

CHAPTER 42**HEARINGS****Authority**

N.J.S.A. 5:12-63a-d, 63h, 64, 65, 66, 69a, 70d-e, 71, 80, 86, 89, 90, 91, 92, 94, 95, 102, 107, 108, 109, 129, and 52:14B-4, 8 and 12.

Source and Effective Date

R.2000 d.367, effective August 11, 2000.
See: 32 N.J.R. 2217(a), 32 N.J.R. 3331(b).

Executive Order No. 66(1978) Expiration Date

Chapter 42, Hearings, expires on August 11, 2005.

Chapter Historical Note

Chapter 42, Hearings, was adopted as R.1978 d.159, effective May 17, 1978. See: 10 N.J.R. 177(b), 10 N.J.R. 266(b).

Pursuant to Executive Order No. 66(1978), Chapter 42, Hearings, was readopted as R.1983 d.180, effective May 17, 1983. See: 15 N.J.R. 534(a), 15 N.J.R. 931(c).

Pursuant to Executive Order No. 66(1978), Chapter 42, Hearings, was readopted as R.1988 d.256, effective May 12, 1988. See: 20 N.J.R. 764(a), 20 N.J.R. 1209(b).

Subchapter 10, Administrative Review of Unpaid Fees and Civil Penalties, was adopted as R.1992 d.35, effective January 21, 1992. See: 23 N.J.R. 3249(a), 24 N.J.R. 298(a).

Pursuant to Executive Order No. 66(1978), Chapter 42, Hearings, was readopted as R.1993 d.222, effective April 26, 1993. See: 25 N.J.R. 1082(a), 25 N.J.R. 1999(b).

Pursuant to Executive Order No. 66(1978), Chapter 42, Hearings, was readopted as R.1995 d.495, effective August 14, 1995, and Subchapter 3, Rules Concerning Applications Hearings, was repealed and Subchapter 3, Emergency Relief, was adopted as new rules, Subchapter 5, Rules Concerning Proceedings Against Applicants, Licensees and Registrants, and Subchapter 9, Declaratory Rulings, were repealed, and Subchapters 6, Hearings on Complaints Against the Division, Subchapter 7, Investigative Hearings, Subchapter 8, Hearings on Regulations, and Subchapter 10, Administrative Review of Unpaid Fees and Civil Penalties, were recodified as Subchapter 5, Hearings on Complaints Against the Division, Subchapter 6, Investigative Hearings, Subchapter 7, Hearings on Regulations, and Subchapter 8, Administrative Review of Unpaid Fees and Civil Penalties, by R.1995 d.495, effective September 5, 1995. See: 27 N.J.R. 2567(a), 27 N.J.R. 3393(a).

Pursuant to Executive Order No. 66(1978), Chapter 42, Hearings, was readopted as R.2000 d.367, effective August 11, 2000. See: Source and Effective Date.

CHAPTER TABLE OF CONTENTS**SUBCHAPTER 1. GENERAL PROVISIONS**

- 19:42-1.1 Definitions
- 19:42-1.2 Applicability of rules
- 19:42-1.3 Right to a hearing

SUBCHAPTER 2. CONDUCT OF CONTESTED CASES

- 19:42-2.1 Commencement of a contested case
- 19:42-2.2 Notice of right to hearing
- 19:42-2.3 Request for a hearing
- 19:42-2.4 Failure to request a hearing; withdrawal of a request; final action

- 19:42-2.5 (Reserved)
- 19:42-2.6 Transmission to the OAL or designation of a hearing examiner
- 19:42-2.7 (Reserved)
- 19:42-2.8 Burden of proof
- 19:42-2.9 (Reserved)
- 19:42-2.10 Filings; notices
- 19:42-2.11 Effect of settlement
- 19:42-2.11A Wage executions
- 19:42-2.12 Motions for reconsideration; motions to reopen the record; motions for relief

SUBCHAPTER 3. EMERGENCY RELIEF

- 19:42-3.1 (Reserved)
- 19:42-3.2 Orders granting emergency relief; form; service
- 19:42-3.3 Emergency orders; hearings; complaint

SUBCHAPTER 4. PRELIMINARY EXCLUSION HEARINGS

- 19:42-4.1 Preliminary placement on the exclusion list; commencement; notice; service; postponement
- 19:42-4.2 Preliminary exclusion hearing; nature of hearing; burden of proof; service of order

