



NOTICE OF MEETING AND AGENDA

Pursuant to the Massachusetts Open Meeting Law (G.L. c. 30A, §§ 18-25), St. 2022, c. 107, and St. 2023, c. 2, notice is hereby given of a public meeting of the **Massachusetts Gaming Commission**. The meeting will take place:

Thursday | October 19, 2023 | 9:00 a.m.
VIA REMOTE ACCESS: 1-646-741-5292
MEETING ID/ PARTICIPANT CODE: 112 984 3023
All meetings are streamed live at www.massgaming.com.

Please note that the Commission will conduct this public meeting remotely utilizing collaboration technology. Use of this technology is intended to ensure an adequate, alternative means of public access to the Commission's deliberations for any interested member of the public. If there is any technical problem with the Commission's remote connection, an alternative conference line will be noticed immediately on www.massgaming.com.

All documents and presentations related to this agenda will be available for your review on the morning of the meeting date by visiting our website and clicking on the News header, under the Meeting Archives drop-down.

PUBLIC MEETING - #482

1. Call to Order – Cathy Judd-Stein, Chair
2. Meeting Minutes – Commissioner Jordan Maynard
3. Executive Director Screening Committee – Commissioner Eileen O'Brien, Commissioner Jordan Maynard, David Muldrew, Chief People and Diversity Officer, Boniswa Sundai, Senior Diversity Equity and Inclusion Program Manager, Derek Lennon, Chief Finance & Administrative Officer
 - a. Staff Recommendations Regarding Executive Search Firms **VOTE**
4. IEB Director Screening Committee – Commissioner Nakisha Skinner, Commissioner Brad Hill, David Muldrew, Chief People and Diversity Officer
 - a. IEB Director Job Description Distribution **VOTE**
5. Administrative Update – Todd Grossman, Interim Executive Director & General Counsel
 - a. MGC DEI Presentation – David Muldrew, Chief People and Diversity Officer, Boniswa Sundai, Senior Diversity Equity and Inclusion Program Manager



Massachusetts Gaming Commission

6. Legislative Update – Commissioner Brad Hill

7. Legal – Todd Grossman, Interim Executive Director & General Counsel, Caitlin Monahan, Deputy General Counsel, Carrie Torrisi, Deputy General Counsel
 - a. 205 CMR 219: Temporary Licensing Procedures – Regulation and Amended Small Business Impact Statement for final review and possible adoption. **VOTE**
 - b. 205 CMR 231: Renewal of a Sports Wagering License -- Regulation and Amended Small Business Impact Statement for final review and possible adoption. **VOTE**
 - c. 205 CMR 258: Sports Wagering Operator Cessation – Discussion and Review of Regulation and Small Business Impact Statement for possible emergency adoption, and/or authorization to begin the promulgation process. **VOTE**
 - d. 205 CMR 238.12: Additional Uniform Standards of Accounting Procedures and Internal Controls for Sports Wagering; Reserve Requirement – Discussion and Review of Regulation and Small Business Impact Statement for possible emergency adoption, and/or authorization to begin the promulgation process. **VOTE**
 - e. 205 CMR 2.00: Racing Meeting Licensing – Discussion and Review of Regulation and Small Business Impact Statement

8. Legal and IEB – Heather Hall, Interim IEB Director & Chief Enforcement Counsel, Caitlin Monahan, Deputy General Counsel
 - a. Process Considerations in connection with Penn Entertainment and ESPN Deal and information to be requested from Penn Entertainment related to said Deal

9. Community Affairs Division – Joe Delaney, Chief of Community Affairs
 - a. Review of Community Mitigation Fund Draft Guidelines **VOTE**

10. Research and Responsible Gaming – Mark Vander Linden, Director of Research and Responsible Gaming, Long Banh, Program Manager
 - a. GameSense Quarterly Report

11. Interim Executive Director and Human Resources Division – Todd Grossman, Interim Executive Director & General Counsel, David Muldrew, Chief People and Diversity Officer
 - a. Scope of Interim Executive Director’s Authority Regarding Personnel Decisions **VOTE**



Massachusetts Gaming Commission

12. MGC Office Lease Update – Todd Grossman, Interim Executive Director & General Counsel, Derek Lennon, Chief Financial & Administrative Officer, Maryann Dooley, Executive Assistant to the Executive Director & Office Operations Manager

a. Executive Session

The Commission anticipates that it will meet in executive session in accordance with G.L. c.30A, §21(a)(6) to consider the lease of real property, specifically the Commission’s office space at 101 Federal Street in Boston, and associated considerations, as discussion at an open meeting may have a detrimental effect on the negotiating position of the Commission. **VOTE**

13. Executive Session Meeting Minutes – Commissioner Jordan Maynard

a. Executive Session

The Commission anticipates that it will meet in executive session to review minutes from two previous executive sessions, as their discussion at an open meeting may frustrate the intended purpose for which the executive sessions were convened, pursuant to G.L. c.30A, §21(a)(3). **VOTE**

1. September 12, 2022
2. August 30, 2023

14. Commissioner Updates

15. Other Business - Reserved for matters the Chair did not reasonably anticipate at the time of posting.

I certify that this Notice was posted as “Massachusetts Gaming Commission Meeting” at www.massgaming.com and emailed to regs@sec.state.ma.us. Posted to Website: October 17, 2023 | 9:00 a.m. EST

October 17, 2023



Cathy Judd-Stein, Chair

If there are any questions pertaining to accessibility and/or further assistance is needed, please email Gertrude.Lartey@massgaming.gov.



Massachusetts Gaming Commission

Director of the Investigations and Enforcement Bureau (IEB)

Under the direction of the Chair of the Commission, this position is the operational and administrative head of the bureau and shall be responsible for executing, administering and enforcing the provisions of law relative to investigations and enforcement. The bureau shall be a law enforcement agency and its employees shall have such law enforcement powers as necessary to effectuate regulatory and criminal enforcement. This includes the power to receive intelligence on an applicant or licensee and to investigate violations of gaming laws. The Director of the IEB shall be responsible for fostering the principles of the MGC Mission Statement among the staff and all stakeholders. These principles include assisting with the creation of a fair, transparent and participating process for implementing the expanded Commonwealth gaming law while seeking to provide economic development benefits and revenues to the people of the Commonwealth and reduce to the maximum extent possible, the potentially negative or unintended consequences of the legislation as it relates to gaming.

Duties and responsibilities include, but are not limited to, the following:

- Direct the Financial Investigations Division, the Licensing Division and the Gaming Agents Division; and oversee the State Police Gaming Enforcement Unit in conjunction with the Colonel of the State Police.
- Plan, direct, execute, and coordinate all on-site investigative and enforcement activities to include effective supervision of the gaming agents, as well as members of the State Police, Alcohol Beverage Control Commission and local police assigned to the Bureau.
- Develop administrative procedures and internal controls for the IEB, which ensures the highest integrity and efficiency, and review operations to assess performance against business unit budget and legal requirements, and implement improvements and changes as necessary.
- Attend and participate in all Commission meetings and work with staff to manage correspondence and communication with all IEB matters reflecting the official actions of the MGC and assist Commissioners in all functions as needed
- Develop and administer appropriate training for IEB staff, ensuring all are competent and knowledgeable of all regulations, laws and policies and procedures

Skills and Qualifications:

- Demonstrated leadership and mentoring skills
- Proven ability to handle sensitive information with a high level of discretion
- Strong public speaking and presentation skills
- Ability to distill and share complex information with a diverse audience
- Ability to read, analyze and understand statistical information, business and financial reports

Experience, Education, and Training:

- Bachelor's degree with a minimum of 10 years of experience in an investigative or enforcement setting; or an equivalent combination of education and experience.
- At least 5 years working with a regulatory agency or in regulatory compliance

Salary is commensurate with experience.

The successful candidate will be required to pass an extensive background check that includes a full credit check, CORI, drug screen, and fingerprinting.

The Massachusetts Gaming Commission is responsible for the implementation of the expanded gaming law (Chapter 194 of the Acts of 2011). Under the law, the Commission is tasked with establishing a regulatory framework for the solicitation, licensing, taxation, and oversight of a maximum of three casino licenses and one slots parlor license in Massachusetts.

It is the policy of the Massachusetts Gaming Commission and the Commonwealth of Massachusetts to afford equal employment opportunities to all qualified individuals, without regard to their race, color, ancestry, religion, sex, sexual orientation, national origin, age, physical or mental disability, citizenship status, veteran status, gender identity or expression, or any other characteristic or status that is protected by federal, state, or local law.



MASSACHUSETTS GAMING COMMISSION

DIVERSITY, EQUITY, AND INCLUSION

David Muldrew, Chief People and Diversity Officer
Boniswa Sundai, Senior DEI Program Manager

AGENDA

Diversity, Equity, and Inclusion at MGC

Core Values

MGC Diversity Action Plan

Meet the Team

Diversity Stats

Initiatives/Outreach

Questions



DIVERSITY AND INCLUSION AT MGC



BACKGROUND

The Massachusetts Gaming Commission Equity and Inclusion Working Group

We value a diverse workforce and supplier base, and an inclusive culture internally and among our partners in the Massachusetts Gaming Industry.

Statement of Purpose

The MGC is committed to racial equity and justice, diversity, and inclusion and expects the same of its employees, licensees, and other stakeholders.

In our society at large there are systems, policies and practices that continue to yield inequitable outcomes. As a result of these systems, communities of color are disproportionately negatively affected and/or afforded benefits and opportunities to a lesser degree. Although the MGC remains committed to safeguarding all protected classes from discrimination, recent national events have underscored the urgency for all of us, as an agency, to take action on racial equity.

We recognize that, in addressing systemic issues, everyone who is part of any system has an opportunity and responsibility to examine how those systems work and to dismantle barriers obstructing racial equity.

We embrace anti-racism as a guiding principle. Anti-racism (in contrast to an absence of racism) calls for proactiveness. On the topic of racial equity, neutrality is insufficient, preserves the status quo, and is equivalent to an abdication of moral obligation. As such, the MGC adopts these principles and pledges to follow a proactive approach of continuous engagement towards developing and ensuring an environment of equity and justice.

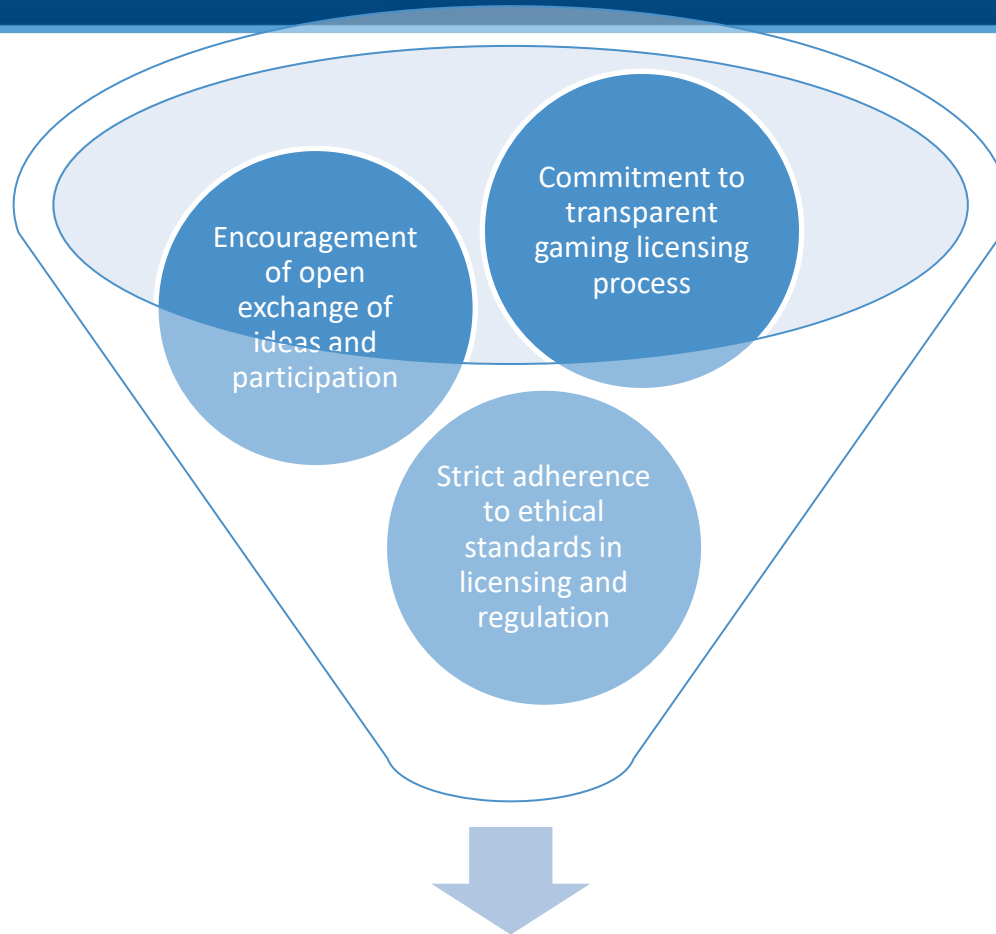
The term anti-racist is described in the book “How to be an Anti-Racist” by Ibram X. Kendi



MGC DIVERSITY CORE VALUES



CORE VALUES



Embrace diversity in workforce as well as the internal supplier base

MGC DIVERSITY ACTION PLAN



DEI ACTION PLAN/GOALS

Cultural Transformation:

- Foster an inclusive agency culture.
- Training on topics like unconscious bias, diversity, and inclusion.
- Transparent communication and reporting on anti-racism efforts.
- Establish a "Culture Club" for sharing experiences and resources.

Regulatory Review:

- Integrate an anti-racist perspective into regulatory reviews every three years.
- Ensure regulations don't disproportionately harm or hinder communities of color.

Enhanced Customer Service:

- Review policies and procedures to ensure fairness, accessibility, and economic opportunities for communities of color.

Diverse Hiring and Retention:

- Improve internal hiring and retention practices to boost diversity.
- Focus on job descriptions, outreach, mentoring, and monitoring licensees' diversity efforts.

Procurement Enhancement:

- Continue to broaden procurement policies to increase spending with minority-owned businesses.



MEET THE HR TEAM

Boniswa Sundai – Sr
Program Manager

Annie Messuri – HRIS

Trupti Banda – Human
Resource Manager

Dean Ventola – HRBP

Natasha Martin - HRBP

David Muldrew –
Chief People and
Diversity Officer



MGC DIVERSITY STATS



MGC DIVERSITY STATS

31%
Diverse



Diversity spend
Y22
\$3,600,693.90



48%
Women



MGC DIVERSITY OUTREACH



2023

MGC Internship

Pacesetters' – DEI
Training

Recruit Military

Black Expo



QUESTIONS?





TO: Chair Cathy Judd-Stein
Commissioner Brad Hill
Commissioner Jordan Maynard
Commissioner Eileen O'Brien
Commissioner Nakisha Skinner

FROM: Caitlin Monahan, Deputy General Counsel
Mina Makarious, Esq., Anderson & Kreiger

CC: Todd Grossman, Interim Executive Director and
General Counsel

DATE: October 13, 2023

RE: 205 CMR 219 and 205 CMR 231

Enclosed for the Commission's review and final vote are two regulations:

- 205 CMR 219: *Temporary Licensing Procedures*
- 205 CMR 231: *Renewal of a Sports Wagering License*

No comments were received on these regulations. The only change recommended is the correction of an erroneous cross-reference in 205 CMR 231.



Massachusetts Gaming Commission

205 CMR 219: TEMPORARY LICENSING PROCEDURES

- 219.01 Eligibility to Request a Temporary License
- 219.02 Temporary License Request Process
- 219.03 Temporary License Expiration
- 219.04 Applying for Leave to Obtain a Renewed Temporary License

219.01 Eligibility to Request a Temporary License

- (1) A Person shall be eligible to request a Temporary License if:
 - (a) The Commission deems it eligible in accordance with 205 CMR 218.07(1)(a); or
 - (b) The Commission awards it a Sports Wagering License in accordance with 205 CMR 218.07(1)(b); or
 - (c) It has received leave to request a renewed Temporary License in accordance with 205 CMR 219.04.

219.02 Temporary License Request Process

- (1) Any Person who is eligible to request a Temporary License may submit a request for a Temporary License to the Executive Director on a form to be approved by the Commission. Such request shall be accompanied by an initial licensing fee of \$1,000,000 payable to the Commission.
- (2) Upon receiving a request for a Temporary License, the Executive Director or their designee shall within fourteen days determine whether the requestor is eligible to request a Temporary License and has paid the initial licensing fee as described in 205 CMR 219.02, and make a written recommendation to the Commission as follows:
 - (a) If the Executive Director determines that the requestor is eligible and has paid the initial licensing fee, they shall recommend to the Commission that the Commission issue the requested Temporary License.
 - (b) If the Executive Director determines that the requestor is not eligible or has not paid the initial licensing fee, they shall recommend to the Commission that the Commission deny the requested Temporary License.
- (3) Upon receiving a recommendation from the Executive Director in accordance with 205 CMR 219.02(2), the Commission shall, at an open public meeting held within fourteen days, either issue or deny the requested Temporary License.
 - (a) The Commission shall send written notice of the public meeting to the requestor at least seven days in advance of the meeting.

- (b) The Commission may in its discretion receive comment or presentations from representatives of the requestor or from the public.
- (4) Effective date of renewed Temporary Licenses. If the Operator already holds a Temporary License, and:
 - (a) The Commission issues a renewed Temporary License before the expiration of the prior Temporary License: the effective date of the renewed Temporary License shall be the day after the prior Temporary License expires.
 - (b) The Commission issues a renewed Temporary License during the period where the prior Temporary License remains in effect because of 205 CMR 219.03(3): the effective date of the renewed Temporary License shall be the day after the day the prior Temporary License would have expired if not for 205 CMR 219.03(3).
 - (c) Otherwise, the effective date of the renewed Temporary License shall be the day after the Commission's vote to issue the renewed Temporary License.
- (5) Any Temporary License shall be subject to conditions in accordance with M.G.L. c. 23N and 205 CMR 220.

219.03 Temporary License Expiration

- (1) The first Temporary License granted to an Operator in the Commonwealth shall expire after one year.
- (2) The Operator's second and subsequent Temporary Licenses shall each expire after one year, or after the Commission makes a supplemental determination of suitability and awards a Sports Wagering License in accordance with 205 CMR 218.06(7), whichever is shorter.
- (3) Non-expiration of licenses while timely request for leave to obtain a renewed temporary license is pending.
 - (a) If an Operator has submitted a timely application for leave to request a renewed Temporary License, the Operator's Temporary License shall not expire until:
 - (i) the application has finally been determined by the Commission; or
 - (ii) the operator fails to cure a deficiency within the time permitted by 205 CMR 219.04(2)(c).

- (b) An application for leave to request a renewed Temporary License shall be considered timely if it has been submitted within the time permitted, as applicable, by 205 CMR 219.04(5) or 205 CMR 219.04(2)(c).
- (4) Limited extension to wind down Sports Wagering Operations. Except as required by other regulations or a lawful order of the Commission: if the Commission denies a request for leave to obtain a renewed Temporary License, the Operator's Temporary License shall expire no sooner than two weeks after the date on which the Commission denies the renewal, or upon such later date as the Commission determines is necessary to allow wind down of the Operator's operations in the Commonwealth.

219.04 Applying for Leave to Obtain a Renewed Temporary License

- (1) Applications for leave to request a renewed Temporary License shall be submitted to the Executive Director on a form approved by the Commission.
- (2) Administrative sufficiency review.
 - (a) The Commission's Division of Licensing will review each application for leave for administrative sufficiency.
 - (b) When determining whether an application for leave is administratively sufficient, the Division of Licensing shall review only the form required by 205 CMR 219.04(1), and only determine whether all information or materials required to be provided in response to each question or request has been submitted.
 - (c) If an application for leave is determined to be insufficient:
 - (i) The Division shall notify the Operator by email. The notification shall specifically identify the deficiencies.
 - (ii) The Operator shall have the right to submit supplemental or corrected information to cure the deficiencies within one month.
 - (iii) For each deficient request component, the one-month period established in 205 CMR 219.04(2)(c)(ii) shall begin the day after:
 - (a) The last date to submit an application for leave to request a renewed temporary license, as established by 205 CMR 219.04(5), if that date has not passed; or
 - (b) The date on which the notification sent pursuant to 205 CMR 219.04(2)(c)(i) was sent, if the last date to submit an application for leave to request a renewed temporary license, as established by 205 CMR 219.04(5), has passed.

- (3) In reviewing the application for leave to request a renewed Temporary License, the Commission may, at such times and in such order as the Commission deems appropriate, take any of the actions listed in 205 CMR 218.04(1).
- (4) The Commission shall, at an open public meeting, either grant or deny leave to obtain a renewed Temporary License. The Commission shall send written notice of the public meeting to the requestor at least fourteen days in advance of the meeting.
- (5) Applications for leave to obtain a renewed Temporary License: timing, evaluation, and fees.
 - (a) Second, fourth, and fifth Temporary Licenses.
 - (i) Timing: An Operator may submit an application for leave to obtain a renewed Temporary License no sooner than ten months nor later than eleven months after the effective date of the prior Temporary License.
 - (ii) Evaluation: in determining whether to grant or deny the application for leave, the Commission may consider, in its discretion, any appropriate factor.
 - (iii) Fee: the application for leave shall be accompanied by a nonrefundable application fee of \$10,000 to defray the costs associated with the processing of the application and investigation of the licensee. Except for the dollar amount of the fee, said fee shall be subject to the provisions of 205 CMR 214.01 and 205 CMR 214.02.
 - (b) Third Temporary License.
 - (i) Timing: an Operator may submit an application for leave to obtain a renewed Temporary License no later than three months after the effective date of the prior Temporary License.
 - (ii) Evaluation:
 - (a) Before the Commission may grant the Operator's application for leave, the Bureau shall conduct an investigation into the qualifications and continued suitability of the Operator and its Qualifiers, and submit a written report to the Commission, consistent with 205 CMR 215.01(2)(b).
 - (b) In determining whether to grant or deny the application for leave, the Commission may consider, in its discretion, any appropriate factor.

