

TITLE 19

OTHER AGENCIES

SUBTITLE K. CASINO CONTROL COMMISSION/CASINO REINVESTMENT DEVELOPMENT AUTHORITY

CHAPTER 40

GENERAL PROVISIONS

Authority

N.J.S.A. 5:12-54, 60, 63c, 69a and 74; N.J.S.A. 52:14B-3.

Source and Effective Date

R.1994 d.461, effective August 15, 1994.
See: 26 N.J.R. 2564(a), 26 N.J.R. 3746(a).

Executive Order No. 66(1978) Expiration Date

Chapter 40, General Provisions, expires on August 15, 1999, except for Subchapter 6, Disability Discrimination Grievance Procedure, which is exempt under 28 C.F.R. Part 35.

Chapter Historical Note

Chapter 40, General Provisions, became effective with Subchapter 1, Practices and Procedures, adopted as R.1977 d.394, effective October 21, 1977. See: 9 N.J.R. 546(a). Subchapter 2, Child Labor Violations, was adopted as R.1979 d.378, effective September 26, 1979. See: 11 N.J.R. 418(a), 11 N.J.R. 599(d). Subchapter 3, Confidential Information, was adopted as R.1983 d.380, effective September 19, 1983. See: 15 N.J.R. 238(a), 15 N.J.R. 1604(c).

Pursuant to Executive Order No. 66(1978), Chapter 40, except Subchapter 2 which was allowed to expire, was readopted as R.1984 d.454, effective September 26, 1984. See: 16 N.J.R. 2259(a), 16 N.J.R. 2832(a). Pursuant to Executive Order No. 66(1978), Chapter 40 was readopted as R.1989 d.495, effective August 24, 1989. As a part of R.1989 d.495, Subchapter 3 was recodified as Subchapter 4, and a new Subchapter 2, Organization and Operation of the Commission; Subchapter 3, Information and Filings, and Subchapter 5, Professional Practice, were adopted, effective September 18, 1989. See: 21 N.J.R. 1975(b), 21 N.J.R. 3022(b). See, also, section annotations for specific rulemaking activity.

Pursuant to Executive Order No. 66(1978), Chapter 40 was readopted as R.1994 d.461. See: Source and Effective Date. See, also, section annotations.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. CONSTRUCTION AND APPLICATION OF RULES

- 19:40-1.1 Authority
- 19:40-1.2 Definitions
- 19:40-1.3 Construction and amendments
- 19:40-1.4 Words and terms; tense, number and gender
- 19:40-1.5 Severability and preemption
- 19:40-1.6 Practice where regulations do not govern
- 19:40-1.7 through 19:40-1.13 (Reserved)

SUBCHAPTER 2. ORGANIZATION AND OPERATION OF THE COMMISSION

- 19:40-2.1 Organization
- 19:40-2.2 Meetings
- 19:40-2.3 Quorum; votes

- 19:40-2.4 Resolutions and minutes
- 19:40-2.5 Delegation of Commission authority
- 19:40-2.6 Post-employment restrictions

SUBCHAPTER 3. INFORMATION AND FILINGS

- 19:40-3.1 Offices; hours
- 19:40-3.2 Official records; fees for copies
- 19:40-3.3 Communications; notices
- 19:40-3.4 Public information office
- 19:40-3.5 Filing of petitions and applications
- 19:40-3.6 Petitions for rulemaking
- 19:40-3.7 Declaratory rulings

SUBCHAPTER 4. CONFIDENTIAL INFORMATION

- 19:40-4.1 Definitions
- 19:40-4.2 Determination of confidential status
- 19:40-4.3 Access
- 19:40-4.4 State Records Storage Center; retention schedule; storage; destruction
- 19:40-4.5 Retention in secure storage facilities; access
- 19:40-4.6 Temporary custody by authorized personnel
- 19:40-4.7 Copies
- 19:40-4.8 Release; notice
- 19:40-4.9 Penalties

SUBCHAPTER 5. PROFESSIONAL PRACTICE

- 19:40-5.1 General provisions
- 19:40-5.2 The practice of law
- 19:40-5.3 Notice of appearance by attorney
- 19:40-5.4 Other professions and occupations

SUBCHAPTER 6. DISABILITY DISCRIMINATION GRIEVANCE PROCEDURE

- 19:40-6.1 Definitions
- 19:40-6.2 Purpose
- 19:40-6.3 Required ADA Notice
- 19:40-6.4 Designated ADA coordinator
- 19:40-6.5 Grievance procedure
- 19:40-6.6 Grievance contents
- 19:40-6.7 Grievance form
- 19:40-6.8 Investigation

SUBCHAPTER 1. CONSTRUCTION AND APPLICATION OF RULES

19:40-1.1 Authority

These rules and regulations are issued under and pursuant to the authority of the Casino Control Act, constituting chapter 110, Laws of New Jersey 1977, as amended.

19:40-1.2 Definitions

(a) The following words and terms are defined in the New Jersey Casino Control Act (P.L. 1977, c.110, as amend-

ed) and are used in the rules of the Commission as defined in that Act:

"Applicant"
 "Application"
 "Authorized game" or "authorized gambling game"
 "Casino"
 "Casino employee"
 "Casino hotel employee"
 "Casino hotel security employee"
 "Casino key employee"
 "Casino license"
 "Casino security employee"
 "Casino service industry"
 "Commission"
 "Complimentary service or item"
 "Conservator"
 "Creditor"
 "Debt"
 "Director"
 "Division"
 "Encumbrance"
 "Equal employment opportunity"
 "Equity security"
 "Family"
 "Game" or "gambling game"
 "Gaming" or "gambling"
 "Gaming device" or "gaming equipment"
 "Gross revenue"
 "Hearing examiner"
 "Holding company"
 "Hotel" or "approved hotel"
 "Intermediary company"
 "Junket"
 "Junket enterprise"
 "Junket representative"
 "License"
 "License or registration fee"
 "Licensed casino operation"
 "Licensee"
 "Operation"
 "Party"
 "Person"
 "Principal employee"
 "Property"
 "Publicly traded corporation"
 "Registrant"
 "Registration"
 "Regulated complimentary service account"
 "Resident"
 "Respondent"
 "Security"
 "Slot machine"
 "Statement of compliance"
 "Subsidiary"
 "Transfer"

(b) The following words and terms, when used in these rules, shall have the following meanings, unless the context clearly indicates otherwise:

"Access badge" is defined in N.J.A.C. 19:41-1.4(b).

"Act" or "Casino Control Act" means the New Jersey Casino Control Act (P.L. 1977, c.110, as amended).

"Affiliate" of, or a person "affiliated" with, a specific person means a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

"All-purpose slot machine hopper" or "all-purpose hopper" is defined in N.J.A.C. 19:45-1.36.

Audit department executive is defined in N.J.A.C. 19:41-1.11(b)2.

"Bill changer" means any mechanical, electrical, or other device, contrivance or machine designed to interface mechanically, electrically or electronically with a slot machine for the purpose of dispensing from an all-purpose hopper an amount of coins or slot tokens that is equal to the amount of currency or the denomination of a coupon inserted into the bill changer.

"Casino affiliate check" means a check issued by a person that is an affiliate of a New Jersey casino licensee and holds a gaming license in any other jurisdiction. A casino affiliate check shall be drawn on the bank account of the affiliate, be made payable only to the person presenting the check, and shall not contain any other endorsements.

"Casino check" means a check which is drawn by a casino licensee upon the licensee's account at any New Jersey banking institution and made payable to a person in redemption of the licensee's gaming chips, pursuant to N.J.S.A. 5:12-100(k) in return, either in whole or in part, of a person's deposit on account with the casino licensee pursuant to N.J.S.A. 5:12-101(b), or for winnings from slot machine, keno or simulcasting wagering payoffs, or table game progressive payouts and which is identifiable in a manner approved by the Commission as a check issued for one of these purposes. At a minimum, such identification method shall include an endorsement or imprinting on the check which indicates that the check is issued in redemption of gaming chips, in return of funds on account with the casino licensee or for winnings from slot machine, keno or simulcast wagering payoffs, or table game progressive payouts.

"Casino hotel alcoholic beverage (CHAB) employee" means any natural person employed by a CHAB licensee whose responsibilities include the handling, service, delivery, purchase, control or storage of alcoholic beverages.

