

205 CMR: MASSACHUSETTS GAMING COMMISSION
205 CMR 101.00: M.G.L. C.23K ADJUDICATORY PROCEEDINGS

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101.01: Hearings Before the Commission

(1) Hearings held before the full commission pursuant to 205 CMR 101.01 shall be adjudicatory proceedings **conducted pursuant to 801 CMR 1.01 Formal Rules in accordance with M.G.L. c. 30A, §§ 10 and 11. All hearings shall be further held under 205 CMR 101.00, as applicable, and 801 CMR 1.02: Informal/Fair Hearing Rules unless the applicant/petitioner makes a written request for a hearing under 801 CMR 1.01: Formal Rules. In that event, the commission shall determine based on the facts and circumstances of the matter whether 801 CMR 1.01 or 1.02 will apply in order to ensure a fair outcome. Such determination shall be based on such factors as the complexity of the issues presented, whether all parties are represented by counsel, and similar considerations. Conflicts between 801 CMR 1.01 or 1.02 and 205 CMR 101.00 shall be resolved in favor of 205 CMR 101.00. If the commission grants a request for a hearing to be held pursuant to 801 CMR 1.01: Formal Rules, the provisions of 801 CMR 1.01 (1), (2), (3), (5), (6), (11) and (14) shall not apply.**

(2) The following types of adjudicatory hearings shall be held **directly, in the first instance**, by the commission:

(a) Suitability hearings before the commission pursuant to M.G.L. c. 23K, § 17(f), concerning any findings of fact, recommendations and/or recommended conditions by the ~~B~~**B**ureau relative to the suitability of the applicant for an initial gaming license or renewal of a gaming license, including without limitation, recommendations and recommended conditions resulting from the RFA-1 or new qualifier process pursuant to 205 CMR 115.00: *Phase 1 and New Qualifier Suitability Determinations, Standards and Procedures*.

(b) Hearings regarding the failure of a gaming licensee or qualifier to maintain adequate suitability as set forth in 205 CMR 115.01(4) and any adverse action taken against a gaming licensee or qualifier as a result of said failure.

~~(b)~~ (c) Hearings regarding the termination, revocation or suspension of a category 1 or category 2 gaming license issued by the commission pursuant to M.G.L. c. 23K, and/or the addition or modification of a condition thereto, or the termination, revocation or suspension of a license to conduct a horse racing meeting pursuant to M.G.L. c. 128A.

~~(e)~~ (d) Hearings regarding the transfer of a category 1 or category 2 gaming license or the transfer of a license to conduct a racing meeting or related to the transfer of interest in a category 1 or category 2 gaming license or gaming establishment in accordance with 205 CMR 116.08 through 116.10;

(e) Hearings regarding the assessment of a civil administrative penalty pursuant to M.G.L. c. 23K, § 36, against a category 1 or category 2 gaming licensee or a racing meeting licensee.

(f) Hearings regarding the approval or amendment of the gaming licensee's Operation Certificate as discussed in 205 CMR 151.00: *Requirements For the Operations and Conduct of Gaming at a Gaming Establishment*;

(g) For purposes of reviewing a petition to reopen a mitigation agreement in accordance with 205 CMR 127.04.

(h) Any challenge to the certification or denial of certification of an independent testing laboratory in accordance with 205 CMR 144.06.

(i) Any challenge to the certification or denial of certification as a gaming school in accordance with 205 CMR 137.01(4).

(j) Review of an application for a gaming beverage license, or request to amend, alter, or add a licensed area, pursuant to 205 CMR 136.03(4).

(3) Any request for such a hearing shall be filed with the clerk of the commission on a form provided by the clerk. Such a request shall not operate as a stay of the underlying action unless specifically allowed by the commission upon motion of the aggrieved party. A request for a stay may be allowed at the commission's discretion if one or both of the following two circumstances are demonstrated by the aggrieved party:

a.

- (1) there is a likelihood that the party seeking the stay will prevail on the merits of the case; and
- (2) there is a likelihood that the moving party will be harmed irreparably absent a stay.

b.

- (1) the consequences of the decision(s) to be made in the case are far-reaching;
 - (2) the immediate impact upon the parties in a novel and complex case is substantial;
- or

(3) a significant legal issue(s) is involved.

(4) In order to be considered by the commission, a request for a hearing must be filed no later than 30 days from the date the complained of action was taken, except in the event of civil administrative penalties. The request for review of a civil administrative penalty issued by the Bureau pursuant to M.G.L. c.23K, §36 shall be filed no later than 21 days after the date of the Bureau's notice of issuance of the civil administrative penalty and such a request must comply with the provisions of M.G.L. c. 23K, §36(e). In the case of a temporary suspension of a license by the Bureau in accordance with M.G.L. c. 23K, §35(e), a gaming licensee shall be entitled to a hearing before the Commission within 7 days after the suspension was issued.

(5) The request for a hearing shall include:

- a. the contact information of the party requesting the hearing;
- b. the contact information of counsel representing the party requesting the hearing, if any, and
- c. a brief description of the basis for the request for the hearing. In the event that a temporary suspension has been issued in accordance with M.G.L. c.23K, § 35(e), at its election the licensee may include a request that the hearing be scheduled within 7 days of the date of the issuance of the suspension. If the matter involves a civil administrative penalty, the request shall include a written statement denying the occurrence of any of the acts or omissions alleged by the Bureau in the notice, or assert that the amount of the proposed civil administrative penalty is excessive.

(6) The failure of a party to provide a specific description of the basis for the request for hearing may result in the dismissal of the request per the discretion of the commission.

~~(3) Standing: No person other than an aggrieved applicant and/or gaming licensee shall have standing to challenge Phase 1 or new qualifier findings of fact and recommendations or a recommendation to terminate, revoke or suspend a category 1 or category 2 gaming license.~~

~~(4) Only the aggrieved applicant and the gaming licensee or the horse racing meeting licensee shall have the right to participate in the hearing under 205 CMR 101.01 (2) (a), (b) or unless otherwise ordered by the commission.~~

(7) Any adjudicatory hearing conducted under 205 CMR 101.01 may be closed to the public at the request of either party, or on the commission's own initiative, in order to protect the privacy interests of either party or other individual, to protect proprietary or sensitive technical information including but not limited to software, algorithms and trade secrets, or for other good cause shown. Such a determination rests in the sole discretion of the commission.

(8) ~~(5)~~ Pursuant to M.G.L. c. 23K, § 3(h), the chair may direct that all of the commissioners participate in the hearing and decision of the matter before the commission. In the alternative,

pursuant to M.G.L. c. 23K, § 3(h), the chair with the concurrence of one other commissioner may appoint a ~~presiding officer~~ **single commissioner** to preside over the hearing. The notice scheduling the time and place for the ~~pre-hearing conference~~ shall specify whether the commission or a designated individual shall act as presiding officer in the particular case.

(9) ~~(6)~~ Burden of Proof.

(a) The applicant shall have the affirmative obligation to establish by clear and convincing evidence both its affirmative qualification for licensure and the absence of any disqualification for licensure.

(b) In the case of a recommendation to terminate, revoke or suspend a category 1 or category 2 gaming license, or a license to conduct a ~~horse~~-racing meeting, the bureau or the racing division, as appropriate, shall have the affirmative obligation to establish by substantial evidence ~~why~~ **grounds upon which** the commission should terminate, revoke or suspend the licensee's category 1 or category 2 gaming license or the licensee's license to conduct a ~~horse~~ racing meeting.

(c) In the case of an adverse action taken against a gaming licensee or qualifier for failure to maintain their suitability pursuant to 205 CMR 115.01(4) the Bureau or the racing division, as appropriate, shall have the affirmative obligation to establish by substantial evidence the lack of clear and convincing evidence that the gaming licensee or qualifier remains suitable.

(d) In the case of a transfer of interest, the gaming licensee shall have the affirmative obligation to establish by clear and convincing evidence its compliance with 205 CMR 116.09 et seq.

(e) In the case of a civil administrative penalty, the Bureau shall have the obligation to prove the occurrence of each act or omission by a preponderance of the evidence.

(10) ~~(7)~~ Decisions. Upon completion of the hearing, the commission shall render a written decision as promptly as administratively feasible, in accordance with M.G.L. c. 30A, § 11(8). The written decision of the commission shall be the final decision of the commission.

(11) ~~(8) No-Appeal From Commission's Determination of Suitability.~~ Pursuant to M.G.L. c. 23K, § 17(g), the applicant and/or the gaming licensee shall not be entitled to any further review from the commission's determination of suitability. **~~(9) Decisions by the commission concerning the matters set forth in 205 CMR 101.01(2)(b) et seq. termination, revocation or suspension of a category 1 or category 2 gaming license or the termination, revocation or suspension of a license to conduct a horse racing meeting may be reviewed by the appropriate court pursuant to the provisions of M.G.L. c. 30A.~~**

101.02: Orders Issued by the Bureau or the Racing Division

~~(1) Pursuant to M.G.L. c. 23K the bureau may issue orders or fines, or may revoke, suspend, terminate or condition the license of the holder of any license issued pursuant to M.G.L. c. 23K except for category 1 or category 2 gaming. Such orders or fines are subject to commission review pursuant to 205 CMR 101.03 and 101.04 and include, but are not limited to:~~

- ~~(a) an order to cease any activity which violates the provisions of M.G.L. c. 23K, 205 CMR 101.00 or any other law related to gaming;~~
- ~~(b) an order for the imposition of civil administrative penalties in support of an order to cease and desist, or as part of an order to deny, revoke, suspend or terminate a license or as a penalty for failure to comply with any provision of M.G.L. c. 23K, 205 CMR 101.00 or any law related to gaming;~~
- ~~(c) an order requiring the placement of a person on the exclusion list;~~
- ~~(d) an order denying, revoking, suspending or conditioning a key gaming employee license; a gaming employee standard license; a gaming employee license; a gaming service employee license; gaming employee registration; a gaming vendor license; or a gaming vendor qualifier or other similar license issued under 205 CMR 134.00: *Licensing and Registration of Employees, Vendors, Junket Enterprises and Representatives, and Labor Organizations*;~~
- ~~(e) an order denying, revoking, suspending or conditioning a gaming beverage license or an order denying the transfer of a gaming beverage license.~~
- ~~(f) any other order or fine as may be issued pursuant to M.G.L. c. 23K or 205 CMR 101.00.~~

~~(2) Pursuant to M.G.L. c. 128A and 128C judges or stewards may issue orders or fines, or may deny, revoke, suspend, terminate or condition the license of the holder of any license issued pursuant to M.G.L. c. 128A or 128C except for a license to conduct a horse racing meeting. Such orders or fines include, but are not limited to:~~

- ~~(a) an order or fine issued for violation of the rules and regulations of racing as provided in 205 CMR 3.00 through 14.00;~~
- ~~(b) an order denying, revoking, suspending, terminating or conditioning an occupational license.~~
- ~~(c) an order ejecting an individual from the grounds of the race meeting.~~
- ~~(d) any other order or fine as may be provided pursuant to M.G.L. c. 128A, c. 128C or 205 CMR 3.00 through 14.00.~~

~~(3) Each order or fine issued by the bureau or by the judges or stewards of the racing division shall be in writing and shall include a description of the basis for the order or fine, including the time, date and place of the activity which constitutes the basis for the order or fine, the statutory basis for the issuance of the order or fine, the amount of the fine or penalty assessed and any other the remedial action required. Each order shall further state in clear and concise language that the party subject to the order or the fine may request review of the order or fine and the~~

process for requesting such review. The order shall also state that the review of the order shall be held pursuant to 801 CMR 1.02: *Informal/Fair Hearing Rules* and 205 CMR 101.03 and 101.04.