(iii) Fee: the application for leave shall be accompanied by a nonrefundable application fee of \$50,000 to defray the costs associated with the processing of the application and investigation of the licensee. Except for the dollar amount of the fee, said fee shall be subject to the provisions of 205 CMR 214.01 and 205 CMR 214.02.

(c) Sixth and subsequent Temporary Licenses.

(i) Timing: an Operator may submit an application for leave to obtain a renewed Temporary License no later than three months after the effective date of the prior Temporary License.

(ii) Evaluation:

(a) Within one month of a positive determination of administrative sufficiency, the Commission may instruct the Bureau to conduct an investigation and submit a written report to the Commission. The investigation and written report shall address any topic directed by the Commission, and, in the Bureau's discretion, any other topic. If the Commission so instructs the Bureau, the Commission shall receive the Bureau's report before it may grant the Operator's application for leave. Otherwise, the Commission may grant the Operator's application for leave without receiving a report from the Bureau.

(b) In determining whether to grant or deny the application for leave, the Commission may consider, in its discretion, any appropriate factor. In addition, the Commission shall determine whether any delays in making a supplemental determination of suitability are primarily attributable to the Operator and its Qualifiers, and the Commission and its staff.

(iii) Fee: the application for leave shall be accompanied by a nonrefundable application fee of \$25,000 to defray the costs associated with the processing of the application and any investigation of the licensee. Except for the dollar amount of the fee, said fee shall be subject to the provisions of 205 CMR 214.01 and 205 CMR 214.02.

(d) The Commission may, in its discretion, extend the time for filing a complete application for leave to enable an Operator to cure a deficiency in its application, provided that the application for leave was submitted before the established deadlines, or to provide a reasonable additional time

for filing in cases where extraordinary circumstances prevented a timely filing.

- (e) The Executive Director shall deny, without prejudice, any renewal request not accompanied by the required application fee.

205 CMR 219: TEMPORARY LICENSING PROCEDURES

- 219.01 Eligibility to Request a Temporary License
- 219.02 Temporary License Request Process
- 219.03 Temporary License Expiration
- 219.04 Applying for Leave to Obtain a Renewed Temporary License

219.01 Eligibility to Request a Temporary License

- (1) A Person shall be eligible to request a Temporary License if:
 - (a) The Commission deems it eligible in accordance with 205 CMR 218.07(1)(a); or
 - (b) The Commission awards it a Sports Wagering License in accordance with 205 CMR 218.07(1)(b); ~~or~~
 - (c) It has received leave to request a renewed Temporary License in accordance with 205 CMR 219.04.

219.02 Temporary License Request Process

- (1) Any Person who is eligible to request a Temporary License may submit a request for a Temporary License to the Executive Director on a form to be approved by the Commission. Such request shall be accompanied by an initial licensing fee of \$1,000,000 payable to the Commission.
- (2) Upon receiving a request for a Temporary License, the Executive Director or their designee shall within fourteen days determine whether the requestor is eligible to request a Temporary License and has paid the initial licensing fee as described in 205 CMR 219.02, and make a written recommendation to the Commission as follows:
 - (a) If the Executive Director determines that the requestor is eligible and has paid the initial licensing fee, they shall recommend to the Commission that the Commission issue the requested Temporary License.
 - (b) If the Executive Director determines that the requestor is not eligible or has not paid the initial licensing fee, they shall recommend to the Commission that the Commission deny the requested Temporary License.
- (3) Upon receiving a recommendation from the Executive Director in accordance with 205 CMR 219.02(2), the Commission shall, at an open public meeting held within fourteen days, either issue or deny the requested Temporary License.
 - (a) The Commission shall send written notice of the public meeting to the requestor at least seven days in advance of the meeting.

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(b) The Commission may in its discretion receive comment or presentations from representatives of the requestor or from the public.

~~(4)~~ Effective date of renewed Temporary Licenses. If the Operator already holds a Temporary License, and:

~~(a)~~ The Commission issues a renewed Temporary License before the expiration of the prior Temporary License: the effective date of the renewed Temporary License shall be the day after the prior Temporary License expires.

~~(b)~~ The Commission issues a renewed Temporary License during the period where the prior Temporary License remains in effect because of 205 CMR 219.03(3): the effective date of the renewed Temporary License shall be the day after the day the prior Temporary License would have expired if not for 205 CMR 219.03(3).

~~(c)~~ Otherwise, the effective date of the renewed Temporary License shall be the day after the Commission's vote to issue the renewed Temporary License.

~~(4)(5)~~ Any Temporary License shall be subject to conditions in accordance with M.G.L. c. 23N and 205 CMR 220.

219.03 Temporary License Expiration

~~(1)~~ The first Temporary License granted to an Operator in the Commonwealth shall expire after one year.

~~(5)~~ The Operator's second and subsequent Temporary Licenses shall each expire after one year, or after the Commission makes a supplemental determination of suitability in accordance with 205 CMR 218.06(7), or one year, whichever is longer; provided, that if the Commission has not made and awards a supplemental determination of suitability within one year, the Temporary License shall:

~~(2)~~ expire after the Commission makes a supplemental determination of suitability Sports Wagering License in accordance with 205 CMR 218.06(7), or after three years, whichever is shorter, if the Operator does not.

~~(a)(3)~~ Non-expiration of licenses while timely request a renewal in accordance with 205 CMR 219.04; or for leave to obtain a renewed temporary license is pending.

~~(b)~~ expire after the Commission makes a supplemental determination of suitability in accordance with 205 CMR 218.06(7), or after five years, whichever is shorter, if the If an Operator timely requests and is granted a renewal in accordance with 205 CMR 219.04.

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~~(6)(a) Under no circumstances shall any Operator conduct Sports Wagering under a has submitted a timely application for leave to request a renewed Temporary License after five years from the date the Operator's Temporary License issued. shall not expire until:~~

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~~(i) 219.04 the application has finally been determined by the Commission; or~~

~~(ii) the operator fails to cure a deficiency within the time permitted by 205 CMR 219.04(2)(c).~~

An application for leave to request a renewed Temporary License Renewal Process

~~(7)(b) An Operator may submit a renewal request in accordance with this shall be considered timely if it has been submitted within the time permitted, as applicable, by 205 CMR 219.04 between twenty one months and twenty four months after the date the Temporary License issued. (5) or 205 CMR 219.04(2)(c).~~

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~~(4) Renewal requests Limited extension to wind down Sports Wagering Operations. Except as required by other regulations or a lawful order of the Commission: if the Commission denies a request for leave to obtain a renewed Temporary License, the Operator's Temporary License shall expire no sooner than two weeks after the date on which the Commission denies the renewal, or upon such later date as the Commission determines is necessary to allow wind down of the Operator's operations in the Commonwealth.~~

219.04 Applying for Leave to Obtain a Renewed Temporary License

(1) Applications for leave to request a renewed Temporary License shall be submitted to the Executive Director on a form approved by the Commission.

~~(2) Before the Commission may consider the renewal request, the Bureau shall conduct an investigation into the qualifications and continued suitability of the licensee and its Qualifiers, and submit a written report to the Commission, in accordance with 205 CMR 215.01(2)(b).~~

~~(2) Upon receiving a report from the Bureau in accordance with Administrative sufficiency review.~~

(a) The Commission's Division of Licensing will review each application for leave for administrative sufficiency.

(b) When determining whether an application for leave is administratively sufficient, the Division of Licensing shall review only the form required by 205 CMR 219.04(1), and only determine whether all information or materials required to be provided in response to each question or request has been submitted.

- (c) If an application for leave is determined to be insufficient:
 - (i) The Division shall notify the Operator by email. The notification shall specifically identify the deficiencies.
 - (ii) The Operator shall have the right to submit supplemental or corrected information to cure the deficiencies within one month.
 - (iii) For each deficient request component, the one-month period established in 205 CMR 219.04(2)(c)(ii) shall begin the day after:
 - (a) The last date to submit an application for leave to request a renewed temporary license, as established by 205 CMR 219.04(5), if that date has not passed; or
 - (b) The date on which the notification sent pursuant to 205 CMR 219.03(2),04(2)(c)(i) was sent, if the last date to submit an application for leave to request a renewed temporary license, as established by 205 CMR 219.04(5), has passed.

(3) In reviewing the application for leave to request a renewed Temporary License, the Commission may, at such times and in such order as the Commission deems appropriate, take any of the actions listed in 205 CMR 218.04(1).

~~(3)~~(4) The Commission shall, at an open public meeting, either grant or deny the requested renewal leave to obtain a renewed Temporary License. The Commission shall send written notice of the public meeting to the requestor at least fourteen days in advance of the meeting.

~~(5) If the Commission denies a request Applications for renewal of leave to obtain a renewed Temporary License, the ; timing, evaluation, and fees.~~

(a) Second, fourth, and fifth Temporary Licenses.

(i) Timing: An Operator may submit an application for leave to obtain a renewed Temporary License shall expire no sooner than two weeks ten months nor later than eleven months after the effective date on which of the prior Temporary License.

(ii) Evaluation: in determining whether to grant or deny the application for leave, the Commission may consider, in its discretion, any appropriate factor.

(iii) Fee: the application for leave shall be accompanied by a nonrefundable application fee of \$10,000 to defray the costs associated with the processing of the application and investigation of the licensee. Except for the dollar amount of the fee, said fee

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shall be subject to the provisions of 205 CMR 214.01 and 205 CMR 214.02.

(b) Third Temporary License.

(i) Timing: an Operator may submit an application for leave to obtain a renewed Temporary License no later than three months after the effective date of the prior Temporary License.

(ii) Evaluation:

(+)(a) Before the Commission ~~denies the renewal.~~ may grant the Operator's application for leave, the Bureau shall conduct an investigation into the qualifications and continued suitability of the Operator and its Qualifiers, and submit a written report to the Commission, consistent with 205 CMR 215.01(2)(b).

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~~(2) Renewal application and licensing fees.~~

~~(a) Application fee.~~

~~(b) Any renewal requestIn determining whether to grant or deny the application for leave, the Commission may consider, in its discretion, any appropriate factor.~~

~~(+)(iii) Fee: the application for leave shall be accompanied by a nonrefundable application fee of \$50,000 to defray the costs associated with the processing of the ~~renewal request~~ application and investigation of the licensee. Except for the dollar amount of the fee, said fee shall be subject to the provisions of 205 CMR 214.01 and 205 CMR 214.02.~~

(c) Sixth and subsequent Temporary Licenses.

(i) Timing: an Operator may submit an application for leave to obtain a renewed Temporary License no later than three months after the effective date of the prior Temporary License.

(ii) Evaluation:

(a) Within one month of a positive determination of administrative sufficiency, the Commission may instruct the Bureau to conduct an investigation and submit a written report to the Commission. The investigation and written report shall address any topic directed by the Commission, and, in the Bureau's discretion, any other topic. If the Commission so instructs the Bureau, the Commission shall

receive the Bureau's report before it may grant the Operator's application for leave. Otherwise, the Commission may grant the Operator's application for leave without receiving a report from the Bureau.

(b) In determining whether to grant or deny the application for leave, the Commission may consider, in its discretion, any appropriate factor. In addition, the Commission shall determine whether any delays in making a supplemental determination of suitability are primarily attributable to the Operator and its Qualifiers, and the Commission and its staff.

(iii) Fee: the application for leave shall be accompanied by a nonrefundable application fee of \$25,000 to defray the costs associated with the processing of the application and any investigation of the licensee. Except for the dollar amount of the fee, said fee shall be subject to the provisions of 205 CMR 214.01 and 205 CMR 214.02.

(d) The Commission may, in its discretion, extend the time for filing a complete application for leave to enable an Operator to cure a deficiency in its application, provided that the application for leave was submitted before the established deadlines, or to provide a reasonable additional time for filing in cases where extraordinary circumstances prevented a timely filing.

(ii) The Executive Director shall deny, without prejudice, any renewal request not accompanied by the required application fee.

~~(b) Renewal licensing fee.~~

~~(+)(c) Within 30 days after the renewal of a Temporary License pursuant to 205 CMR 219.04(4), the licensee shall pay a non-refundable license fee of \$1,000,000 in accordance with 205 CMR 221.01(2).~~

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Legal Division

AMENDED SMALL BUSINESS IMPACT STATEMENT

The Massachusetts Gaming Commission (“Commission”) hereby files this Amended Small Business Impact Statement in accordance with G.L. c. 30A, § 5 relative to the proposed amendments to **205 CMR 219: Temporary Licensing Procedures** for which a public hearing was held on October 10, 2023, at 9:30am EST.

This regulation was developed as part of the process of promulgating regulations governing sports wagering in the Commonwealth, and is primarily governed by G.L. c. 23N, §§ 4, and 6(c).

The adoption of 205 CMR 219.00 applies to potential sports wagering operators, who are applying for temporary licensure under G.L. c. 23N and have submitted applications with materials and information related to their suitability. Accordingly, this regulation is unlikely to have an adverse impact on small businesses.

In accordance with G.L. c.30A, §5, the Commission offers the following responses on whether any of the following methods of reducing the impact of the proposed regulation on small businesses would hinder achievement of the purpose of the proposed regulation:

0. Establishing less stringent compliance or reporting requirements for small businesses:

It is not readily apparent that this regulation would affect small businesses, as it applies to the prospective Operators seeking licensure within the Commonwealth.

1. Establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses:

This regulation requires applicants seeking a temporary license as a Sports Wagering Operators under G.L. c. 23N, and in accordance with 218.00. There are no less stringent schedules for small businesses that have been established as it does not appear that this regulation impacts or affects small businesses.

2. Consolidating or simplifying compliance or reporting requirements for small businesses:

This amendment does not impose reporting requirements upon small businesses, therefore, the compliance and reporting requirement within this regulation have not been simplified.



Massachusetts Gaming Commission

3. Establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation:

Performance based standards are set forth in this regulation, so that an applicant seeking temporary licensure is aware of the process, fees and timing required. However, it does not appear that these regulations will impact small businesses.

4. An analysis of whether the proposed regulation is likely to deter or encourage the formation of new businesses in the Commonwealth:

The Commission does not anticipate that the proposed regulation will neither deter nor encourage the formation of new businesses in the Commonwealth.

5. Minimizing adverse impact on small businesses by using alternative regulatory methods:

As it is currently drafted, it does not appear that the revision to 219.00 will adversely impact small businesses.

Massachusetts Gaming Commission
By:

/s/ Judith A. Young
Associate General Counsel
Legal Division

Dated: October 19th 2023



Massachusetts Gaming Commission

205 CMR 231: RENEWAL OF A SPORTS WAGERING LICENSE

231.01 License Renewal Process

231.01 License Renewal Process

- (1) An Operator may submit a renewal request in accordance with this 205 CMR 231 on a form approved by the Commission no earlier than twelve months before, and no later than nine months before, the date on which the Operator's Sports Wagering License is scheduled to expire.
- (2) The Commission may, in its discretion, extend the time for filing a complete renewal request to enable an Operator to cure a deficiency in its request, provided that the renewal request was submitted before the established deadlines, or to provide a reasonable additional time for filing in cases where extraordinary circumstances prevented a timely filing.
- (3) Administrative sufficiency review.
 - (a) The Commission's Division of Licensing will review each renewal request for administrative sufficiency.
 - (b) When determining whether a request is administratively sufficient, the Division of Licensing shall review only the form required by 205 CMR 231.01(12), and only determine whether all information or materials required to be provided in response to each question or request has been submitted.
 - (c) If a request is determined to be insufficient:
 - (i) The Division shall notify the Operator by email. The notification shall specifically identify the deficiencies.
 - (ii) The Operator shall have the right to submit supplemental or corrected information to cure the deficiencies within one month.
 - (iii) For each deficient request component, the one-month period established in 205 CMR 231.01(3)(c)(ii) shall begin the day after:
 - (a) The last date to submit a renewal request, as established by 205 CMR 231.01(1), if that date has not passed; or
 - (b) The date on which the notification sent pursuant to 205 CMR 231.01(3)(c)(i) was sent, if the last date to submit a renewal request, as established by 205 CMR 231.01(1), has passed.

- (d) A positive determination of administrative sufficiency shall not constitute a finding with respect to the accuracy of the information submitted, and shall not bar a request for further information by the Commission, the Bureau or their agents and employees with respect to the request.
- (4) Non-expiration of licenses while timely renewal request is pending.
- (a) In accordance with G.L. c. 30A, § 13, if an Operator has submitted a timely renewal request, the Operator's Sports Wagering License shall not expire until:
 - (i) the request has been finally determined by the Commission; or
 - (ii) the operator fails to cure a deficiency within the time permitted by 205 CMR 231.01(3)(c).
 - (b) A renewal request shall be considered timely if it has been submitted within the time permitted, as applicable, by 205 CMR 231.01(1)-(2) or 205 CMR 231.01(3)(c).
- (5) Before the Commission may consider the renewal request, the Bureau shall conduct an investigation and submit a written report to the Commission. The Bureau's investigation and written report shall address, at a minimum:
- (a) The topics listed in 205 CMR 215.01(2)(b);
 - (b) The Operator's history of compliance with M.G.L. c. 23N and 205 CMR 200 *et seq.*; and
 - (c) Any other topic as directed by the Commission.
- (6) Upon receiving a report from the Bureau in accordance with 205 CMR 231.01(5), the Commission shall, at an open public meeting, either grant or deny the requested renewal.
- (7) In reviewing the renewal request, the Commission may, at such times and in such order as the Commission deems appropriate, take any of the actions listed in 205 CMR 218.04(1) or 205 CMR 218.05.
- (8) Evaluating the renewal request.
- (a) If the Operator continues to meet all requirements of M.G.L. c. 23N and the rules and regulations of the Commission, the Commission shall grant the requested renewal.
 - (b) If the Operator has violated any requirements of M.G.L. c. 23N or the rules and regulation of the Commission:

- (i) The Commission may, in its sole discretion, grant or deny the requested renewal.
 - (ii) In deciding whether to grant or deny the requested renewal, the Commission may consider, in addition to any other factor, the seriousness and duration of the Operator's violation or violations; the Operator's mitigation or remediation efforts; and the Operator's overall history of compliance with M.G.L. c. 23N and 205 CMR.
- (9) If the Commission grants the requested renewal:
 - (a) Within 30 days, the Operator shall pay a non-refundable license fee of \$5,000,000. The payment shall be made in accordance with 205 CMR 221.02.
 - (b) The term of the license shall be extended for five years. The determination of the License's new expiration date shall exclude any automatic extension provided for by 205 CMR 231.01(4).
- (10) Limited extension to wind down Sports Wagering Operations. Except as required by other regulations or a lawful order of the Commission: if the Commission denies the requested renewal, the License shall expire no sooner than two weeks after the date on which the Commission denies the renewal, or upon such later date as the Commission determines is necessary to allow wind down of the Operator's operations in the Commonwealth.
- (11) Fee. the renewal request shall be accompanied by a nonrefundable application fee of \$50,000 to defray the costs associated with the processing of the application and investigation of the licensee. Except for the amount of the fee, said fee shall be subject to the provisions of 205 CMR 214.01 and 205 CMR 214.02.

REGULATORY AUTHORITY

205 CMR 231.00: M.G.L. c. 23N, §§ 4, 6(f)



Legal Division

AMENDED SMALL BUSINESS IMPACT STATEMENT

The Massachusetts Gaming Commission (“Commission”) hereby files this Amended Small Business Impact Statement in accordance with G.L. c. 30A, § 5 relative to the proposed amendments to **205 CMR 231: Renewal of a Sports Wagering License** for which a public hearing was held on October 10, 2023, at 9:30am EST.

This regulation was developed as part of the process of promulgating regulations governing sports wagering in the Commonwealth, and is primarily governed by G.L. c. 23N, §§ 4, 6(c), 15(c), 15(e).

205 CMR 231.00 governs the renewal of full sports wagering licenses. Renewal license fees are required of all Operators who have submitted renewal applications, and operators are also expected to remain in compliance with and G.L. c. 23N and the regulations of the Commission throughout the process. Accordingly, this regulation is unlikely to affect small businesses.

In accordance with G.L. c.30A, §5, the Commission offers the following responses on whether any of the following methods of reducing the impact of the proposed regulation on small businesses would hinder achievement of the purpose of the proposed regulation:

0. Establishing less stringent compliance or reporting requirements for small businesses:

It is not readily apparent that this regulation would affect small businesses, as it applies to the Sports Wagering Operators who have received licensure within the Commonwealth. Accordingly, the Commission has not established less stringent compliance or reporting requirements.

1. Establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses:

This regulation establishes the process of renewing a sports wagering license and sets out the fees owed by re-applicants who are already Operators in the Commonwealth. As such, there have been no less stringent deadlines for compliance or reporting pertaining to small businesses.

2. Consolidating or simplifying compliance or reporting requirements for small businesses:



Massachusetts Gaming Commission



TO: Chair Cathy Judd-Stein
Commissioner Brad Hill
Commissioner Jordan Maynard
Commissioner Eileen O'Brien
Commissioner Nakisha Skinner

FROM: Caitlin Monahan, Deputy General Counsel
Mina Makarious, Esq., Anderson & Kreiger

CC: Todd Grossman, Interim Executive Director and
General Counsel

DATE: October 13, 2023

RE: 205 CMR 258 and 238.12

Enclosed for the Commission's review is a proposed 205 CMR 258 for emergency adoption, and 205 CMR 238.12 for amendment in the regular course.