"Casino hotel alcoholic beverage (CHAB) licensee" is defined at N.J.A.C. 19:50-1.1.

“Casino licensee” or “licensed casino” means the holder of any license, issued pursuant to the Casino Control Act, that authorizes the ownership or operation of a casino and, if applicable, of a casino simulcasting facility.

Casino manager is defined in N.J.A.C. 19:45-1.11(b)4 and 1.12(b)9.

“Casino simulcasting” is defined in N.J.A.C. 19:55-1.1.

“Casino simulcasting facility” is defined in N.J.A.C. 19:55-3.1 through 3.4.

“Chairman” or “Chair” and “Commissioner” or “member” means the Chair and any member of the Casino Control Commission, respectively.

“Change machine” means any mechanical, electrical, or other device which operates independently of a slot machine which, upon insertion of currency therein, shall dispense an equivalent amount of loose or rolled coin or slot tokens.

“Change person” means a person employed in the operation of a casino to possess an imprest inventory of coin, currency and slot tokens received pursuant to N.J.A.C. 19:45-1.35(d) and used for the even exchange with slot machine patrons of coupons, coin, currency, gaming chips, slot tokens and prize tokens.

“Coin acceptor” means the slot and accompanying device, approved by the Commission, that is the part of a slot machine into which a patron, in the normal course of operating the machine, inserts a coin or slot token for the purpose of activating play and which is designed to identify those coins or slot tokens so inserted that are appropriate for use in that machine and to reject all slugs, prize tokens and other non-conforming objects so inserted.

“Contested case” means a proceeding, including any licensing proceedings, in which the legal rights, duties, obligations, privileges, benefits or other legal relations of specific parties are required by constitutional right or by statute to be determined by an agency by decisions, determinations, or orders, addressed to them or disposing of their interests, after opportunity for an agency hearing.

“Controller” is defined in N.J.A.C. 19:45-1.11(b)8.

“Count room” is defined in N.J.A.C. 19:45-1.32.

Credit manager is defined in N.J.A.C. 19:45-1.11(b)6.

Director of security is defined in N.J.A.C. 19:45-1.11(b)7.

Director of surveillance is defined in N.J.A.C. 19:45-1.11(b)1.

“Establishment” means a casino hotel complex, meeting the requirements of the Casino Control Act, wherein gam-

ing or simulcast wagering is conducted or gaming devices are used in connection with gaming.

“Gaming day” is defined in N.J.A.C. 19:45-1.1A.

“Gaming guide” is defined in N.J.A.C. 19:47-8.5.

“Hard count room” is defined in N.J.A.C. 19:45-1.32.

“Hopper” is defined in N.J.A.C. 19:45-1.36.

“Hub facility” is defined in N.J.A.C. 19:55-1.1.

“Interested person” means any person whose specific legal rights, duties, obligations, privileges, benefits or other specific legal relations are affected by the adoption, amendment or repeal of a specific regulation or by any decision, order or ruling of the Commission.

“Location number” means the unique number assigned to each site on a casino floor or in a casino simulcasting facility that contains the following: a pit and each table game located therein, a slot machine and any bill changer attached thereto or incorporated therein, an automated coupon redemption machine, a credit voucher machine or a self-service pari-mutuel machine.

“Machine denomination equivalent” is defined in N.J.A.C. 19:45-1.37.

MIS department manager is defined in N.J.A.C. 19:45-1.11(b)3.

“On a daily basis” means something which occurs or is performed each gaming day.

“Operation certificate” means a certificate issued by the Commission which certifies that operation of a casino and, if applicable, of a casino simulcasting facility conforms to the requirements of the Act and applicable regulations.

“Pari-mutuel ticket” is defined in N.J.A.C. 19:55-1.1.

“Pari-mutuel window” is defined in N.J.A.C. 19:45-1.14A(b)1.

“Payout-only jackpot meter” and “payout-only win meter” are defined in N.J.A.C. 19:45-1.37.

“Payout-only slot machine hopper” or “payout-only hopper” is defined in N.J.A.C. 19:45-1.36.

“Physical connection” for the purposes herein means an enclosed permanent pedestrian passageway. In no event shall the main entrance or only access to an approved hotel be through a casino.

“Pit” means the area enclosed or encircled by the arrangement of gaming tables in which casino personnel ad-

minister and supervise the games played at the tables by the patrons located on the outside perimeter of the area.

"Prize token" is defined in N.J.A.C. 19:46-1.33.

"Public area" means the areas in each casino and casino simulcasting facility that are open to the public in accordance with a casino licensee's internal controls.

"Regulation" or "rule" means the regulation adopted by the Commission pursuant to the Act.

"Restricted areas" or "restricted casino areas" means the cashier's cage, the soft count room, the hard count room, the slot booths and runway areas, the interior of table game pits, the surveillance room and catwalk areas, the slot machine repair room and any other area specifically designated by the Commission as restricted elsewhere in the rules of the Commission in a casino licensee's operation certificate.

"Satellite cage" is defined in N.J.A.C. 19:45-1.14.

"Security podium" is defined in N.J.A.C. 19:41-1.4(g)5.

"Simulcast counter" is defined in N.J.A.C. 19:45-1.14A(c).

"Simulcast horse race" is defined in N.J.A.C. 19:55-1.1.

"Simulcast payout" means the money paid to a patron in exchange for a credit voucher or a winning, cancelled or refunded pari-mutuel ticket.

Slot department manager is defined in N.J.A.C. 19:45-1.11(b)5 and 1.12(h)5.

"Slot token" is defined in N.J.A.C. 19:46-1.33.

"Slot zone" means a specified area on a casino floor that contains one or more slot machines.

"Slug" means any object, other than coin appropriately used to activate play, that is found in a slot machine hopper, slot drop bucket or slot drop box and that is not approved pursuant to N.J.A.C. 19:46-1.33.

"Soft count room" is defined in N.J.A.C. 19:45-1.32.

"Zone letter" or "zone number" means the unique alpha or numeric designation assigned to each slot zone.

Amended by R.1984 d.454, effective September 26, 1984.
See: 16 N.J.R. 2259(a), 2832(a).

Definitions substantially amended.
Amended by R.1987 d.302, effective July 20, 1987.
See: 18 N.J.R. 2005(a), 19 N.J.R. 1321(a).

Added text to definition "Slot machines".
Amended by R.1988 d.34, effective January 19, 1988.
See: 19 N.J.R. 1890(a), 20 N.J.R. 205(a).

Added definition "affiliate".
Amended by R.1989 d.187, effective April 3, 1989.

See: 20 N.J.R. 2644(a), 21 N.J.R. 933(b).

Definition of "junket representative" expanded to include individuals who derive no compensation from their junket activities, other than complementaries.

Amended by R.1989 d.495, effective September 18, 1989.

See: 21 N.J.R. 1975(b), 21 N.J.R. 3022(b).

Changes to definitions of "authorized game", "casino employee", "casino hotel employee", "casino key employee", "casino service industry", "gross revenue" and "slot machine".

Notice of Receipt of Petition for Rulemaking.

See: 22 N.J.R. 1635(b).

Amended by R.1992 d.110, effective March 2, 1992.

See: 23 N.J.R. 3243(a), 24 N.J.R. 858(c).

Added new definitions for "gaming day" and "on a daily basis".

Amended by R.1992 d.474, effective December 7, 1992.

See: 24 N.J.R. 3223(a), 24 N.J.R. 4417(a).

Added to definition of "authorized game" statutory reference to N.J.S.A. 5:12-5, added games of minibaccarat, red dog, pai gow and sic bo.

Amended by R.1993 d.37, effective January 19, 1993.

See: 24 N.J.R. 3695(a), 25 N.J.R. 348(b).

Definitions amended: authorized game, casino employee, casino key employee, casino service industry; definitions added: casino simulcasting, casino simulcasting facility, hub facility, pari-mutuel ticket, pari-mutuel window, satellite cage, simulcast counter, simulcast horse race, simulcast payout.

Amended by R.1994 d.31, effective January 18, 1994.

See: 25 N.J.R. 4866(a), 26 N.J.R. 486(a).

Amended by R.1994 d.65, effective February 7, 1994.

See: 25 N.J.R. 5114(a), 26 N.J.R. 826(a).

Amended by R.1994 d.265, effective June 6, 1994.

See: 25 N.J.R. 5893(a), 26 N.J.R. 2463(a).

