

CHAPTER 19 CASINO CONTROL COMMISSION

Authority

N.J.S.A. 52:14F-5(e), (f), and (g).

Source and Effective Date

R.2008 d.33, effective February 4, 2008.
See: 39 N.J.R. 4471(a), 40 N.J.R. 779(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1.c(2), Chapter 19, Casino Control Commission, expires on August 3, 2015. See: 47 N.J.R. 567(a).

Chapter Historical Note

Chapter 19, Casino Control Commission, was adopted as R.1996 d.296, effective July 1, 1996. See: 28 N.J.R. 1437(a), 28 N.J.R. 3297(a).

Chapter 19, Casino Control Commission, was readopted as R.2001 d.265, effective July 1, 2001. See: 33 N.J.R. 1492(a), 33 N.J.R. 2639(b). Chapter 19, Casino Control Commission, expired on July 1, 2006.

Chapter 19, Casino Control Commission, was adopted as new rules by R.2008 d.33, effective February 4, 2008. See: Source and Effective Date.

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 19, Casino Control Commission, was scheduled to expire on February 4, 2015. See: 43 N.J.R. 1203(a).

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SUBCHAPTER 1. APPLICABILITY

1:19-1.1 Applicability

(a) The rules in this chapter shall apply to contested case hearings arising under the Casino Control Act, N.J.S.A. 5:12-1 et seq.

(b) Any aspect of the hearing process not covered by the special hearing rules in this chapter shall be governed by the provisions of the Casino Control Act and the Uniform Administrative Procedure Rules (UAPR) contained in N.J.A.C. 1:1. To the extent that the special hearing rules in this chapter are inconsistent with the UAPR, the rules in this chapter shall apply.

SUBCHAPTER 2. DEFINITIONS

1:19-2.1 Initial decision defined

“Initial decision” means the recommended findings of fact, conclusions of law and disposition, based upon the evidence and arguments presented during the course of the hearing, issued by the administrative law judge, commission member, or hearing officer appointed pursuant to N.J.S.A. 5:12-107a and made a part of the record which is sent to the Casino Control Commission for a final decision.

SUBCHAPTERS 3 THROUGH 4. (RESERVED)

SUBCHAPTER 5. REPRESENTATION

1:19-5.1 Multiple party representation

(a) In any circumstances described in (b) below, an attorney who intends to represent more than one party in the same or a substantially related matter shall file a petition for

approval no later than 10 days after filing a pleading or entering an appearance in the matter, whichever is earlier. The petitioner shall file such petition with the Casino Control Commission (Commission), or with the Clerk of the Office of Administrative Law (OAL) if the matter has been transmitted to it, and one copy with the Division of Gaming Enforcement.

1. The Division may, within 10 days from the date that the petition is filed, file a written response to the petition with the Commission, or with the OAL, if the matter has been transmitted to it.

(b) No attorney shall represent the following parties respondent unless a petition pursuant to (a) above is granted:

1. A casino licensee or applicant and any person who at the time of the alleged violation was an employee of said licensee or applicant;

2. A casino service industry enterprise licensee or applicant and any person who at the time of the alleged violation was employed by said licensee or applicant;

3. Two persons who at the time of the alleged violation were employed by the same casino licensee or applicant where one such employee had supervisory responsibility over the other employee; or

4. Two persons who at the time of the alleged violation were employed by the same casino service industry enterprise licensee or applicant where one such employee had supervisory responsibility over the other employee.

(c) Any petition filed pursuant to (a) above shall be in writing and shall include:

1. The nature of the petition and the reasons therefore;
2. The name and docket number of the matter involved;
3. The name and address of the parties represented;
4. A concise statement of the nature of the allegations raised in the complaint and the reasons why no conflict of interest is presented;
5. The certification of the attorney/petitioner detailing the basis of his or her belief that the representation will not adversely affect his or her relationship with each party respondent; and
6. The certification of each respondent acknowledging full disclosure of the potential conflict of interest and consenting to his or her representation by the attorney/petitioner.

(d) Upon receipt of a petition pursuant to (a) and (c) above:

1. If the matter will be heard by the Commission, the matter shall be forwarded to the chair or to such other Commission member as the chair may designate. Thereafter, with the advice and recommendation of the General Counsel of the Commission, the petition shall be evaluated on the papers submitted and in conformity with the Rules of Professional Conduct governing conflict of interest,

R.P.C. 1.7 through 1.10, and any applicable statutory provisions, judicial decisions, rules of court, or determinations of the Supreme Court's Advisory Committee on Professional Ethics or other appropriate authority.