101.023: Review of Orders Issued by the Bureau or the Racing Division Review of Orders or Civil Administrative Penalties/Forfeitures Issued by the Bureau, Commission Staff, or the Racing Division

(1) An aggrieved party may file a request for review of an order, decision, or fine civil administrative penalty issued by the Bureau, where applicable, relative to the interpretation or application of a statute, regulation, or other applicable authority, or order, decision, or forfeiture issued by the racing judges or stewards, other than those enumerated in 205 CMR 101.01(2), shall be filed with the clerk of the commission on a form provided by the clerk. A request for review shall not operate as a stay of the order, decision, or fine civil administrative penalty/forfeiture issued by the bureau or the judges or stewards, unless the request for review includes a request for a stay and such stay is granted by the hearing officer unless specifically allowed by the hearing officer upon motion of the aggrieved party. A request for a stay may be allowed at the hearing officer's discretion if one or both of the following two circumstances are present:

- a.
 - (1) there is a likelihood that the party seeking the stay will prevail on the merits of the case; and
 - (2) there is a likelihood that the moving party will be harmed irreparably absent a stay.
- b.
 - (1) the consequences of the decision(s) to be made in the case are far-reaching;
 - (2) the immediate impact upon the parties in a novel and complex case is substantial;
 - or
 - (3) a significant legal issue(s) is involved.

(2) The request for review of a civil administrative penalty issued by the bureau pursuant to M.G.L. c.23K §36 shall be filed not later than 21 days after the date of the bureau's notice of issuance of the civil administrative penalty. All other requests for review, aside from those for civil administrative penalties, must be filed not later than 30 days from the date of the order or decision or fine issued by the bureau or the judges or stewards. Requests for review filed later than 30 days from the date of the order or fine issued by the judges or stewards shall be forwarded to the hearing officer for review.

The request for review of a civil administrative penalty issued by the Bureau pursuant to M.G.L. c.23K §36 shall be filed not later than within 21 days after the date of the Bureau's notice of issuance of the civil administrative penalty and such a request must comply with the provisions of M.G.L. c. 23K, §36(e).

In the case of the temporary suspension of a license by the Bureau in accordance with M.G.L. c. 23K, §35(e), a licensee shall be entitled to a hearing before a hearing officer within 7 days after the suspension was issued.

(3) The request for review shall include:

- (a) ~~the name, address and contact information, including telephone number and email, if any,~~ of the party requesting review;
- (b) **contact information** of counsel representing the party requesting review, if any, ~~and~~
- (c) a **brief specific** description of the basis for the request for review. **In the event that a temporary suspension has been issued in accordance with M.G.L. c.23K, §35(e), at its election the licensee may include a request that the hearing be scheduled within 7 days of the date of the issuance of the suspension. If the matter involves a civil administrative penalty, the request shall include a written statement denying the occurrence of any of the acts or omissions alleged by the Bureau in the notice, or assert that the amount of the proposed civil administrative penalty is excessive; and**
- (d) a copy of the order or fine that is the subject of the request for review.

(4) **The failure of a party to provide a specific description of the basis for the request for review in accordance with 205 CMR 101.03(3)(c) shall be grounds for dismissal of the request per the discretion of the hearing officer.**

~~(5) When the request for review is received by the clerk, the clerk will docket the request for review. Upon receipt, t~~The clerk shall assign the request for review to a hearing officer and schedule the hearing on the request for review. ~~Such hearing shall not occur sooner than 30 days after the request for review is filed with the clerk, unless upon the request of a party and for good cause shown the hearing officer orders an accelerated hearing. Mailing of notice to the address on record with the commission, or emailing the notice to the email address provided by the licensee or registrant on their application for licensure or registration shall be deemed satisfactory notice. The notice of hearing shall contain:~~

- a. The name of the petitioner; and
- b. The date, time and place of the hearing

~~(6) The clerk shall request each party to file a brief stating why the order or fine should or should not be upheld and the relief requested. Such brief shall be no longer than 10 pages and shall be due no later than 10 days prior to the date of the hearing.~~

Any adjudicatory hearing conducted under 205 CMR 101.02 may be closed to the public at the request of either party in order to protect the privacy interests of either party or other individual, to protect proprietary technical information including but not limited to software, algorithms and

trade secrets, or for other good cause shown. Any such request may be opposed by the other party. The final determination rests in the sole discretion of the hearing officer.

(7) (a) Upon receipt of the appeal, the hearing officer shall, within ten (10) days, schedule a telephone status conference with all parties. During the status conference the hearing officer shall:

(1) Address any argument that the proceeding should proceed under the Formal Rules, 801 CMR 1.01 et seq.;

(2) Establish a briefing schedule including deadlines for the filing of the petitioner's brief and providing for a reasonable amount of time for the respondent to file a reply brief;

(3) Establish deadlines for the filing of a witness list and exhibit list a reasonable amount of time before the hearing date;

(4) Establish a briefing schedule with respect to any anticipated motions including deadlines for the filing of the movant's brief and providing for a reasonable amount of time for the respondent to file a reply brief;

(5) After completion of the status conference the hearing officer shall issue a written order memorializing all deadlines and provide it to all parties.

(b) After the initial status conference, either party may file a brief explaining how they believe the matter should be decided including the specific relief requested. No late briefs shall be accepted without express permission of the hearing officer. No sur-reply briefs shall be accepted without express permission of the hearing officer. No brief shall be longer than 15 double-spaced pages without express permission of the hearing officer.

A party may request permission to file a brief longer than ~~10~~ 15 pages. Such request shall be filed with the clerk who will forward it to the hearing officer for review. The request must be in writing and state the number of additional pages requested. It shall be up to the discretion of the hearing officer as to whether to grant such request. If the hearing officer grants a request for additional pages, the clerk shall forward the order of the hearing officer to all parties and all parties shall **have** the right to file such additional number of pages. ~~Along with the submission of the brief, each party shall submit a copy of all written evidence to be considered by the hearing officer as well as a list of witnesses that the party wishes to present at the hearing.~~

(8) With or without the submission of a brief, each party shall submit a copy of all written documentary evidence they intend to offer for consideration by the hearing officer as well as a list of all witnesses that the party intends to present at the hearing. The documentary evidence and witness lists shall be provided on or before the date determined by the Hearing Officer during the initial status conference. Failure to submit a brief shall not preclude a party from submitting written evidence or calling witnesses to be considered by the hearing officer. Upon

request, the petitioner shall be provided an opportunity in advance of the hearing to examine and copy the entire content of their case file and all other documents to be used by the commission, bureau, or racing division. All materials submitted to the clerk/hearing officer, including, but not limited to, briefs, evidence and witnesses lists, shall be contemporaneously provided to the all other parties and their counsel via first-class mail or email. Evidence or witnesses that are filed without providing reasonable notice to the opposing party may be precluded at the hearing officer's discretion.

~~(9)(8)~~ All requests for extensions of time to file a brief or to reschedule a hearing date shall be made in writing and filed with the clerk. ~~No request for extension of time to file a brief or to reschedule a hearing shall be considered unless it is made at least seven (7) days prior to the hearing date or briefing deadline. The clerk of the commission may issue orders on procedural and scheduling matters consistent with G.L. c. 23K and 205 CMR in order to further the efficient administration of the commission's hearings process. The clerk shall forward the request for extension of time or to reschedule the hearing date to the hearing officer and the hearing officer may provide an extension of time to file a brief or reschedule a hearing date in the hearing officer's clerk's discretion and for good cause shown. The clerk shall send the hearing officer's order granting an extension of time to file a brief or the rescheduling of a hearing date to all the parties. Any order shall include the number amount of days granted for the extension of time or the new date for the rescheduled hearing. Absent extenuating circumstances no hearing shall be rescheduled more than once.~~

In the event of the appeal of a decision by the Racing judges or stewards, if the petitioner fails to appear at the hearing, the Hearing Officer, after determining that the petitioner received proper notice of the hearing shall dismiss the matter. In the event of a matter before the hearing officer concerning an action taken by the bureau, the bureau may proceed with a hearing before the Hearing Officer even in the absence of the petitioner after determining that the petitioner received proper notice of the hearing.

~~(10)(9)~~ All hearings shall be heard by a hearing officer appointed by the commission. All hearings under 205 CMR 101.03 and 101.04 shall be adjudicatory proceedings held pursuant to 801 CMR 1.02: Informal/Fair Hearing Rules and 205 CMR 101.03 through 101.05 unless a party to the hearing requests that the hearing be held pursuant to 801 CMR 1.01 Formal Rules and the hearing officer, after review of the request, grants the request to hold the hearing pursuant to 801 CMR 1.01. Hearings held before the hearing officer pursuant to 205 CMR 101.02 shall be adjudicatory proceedings conducted in accordance with M.G.L. c. 30A, §§ 10 and 11. All hearings shall be further held under 205 CMR 101.00, as applicable, and 801 CMR 1.02: *Informal/Fair Hearing Rules* unless the applicant/petitioner makes a written request for a hearing under 801 CMR 1.01: *Formal Rules*. In that event, the hearing officer shall determine based on the facts and circumstances of the matter whether 801 CMR 1.01 or 1.02 will apply in order to ensure a fair outcome. Such determination shall be based on such factors as the complexity of the issues presented, whether all parties are represented by counsel, and similar considerations.