Amended by R.1994 d.423, effective August 15, 1994.

See: 26 N.J.R. 1620(a), 26 N.J.R. 3465(a).

Amended by R.1994 d.504, effective October 3, 1994.

See: 26 N.J.R. 2872(a), 26 N.J.R. 3253(a), 26 N.J.R. 4089(a).

Amended by R.1995 d.285, effective June 5, 1995.

See: 26 N.J.R. 2218(a), 27 N.J.R. 2254(a).

Amended by R.1995 d.306, effective June 19, 1995.

See: 27 N.J.R. 1162(a), 27 N.J.R. 2455(a).

Amended by R.1995 d.430, effective August 7, 1995.

See: 27 N.J.R. 1767(b), 27 N.J.R. 2967(a).

Amended "Casino check" definition.

Amended by R.1995 d.620, effective December 4, 1995.

See: 27 N.J.R. 3307(a), 27 N.J.R. 4909(a).

Amended by R.1996 d.69, effective February 5, 1996.

See: 27 N.J.R. 3916(a), 28 N.J.R. 897(a).

19:40-1.3 Construction and amendments

(a) These rules shall be construed in accordance with generally accepted principles of statutory construction, including those set forth in N.J.S.A. 1:1-1 et seq.

(b) These rules shall be liberally construed to permit the Commission and the Division to effectively carry out their respective statutory functions, and to secure a just and expeditious determination of issues properly presented to the Commission.

(c) Nothing contained in these rules shall be so construed as to conflict with any provision of the New Jersey Casino Control Act or any other applicable statute.

(d) In special cases and for good cause shown, the Commission may relax or permit deviations from these rules.

(e) These rules may be amended by the Commission from time to time in accordance with the provisions of the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.).

(f) Whenever any provision of these rules requires that an act or event occur on a specified day or date, and such day or date falls upon a Saturday, Sunday or legal holiday, such provision shall be construed to refer to the next business day immediately following such day or date.

(g) Pursuant to N.J.S.A. 5:12-69(e), the Commission may authorize the temporary adoption, amendment or repeal of any rule concerning the conduct of gaming or the use or design of gaming equipment for an experimental period not to exceed 270 days, for the purpose of determining whether such rules should be adopted on a permanent basis. Any interested person may file a petition for temporary rulemaking with the Commission in accordance with N.J.A.C. 19:40-3.6.

1. The Commission shall file notice of any temporary rulemaking with the Office of Administrative Law for publication in the New Jersey Register at least seven days prior to initiation of the experiment, and shall prominently post such notice in each casino participating in the experiment.

2. The Commission shall post the text of any temporary rule in each casino participating in the experiment and shall make copies of such text available upon request to the Commission.

Amended by R.1982 d.254, effective August 2, 1982, operative September 15, 1982.

See: 14 N.J.R. 558(b), 14 N.J.R. 841(a).

Added (f).

Amended by R.1989 d.495, effective September 18, 1989.

See: 21 N.J.R. 1975(b), 21 N.J.R. 3022(b).

(f) deleted, new (f) and (g) added concerning dates of rules and temporary rulemaking.

Amended by R.1994 d.461, effective September 6, 1994.

See: 26 N.J.R. 2564(a), 26 N.J.R. 3746(a).

19:40-1.4 Words and terms; tense, number and gender

(a) In construing the provisions of these rules and regulations, except when otherwise plainly declared or clearly apparent from the context:

1. Words in the present tense shall include the future tense.

2. Words in the masculine shall include the feminine and neuter genders.

3. Words in the singular shall include the plural and the plural shall include the singular.

19:40-1.5 Severability and preemption

(a) If any clause, sentence, subparagraph, paragraph, subsection, section, chapter or other portion of these rules or the application thereof to any person or circumstance shall be held to be invalid, such holding shall not affect, impair or invalidate the remainder of these rules or the application of such portion held invalid to any other person or circumstances, but shall be confined in its operation to the clause, sentence, subparagraph, paragraph, subsection, section,

chapter or other portion thereof directly involved in such holding or to the person or circumstance therein involved.

(b) Notwithstanding the provisions of any other law to the contrary, no local government unit of this State may enact or enforce any ordinance or resolution conflicting with any provision of the Act or of these rules or with any policy of this State expressed or implied herein, whether by exclusion or inclusion. The Commission shall have exclusive jurisdiction over all matters delegated to it or within the scope of its powers under the provisions of the Act and these rules.

Recodified from 19:40-1.12 by R.1989 d.495, effective September 18, 1989.

See: 21 N.J.R. 1975(b), 21 N.J.R. 3022(b).

The following annotations pertain to the rule formerly at this cite:

As amended, R.1984 d.454, effective October 15, 1984.

See: 16 N.J.R. 2259(a), 16 N.J.R. 2832(a).

Deleted old (e) and substituted new therefor.

19:40-1.6 Practice where regulations do not govern

In any matter not governed by these rules and regulations, the Commission or the Division shall exercise its discretion so as to carry out the purposes of the Act.

Recodified from 19:40-1.13 by R.1989 d.495, effective September 18, 1989.

See: 21 N.J.R. 1975(b), 21 N.J.R. 3022(b).

See new 19:40-2.2.

The following annotation pertains to the rule formerly at this cite:

As amended, R.1984 d.454, effective October 15, 1984.

See: 16 N.J.R. 2259(a), 16 N.J.R. 2832(a).

(b) amended.

Administrative Correction.

See: 26 N.J.R. 4788(a).

19:40-1.7 (Reserved)

As amended, R.1984 d.454, effective October 15, 1984.

See: 16 N.J.R. 2259(a), 16 N.J.R. 2832(a).

Section substantially amended.

Repealed by R.1989 d.495, effective September 18, 1989.

See: 21 N.J.R. 1975(b), 21 N.J.R. 3022(b).

See new 19:40-2.4.

19:40-1.8 (Reserved)

As amended, R.1984 d.454, effective October 15, 1984.

See: 16 N.J.R. 2259(a), 16 N.J.R. 2832(a).

Repealed by R.1989 d.495, effective September 18, 1989.

See: 21 N.J.R. 1975(b), 21 N.J.R. 3022(b).

See new 19:40-2.1.

19:40-1.9 (Reserved)

As amended, R.1984 d.454, effective October 15, 1984.

See: 16 N.J.R. 2259(a), 16 N.J.R. 2832(a).

Addresses changed.

Repealed by R.1989 d.495, effective September 18, 1989.

See: 21 N.J.R. 1975(b), 21 N.J.R. 3022(b).

See new 19:40-3.1.

19:40-1.10 (Reserved)

As amended, R.1984 d.454, effective October 15, 1984.

See: 16 N.J.R. 2259(a), 16 N.J.R. 2832(a).

Section substantially amended.

Repealed by R.1989 d.495, effective September 18, 1989.

See: 21 N.J.R. 1975(b), 21 N.J.R. 3022(b).
See new 19:40-3.2.

19:40-1.11 (Reserved)

Repealed by R.1989 d.495, effective September 18, 1989.
See: 21 N.J.R. 1975(b), 21 N.J.R. 3022(b).
See new 19:40-3.3.

19:40-1.12 (Reserved)

Repealed by R.1989 d.495, effective September 18, 1989.
See: 21 N.J.R. 1975(b), 21 N.J.R. 3022(b).
See new 19:40-1.5.

19:40-1.13 (Reserved)

Repealed by R.1989 d.495, effective September 18, 1989.
See: 21 N.J.R. 1975(b), 21 N.J.R. 3022(b).
See new 19:40-1.6.

SUBCHAPTER 2. ORGANIZATION AND OPERATION OF THE COMMISSION

19:40-2.1 Organization

(a) The Commission consists of five members appointed by the Governor with the advice and consent of the Senate.

(b) The officers of the Commission shall include a Chair and a Vice-chair who shall be members of the Commission, and an Executive Secretary who shall not be a member of the Commission.

1. The Chair, as chief executive officer of the Commission, shall schedule and preside at all meetings of the Commission; shall appoint the members of the Commission to such committees as the Commission may, from time to time, establish; shall have the authority to accept for filing all applications; shall have the authority to incur on behalf of the Commission such expenses as the Commission shall have approved in its operating budget; shall have general supervision, direction and control of the affairs of the Commission; and shall perform such other duties as are incidental to the office and as may be assigned, from time to time, by the Commission.