205 CMR 258 addresses the procedures by which Sports Wagering Operators may cease operating in the Commonwealth, such as when Operators decide to scale back their products and services or when Operators cease business altogether. 205 CMR 258 proposes the following procedure:

- **Notification.** When an Operator becomes aware that it intends to cease operating in the Commonwealth, it is required to immediately notify the Commission of that intent. Notification is required regardless of whether the cessation is intended to be temporary or indefinite and whether cessation is voluntary or involuntary.
- **Commission Action Upon Receipt of Notice.** Upon receiving notice of an Operator's anticipated cessation, the Commission may order the Operator to cease offering or accepting new Sports Wagers; appoint a conservator or receiver to manage the Operator's business in the Commonwealth (similar to 205 CMR 130); or take any further action as necessary to protect the integrity of Sports Wagering in the Commonwealth.
- **Cessation Plan.** After the Operator has notified the Commission of its intent to cease operations, the Operator must submit a plan to the Commission for how it will cease its operations. That plan must address how the Operator plans to resolve all pending Wagers, positive Sports Wagering Account balances, closure of the Operator's Sports Wagering product, and the Operator's plan to satisfy its outstanding debts and obligations. The Commission will then review and approve or deny that plan before the



Massachusetts Gaming Commission

Operator notifies the public of its anticipation cessation and begins to implement the cessation plan.

- **Reporting.** Every 10 days (or on such other schedule as the Commission determines), the Operator is required to provide a written report to the Commission on its cessation progress. These reports provide the Operator an opportunity to seek to amend or deviate from its cessation plan if its progress to date indicates its original cessation plan will not be effective. The Operator will not be able to implement that amendment or deviation until it receives approval from the Commission.
- **Cessation Effective.** Cessation will only become effective after the Operator submits a report to the Commission that it has completed its cessation plan, and the Commission approves the Operator's request to cease operations.
- **Expiration of License.** Upon cessation, the Operator's Sports Wagering License, and any licenses issued solely in connection with the Operator's License, will be deemed to have expired. Following expiration of the license, the Operator will be required to maintain records sufficient to enable the Commission to conduct audits for the next seven years.
- **Bankruptcy.** Because of the preemptive effect of the federal Bankruptcy Code, in the event that an Operator intends to cease operations due to bankruptcy, the Operator may not be subject to the cessation procedures described above, and its obligations will be to notify the Commission of its bankruptcy and provide the Commission adequate means to access and use the letter of credit issued pursuant to an amended 205 CMR 238.12(1).

We recommend adopting 205 CMR 258 as an emergency regulation, given the rapid advent and developing nature of the sports wagering industry.

205 CMR 238.12 is amended to aid in the promulgation of 205 CMR 258 and specifically, the requirement in 205 CMR 258.03(1)(g) that the Operator provide the Commission means to access and draw upon a letter of credit. 205 CMR 238.12(1) requires Operators to obtain a letter of credit proportional to the portion of its reserve amount allocated to unpaid wagers so if an Operator does cease operations, the Commission has some assurances that patrons will receive any money held by the Operator.

We recommend amending 205 CMR 238.12 in the regular course so the Commission may receive comments from Sports Wagering Operators, who will be required to take affirmative actions with a financial institution if this regulation is ultimately adopted.



Massachusetts Gaming Commission

205 CMR 258: SPORTS WAGERING OPERATOR CESSATION

Section

258.01:	Notification
258.02:	Commission Action Upon Receipt of Notice of Cessation
258.03:	Cessation Plan
258.04:	Reporting
258.05:	Cessation Effective
258.06:	Expiration of License
258.07:	Bankruptcy

258.01: Notification

- (1) A Sports Wagering Operator that intends to cease Sports Wagering Operations in the Commonwealth shall immediately, and in no event fewer than 90 days before such cessation of operations is anticipated to become effective, notify the Commission in writing of its anticipated cessation, as well the circumstances leading to the anticipated cessation.
- (2) The notice required pursuant to 205 CMR 258.01(1) shall be given regardless of whether the intended cessation of Sports Wagering Operations is permanent or of indefinite or temporary duration, and whether the intended cessation is through voluntary or involuntary dissolution, receivership, assignment for the benefit of creditors, liquidation, or bankruptcy of the Sports Wagering Operator.

258.02: Commission Action Upon Receipt of Notice of Cessation

Upon receiving written notification of a Sports Wagering Operator's anticipated cessation, the Commission may:

- (1) Order the Sports Wagering Operator to cease offering or accepting new Sports Wagers within five (5) business days or such longer period as determined by the Commission;
- (2) Appoint a conservator or receiver to manage and operate the business of the Sports Wagering Operator in the Commonwealth through and, if the Commission deems appropriate, after the intended date of cessation. The appointment, duties and obligations of the conservator or receiver shall be subject to the same procedures and requirements as those described in 205 CMR 130, which shall be construed relative to Sports Wagering for the purposes of this section; or
- (3) Take any other action it deems necessary in its discretion to protect the integrity of Sports Wagering in the Commonwealth.

258.03: Cessation Plan

- (1) Within five (5) business days of providing notice of its intended cessation of activities pursuant to 205 CMR 258.01, the Sports Wagering Operation shall submit a plan to the Commission that addresses:
 - (a) The distribution of winning Wagers to patrons holding unredeemed Wagers, including proposed dates by which patrons must claim unredeemed Wagers;
 - (b) The refund of pending Wagers the results of which will not be determined before the cessation of operation, including proposed dates by which patrons must claim unredeemed Wagers;
 - (c) The return of funds in a patron's Sports Wagering Account maintained by a Sports Wagering Operator to that patron, including any steps patrons must take to seek return of such funds;
 - (d) The closure of Sports Wagering Accounts maintained by the Sports Wagering Operator;
 - (e) The closure of the Sports Wagering Operator's Sports Wagering Area, Sports Wagering Facility, or Sports Wagering Platform;
 - (f) The Sports Wagering Operator's plan to satisfy outstanding debts and obligations, including excises taxes due to the Commission pursuant to G.L. c. 23N, § 14 and 205 CMR 240; and
 - (g) A description of the status and current balance of the letter of credit or other financial assurance mechanism held by the Sports Wagering Operator pursuant to 205 CMR 238.12(1) and any information necessary to permit the Commission or its appointed conservator or receiver to access and draw such letter of credit or other financial assurance mechanism to satisfy the Sports Wagering Operator's obligations under 205 CMR 258.03(1)(a)-(f) to the extent feasible.
- (2) The Commission or its designee shall review the cessation plan required pursuant to 205 CMR 258.03(1) and issue a determination approving or denying the plan, or requiring reasonable modifications or conditions to the plan.
- (3) Upon approval of the plan specified in 205 CMR 258.03(1), the Sports Wagering Operator shall publish notice of cessation in a form to be approved by the Commission that shall include instructions on how patrons may:
 - (a) Collect winnings on unredeemed Wagers; and

- (b) Collect remaining funds in their Sports Wagering Account.
- (4) The notice specified in 205 CMR 258.03(3) shall, within five (5) business days, be published in:
 - (a) A conspicuous location in the Sports Wagering Area, Sports Wagering Facility, or on the Sports Wagering Platform;
 - (b) On the Sports Wagering Operator's website; and
 - (c) A daily newspaper of general distribution in the Commonwealth, including on that newspaper's website.

In addition, such notice shall be provided by email to all patrons for whom the Operator has a current email address.

258.04: Reporting

- (1) The Sports Wagering Operator shall provide the Commission written reports on its implementation of the cessation plan at least every ten (10) days after providing notice pursuant to 205 CMR 258.01 or on such other schedule as the Commission may determine. Such reports shall state whether the Sports Wagering Operator is on track to complete cessation by its approved effective cessation date or whether the Sports Wagering Operator requires a delay of its effective cessation date, and whether the Sports Wagering Operator seeks to amend or deviate from its approved cessation plan.
- (2) If a Sports Wagering Operator seeks to amend or deviate from its approved cessation plan, the Sports Wagering Operator's request shall be accompanied by a statement of reasons explaining why its original approved cessation plan will no longer enable it to accomplish cessation, and why such amendment or deviation is necessary to complete cessation in accordance with an approved cessation plan. The Commission or its designee shall review the request and issue a determination approving or denying the request and may require modifications or impose conditions to its approval of the request. The Sports Wagering Operator shall not implement the amendment or deviation until it receives approval from the Commission or its designee.
- (3) In addition to 205 CMR 258.04(2), the Commission or its designee, may, upon review of a report due under 205 CMR 258.04(1), require modification or impose conditions on a Sports Wagering Operator's cessation plan without request of the Sports Waging Operator.

258.05: Cessation Effective

- (1) When the Sports Wagering Operator has completed all actions called for in its cessation plan, the Sports Wagering Operator shall submit a written report to the Commission notifying the Commission that it has completed all actions necessary for cessation and requesting that cessation become effective. The Commission or its designee shall review the report and issue a written decision approving or denying the cessation request. If the Commission or its designee denies the cessation request, the Commission or its designee may require modification or impose conditions on the Sports Wagering Operator necessary for effective cessation.
- (2) Cessation shall not be effective until the Commission has approved the Sports Wagering Operator's cessation request.

258.06: Expiration of License

- (1) Upon cessation, a Sports Wagering Operator's License shall be deemed to have expired, except that any and all obligations of the Sports Wagering Operator to the Commonwealth, the Commission, vendors, or patrons shall be deemed to survive.
- (2) Within ten (10) days of a Sports Wagering Operator's expiration of its Sports Wagering Operator License, all Occupational Licenses, Sports Wagering Vendor Licenses, Tethered Category 3 Licenses, or other licenses issued in connection with the expired Sports Wagering License only shall be deemed to have expired as well.
- (3) A Sports Wagering Operator shall maintain records sufficient to enable the Commission to conduct any audits required by G.L. c. 23N or 205 CMR for a period of seven (7) years following the effective date of cessation.

258.07: Bankruptcy

- (a) Notwithstanding 205 CMR 258.01(1), if cessation is caused in part, or in whole, by the filing of a petition in bankruptcy court, an assignment for the benefit of creditors, or the appointment of a receiver or conservator, the Sports Wagering Operator shall, as soon as practicable and irrespective of whether it intends to cease Sports Wagering Operations, notify the Commission in writing of the petition, assignment, or the appointment of a receiver or conservator. The Sports Wagering Operator's notification shall include a copy of the petition filed in bankruptcy court, the assignment, the order appointing a receiver or conservator, or any other applicable filing or order.
- (b) If a court of competent jurisdiction appoints a receiver or conservator, the receiver or conservator may be required by the Commission to apply for the necessary qualifications and licenses, including without limitation qualification pursuant to 205 CMR 215 and licensure pursuant to 205 CMR 235, to operate the Sports

Wagering Operator's Sports Wagering Area, Sports Wagering Facility, or Sports Wagering Platform. The receiver or conservator shall not operate the Sports Wagering Operator's Sports Wagering Area, Sports Wagering Facility, or Sports Wagering Platform until the Commission has issued a license authorizing the same. The Commission may revoke the receiver's or conservator's license at any time at its discretion without the necessity of revocation or suspension hearing.

- (c) Until the Commission issues a license authorizing a receiver or conservator appointed by a court of competent jurisdiction to operate the Sports Wagering Operator's Sports Wagering Area, Sports Wagering Facility, or Sports Wagering Platform pursuant to 258.08(2), the Commission may appoint an additional receiver or conservator pursuant to 205 CMR 258.02 solely for operating said Sports Wagering Area, Sports Wagering Facility or Sports Wagering Platform in the Commonwealth.
- (d) A Sports Wagering Operator subject to cessation based on the filing of a petition in bankruptcy court or the appointment of a receiver or conservator shall not be required to meet the requirements of 205 CMR 258.03-07 to the extent such requirements are inconsistent with the orders of the court or any applicable law governing the Operator's bankruptcy petition.
- (e) If the Commission requests, upon filing of a petition in bankruptcy court or the appointment of a receiver or conservator, the Sports Wagering Operator shall, in furtherance of the Commission's police and regulatory powers, provide the Commission or the conservator or receiver appointed pursuant to 205 CMR 258.02(1) adequate means to access and use the letter of credit or other financial assurance issued pursuant to 205 CMR 238.12(1).



SMALL BUSINESS IMPACT STATEMENT

The Massachusetts Gaming Commission (“Commission”) hereby files this Small Business Impact Statement in accordance with G.L. c. 30A, §2, relative to the proposed emergency promulgation of **205 CMR 258 SPORTS WAGERING OPERATOR CESSATION**.

This regulation is promulgated as part of the process of promulgating regulations governing sports wagering in the Commonwealth, and is authorized by G.L. c. 23N, §4. This regulation is intended to provide procedures by which sports wagering operator may cease operating in the Commonwealth.

This regulation is unlikely to have an impact on small businesses as it governs the behavior of Sports Wagering Operators which are not small businesses. Under G.L. c.30A, §2, the Commission offers the following responses to the statutory questions:

1. Estimate of the number of small businesses subject to the proposed regulation:

This regulation is unlikely to have an impact on small businesses.

2. State the projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed regulation:

There are no projected reporting, recordkeeping, or other administrative costs required for small businesses to comply with this regulation.

3. State the appropriateness of performance standards versus design standards:

No standards applicable to small businesses are set forth. Provided standards are performance standards.

4. Identify regulations of the promulgating agency, or of another agency or department of the Commonwealth, which may duplicate or conflict with the proposed regulation:

There are no conflicting regulations in 205 CMR, and the Commission is unaware of any conflicting or duplicating regulations of any other agency or department of the Commonwealth.

5. State whether the proposed regulation is likely to deter or encourage the formation of new businesses in the Commonwealth:



Massachusetts Gaming Commission

This amendment is unlikely to have any impact on the formation of new businesses in the Commonwealth.

Massachusetts Gaming Commission

By:

/s/ Caitlin Monahan

Caitlin W. Monahan, Deputy General Counsel

Dated: October 13, 2023



Massachusetts Gaming Commission

205 CMR 238.00: ADDITIONAL UNIFORM STANDARDS OF ACCOUNTING PROCEDURES AND INTERNAL CONTROLS FOR SPORTS WAGERING

Section

238.12 Reserve Requirement

238.12: Reserve Requirement

- (1) A system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall include a plan to maintain and protect sufficient cash and other supplies to conduct Sports Wagering at all times through a reserve in the amount necessary to ensure the security of funds held in Sports Wagering Accounts and the ability to cover the outstanding Sports Wagering liability, including the amounts accepted by the Sports Wagering Operator on Sports Wagers whose outcomes have not been determined and amounts owed but unpaid on winning Sports Wagering tickets or vouchers. The reserve may be in the form of Cash, Cash Equivalents, payment processor reserves, payment processor receivables, an irrevocable letter of credit, a bond, or a combination thereof; provided that the amount of the reserve intended to cover the Sports Wagering liability must be in the form of, or backed up by, an irrevocable letter of credit approved by the Commission and which may be drawn by the Commission in the event of cessation of Sports Wagering Operations in accordance with 205 CMR 258.
- (2) A system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall ensure funds in Sports Wagering Accounts, including pending withdrawals, are either held:
 - (a) In trust for the patron in a Segregated Account managed in accordance with 205 CMR 248.00; or
 - (b) In a special purpose Segregated Account that is maintained and controlled by a properly constituted corporate entity that is not the Sports Wagering Operator and whose governing board includes one or more corporate directors who are independent of the Sports Wagering Operator and any affiliated Gaming Licensee and of any corporation related to or controlled by either. Said corporate entity must require a unanimous vote of all corporate directors to file bankruptcy and must have articles of incorporation that prohibit the commingling of its funds with those of the Sports Wagering Operator except as necessary to reconcile the Sports Wagering Accounts. Said special purpose corporate entity must also be:
 1. Restricted from incurring debt other than to patrons pursuant to the rules that govern the patrons' Sports Wagering Accounts;
 2. Restricted from taking on obligations of the Sports Wagering Operator other than obligations to patrons pursuant to the rules that govern the patrons' Sports Wagering Accounts; and
 3. Prohibited from dissolving, merging or consolidating with another company (other than a special purpose corporate entity established by another Sports Wagering Operator that meets the requirements of this section) while there are unsatisfied obligations to patrons.
- (3) A system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall implement procedures that are reasonably designed to:
 - (a) Ensure that the funds in the Segregated Account do not belong to the Sports Wagering Operator and are not available to creditors other than the patron whose funds are being held; and

- (b) Prevent commingling of funds in the Segregated Account with other funds including, without limitation, funds of the Sports Wagering Operator.
- (4) A Sports Wagering Operator must have access to all Sports Wagering Accounts and Sports Wager data to ensure the amount of its reserve is sufficient. Unless otherwise directed by the Commission, a Sports Wagering Operator must file a monthly attestation with the Commission, in the form and manner prescribed by the Commission, that funds have been safeguarded in accordance with 205 CMR 238.12.
- (5) The Commission may audit a Sports Wagering Operator's reserve at any time and may direct a Sports Wagering Operator to take any action necessary to ensure the purposes of 205 CMR 238.12 are achieved, including but not limited to, requiring the Sports Wagering Operator to modify the form of its reserve or increase the amount of its reserve.



SMALL BUSINESS IMPACT STATEMENT

The Massachusetts Gaming Commission (“Commission”) hereby files this Small Business Impact Statement in accordance with G.L. c. 30A, §2, relative to the proposed amendments to **205 CMR 238.12(1) ADDITIONAL UNIFORM STANDARDS OF ACCOUNTING PROCEDURES AND INTERNAL CONTROLS FOR SPORTS WAGERING.**

This regulation was promulgated as part of the process of promulgating regulations governing sports wagering in the Commonwealth, and is authorized by G.L. c. 23N, §4. This amendment is intended to aid in the potential cessation of sports wagering operations by ensuring that Sports Wagering Operators will be able to satisfy their outstanding debts and obligations prior to ceasing operations.

This regulation is unlikely to have an impact on small businesses as it governs the behavior of Sports Wagering Operators which are not small businesses. Under G.L. c.30A, §2, the Commission offers the following responses to the statutory questions:

1. Estimate of the number of small businesses subject to the proposed regulation:

This regulation is unlikely to have an impact on small businesses.

2. State the projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed regulation:

There are no projected reporting, recordkeeping, or other administrative costs required for small businesses to comply with this regulation.

3. State the appropriateness of performance standards versus design standards:

No standards applicable to small businesses are set forth. Provided standards are performance standards.

4. Identify regulations of the promulgating agency, or of another agency or department of the Commonwealth, which may duplicate or conflict with the proposed regulation:

There are no conflicting regulations in 205 CMR, and the Commission is unaware of any conflicting or duplicating regulations of any other agency or department of the Commonwealth.



Massachusetts Gaming Commission

5. State whether the proposed regulation is likely to deter or encourage the formation of new businesses in the Commonwealth:

This amendment is unlikely to have any impact on the formation of new businesses in the Commonwealth.

Massachusetts Gaming Commission

By:

/s/ Caitlin Monahan
Caitlin W. Monahan, Deputy General Counsel

Dated: October 13, 2023



Massachusetts Gaming Commission



TO: Chair Cathy Judd-Stein
Commissioner Brad Hill
Commissioner Jordan Maynard
Commissioner Eileen O'Brien
Commissioner Nakisha Skinner

FROM: Caitlin Monahan, Deputy General Counsel
Judi Young, Associate General Counsel
Mina Makarious, Esq., Anderson & Kreiger
Paul Kominers, Esq., Anderson & Kreiger

CC: Todd Grossman, Interim Executive Director and
General Counsel

DATE: October 13, 2023

RE: 205 CMR 2.00

Enclosed for the Commission's review is a proposed 205 CMR 2.00. This regulation is proposed for discussion only, not for adoption on October 19.

The proposed regulation would govern applications for racing meeting licenses under 205 CMR 128A. The regulation borrows many structural elements from the sports wagering licensing regulations, but adapts them for the racing context and statutes. The regulation's major sections are as follows.

Section 2.02: Racing Meeting License Application

Section 2.02(1) sets out the materials that each applicant must submit. Under 205 CMR 2.02(1)(a), an applicant who was not licensed in the prior year must submit a scoping survey and, as appropriate, BEDs, MJPHDs, and Mass. Supps. Every applicant must submit a racing meeting license application form and remit several fees.

Section 2.02(2) sets out the sequence of submissions for an applicant who was not licensed in the prior year. Practically, the scoping survey must be submitted before the BEDs, MJPHDs, and Mass. Supps., but other materials can be submitted when the applicant prefers. A subsequent subsection, 205 CMR 2.02(3)(c), ensures that applicants who submit scoping surveys or BEDs, MJPHDs, and Mass. Supps. too late to be actionable understand that they may be denied a license as a result.



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Section 2.02(3) sets out the application requirements. Subsection 2.02(3)(a) lays out standard materials that every applicant must submit annually. Most are drawn directly from G.L. c. 128A. Subsection 2.02(3)(b) lays out additional requirements for an applicant who proposes to hold a race at a racetrack where the applicant has not previously held a race. This list should be largely familiar to the Commission from extensive discussions of the new-track application form. Subsection 2.02(3)(c), finally, lays out additional requirements for applicants who have never been found suitable or temporarily suitable, or who did not hold a license in the prior year. An applicant may be completely new, but it is also possible that an applicant previously found suitable will try to open a new track, or an applicant already operating at an existing track may never have been found suitable in accordance with this regulation.

Section 2.03: Evaluation of Application and Decision

Section 2.03 is modeled after 205 CMR 218, the primary sports wagering licensing regulation, but there are a few relevant differences:

- If the applicant submits materials in stages in accordance with 205 CMR 2.02(2), administrative sufficiency review takes place in the same stages.
- G.L. c. 128A, § 3 requires the Commission to hold at least one public meeting in the municipality where the racing meeting is to be held; this regulation incorporates that requirement at 205 CMR 2.03(4)(a).
- The list of factors for the Commission’s review is drawn from G.L. c. 128A, § 3(i), § 11C, and case law, and supplemented with factors developed in the sports wagering licensing process.
- The Commission must deliberate on license applications in an adjudicatory proceeding.
- Standard license conditions are laid out at 205 CMR 2.02(7)(c), instead of in a separate regulation.