Conflicts between 801 CMR 1.01 or 1.02 and 205 CMR 101.00 shall be resolved in favor of 205 CMR 101.00. If the hearing officer grants a request that a hearing be held pursuant to 801 CMR 1.01 Formal Rules, the provisions of 801 CMR 1.01 (1), (2), (3), (5), (6), ~~(7), (8)~~, (11) and (14) shall not apply and the provisions of 205 CMR 101.03 through 101.05 shall govern.

~~(11)(10)~~ There shall be no motions or **formal** discovery allowed in hearings under this 205 CMR 101.03 and 101.04 unless upon the request of a party and for good cause shown, the hearing officer ~~orders~~ **allows** such motions or **formal** discovery **request to be served**. **In the event that motions or formal discovery are allowed by the hearing officer, the hearing officer shall also set forth a reasonable schedule for responding to such motions or discovery requests.**

~~(12)(11)~~ A written transcript or **electronic record** of each hearing shall be created and all witnesses presenting testimony shall be sworn to testify under oath.

~~(13)(12)~~ In addition to the duties and powers of the hearing officer under 801 CMR 1.02 (10)(f), the hearing officer shall **make all factual and legal findings necessary to reach a decision, including evaluating the credibility of all witnesses and evidence presented.** ~~determine if the party requesting review has standing to request review.~~ The hearing officer may ask questions of a party or a witness at the hearing. ~~The hearing officer shall determine the credibility of all witnesses providing testimony at the hearing.~~ The hearing officer can request additional information from any party and may recess or continue the hearing to a later date. **Any party to such a hearing shall be entitled to issue subpoenas as approved by the hearing officer in compliance with 205 CMR 101.02(11) and in accordance with M.G.L. c. 30A, § 12(3).** The hearing officer may request a post-hearing brief from the parties and shall determine the page limit for such brief and the time by which it must be submitted. **The parties may request leave of the hearing officer to submit a post-hearing brief as long as such a request is made within (ten) 10 days of the hearing.**

~~(14)(13)~~ The standard of review of an order or fine issued by the bureau or the racing division shall be the substantial evidence standard unless a different standard is required by c. 23K or c. 128A or c.128C. **The hearing officer shall conduct a review of the matter, making findings of fact and conclusions of law to render a decision. The hearing officer shall affirm the order issued by the bureau or the racing division if there is substantial evidence to support it.** ~~The hearing officer shall determine whether the order or fine issued by the bureau or the racing division is supported by substantial evidence in accordance with the decisions of the Massachusetts courts regarding administrative review of agency decisions.~~

~~(15)(14)~~ The hearing officer shall issue a written decision as soon as administratively feasible after the close of the hearing. The written decision shall include findings of fact and conclusions of law and shall clearly state the basis for the hearing officer's decision. The hearing officer shall file its decision with the clerk. The decision of the hearing officer shall be the final decision of the commission unless a request for **appeal** ~~review by~~ **to** the commission is filed by a

party to the proceeding within 30 days of the date of the hearing officer's decision. **In the event of a timely filed appeal of a civil administrative penalty to the commission, payment of any such penalty shall be stayed through the final decision by the commission.**

~~(15)~~ (16) The clerk shall send a copy of the decision to all parties and shall include with the decision a letter stating that a party may request **appeal** ~~review~~ of the hearing officer's decision ~~to~~ **by** the commission and describing the process for requesting an **appeal** ~~review~~ by the commission.

(17) The hearing officer is authorized to certify any matter directly to the commission. The exercise of such authority will generally be reserved for matters of first impression or those which present extraordinary or unique circumstances. Either party may also request that the hearing officer certify such a matter for commission review. The commission may accept and review the matter or may remand the matter to the hearing officer. In the event that the commission accepts the matter such hearings will be conducted in accordance with 205 CMR 101.02 in which the commission will perform the hearing officer's functions. Appeals of such decisions may be taken in accordance with M.G.L. c.30A in lieu of 205 CMR 101.03.

101.043: Review by the Commission of Decisions of the Hearing Officer

(1) **Any decision issued by a hearing officer in accordance with 205 CMR 101.02 may be appealed to the commission for review.** ~~An appeal request for review of the decision issued by a hearing officer shall be filed with the clerk of the commission on a form provided by the clerk. An appeal request for review shall not operate as a stay of the decision of the hearing officer; unless, along with the filing of a request for review, the party requesting review includes a request for a stay of the decision and such stay is granted by the commission unless specifically allowed by the commission upon motion of the appellant. A request for a stay may be allowed at the commission's discretion if one or both of the following two circumstances are present:~~

- (a)
 - (1) there is a likelihood that the party seeking the stay will prevail on the merits of the case; and
 - (2) there is a likelihood that the moving party will be harmed irreparably absent a stay.
- (b)
 - (1) the consequences of the decision(s) to be made in the case are far-reaching;
 - (2) the immediate impact upon the parties in a novel and complex case is substantial;
 - or
 - (3) a significant legal issue(s) is involved.

(2) **In order to be considered by the commission, the appeal** ~~request for review~~ must be filed not later than 30 days from the date of the decision ~~issued by the hearing officer~~ **was served by the**

clerk in accordance with 205 CMR 101.02(16). Requests for review filed later than 30 days from the date of the order or fine issued by the judges or stewards shall be forwarded to the commission for review. Orders regarding requests for review filed later than 30 days from the date of the order or fine issued by the judges may be issued by a single commissioner appointed by the chairman to issue such orders.

(3) The appeal request for review shall include:

- a. ~~the name, address and contact information, including telephone number and email, if any, of the party requesting~~ the appeal review;
- b. ~~the name and address of counsel representing the party requesting~~ the appeal review, if any, and
- c. a brief description of the basis for the appeal request for review.; and
- d. ~~(4)~~ a copy of the decision of the hearing officer that is the basis for the appeal.

~~(4)~~ Each request for review shall include a copy of the order or fine that is the subject of the request for review.

~~(4)~~~~(5)~~ Upon receipt of the appeal request for review by the commission, the clerk shall docket the request and request a copy of the written record of the hearing from the hearing officer. The hearing officer shall provide a copy of the written record to the clerk no later than 10 days after the clerk's request. The written record shall include the decision of the hearing officer, any briefs submitted by the parties, the evidence submitted to the hearing officer and the transcript of the adjudicatory hearing before the hearing officer. The clerk shall provide a copy of the written administrative record to all parties involved in the matter to be reviewed by the commission. The record may be provided electronically or via other similar means. The record shall include the decision of the hearing officer, any briefs submitted by the parties, the evidence submitted to the hearing officer and the transcript or audio recording of the adjudicatory hearing before the hearing officer. The record may only be expanded by the commission upon petition by a party and a showing of good cause as to why the evidence was not included as part of the hearing record below.

~~(5)~~~~(6)~~ The clerk shall schedule a date for review by the commission. The clerk shall request that each party file a brief stating why the decision of the hearing officer should be affirmed, vacated or modified and the relief requested. Issues not raised before the hearing officer shall not be raised in a brief to the commission. The briefing schedule shall be set by the commission and shall be staggered to provide the appellee adequate time to address the matters raised in the appellant's brief prior to the scheduled hearing before the commission. No brief shall be no longer than 10 15 pages and shall be due no later than 15 days prior to the date of review by the

~~commission.~~ The briefs shall be filed with the clerk. Each party shall serve a copy of its brief on the other party (ies) to the hearing.

~~(6)(7)~~ The clerk shall provide copies of the briefs and a copy of the written record to the commission.

~~(7)(8)~~ A party may request permission to file a brief longer than ~~10~~ 15 pages. Such request must be in writing. The clerk shall forward the request to the commission. It shall be up to the discretion of the commission as to whether to grant such a request. If the commission grants a request for additional pages, the clerk shall forward a copy of the commission's order to all parties to the hearing and all parties shall have the right to file such additional number of pages. Requests to file a brief longer than ~~10~~ 15 pages may be granted by an order issued by a single commissioner appointed by the chairman to issue such orders.

~~(8)(9)~~ All requests for extensions of time to file a brief shall be made in writing to the clerk. The clerk shall forward the request for an extension of time to file a brief to the commission. It shall be up to the discretion of the commission as to whether to grant the request for an extension of time to file a brief. If the commission grants the request for an extension of time to file a brief, the clerk shall forward a copy of the commission's order to the parties and all parties shall have the extension of time to file a brief. Requests for an extension of time to file a brief may be granted by an order issued by a single commissioner appointed by the chairman to issue such orders.

~~(9)(10)~~ The commission's review of the decision of the hearing officer shall be on the ~~written~~ administrative record submitted by the parties of the hearing conducted by the hearing officer. The written record shall include the decision of the hearing officer, any briefs submitted by the parties, the evidence submitted to the hearing officer and the transcript of the adjudicatory hearing before the hearing officer. The commission, in its sole discretion and upon its own motion, may request oral argument on the request to review the decision of the hearing officer.

~~(10)(11)~~ Issues not raised before the hearing officer shall not be raised in the briefs to the commission or otherwise considered by the commission. The commission shall not accept as part of the request for review additional or new evidence not submitted to the hearing officer and not already included in the written record.

~~(11)(12)~~ The standard of review of a decision by the hearing officer shall be a substantial evidence standard. When reviewing a decision from the hearing officer, the commission's determination shall be supported by substantial evidence unless a different standard is required by M.G.L. c. 23K or c. 128A or c.128C. The commission shall determine whether the decision of the hearing officer is supported by substantial evidence in accordance with the decisions of the Massachusetts courts regarding administrative review of agency decisions.

(12)(13) The commission shall conduct a **de novo** review of the decision of the hearing officer based upon the **entire administrative** record submitted to the hearing officer, provided however, that findings made by the hearing officer regarding credibility of witnesses shall **be entitled to substantial deference** ~~not be reviewed~~ by the commission. **As provided by M.G.L. c.30A, § 10, such appeal shall comply with M.G.L. c. 30A, § 11(8). The procedures described in M.G.L. c. 30A, § 11(7) shall only apply if, where applicable, a party makes written request to the commission in advance for a tentative or proposed decision.**

(13)(14) The commission may, **in whole or part**, affirm the decision of the hearing officer, **reverse** ~~vacate~~ the decision of the hearing officer, modify the decision of the hearing officer or remand the matter ~~back~~ to the hearing officer for further action in accordance with the commission's decision. ~~The commission may affirm, vacate or modify the decision of the hearing officer in whole or in part.~~ **Further, the commission may add any condition reasonably calculated to ensure a person's compliance or faithful performance, to penalize for the violations, and/or to deter future violation, including but not limited to fines.** In making its decision, the commission may rely on any evidence contained in the **administrative** record and is not limited to the evidence cited by the hearing officer in support of hearing officer's decision.