2. The Vice-chair shall be elected annually at the organizational meeting of the Commission by a majority of the full Commission. The Vice-chair shall be a member of the Commission other than the Chair. He or she shall possess such powers and shall perform such duties as may be assigned, from time to time, by the Commission. In the absence or inability of the Chair to serve or in the event of a vacancy in the office of Chair, the Vice-chair shall be empowered to carry out all of the responsibilities of the Chair.

3. The Executive Secretary shall be appointed by the Commission and shall serve at the pleasure of the Commission. Under the supervision of the Chair, the Executive Secretary shall act as the Chief of Staff of the Commission; be responsible for the conduct of the operational and administrative affairs of the Commission and shall have custody of the Commission's seal and its official records. The Executive Secretary shall keep a record of the proceedings at all meetings of the Commission in a minute book and a resolution book or both, to be kept for the purpose, which shall be open at all reasonable times to inspection by any member of the Commission. He or she shall cause a verbatim transcript to be made of the public meetings of Commission, according to law. He or she shall affix the seal of the Commission to all papers authorized to be executed by the Commission requiring such seal to be affixed. He or she shall cause copies to be made of the verbatim transcript of the public meetings, and of all minutes, resolutions and other records and shall cause such copies to be filed with the appropriate authorities according to law. He or she shall give certificates under the seal of the Commission to the effect that such copies are true copies and all persons dealing with the Commission may rely on such certificates. He or she shall perform such other duties as are incident to his or her office or as may be assigned, from time to time, by the Commission or by the Chair.

(c) The Commission's staff shall be comprised of the divisions and offices set forth below. Each division and office shall be organized into such operational units, and each unit shall have such assigned positions, as the Chair shall direct.

1. The Office of Administrative Services shall provide the personnel, budget, data processing and administrative services necessary for the operation of the Commission; maintain the official records of the Commission and a record of all Commission proceedings; and serve as the central filing location for petitions and submissions submitted to the Commission.

2. The Division of Financial Evaluation shall conduct casino gross revenue audits, analyze the financial position and operating performance of casino licensees, and assess and collect fees and gross revenue taxes.

3. The Division of Licensing shall process and review casino, casino key employee, casino employee, and junket representative license applications and renewals, hotel registrations and Employee License Internal Control Submissions; monitor the business relationships between ancillary industries and casino licensees and casino applicants; process gaming, non-gaming and junket-related casino service industry license applications and renewals, Vendor Registration Forms and Internal Control Submissions for Purchasing and Disbursing; process contested case matters; and review all facility related matters which affect a casino license and casino hotel alcoholic beverage related matters.

4. The Division of Compliance shall review and evaluate petitions and submissions related to accounting and internal controls, gaming equipment and rules of the games; monitor compliance with regulations regarding accounting and internal controls, gaming equipment and rules of the games; receive patron complaints; and monitor and promote compliance by casino licensees, gaming schools, casino service industries and construction industries with State equal employment opportunity, affirmative action, and minority and women's business enterprise requirements.

5. The Office of the Commissioners shall consist of the General Counsel, the Public Information Officer, the Equal Employment Opportunity and Affirmative Action Officer/Director of Community Relations, the Director of Organizational Development and the Executive Secretary, together with the members of their respective staffs. The members of the office, together with the Chair, the directors of the several divisions and such members of the senior staff as the Chief of Staff may designate shall constitute the management team of the Commission, and shall execute general Commission policies as established by the Commission.

Amended by R.1990 d.618, effective November 26, 1990.
See: 22 N.J.R. 3763(a).

Added references to the organization of the Office of the Commissioners and the Compliance Division.
Administrative Correction.

See: 23 N.J.R. 714(b).

Amended by R.1992 d.150, effective March 6, 1992.

See: 24 N.J.R. 1375(c).

In (c) 1, 3, 4 and 5 revised official titles of the Division of Administration, Division of Licensing, Division of Compliance and added the Director of Organizational Development designation.

Amended by R.1992 d.410, effective September 18, 1992.

See: 24 N.J.R. 3737(a).

Amended by R.1993 d.352, effective June 18, 1993.

See: 25 N.J.R. 3240(b).

Amended by R.1993 d.404, effective July 23, 1993.

See: 25 N.J.R. 3842(a).

Amended by R.1994 d.64, effective January 11, 1994.

See: 26 N.J.R. 826(b).

19:40-2.2 Meetings

(a) Regular meetings of the Commission shall be held at least once per month on such dates and at such times and places as the Chair or the Commission shall establish.

(b) Special meetings of the Commission will be held from time to time on such dates and at such times and places as the Chair or the Commission may deem convenient. Special meetings of the Commission may be called at the discretion of the Chair; but the Chair shall call a special meeting at the request of any three members of the Commission.

(c) The annual reorganizational meeting of the Commission shall be the first meeting of the Commission in January of each year.

(d) All meetings of the Commission shall be in compliance with the New Jersey Open Public Meetings Act (N.J.S.A. 10:4-6 et seq.).

(e) The Commission may prepare an agenda describing the order of business for public meetings, which agenda shall include, but not be limited to:

1. Presiding officer's statement of compliance with the New Jersey Open Public Meetings Act, N.J.S.A. 10:4-6 et seq.;
2. Roll call;
3. Ratification of the minutes of prior meetings;
4. Consideration of applications for licenses;
5. Consideration of complaints against licensees;
6. Consideration of petitions for Commission action or approval; and
7. Questions and comments from the public.

19:40-2.3 Quorum; votes

(a) A majority of the full Commission shall constitute a quorum at any meeting of the Commission.

(b) The vote on any matter before the Commission shall be taken in a manner to be determined by the Commission. The names of the members voting for or against or abstaining shall be entered in the minutes of the meeting.

19:40-2.4 Resolutions and minutes

(a) The records of the Commission shall include a minute book and a resolution book. The vote on any matter before the Commission shall be set forth in the minutes in accordance with the requirements of (b) below. If the Commission determines to memorialize the vote on a particular matter by the preparation of a formal resolution, the resolution shall be prepared in accordance with the requirements of (c) below and shall be recorded in the resolution book.

(b) Every vote of the Commission recorded in the minutes shall include the following information:

1. The substance of the matter considered;
2. The vote of the Commission, including the names of any commissioners dissenting or abstaining;
3. If appropriate, reference to the existence of a formal resolution concerning the matter; and
4. Certification by the Executive Secretary.

(c) Every formal resolution of the Commission shall include the following information:

1. A concise statement of the issues presented and the relevant procedural history;
2. The precise statutory authority for the action taken;

3. A precise statement of the action taken by the Commission, including any terms or conditions attached thereto; and

4. Certification by the Executive Secretary.

19:40-2.5 Delegation of Commission authority

(a) The Commission may, in its discretion and where permitted by law, delegate its authority to perform any of its functions under the Act or this title to a member or members of its staff. Except as provided in (d) below, such action shall for all purposes be deemed the final action of the Commission, without approval, ratification or other further action by the Commission.

(b) Any delegation of Commission authority shall be effected through the adoption of a formal resolution at a public meeting of the Commission. Such resolution shall specify the following, without limitation:

1. The specific authority delegated;
2. The member or members of the Commission's staff to whom such authority is delegated; and
3. Any limitations or conditions imposed on the authority delegated.

(c) All delegations of authority made pursuant to this section shall remain in effect indefinitely, unless otherwise specified in the implementing resolution. Any delegation of authority previously approved by the Commission may be revoked or modified by the Commission through the adoption of a subsequent formal resolution. All previous delegations of authority shall be reviewed by the full Commission, concurrent with each readoption of this chapter, to determine whether each delegation should be retained.

(d) Any determination by the Commission staff pursuant to delegated authority shall be presented for review by the full Commission, upon timely request by the Division or any party adversely affected by such determination. Such request shall be in writing, and must be received by the Commission within three days after the date of such determination. No determination by the Commission staff pursuant to delegated authority shall be deemed final until all parties have been afforded an opportunity for review in accordance with this subsection.

(e) Notwithstanding any other provision of this section, any matter which has otherwise been delegated to the Commission staff may alternatively be presented to and determined by the full Commission on its own motion or at the discretion of the Chair, or upon the request of the Commission staff.

(f) The use of the term "Commission," "Chair," "Chairman," "Commissioner," or "member" in this title shall not be interpreted to preclude any delegation of authority to the Commission staff in accordance with this section.