SUBCHAPTER 5. HEARINGS ON COMPLAINTS AGAINST THE DIVISION

- 19:42-5.1 Hearings on complaints against the Division
- 19:42-5.2 Presumption of need to inspect and investigate
- 19:42-5.3 Burden of proof

SUBCHAPTER 6. INVESTIGATIVE HEARINGS

- 19:42-6.1 Investigative hearings

SUBCHAPTER 7. HEARINGS ON REGULATIONS

- 19:42-7.1 Hearings on regulations

SUBCHAPTER 8. ADMINISTRATIVE REVIEW OF UNPAID FEES AND CIVIL PENALTIES

- 19:42-8.1 Commencement
- 19:42-8.2 Repayment plans
- 19:42-8.3 Administrative review conference
- 19:42-8.4 Disposition of fee matters and civil penalties
- 19:42-8.5 Restoration upon payment

SUBCHAPTER 1. GENERAL PROVISIONS**19:42-1.1 Definitions**

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

“Exclusion list” is defined at N.J.A.C. 19:48-1.1

“Letter Report” means a written report from the Division of Gaming Enforcement setting forth its position on an initial or renewal license application.

“OAL” means the Office of Administrative Law.

"Party" means any person or entity directly involved in a contested case, including petitioner, respondent, intervenor, or State agency proceeding in any such capacity.

"UAPR" means the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

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

19:42-1.2 Applicability of rules

(a) In addition to the UAPR, the provisions of the Casino Control Act and the rules in this chapter shall apply to the appropriate contested case hearing initiated pursuant to the Casino Control Act.

(b) To the extent that the act and the rules in this chapter are inconsistent with the UAPR, the former shall apply.

19:42-1.3 Right to a hearing

(a) The Commission shall not deny, refuse to renew or revoke any license or registration or place a candidate on the exclusion list unless it has first afforded the licensee, registrant or candidate for exclusion an opportunity for a hearing in accordance with law and the rules of the Commission.

(b) When the Commission has authority under the Act or the rules of the Commission to suspend a license or registration without first holding a hearing, it shall promptly upon exercising such authority afford the licensee or registrant an opportunity for a hearing in accordance with law and the rules of the Commission.

(c) This section shall not apply where:

1. The Act provides that the Commission is not required to grant a hearing in regard to the refusal to renew a license or registration; or

2. The Commission is required by law to refuse to renew a license or registration without exercising any discretion in the matter on the basis of a judgment of a court of competent jurisdiction.

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

SUBCHAPTER 2. CONDUCT OF CONTESTED CASES

19:42-2.1 Commencement of a contested case

(a) A contested case shall be commenced at the direction of the Commission or by the filing of one of the following by the Division:

1. A letter report recommending that an application for initial or renewal licensure, registration or qualification should not be granted;

2. A written complaint which sets forth in ordinary and concise language the charges against a licensee, registrant or applicant and the acts or omissions supporting such charges; or

3. A written petition to place a candidate on the exclusion list, which sets forth in ordinary and concise language the grounds for exclusion.

(b) A filed letter report recommending that an application be granted, or taking no position on an application, will not commence a contested case unless otherwise directed by the Commission.

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

19:42-2.2 Notice of right to hearing

(a) When the Commission has been provided with all information necessary for action upon a contested application, complaint or petition for exclusion, the Commission shall serve upon the applicant or respondent a copy of the pleading and a written notice of the right to a hearing and the responsibility to request a hearing, as follows:

1. Complaints shall be served upon a licensee, applicant or registrant either personally or by certified mail;

2. Letter reports regarding a contested application shall be served upon an applicant by ordinary mail; and

3. Petitions for exclusion shall be served on the candidate for exclusion personally, by certified mail at the last known address of the candidate for exclusion or by publication daily for one week in a newspaper of general circulation in Atlantic City, New Jersey.

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

19:42-2.3 Request for a hearing

(a) Any request for a hearing shall be filed with the Commission, with one copy to the Division and each other party, within 30 days of receipt of notice of a petition for exclusion, or within 15 days of receipt of notice of a contested application or complaint. Such request may include a notice of defense which sets forth:

1. Admission or denial of the allegations in whole or in part;

2. Affirmative defenses, new matters or explanations by way of defense; or

3. Any legal objection.

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

19:42-2.4 Failure to request a hearing; withdrawal of a request; final action

(a) If a party fails to timely file a request for a hearing pursuant to N.J.A.C. 19:42-2.3, or withdraws a request for a hearing, the Commission may:

1. Order a hearing on its own motion; or