(14)(15) The Commission shall issue a written decision as soon as administratively feasible and file it with the clerk. **The decision shall advise the parties of their rights to review in accordance with M.G.L c.23K and 30A, as applicable.** The clerk will provide a copy of the commission's decision to all parties.

101.054: Review of a Commission Decision

Decisions by the commission pursuant to 205 CMR 101 may be reviewed by the appropriate court pursuant to the provisions of M.G.L. c. 30A and M.G.L. c.23K;

Informal Disposition of an Adjudicatory Proceeding

At any time during an adjudicatory proceeding before a hearing officer or the Commission, the parties may make informal disposition of any adjudicatory proceeding by stipulation, agreed settlement or consent order. Upon such a disposition, the parties are obligated to notify the hearing officer or commission through a joint filing indicating that the matter has been resolved and that is signed by all parties and/or their representatives.

205 CMR: MASSACHUSETTS GAMING COMMISSION
205 CMR 115.00: PHASE 1 AND NEW QUALIFIER SUITABILITY DETERMINATION,
STANDARDS, AND PROCEDURES

115.03: Phase 1 and New Qualifier Investigation and Recommendations by the Bureau

(1) The bureau shall conduct an investigation into the qualifications and suitability of all applicants and qualifiers, as provided for in M.G.L. c. 23K, §§ 12 and 16. The bureau may conduct the investigation, in whole or in part, with the assistance of one or more contractor investigators pursuant to 205 CMR 105.10: *Authority to Retain and Utilize Contractor Investigators*. **Additionally, such an investigation may be conducted at any time after a qualifier is granted a positive determination of suitability to ensure that they continue to meet the suitability standards.**

(2) At the completion of the bureau's investigation, it shall submit a written report to the commission. At a minimum, this report will include: recommendations pursuant to M.G.L. c. 23K, §§ 12, 14(i) and 16 and findings of fact pursuant to M.G.L. c. 23K, § 17(f), as required, relative to the suitability of the applicant for a gaming license and/or of any new qualifiers **or existing qualifiers.**

115.04: Phase 1 and New Qualifier Proceedings by the Commission

(1) After the commission has received the bureau's report under 205 CMR 115.03(2) it shall provide a copy to the applicant or ~~new~~ qualifier and the commission shall determine whether it shall initiate a process for a public hearing or adjudicatory proceeding. However, the commission may only utilize the public hearing process with the qualifier's consent.

(2) Adjudicatory Proceeding. If the commission determines that an adjudicatory proceeding shall be held, the commission shall conduct an adjudicatory proceeding pursuant to 205 CMR 101.00: *M.G.L. c. 23K Adjudicatory Proceedings* on the report by the bureau concerning the applicant **or qualifier** pursuant to 205 CMR 115.03(2). ~~The commission will issue a public notice in advance of the adjudicatory proceeding stating the date, time and place of the hearing.~~

(3) Public Hearing. If the commission determines that a public hearing should be held, the commission shall review the bureau's suitability report in a public hearing, subject to redaction of confidential and exempt information described in 205 CMR 103.02(1) through (5). The commission will issue a notice in advance of the public hearing stating the date, time and place of the hearing and the form (oral or written) and conditions pursuant to which the commission will receive public comments.

115.05: Phase 1 and New Qualifier Determination by the Commission

(1) After the proceedings under 205 CMR 115.04, the commission shall issue a written determination of suitability pursuant to M.G.L. c. 23K, §§ 4(15), 12 and 17.

(2) Negative Determination. If the commission finds that an applicant or new qualifier **or existing qualifier** failed to meet its burden of demonstrating compliance with the suitability standards in M.G.L. c. 23K and 205 CMR 115.00, the commission shall issue a negative determination of suitability.

(3) Positive Determination. If the commission finds that an applicant or new qualifier **or existing qualifier** has met its burden of demonstrating compliance with the suitability in M.G.L. c. 23K and 205 CMR 115.00, the commission shall issue a positive determination of suitability which may include conditions and restrictions.

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205 CMR: MASSACHUSETTS GAMING COMMISSION
205 CMR 132.00: DISCIPLINE OF A GAMING LICENSEE

132.01: Discipline of a Gaming License

- (1) Grounds for Action. In addition to the reasons specifically provided for throughout 205 CMR, a gaming license or racing meeting license may be conditioned, suspended, or revoked, and/or the licensee assessed a civil administrative penalty if it is determined that:
- (a) A licensee engaged in an act or practice that caused irreparable harm to the security and integrity of the gaming establishment or the interests of the Commonwealth in ensuring the security and integrity of gaming;
 - (b) Circumstances have arisen that render the licensee unsuitable under M.G.L. c.23K, §§12 and 16;
 - (c) A licensee failed to comply with its approved system of internal controls in accordance with 205 CMR 138.02;
 - (d) A licensee refused or was unable to separate itself from an unsuitable qualifier;
 - (e) As provided in M.G.L. c.23K, §23(b): a licensee: (i) has committed a criminal or civil offense under M.G.L. c.23K or under any other laws of the commonwealth; (ii) is not in compliance with 205 CMR or is under criminal investigation in another jurisdiction; (iii) has breached a condition of licensure; (iv) has affiliates, close associates or employees that are not qualified or licensed under M.G.L. c.23K and 205 CMR with whom the gaming licensee continues to conduct business or employ; (v) is no longer capable of maintaining operations at a gaming establishment; or (vi) whose business practice, upon a determination by the commission, is injurious to the policy objectives of M.G.L. c.23K; or
 - (f) A licensee failed to abide by any provision of M.G.L. c.23K, 205 CMR, condition of gaming license, or order of the commission.
- (2) Finding and Decision. If the bureau finds that a gaming licensee has violated a provision of 205 CMR 132.01(1), it may issue a written notice of decision recommending that the commission suspend, revoke, and or condition said licensee. Either in conjunction with or in lieu of such a recommendation, the bureau may assess a civil administrative penalty upon said licensee in accordance with M.G.L. c.23K, §36. Such notices shall be provided in writing and contain a factual basis and the reasoning in support the decision including citation to the applicable statute(s) or regulation(s) that supports the decision. The bureau may alternatively issue an order temporarily suspending the license in accordance with M.G.L. c.23K, §35(e).

- (3) Civil administrative penalties. The bureau may assess a civil administrative penalty on a gaming licensee in accordance with M.G.L. c.23K, §36 for a violation of 205 CMR 133.07(1).
- (4) Review of Decision. A recommendation made by the bureau to the commission that a gaming license be suspended or revoked shall proceed directly to the commission for review in accordance with 205 CMR 101.01. If the gaming licensee is aggrieved by a decision made by the bureau to assess a civil administrative penalty in accordance with 205 CMR 133.07(2) and (3), it may request review of said decision in accordance with 205 CMR 101.00: *M.G.L. c.23K Adjudicatory Proceedings.*

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205 CMR: MASSACHUSETTS GAMING COMMISSION
205 CMR 133.00: VOLUNTARY SELF-EXCLUSION

133.06: Responsibilities of the Gaming Licensees

A gaming licensee shall have the following responsibilities relative to the administration of the voluntary self-exclusion list:

(7) (a) A gaming licensee shall not pay any winnings derived from gaming to an individual who is prohibited from gaming in a gaming establishment by virtue of having placed their name on the voluntary self-exclusion list in accordance with 205 CMR 133.00. Winnings derived from gaming shall include, but not be limited to, such things as proceeds derived from play on a slot machine/electronic gaming device and a wager, or series of wagers, placed at a table game. Where reasonably possible, the gaming licensee shall confiscate from the individual in a lawful manner, or shall notify a commission agent who shall confiscate, or shall refuse to pay any such winnings derived from gaming or any money or thing of value that the individual has converted or attempted to convert into a wagering instrument whether actually wagered or not. A wagering instrument shall include, but not be limited to, chips, tokens, prizes, non-complimentary pay vouchers, electronic credits on a slot machine/electronic gaming device, and vouchers representing electronic credits/TITO slips. The monetary value of the confiscated winnings and/or wagering instrument shall be paid to the commission for deposit into the Gaming Revenue Fund within 45 days.

(b) If an individual wishes to contest the forfeiture of winnings or things of value, the individual may request a hearing in writing with the commission within 15 days of the date of the forfeiture. The request shall identify the reason why the winnings or things of value should not be forfeited. A hearing shall be conducted in accordance with 205 CMR 101.00: *M.G.L. c.23K Adjudicatory Proceedings* to determine whether the subject funds were properly forfeited in accordance with 205 CMR 133.06.(7)(a);

133.07: Sanctions Against a Gaming Licensee

~~The commission may revoke, limit, condition, suspend or fine a gaming licensee in accordance with 205 CMR if the establishment knowingly or recklessly fails to exclude or eject from its premises any individual placed on the list of self-excluded persons. It shall not be deemed a knowing or reckless failure if an individual on the voluntary self-exclusion list shielded their identity or otherwise attempted to avoid identification while present at a gaming establishment. Further, a gaming licensee shall be deemed to have marketed to an individual on the self-~~

~~exclusion list only if marketing materials are sent directly to an address, email address, telephone number, or other contact identified by the individual on their application.~~

- (1) Grounds for Action. A gaming license may be conditioned, suspended, or revoked, and/or the gaming licensee assessed a civil administrative penalty if it is determined that a gaming licensee has:
 - a) knowingly or recklessly failed to exclude or eject from its premises any individual placed on the list of self-excluded persons. Provided, it shall not be deemed a knowing or reckless failure if an individual on the voluntary self-exclusion list shielded their identity or otherwise attempted to avoid identification while present at a gaming establishment; or
 - b) failed to abide by any provision of 205 CMR 133.00: *Voluntary Self-Exclusion*, M.G.L. c.23K, §45, the gaming licensee's approved written policy for compliance with the voluntary self-exclusion program pursuant to 205 CMR 133.06(9), or any law related to the voluntary self-exclusion of patrons in a gaming establishment. Provided, a gaming licensee shall be deemed to have marketed to an individual on the self-exclusion list only if marketing materials are sent directly to an address, email address, telephone number, or other contact identified by the individual on their application.
- (2) Finding and Decision. If the bureau finds that a gaming licensee has violated a provision of 205 CMR 133.07(1), it may issue a written notice of decision recommending that the commission suspend, revoke, and or condition said gaming licensee. Either in conjunction with or in lieu of such a recommendation, the bureau may issue a written notice assessing a civil administrative penalty upon said licensee. Such notices shall be provided in writing and contain a factual basis and the reasoning in support the decision including citation to the applicable statute(s) or regulation(s) that supports the decision.
- (3) Civil administrative penalties. The bureau may assess a civil administrative penalty on a gaming licensee in accordance with M.G.L. c.23K, §36 for a violation of 205 CMR 133.07(1).
- (4) Review of Decision. A recommendation made by the bureau to the commission that a gaming license be suspended or revoked shall proceed directly to the commission for review in accordance with 205 CMR 101.01. If the gaming licensee is aggrieved by a decision made by the bureau to assess a civil administrative penalty in accordance with 205 CMR 133.07(2) and (3), it may request review of said decision in accordance with 205 CMR 101.00: *M.G.L. c.23K Adjudicatory Proceedings*.

