing. If the Commission grants the request, it shall provide a time and place for said hearing.
- F. If the Commission grants a person's request for a hearing, the procedures set forth in Sections 1 and 2 of this Chapter shall apply.
- G. Notwithstanding the foregoing, the Commission shall grant a hearing on a person's timely written request for a hearing under the following circumstances:
 - 1. When the Commission receives a written finding from either the National Indian Gaming Commission or the Mississippi Gaming Commission specifying why a particular employee is not eligible for a gaming license or work permit, the Commission shall suspend the applicable gaming license or permit and shall notify the affected applicant of the suspension and proposed revocation and of a hearing time on the proposed revocation.
 - 2. When the Commission suspends or revokes the license of any gaming employee who holds a position at a gaming operation of department director or higher, the Commission shall notify the affected employee of a hearing time on the suspension or revocation.

3. When the Commission suspends or revokes the license of a management contractor, the Commission shall notify the affected management contractor of hearing time on the suspension or revocation.
- H. The Commission may require an applicant for, or a holder of a gaming license or work permit, to appear before the Commission for the Commission to hold a hearing as to whether to grant an application for the gaming license or work permit or suspend or revoke a gaming license or work permit.
 - I. In lieu of, or in addition to a hearing, the Chairman may order a person contesting a decision concerning a license or work permit pursuant to this section to submit written argument to the Commission.

SECTION 5 PROCEDURES FOR HEARING ON ENFORCEMENT ACTION AGAINST LICENSEE

- A. A gaming operator wishing to contest a notice of violation containing a civil assessment pursuant to Chapter 10, Section 3; or an order of temporary closure pursuant to Chapter 10, Section 2, may, within ten (10) working days of the notice of violation, make a written request to the Choctaw Gaming Commission for a hearing. In order for a gaming operator's request for a hearing to be considered, the requests must be actually received by the Commission by the close of business on the tenth (10th) working day following the issuance of the notice of violation. Upon receipt of a gaming operator's timely written request for a hearing, the Choctaw Gaming Commission shall respond within a reasonable time notifying the licensee of a time and place for the hearing. The hearing procedures set forth in Sections 1 and 2 of this Chapter shall apply.
- B. A gaming operator wishing to contest any other notice of violation other than those described in subsection "A" above, may within ten (10) working days of the notice of violation, make a written request to the Gaming Commission for a hearing. In order for a gaming operator's request for a hearing to be considered, the request must be actually received by the Commission by the close of business on the tenth (10th) working day following the issuance of the notice of violation. Upon receipt of a gaming operator's timely written request for a hearing, the Commission may, in its discretion, but is not required to, grant a hearing. If the Commission grants the request, it shall provide a time and place for said hearing and notify all parties of the same. The hearing procedures set forth in Sections 1 and 2 of this Chapter shall apply.
- C. In lieu of, or in addition to a hearing, the Commission may order a person or entity contesting a decision concerning a notice of violation to submit written argument to the Commission.