Section 2.04: Suitability of New and Existing Licensees, and Qualifiers

This section is modeled after 205 CMR 215. Under 205 CMR 2.04(1), an applicant or qualifier may be found suitable for five years on a showing by clear and convincing evidence. Under 205 CMR 2.04(2), an applicant or qualifier may be found “temporarily” suitable based on attestations and a briefer investigation. This dichotomy mirrors the durable/preliminary suitability standards in 205 CMR 215. However, because racing applicants return to the Commission every year, the “preliminary” suitability finding has been replaced with an annual finding of “temporary” suitability.



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205 CMR 2.04(3)-(4) set out substantive suitability standards. These standards are based on the parallel standards for sports wagering licensing, but have been tweaked somewhat to account for the racing statutes' requirements.

205 CMR 2.04(5)-(12) address the designation of qualifiers.

Section 2.08: Additional Information and Cooperation of Racing Meeting Applicants and Licensees

This section closely tracks 205 CMR 212 and requires cooperation with the Commission and IEB throughout the application process, and after licensure.

Section 2.09: Withdrawal of Application For License To Hold Or Conduct A Racing Meeting

This section is largely modeled on 205 CMR 213. Note, however, that the list of different kinds of pending proceedings that trigger the good-cause standard for withdrawal is omitted because the Commission hears all license applications and qualifier suitability decisions directly.

Reserved Sections:

The following sections are reserved for future rulemaking:

- Section 2.05: Advance Deposit Wagering; Licensure, Review and Authorization
- Section 2.06: Licensing, Registration, and Fees for Owners, Trainers, Stable Employees, Authorized Agents, Vendors and Racing Officials
- Section 2.07: Financial Payments, Outs, and Requests for Capital Improvement or Reimbursement



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205 CMR 2.00: RACING MEETING LICENSING

Section 2.01: Authority and Definitions

Section 2.02: Racing Meeting License Application

Section 2.03: Evaluation of Application and Decision

Section 2.04: Suitability of New and Existing Licensees, and Qualifiers

Section 2.05: Advance Deposit Wagering; Licensure, Review and Authorization (RESERVED)

Section 2.06: Licensing, Registration, and Fees for Owners, Trainers, Stable Employees, Authorized Agents, Vendors and Racing Officials (RESERVED)

Section 2.07: Financial Payments, Outs, and Requests for Capital Improvement or Reimbursement (RESERVED)

Section 2.08: Additional Information and Cooperation of Racing Meeting Applicants and Licensees

Section 2.09: Withdrawal of Application For License To Hold Or Conduct A Racing Meeting

2.01 Authority and Definitions

(1) Authority. 205 CMR 2.00 is issued pursuant to G.L. c. 128A, § 9, and G.L. c. 128C, § 8.

(2) Definitions. As used in 205 CMR 2.00, the following words and phrases shall have the following meanings, unless the context clearly requires otherwise. Words and phrases not defined below shall have the meaning given to them in G.L. c. 128A, § 1 or G.L. c. 128C, § 1, 205 CMR 202.02, or 205 CMR 102.00, if any, unless the context clearly requires otherwise. In the event of any conflict between those provisions, any definition in G.L. c. 128A, § 1 shall be given priority, followed by G.L. c. 128C, § 1, 205 CMR 202.02, and 205 CMR 102.00, in that order, unless the context clearly requires otherwise.

Applicant means an applicant for a racing meeting license.

Application means an application for a racing meeting license.

Application deadline means the first day of October of the calendar year preceding the calendar year for which the application requests a license to be issued.

Authorized individual means, if the applicant is an individual, such individual; if two or more individuals or a partnership, one of such individuals or by a member of such partnership, as the case may be; if a trust, a trustee of such trust; and, if an association or corporation, by the president or vice president thereof.

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BED means a Business Entity Disclosure Form by an authorized individual as described in 205 CMR 111.02: Business Entity Disclosure Form - Category 1 and Category 2 Entity Applicants and Holding/Intermediary Companies.

License means a racing meeting license.

Licensee means a racing meeting licensee. A licensee shall be considered a licensee through the full calendar year in which its license permits it to host racing meetings regardless of the date of its last scheduled racing meeting.

Mass. Supp. means Massachusetts Supplemental Form as described in 205 CMR 111.04.

MJPHD means a Multi-jurisdictional Personal History Form as described in 205 CMR 111.03: Multi-jurisdictional Personal History Form.

Scoping survey means an Operator and Vendor Scope of Licensing – Initial Survey.

Racing meeting license means a license to conduct a live racing meeting.

Qualifier means a person whose qualification must be established in evaluating the suitability of an applicant in accordance with the standards and criteria set forth in M.G.L. c. 128A and 205 CMR 2.04.

2.02 Racing Meeting License Application

(1) Required Materials. An applicant must submit a fully executed original application to the Commission on or before the application deadline. All application materials shall be submitted in accordance with the instructions included in the relevant form or online. The Commission shall have no obligation to accept or review an incomplete application. Applicants shall, at a minimum, submit the following completed materials as part of their application:

(a) If the applicant is not currently a licensee:

- (i) a scoping survey;
- (ii) For each designated entity qualifier: a BED;
- (iii) For each designated individual qualifier:

- (a) An MJPHD; and
- (b) A Mass. Supp.

(b) A racing meeting license application form, in accordance with 205 CMR 2.02 and consistent with M.G.L. c. 128A and M.G.L. c. 128C, signed and sworn to by an authorized individual;

(c) A \$300 licensing fee pursuant to M.G.L. c. 128A, § 4;

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- (d) A certified check or bank draft, or electronic equivalent, payable to the Commission, weekly in advance for the full amount of the license fee required by G.L. c. 128A;
- (e) A bond payable to the Commission in the amount of \$125,000 with a surety or sureties approved by the Commission conditioned upon the payment of all sums which may become payable to the commission under this chapter.

(2) Sequence of submissions. An applicant who is not currently a licensee:

- (a) may submit the scoping survey prior to and separately from any other required materials; and
- (b) may submit any BEDs, MDJPHDs, and Mass. Supps. required by 205 CMR 2.02(1)(a)(ii)-(iii) prior to and separately from the materials required under 205 CMR 2.02(1)(b)-(f).
- (c) An applicant who submits any forms prior to and separately from other application materials in accordance with 205 CMR 2.02(2)(a) or (b) must also submit an attestation signed and sworn to that the applicant intends in good faith to submit a fully executed original application on or before the application deadline, and acknowledging that if the applicant fails to do so without good cause, the Commission may charge the applicant for any administrative and investigatory costs incurred in evaluating those application forms the applicant did submit. Only one such attestation shall be required per application regardless of the volume or nature of forms submitted early.

(3) Racing Meeting License Application Form requirements.

- (a) For any applicant, the racing meeting license application form shall require the following:
 - (i) The name of the applicant;
 - (ii) The post office address of the applicant, and if a corporation or corporate entity, the name of the state under the laws of which it is incorporated or formed, the location of its principal place of business and the names and addresses of its directors and stockholders, members, or directors;
 - (iii) The location of the racetrack where it is proposed to hold or conduct such meeting;
 - (iv) An explanation of the ownership of the real property on which the race track is proposed to be constructed or operated, and the applicant's rights to construct or operate the race track on said real property;
 - (v) Documentation sufficient to demonstrate that the applicant has received:
 - (c) municipal approval pursuant to M.G.L. c. 128A, § 13A; and

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- (d) an affirmative county vote pursuant to M.G.L. c. 128A, § 14;
 - (vi) The calendar year in which the applicant anticipates conducting the meeting, and the specific days on which it intends or anticipates holding or conducting such a meeting;
 - (vii) The hours of each day between which it is intended to hold or conduct racing at such meeting subject to the restrictions described in M.G.L. c. 128A;
 - (viii) An attestation signed and sworn to that the applicant will comply, in case such license be issued, with all applicable laws and with all applicable rules and regulations prescribed by the Commission, and that the applicant shall have an affirmative obligation to abide by every statement made in the application to the Commission should it be awarded a license;
 - (ix) An attestation signed and sworn to that the applicant will comply, in case such license shall be issued, with all affirmative representations, promises or inducements made to governing bodies, government officials of the host and surrounding communities or local organizations and any mitigation agreements, formal or informal; and
 - (x) Such other information or certifications as the Commission may require.
- (b) For any applicant who proposes to hold a racing meeting at a race track where the applicant has not previously held a racing meeting, the racing meeting license application form shall also require the following:
- (i) A summary of the project and racing facilities including a description of the proposed financing and source(s) of capital;
 - (ii) Submission of feasibility, viability, economic impact/development studies including projected revenues, purses, handles, tax payments, attendance, and employment figures;
 - (iii) Submission of designs, traffic, and environmental impact studies, including information relative to the safety and security of patrons, employees, occupational licensees, and horses;
 - (iv) A detailed description of the race track that will be constructed and an indication of the type of grounds the horses will be raced upon, whether dirt, turf or synthetic, including a timeline for completion and the name and qualifications of the entity or individual overseeing construction;
 - (v) Information relative to the public interest and benefits associated with the conduct of the proposed racing meeting including the existence of, or the applicant's plan to execute, a purse agreement with a representative horsemen's organization; any support or opposition to the proposal has received from the host and nearby

- communities; and the applicant's plan to attract and employ a diverse workforce in both construction and operational phases of the proposal, including through use of vendors.
- (vi) Information or a statement as to whether the applicant plans on entering into a Project Labor Agreement(s);
 - (vii) Information relative to the proposed pari-mutuel wagering plan for live racing, simulcasting, and advance account deposit wagering;
 - (viii) Information relative to the proposed responsible gaming initiatives to be offered on the premises;
 - (ix) Information relative to the applicant's plans to seek or not seek a Category 2 Sports Wagering license;
 - (x) Any agreements, written or otherwise, that the applicant has made or executed with racing governing bodies, the municipality where the applicant proposes to hold racing meetings, other municipalities, or any other entities; and
 - (xi) Such other information or certifications as the Commission may require.
- (c) For any applicant who is not currently a licensee, or who has not previously been found durably or temporarily suitable in accordance with this 205 CMR to hold a license, the racing meeting license application form shall also require the following:
- (xii) An attestation signed and sworn to that if the form described in 205 CMR 2.02(1)(a)(i) is not deemed administratively sufficient by May 1, the applicant acknowledges the Commission may not have adequate time to assess the applicant's suitability, and that this may result in denial of the application;
 - (xiii) An attestation signed and sworn to that if the forms described in 205 CMR 2.02(1)(a)(ii)-(iii) are not deemed administratively sufficient by August 1, the applicant acknowledges the Commission may not have adequate time to assess the applicant's suitability, and that this may result in denial of the application; and
 - (xiv) Such other information or certifications as the Commission may require.

2.03 Evaluation of Application and Decision

- (1) Pre-Application Consultation. The Commission or its designees may conduct one or more consultation meetings or information sessions with an applicant or prospective applicant to provide guidance on application procedures, including the requirements of G.L. c. 128A or 128C, or 205 CMR 2.00. In addition, the Commission may use other methods to respond to inquiries regarding the application process, such as publishing responses to questions submitted by any applicant.

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(2) Administrative Sufficiency Review. The Division of Licensing will review application materials for administrative sufficiency as they are submitted.

(a) Administrative sufficiency review – how undertaken.

(i) When determining whether the application materials to be reviewed at any stage are administratively sufficient, the Division of Licensing shall review the forms and determine whether all information or materials required to be provided in response to each question or request have been submitted.

(ii) If any application materials to be reviewed in a stage are determined to be insufficient:

(a) The Licensing Division shall notify the applicant in writing by email or first-class mail. The notification shall specify the deficiencies within the materials.

(b) Until the application deadline passes, the applicant shall have the right to submit corrected materials to cure the deficiencies.

(c) After the application deadline passes, the applicant must request leave from the Commission or its designee to submit corrected materials to cure the specified deficiencies, and must submit any corrected materials within the time allowed by the Commission or its designee.

(d) The Commission or its designee shall not grant leave to submit proof of approvals required under G.L. c. 128A, §§ 13A and 14.

(b) Positive determination of administrative sufficiency – significance. A positive determination of administrative sufficiency shall not constitute a finding with respect to the accuracy of the information submitted and shall not bar a request for further information by the Commission, the Bureau or their agents and employees with respect to the application.

(3) Review Procedures. In reviewing the merits of the application, the Commission may, at such times and in such order as the Commission deems appropriate, take some or all of the following actions:

(a) Refer the application, or any parts thereof, for advice and recommendations, to any or all of the following:

(i) The Executive Director;

(ii) The Bureau;

(iii) Any office, agency, board, council, commission, authority, department, instrumentality, or division of the commonwealth;

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- (iv) Commission staff; and
 - (v) Any consultant retained by the Commission to aid in the review of the application;
- (b) Retain, or authorize the Executive Director or the Executive Director's designee to retain such professional consultants (including without limitation financial and accounting experts, legal experts, racing experts, contractor investigators, and other qualified professionals) as the Commission in its discretion deems necessary and appropriate to review the request and make recommendations; and
- (c) Require or permit, in the Commission's discretion, the applicant to provide additional information and documents.

(4) Public Meetings Regarding Applications

- (a) Pursuant to G.L. c. 128A, § 3, the Commission shall not issue the license without holding at least one public meeting in the municipality where the applicant proposes to hold a racing meeting.
- (b) The Commission may conduct one or more other meetings to:
- (i) receive public feedback on the application;
 - (ii) allow the applicant to make a presentation; and
 - (iii) allow the applicant to respond to questions or public comments.

(5) Evaluation of the Application by the Commission. Once an application is deemed administratively sufficient, the Commission shall commence a substantive evaluation of its contents. The Commission may utilize any technical or expert assistance it deems necessary to aid in its review.

- (a) The Commission shall analyze the factors and considerations set out in 205 CMR 2.01, and G.L. c. 128A, § 3(i) in no particular order, and giving any particular weights, to any factor in order to make a determination as to whether a license awarded to the applicant would benefit the Commonwealth. These factors include but are not limited to:
- (i) Whether the application meets the requirements of G.L. c. 128A;
 - (ii) Whether the applicant has adequately answered the questions in the application;
 - (iii) Whether the application meets the factors set out in G.L. c. 128A, § 3(i):
 - (a) The applicant's financial ability to successfully operate a race track;
 - (b) The impact of the application on the maximization of state revenues;

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- (c) The suitability of the racing facilities for operation at the time of the year for which dates are assigned;
 - (d) The circumstance that large groups of spectators require safe and convenient facilities;
 - (e) The interest of members of the public in racing competition honestly managed and of good quality;
 - (f) The necessity of having and maintaining proper physical facilities for racing meetings; and
 - (g) The economic interest and investments of those who in good faith have provided and maintain such facilities;
- (iv) Whether the Applicant is financially responsible, able to meet obligations to the Commonwealth, has suitable and safe facilities for the service of patrons, and is likely to conduct racing in accordance with approved practices and in a manner consistent with the public safety, health, morals, and welfare, including the suitability of the Applicant and its leadership to hold or conduct a racing meeting;
 - (v) The reputation for honest dealing, and the gaming, racing, or sports wagering history of the Applicant and its qualifiers;
 - (vi) Whether granting the application would result in an undesirable concentration of ownership of racing facilities within the Commonwealth;
 - (vii) Whether the application would have an adverse impact upon the integrity of the racing industry;
 - (viii) The applicant's proposed measures related to responsible wagering, including:
 - (a) The Applicant's responsible wagering policies;
 - (b) The Applicant's advertising and promotional plans; and
 - (c) The Applicant's history of demonstrated commitment to responsible wagering;
 - (ix) The Applicant's willingness to foster racial, ethnic, and gender diversity, equity, and inclusion, including:
 - (a) Within the applicant's workforce;
 - (b) Through the applicant's supplier spend; and
 - (c) In the applicant's corporate structure;
 - (x) any other relevant considerations the Commission deems appropriate, per M.G.L. c. 128A, § 2.

(b) The Commission shall deliberate on license applications in an adjudicatory proceeding pursuant to 205 CMR 101.01: *Hearings Before the Commission*.

(6) Determinations on Applications.

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- (a) After evaluating an application in accordance with 205 CMR 2.03(5), the Commission may:
 - (i) Award the applicant a license, subject to conditions in accordance with G.L. c. 128A and 128C, and 205 CMR; or
 - (ii) Deny the application for any of the reasons set out in G.L. c. 128A and 128C, and 205 CMR.
- (b) The Commission shall not award a license without first having found the applicant durably suitable in accordance with 205 CMR 2.04(1) within the current or prior four calendar years, or having found the applicant temporarily suitable in accordance with 205 CMR 2.04(2) within the last calendar year; provided, the Commission may make either finding simultaneously with the decision to award a license in accordance with 205 CMR 2.03(6)(a)(i).

(7) Provisions Applicable to All Licensing Determinations. Upon granting an application, the Commission shall prepare and file its decision, and shall issue a statement of the reasons for the grant, including specific findings of fact, and noting any conditions of licensure imposed pursuant to G.L. c. 128A, or 128C.

- (a) Upon denial of an application, the Commission shall prepare and file its decision and, if requested by the applicant, shall further prepare and file a statement of the reasons for the denial, including specific findings of fact.
- (b) For purposes of 205 CMR and G.L. c. 128A, or 128C, the award of a Racing Meeting License shall be deemed to have occurred immediately upon a majority vote by the Commission to issue the license, unless otherwise determined by the Commission.

(c) License conditions.

- (i) All licenses shall be issued subject to the following conditions:
 - (a) That the licensee comply with all terms and conditions of its license;
 - (b) That the licensee comply with G.L. c. 128A, c. 128C, and all rules and regulations of the Commission; and
 - (c) That the licensee, and its qualifiers, not become, or be found, unsuitable.
- (ii) The Commission may impose any other appropriate condition on a license.

2.04 Suitability of New and Existing Licensees, and Qualifiers

(1) Durable suitability determinations.

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- (a) An applicant or qualifier shall have the duty to establish its durable suitability by clear and convincing evidence.
- (b) No applicant shall be determined to be durably suitable in accordance with 205 CMR 2.04(1)(a) unless and until all qualifiers identified in 205 CMR 2.04(6) have been found by the Commission durably suitable in accordance with 205 CMR 2.04(1)(a) within the current or prior four calendar years.
- (c) Investigation. Before the Commission may determine that an applicant or qualifier is durably suitable in accordance with 205 CMR 2.04(1), the Bureau shall conduct an investigation into the qualifications and suitability of the applicant. At the completion of the Bureau's investigation, it shall submit a written report to the Commission, which will include recommendations and findings of fact relative to the suitability of the applicant or qualifier.
- (d) The Commission shall make any finding of durable suitability in accordance with 205 CMR 2.04(1) after an adjudicatory proceeding pursuant to 205 CMR 101.00: *M.G.L. c. 23K Adjudicatory Proceedings*.
- (e) After the proceedings under 205 CMR 2.04(1)(d), the Commission shall issue a written determination of durable suitability as follows:
 - (i) Negative Determination. If the Commission finds that an applicant or qualifier failed to meet its burden of demonstrating its durable suitability, the Commission, in its sole discretion, shall either:
 - (a) issue a negative determination of suitability; or
 - (b) request that the applicant or qualifier submit a certification in accordance with 205 CMR 2.04(2)(b) and, as appropriate, that the Bureau conduct an investigation in accordance with 205 CMR 2.04(2)(c), and thereafter consider whether the applicant or qualifier is temporarily suitable in accordance with 205 CMR 2.04(2).
 - (ii) Positive Determination. If the Commission finds that an applicant or qualifier has met its burden of demonstrating its durable suitability, the Commission shall issue a positive determination of durable suitability which may include conditions and restrictions.

(2) Temporary suitability determinations.

- (a) Notwithstanding any other provision of 205 CMR 2.04, the Commission, in its sole discretion, may deem an applicant or qualifier temporarily suitable, until the end of the calendar year in which the applicant proposes to hold a racing meeting, after an adjudicatory proceeding pursuant to 205 CMR 101.00: *M.G.L. c. 23K Adjudicatory Proceedings*, based on a certification pursuant to 205 CMR 2.04(2)(b) and an investigatory report pursuant to 205 CMR 2.04(2)(c).