205 CMR: MASSACHUSETTS GAMING COMMISSION
205 CMR 134.00: LICENSING AND REGISTRATION OF EMPLOYEES, VENDORS,
JUNKET ENTERPRISES AND REPRESENTATIVES, AND LABOR ORGANIZATIONS

134.04: Vendors

(1) Gaming Vendors.

(a) Gaming Vendors- Primary. A person who conducts business with a gaming applicant or gaming licensee on a regular or continuing basis for provision of goods or services which directly relates to gaming, as defined by M.G.L. c. 23K, § 2, including, but not limited to a person who does any of the following, shall be designated as a gaming vendor-primary:

1. Manufactures, sells, leases, supplies, or distributes devices, machines, equipment (except gaming table layouts), accessories, or items that meet at least one of the following conditions:
 - a) are designed for use in a gaming area as defined by M.G.L. c. 23K, § 2;
 - b) are designed for use in a simulcast wagering area;
 - c) are used in connection with a game in the gaming area;
 - d) have the capacity to affect the calculation, storage, collection, electronic security, or control of the gaming revenues from a gaming establishment.
2. provides maintenance services or repairs gaming or simulcast wagering equipment, including slot machines;
3. acts as a junket enterprise; or
4. provides items or services that the ~~Commission~~ **bureau** has determined are used in or are incidental to gaming or to an activity of a gaming facility.

Exception. Any person, by submission of a written petition, may request a determination from the ~~commission~~ **bureau** that ~~the person providing goods or services deemed by the Bureau to~~ **despite** meeting a description contained in 205 CMR 134.04(1)(a) **they** need not be licensed as a Gaming Vendor-primary on the grounds that they are not providing services on a regular or continuing basis or that they do not directly relate to gaming.

(8) Review of Decision. Any person aggrieved by a decision made by the bureau in accordance with 205 CMR 134.04 may request review of said decision in accordance with 205 CMR 101.00: M.G.L. c.23K Adjudicatory Proceedings.

134.09; Investigation, Determination, and Appeals for Gaming Establishment Employees and Vendors

(1) Upon receipt of an application for a key gaming employee license in accordance with 205 CMR 134.01, a gaming employee license in accordance with 205 CMR 134.02, a gaming service employee registration in accordance with 205 CMR 134.03, a gaming vendor license in accordance with 205 CMR 134.04(1), a non-gaming vendor registration in accordance with 205 CMR 134.04(4), a gaming vendor qualifier license in accordance with 205 CMR 134.04(4), or a Labor Organization in accordance with 205 CMR 134.05 the Division of Licensing shall conduct a review of each application for administrative completeness and then forward the application to the Bureau which shall conduct an investigation of the applicant. In the event an application is deemed incomplete, the Division of Licensing may either request supplemental information from the applicant or forward the application to the commission with a recommendation that it be denied. For individuals, the investigation shall include obtaining and reviewing criminal offender record information from the Department of Criminal Justice Information Services (DCJIS) and exchanging fingerprint data and criminal history with the Massachusetts Department of State Police and the United States Federal Bureau of Investigation. The investigation shall be conducted for purposes of determining whether the applicant is suitable to be issued a license or registration in accordance with 205 CMR 134.10 and 134.11.

In determining the weight to be afforded any information bearing on suitability in accordance with 205 CMR 134.10 and 134.11, the Division of Licensing, Bureau, or commission, as applicable, shall consider: the relevance of the information to employment in a gaming establishment or doing business with a gaming establishment in general, whether there is a pattern evident in the information, and whether the applicant is likely to be involved in gaming related activity. Further, the information will be considered in the light most favorable to the applicant unless the information cannot be so viewed pursuant to M.G.L. c. 23K or the information obtained does not otherwise support such view. For purposes of 205 CMR 134.00 and M.G.L. c. 23K, § 16 an adjudication of delinquency shall not be considered a conviction. Such a finding may, however, be considered for purposes of determining the suitability of an applicant. Records of criminal appearances, criminal dispositions, and/or any information concerning acts of delinquency that have been sealed shall not be considered for purposes of making a suitability determination in accordance with 205 CMR 134.00 and M.G.L. c. 23K.

- a) Keys Gaming Employee- Executive, Key Gaming Employee- Standard, and Gaming Employees. Upon completion of the investigation conducted in accordance with 205 CMR 134.09(1) the Bureau shall either approve or deny the application for a key gaming employee- executive license, key gaming employee-standard license or a gaming employee license pursuant to 205 CMR 134.10. If the application for a Key Gaming Employee-standard license or Gaming Employee license is approved, the Bureau shall forward a written approval to the Division of Licensing which shall issue a license to the applicant on behalf of the Commission. If the Bureau approves the application for a Key

Gaming Employee-executive, the decision shall be forwarded to the Commission as a recommendation along with the application materials for review and issuance of the license. If the application is denied, the Bureau shall forward the recommendation for denial and reasons therefor to the Division of Licensing which shall issue a written decision to the applicant explaining the reasons for the denial. The decision shall include an advisory to the applicant that they may appeal the decision ~~to the Bureau~~ in accordance with 205 CMR ~~134.09(2)~~ **101.00: M.G.L. c.23K *Adjudicatory Proceedings***. If the denial is based upon information contained in the individual's criminal record the decision shall also include an advisory that the individual will be provided with a copy of their criminal record upon request and that they may challenge the accuracy of any relevant entry therein. The decision may be served via first class mail or via email to the addresses provided by the applicant on the application.

- b) Gaming Service Employees. The Division of Licensing shall issue a gaming service employee registration to the applicant on behalf of the Commission in accordance with 205 CMR 134.11(1). In the event that the Bureau determines upon completion of the investigation conducted in accordance with 205 CMR 134.09(1) that the applicant should be disqualified from holding a registration or is otherwise unsuitable in accordance with 205 CMR 134.11, it shall forward the results of the investigation to the Division of Licensing which shall issue a written notice to the registrant revoking the registration. The notice shall include an advisory to the applicant that they shall immediately cease employment at the gaming establishment and may request an appeal hearing ~~before the Bureau~~ in accordance with ~~134.09(2)~~ **101.00: M.G.L. c.23K *Adjudicatory Proceedings***. If the denial is based upon information contained in the individual's criminal record the decision shall also include an advisory that the individual will be provided with a copy of their criminal record upon request and that they may challenge the accuracy of any relevant entry therein. The notice may be served via first class mail or via email to the addresses provided by the applicant on the application.
- c) Gaming Vendors and Gaming Vendor Qualifiers. Upon completion of the investigation conducted in accordance with 205 CMR 134.09(1) the Bureau shall either approve or deny the application for a gaming vendor license pursuant to 205 CMR 134.10. If the Bureau approves the application for a Gaming Vendor license and any associated applications for Gaming Vendor qualifier licenses, the decisions shall be forwarded to the Commission as a recommendation along with the application materials for review and issuance of the license. If an application for a Gaming vendor qualifier license is approved by the Bureau subsequent to the issuance of the Gaming Vendor license by the commission, the Bureau shall forward a written approval to the Division of Licensing which shall issue a license to the applicant on behalf of the Commission. If the application is denied, the Bureau shall forward the recommendation for denial and reasons therefor to the Division of Licensing which shall issue a written decision to the

applicant explaining the reasons for the denial. The decision shall include an advisory to the applicant that they may appeal the decision to the Bureau in accordance with 205 CMR ~~134.09(2)~~ **101.00: M.G.L. c.23K *Adjudicatory Proceedings***. If the denial is based upon information contained in a person's criminal record the decision shall also include an advisory that the person will be provided with a copy of their criminal record upon request and that they may challenge the accuracy of any relevant entry therein. The decision may be served via first class mail or via email to the addresses provided by the applicant on the application.

- d) Non-gaming Vendors. The Division of Licensing shall issue a non-gaming vendor registration to the applicant on behalf of the Commission in accordance with 205 CMR 134.11(1). In the event that the Bureau determines upon completion of the investigation conducted in accordance with 205 CMR 134.09(1) that the applicant should be disqualified from holding a registration or is otherwise unsuitable in accordance with 205 CMR 134.11, it shall forward the results of the investigation to the Division of Licensing which shall issue a written notice to the registrant revoking the registration. The notice shall include an advisory to the applicant that they shall immediately cease doing business with the gaming establishment and may request an appeal hearing ~~before the Bureau~~ in accordance with 205 CMR ~~134.09(2)~~ **101.00: M.G.L. c.23K *Adjudicatory Proceedings***. If the denial is based upon information contained in the person's criminal record the decision shall also include an advisory that the person will be provided with a copy of their criminal record upon request and that they may challenge the accuracy of any relevant entry therein. The notice may be served via first class mail or via email to the addresses provided by the applicant on the application.
- e) Labor Organizations. The Bureau shall issue a Labor Organization registration to the applicant on behalf of the Commission in accordance with 205 CMR 134.11(1).

