

Mississippi Gaming Commission Regulations

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Title 13: Gaming

Part 1: Organization and Administration

Part 1 Chapter 1: GENERAL PROVISIONS

Rule 1.1 Appointment Of Committees. The Commission may at its discretion appoint committees to study and report to the Executive Director or the Commission any matter appropriate to the Commission's administration of the Act or these regulations. (Adopted: 09/25/1991; Amended: 01/22/1998.)

Source: *Miss. Code Ann. § 75-76-23*

Rule 1.2 Definitions. The terms defined in the Mississippi Gaming Control Act have the same meaning in these regulations as they have in that Act, unless the context otherwise requires. As used in these regulations, the following terms have the following definitions, unless the context requires otherwise.

- (a) "Act" means the Mississippi Gaming Control Act.
 - (b) "Operating licensee" means the person or entity licensed to actually operate a particular gaming establishment.
 - (c) "Executive Director" includes any duly authorized agent of the Executive Director.
- (Adopted: 09/25/1991.)

Source: *Miss. Code Ann. § 75-76-5 (Rev. 2004).*

Part 1 Chapter 2: PUBLIC AND CONFIDENTIAL RECORDS

Rule 2.1 Definitions. As used in this regulation

(a) "Agency work product" means any paper, document, or other record prepared within the Commission, in performance of statutory authority, which contains opinions or recommendations submitted for consideration in the performance of decisional or policy making functions or information supplied by any governmental agency or an informer or on the assurance that the information will be held in confidence. "Agency work product" includes, but is not limited to, the following documents prepared by members, agents, attorneys, and employees of the Commission:

1. Investigative summaries concerning applicants for licensure, finding of suitability, registration, or other affirmative Commission approval;
2. Investigatory files compiled for law enforcement purposes;
3. Investigative reports;
4. Work papers and notes of members, agents, attorneys, and employees of the Commission;
5. Audit reports, including work papers, whether for special or regular audits;
6. Orders to show cause and related documents; and
7. Reports regarding loans to licensees, submitted to the Commission pursuant to Regulation II-I.

(b) "Applicant records" means those records which contain information and data pertaining to an applicant's criminal record, antecedents and background, and the applicant's financial records, furnished to or obtained by the Commission from any source incident to an investigation for licensure, finding of suitability, registration, or other affirmative approval.

(c) "Certification fees" means the fees charged by Commission personnel incident to the certification of documents.

(d) "Confidential record" means any paper, document or other record or data reduced to a record which is not open to public inspection.

(e) "Duplication fees" mean a charge for duplicating documents for release to the requesting person.

(f) "Financial records" mean those records which relate to the finances, earnings, or revenue of an applicant, licensee, registered company, or person to whom any approval has been granted.

(g) "Investigation" means any investigation conducted by the Commission or its staff pursuant to the Mississippi Gaming Control Act and the regulations promulgated thereunder, including, but not limited to, an investigation pursuant to an application for a gaming license, continuation of a gaming license, finding of suitability, registration, approval, other license, or periodic compliance investigation. (Adopted: 11/18/1999.)

(h) "Law enforcement agency" means any governmental agency involved in the investigation of criminal activity or the arrest, detention, or prosecution of persons suspected of engaging in criminal activity.

(i) "Public record" means any paper, document, or other record required to be kept or necessary to be kept, in the discharge of a duty imposed by law, not declared confidential by statute or regulation. Public records are open to public inspection and include, but are not limited to, the following:

1. Minutes of Commission regular and special public meetings, and all public hearings conducted by the Commission, or its agents, including exhibits entered in the public record as public documents at those meetings or hearings;
2. A list of all applications made under the Act and the record of all formal actions taken with respect to such applications by the Executive Director or the Commission;
3. Agendas of Commission meetings;
4. With the exception of documents filed under seal pursuant to section 3, legal documents filed with the Commission concerning contested cases brought by or against the Executive Director, including, without limitation, disciplinary actions, proceedings concerning the possible inclusion of persons on the list of excluded persons, petitions for redetermination, and requests for refund, except that the summary of evidence filed with a disciplinary complaint and the evidence to which it refers is confidential until such documents are entered in the public record as public documents at a commission hearing on the complaint;
5. Commission files on the enactment, amendment, or repeal of regulations;
6. The Act and the regulations promulgated thereunder;
7. Licenses;
8. The following public documents submitted to the Commission and the United States Securities and Exchange Commission by publicly traded corporations:
 - i. Annual and quarterly reports to the United States Securities and Exchange Commission;

- ii. Notices of annual meetings and proxy material provided to the shareholders; and
 - iii. Registration statements declared effective by the United States Securities and Exchange Commission; and
9. Reports and correspondence of the Commission specifically prepared for public distribution. (Adopted: 09/25/1991; Amended: 11/18/1999.)