(g) Whenever any provision of these regulations requires that a party provide notice to or file any application, petition or other submission with the Commission or Chair, the Commission shall provide written notice to such party, designating any member or members of its staff authorized to accept such notice or filings on behalf of the Commission or Chair.

New Rule, R.1992 d.409, effective October 19, 1992.
See: 24 N.J.R. 2348(a), 24 N.J.R. 3737(b).

19:40-2.6 Post-employment restrictions

(a) For purposes of this section, a "policy-making management position" means:

1. For the Commission, the Executive Secretary; a Director of any Division; the General Counsel; the Director of Community Relations; the Director of Organizational Development; the Public Information Officer; the Equal Employment Opportunity and Affirmative Action Officer; and any other person designated to serve on the Commission's Management Team in accordance with N.J.A.C. 19:40-2.1(c)5; and

2. For the Division, the Director; the Deputy Director; the Executive in Charge of Investigations; the Attorney Administrator, Licensing Prosecution Bureau; the Attorney Administrator, Regulatory Prosecution Bureau; the Agent Administrator, Licensing Investigations; and the Agent Administrator, Regulatory Enforcement.

(b) No employee of the Commission or employee or agent of the Division shall solicit or accept employment with, or acquire any direct or indirect interest in, any person who is an applicant, licensee or registrant with the Commission for a period of two years from the date of termination of his or her employment with the Commission or Division. Notwithstanding the foregoing:

1. A secretarial or clerical employee may solicit and accept such employment at any time after termination of employment with the Commission or the Division;

2. Any employee, other than a person subject to (c) below, who is terminated as the result of a reduction in workforce at the Commission or the Division may accept employment otherwise prohibited by this subsection upon application to and the approval of the Commission pursuant to (d) and (e) below;

3. Nothing in this section shall prohibit a former employee of the Commission or a former employee or agent of the Division from soliciting or accepting employment with, or acquiring an interest in, any person who is licensed as a casino service industry enterprise pursuant to subsection 92c of the Act or is an applicant for such licensure.

(c) At the end of two years from termination of employment, and for a period of two years thereafter, any person who held a policy-making management position with the Commission or Division at any time during the five years prior to termination of employment shall not:

1. Solicit employment with an applicant, licensee or registrant unless he or she has provided prior written notice of an intent to solicit such employment to the Commission's General Counsel; or

2. Accept or commence employment with, or acquire an interest in, an applicant, licensee or registrant except upon application to and the approval of the Commission pursuant to (d) below for that particular employment or interest.

(d) A petition for waiver pursuant to (b)2 or (c) above shall be in writing and shall identify the following:

1. The applicant, licensee or registrant that has made an offer of employment, or in which the petitioner will acquire an interest;

2. The position to be held and the specific nature of the duties to be performed for the applicant, licensee or registrant, or the nature of the interest to be acquired; and

3. Any positions held and the specific nature of the duties performed while employed by the Commission or Division.

(e) The Commission may grant a waiver upon a finding that the acceptance of the employment or the acquisition of the interest identified in the petition will not create the appearance of a conflict of interest or evidence a conflict of interest in fact.

(f) The Commission's General Counsel shall review each petition for waiver and supporting documentation and shall make a recommendation to the Commission, with copies to the Division and the petitioner, within 10 days of the receipt of a completed petition.

(g) Any waiver granted pursuant to (e) above shall apply only to the applicant, licensee or registrant and the position or interest identified in the petition for waiver. No person subject to post-employment restriction pursuant to (b)2 or (c) above shall accept or commence employment in any other position or with any other applicant, licensee or registrant, or acquire any other interest that is otherwise prohibited unless a waiver has been granted by the Commission for such employment or interest.

New Rule, R.1993 d.291, effective June 21, 1993.
See: 25 N.J.R. 1501(a), 25 N.J.R. 2702(a).
Amended by R.1995 d.388, effective July 17, 1995.
See: 27 N.J.R. 1965(a), 27 N.J.R. 2703(c).

SUBCHAPTER 3. INFORMATION AND FILINGS

19:40-3.1 Offices; hours

(a) The main offices of the Commission, including the offices of the Commissioners, the General Counsel and the Division of Licensing are located at:

Arcade Building
Tennessee Avenue and the Boardwalk
Atlantic City, N.J. 08401

(b) The Division of Financial Evaluation, the Division of Administration and the Division of Compliance are located at:

Citicenter Building
1300 Atlantic Avenue
Atlantic City, N.J. 08401

(c) The offices of the Commission are open for the filing of papers and for other business (except for public inspection of documents) from 9:00 A.M. to 5:00 P.M., Monday through Friday, unless otherwise authorized by the Commission. The offices of the Commission are open for public inspection of documents from 10:00 A.M. to 4:00 P.M., Monday through Friday, unless otherwise authorized by the Commission. The offices of the Commission are closed on legal holidays.

(d) The offices of the Division of Gaming Enforcement are located at:

1. 140 East Front Street
CN 047
Trenton, NJ 08625; and
2. 1601 Atlantic Avenue
CN 047
Atlantic City, NJ 08401

Administrative Change.
See: 23 N.J.R. 3655(a).
Amended by R.1996 d.72, effective February 5, 1996.
See: 27 N.J.R. 3920(a), 28 N.J.R. 901(b).

19:40-3.2 Official records; fees for copies

(a) No original official record of the Commission shall be released from the custody of the Commission except upon express direction of the Chair or the Executive Secretary, or upon the order of a court of competent jurisdiction.

(b) Copies of the official records of the Commission which are required by law to be made available for public inspection will be made available during the hours provided for in N.J.A.C. 19:40-3.1 upon the payment of appropriate fees.

(c) No person shall, directly or indirectly, procure or attempt to procure from the records of the Commission or the Division or from other sources, information of any kind which is not made available by proper authority.

(d) No application, petition, notice, report, document or other paper will be accepted for filing by the Chair and no request for copies of any forms, pamphlets, records, documents, or other papers will be granted by the Commission, unless such papers or requests are accompanied by the required fees, charges, or deposits.

(e) Any person may subscribe to the Commission's meeting notices, minutes, or notices of rule-making by written request accompanied by a check or money order in accordance with the subscription rates established by the Commission. All subscriptions shall be on a calendar year basis only, and rates for subscriptions commencing during a calendar year will be prorated accordingly. At the discretion of the Commission, no payment may be required when the request is made by the governor of the State of New Jersey or by a member of the Legislature or by any newspaper, television station or radio station regularly serving New Jersey.

(f) Copies of official records of the Commission which are required by law to be made available for public inspection shall be made available according to the following fee schedule:

- | | |
|--------------------------------|------------------|
| 1. First page to 10th page: | \$0.50 per page; |
| 2. Eleventh page to 20th page: | 0.25 per page; |
| 3. All pages over 20: | 0.10 per page. |

(g) All checks for payment of fees, deposits and charges shall be made payable to the order of the "Casino Control Fund" and delivered or mailed to the main office of the Commission.

19:40-3.3 Communications; notices

(a) Except as otherwise provided by the rules of the Commission, all papers, process or correspondence relating to the Commission should be addressed to or served upon the New Jersey Casino Control Commission at the Commission's main office. All papers, process or correspondence relating to the Division should be addressed to or served upon the Division of Gaming Enforcement at the Division's main office.

(b) All such papers, process or correspondence shall be deemed to have been received or served when delivered to the main office of the Commission or the Division as the case may be, but a Commissioner or such individual members of the Commission's staff as the Chair may designate, or the Director or such individual staff members of the Division's staff as the Director may designate, may in his or her discretion receive papers or correspondence or accept service of process.

(c) Except as otherwise specifically provided by law or Commission regulations, notices and other communications from the Commission or Division will be sent to an applicant, licensee or registrant by either ordinary mail or certified mail to the address shown in the most recent application or change of address notice received from such person; or, in the case of a casino licensee, by depositing such notices and other communications in the appropriate mail slot designated for each casino licensee in the Commission mailroom. Such notices and communications will be available for pickup by casino licensees from 9:00 A.M. to 5:00 P.M. in the Commission mailroom located at:

Arcade Building, 1st Floor
Tennessee Avenue and Boardwalk
Atlantic City, New Jersey 08401

(d) Notices shall be deemed to have been served upon their deposit, postage prepaid, in the United States mails, or upon their deposit in the Commission mailroom in the designated mail slot for each casino licensee, and the time specified in any such notice shall commence to run from that date.