~~(2) If an application for a key gaming employee license, gaming employee license, gaming service employee registration, gaming vendor license, non-gaming vendor registration, or gaming vendor qualifier license is denied or revoked in accordance with 205 CMR 134.09(1) the applicant may appeal the decision and request a hearing before the Bureau within 30 days of service of the decision. The request for an appeal hearing must be in writing on a form provided by the Bureau and contain an explanation of the basis for the appeal.~~

~~(3) The Bureau shall appoint a hearing officer to preside over the appeal hearing requested by an applicant in accordance with 205 CMR 134.09(2). The hearing will be conducted in accordance with M.G.L. c. 30A and 801 CMR 1.02: *Informal/Fair Hearing Rules*. An audio recording of the hearing shall be taken. The hearing officer shall issue a written decision to the applicant. The hearing officer may affirm the denial of the application or revocation of the registration, reverse the decision and recommend that the license or registration be issued, or recommend that the~~

~~license or registration be issued with conditions. The hearing officer may recommend any condition that is reasonably calculated to ensure faithful performance of the employee's duties or vendor's obligations. The decision shall include an advisory to the applicant that they may appeal the decision to the commission in accordance with 205 CMR 134.09(5). The decision may be served via first class mail or via email to the addresses provided by the applicant on the application.~~

~~(4) After a hearing conducted in accordance with 205 CMR 134.09(3) the following shall apply:~~

- ~~a) If the hearing officer recommends that a Key Gaming Employee standard license, Gaming Employee license, gaming service employee registration, Gaming vendor qualifier, or non gaming vendor registration be issued, the Division of Licensing shall issue a license or registration to the applicant on behalf of the Commission.~~
- ~~b) If the hearing officer recommends that the application for a Key Gaming Employee executive or Gaming vendor license be issued, the decision shall be forwarded to the Commission as a recommendation along with the application and appeal materials for review and issuance of the license.~~

~~(5) If an application for a key gaming employee license, gaming employee license, gaming service employee registration, gaming vendor license, non gaming vendor registration, or gaming vendor qualifier is denied or approved with conditions in accordance with 205 CMR 134.09(3) the applicant may appeal the decision and request a hearing before the commission within 30 days of service of the decision. The request for an appeal hearing must be in writing on a form provided by the commission and contain an explanation of the basis for the appeal. The hearing will be conducted at a public meeting solely on the record of the administrative proceedings conducted by the Bureau in accordance with 205 CMR 134.09(3). The Bureau shall forward a copy of the administrative record of the proceeding to the commission promptly upon receipt of the notice of appeal.~~

~~(6) After the hearing conducted in accordance with 205 CMR 134.09(5) the commission shall issue a written decision to the applicant. The commission may affirm the denial of the application or revocation of the registration, reverse the decision and order that the license or registration be issued, order that the license or registration be issued with conditions or remand the matter to the Bureau for further proceedings. The commission may impose any condition that is reasonably calculated to ensure faithful performance of the employee's duties or vendor's obligations.~~

~~(7) In reviewing the Bureau's decision in accordance with 205 CMR 134.09(6), the commission may consider whether the decision or any condition imposed is:~~

- ~~a) In excess of the statutory or regulatory authority or jurisdiction of the commission; or~~
- ~~b) Based upon an error of law; or~~

- e) ~~Made upon unlawful procedure; or~~
- d) ~~Unsupported by substantial evidence; or~~
- e) ~~Arbitrary or capricious, an abuse of discretion, or otherwise not in accordance with law.~~

~~(8) The decision of the commission made in accordance with 205 CMR 134.09(6) and (7) shall be final and an applicant shall not be entitled to further review.~~

134.10: Affirmative License Standards for the Licensing of Employees and Vendors of the Gaming Establishment

(4) Rehabilitation.

- a. An applicant for a Key gaming employee license, gaming employee license or a gaming vendor qualifier license may provide proof of rehabilitation from a criminal conviction as part of the application for licensure.
- b. An applicant for a Key gaming employee license may not appeal a decision made by the Bureau ~~to the Commission in accordance with 205 CMR 134.09(6)~~ that was based upon a disqualifying prior conviction in accordance with 205 CMR 134.10(3)(a) on the basis that they wish to demonstrate rehabilitation.
- c. An applicant for a Gaming employee license or gaming vendor qualifier license may appeal a decision made by the Bureau based upon a disqualifying prior conviction in accordance with 205 CM R 134.10(3)(a) on the basis that they wish to demonstrate rehabilitation only if the conviction occurred before the ten year period immediately preceding the date of submission of the application for licensure or registration.
- d. ~~In its discretion, the Bureau and/or Commission may issue a~~ **A** Gaming employee license or Gaming vendor qualifier license **may be issued** to an applicant who can affirmatively demonstrate ~~the applicant's~~ rehabilitation. In considering the rehabilitation of an applicant, ~~the Bureau and Commission shall consider~~ the following **shall be considered**:
 - 1. the nature and duties of the position of the applicant;
 - 2. the nature and seriousness of the offense or conduct;
 - 3. the circumstances under which the offense or conduct occurred;
 - 4. the date of the offense or conduct;
 - 5. the age of the applicant when the offense or conduct was committed;

6. whether the offense or conduct was an isolated or repeated incident;
7. any social conditions which may have contributed to the offense or conduct; and
8. any evidence of rehabilitation, including recommendations and references of persons supervising the applicant since the offense or conduct was committed.

(e) Any applicant may appeal a decision made by the Bureau based upon a conviction for a crime of moral turpitude as set forth in 205 CMR 134.10(2)(f). ~~In its discretion, the Bureau and Commission may issue a~~ **A** Key gaming employee license, Gaming employee license, or gaming vendor qualifier license **may be issued** to an applicant who can affirmatively demonstrate ~~the applicant's~~ rehabilitation. In considering the rehabilitation of an applicant, ~~the Bureau and Commission shall consider~~ the factors outlined in 205 CMR 134.10(4)(d) **shall be considered**.

(f) An applicant for a license or registration shall be at least 18 years of age at the time of application.

134.11: Affirmative Registration Standards for the Registration of Employees and Vendors of the Gaming Establishment and Labor Organizations

(4) Rehabilitation.

- a) The holder of a Gaming service employee registration or non-gaming vendor registration may appeal a decision made by the Bureau based upon a disqualifying prior conviction in accordance with 205 CMR 134.11(2) on the basis that they wish to demonstrate rehabilitation only if the conviction occurred before the ten year period immediately preceding application for licensure or registration.
- b) ~~In its discretion, the Bureau and/or Commission may issue a~~ **A** Gaming service employee registration or a non-gaming vendor registration **may be issued** to an applicant who can affirmatively demonstrate ~~the applicant's~~ rehabilitation. In considering the rehabilitation of an applicant ~~the Bureau and Commission shall consider~~ the following **shall be considered**:

- 1.the nature and duties of the position of the applicant;
- 2.the nature and seriousness of the offense or conduct;
- 3.the circumstances under which the offense or conduct occurred;
- 4.the date of the offense or conduct;
- 5.the age of the applicant when the offense or conduct was committed;
- 6.whether the offense or conduct was an isolated or repeated incident;
- 7.any social conditions which may have contributed to the offense or conduct; and

8.any evidence of rehabilitation, including recommendations and references of persons supervising the applicant since the offense or conduct was committed.

- c) Any applicant may appeal a decision made by the Bureau based upon a conviction for a crime of moral turpitude as set forth in 205 CMR 134.11(3). ~~In its discretion, the Bureau and Commission may issue a~~ A Gaming service employee registration or non-gaming vendor registration **may be issued** to an applicant who can affirmatively demonstrate ~~the applicant's~~ rehabilitation. In considering the rehabilitation of an applicant, ~~the Bureau and Commission shall consider~~ the factors outlined in 205 CMR 134.11(4)(b) **shall be considered**.

(5) An applicant for a registration shall be at least 18 years of age or older at the time of application.

(6) The Bureau may deny an application for registration as a non-gaming vendor if it determines that the applicant formed the applicant entity for the sole purpose of circumventing 205 CMR 134.04(1)(b).

134.16: Term of Licenses

(1) Licenses and registrations issued in accordance with 205 CMR 134.00 shall be valid for the following terms:

(e) Non-gaming Vendors. Non-gaming vendor registration shall be for an initial term of five years. The initial term of a Non-gaming vendor license shall expire and be renewable on the last day of the month on the fifth anniversary of the issuance date. Non-gaming vendor registration renewals shall be for a term of ~~five~~ **three** years.

134.19: Disciplinary Action

(1) Grounds for Disciplinary Action. Any **employee or vendor** license or registration issued under 205 CMR 134.00 may be conditioned, suspended, or revoked, **or a civil administrative penalty assessed**, if the ~~commission~~ **Bureau** finds that a licensee or registrant has:

- a) ~~(1)~~ been arrested or convicted of a crime while employed by a gaming establishment and failed to report the charges or the conviction to the commission;
- b) ~~(2)~~ failed to comply with M.G.L. c. 23K, § 13; or

- c) ~~(3)~~ failed to comply with any provision of M.G.L. c. 23K or 205 CMR pertaining to licensees and registrants **including failure to act in conformance with an applicable provision of the gaming licensee's system of internal controls approved in accordance with 205 CMR 138.02.**

~~(2) Complaints. Any person may file a complaint against any person licensed or registered in accordance with 205 CMR 134.00. All complaints relative to a licensee or registrant must be in writing on a form provided by the Commission. All complaints must be received by the Commission within one year of the date of the alleged wrongdoing. The Commission or Bureau may itself initiate a complaint at any time notwithstanding the date of the alleged wrongdoing.~~

Finding and Decision. If the Bureau finds that a licensee or registrant has violated a provision of 205 CMR 134.19(1) it may issue a written notice of its intent to reprimand, suspend, or revoke said license or registration. Such notice shall be provided in writing and contain a factual basis and the reasoning in support the decision including citation to the applicable statute(s) or regulation(s) that supports the action. It shall further advise the licensee or registrant of their right to a hearing and their responsibility to request a hearing in accordance with 205 CMR 134.19(4), if they so choose, and that failure to do so may result in the decision automatically being imposed. Mailing of the notice to the address on record with the Commission, or emailing the notice to the address provided to the Commission by the licensee/registrant shall be deemed satisfactory service of the notice. The Bureau may alternatively issue an order temporarily suspending a license in accordance with M.G.L. c.23K, §35(e).

~~(3) Basis of Complaint. A complaint must allege wrongdoing by a licensee or registrant in the form of a violation of 205 CMR 134.19(1) and/or M.G.L. c. 23K.~~

Civil administrative penalties. The Bureau may assess a civil administrative penalty on a licensee or registrant in accordance with M.G.L. c.23K, §36 for a violation of 205 CMR 134.19(1).

