

SUBCHAPTER 2. COMMENCEMENT OF CONTESTED CASE HEARING

19:42A-2.1 Right to a hearing

(a) The Commission shall not deny, suspend, or revoke any license or take action to disqualify any person required to establish individual qualification, unless it has first afforded the applicant, licensee, or qualifier an opportunity for a hearing in accordance with law and the rules of the Commission.

(b) This section shall not apply where the Commission is required by law to deny an application or revoke a license or qualification without exercising any discretion in the matter on the basis of a judgment of a court of competent jurisdiction.

19:42A-2.2 Commencement of a contested case hearing

(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 report recommending that an application for a casino license, a casino key employee license, or individual qualification in connection with a casino license should not be granted;

2. A report recommending that a casino license, a casino key employee license, or an individual qualification in connection with a casino license should be revoked;

3. A written complaint requesting that the Commission suspend a casino license, casino key employee license, or individual qualification in connection with a casino license;

4. At the request of the Director upon issuance of a report and recommendation in accordance with N.J.S.A. 5:12-87.1; or

5. A report requesting a conference for an application for a casino license, a casino key employee license, or individual qualification in connection with a casino license.

(b) The Division shall file an original and four copies of any such report or complaint concerning an applicant for or holder of a casino license, casino key employee license, or individual qualification in connection with a casino license by hand-delivery, electronic mail, or first class mail to the Commission at the address specified in N.J.A.C. 19:42A-2.4(a) or at an electronic mail address provided by the Commission.

(c) A filed 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.

19:42A-2.3 Notice of right to a hearing

(a) When the Commission has been provided with a copy of the appropriate document set forth in N.J.A.C. 19:42A-2.2(a), the Commission shall serve upon the applicant, licensee, or qualifier a copy of the Division report or complaint and a written notice of the right to a hearing and the responsibility to request a hearing, with a copy of same to the Division, as follows:

1. Reports regarding a contested application shall be served upon an applicant by certified and ordinary mail; and

2. Complaints shall be served upon an applicant, licensee, or qualifier either personally or by certified mail.

(b) All written notices advising of the right to a hearing and the responsibility to request a hearing shall be sent to the most recent known address provided to the Commission by the Division.

19:42A-2.4 Request for a hearing

(a) Any request for a hearing before the Commission shall be filed with the Commission in writing by hand-delivering or mailing the request for a hearing 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 for a hearing shall simultaneously be submitted to the Division and each other party, if applicable, within 20 calendar days of the Commission's notification to the applicant or respondent of their right to a hearing. Such request shall 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 to the findings and determinations contained in the Division's report or complaint including, but not limited to, constitutional issues, statutory authority, and/or regulatory authority.

19:42A-2.5 Failure to request a hearing; withdrawal of a request; final action

(a) If a party fails to timely file a request for a hearing before the Commission pursuant to N.J.A.C. 19:42A-2.4, or withdraws a request for a hearing, the Commission may:

1. Order a hearing on its own motion; or

2. Determine that such action constitutes a waiver of the right to a hearing and an admission of all material allegations concerning the failure of the applicant or respondent to qualify or maintain his or her qualifications. Upon such a determination, the Commission may take final action including, without limitation:

- i. Denial of any pending application;
- ii. Revocation of a license or qualification;
- iii. Other relief that is consistent with the policies of the Act and in the public

interest.

19:42A-2.6 Transmission to the OAL or designation of a hearing examiner

(a) Pursuant to N.J.S.A. 5:12-107(a), unless the Commission hears a contested case directly, the Chair may refer the matter to the OAL or designate a member of the Commission, or other qualified person other than an employee of the Commission, to serve as a hearing examiner.

(b) If a hearing examiner becomes unavailable at any time after the commencement of a hearing, but prior to the filing of the initial decision, the Chair may appoint another hearing examiner or transfer the contested case to the OAL or the Commission. The Commission or the new hearing examiner may either continue the hearing and render a decision upon the entire record or begin the hearing anew.