(e) Any applicant, licensee or registrant who desires to have notices or other communications mailed to an address other than that specified in the application shall file with the Commission and the Division a specific request for that purpose, and notices and other communications will, in such case, be sent to the applicant, licensee or registrant at such address.

(f) An applicant, licensee or registrant will be addressed under the name and style designated in the application, and separate notices or communications will not be sent to individuals named in such application unless a specific request for that purpose is filed with the Commission and the Division. In the absence of such a specific request, a notice addressed under the name or style designated in the application shall be deemed to be notice to all individuals named in such application.

(g) Applicants, licensees and registrants shall immediately notify the Commission and the Division of any change of address, and shall specifically request that all notices or other communications be sent to the new address.

Amended by R.1994 d.31, effective January 18, 1994.
See: 25 N.J.R. 4866(a), 26 N.J.R. 486(a).
Amended by R.1994 d.218, effective May 2, 1994.
See: 26 N.J.R. 782(a), 26 N.J.R. 1842(b).

19:40-3.4 Public information office

(a) Requests for information regarding the Casino Control Commission may be directed to:

Casino Control Commission
Public Information Office
Arcade Building
Tennessee Avenue and the Boardwalk
Atlantic City, NJ 08401

(b) Any person may, upon payment of the appropriate fee pursuant to N.J.A.C. 19:40-3.2, obtain a copy of the Monthly Statements, Quarterly Reports and Annual Reports to the Commission from each casino licensee. Copies of the Commission's Annual Report are available to the public at no charge. Such requests should be directed to the address in (a) above.

(c) Access to information and data furnished to or obtained by the Commission or Division from any source is subject to the provisions of N.J.S.A. 5:12-74(d) and (e) and N.J.A.C. 19:40-4.

Administrative Change.
See: 23 N.J.R. 3655(a).

19:40-3.5 Filing of petitions and applications

(a) Petitions for formal action by the Commission should be mailed to:

Casino Control Commission
Division of Administration
Document Control Unit
Arcade Building, 1st Floor
Tennessee Avenue and the Boardwalk
Atlantic City, N.J. 08401

(b) Applications for the issuance or renewal of any license or registration required by the Act should be mailed to:

Casino Control Commission
Division of Administration
Document Control Unit
Arcade Building, 1st Floor
Tennessee Avenue and the Boardwalk
Atlantic City, N.J. 08401

(c) Applications for the issuance or renewal of employee and casino service industry licenses may be hand delivered to:

Casino Control Commission
Casino Employee License Information Unit
Arcade Building, 2nd Floor
Tennessee Avenue and the Boardwalk
Atlantic City, N.J. 08401

Administrative Change.
See: 23 N.J.R. 3655(a).

19:40-3.6 Petitions for rulemaking

(a) Any interested person may file a petition with the Commission for the adoption, amendment or repeal of any rule, pursuant to section 69(c) of the Act and N.J.S.A. 52:14B-4(f). Such petition shall be in writing, be signed by the petitioner, and include the following information:

1. The name and address of the petitioner;
2. The substance or nature of the requested rulemaking;
3. The reasons for the request;
4. The specific legal rights, duties, obligations, privileges, benefits or other specific legal relations of the

interested person which are affected by the requested rulemaking; and

5. Reference to the statutory authority under which the Commission may take the requested action.

(b) Any document submitted to the Commission which is not in substantial compliance with this section shall not be deemed to be a petition for rulemaking requiring further action. Such document shall be returned to the petitioner with instructions as to the steps necessary to correct any defects or omissions in accordance with this section.

(c) Within 15 days of receipt of a petition in compliance with this section, the Commission shall file a notice of petition with the Office of Administrative Law for publication in the New Jersey Register in compliance with N.J.A.C. 1:30-3.6(a).

(d) A petition for rulemaking shall be scheduled for consideration at a regularly scheduled public meeting of the Commission. The petitioner shall be given an opportunity to make a statement in support of the requested rulemaking.

(e) Within 30 days of receipt of a petition which is in compliance with this section, the Commission shall mail to the petitioner and file with the Office of Administrative Law a notice of action on the petition in compliance with N.J.A.C. 1:30-3.6(b), which shall include the nature or substance of the Commission's action upon the petition and a brief statement of reasons for the Commission's actions.

(f) In accordance with N.J.A.C. 1:30-3.6(c), Commission action on a petition for rulemaking may include:

1. Denial of the petition;
2. Filing a notice of proposed rule or a notice of a pre-proposal for a rule with the Office of Administrative Law; or
3. Referral of the matter for further deliberations, the nature of which will be specified and which will conclude upon a specified date. The results of these further deliberations shall be mailed to the petitioner and shall be submitted to the Office of Administrative Law for publication in the New Jersey Register.

19:40-3.7 Declaratory rulings

(a) Pursuant to N.J.S.A. 52:14B-8, any interested person may request that the Commission render a declaratory ruling with respect to the applicability to any person, property or state of facts of any provision of the Act or of any Commission rule.

(b) A request for a declaratory ruling shall be initiated by a petition. The petition shall include the following items with specificity:

1. The nature of the request and the reasons therefor;

2. The facts and circumstances underlying the request;
3. Legal authority and argument in support of the request; and
4. The remedy or result desired.

(c) If the Commission, in its discretion, decides to render a declaratory ruling, a hearing shall be afforded prior to the rendering of such a ruling.

1. Where there exists disputed issues of fact which must be resolved in order to determine the rights, duties, obligations, privileges, benefits or other legal relations of specific parties, such hearings shall be conducted in accordance with N.J.A.C. 19:42-2.

2. Where there exists no such disputed issues of fact as identified in (c)1 above, the matter shall proceed on the petition, any other papers requested of the parties, and oral argument, if permitted by the Commission.

(d) In appropriate cases, the Commission may notify persons who may be interested in or affected by the subject of the declaratory ruling. In such cases, the Commission may afford these persons an opportunity to intervene as parties or to otherwise present their views in an appropriate manner which is consistent with the rights of the parties.

New Rule, R.1995 d.495, effective September 5, 1995.
See: 27 N.J.R. 2567(a), 27 N.J.R. 3393(a).

SUBCHAPTER 4. CONFIDENTIAL INFORMATION

19:40-4.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

“Authorized personnel” means any member or employee of the Commission or any employee or agent of the Division.

“Confidential information” means any information or data, furnished to or obtained by the Commission or Division from any source, which is considered confidential pursuant to the provisions of N.J.S.A. 5:12-74(d) and (e), or which is otherwise confidential pursuant to applicable statutory provision, judicial decision or rule of court.

“Secure storage facility” means any area, room, furniture, equipment, machinery or other device used by the Commission or Division for the storage of confidential information, access to which is limited to authorized personnel at all times by locks, alarms, codes or other appropriate security precautions.

Administrative Correction.
See: 26 N.J.R. 4788(a).

19:40-4.2 Determination of confidential status

(a) Except as provided by N.J.S.A. 5:12-74(h), all information and data furnished to or obtained by the Commission or Division which relates to the internal controls specified in N.J.S.A. 5:12-99(a), or to the earnings or revenue of any applicant, registrant or licensee, or which pertains to an applicant's criminal record, family or background, shall be presumed to be confidential and shall not be released or disclosed to any person except in accordance with the provisions of this subchapter.

(b) Any question concerning whether or not a specific item of information or data within the possession of the Commission or Division is deemed to be confidential information under N.J.S.A. 5:12-74(d) and (e), or any other applicable statutory provision, judicial decision or rule of court, shall be submitted to the Commission or its designee for determination or referral to appropriate authorities.

Case Notes

Release of confidential witness statement to the witness and his attorney does not destroy confidential nature of statement: Commission not entitled to otherwise release such information; requisite showing of need not met to order release. Canadian Imperial Bank of Commerce v. Boardwalk Regency Corp., 108 F.R.D. 737 (D.N.J.1986).

19:40-4.3 Access

Except as otherwise provided in N.J.A.C. 19:40-4.4 and N.J.A.C. 19:40-4.8, access to confidential information within the possession of the Commission or Division shall be restricted to authorized personnel who require such information in the performance of their official duties.

Amended by R.1989 d.495, effective September 19, 1989.
See: 21 N.J.R. 1975(b), 21 N.J.R. 3022(b).