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- (i) No applicant shall be determined to be temporarily suitable in accordance with this 205 CMR 2.04(2)(a) unless and until all qualifiers identified in 205 CMR 2.04(6) have been found durably suitable in accordance with 205 CMR 2.04(1)(b) or temporarily suitable in accordance with this 205 CMR 2.04(2)(a).
 - (b) To be found temporarily suitable in accordance with 205 CMR 2.04(2), the applicant or qualifier must certify:
 - (i) that it understands it may be denied a license or have a license revoked if it has willfully, knowingly, recklessly, or intentionally provided false or misleading information to the Commission;
 - (ii) that, under pains and penalties of perjury, to the best of its reasonable knowledge and belief, it is suitable to hold a license pursuant to G.L. c. 128A and 205 CMR 2.04; and
 - (iii) an applicant certifies, under pains and penalties of perjury, that to the best of its reasonable knowledge and belief, all of its qualifiers are also suitable to hold a license pursuant to G.L. c. 128A, and 205 CMR 2.04.
 - (c) Before the Commission may determine that an applicant or qualifier is temporarily suitable in accordance with 205 CMR 2.04(2), the Bureau shall conduct an investigation into the qualifications and suitability of the applicant or qualifier. The investigation may be limited to a review of the applicant or qualifier's 205 CMR 2.04(2)(b) certification; an applicant's self-disclosed licensing and compliance history in other jurisdictions; self-disclosed open litigation involving an applicant; and an open-source check concerning the applicant or, if a natural person, a qualifier. At the completion of the Bureau's investigation, it shall submit a written report to the Commission. The Bureau's report may be redacted consistent with the Massachusetts Public Records Law, M.G.L. c. 66, and other sources of law.
 - (d) After evaluating whether the applicant or qualifier is temporarily suitable in accordance with 205 CMR 2.04(2)(d):
 - (i) If the Commission finds the applicant or qualifier temporarily suitable: the Commission shall issue a written determination of temporary suitability for the applicant or qualifier. The determination may include conditions and restrictions.
 - (ii) Otherwise: the Commission may issue a negative determination of suitability.
- (3) In determining whether a person is suitable, the Commission shall evaluate and consider the overall reputation of the person, including, without limitation, and on the basis of a report from the Bureau, sworn attestations, or other information or evidence available to the Commission:

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- (a) the person's integrity, honesty, good character and reputation;
 - (b) the person's financial stability, integrity, and background;
 - (c) whether the person has a history of compliance with racing or other gaming or sports wagering requirements in other jurisdictions;
 - (d) whether the person, at the time of the request, is a defendant in litigation;
 - (e) whether the person is ineligible to hold a license under 205 CMR 2.04(4), or M.G.L. c. 128A;
 - (f) whether the person has been convicted of a crime of moral turpitude;
 - (g) whether, and to what extent, the person has associated with members of organized crime and other persons of disreputable character;
 - (h) whether the person has failed to demonstrate responsible business practices in any jurisdiction;
 - (i) whether awarding a license to the applicant would have an adverse impact upon the integrity of the racing industry;
 - (j) whether awarding a license to the applicant would have an adverse impact on the interest of members of the public in racing competition honestly managed and of good quality; and
 - (k) the extent to which the person have cooperated with the Bureau during the review of the Racing Meeting License Application.
- (4) The Commission shall determine that an applicant is unsuitable if the applicant or one of its qualifiers:
- (a) has knowingly made a false statement of a material fact to the Commission or IEB;
 - (b) has had a license revoked by any governmental authority responsible for regulation of racing or associated pari-mutuel wagering activities or gaming or sports wagering activities;
 - (c) has been convicted of a felony or other crime involving embezzlement, theft, fraud, perjury or a gambling-related offense;
 - (d) has not demonstrated to the satisfaction of the Commission financial responsibility sufficient to adequately meet the requirements of the proposed enterprise;
 - (e) has affiliates or close associates that would not qualify for a license, or whose relationship with the applicant may pose an injurious threat to the interests of the Commonwealth.
- (5) Persons Required to be Qualified. The following persons shall be qualifiers for any application:
- (a) If the applicant is a corporation:
 - (i) Each officer;
 - (ii) Each inside director;
 - (iii) Any person owning, or having another beneficial or proprietary interest in, 10% or more of the common stock of the applicant, or a

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holding, intermediary or subsidiary company of such company;
and

- (iv) In the judgment of the Division of Licensing after consultation with the Bureau, any person with significant and substantial responsibility for the applicant's business under the jurisdiction of the Commission, or having the power to exercise significant influence over decisions concerning the applicant's operations in the Commonwealth.

(b) If the applicant is a limited liability corporation:

- (i) Each member;
- (i) Each transferee of a member's interest;
- (ii) Any other holder of a beneficial or proprietary interest of 10% or more in the applicant;
- (iii) Each manager; and
- (iv) In the judgment of the Division of Licensing after consultation with the Bureau, any person with significant and substantial responsibility for the applicant's business under the jurisdiction of the Commission or having the power to exercise significant influence over decisions concerning the prospective applicant's operations in the Commonwealth.

(c) If the applicant is a partnership:

- (i) Each partner;
- (ii) Any other holder of a beneficial or proprietary interest of 10% or more in the applicant; and
- (iii) In the judgment of the Division of Licensing after consultation with the Bureau, any person with significant and substantial responsibility for the applicant's Business under the jurisdiction of the Commission or having the power to exercise significant influence over decisions concerning the applicant's operations in the Commonwealth.

(6) Other Qualifiers. The Commission may, in its sole discretion, require other persons that have a business association of any kind with the applicant to undergo a qualifier review and determination process. These persons may include, but are not limited to, holding, intermediary or subsidiary companies of the applicant.

(7) Waivers. In addition to any other exception or exemption under 205 CMR 2.04, upon written petition, the Commission may waive the requirement to be qualified as a qualifier under 205 CMR 2.04(5)-(6) for:

- (a) Institutional investors holding up to 15% of the stock of the applicant, or holding, intermediary or subsidiary company thereof, upon a showing by the person seeking the waiver that it purchased the securities for investment

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purposes only and does not have any intention to influence or affect the affairs or operations of the applicant or holding, intermediary or subsidiary company thereof. Provided, however, any institutional investor granted a waiver which subsequently determines to influence or affect the affairs or operations of the applicant, or a holding, intermediary or subsidiary company thereof shall provide not less than 30 days' notice to the Commission of such intent and shall file an application and may be subject to the licensing requirements of 205 CMR 2.00, 3.00 and 4.00 respectively before taking any action that may influence or affect the affairs of the applicant or a holding, intermediary or subsidiary company; or

- (b) Any person who, in the opinion of the Bureau or the Commission, cannot exercise control or provide direction to an applicant or a holding, intermediary or subsidiary company thereof.

(8) Persons Deemed Suitable.

- (a) Any person may be deemed durably suitable for purposes of M.G.L. c. 128A and 205 CMR without an additional finding of suitability pursuant to CMR 2.04 if they were previously:

- (i) qualified pursuant to M.G.L. c. 23K or 205 CMR 116.00; or
- (ii) found suitable pursuant to 205 CMR 215.01(1).

- (b) Any person may be deemed temporarily suitable for purposes of M.G.L. c. 128A and 205 CMR without an additional finding of suitability pursuant to CMR 2.04 if they were previously found preliminarily suitable pursuant to 205 CMR 215.01(2).

(9) Qualification of New Qualifiers. No person requiring qualification pursuant to 205 CMR 2.04 may perform any duties or exercise any powers relating to the position that said qualifier is seeking to assume for a licensee unless the person notifies the Bureau in writing within 30 days of appointment to the position. Such notification shall be accompanied by an applicable business entity or personal disclosure form, specified by the Bureau. Following such notification and submission of the completed form, the person may continue to perform duties and exercise powers relating to the position pending qualification.

- (a) A person with reason to believe that their new position with an applicant or licensee may require qualification pursuant to 205 CMR 2.04 shall notify the Bureau in writing within 30 days of appointment to the position. Such notification shall be accompanied by a summary of the responsibilities and/or features of the position. The Bureau shall determine whether the person shall be designated a qualifier pursuant to 205 CMR 2.04(5) – (6) and shall notify the person of such designation in writing. Within 30 days of designation as a qualifier, the person shall submit a completed personal disclosure form. Following submission of the

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- completed form, the person may continue to perform duties and exercise powers relating to the position pending qualification.
- (b) The Bureau shall review the forms submitted by the new qualifier, as well as such other information that the Bureau may request, and, upon completion of its investigation, shall make a recommendation in accordance with 205 CMR 2.04(1)(c) whether the new qualifier meets the standards for suitability.
 - (c) Upon notification by the Bureau of a determination that reasonable cause exists to believe the qualifier may not ultimately be found suitable, an applicant shall promptly remove the qualifier from his or her position until such time as the Commission makes its final determination on suitability.
- (10) Internal Review of Determinations. An applicant or qualifier may request review of any determination made by the Bureau in accordance with either 205 CMR 2.04(5)-(7) or 205 CMR 2.04(9) to the Commission, by filing a petition on a form prescribed by the Commission. The Commission shall decide the question at a public meeting on the matter at which it may allow representatives of the petitioner and Bureau to testify.
- (11) Unsuitable qualifiers. An unsuitable qualifier may not hold an interest in a license. A licensee's articles of organization or other document governing the sale or transfer of securities or other interests shall contain provisions in a form approved by the Commission stating that the sale, assignment, transfer, pledge or other disposition of any security issued by it is conditional and shall be ineffective if disapproved by the Commission. Further, a licensee shall have a mechanism approved by the Commission in place by which it may effectuate divestiture or redemption of securities, or a like process, in the event of a negative determination of suitability being issued to a person required to be qualified.
- (12) Transfers of interest in licenses and licensees. Prior to giving written approval to a sale, transfer, or conveyance of a beneficial or legal interest in a license or licensee in accordance with G.L. c. 128A, § 11C, the Commission must find the transferee durably or temporarily suitable in accordance with 205 CMR 2.04 as though the transferee was an applicant or qualifier for a new license.

REGULATORY AUTHORITY
M.G.L. c. 128A, §§ 2, 3(i), 5C; and M.G.L. c. 128C.

2.05: Advance Deposit Wagering; Licensure, Review and Authorization (RESERVED)

2.06: Licensing, Registration, and Fees for Owners, Trainers, Stable Employees, Authorized Agents, Vendors and Racing Officials (RESERVED)

2.07: Financial Payments, Outs, and Requests for Capital Improvement or Reimbursement (RESERVED)

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2.08: Additional Information and Cooperation of Racing Meeting Applicants and Licensees

- (1) The Commission, the Bureau or their agents and employees may request additional information and documents from an applicant or its qualifiers, or any other person associated with the applicant whose licensure or registration is required under M.G.L. c. 128A and 128C or 205 CMR, throughout the application review process. Failure by the applicant, qualifier, or other person to timely submit the additional information as requested by the Commission, the Bureau or their agents and employees may be grounds for denial of the application.
- (2) All applicants, licensees, registrants, qualifiers, or other person whose licensure or registration is required under M.G.L. c. 128A and 128C, or 205 CMR shall comply with all requests of the Commission, the Bureau and their agents and employees for information and documents as authorized by M.G.L. c. 128A and 128C, and 205 CMR.
- (3) Applicants, licensees, registrants, and qualifiers, and other persons shall respond within ten days or within the time specified in an information request by the Commission, the Bureau, and their agents and employees, under 2.08(1) and 2.08(2), to said information request.
- (4) All applicants, licensees, registrants, qualifiers and other persons shall have a continuing duty to provide all information and documents requested by the Commission, Bureau, and their agents and employees and to cooperate in any investigation or hearing conducted by the Commission, Bureau, and their agents and employees, as authorized by M.G.L. c. 23K section 7.
- (5) Once issued a positive determination of suitability, all licensees and qualifiers shall have a continuing duty to maintain suitability in accordance with 205 CMR 2.04. Each licensee or qualifier shall have a continuing duty to notify and update the Bureau, in writing, within ten days of the occurrence, unless an alternative filing time is authorized by the executive director, or where applicable, after gaining knowledge of the following:
 - (a) Any denial, suspension or revocation by a governmental authority in any jurisdiction of a racing-, gaming, or sports-wagering-related license, registration, certification, permit or approval held by or applied for by the licensee or qualifier;
 - (b) Any discipline, including a fine or warning, related to racing, imposed upon the licensee or qualifier by any governmental authority in any jurisdiction;
 - (c) Any fine related to racing assessed on any entity owned or operated by the parent to the licensee by any governmental authority in any jurisdiction.
 - (d) Any arrest, indictment, charge or criminal conviction of any qualifier in any jurisdiction;

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- (e) Any complaints, allegations, or notice of investigation thereof made or known to be contemplated by a governmental authority against the racing meeting licensee, qualifier, or any racing entity owned or operated by the parent to the licensee, of which the licensee or qualifier is or should reasonably be aware, involving conduct that if substantiated could reasonably lead to potential revocation or suspension of the license or approval held by the licensee, qualifier, or racing entity owned or operated by the parent to the licensee, in that jurisdiction and/or imposition of a fine of \$50,000 or greater;
- (f) Any reports, complaints, allegations, or material legal proceedings made, commenced, or known to be contemplated by a governmental authority against the licensee or qualifier, of which the licensee or qualifier is or should reasonably be aware, involving conduct that if substantiated could reasonably lead to potential criminal charges including, but not limited to, allegations of theft or embezzlement;
- (g) Any information known or that should reasonably be known to the licensee or qualifier, including by way of receipt of a subpoena, that the licensee or qualifier is or may be the subject of a criminal investigation by a law enforcement or regulatory agency;
- (h) Any exclusion or barring of a qualifier from any casino, gaming establishment, or gambling/gaming related entity, or race track in any jurisdiction; however, this shall not include exclusions or barring of a qualifier which stem solely from the interest in, or position they hold with, the licensee;
- (i) The termination, suspension from employment, or other discipline of any qualifier or racing employee licensed in accordance with 205 CMR;
- (j) Any material pending legal proceedings required to be reported in accordance with 17 CFR 229.103 - (Item 103) Legal proceedings: For purposes of 205 CMR 212.01(5)(j) the registrant referred to in 17 CFR 229.103 - (Item 103) shall be both the licensee and the parent company of the licensee as determined by the Bureau. Additionally, the licensee and each qualifier shall provide notice of any pending legal proceeding which includes any allegation of fraudulent conduct by the licensee or a qualifier, that may reasonably threaten the economic viability of the licensee or a qualifier, or that alleges a pattern of improper conduct by the licensee or a qualifier over a sustained period of time;
- (k) Any significant financial event related to a licensee or entity qualifier. For purposes of 205 CMR 2.08(5)(k), a significant financial event means a merger, acquisition, consolidation, debt restructuring, material change in debt rating by major credit rating agencies (US/International), legal entity change, material ownership change, the assessment of a fine or penalty of \$250,000 or greater by the SEC or international equivalent, restatement of previously issued financial statement(s), late filing of financial statement(s) with the SEC or international equivalent, US or international equivalent bankruptcy petition, default of financial debt covenants and receivership, disposal of a material business segment or asset, or adverse action(s) taken by the IRS;
- (l) Issuance of an "Adverse" or "Qualified" audit opinion, or the international equivalent, by an independent accountant to the Racing Meeting Licensee or qualifier;

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- (m) A change in accounting firm engaged to perform attestation and/or assurance services for the licensee or qualifier; and
 - (n) Issuance of a delisting notice from a United States or international stock exchange relative to the licensee or qualifier.
- (6) If the Commission determines that an applicant, licensee, registrant, or qualifier has knowingly withheld information, knowingly failed to provide information or documents requested by the Commission, Bureau, or their agents and employees, knowingly provided materially false or misleading information to the Commission, the Bureau or their agents and employees, or knowingly failed to cooperate with any investigation or hearing conducted by the Commission, Bureau, or their agents and employees, the Commission may, with respect to such person:
- (a) Find that person ineligible to hold a license or registration or be qualified in connection with a license;
 - (b) Suspend the relevant license, registration or qualification; or
 - (c) Revoke the relevant license, registration or qualification.

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2.09 Withdrawal of Application For License To Hold Or Conduct A New Racing Meeting

- (1) Except as provided in 205 CMR 2.09(2), a written notice of withdrawal of an application may be filed by an applicant or qualifier at any time prior to final Commission action thereon.
- (2) Withdrawal requests submitted in accordance with 205 CMR 2.09(2) shall be permitted without the need for Commission approval except that if a hearing on suitability, temporary suitability, or an application has been requested by a party or directed by the Bureau or Commission, no withdrawal will be allowed without express Commission approval upon a finding of good cause:
- (3) If the Commission agrees to grant withdrawal under 205 CMR 2.09(2), the Commission may condition that withdrawal with appropriate terms it deems necessary, including, but not limited to, a period of time within which the applicant or qualifier may not re-apply.
- (4) The provisions of 205 CMR 111.05(4) governing the surrender of credentials shall govern the surrender of any credential issued under M.G.L. c. 128A and 128C, or the sections of 205 CMR governing racing.



SMALL BUSINESS IMPACT STATEMENT

The Massachusetts Gaming Commission (“Commission”) hereby files this Small Business Impact Statement in accordance with G.L. c. 30A, §2, relative to the proposed adoption of **205 CMR 2, RACING MEETING LICENSING**.

This regulation is being promulgated as part of the process of updating regulations governing live racing in the Commonwealth. It sets forth the application and suitability review process for racing meeting licenses.

The proposed 205 CMR 2 applies to prospective and current race track operators and the Commission. Accordingly, this regulation is unlikely to have an impact on small businesses. Under G.L. c.30A, §2, the Commission offers the following responses to the statutory questions:

1. Estimate of the number of small businesses subject to the proposed regulation:

Small business are unlikely to be subject to this regulation.

2. State the projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed regulation:

There are no projected reporting, recordkeeping, or other administrative costs required for small businesses to comply with this regulation. This regulation governs prospective and current race track operators, none of which will be or are small businesses.

3. State the appropriateness of performance standards versus design standards:

The standards set forth are compliance requirements, akin to performance standards.

4. Identify regulations of the promulgating agency, or of another agency or department of the Commonwealth, which may duplicate or conflict with the proposed regulation:

There are no conflicting regulations in 205 CMR, and the Commission is unaware of any conflicting or duplicating regulations of any other agency or department of the Commonwealth.

5. State whether the proposed regulation is likely to deter or encourage the formation of new businesses in the Commonwealth:



Massachusetts Gaming Commission

This regulation, which clarifies the Commission’s application review process for race track operators, will support the formation of small businesses supporting race track operations in the Commonwealth.

Massachusetts Gaming Commission
By:

/s/ Caitlin Monahan
Caitlin W. Monahan, Deputy General Counsel

Dated: October 13, 2023



Massachusetts Gaming Commission



COMMUNITY MITIGATION FUND

TO: Chair Cathy Judd-Stein and Commissioners Eileen O'Brien, Bradford Hill, Nakisha Skinner and Jordan Maynard

FROM: Joe Delaney, Mary Thurlow, Lily Wallace

CC: Todd Grossman, Interim Executive Director

DATE: October 13, 2023

RE: Fiscal Year 2025 Draft CMF Guidelines and Municipal Block Grant Formula

The Community Affairs Division is requesting that the Commission vote to put these two documents out for public comment. If approved the Guidelines and Grant Formula will be posted for public comment for a hearing on October 26th from 12:00 – 1:30. After the public hearing the final documents will come back before the Commission for a final vote in November.

Highlights:

CMF Guidelines

1. **Grant Budgets by Region for Municipal Block Grant**

- **Region A** \$11.5 million
- **Region B** \$ 4.3 million
- **Category 2** \$ 0.5 million

2. **Two Types of Grants:**

- Municipal Block Grant:** For eligible communities in the areas of Community Planning, Transportation, Public Safety and Gambling Harm reduction.
- Regional Agency Grant Programs:** These grants include Workforce Development, Regional Public Safety and Regional Planning.

3. **Additional Guidance Provided:** Each grant category identifies casino-related impacts, projects eligible for funding and ineligible projects.

4. **Administrative costs:** Grantees may use up to 7.5% of the grant for administrative purposes up to \$50,000.

5. **Other changes:** There are numerous other minor changes including the subsidy calculation for transportation construction projects, additional guidance on operational and administrative expenses and waiver requests for Municipal Block Grants.

Municipal Block Grant Formula

The Municipal Block Grant Formula takes into account four factors – a minimum grant amount per region, host and surrounding community status, proximity to the casino and traffic impacts. Proposed grant amounts are presented for each eligible municipality.



Massachusetts Gaming Commission

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COMMUNITY MITIGATION FUND

**Massachusetts Gaming Commission
Division of Community Affairs**

Community Mitigation Fund Fiscal Year 2025 Guidelines

November ____, 2023

FY2025 Community Mitigation Fund Guidelines

Welcome to the FY 2025 Community Mitigation Fund (CMF) Guidelines. The below sections explain some of the major changes that have taken place to facilitate the awarding of CMF Grants.

The Community Affairs Division has identified several challenges that have affected the utilization and administration of the Community Mitigation Fund (CMF) program. As a result of these challenges, the Massachusetts Gaming Commission (Commission) has created a new structure for the CMF Grant Program. The new process will provide municipalities with some certainty regarding the availability of mitigation funds and enable them to develop actionable, mitigation-based projects tailored their community.

MAJOR CHANGES FOR FISCAL YEAR 2025

1. *Create a two-tiered Grant Program* – The proposed changes to the CMF will result in two types of grants – the Municipal Block Grant and the Regional Agency Grant. The Municipal Block Grant Program will establish a proposed grant amount for each eligible municipality based on a distribution formula. The formula is based on host and surrounding community status, proximity to the gaming establishment and traffic related impacts. The Regional Agency Grant Program will fund eligible regional agencies in workforce development grants, public safety grants and regional planning grants.
2. *Grant Applications for Municipal Block Grants* – Municipalities will be required to submit a single application for the entire community. Applications are due to the Commission by January 31, 2024. Applications will be in the form of a workplan that describes how the municipality will spend the proposed grant amount in accordance with the Program Guidelines. If a municipality does not submit a workplan by January 31, the community forfeits the funds for that year.
3. *More Detailed Project Guidance* – Through discussions with program stakeholders there was a consensus that more clearly outlining uses of the funds available by category would enable municipalities to develop their programs more efficiently by focusing specifically on eligible mitigation. In these new guidelines you will find clearly identified casino-related impacts by category pulled from previous successful grant applications and research on casino impacts.
4. *Administrative Costs* - This year the Commission has determined that up to 7.5% of the Grant may be applied toward the cost of administration up to a cap of \$50,000.
5. *Funding for Regional Planning Agencies* – The Commission is making available up to \$250,000 for the Regional Planning Agencies associated with each gaming establishment. These funds are for regional projects associated with a casino related impact.
6. *Conversion to a Fiscal Year* – Starting with this grant round, the CMF will operate on the State Fiscal Year (7/1/24-6/30/25). This will bring our program into line with how most of municipalities and state agencies work. Programmatically, grant recipients should not notice any changes to how grants are administered or how funds are disbursed.



