

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

(1) The Bureau shall investigate any individual who may meet one or more criterion for inclusion on the list in accordance with 205 CMR 152.03 upon referral by the commission, the Gaming Enforcement Division of the Office of the Attorney General, or a gaming licensee. The Bureau may investigate any individual on its own initiative.

(2) If, upon completion of an investigation, the Bureau determines to place an individual on the exclusion list, the Bureau shall prepare an order that identifies the individual and sets forth a factual basis as to why the individual meets one or more criterion for inclusion on the list in accordance with 205 CMR 152.03.

(3) The Bureau shall serve the order prepared in accordance with 205 CMR 152.04(2) upon the named individual advising them that it intends to place the individual's name on the exclusion list. The order shall also notify the individual that placement of their name on the exclusion list will result in their prohibition from being present in a gaming establishment and shall offer them an opportunity to request a hearing before a hearing officer to review the Bureau's order. The order shall be sent by registered or certified mail return receipt requested or by publication in a daily newspaper of general circulation for one week. The individual shall have 30 days from the date of the service of the order to request a hearing, except for notice provided by publication in a newspaper in which case the individual shall have 60 days from the last publication. Alternatively, the Bureau may provide an individual with in hand service of the ~~preliminary~~ order in which case the individual shall have ten days from the date of service to request a hearing.

(4) If a request for a hearing is received from the individual, a hearing shall be scheduled before a hearing officer **in accordance with 205 CMR 101** 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: ~~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***. ~~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.~~ (5) ~~If no request for a hearing is received within the applicable timeline provided in 205 CMR~~

(5) If no request for a hearing is received within the applicable timeline provided in 205 CMR 152.04(3), the individual's name shall be placed on the exclusion list.

(6) In accordance with 205 CMR 101, a decision of the hearing officer may be appealed to the commission. A request for appeal to the commission shall not operate as a stay of the decision of the hearing officer.

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 identify or coordinate with the Massachusetts State Police Gaming Enforcement Unit to 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~~ Bureau 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. Following an investigation, the Bureau shall prepare a written determination whether to remove the individual from the list and setting forth a factual basis as to why the individual does or does not continue to satisfy one or more of the criterion for inclusion on the list.

(3) The individual shall have 30 days from the date of service of the Bureau's determination to request a hearing before the hearing officer in accordance with 205 CMR 101.00: *M.G.L. c. 23K Adjudicatory Proceedings*. 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.

(4) In accordance with 205 CMR 101.00: *M.G.L. c. 23K Adjudicatory Proceedings*, a decision of a hearing officer may be appealed to the commission. Removal of an individual's name from the list shall not occur until all agency appeals have been exhausted or the time for such appeals has run.

(5) An individual who was placed on the excluded list by virtue of an order of the district court, in accordance with M.G.L. c. 23K, § 45(i), may not petition for removal in accordance with 205 CMR 152.07.