Internal cite changed to reflect recodification.

19:40-4.4 State Records Storage Center: retention schedule; storage; destruction

(a) With the approval of the State Records Committee, the Commission and Division shall establish and maintain a records retention schedule for all confidential information within their possession.

(b) Confidential information considered to be inactive by the Commission or Division but required to be retained pursuant to the provisions of (a) above, may be transferred to the possession of the State Records Storage Center in accordance with N.J.S.A. 47:3-8.1 et seq., as implemented by N.J.A.C. 6:66, provided that:

1. The Commission is satisfied that access to any confidential information stored with the State Records Storage Center shall be limited to employees of the Center and authorized personnel of the Commission and Division;

2. A log is maintained of all authorized personnel who are granted access to or who remove confidential information stored with the State Records Storage Center, which log shall include the information required by N.J.A.C. 19:40-4.6(b);

3. Any confidential information transferred to the State Records Storage Center is contained in transfer cartons, sealed and marked in such a manner so as to preclude the undetected examination of the confidential information contained therein by any person other than authorized personnel; and

4. The Commission and Division periodically inspect and review any such stored confidential information to assure that it has not been disclosed or removed in violation of N.J.S.A. 52:13D-25, N.J.S.A. 47:3-29 and the provisions of this subchapter.

(c) Any confidential information in the possession of the Commission, Division or State Records Storage Center shall be promptly destroyed in accordance with the provisions of the applicable records retention schedule required by (a) above.

Amended by R.1989 d.495, effective September 18, 1989.
See: 21 N.J.R. 1975(b), 21 N.J.R. 3022(b).

Internal cite changed to reflect recodification.

19:40-4.5 Retention in secure storage facilities; access

(a) Confidential information which is not presently being utilized by authorized personnel shall be stored in secure storage facilities designated for such purposes by the Commission or Division. No one except authorized personnel may gain access to designated secure storage facilities except in accordance with the provisions of this subchapter.

(b) All Commission and Division offices in which secure storage facilities are located shall be protected from unauthorized intrusion at all times. Proper security precautions during business hours shall include a requirement that all visitors to such offices be required to identify themselves and wear a visitor pass in a conspicuous location. Proper security precautions during non-business hours shall include the use of alarm or security guard systems.

(c) Every secure storage facility shall be placed under the direct supervision and control of an appropriate section or unit supervisor who shall periodically review for their effectiveness all security procedures and precautions pertaining to the confidential information stored therein. Security procedures and precautions that are determined to be ineffective shall be immediately corrected.

(d) Confidential information may be stored in secure storage facilities on micrographics, hard copy (paper), magnetic media or any other suitable medium, provided adequate security measures are maintained to prevent unauthorized access to or use of such information.

1. A coded filing system shall be utilized whenever practicable to prevent unauthorized access to stored confidential information.

2. Access to confidential information stored on computer or magnetic media shall be restricted to authorized personnel who have obtained the required operating key, code manual or access code from the appropriate section or unit supervisor. Operating keys, code manuals and access codes shall be limited in number and shall be controlled by the appropriate section or unit supervisor.

19:40-4.6 Temporary custody by authorized personnel

(a) Authorized personnel shall not remove confidential information from designated secure storage facilities unless such removal is necessary to the fulfillment of their official Commission or Division duties. Confidential information which is not presently being utilized by authorized personnel shall be promptly returned to its secure storage facility.

(b) A record shall be maintained of all confidential information which is removed from secure storage facilities other than those which utilize computer or magnetic media. This record shall include:

1. The name of the person removing the information;
2. The name of the person for whom the information is being obtained;
3. The date of removal;
4. A description of the information removed or the number of the file which has been removed; and
5. The date the information is returned.

(c) Confidential information shall not be removed from the offices of the Commission or Division without the prior approval of an appropriate section or unit supervisor. Such approval shall only be granted where removal of the confidential information is necessary to the performance of the official duties of authorized personnel.

(d) The integrity of confidential information in the possession of authorized personnel shall be preserved at all times. It shall be the personal responsibility of any individual granted temporary custody of confidential information to insure that the information is not shown, released or disclosed to any unauthorized person or to any otherwise authorized person who does not require such information in the performance of their official duties. Confidential information temporarily stored outside designated secure storage facilities shall be maintained in a locked desk or filing cabinet, or protected by other appropriate security precautions.

19:40-4.7 Copies

A hard copy of confidential information stored on computer or magnetic media, or any other copy of confidential information within the possession of the Commission or

Division, shall only be made where absolutely necessary to the administration of the Act, or where an authorized release of the confidential information is made pursuant to the provisions of N.J.A.C. 19:40-4.8.

Amended by R.1989 d.495, effective September 18, 1989.
See: 21 N.J.R. 1975(b), 21 N.J.R. 3022(b).

Internal cite changed to reflect recodification.

19:40-4.8 Release; notice

(a) Confidential information within the possession of the Commission or Division shall not be released or disclosed in whole or in part to any person, except:

1. In the course of the necessary administration of the act; or
2. Upon lawful order of a court of competent jurisdiction; or
3. With the approval of the Attorney General, to a duly authorized law enforcement agency; or
4. Upon presentation of proper identification, to the applicant, registrant or licensee who furnished the confidential information to the Commission or Division; or
5. Upon presentation of a duly executed and notarized release authorization by the applicant, registrant, or licensee who furnished the confidential information, to any person making a written request for specifically identified confidential information.

(b) If confidential information is released or otherwise disclosed to any person under any circumstances other than those identified in (a)3 through 5 above, written notice of such release or disclosure shall be given to any applicant, registrant or licensee affected, unless notice would otherwise imperil the integrity of casino operations in this State. To the extent known, the notice shall include:

1. The name and address of the person to whom the information was released or disclosed;
2. A description of the information released or disclosed; and
3. The date of the release or disclosure.

(c) Whenever possible, any such notice of confidential information to be released or disclosed shall be given prior to the release or disclosure.

Law Review and Journal Commentaries

Casinos. Judith Nallin, 138 N.J.L.J. No. 14, 60 (1994).

Case Notes

Casino Control Commission did not have authority to provide newspaper with investigatory information and data. Petition of Atlantic City Press Requesting Certain Files of Casino Control Com'n, 277 N.J.Super. 433, 649 A.2d 1302 (A.D.1994).

19:40-4.9 Penalties

(a) Any direct or indirect willful disclosure of confidential information by authorized personnel of the Commission under circumstances other than those identified in N.J.A.C. 19:40-4.8 shall be a violation of the Commission's Code of Ethics and shall subject such person to the penalties provided by N.J.S.A. 52:13D-23(d). Such violations shall be heard by the Executive Commission on Ethical Standards in accordance with N.J.S.A. 52:13D-21(h).

(b) The unauthorized release or disclosure of confidential information may also be a violation of N.J.S.A. 52:13D-25 or N.J.S.A. 47:3-29.

(c) Any violation of the provisions of this subchapter by authorized personnel may result in appropriate disciplinary action by the Commission or Division.

Amended by R.1989 d.495, effective September 18, 1989.
See: 21 N.J.R. 1975(b), 21 N.J.R. 3022(b).

Internal cite changed to reflect recodification.

SUBCHAPTER 5. PROFESSIONAL PRACTICE

19:40-5.1 General provisions

No person shall practice law, accountancy, architecture, professional engineering, land surveying or any other profession or occupation regulated by the laws of this State before the Commission or Division in any manner other than in accordance with law, the ethical standards applicable to the particular profession and the regulations of the Commission. "Practice" shall be deemed to comprehend any matter connected with the presentation of the interest of a client including the making of any appearance and the preparing or filing of any necessary written document, correspondence or other paper relative to such interests.

19:40-5.2 The practice of law

(a) No person, other than a natural person practicing law on his or her own behalf, shall practice law or represent another person before the Commission or Division unless he or she is an attorney authorized to practice law in this State, or a non-attorney authorized by the Commission to appear pursuant to New Jersey Court Rule R. 1:21-1(e) and N.J.A.C. 1:1-5.

(b) Notwithstanding (a) above, an attorney admitted in this State who is in good standing but who does not maintain in this State a bona fide office for the practice of law, or an attorney of any other jurisdiction who is in good standing there, may in the discretion of the Chair be admitted to practice in connection with a particular matter by complying with the requirements of N.J.A.C. 1:1-5.2 and provided that an attorney authorized to practice law in this State who is in good standing shall also appear of record in and thereby be responsible for the conduct of the admitted attorney in the particular matter and that both such attorneys shall sign all papers submitted or filed in accordance with the regulations of the Commission.