FY2025 Community Mitigation Fund Guidelines

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FY2025 Community Mitigation Fund Guidelines

1.0 COMMUNITY MITIGATION FUND GRANT PROGRAM

The Expanded Gaming Act created the Community Mitigation Fund (CMF) to help communities and other entities offset costs related to the construction and operation of a gaming establishment. Applications for the fiscal year 2025 (FY 25) grant round are due **January 31, 2024**. The Massachusetts Gaming Commission (Commission) anticipates making funding decisions on any requests for grant assistance before July 2024.

For FY 25, there are two types of grants programs within the CMF:

- The Municipal Block Grant Program; and
- The Regional Agency Grant Program

The Municipal Block Grant Program will provide funds for eligible municipalities to mitigate casino-related impacts and the Regional Agency Grant Program will fund projects to be carried out by regional agencies in the area of Workforce Development, Public Safety and Regional Planning.

1.1 Program Eligibility

The Commission's regulations identify a range of eligible entities including, but not limited to:

- The host communities and surrounding communities; communities that entered into a nearby community agreement; any communities that petitioned to be a surrounding community; and any communities that are geographically adjacent to a host community
- Water and sewer districts in the vicinity of a gaming establishment
- Local and regional agencies involved in education, transportation, infrastructure, housing and environmental issues; governmental entities within communities such as redevelopment authorities or non-regional school districts must submit applications through a municipal administrator in its service area
- The county district attorney, police, fire, and emergency services

Any governmental entity seeking funding for mitigation is required to ensure that any planned use of funding complies with the provisions of the Massachusetts Constitution and with all applicable laws and regulations.

The Commission will not directly fund any applications for assistance for non-governmental entities. Private non-governmental parties may not apply for Community Mitigation Funds. Governmental entities may apply to the Commission for funds on behalf of a private party to mitigate impacts provided that the funding is used for a "public purpose" and not the direct benefit or maintenance of a private party in accordance with the "Anti-Aid Amendment" of the Massachusetts Constitution.

1.2 Ineligible Expenses for all Grants

The CMF will not fund the mitigation of impacts already being addressed by a Host or Surrounding Community Agreement. All applications must demonstrate that CMF funds will supplement and not supplant historical operations funding.

FY2025 Community Mitigation Fund Guidelines

*FY2025 grant funds may **not** be used for the mitigation of:*

- Impacts that are projected or predicted but that are not occurring or have not occurred by January 31, 2024
- Impacts that are the responsibility (e.g. contractual, statutory, regulatory) of parties involved in the construction and operation of gaming establishments
- Requests related to utility outages, such as the mitigation of business interruptions
- Other impacts determined annually by the Commission

1.3 Application Requirements

The following requirements are applicable for all grants. Please see the individual grant guidelines for specific instructions regarding each type of grant.

- Applicants are required to fully complete the grant application appropriate to their type of grant.
- All applications must identify an impact associated with the casino and describe how the project will address the impact.
- **All applications must be submitted by 11:59 PM January 31, 2024. Submissions must be sent via e-mail to MGCCMF@massgaming.gov. Any application received after the deadline will not be considered for funding in FY 25.**

1.4 Funding Allocation

The Commission intends to allocate FY 25 CMF funding based on the proportion of funds paid into the CMF from the taxes and fines generated by the MGM Springfield and Encore Boston Harbor facilities.¹

For FY 25, the Commission plans to allocate \$16.3 million to the eligible municipalities in Region A, Region B and the Category 2 facility:

- Region A \$11.5 million
- Region B \$ 4.3 million
- Category 2 \$ 0.5 million

Category 2 grants will be funded from CMF revenues generated in Region A as Plainridge Park Casino lies within the boundaries of Region A.

For FY 25, the Regional Agency Grants will be funded with unspent funds from previous grant rounds. Targeted spending may be found in the detailed descriptions of the Regional Agency Grant categories. The Commission determined in grant year 2020, that any unused funds allocated to each Category 1 Region will be set aside for that Region for a period of three years. After the three-year period, the funds shall be allocated back into a combined fund for all

¹ These Guidelines do not describe revenue estimates from the potential Tribal facility in Taunton or the participation of a Region C facility, as no Region C license or Tribal facility has yet been fully authorized.

FY2025 Community Mitigation Fund Guidelines

regions and for Category 2 impacts. It is the intention of the Commission to count any allocated regional balances first toward FY 25 spending targets.

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FY2025 Community Mitigation Fund Guidelines

2.0 MUNICIPAL BLOCK GRANT PROGRAM

The Municipal Block Grant Program is designed to give municipalities in the vicinity of the gaming establishments some certainty regarding the availability of mitigation funds to their communities.

2.1 Program Eligibility

The Municipal Block Grant Program will include all eligible municipalities. Eligible municipalities are:

- **Region A-** Everett, Boston, Cambridge, Chelsea, Lynn, Malden, Medford, Melrose, Revere, Somerville, and Saugus
- **Category 2** – Attleboro, Foxborough, Mansfield, North Attleboro, Plainville, and Wrentham
- **Region B-** Springfield, Agawam, Chicopee, Holyoke, East Longmeadow, Hampden, Longmeadow, Ludlow, Northampton, West Springfield, and Wilbraham

2.2 Key Programmatic Aspects

The Municipal Block Grant will fund projects in several categories – Community Planning, Transportation, Public Safety, Gambling Harm Reduction and Specific Impact. These categories are further described in Section 2.6 of the Guidelines. The following are some of the key aspects of the program:

- The proposed grant amount for each eligible municipality is based on a distribution formula that considers host and surrounding community status, proximity to the gaming establishment and traffic related impacts.
- For each category of grant, the Commission has identified impacts that are likely to be caused by, or associated with, the gaming establishments. For these identified impacts, applicants do not need to go to extraordinary lengths to quantify casino related impacts.
- For each category of grant, the Commission has identified the types of projects that are generally acceptable to address casino related impacts.
- For each category of grant, the Commission has identified any ineligible projects or items.

2.3 Proposed Municipal Grant Amounts

The funding formula and proposed grant amounts for FY 2025 can be found here [_____](#). Once proposed grant amounts are voted by the Commission, each municipality will receive a letter outlining the proposed grant amount for that municipality and the steps that must be taken to receive that award.

Suggested Grant Spending

The Commission would like to see spending spread among the several project categories to address as many casino-related impacts as possible. Therefore, a suggested minimum of 15% of the grant should be targeted to each of the Community Planning, Transportation, Public Safety,

FY2025 Community Mitigation Fund Guidelines

Gambling Harm Reduction categories. This would allow the municipality to spend up to 40% of the grant on whichever categories they choose. For the first year of this program, these are not mandated minimums. If a municipality is not targeting any funds to one or more of the specified categories, there should be an explanation in the workplan identifying why the suggested minimum spending is not being achieved.

2.4 Application Requirements

Grant applications are due to the Commission by 11:59 PM on January 31, 2024 via e-mail at MGCCMF@massgaming.gov. Applications received after this time will not be considered for funding. Each municipality may submit only one application for the entire municipality.

Applications should include the following elements. [Please click here](#) for application template/example.

- a. Applicants are required to fully complete the CMF Municipal Block Grant Application and select the appropriate categories for their workplan.
- b. Applicants must identify an impact associated with the casino, describe how the project will address it, and provide justification for any funds requested.
- c. Applicants need to describe if and how such impacts were addressed or not addressed in any host or surrounding community agreements. Impacts that were addressed under a host or surrounding community agreement are not eligible for funding.
- d. The municipality must submit a separate workplan for each grant category detailing the scope, schedule, and budget which provides details on how the municipality will spend the money in accordance with the Guidelines. Applicants may submit additional supporting materials.
- e. If a municipality cannot identify sufficient projects that will expend the entire proposed grant amount, a municipality may apply for a lower amount of funding. Any unused funding for that FY will be forfeited by the municipality.

2.5 Waivers

The Commission may in its discretion waive or grant a variance from any provision or requirement contained in these Guidelines. Any requests for waivers shall be submitted with the Grant Application. The following waiver provision is only applicable to the Municipal Block Grant Program.

- **Funding Waiver** - If any municipality determines that the proposed grant amount is insufficient to mitigate identified casino related impacts, it may request a waiver for those specific projects. These will be evaluated on a case-by-case basis and award decisions will be based on available funding.

Please see Section 6 of the Appendix for additional detail regarding waivers.

FY2025 Community Mitigation Fund Guidelines

2.6 Grant Categories

2.6.1 Community Planning

The Community Planning grant category is designed to help municipalities either address negative impacts of the gaming establishment on the local community or take advantage of opportunities that the gaming establishment presents.

Community Planning projects must address an identified casino related impact. Grant funds may be used for both project planning and project implementation. Past projects have included the development of marketing and tourism plans, design and implementation of web sites highlighting local businesses, wayfinding projects, rezoning studies and projects to enhance local businesses.

Applicants should consult with the Regional Planning Agency (RPA) or nearby communities to determine the potential for cooperative regional efforts regarding planning activities. Details of these consultations should be provided in the application.

A project may identify the addition of staff to implement the project. The Commission will not fund any municipal employee for more than two years and will not pay the full cost of any municipal employee. The municipality would need to provide the remaining amount of any employee cost and certify that all such expenses are casino related.

Identified Impacts – The Commission has identified impacts associated with the gaming establishment, which municipalities may cite in their workplans. There may be other impacts that have not been identified by the Commission that could be eligible for grant funds. If a municipality has identified an additional impact to be addressed, the workplan must identify the impact and provide sufficient evidence that the impact is caused or is associated with a gaming establishment.

Positive Impacts

- Gaming establishments attract a large group of patrons and employees to their establishments that would not otherwise be present in the area. This provides opportunities for local communities and businesses to attract these patrons and employees to their communities and business establishments.
- Gaming establishments typically purchase millions of dollars of goods and services each year, much of which is purchased locally. This provides the opportunity for local businesses to provide these goods and services.
- Gaming establishments require a significant number of workers, which provide employment opportunities for local residents.

Negative Impacts

- Competition from the gaming establishment may have negative impacts on other businesses competing in the hospitality industry.

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- The presence of a gaming establishment may result in reallocated spending. Reallocated spending is spending on goods and services which would have occurred had the casinos never opened, but which did not occur because an individual chose to spend their money at the casino instead. The main areas where monies are reallocated are transportation, retail items, hotels and travel, restaurants and bars, recreation and non-live entertainment and live entertainment.
- The marketing capabilities of the gaming establishments may put other competing local businesses at a disadvantage.

Eligible Community Planning and Implementation Projects – The following types of projects may be considered to address casino related impacts:

- Marketing and Tourism plans to attract casino patrons and employees to the municipality, highlight local businesses, promote recreational and entertainment opportunities, and help communities compete with the gaming establishments for business.
- Projects to provide economic development opportunities for local businesses.
- Programs to increase business opportunities to provide goods and services to the gaming establishments.
- Other programs to encourage casino employees to live/work/play in the community.

Ineligible Projects – The following types of projects have been deemed ineligible for grant funding:

- Projects that do not address a casino-related impact.

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2.6.2 Transportation

The Transportation grant category is designed to help municipalities deal with the transportation related impacts that a gaming establishment may have on all modes of transportation including vehicular travel, public transit and pedestrian/bicycle travel. This category includes both the planning for transportation improvements and the construction of identified transportation improvement projects.

Transportation Planning Projects: Transportation planning projects must address an identified casino impact. Transportation planning projects must have a defined area or issue that will be investigated as well as a clear plan for implementation of the results. Transportation planning grants are intended to assist communities with gathering data and analysis, hiring planning consultants, performing engineering review/surveys, conducting public meetings, preparing final reports, and preparing analysis or design.

Planning projects for road improvements will only be funded on routes that have been identified in the Environmental Impact Report for the gaming establishment as carrying at least 1 percent of the casino related traffic. The Commission may consider other roadway sections if the applicant can affirmatively demonstrate that the road section is significantly impacted by casino related traffic.

For any proposed transit improvement studies, the municipality must consult with the Regional Transit Authority where the gaming establishment is located and must have support from that agency before proceeding with the project.

Applicants may, but are not required, to include a description of how the project meets the evaluation standards for the Fiscal Year 2025 TIP criteria for the Boston MPO Region or the Pioneer Valley Planning Commission's transportation evaluation criteria, or other regional transportation project evaluation standard, whichever may be most applicable.

Applicants are strongly encouraged to include a letter of support from MassDOT with any application.

Transportation Construction Projects: Transportation construction projects must address an identified casino impact. The Grant will only fund a portion of the construction costs. Grant funds will provide 100% of project costs up to \$250,000 and will fund up to 30% of the costs in excess on \$250,000 up to a maximum grant of \$1.5 million. If a municipality has more than one transportation construction project, the total cost of the combined projects will be used to determine the project subsidy (i.e., only the first \$250,000 of the combined projects receives the 100% subsidy).

Applicants must demonstrate that the project will begin construction no later than June 30, 2025.

Identified Impacts – The Commission has identified transportation related impacts associated with the gaming establishments, which municipalities may cite in their workplans. There may be other impacts that have not been identified by the Commission that may be eligible for grant funds. If a municipality has identified additional impacts to be addressed,

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the workplan must identify the impact and provide sufficient evidence that the impact is caused or is associated with a gaming establishment.

- Increased traffic associated with the gaming establishment may cause increased congestion on the major routes leading to/from the gaming establishment.
- Increased traffic associated with the gaming establishment may result in increased vehicular accidents on major routes leading to/from the gaming establishment.
- Increased traffic associated with the gaming establishment may result in increased vehicular/bicycle/pedestrian conflicts.
- Increased traffic associated with the gaming establishment may cause localized increases in air pollution due to congestion.
- Increased visitation to the gaming establishment area may place a strain on public transit services.

Eligible Transportation Planning Projects – Eligible transportation planning projects could include:

- Road safety audits
- Complete Streets evaluations and designs
- Studies to improve public transit
- Multi-use path planning and design
- Road/traffic signal improvement designs to improve vehicular safety and/or reduce traffic congestion.
- Planning for bike share networks
- Studies to identify air pollution reduction strategies
- Studies to identify ways to reduce single occupancy vehicles

Eligible Transportation Construction Projects

- Construction of multi-use paths
- Construction of identified road safety improvements
- Construction of identified roadway capacity enhancements
- Purchase and installation of bike share networks
- Construction of transit improvements
- Construction of traffic signal improvements to enhance roadway capacity and/or improve vehicular and pedestrian safety
- Other transportation related construction projects that can be demonstrated to address an impact of a gaming establishment.

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Ineligible Projects

- Routine road paving projects
- Projects only associated with aesthetic improvements
- Operational costs associated with traffic safety (e.g., police costs for traffic enforcement, costs of traffic control equipment, etc.)
- Projects that do not address a casino related impact

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2.6.3 Public Safety

Public safety grants are intended to assist municipalities in addressing the increased public safety operational costs associated with the introduction of a gaming establishment to the region.

Eligible entities include Police, Fire, EMS, and other public safety agencies. Any proposed project under this section must be done in response to a casino related impact. All applications for public safety personnel or other public safety operational costs, including relevant training, must demonstrate that CMF funds will supplement and not supplant historical operations funding.

Applicants that are applying for radio or other communication equipment that engages with the statewide interoperability system must submit the ICIP (Interoperable Communications Investment Proposal) form and Special Conditions form with their Public Safety Application.

Applicants must include detailed hourly estimates for the costs of any public safety personnel. Applicants should include the most relevant information describing historical service or staffing levels (“baseline information”) in order to demonstrate that all funds will be used to supplement existing efforts. For example, if a community requests funding for additional staffing for a specific time period, the application should include information about the staffing levels that have been used for that same time period during the license term of the gaming facility. Applicants are requested to provide as much detailed baseline information as practicable to help the Commission in its review.

Identified Impacts – The Commission has identified public safety related impacts associated with the gaming establishments, which municipalities may cite in their workplans. There may be other impacts that have not been identified by the Commission that could be eligible for grant funds. If a municipality has identified additional impacts to be addressed, the workplan must identify the impact and provide sufficient evidence that the impact is caused or is associated with a gaming establishment.

- Increased visitation and employment due to the casino will likely increase the interaction between public safety personnel and casino patrons and employees.
- It is recognized by law enforcement and the casino industry that certain types of crime may be attracted to casinos and other hospitality related businesses. These may include human trafficking, money laundering, and drug trafficking. Other crimes that may be attributable to casinos include increased assaults, fraud, and property crimes.
- The presence of casinos has been demonstrated to cause an increase in cases of operating under the influence.
- Increases in traffic can cause increases in congestion, accidents, and vehicular/bicycle/pedestrian conflicts.

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- The influx of visitors to a casino can result in an increase in calls for service and put pressure on local emergency services including emergency responders like fire departments and EMS. This could lead to increased needs for mutual aid.

Possible Mitigation Measures

- Police training including de-escalation training, implicit bias training, use of force training or other training to help improve police/patron/employee interactions.
- Efforts to improve traffic safety that could include enhanced traffic enforcement, use of speed/message boards, public education programs, or other efforts that are demonstrated to improve traffic safety.
- Efforts to reduce impaired driving potentially including sobriety checkpoints, saturation patrols, education programs, or other demonstrated measures to reduce impaired driving.
- Efforts to identify, monitor and address issues related to human trafficking, drug trafficking and money laundering.
- Efforts to better track casino related crimes.
- Training to Fire Departments and EMS to address issues that arise specifically associated with the gaming establishment.

Ineligible Projects – MGC has identified the following projects/items as ineligible for grant funding:

- Equipment that is normally supplied by a public safety agency to their staff (e.g., uniforms, safety equipment, weapons, body armor, etc).
- Routine replacement of vehicles.
- Routine replacement of radio equipment.
- Equipment that does not specifically address a casino related impact.
- Funding that supplants existing historical funding.
- Funding for Gaming Enforcement Unit personnel or operations costs specified or anticipated in the memoranda of understanding between the Massachusetts State Police and host communities' police departments
- Any project does not address a casino related impact.

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2.6.4 Gambling Harm Reduction

Funding for gambling harm reduction is designed to assist municipalities in identifying populations at risk for problem gambling, studying the impact of gambling on those populations, identifying solutions to help mitigate identified harms and implementing solutions that help reduce the risk of gambling harms.

Identified Impacts

- Certain groups of people are disproportionately at risk of gambling-related harm by the presence of a casino. These groups can be linked by race, ethnicity, gender, age, people who have recently immigrated, veteran status, and/or socioeconomic status.

MGC recently worked with Gambling Research Exchange Ontario (GREO) to compile research on different groups that may be relevant to your community's needs. Please click here to access the studies on different populations that may be at increased risk for gambling harm _____

Possible Mitigation Measures

- A municipality may use these funds for the development and planning of a study or project. Projects are primarily for community engagement, vision and planning. Applicants may develop a plan to engage the community to identify a casino or gambling related topic or issue which warrants further investigation. The product of this process should be a research strategy which may be considered for detailed research funding in subsequent funding cycles. We expect these types of grants to be for a one-year term.
- A community may also use these funds for conducting detailed research on the topic identified. Applicants that have a specific research topic and/or question and are prepared to propose a research strategy. For this type of proposal, applicants must organize their proposal in the following order.

Specific Aims: State concisely the goals of the proposed research. Summarize the gambling related harms and potential impacts that the results of the proposed project will exert on Massachusetts and the research field(s) involved.

Research Strategy: Provide a detailed research strategy, including the following:

Approach: Describe the overall strategy, methodology, and analyses to be used to accomplish the specific aims of the project.

Significance: Explain the importance of the topic or question that the proposed project addresses.

Innovation: Describe any new or novel theoretical concepts, approaches or methodologies to be used.


Protection of Human Subjects: If applicable, summarize your plan to protect human subjects and obtain IRB approval.

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Collaboration and Knowledge of the Community: Describe the organization's relationship and understanding of the community with whom the study will take place.

Knowledge Translation and Exchange: Describe how an answer to the question or insight on the topic may mitigate gambling related harms in the community. Identify specific activities and/or measures which may be supported by the Community Mitigation Fund in subsequent funding cycles. Describe a plan to share information with the community and or use it to inform policy or practice.

Some examples of the MGC General Research Agenda and Community Engaged Research can be found: <https://massgaming.com/about/research-agenda/> or <https://massgaming.com/about/research-agenda-search/?cat=community-engaged-research>

- A community may also apply to fund a project that will help to mitigate a gaming harm identified via their own detailed research or the application of MGC research. Applicants can utilize research identified in the community specific interventions slide deck found  or impacts outline in the MGC reports found <https://massgaming.com/about/research-agenda/> or <https://massgaming.com/about/research-agenda-search/?cat=community-engaged-research>

Ineligible Projects – MGC has identified the following projects/items as ineligible for grant funding:

- Project does not address a casino related impact.
- Detailed research projects that are not grounded in available evidence.
- A project that will mitigate a gaming-related harm that is not grounded in their own detailed research or recommendations arising from MGC research (as outlined in the community specific interventions slide deck or MGC research reports referenced above).

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2.6.5 Specific Impact

Specific Impact Grants are only for projects that do not fit within the other categories of CMF Grants. The municipality must provide a thorough description of an identified impact of the gaming establishment and proposed mitigation measures to address the impact.

Identified Impacts – The Specific Impact category recognizes that there may be other impacts associated with a gaming establishment that have not been identified by the Commission. If a municipality has identified an additional impact to be addressed, the workplan must identify the impact and provide sufficient evidence that the impact is caused or is associated with a gaming establishment.