~~(4) Review and Investigation of Complaints. Every complaint filed shall be reviewed by the commission or its designee. A hearing may be convened, the complaint may be forwarded to the Bureau, or the complaint may be dismissed in the discretion of the commission or its designee. The Bureau may, if it elects, investigate a complaint prior to scheduling a hearing. In its discretion, the Bureau may resolve informal patron complaints without formal investigation, notification of parties, or convening a hearing. Failure of a complainant to cooperate in the investigation may be grounds for dismissal of a complaint.~~

Review of Decision. Any person aggrieved by a decision made by the Bureau in accordance with 205 CMR 134.19(2) or (3) may request review of said decision in accordance with 205 CMR 101.00: *M.G.L. c.23K Adjudicatory Proceedings*. Failure to request such review may result in the decision automatically being imposed.

~~(5) Notice of Hearing. If the Bureau determines that a hearing shall be held to resolve a complaint, reasonable notice shall be provided to the complainant and the licensee or registrant. Mailing of notice to the address on record with the Commission, or emailing the notice to the address provided by the licensee or registrant on their application for licensure or registration, shall be deemed satisfactory notice. The notice of hearing shall contain:~~

~~(a) The name of the complainant;~~

~~(b) The date, time and place of said hearing;~~

~~(c) The location of the incident giving rise to the complaint.~~

~~(6) Hearing. Hearings convened pursuant to 205 CMR 134.19 shall be conducted pursuant to 801 CMR 1.02: *Informal/Fair Hearing Rules* and M.G.L. c. 30A. Any party may be represented by legal counsel. All parties shall be permitted to present an opening statement, testify on their own behalf, cross examine all witnesses, present any relevant witness testimony, present any relevant documentary evidence, and offer a closing argument. The Bureau may question any witness and include any records kept by the commission as exhibits. The Bureau may conclude the hearing at any time and issue a decision based on the evidence presented.~~

~~If a licensee or registrant does not appear for the hearing, the Bureau may conduct a hearing in his or her absence and render a decision based upon the evidence presented, but only after making a finding that the licensee was provided notice as required by 205 CMR 134.19(5). The Bureau may designate a hearing officer to convene a hearing and either make a recommendation or issue a decision on its behalf.~~

~~(7) Subpoenas. The Bureau may issue a subpoena in accordance with M.G.L. c. 30A, § 12 requiring the attendance and testimony of witnesses and the production of any evidence, including books, records, correspondence or documents, relating to any matter in question in the proceeding.~~

~~(8) Decisions and Discipline of License and Registration Holders. The Bureau shall issue a written decision after the hearing. Decisions shall be issued in a reasonably prompt manner. The Bureau may suspend a license or registration for a fixed period of time, revoke a license or registration permanently, or issue a reprimand the licensee or registrant. In conjunction with or in lieu of these disciplinary measures, the Bureau may assess a fine pursuant to M.G.L. c. 23K, § 36, and recoup the costs of investigation. Any license or registration that is suspended or revoked shall be forwarded to the Bureau immediately. A person whose license is revoked may apply in writing to the commission for reinstatement no sooner than five years from the date of the revocation.~~

~~(9) Appeals.~~

~~(a) Any person aggrieved by a decision of the hearing officer may, in writing, request review of said decision by the commission. The filing of such a petition shall not serve to stay any disciplinary action taken by the hearing officer.~~

~~(b) The commission may review such decision at its discretion. Such review is an administrative review that shall be based solely on the administrative record and is not to be construed as a second hearing on the same complaint(s). After review, the commission may either deny the petition or remand the matter to the hearings officer for further proceedings as directed. The~~

~~filing of an appeal with the commission shall serve to toll the timing provisions of M.G.L. c. 30A, § 14 until such time as a final decision is rendered by the commission.~~

~~(c) Any person aggrieved by a decision of the hearings officer or the commission may appeal such decision in conformance with M.G.L. c. 30A, § 14.~~

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205 CMR: MASSACHUSETTS GAMING COMMISSION
205 CMR 136.00: SALE AND DISTRIBUTION OF ALCOHOLIC BEVERAGES AT
GAMING ESTABLISHMENTS

136.03: Issuance of License and Permit

(1) Authority. Pursuant to M.G.L. c. 23K, § 26, the commission may grant a gaming beverage license to a gaming licensee for purposes of allowing the sale and distribution of alcoholic beverages within all licensed areas of the gaming establishment as identified and defined in the license subject to 205 CMR 136.00 to be drunk on the premises of the gaming establishment, subject to any restrictions imposed on the license.

(2) Hearings and Additional Information. After reviewing a gaming beverage license application submitted pursuant to 205 CMR 136.04(1), an application to amend a licensed area, or an application for a special event beverage permit submitted pursuant to 205 CMR 136.04(3), and prior to taking action on the application the commission or the commission's Division of Licensing may request additional information from the applicant to complete or supplement the application, **or** may request that the applicant modify the application in the interests of the integrity of gaming and/or public health, welfare, or safety, ~~or may schedule a hearing for the applicant to address any issues that relate to the application.~~

(3) Gaming Beverage License and Licensed Areas. Applications for licensure shall be submitted to the commission's Division of Licensing. Upon receipt of a complete application for a gaming beverage license, a complete application to amend, alter, or add a licensed area, and the fees required by 205 CMR 136.05, the Division of Licensing shall review the application to determine whether it contains all of the elements required in accordance with 205 CMR 136.04. If the Division of Licensing is satisfied that the application meets the requirements of 205 CMR 136.04 and M.G.L. c. 23K, § 26, and that any modifications requested in accordance with 205 CMR 136.03(2) have been satisfactorily addressed, it shall forward the application to the commission with a recommendation that it be approved. If it is not satisfied that the application meets the requirements of 205 CMR 136.04, or that a modification requested in accordance with 205 CMR 136.03(2) has been satisfactorily addressed, it shall engage in the process outlined in 205 CMR 136.03(2) or deny the application and advise the applicant that it may appeal the decision **directly** to the commission **in accordance with 205 CMR 101.01**.

(4) The commission shall review the application **at a hearing conducted in accordance with 205 CMR 101.01** upon receipt from the Division of Licensing and may approve the application, or parts thereof, and issue the gaming beverage license if it meets all of the requirements of 205 CMR 136.00 and M.G.L. c. 23K, § 26, or deny or condition the gaming beverage license, or parts thereof, if it determines that the application does not meet all of the requirements of 205

CMR 136.00 and M.G.L. c. 23K, § 26 or ~~would~~ **may** in some way compromise the integrity of gaming and/or public health, welfare, or safety.

136.09: Administrative Action

- (1) Grounds for Action. A gaming beverage license issued under 205 CMR 136.03 may be suspended, revoked, conditioned and/or assessed a civil administrative penalty if the Bureau finds that a licensee has:
 - c) failed to comply with any provision of 205 CMR 136.00
 - d) failed to comply with any provision of M.G.L. c. 23K or 205 CMR pertaining to the sale and distribution of alcoholic beverages in the gaming establishment; or
 - e) failed to act in conformance with a provision of the gaming licensee's approved system of internal controls related to the service of alcoholic beverages.
- (2) Finding and Decision. If the Bureau finds that a gaming beverage licensee has violated a provision of 205 CMR 136.09(1), it may issue a written notice of decision reprimanding, suspending, or revoking the license and/or issuing a civil administrative penalty to said licensee. Such notice shall be provided in writing and contain a factual basis and the reasoning in support the decision including citation to the applicable statute(s) or regulation(s) that supports the decision. It shall further advise the licensee of its right to a hearing, and their responsibility to request a hearing in accordance with 136.09(4) if they so choose, and that failure to do so may result in the decision automatically being imposed.
- (3) Civil administrative penalties. The Bureau may assess a civil administrative penalty on a gaming beverage licensee in accordance with M.G.L. c.23K, §36 for a violation of 205 CMR 136.09(1).
- (4) Review of Decision. If the gaming beverage licensee is aggrieved by a decision made in accordance with 205 CMR 136.09(2) or (3) it may request review of said decision in accordance with 205 CMR 101.00: *M.G.L. c.23K Adjudicatory Proceedings*. Failure of the licensee to request review may result in the decision automatically being imposed.

205 CMR: MASSACHUSETTS GAMING COMMISSION
205 CMR 137.00: GAMING SCHOOLS

137.06: Discipline

(1) Concurrent Obligations. Any school approved in accordance with 205 CMR 137.00 shall continue to be subject to all applicable laws and regulations enforced by its approving entity in accordance with 205 CMR 137.01(3)(e) including the Division of Professional Licensure and Board of Higher Education.

(2) Notice of Action. Any gaming school certified in accordance with 205 CMR 137.00 must report any disciplinary action commenced by its approving entity, accreditor, any other governing agency, identified in accordance with 205 CMR 137.01(3)(e), the Office of the Attorney General, or any other law enforcement agency to the commission within ten days of such notice being received and shall have an affirmative obligation to advise the commission as to the outcome promptly upon determination.

(3) Any certification issued in accordance with 205 CMR 137.00 may be suspended or revoked, or the school reprimanded **or a civil administrative penalty assessed**, for any of the following reasons:

- a) failure to abide by any provision of 205 CMR 137.00;
- b) failure to provide updated information relative to its application in accordance with 205 CMR 137.01(6);
- c) disciplinary action has been taken or pursued against the school by its governing agency or entity as identified in 205 CMR 137.01(3)(e), the Office of the Attorney General, or any other law enforcement agency;
- d) the school is unable to provide the proper education required to prepare individuals for employment at a gaming establishment or facility as a dealer, slot machine technician, or surveillance personnel or is otherwise unsuitable in accordance with M.G.L. c. 23K, § 12;

~~(4) Complaints. Any person may file a complaint with the commission against any school certified in accordance with 205 CMR 137.00. All complaints must be in writing on a form provided by the commission. All complaints must be received by the commission within one year of the date of the alleged wrongdoing. The commission or Bureau may itself initiate a complaint at any time notwithstanding the date of the alleged wrongdoing.~~

Finding and Decision. If the Bureau finds that a gaming school licensee has violated a provision of 205 CMR 137.06(3), it may issue a written notice of decision reprimanding, suspending, or revoking the license or assessing a civil administrative penalty upon said licensee. Such notice shall be provided in writing and contain a factual basis and the reasoning in support the decision including citation to the applicable statute(s) or regulation(s) that supports the decision. It shall further advise the licensee of its right to a hearing and its responsibility to request a hearing in accordance with 137.06(6) if they so choose, and that failure to do so may result in the decision automatically being imposed. Mailing of the notice to the address on record with the

Commission, or emailing the notice to the address provided to the commission by the licensee shall be deemed satisfactory notice of the decision.