Amended by R.1993 d.316, effective July 6, 1993.
See: 25 N.J.R. 1672(a), 25 N.J.R. 2907(b).

19:40-5.3 Notice of appearance by attorney

Each attorney practicing before the Commission or Division shall promptly file with the Commission a notice of appearance in each matter and on behalf of each client represented and may be required to file evidence of his authority to act in such capacity.

19:40-5.4 Other professions and occupations

No person shall practice accountancy, architecture, professional engineering or land surveying before the Commission or Division unless he is a certified public accountant, licensed architect, licensed professional engineer or licensed land surveyor of this State. No person shall practice any other profession or occupation regulated by the laws of this State which authorizes the licensure, certification or any other governmental approval of persons practicing same unless such person is so licensed, certified or approved.

SUBCHAPTER 6. DISABILITY DISCRIMINATION GRIEVANCE PROCEDURE

Executive Order No. 66(1978) Expiration Date

Subchapter 6, Disability Discrimination Grievance Procedure, is exempt from Executive Order No. 66 under 28 C.F.R. Part 35.

Subchapter Historical Note

Subchapter 6 was adopted as R.1993 d.613, effective December 6, 1993. See: 25 N.J.R. 1503(a), 25 N.J.R. 5519(a).

19:40-6.1 Definitions

The following words and terms, as used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

“ADA” means the Americans with Disabilities Act, 42 U.S.C.A. § 12101 et seq.

“Agency” means the New Jersey Casino Control Commission.

“Designated decision maker” means the Chairman of the Casino Control Commission or his or her designee.

19:40-6.2 Purpose

(a) These rules are adopted by the agency in satisfaction of the requirements of the ADA and regulations promulgated pursuant thereto, 28 C.F.R. 35.107.

(b) The purpose of these rules is to establish a designated coordinator whose duties shall include assuring that the agency complies with and carries out its responsibilities under the ADA. Those duties shall also include the investi-

gation of any complaint filed with the agency pursuant to N.J.A.C. 19:40-6.5 through 6.8.

19:40-6.3 Required ADA Notice

In addition to any other advice, assistance or accommodation provided, a copy of the following notice shall be given to anyone who inquires regarding the agency's compliance with the ADA or the availability of accommodation which would allow a qualified individual with a disability to receive services or participate in a program or activity provided by the agency.

AGENCY NOTICE OF ADA PROCEDURE

The agency has adopted an internal grievance procedure providing for prompt and equitable resolution of grievances alleging any action prohibited by the U.S. Department of Justice regulations implementing Title 11 of the Americans with Disabilities Act. Title 11 states, in part, that “no otherwise qualified disabled individual shall, solely by reason of such disability, be excluded from participation in, be denied the benefits of or be subjected to discrimination” in programs or activities sponsored by a public entity.

Rules describing and governing the internal grievance procedure can be found in the New Jersey Administrative Code, N.J.A.C. 19:40-6. As those rules indicate, grievances should be addressed to the agency's designated ADA Coordinator, who has been designated to coordinate ADA compliance efforts, at the following address:

ADA Coordinator
New Jersey Casino Control Commission
Arcade Building
Tennessee Avenue and Boardwalk
Atlantic City, New Jersey, 08401

1. A grievance may be filed in writing or orally, but should contain the name and address of the person filing it, and briefly describe the alleged violation. A form for this purpose is available from the designated ADA coordinator. In cases of employment related grievances, the procedures established by the Department of Personnel, N.J.A.C. 4A:7-1.1 et seq. will be followed where applicable.

2. A grievance should be filed promptly within 30 days after the grievant becomes aware of the alleged violation. (Processing of allegations of discrimination which occurred before this grievance procedure was in place will be considered on a case-by-case basis.)

3. An investigation, as may be appropriate, will follow the filing of a grievance. The investigation will be conducted by the agency's designated ADA Coordinator. The rules contemplate informal but thorough investigations, affording all interested persons and their representatives, if any, an opportunity to submit evidence relevant to a grievance.

4. In most cases a written determination as to the validity of the grievance and a description of the resolution, if any, will be issued by the designated decision maker and a copy forwarded to the grievant no later than 45 days after its filing.

5. The ADA coordinator will maintain the files and records of the agency relating to the grievances filed.

6. The right of a person to a prompt and equitable resolution of the grievance filed hereunder will not be impaired by the person's pursuit of other remedies such as the filing of an ADA grievance with the responsible Federal department or agency or the New Jersey Division on Civil Rights. Use of this grievance procedure is not a prerequisite to the pursuit of other remedies.

7. The rules will be construed to protect the substantive rights of interested persons, to meet appropriate due process standards and to assure that the agency complies with the ADA and implementing Federal rules.

19:40-6.4 Designated ADA coordinator

(a) The designated coordinator of ADA compliance and complaint investigation for the agency is:

ADA Coordinator
New Jersey Casino Control Commission
Arcade Building
Tennessee Avenue and Boardwalk
Atlantic City, New Jersey 08401

(b) All inquiries regarding the agency's compliance with the ADA and the availability of accommodation which would allow a qualified individual with a disability to receive services or participate in a program or activity provided by the agency should be directed to the designated coordinator identified in (a) above.

(c) All grievances alleging that the agency has failed to comply with or has acted in a way that is prohibited by the ADA should be directed to the designated ADA coordinator identified in this section, in accordance with the procedures set forth in N.J.A.C. 19:40-6.5 through 6.8.

19:40-6.5 Grievance procedure

A grievance alleging that the agency has failed to comply with the ADA or has acted in a way that is prohibited by the ADA shall be submitted either in writing or orally to the designated ADA coordinator identified in N.J.A.C. 19:40-6.4 within 30 days of the grievant becoming aware of the alleged violation. A grievance alleging employment discrimination will be processed pursuant to the rules of the Department of Personnel, N.J.A.C. 4A:7-1.1 through 3.4, if those rules are applicable.

19:40-6.6 Grievance contents

(a) A grievance submitted pursuant to this subchapter may be submitted in or on the form set forth at N.J.A.C. 19:40-6.7.

(b) A grievance submitted pursuant to this subchapter shall include the following information:

1. The name of the grievant and/or any alternate contact person designated by the grievant to receive communication or provide information for the grievant;
2. The address and telephone number of the grievant or alternate contact person; and
3. A description of manner in which the ADA has not been complied with or has been violated, including times and locations of events and names of witnesses if appropriate.

19:40-6.7 Grievance form

The following form may be utilized for the submission of a grievance pursuant to this subchapter:

Americans with Disabilities Act Grievance Form

Date: _____

Name of grievant: _____

Address of grievant: _____

Telephone number of grievant: _____

Name, address and telephone number of alternate contact person:

Agency alleged to have denied access:

Department: _____

Division: _____

Bureau or office: _____

Location: _____

Incident or barrier: _____

Please describe the particular way in which you believe you have been denied the benefits of any service, program or activity or have otherwise been subject to discrimination. Please specify dates, times and places of incidents, and names and/or positions of agency employees involved, if any, as well as names, addresses and telephone numbers of any witnesses to any such incident. Attach additional pages if necessary.

Proposed access or accommodation:

If you wish, describe the way in which you feel access may be had to the benefits described above, or that accommodation could be provided to allow access.

A copy of the above form may be obtained by contacting the designated ADA coordinator identified at N.J.A.C. 19:40-6.4.

19:40-6.8 Investigation

(a) Upon receipt of a grievance submitted pursuant to this subchapter, the designated ADA coordinator will notify the grievant of the receipt of the grievance and the initiation of an investigation into the matter. The designated ADA coordinator will also indicate a date by which it is expected that the investigation will be completed, which date shall not be later than 45 days from the date of receipt of the grievance if practicable or unless a later date is agreed to by the grievant.

(b) Upon completion of the investigation, the designated ADA coordinator shall prepare a report for review by the designated decision maker for the agency. The designated decision maker shall render a written decision within 45 days of receipt of the grievance, if practicable or unless a later date is agreed to by the grievant, which decision shall be transmitted to the grievant and/or the alternate contact person if so designated by the grievant.