The Commission’s regulation 205 CMR 125.01 2(b)4 defines operational impacts as: “The community will be significantly and adversely affected by the operation of the gaming establishment after its opening taking into account such factors as potential public safety impacts on the community; increased demand on community and regional water and sewer systems; impacts on the community from storm water runoff, associated pollutants, and changes in drainage patterns; stresses on the community's housing stock including any projected negative impacts on the appraised value of housing stock due to a gaming establishment; any negative impact on local, retail, entertainment, and service establishments in the community; increased social service needs including, but not limited to, those related to problem gambling; and demonstrated impact on public education in the community.” Although these definitions include the types of operational impacts that may be funded, it is not limited to those. The determination will be made by the Commission after its review.

Eligible Expenses

The Commission will make funding available to mitigate gaming facility operational impacts that are being experienced or were experienced by the January 31, 2024 application deadline.

Ineligible Expenses

Any expense considered to be a municipal cost such as any cost which may be included its annual budget

- Any cost for which it receives payments through its Host Community Agreement or Surrounding Community Agreement.
- Any project that does not address a casino related impact.
- Applications from non-governmental entities.

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3.0 REGIONAL AGENCY GRANT PROGRAM

The Commission will accept applications by regional agencies to address impacts on communities that go beyond one municipality and can be more effectively addressed in a regional manner.

3.1 Eligibility

MGL c. 23K, Section 61 identifies eligible entities as “local and regional education, transportation, infrastructure, housing, environmental issues and public safety, including the office of the county district attorney, police, fire and emergency services. The commission may, at its discretion, distribute funds to a governmental entity or district other than a single municipality in order to implement a mitigation measure that affects more than 1 municipality.”

This definition provides the Commission with broad authority regarding the distribution of mitigation funds to regional governmental entities. However, the Commission has identified three primary areas for project funding – regional planning efforts, regional public safety and regional education programs. Specific eligibilities within each category are identified in Section 3.5 below.

While other regional governmental entities may be eligible for funding, any such entity proposing to apply for funding should contact the Community Affairs Division well in advance of the submission deadline to discuss project eligibility and casino related impacts.

3.2 Key Programmatic Aspects

Historically, the Commission has funded regional agencies through the CMF as part of each year’s grant round. For FY 25, the Regional Agency Grant Program will be the funding mechanism. Three categories of grants are available for FY 25 – Regional Planning Grant, Regional Public Safety Grant and Regional Workforce Development Grant. These categories are further described in Section 3.5 of the Guidelines. The following are some of the key aspects of the program:

- For each category of grant, the Commission has identified impacts that are likely to be caused by, or associated with, the gaming establishments. For these identified impacts, applicants do not need to go to extraordinary lengths to quantify casino related impacts.
- For each category of grant, the Commission has identified the types of projects that are generally acceptable to address casino related impacts.
- For each category of grant, the Commission has identified any ineligible projects or items.

3.3 Application Requirements

Grant applications are due to the Commission by 11:59 PM on January 31, 2024 via e-mail at MGCCMF@massgaming.gov. Applications received after this time will not be considered for funding. Applications should include the following elements. Please click here_____ for application template/example.

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- a. Applicants are required to fully complete the CMF Regional Agency Grant Application and fill out the appropriate sections for the selected grant category.
- b. Applicants must identify an impact associated with the casino, describe how the project will address it, and provide justification for any funds requested.
- c. The regional agency must submit a workplan detailing the scope, schedule, and budget which provides details on how the agency will spend the money in accordance with the program guidelines. Agencies may submit additional materials to support their applications.

3.4 Waivers

The Commission may in its discretion waive or grant a variance from any provision or requirement contained in these Guidelines. Any requests for waivers shall be submitted with the Grant Application. Please see Section 6 of the Appendix for additional detail regarding waivers.

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3.5 Grant Categories

3.5.1 Regional Planning Grants

Certain casino related impacts may present challenges across multiple communities or create opportunities to leverage the presence of a casino to provide regional benefits. Projects to address these types of impacts are often better served through the use of a regional agency to develop and implement solutions.

For FY 25, the Commission is authorizing grants of up to \$250,000 for Regional Planning Agencies (RPAs) to identify and implement projects that address regional impacts associated with the gaming establishments.

The eligible RPAs for these grants are those that serve the casino's host community – the Metropolitan Area Planning Council for Region A, the Pioneer Valley Planning Commission for Region B and the Southeast Regional Planning and Economic Development District for the Category 2 facility.

Similar to the Community Planning and Transportation categories under the Municipal Block Grant Program, these grants are designed to help either address negative impacts of the gaming establishment on the region or to take advantage of opportunities that the gaming establishment presents.

Regional Planning projects must address an identified casino related impact. Grant funds may be used for both project planning and project implementation. Planning projects must have a defined area or issue that will be investigated as well as a clear plan for implementation of the results. Applicants should work in collaboration with or on behalf of impacted municipalities.

Planning grants are intended to assist agencies with gathering data and analysis, hiring planning consultants, performing engineering review/surveys, conducting public meetings, preparing final reports, and preparing analysis or design.

Identified Impacts – The Commission has identified impacts associated with the gaming establishment, which RPAs may cite in their applications. There may be other impacts that have not been identified by the Commission that could be eligible for grant funds. If an agency has identified additional impacts to be addressed, the applications must identify the impact and provide sufficient evidence that the impact is caused or is associated with a gaming establishment.

Positive Impacts

- Gaming establishments attract a large group of patrons and employees to their establishments that would not otherwise be present in the area. This provides opportunities for local communities and businesses to attract these patrons and employees to their communities and business establishments.

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- Gaming establishments typically purchase millions of dollars of goods and services each year, much of which is purchased locally. This provides the opportunity for local businesses to provide these goods and services.
- Gaming establishments require a significant number of workers, which provide employment opportunities for local residents.

Negative Impacts

- Competition from the gaming establishment may have negative impacts on other businesses competing in the hospitality industry.
- The presence of a gaming establishment may result in reallocated spending. Reallocated spending is spending on goods and services which would have occurred had the casinos never opened, but which did not occur because an individual chose to spend their money at the casino instead. The main areas where monies are reallocated are transportation, retail items, hotels and travel, restaurants and bars, recreation and non-live entertainment and live entertainment.
- The marketing capabilities of the gaming establishments may put other competing local businesses at a disadvantage.
- Increased traffic associated with the gaming establishment may cause increased congestion on the major routes leading to/from the gaming establishment.
- Increased traffic associated with the gaming establishment may result in increased vehicular accidents on major routes leading to/from the gaming establishment.
- Increased traffic associated with the gaming establishment may result in increased vehicular/bicycle/pedestrian conflicts.
- Increased traffic associated with the gaming establishment may cause localized increases in air pollution due to congestion.
- Increased visitation to the gaming establishment area may place a strain on public transit services.

Eligible Projects – The following types of projects may be considered to address casino related impacts:

- Marketing and Tourism plans to attract casino patrons and employees to the municipality, highlight local businesses, promote recreational and entertainment opportunities, and help communities compete with the gaming establishments for business.
- Projects to provide economic development opportunities for local businesses.
- Programs to increase business opportunities to provide goods and services to the gaming establishments.
- Other programs to encourage casino employees to live/work/play in the region.

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- Road safety audits
- Complete Streets evaluations and designs
- Studies to improve public transit
- Multi-use path planning and design
- Road/traffic signal improvement designs to improve vehicular safety and/or reduce traffic congestion.
- Planning for bike share networks
- Studies to identify air pollution reduction strategies
- Studies to identify ways to reduce single occupancy vehicles

Ineligible Projects – The following types of projects have been deemed ineligible for grant funding:

- Projects that do not address a casino-related impact.
- Applications from non-governmental entities.

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3.5.2 Regional Public Safety Grants

MGL c. 23K, Section 61 identifies regional public safety agencies as being eligible for mitigation funds and specifically identifies the county District Attorney's offices. The Commission seeks to support the Attorney General and District Attorney's Offices in jurisdictions where the establishment and operation of a casino have resulted in an increase in criminal cases. The objective of this category is to ensure that these offices have the necessary resources to effectively manage and prosecute cases associated with the operation of a casino.

The regional agencies eligible for funding under this category include:

- the office of the county District Attorneys
- Attorney General's office
- Other relevant public safety agencies

For FY 25, the Commission has established a maximum grant of \$100,000 for the District Attorney's Offices. Grant amounts for the Attorney General or other relevant public safety agencies will be based on available funding and demonstrated need.

Identified Impacts – The Commission has identified regional public safety related impacts associated with the gaming establishments, which agencies may cite in their applications. There may be other impacts that have not been identified by the Commission that could be eligible for grant funds. If an agency has identified additional impacts to be addressed, the application must identify the impact and provide sufficient evidence that the impact is caused or is associated with a gaming establishment.

- The introduction of casinos in the Commonwealth has led to increased criminal cases being handled by the District Attorney or Attorney General.
- It is recognized by law enforcement and the casino industry that certain types of crime may be attracted to casinos and other hospitality related businesses. These may include human trafficking, money laundering, and drug trafficking. Other crimes that may be attributable to casinos include increased assaults, fraud, and property crimes.
- The presence of casinos has been demonstrated to cause an increase in cases of operating under the influence.

Eligible Costs

- Funding for personnel, including prosecutors, investigators, and administrative staff, and victim witness advocates to assist these offices in handling the additional workload created by the casino's presence. The office must demonstrate an increase in criminal cases directly related to the presence of the casino. The office must have a clear plan for

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the utilization and record keeping of the grant funds, specifying the roles and responsibilities of the additional personnel to be hired.

Ineligible Costs

- Staff whose jobs are not directly tied to the increased case load because of the presence of a casino.
- Project does not address a casino related impact.

Reporting and Accountability

Grant recipients will be required to provide quarterly progress reports on their progress as well as a final report with case numbers to ensure that the funds are being used as intended and to assess the program's impact on case management. The grantee will also provide to the Commission staff a record of the following case types.

- Motor Vehicle/OUI
- Property Damage/Theft
- Assaults
- Sexual Assault
- Drug Offenses
- Money laundering
- Disorderly Conduct
- Human Trafficking
- Firearms
- RICO
- Identity theft

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3.5.3 Regional Workforce Development Grants

Regional Workforce Development Grant applicants should focus on areas highly impacted by casino operations to mitigate a strain in existing resources and a potential impact to the regional labor market. Applicants must be able to demonstrate that the education and skills training programs proposed are in response to an identified need at the casinos or to provide a sufficient supply of workers to backfill jobs being lost to the casinos. The Gaming Commission encourages new and innovative program ideas that align with the grant program's intention.

A consortium application is required. Eligible workforce development proposals must include a regional consortium approach to improve the skills, knowledge, and credential attainment for residents. The proposal must also include regional labor market information and evidence of employer partnerships.

Grantees will be expected to track numbers related to student participation and job placement across several defined parameters such as gender, minority status, and veteran status.

Regional Workforce Development Program Spending

The Commission anticipates awarding one grant per region with the following maximum value:

- Region A - \$750,000
- Region B - \$750,000

Identified Impacts

The Commission has identified the following impacts associated with the gaming establishment, which may be cited in the application. There may be other impacts that have not been identified by the Commission that could be eligible for grant funds. If an agency has identified additional impacts to be addressed, the applications must identify the impact and provide sufficient evidence that the impact is caused or is associated with a gaming establishment.

- Increase in demand for employees with a high school diploma or equivalent credentials
- Increase in demand for employees with understanding of roles in the hospitality field
- Increase in demand for employees who speak English
- Increase in demand for applicants with basic digital literacy

Eligible Expenses

- Gaming school scholarships
- Post-secondary vocational programs in culinary, hospitality skills, banking, or general customer service training or vocational programs focused on English language/adult basic education

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- A program that structures intentional connections among adult basic education, occupational training, and post-secondary education programs designed to meet the needs of both adult learners and employers
- Registered apprenticeships in the hospitality and banking fields
- Courses leading to college credits or industry-recognized certificates
- Adult Basic Education (“ABE”) and vocationally based English for Speakers of Other Languages (“ESOL”) training programs; contextualized learning
- Integrated Education and Training and industry-recognized credentials
- Translation services to help with student success
- Transportation and childcare vouchers
- Technology related to participant access
- Administrative costs include activities related to management, oversight, reporting, and record keeping, and monitoring of the grant program. This amount may not exceed 7.5% of the grant.

Ineligible Expenses

- Programs that are not directly or indirectly tied to the presence of a casino.

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APPENDIX

1. Other Grants

- Emergency Mitigation Grants

The Commission continues to set aside \$200,000 to cover newly identified impacts of an emergency nature that would cause significant harm to a community if it were not remedied in an expeditious fashion. The intent of this grant is to allow the Commission to be more responsive in addressing significant casino related issues that do not fall within the normal CMF timelines. This grant is not intended to circumvent the normal CMF processes.

- Tribal Gaming Technical Assistance Grants

The Commission continues to set aside \$200,000 of funding to assist in the determination of potential impacts that may be experienced by communities in geographic proximity to the potential Tribal Gaming facility in Taunton. Such funding will only be made available after approval of any application by SRPEDD or a comparable regional entity.

2. Administrative Costs

For FY 25 administrative costs are eligible under the CMF. Grantees may use up to 7.5% of the grant for administrative purposes up to \$50,000. Administrative costs include activities related to management, oversight, reporting, record keeping, and monitoring of the grant program. The grant application must identify how much of the grant funding is being used for administrative purposes and must also outline what funds are being contributed by the entity, such as in-kind services. Workforce Development Grants are not subject to the \$50,000 cap.

3. Operational Costs

Operational costs are intended to supplement existing departmental budgets impacted by the operation of a gaming facility. Examples of eligible items could include the cost of staff to run a program, overtime of public safety personnel; public safety equipment upgrades and/or supplies, increased demand on community regional water and sewer systems; and stresses on the community's housing.

4. Joint Applications

Applicants are encouraged to work with other local municipalities in the development of joint applications. Applications should provide details regarding consultations with nearby communities for cooperative regional efforts for pooling CMF funds for a joint projects. For a joint application, the application must specify which community will be the fiscal agent for the grant. Each community must state how much and from which distribution category the funds are being drawn from. The administering entity would be responsible for all activities related to the management of the grant such as providing timely quarterly reports, preparing expenditures reports and all documentation needed as part of the Close-out Process. Each Community would list the joint applicant, specify which category, and how much each

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community is contributing. The funding may be requested only for the costs of a joint project being proposed by more than one community, not similar projects.

5. Requests for Changes to Components of Grant Awards

The Commission authorized MGC staff to approve requests for changes to components of grant awards provided that staff provides notice of such changes to all Commission members and provided further that such changes shall not exceed 10% of the grant award or \$25,000, whichever is smaller. Requests over this amount must be approved by a vote of the Commission.

6. Waivers and Variances

Applicants may request a waiver of a condition set forth in the Application for the Commission's consideration. All requests for waivers or variances shall be submitted with the Application. The Commission may in its discretion waive or grant a variance from any provision or requirement contained in these Guidelines where the Commission finds that:

- a. Granting the waiver or variance is consistent with the purposes of M.G.L. c. 23K;
- b. Granting the waiver or variance will not adversely affect the public interest; and
- c. Not granting the waiver or variance would cause a substantial hardship to the community, governmental entity, or person requesting the waiver or variance.

The Waiver shall set forth the specific provision of the Guidelines to which the waiver or variance is sought. The Waiver Form can be found at: [_____ hyperlink and attached hereto](#). Applicant may contact Mary Thurlow at mary.thurlow@massgaming.gov with any questions.

The Commission may grant a waiver or variance, deny a waiver or variance, or grant a waiver or variance subject to such terms, conditions and limitations as the Commission may determine.

The terms, conditions, covenants, duties and obligations contained in this Application may be waived only by written agreement executed by duly authorized representatives of the Commission and the Grantee. No waiver by either party of any term, condition, covenant, duty or obligation shall be construed as a waiver of any other term, condition, covenant, duty or obligation nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach, whether of the same or a different section, subsection, paragraph, clause, phrase, or other provision of this Grant.

7. Rescission of Grants

If a Grantee does not expend the funds in a timely manner, the Commission may rescind the grant and make those funds available in the next grant round for the Region in which the grant originated. Before any grant is rescinded, Commission staff will notify the Grantee that the expenditures on the grant are not timely and establish a timeline for the Grantee to either expend the funds or have the grant rescinded.

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8. [How Will the Commission Decide on Applications?](#)

Commission Process:

The Commission may ask Applicants for supplementary materials, may request a meeting with Applicants, and reserves the ability to host a hearing or hearings on any Application. Depending on the content of the Application Commission Staff may consult with outside agencies with expertise in various areas to assist the review process. Staff provides detailed memoranda of considerations for the Commissioner's to review in a public meeting.

The Commission reserves the ability to fund only portions of requested projects and to fund only a percentage of amounts requested. The Commission also reserves the ability to place conditions on any award.

The Commission reserves the right to determine which requests to fund based on its assessment of a broad range of factors including the extent of public benefit each grant is likely to produce.

Evaluation Factors:

- A demonstration that the impact is being caused by the gaming facility;
- The significance of the impact to be remedied;
- The potential for the proposed mitigation measure to address the impact;
- The feasibility and reasonableness of the proposed mitigation measure;
- A demonstration that any program to assist non-governmental entities is for a demonstrated public purpose and not for the benefit or maintenance of a private party;
- The significance of any matching funds including but not limited to the ability to compete for state or federal workforce, transportation or other funds;
- Any demonstration of regional benefits from a grant award;
- A demonstration that other funds from host or surrounding community agreements are not available to fund the proposed mitigation measure;
- A demonstration that such mitigation measure is not already required to be completed by the licensee pursuant to any regulatory requirements or pursuant to any agreements between such licensee and Applicant;
- The inclusion of a detailed scope, budget, and schedule for each mitigation request; and
- The inclusion of information detailing diversity in vendor/supplier spending practices relative to Minority Business Enterprises ("MBE"), Veteran's Business Enterprises ("VBE") and Women's Business Enterprises ("WBE").

9. [Process for the CMF Municipal Block Grants](#)

The following is the anticipated process for the CMF Municipal Block Grants:

- a) The Commission will vote in November 2023 on the proposed grant amounts for each eligible municipality.

FY2025 Community Mitigation Fund Guidelines

- b) Subsequent to the vote, eligible municipalities will receive notification from the Commission regarding the amount of proposed grant funding for their community. This notification will be sent via email to their respective Town Manager/City Administrator/Grant Manager and current CMF Grant Managers noted on previous applications. **Entities should notify the Community Affairs Division of any additional people or changes to ensure that notifications are correctly distributed.**
- c) Municipalities will have until January 31, 2024 to submit their workplan for the proposed grant amount previously issued by the Commission. This will constitute their application for funds as required by 23K Section 61. These workplans must detail how they plan to use the funding.
- d) If applications are not submitted by January 31, 2024 the municipality forfeits the funds for that year.
- e) **After receipt of the Workplans:** Members of the Review Team analyze, and develop recommendations on the workplans for the Commission. The Review Team will review each communities' conformance with the Guidelines. Communities will be given the opportunity to modify their workplans if the Review Team finds areas that do not comply with the Guidelines or require additional information.
- f) Once the workplans are finalized, these will be brought to the Commission for final approval. Such decisions will be made prior to July 1, 2024.
- g) After the Commission's decision, grant instruments and contracts will be prepared and sent to the Applicants. These documents will be based on FY 25.

10. Regional Agencies

There are several Regional Planning Agencies which entities can use to provide services and resources. These agencies have expertise in planning, planning studies, development of mitigation plans for impacts, and can provide other technical assistance in its region.

11. Who Should be Contacted for Questions?

CMF Applicants are encouraged to contact the Commission's staff with any questions or concerns. The Commission's Chief of the Division of Community Affairs, Joseph Delaney, can be reached at (617) 721-9198 or via e-mail at joseph.delaney@massgaming.gov or MGCCMF. The Commission's address is 101 Federal Street, 12th Floor, Boston, MA 02110.

Joseph Delaney	617 721-9198	Joseph.Delaney@massgaming.gov
Mary Thurlow	617 979-8420	Mary.Thurlow@massgaming.gov
Lily Wallace	617 533-9715	Lily.Wallace@massgaming.gov

FY2025 Community Mitigation Fund Guidelines



WAIVER FORM

Please use the chart below to develop a request for a variance or waiver related to your FY 2025 Application:

GRANT INFORMATION	
Applicant:	
Proposed Grant Amount:	
CATEGORY OF GRANT:	
Type of Grant: <input type="checkbox"/> Municipal Block Grant	<input type="checkbox"/> Regional Agency Grant
<input type="checkbox"/> Community Planning	<input type="checkbox"/> Regional Planning Agency
<input type="checkbox"/> Transportation	<input type="checkbox"/> Regional Public Safety
<input type="checkbox"/> Public Safety	<input type="checkbox"/> Workforce Development
<input type="checkbox"/> Gambling harm Reduction	<input type="checkbox"/> Other
<input type="checkbox"/> Specific Impact	
TYPE OF WAIVER	
Change in Funding Amount:	Change in Timeline:
Administrative Costs:	Current Deadline:
Operational Costs:	Requested Supplemental Time:
Project Costs:	
Other Programmatic Requirement (specific other provision requiring a waiver or variance):	
BASIS OF WAIVER REQUEST	
Waiver from a specific provision of Guidelines:	
Basis of proposed mitigation waiver or variance:	



FY2025 Community Mitigation Fund Guidelines

How would granting this request enable Applicant to mitigate impact?
ADMINISTRATOR
Program Manager:
Email:
Telephone:
Address:
Signature of Responsible Municipal Official/Government Entity
By:
Name (print name):
Title:

DRAFT



TO: Chair Cathy Judd-Stein and Commissioners Eileen O'Brien, Bradford Hill, Nakisha Skinner and Jordan Maynard

FROM: Joseph Delaney, Mary Thurlow, and Lily Wallace

CC: Todd Grossman, Interim Executive Director

DATE: October 13, 2023

RE: FY 2025 Community Mitigation Fund Municipal Block Grant Formula

The Community Affairs Division is proposing to restructure the current Community Mitigation Fund (CMF) into a block grant program for eligible municipalities. In order to implement this structure, a formula must be developed to determine the proposed grant amounts to be distributed to each municipality.

