

SUBCHAPTER 4. COMMENCEMENT OF APPEAL HEARING

19:42A-4.1 Right to appeal; notice of right to appeal

(a) Any licensee, applicant for a license, or registrant who is aggrieved by a final action of the Division shall have the right to appeal to the Commission. Pursuant to N.J.S.A. 5:12-63(b) and 107(h), an appeal may be taken from the following Division actions:

1. A notice of violation and penalty assessment issued upon any applicant, qualifier, licensee, or registrant;

2. A ruling on an application for a casino service industry enterprise license pursuant to N.J.S.A. 5:12-92;

3. A ruling on an application for any other license or qualification under the Act;

4. Revocation of a license or registration;

5. A ruling by the Director regarding a request for a statement of compliance pursuant to N.J.S.A. 5:12-81(a); and

6. Placement on an exclusion list.

(b) All appeals from final actions of the Division shall be heard by the Commission, or designated hearing examiner, in accordance with the Act, the UAPR, and this chapter.

(c) The Division shall provide any party against whom final action is taken with notice of their right to appeal to the Commission. The Division shall also provide the Commission with notification of an appealable matter by mailing a copy of the final action to the address set forth at N.J.A.C. 19:42A-4.2(a). Upon receipt of the final action from the Division, the Commission shall mail an appeal request form to the party against whom final action was taken.

19:42A-4.2 Commencement of appeal hearing; extension of time to appeal

(a) Any party may appeal a final action of the Division by filing with the Commission a written request to appeal. Such written request shall be filed by hand-delivering or mailing an appeal request form within 20 calendar days of the Commission's notification to the party of the party's right to appeal to:

New Jersey Casino Control Commission

Document Control Unit

ATTN: Hearings and Appeals Unit

Tennessee Avenue and the Boardwalk

Atlantic City, New Jersey 08401

One copy of a request to appeal shall also be simultaneously submitted to the Division and any other party. The appeal will be docketed upon receipt by the Commission and acknowledged in writing.

(b) Any request to extend the time to appeal a final action shall be made in writing to the Commission's Document Control Unit, ATTN: Hearings and Appeals Unit, at the address specified in (a) above. The Commission may, upon a showing of good cause and in the absence of prejudice, or in the interest of public policy, extend the time within which a request to appeal may be filed for an additional 20 days.

(c) Upon receipt of a party's request to appeal, the Commission shall provide the appellant with an opportunity to submit a Case Information Statement.

19:42A-4.3 Record on appeal

(a) The record on appeal shall include all papers and exhibits, including audio and video recordings, on file with the Division, together with all entries as to matters made on the record, the stenographic transcript of the proceedings at the Division, and all papers filed with the Division hearing examiner.

1. Within 20 days of the service upon it of a notice of appeal the Division shall file a statement with the Commission of the items comprising the record on appeal and shall serve a copy thereof on each party to the appeal and shall file a copy of the items comprising the record with the Commission.

(b) A party who questions whether the Division's hearing record is complete shall apply on motion to the Division to settle the record. The Commission or its designated hearing examiner, on a party's motion, may review such determination or, in the Commission or designated hearing examiner's own discretion, direct correction of the record.

(c) If at any time during the pendency of an appeal, it appears that evidence not adduced in the proceedings before the Division may be material to the issues on appeal, the Commission or its designated hearing examiner, on its or his or her own motion, or on the motion of any party, may order, on such terms as the Commission or its designated hearing examiner deems appropriate, that the record on appeal be supplemented by the taking of additional evidence and the making of findings of fact thereon by the Division.

19:42A-4.4 Case Information Statement form

(a) A Case Information Statement shall be in a format prescribed by the Commission and shall require the appellant to provide the following information:

1. Appellant's name;
2. Appellant's current address and telephone number;
3. Names of all parties involved;
4. A brief statement of the facts and procedural history;
5. The proposed issues sought to be raised on appeal;
6. Any legal objection to the decision, including, but not limited to, constitutional issues, statutory authority, and/or regulatory authority; and
7. Whether the appellant wants an opportunity to present oral argument.

19:42A-4.5 Filing and service of Case Information Statements, briefs, and motions

One copy of all Case Information Statements, briefs, and motions filed pursuant to this chapter shall be served on all parties, and proof of such service shall be appended to the original, which shall be filed with the Commission.

19:42A-4.6 Time for filing and service of briefs

- (a) The appellant may serve and file a brief in support of the appeal within 20 days after the hearing record has been deemed established by the Commission or within such time as the Commission orders, whichever is later.
- (b) The respondent may serve and file an answer brief within 20 days after service of the appellant's brief or within such time as the Commission orders, whichever is later.
- (c) The appellant may serve and file a reply brief within 10 days after service of the respondent's brief or within such time as the Commission orders, whichever is later.

19:42A-4.7 Dismissal of appeal; withdrawal; effect of stipulation on appeal

(a) An appellant shall provide any information that is requested by the Commission, and failure to provide such information may result in dismissal of the appeal. The Commission may at any time on its own motion, or on motion of either party, dismiss an appeal if the appellant fails to cooperate or maintain contact with the Commission during the pendency of their appeal or if the Commission determines that the motive for filing an appeal was frivolous or improper.

(b) An appellant may withdraw an appeal at any time prior to the issuance of the Commission's or its designated hearing examiner's decision, whereupon the Commission or its designated hearing examiner shall discontinue all proceedings and notify all parties accordingly.

(c) An appeal may be settled at any time prior to issuance of the Commission or its designated hearing examiner's decision, provided that the parties notify the Commission or its designated hearing examiner of any settlement and file the dispositive stipulation with the Commission or its designated hearing examiner, whereupon the appeal shall be dismissed.