2. If the matter has been transmitted to the OAL for hearing, the petition shall be forwarded to the Office of Administrative Law for determination by an administrative law judge.

(e) All interested parties shall be advised of the decision of the judge, either orally or in writing no later than 15 days from the date that the petition is filed. If the decision is communicated orally, it shall be reduced to writing and mailed to the petitioner within five days.

(f) Any time limitations imposed by (a) and (e) above may be extended by the judge for good cause, upon notice to all parties.

(g) Any party may appeal from the determination of the chair or the chair's designee to the full Commission upon written notice filed within five days. If the petition is determined by an administrative law judge, appeal shall be to the Director of the Office of Administrative Law pursuant to N.J.A.C. 1:1-14.10.

SUBCHAPTER 6. (RESERVED)

SUBCHAPTER 7. SERVICE AND FILING OF PAPERS

1:19-7.1 Notices

Unless otherwise provided by the Casino Control Act, orders and notices related to a contested case including, without limitation, notices concerning the scheduling of conferences, hearings, deferrals, reinstatement after deferrals and postponements shall be served upon all parties by ordinary mail, except that hearing notices in proceedings against a licensee or registrant shall be served personally or by certified mail. All hearing notices shall be served at least 10 days prior to the hearing.

SUBCHAPTER 8. (RESERVED)

SUBCHAPTER 9. ADJOURNMENTS; INACTIVE LIST

1:19-9.1 Placement on inactive list pending disposition of charges against applicant or respondent

(a) An applicant or respondent who is currently being prosecuted for or charged with an offense that is enumerated in N.J.S.A. 5:12-86c may move to place the case on the

inactive list pursuant to N.J.S.A. 5:12-86d. Any such motion shall be processed in accordance with the provisions of N.J.A.C. 1:1-9.7 except that the judge shall, in all cases, grant the motion if the applicant or respondent establishes the existence of such prosecution or pending charge.

(b) An applicant or respondent whose case has been placed on the inactive list pursuant to this section shall notify the judge within 10 days of the disposition of the charge that was the basis for the deferral. Any applicant or respondent who fails to comply with the notice requirements of this subsection shall be deemed to have withdrawn his or her request for a hearing pursuant to N.J.A.C. 1:1-19.2. Unless the applicant or respondent submits to the Casino Control Commission (Commission) a satisfactory written explanation for his or her failure within 20 days of the date of disposition, the Commission may take final action on the case pursuant to N.J.A.C. 19:42-3.3.

(c) Any case placed on the inactive list pursuant to this section shall be returned to active status by the judge assigned to the case immediately upon:

1. The receipt of notice from the applicant or respondent pursuant to (b) above; or
2. The expiration of the deferral period established by the judge pursuant to N.J.A.C. 1:1-9.7(a)1.

(d) Notwithstanding (c)2 above and N.J.A.C. 1:1-9.7(a)3, a judge shall continue the inactive status of a case placed on the inactive list pursuant to (a) above if the applicant or respondent demonstrates that:

1. The prosecution or charge remains pending; and
2. The failure to achieve disposition has not been caused by any action or inaction of his or her part.

1:19-9.2 Adjournments

(a) An application for the adjournment of a proceeding scheduled to be heard directly by the Casino Control Commission (Commission) or by a member of the Commission shall be made to the Commission clerk or representative designated in the scheduling notice; provided, however, that the adjournment of a hearing may only be approved by the judge. An application for adjournment of a matter transmitted to the Office of Administrative Law shall proceed pursuant to N.J.A.C. 1:1-9.6.

(b) The conduct of voluntary settlement negotiations shall not be considered sufficient grounds for the issuance of an adjournment.

SUBCHAPTER 10. DISCOVERY

1:19-10.1 Time for discovery

(a) Each party to a contested case shall provide, at a minimum, the following discovery to each other party either personally or by ordinary mail:

1. A copy of any document which the party intends to introduce at the hearing;
2. A list of the names and addresses of any witnesses which the party intends to call at the hearing; and
3. The qualifications of any expert witness which the party intends to call at the hearing and a copy of any reports prepared by the witness or a summary of the testimony that the witness will offer.

SUBCHAPTER 11. (RESERVED)

SUBCHAPTER 12. MOTIONS

1:19-12.1 Emergency relief; suspension, limitation or conditioning of license or registration

(a) Pursuant to N.J.S.A. 5:12-104, 108 and 129, the Casino Control Commission (Commission) may, upon application by the Division of Gaming Enforcement, issue an emergency order for the suspension, limitation or conditioning of any registration or license, other than a casino license, pending a final decision in a contested case.