(5) ~~Basis of Complaint.~~ A complaint must allege wrongdoing by the school in the form of a violation of 205 CMR 137.06(3) and/or M.G.L. c. 23K.

Civil administrative penalties. The Bureau may assess a civil administrative penalty on a gaming school licensee in accordance with M.G.L. c.23K, §36 for a violation of 205 CMR 137.06(3).

(6) ~~Review and Investigation of Complaints.~~ Every complaint filed shall be reviewed by the commission's Division of Licensing. A hearing may be convened, the complaint may be forwarded to the Bureau, or the complaint may be dismissed in the discretion of the Division of Licensing. Failure of a complainant to cooperate in the investigation may be grounds for dismissal of a complaint

Review of Decision. If a gaming school licensee is aggrieved by a decision made in accordance with 205 CMR 137.06(4) or (5) it may request review of said decision in accordance with 205 CMR 101.00: *M.G.L. c.23K Adjudicatory Proceedings*. Failure of the licensee to request review may result in the decision automatically being imposed.

(7) ~~Notice of Hearing.~~ If the commission's Division of Licensing determines that a hearing shall be held to resolve a complaint, reasonable notice shall be provided to the complainant and the school. Mailing of notice to the address on record with the commission, or emailing the notice to the address provided by the school on their application for licensure or registration, shall be deemed satisfactory notice. The notice of hearing shall contain:

- a) The name of the complainant;
- b) The date, time and place of said hearing;
- c) A description, including the location, of the incident giving rise to the complaint

(8) ~~Hearing.~~ Hearings convened pursuant to 205 CMR. 137.00 shall be conducted pursuant to 801 CMR 1.02: *Informal/Fair Hearing Rules* and M.G.L.c. 30 A. Any party may be represented by legal counsel. All parties shall be permitted to present an opening statement, testify on their own behalf, cross-examine all witnesses, present any relevant witness testimony, present any relevant documentary evidence, and offer a closing argument. The commission's Division of Licensing may question any witness and include any records kept by the commission as exhibits. The Division of Licensing may conclude the hearing at any time and issue a decision based on the evidence presented.

If a school does not appear for the hearing, the commissions Division of Licensing may conduct a hearing in its absence and render a decision based upon the evidence presented, but only after making a finding that the school was provided notice as required by 205 CMR 137.06(7).

~~The commission's Division of Licensing may designate a hearing officer to convene a hearing and either make a recommendation or issue a decision on its behalf.~~

~~(9) Subpoenas. The commission's Division of Licensing may issue a subpoena in accordance with M.G.L. c. 30A, § 12 requiring the attendance and testimony of witnesses and the production of any evidence, including books, records, correspondence or documents, relating to any matter in question in the proceeding.~~

~~(10) Decisions and Discipline of License and Registration Holders. The commission's Division of Licensing shall issue a written decision after the hearing. Decisions shall be issued in a reasonably prompt manner. The Division of Licensing may suspend the certification of a school for a fixed period of time, revoke a certification permanently, or issue a reprimand to the school. In conjunction with or in *Lieu* of these disciplinary measures, the Division of Licensing may assess a fine pursuant to M.G.L. c. 23K, § 4(15), and recoup the costs of investigation. A school that has its certification revoked may apply in writing to the commission for reinstatement no sooner than five years from the date of the revocation.~~

~~(11) Appeals.~~

- ~~a) Any person aggrieved by a decision of the commission's Division of Licensing may, in writing, request review of said decision by the commission. The filing of such a petition shall not serve to stay any disciplinary action taken by the Division of Licensing.~~
- ~~b) Upon the filing of a petition in accordance with 205 CMR 137.06(11)(a) the commission may review such decision at its discretion. Such review is an administrative review that shall be based solely on the administrative record and is not to be construed as a second hearing on the same complaint(S). After review, the commission may either deny the petition or remand the matter to the commission's Division of Licensing for further proceedings as directed. The filing of an appeal with the commission shall serve to toll the timing provisions of M.G.L. c. 30A, § 14 until such time as a final decision is rendered by the commission.~~
- ~~e) Any person aggrieved by a decision of the commission's Division of Licensing or the commission may appeal such decision in conformance with M.G.L. c. 30A, § 14.~~

TITLE 205: MASSACHUSETTS GAMING COMMISSION
CHAPTER 138.00: UNIFORM STANDARDS OF ACCOUNTING PROCEDURES AND
INTERNAL CONTROLS

138.07: ~~Internal Controls A: (Reserved)~~ Administrative Action

(1) Grounds for Action. A gaming licensee may be conditioned, suspended, or revoked, or a civil administrative penalty assessed, if it is determined that the gaming licensee has:

- a) failed to abide by any provision of 205 CMR 138.00: *Uniform Standards of Accounting Procedures and Internal Controls*;
- b) failed to abide by any provision of M.G.L. c.23K related to internal controls;
- c) failed to abide by any provision of the gaming licensee's system of internal controls approved in accordance with 205 CMR 138.02.

(2) Finding and Decision. If the Bureau finds that a gaming licensee has violated a provision of 205 CMR 138.07(1), it may issue a written notice of decision recommending that the commission suspend, revoke, and or condition said gaming licensee. Either in conjunction with or in lieu of such a recommendation, the Bureau may issue a written notice assessing a civil administrative penalty upon said licensee. Such notices shall be provided in writing and contain a factual basis and the reasoning in support the decision including citation to the applicable statute(s) or regulation(s) that supports the decision.

(3) Civil administrative penalties. The Bureau may assess a civil administrative penalty on a gaming licensee in accordance with M.G.L. c.23K, §36 for a violation of 205 CMR 138.07(1).

(4) Review of Decision. A recommendation made by the Bureau to the commission that a gaming license be conditioned, suspended or revoked shall proceed directly to the commission for review in accordance with 205 CMR 101.01. If the gaming licensee is aggrieved by a decision made by the Bureau to assess a civil administrative penalty in accordance with 205 CMR 138.07(2) and (3), it may request review of said decision in accordance with 205 CMR 101.00: M.G.L. c.23K: *Adjudicatory Proceedings*.

205 CMR: MASSACHUSETTS GAMING COMMISSION
205 CMR 152.00: INDIVIDUALS EXCLUDED FROM A GAMING ESTABLISHMENT

152.04: Investigation and Initial Placement of Names on the List

(4) If a request for a hearing is received from the individual, a hearing shall be scheduled before a hearing officer and notice of such, including the date, time, and issue to be presented, shall be sent to the individual. The hearing shall be conducted in accordance with 205 CMR 101.02: *Review of Orders or Civil Administrative Penalties/Forfeitures Issued by the Bureau, Commission Staff, or the Racing Division*. If the hearing officer finds that the individual meets one or more criterion for inclusion on the list in accordance with 205 CMR 152.03 the individual's name shall be placed on the exclusion list. If the hearing officer finds that the individual does not meet any criterion for inclusion on the list, the individual's name shall not be placed on the list and the matter closed.

152.06: Duty of Gaming Licensee

~~(6) The commission may revoke, limit, condition, suspend or fine a gaming licensee if it knowingly or recklessly fails to exclude or eject from its gaming establishment any individual placed by the commission on the list of excluded persons.~~

152.07: Petition to Remove Name from Exclusion List

(1) An individual who has been placed on the list in accordance with 205 CMR 152.00 may petition the commission in writing to request that their name be removed from the list. Except in extraordinary circumstances, such a petition may not be filed sooner than five years from the date an individual's name is initially placed on the list.

(2) The individual shall state with particularity in the petition the reason why the individual believes they no longer satisfy one or more criterion for inclusion on the list in accordance with 205 CMR 152.03.

(3) The commission shall schedule a hearing on any properly filed petitions ~~and provide written notice to the petitioner identifying the time and place of the hearing. Such a hearing shall be conducted~~ in accordance with 205 CMR 101.00: *M.G.L. c. 23K Adjudicatory Proceedings*.

152.08: Forfeiture of Winnings

(3) If an individual wishes to contest the forfeiture of winnings or things of value, the individual may request a hearing in writing with the commission within 15 days of the date of the forfeiture. The request shall identify the reason why the winnings or things of value should not be forfeited. ~~The commission shall schedule a hearing on such request and provide notice to the petitioner.~~ A hearing shall be conducted in accordance with 205 CMR 101.00: *M.G.L. c.23K Adjudicatory Proceedings* to determine whether the subject funds were properly forfeited in accordance with 205 CMR 152.08.

152.09: Sanctions Against a Gaming Licensee

- (1) Grounds for Action. A gaming license may be conditioned, suspended, or revoked, and/or the gaming licensee assessed a civil administrative penalty if the Bureau finds that a gaming licensee has:
 - a) knowingly or recklessly fails to exclude or eject from its premises any individual placed on the list of excluded persons. Provided, it shall not be deemed a knowing or reckless failure if an individual on the exclusion list shielded their identity or otherwise attempted to avoid identification while present at a gaming establishment; or
 - b) failed to abide by any provision of 205 CMR 152.00: *Individuals Excluded from a Gaming Establishment*, M.G.L. c.23K, §45, the gaming licensee's approved written policy for compliance with the exclusion list program pursuant to 205 CMR 152.06(5), or any law related to the exclusion of patrons in a gaming establishment.
- (2) Finding and Decision. If the Bureau finds that a gaming licensee has violated a provision of 205 CMR 152.09(1), it may issue a written notice of decision recommending that the commission suspend, revoke, and or condition said gaming licensee. Either in conjunction with or in lieu of such a recommendation, the Bureau may issue a written notice assessing a civil administrative penalty upon said licensee. Such notices shall be provided in writing and contain a factual basis and the reasoning in support the decision including citation to the applicable statute(s) or regulation(s) that supports the decision.
- (3) Civil administrative penalties. The Bureau may assess a civil administrative penalty on a gaming licensee in accordance with M.G.L. c.23K, §36 for a violation of 205 CMR 152.09(1).
- (4) Review of Decision. A recommendation made by the Bureau to the commission that a gaming license be conditioned, suspended or revoked shall proceed directly to the commission for review in accordance with 205 CMR 101.01. If the gaming licensee is

aggrieved by a decision made by the Bureau to assess a civil administrative penalty in accordance with 205 CMR 152.09(2) and (3), it may request review of said decision in accordance with 205 CMR 101.00: *M.G.L. c.23K Adjudicatory Proceedings*.

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