In developing this formula, the Division looked at other relevant state programs and worked through multiple funding formulas with the goals of ensuring the formula was equitable for municipalities while also keeping it simple enough to practically implement.

The team identified several factors to consider in the development of the formula:

- 1. Minimum Grant Amount** – Staff recommend that there be a minimum grant amount established by region each year subject to availability of funds. Considering the amount of money available in each region this year, the team recommends the following minimum grants:
 - Region A - \$200,000
 - Region B - \$75,000
 - Category 2 - \$25,000
- 2. Host/Surrounding Community** – Staff recommends that additional funds be awarded for being a designated Host or Surrounding Community. There are several communities in Regions A and B that are not designated Host or Surrounding Communities but are eligible for mitigation funds. These communities were either denied Surrounding Community status or did not participate in the designation of Surrounding Communities. By designating Host and Surrounding Communities, the licensees agreed that these communities would be impacted by the casinos. For the communities that were denied Surrounding Community status, there was no recognition of significant adverse impacts.



Massachusetts Gaming Commission

Staff recommends that the Host community receive an additional 200% of the minimum grant and that designated Surrounding Communities receive an additional 100% of the grant.

3. **Proximity** - The basic premise behind this is that the further geographically a municipality is from the casino, the smaller the impacts will be. This portion of the grant is designed to consider public safety issues, economic impacts, gambling harms, etc. In making the determination of proximity, the team considered whether the municipality directly abutted the Host Community and how far the municipalities were from the casino. We also looked at geographic and physical features (rivers, highways, etc.) to assess how similar municipalities were to one another. The Host Communities received the largest share of these funds as the impacts associated with the casino tend to be greater in these communities. There is not a significant amount of available research to quantify impacts in a congruent fashion. The team used its best judgement to identify similarities and differences among municipalities to assign dollar values to the proximity category. The team recommends re-evaluation of this category on an annual basis as new information becomes available.
4. **Traffic Impacts** - Traffic is one of the largest impacts of the casinos and should be included as a factor in grant awards. The team reviewed the traffic studies associated with the casinos and assigned grant amounts by the percentage of traffic estimated to pass into municipalities on local roads. Traffic that directly accesses an interstate or other limited access highway was not considered in the calculation as MassDOT already receives a percentage of the gaming taxes for state road work. If traffic needs to travel on local streets for a significant distance before entering a limited access highway, that traffic was counted in those communities.

It must be noted that the same traffic may impact multiple communities. For instance, vehicles travelling from the host community and passing into a surrounding community, impact both communities. For each region, the estimated traffic distribution for local roads was added up and normalized to 100%. It was then multiplied by the dollar amount included in the traffic factor.

The Proximity and Traffic factors were weighted differently in each region based on our knowledge of the casinos and their operations. For example, traffic related impacts are more significant in Region A than in Region B, and much more significant than the Category 2 area. Approximately 26% of the total grant amount was earmarked for traffic in Region A, with about 21% in Region B and only 15% for the Category 2 facility.



Available Funding for FY 25

Funds available for the Municipal Block Grant Program will include all of the funds deposited into the CMF from July 1, 2023 through June 30, 2024. Based on our current projections, we anticipate that the following amounts will be available for FY 25 grant round.

Region A	\$11,500,000
Region B	\$ 4,300,000
Category 2	\$ 500,000

The following pages present the proposed grant amounts for each eligible municipality by region.



**Region A – Encore Boston Harbor
FY 25 Proposed Grant Amounts
Total Funding Available - \$11.5 million**

Community	Base Grant	HCA/SCA Status	Proximity to Casino	Traffic	Total
Everett (Host)	\$200,000	\$400,000	\$1,600,000	\$662,000	\$2,862,000
Boston	\$200,000	\$200,000	\$800,000	\$1,407,000	\$2,607,000
Cambridge	\$200,000	\$200,000	\$300,000	\$0	\$700,000
Somerville	\$200,000	\$200,000	\$400,000	\$310,000	\$1,110,000
Medford	\$200,000	\$200,000	\$400,000	\$248,400	\$1,048,400
Malden	\$200,000	\$200,000	\$400,000	\$82,800	\$882,800
Revere	\$200,000	\$0	\$400,000	\$62,100	\$662,100
Chelsea	\$200,000	\$200,000	\$400,000	\$227,700	\$1,027,700
Saugus	\$200,000	\$0	\$0	\$0	\$200,000
Lynn	\$200,000	\$0	\$0	\$0	\$200,000
Melrose	\$200,000	\$0	\$0	\$0	\$200,000
Total	\$2,200,000	\$1,600,000	\$4,700,000	\$3,000,000	\$11,500,000

Region A Grant Breakdown by Percent

Base Grant	19.1%
HCA/SCA Status	13.9%
Proximity	40.9%
Traffic	26.1%

Municipality	Proximity % of Total	Traffic % of Total
Everett	34.0%	22.1%
Boston	17.0%	46.9%
Cambridge	6.4%	0.0%
Somerville	8.5%	10.3%
Medford	8.5%	8.3%
Malden	8.5%	2.8%
Revere	8.5%	2.1%
Chelsea	8.5%	7.6%
Saugus	0.0%	0.0%
Lynn	0.0%	0.0%
Melrose	0.0%	0.0%



Region B –MGM Springfield

FY 25 Proposed Grant Amounts

Available Funds - \$4,300,000

Community	Base Grant	HCA/SCA Status	Proximity to Casino	Traffic	Total
Springfield (Host)	\$75,000	\$150,000	\$666,000	\$512,700	\$1,403,700
West Springfield	\$75,000	\$75,000	\$281,000	\$87,300	\$518,300
Holyoke	\$75,000	\$75,000	\$84,000	\$60,000	\$294,000
Chicopee	\$75,000	\$75,000	\$142,000	\$49,100	\$341,100
Ludlow	\$75,000	\$75,000	\$84,000	\$10,900	\$244,900
Wilbraham	\$75,000	\$75,000	\$142,000	\$21,800	\$313,800
East Longmeadow	\$75,000	\$75,000	\$142,000	\$60,000	\$352,000
Longmeadow	\$75,000	\$75,000	\$142,000	\$32,800	\$324,800
Agawam	\$75,000	\$75,000	\$142,000	\$65,400	\$357,400
Hampden	\$75,000	\$0	\$0	\$0	\$75,000
Northampton	\$75,000	\$0	\$0	\$0	\$75,000
Total	\$825,000	\$750,000	\$1,825,000	\$900,000	\$4,300,000

Region B Grant Breakdown by Percent

Base Grant	19.1%
HCA/SCA Status	17.4%
Proximity	42.4%
Traffic	20.9%

Municipality	Proximity % of Total	Traffic % of Total
Springfield	36.5%	57.0%
West Springfield	15.4%	9.7%
Holyoke	4.6%	6.7%
Chicopee	7.8%	5.5%
Ludlow	4.6%	1.2%
Wilbraham	7.8%	2.4%
East Longmeadow	7.8%	6.7%
Longmeadow	7.8%	3.6%
Agawam	7.8%	7.3%
Hampden	0.0%	0.0%
Northampton	0.0%	0.0%



Massachusetts Gaming Commission

Category 2 – Plainridge Park Casino

FY 25 Proposed Grant Amounts

Available Funding - \$500,000

Community	Base Grant	HCA/SCA Status	Proximity to Casino	Traffic	Total
Plainville (Host)	\$25,000	\$50,000	\$50,000	\$28,300	\$153,300
Wrentham	\$25,000	\$25,000	\$20,000	\$6,800	\$76,800
Foxborough	\$25,000	\$25,000	\$10,000	\$4,500	\$64,500
Mansfield	\$25,000	\$25,000	\$10,000	\$3,000	\$63,000
North Attleborough	\$25,000	\$25,000	\$10,000	\$21,700	\$81,700
Attleborough	\$25,000	\$25,000	\$0	\$10,700	\$60,700
Total	\$150,000	\$175,000	\$100,000	\$75,000	\$500,000

Category 2 Grant Breakdown by Percent

Base Grant	30.0%
HCA/SCA Status	35.0%
Proximity	20.0%
Traffic	15.0%

Municipality	Proximity % of Total	Traffic % of Total
Plainville	50.0%	37.7%
Wrentham	20.0%	9.0%
Foxborough	10.0%	6.0%
Mansfield	10.0%	4.0%
North Attleborough	10.0%	29.0%
Attleborough	0.0%	14.3%



Massachusetts Gaming Commission



COMMUNITY MITIGATION FUND

TO: Chair Cathy Judd-Stein and Commissioners Eileen O'Brien, Bradford Hill, Nakisha Skinner and Jordan Maynard

FROM: Joe Delaney, Mary Thurlow, Lily Wallace

CC: Todd Grossman, Interim Executive Director

DATE: October 13, 2023

RE: Fiscal Year 2025 Draft CMF Guidelines and Municipal Block Grant Formula

The Community Affairs Division is requesting that the Commission vote to put these two documents out for public comment. If approved the Guidelines and Grant Formula will be posted for public comment for a hearing on October 26th from 12:00 – 1:30. After the public hearing the final documents will come back before the Commission for a final vote in November.

Highlights:

CMF Guidelines

1. **Grant Budgets by Region for Municipal Block Grant**

- **Region A** \$11.5 million
- **Region B** \$ 4.3 million
- **Category 2** \$ 0.5 million

2. **Two Types of Grants:**

- Municipal Block Grant:** For eligible communities in the areas of Community Planning, Transportation, Public Safety and Gambling Harm reduction.
- Regional Agency Grant Programs:** These grants include Workforce Development, Regional Public Safety and Regional Planning.

3. **Additional Guidance Provided:** Each grant category identifies casino-related impacts, projects eligible for funding and ineligible projects.

4. **Administrative costs:** Grantees may use up to 7.5% of the grant for administrative purposes up to \$50,000.

5. **Other changes:** There are numerous other minor changes including the subsidy calculation for transportation construction projects, additional guidance on operational and administrative expenses and waiver requests for Municipal Block Grants.

Municipal Block Grant Formula

The Municipal Block Grant Formula takes into account four factors – a minimum grant amount per region, host and surrounding community status, proximity to the casino and traffic impacts. Proposed grant amounts are presented for each eligible municipality.



Massachusetts Gaming Commission

101 Federal Street, 12th Floor, Boston, Massachusetts 02110 | TEL 617.979.8400 | FAX 617.725.0258 | www.massgaming.com



TO: Chair Judd-Stein, Commissioners O'Brien, Hill, Skinner, and Maynard

FROM: Mark Vander Linden, Director of Research and Responsible Gaming;
Long Banh, Responsible Gaming Program Manager

DATE: October 19, 2023

RE: MACGH FY 2024 First Quarter Report

The Expanded Gaming Act includes a number of key mandates to ensure the successful implementation of expanded gaming, including the prevention of and mitigation of social impacts and costs. Chapter 23k section 21(16) requires casino operators to provide an on-site space for an independent substance abuse, compulsive gambling and mental health counseling service and establish a program to train gaming employees in the identification of and intervention with customers exhibiting problem gaming behavior.

To fulfill this mandate, the Commission adopted GameSense, an innovative responsible gaming program that equips casino patrons who chose to gamble with information and tools to adopt positive play behaviors and offers resources to individuals in distress from gambling-related harm. The Commission has a contract with the Massachusetts Council on Gaming and Health (MACGH) to operate the GameSense Information Centers, located on-site at all Massachusetts casinos and staffed 16-24 hours daily by trained GameSense Advisors.

Today, MACGH staff, Chelsea Turner, Chief Operations Officer, Jodie Neally, Director of Recovery Services, Yolanda Gonzalez, GameSense Advisor, and Anna Thomas, GameSense Advisor will share with you GameSense activities and highlights from the first quarter of FY24.



Massachusetts Gaming Commission

GAMESENSE PRESENTATION FY24, QUARTER 1 OCT. 19, 2023

The Massachusetts Council on Gaming
and Health (MACGH)

Presenters:

Chelsea Turner, *Chief Operations Officer*
Jodie Nealley, *Director of Recovery Services*
Yolanda Gonzalez, *GameSense Advisor*
Anna Thomas, *GameSense Advisor*

GameSense[™]

The Massachusetts Council
ON GAMING AND HEALTH



- Personnel Update
- FY24Q1 Interaction Highlights
- GamLine
- RGEM
- Recovery Month & Recovery Advisory Board
- GS Champion Award Winners
- RJHEC
- Communications Highlights
- On the Horizon
- Questions



**Topics for
Today**

PERSONNEL UPDATE

New Additions to the GameSense Team:

- Jolyn (EBH)
- Larry (Floater)
- Anna (EBH)
- LouLouse (EBH)
- Yolanda (EBH)



QUICK FY'24 Q1 INTERACTION HIGHLIGHTS

Highlights include:

- 18% increase in demonstrations & exchanges (substantive interactions), year over year
- 33% increase in VSEs, year over year
- 100% increase in remote VSEs, year over year
- 164% increase in VSEs and Reinstatements initiated by Live Chat, year over year
- 6% increase in Reinstatements, year over year
- 2953 new PlayMyWay enrollees
- 8793 raffle entries (RITC Cooler in July, BBQ basket in August, and Toolkit in September)

GamLine: FY'24 Monthly Statistics

FY24 GAMLINE INTAKE COUNTS	Month	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	TOTAL	MO. AVE
	0 SGEL		66	66	105										237
1 HRIA		64	50	72										186	62
2 Urge		20	11	2										33	11
3 Lottery		15	14	18										47	16
4 Voice Mail		5	4	3										12	4
TOTAL		170	145	200	0	0	0	0	0	0	0	0	0	515	43

FY24 GAMLINE INTAKE PERCENTS	Month	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	TOTAL
	0 SGEL		39%	46%	53%									
1 HRIA		38%	34%	36%										36%
2 Urge		12%	8%	1%										6%
3 Lottery		9%	10%	9%										9%
4 Voice Mail		3%	3%	2%										2%
TOTAL		100%	100%	100%	0%	0%	0%	0%	0%	0%	0%	0%	0%	100%

Hangups	297	367	459											1123
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VPS LINES	Month	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	TOTAL	MO. AVE
	(800)GAMBLER*		296	319	384										999
(800) GAM-1234**		171	193	275										639	213
TOTAL		467	512	659	0	0	0	0	0	0	0	0	0	1638	

VPS %	Month	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	TOTAL
	(800)GAMBLER*		63%	62%	58%									
(800) GAM-1234**		37%	38%	42%										39%
TOTAL		100%	100%	100%										100%

*Our local line (617)449-7737 receives calls going to NCPG LINE 1-800-GAMBLER
 ** MACGH promotes 1-800-GAM-1234

RESPONSIBLE EDUCATION MONTH & RECOVERY MONTH

Theme: “Play it Smart from the Start”

Focus: PMW and Safer Play Tools

Efforts this year included:

- Promotional efforts inside and outside the casinos
- New and upcycled educational activities at the GSICs
- PMW banners
- Special “RG Toolbox” themed baskets
- Tabling activities
- An incentive for GS staff to encourage patrons at each property to sign up for PMW
- A special Mooncake quiz at EBH and PPC



RESPONSIBLE EDUCATION MONTH RESULTS

- The most popular activity was Word Scramble, which engaged 386 patrons, followed by Jeopardy, which engaged 362 patrons
- Running tables at promotions or other areas proved their worth, reaching 1364 people
- PMW Incentive Results
 - EBH: up 63 sign-ups in September over August; 7 GSAs reached the goal
 - MGM: don't know the numbers yet, but 1 GSA has reached his goal
 - PPC: up 37 sign-ups in September over August; all staff at PPC reached this goal
- 527 hours were dedicated to RGEM efforts across all three properties
- Special Thanks:
 - PPC for purchasing toolbox-themed swag for patrons and casino staff
 - \$550 in various increments in gift cards for patrons and casino staff
 - Candy for patrons and casino staff
- MGM for donating 2 \$100 dining gift cards for use in the RGEM baskets



Loulouse and Winnie tabling heart of the house at EBH during RGEM

RGEM & RECOVERY ADVISORY BOARD



GAMESENSE CHAMPION AWARDS

EBH:

- David Hernandez, Food and Beverage
- Juan Carlos, Wynn Rewards
- Bryce Finley, Security

MGM:

- Andrew Badecker, Table Games
- Jonathan Terrell, Security
- Margaret Murty, Environmental Services

PPC:

- Lisa McKenney, Compliance
- Walter Fothergill, Facilities
- Arthur Rosata, Security



MGM Springfield's President Chris Kelly with GS Champion Award Winner Tory (Margaret Murty) & GSA Aisha Shambley

RACIAL JUSTICE & HEALTH EQUITY COMMITTEE

- Monthly meetings and events since November 2019
- We have been spending time educating ourselves about both ongoing struggles for sovereignty and recognition of Native American communities
- Developed a Land Acknowledgement statement that can be used in different work contexts and regions of the Commonwealth
- MACGH continues to prioritize diversity in its hiring so that our team reflects the cultural richness of the stakeholders we serve
- Collectively, we speak 19 languages



BELONGING

INCLUSION

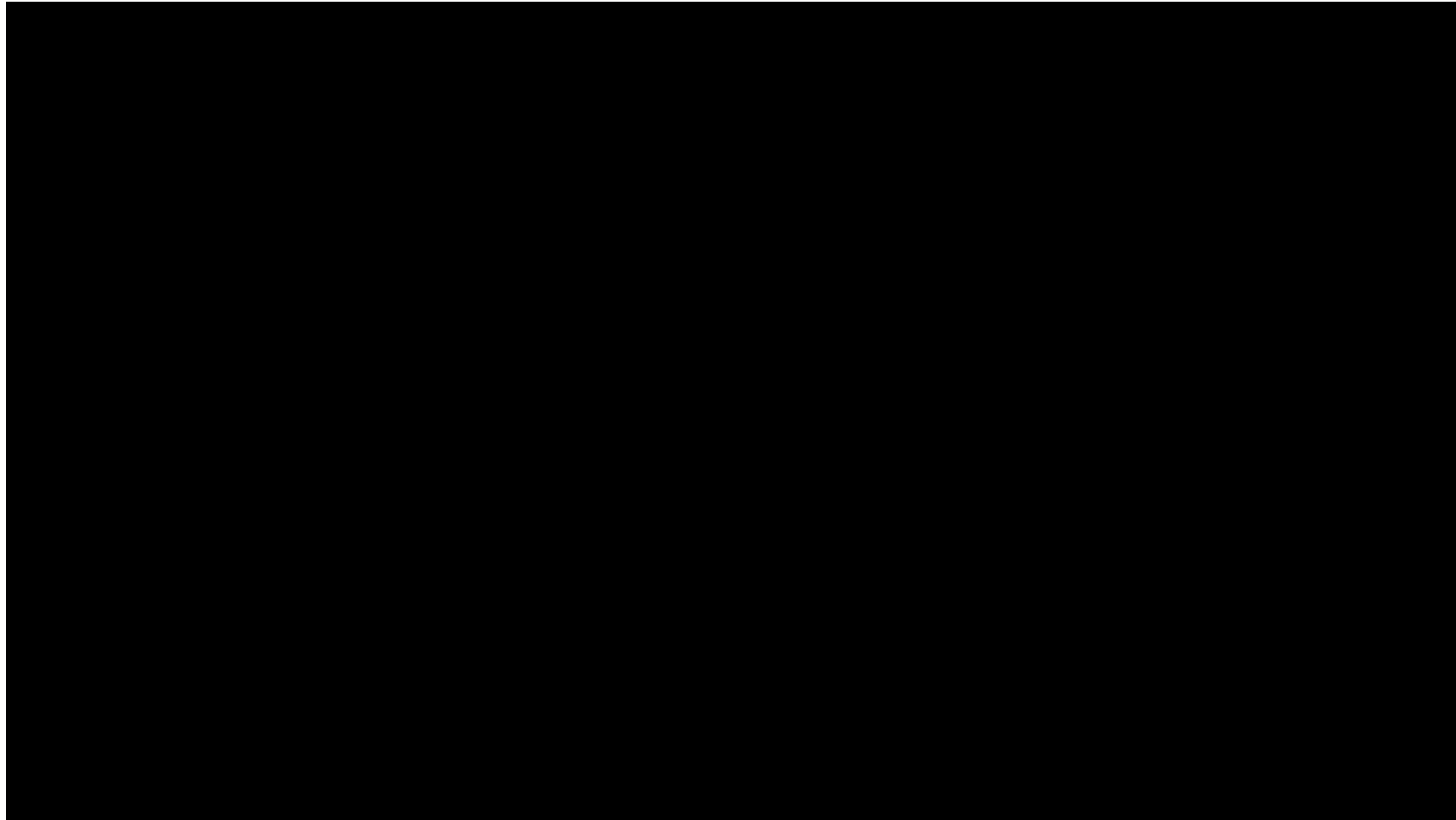
DIVERSITY

EQUITY

COMMUNICATIONS HIGHLIGHTS

- Wrote and produced FOUR radio ads (15 and 30-second versions) aimed toward the sports bettor/sports radio audience
- TWO of the ads accompany video, making them digitally marketable online or streaming TV
- All ads raise awareness around Voluntary Self-Exclusion
- Aired daily on local sports radio during the month of September
- 15 Second VSE Promo Video (Next Slide)

COMMUNICATIONS HIGHLIGHTS



15 Second VSE Promo Video

ON THE HORIZON

- Sports Wagering Educational Tools for GS
- Disaster Recovery Plan
- Customized Trainings for MA Lottery
- NCPG-McGill Gift Responsibly Campaign

QUESTIONS?



The Massachusetts Council
ON GAMING AND HEALTH

GameSense™