(b) Applications for emergency relief shall be served by the Commission on all parties pursuant to N.J.A.C. 19:42-4.1 and, if the termination of existing agreements between a party and a casino licensee or applicant is requested, on all casino licensees and applicants.

(c) Applications for emergency relief may be granted without a plenary hearing upon a finding by the Commission that there is a reasonable possibility that the licensee or registrant will be found disqualified pursuant to N.J.S.A. 5:12-86 or that such action is necessary to:

1. Prevent a violation of the Casino Control Act (Act) or the criminal laws of this State;
2. Preserve the public peace, health, safety, morals, good order and general welfare; or
3. Preserve the public policies of the Act.

(d) A person on whom an emergency order has been served shall thereafter be entitled to a plenary hearing.

SUBCHAPTER 13. PREHEARING CONFERENCES AND PROCEDURES

1:19-13.1 Conduct of prehearing conference by a designated representative of the Casino Control Commission

(a) If a matter will be heard by the Casino Control Commission (Commission), prior to the transmission of a contested case to a hearing commissioner, the chair may designate a representative to conduct any prehearing conference proceedings authorized by N.J.A.C. 1:1-13.

(b) If, pursuant to (a) above, a representative of the chair is designated to conduct a prehearing conference, the designated representative shall issue a prehearing memorandum in accordance with the requirements of N.J.A.C. 1:1-13.2 and such memorandum shall have the same force and effect as a prehearing order issued by a judge.

(c) Settlements reached at a prehearing conference scheduled pursuant to (a) above shall be submitted to the Commission for disposition pursuant to N.J.A.C. 19:42-2.11.

SUBCHAPTER 14. CONDUCT OF CONTESTED CASES

1:19-14.1 Rules concerning all contested cases

(a) In addition to any authority granted in the Uniform Administrative Procedure Rules (UAPR), N.J.A.C. 1:1, the judge shall have the authority to:

1. Administer oaths and to require testimony under oath, pursuant to N.J.S.A. 5:12-65;
2. Serve process or notices in a manner provided for the service of process and notice in civil actions in accordance with the rules of the court, pursuant to N.J.S.A. 5:12-65;
3. Issue subpoenas and compel the attendance of witnesses at any place within this State, pursuant to N.J.S.A. 5:12-65 and 5:12-108(f);
4. Propound written interrogatories, pursuant to N.J.S.A. 5:12-65;
5. Take official notice of any generally accepted information or technical or scientific matter in the field of gaming and of other fact which may be judicially noticed by the courts of this State, pursuant to N.J.S.A. 5:12-107(b); and
6. Permit the filing of amended or supplemental pleadings, pursuant to N.J.S.A. 5:12-107(b).

(b) In addition to any rights granted in the UAPR, the parties shall have the right to:

1. Call and examine witnesses, pursuant to N.J.S.A. 5:12-107(a)4;
2. Introduce exhibits relevant to the issues of the case, including the transcript of the testimony at any investigative hearing conducted by or on behalf of the Casino Control Commission (Commission), pursuant to N.J.S.A. 5:12-107(a)4;
3. Cross-examine opposing witnesses in any matters relevant to the issue of the case, pursuant to N.J.S.A. 5:12-107(a)4;
4. Impeach any witness, regardless of which party called him to testify pursuant to N.J.S.A. 5:12-107(a)4;
5. Offer rebuttal evidence, pursuant to N.J.S.A. 5:12-107(a)4; and
6. Stipulate and agree that certain specified evidence may be admitted although such evidence may be otherwise subject to objection, pursuant to N.J.S.A. 5:12-107(a)(7).

(c) In any contested case, the Commission shall have the authority to:

1. Grant testimonial immunity, pursuant to N.J.S.A. 52:12-67;
2. Order a rehearing, pursuant to N.J.S.A. 52:12-107(d); and
3. Certify contempt for punishment by the Superior Court, pursuant to N.J.S.A. 5:12-107(c).

SUBCHAPTER 15. EVIDENCE RULES

1:19-15.1 Special evidence rules

(a) The following special rules of evidence shall apply:

1. Any relevant evidence, not subject to a claim of privilege, may be admitted regardless of any rule of evidence which would bar such evidence in judicial matters, pursuant to N.J.S.A. 5:12-70a(6);
2. Evidence admitted pursuant to (a)1 above shall be sufficient in itself to support a finding, pursuant to N.J.S.A. 5:12-70d and 107a(6); and
3. If an applicant, licensee, registrant or person who shall be qualified pursuant to the Casino Control Act is a party and if such party shall not testify in his own behalf, he may be called and examined as if under cross-examination, pursuant to N.J.S.A. 5:12-107a(5).