Source: *Miss. Code Ann.* § 75-76-5 (Rev. 2004);

Rule 2.2 Confidential Records. Confidential records may only be released as prescribed in this regulation. Confidential records include, but are not limited to:

- (a) Agency work product;
- (b) Applicant records;
- (c) Financial records;
- (d) Transcripts of investigative and other closed hearings including, but not limited to, work permit and personnel hearings;
- (e) Preliminary filings with the Commission by applicants, licensees, or registered publicly traded corporations including, but not limited to:
 1. Preliminary documents filed by publicly traded corporations with the United States Securities and Exchange Commission; and
 2. Reorganization and financing proposals;
- (f) Work permit records, lists of work permit holders, and records of persons engaged in the gaming industry acquired or compiled by the Commission;
- (g) Records or data provided to members, agents, and employees of the Commission on the assurance that such information will be held in confidence and treated as confidential information;
- (h) Records or data provided to members, agents, or employees of the Commission with a request for confidentiality, which request has been granted by the Executive Director or the Commission Chairman;
- (i) Any records required to be submitted to the Commission which contain information that is privileged, unless the holder of the privilege has waived the privilege;
- (j) Licensees' responses to orders to show cause;
- (k) Documents that are confidential under the Act, these regulations, or other law, proffered or introduced as evidence in contested matters, provided such documents are received in evidence as confidential exhibits;
- (l) Those documents or portions of documents filed in contested matters under seal pursuant to section 3 of this regulation;
- (m) Internal control systems submitted by applicants or licensees;
- (n) Correspondence containing information deemed confidential by applicable law or regulation; and
- (o) Any records which contain any information relating to confidential investigations or confidential informants of the Commission. (Adopted: 09/25/1991.)

Source: *Miss. Code Ann.* § 75-76-87 (Rev. 2004).

Rule 2.3 Sealing Of Documents.

(a) The Commission Chairman or the hearing examiner may allow any person interested in a contested case brought before the Commission by or against the Executive Director to file a document or portions of a document with the Commission under seal if:

1. The document or portions of the document contain information that is confidential pursuant to the Act or these regulations;
2. The person makes a request in writing or on the record of a public hearing to allow the filing of the document or portions of the document under seal, setting forth the reasons that such filing under seal should be permitted;
3. The person requesting the filing of the document or portions of the document under seal has, to the extent practicable, segregated the portions of the document containing confidential information from the remainder of the document so that no more of the document than is necessary is filed under seal; and
4. The Commission Chairman or the hearing examiner finds that the public interest in maintaining the confidentiality of the information outweighs the public interest in making the information public.

(b) The Commission Chairman or the hearing examiner may not allow the filing of the following documents under seal:

1. Complaints for disciplinary action;
2. Answers to complaints for disciplinary action;
3. Any Commission order.

(Adopted: 09/25/1991.)

Source: *Miss. Code Ann. § 75-76-111*

Rule 2.4 Access To Public Records. A request for access to public records must be made to a custodian of records of the Commission. The Executive Director shall designate the custodians of the Commission's records. The custodians of records shall require payment of any duplication, or certification fees prior to release of copies of the records. As soon as practicable after payment of the required fees, the custodians of records shall provide copies of all public records requested. The Executive Director may waive payment of the required fees. (Adopted: 09/25/1991.)

Source: *Miss. Code Ann. § 75-76-19*

Rule 2.5 Access To Confidential Records.

(a) Except as otherwise provided in this section, the Commission may only release confidential records if ordered to do so by a court of competent jurisdiction following compliance with Miss. Code Ann. §75-76-153.

(b) All requests for access to confidential records must be made in writing to the Executive Director.

(c) Pursuant to a written request, as described in subsection (b), from any duly authorized agent of any agency of the United States Government, any state, or any political subdivision of this state, the Commission may release confidential records to the agency requesting them, except as

otherwise provided in subsection (d), upon a finding by the Executive Director that the release is consistent with the policy of this state as reflected in the Act.

(d) Notwithstanding any other section of this regulation, the Commission may only release work permit records:

1. Pursuant to subsection (c), if the agency requesting the records is a law enforcement agency; or
2. Pursuant to subsection (e).

(e) Pursuant to a written request, as described in subsection (b), the Executive Director or the Commission may release confidential records to the person requesting them upon an express written finding by the Executive Director or the Commission that the release of the confidential record(s) is necessary for the effective administration of the Act. The release of confidential records is necessary for the effective administration of the Act when, in the discretion of the Executive Director or the Commission:

1. It is the most effective means of furthering or accomplishing any objective authorized by the Act or these regulations;
2. It is not in conflict with the policy underlying the Act; and
3. There are no practical, effective alternative means of furthering or accomplishing the objective.

(f) Notwithstanding anything to the contrary contained in this regulation, the Executive Director may enter into agreements with other governmental agencies for the exchange or release of confidential information:

1. Provided that the Executive Director determines that the release of information contemplated by the agreement will be consistent with the policy of this state as reflected in the Act, pursuant to subsection (c) of this section; or
2. If work permit records will be released to any governmental agency other than a law enforcement agency pursuant to the agreement, provided that the Executive Director makes an express written finding that the release of work permit records contemplated by the agreement are necessary for the effective administration of the Act, pursuant to subsection (e) of this section.

(g) Once the Executive Director enters into an agreement pursuant to subsection (f) of this section, the agreement constitutes compliance with subsections (c), (d), and (e) of this section, and the Executive Director is not required to make separate findings each time that confidential information is released pursuant to the agreement.

(h) The Executive Director or the Commission may require any party receiving confidential information to agree in writing or on the record of any hearing to any limitations that the Executive Director or the Commission deems necessary prior to giving that party the confidential information. (Adopted: 09/25/1991.)

Source: *Miss. Code Ann.* § 75-76-133

Rule 2.6 Unauthorized Procurement Of Records Prohibited. An applicant, licensee, registered company, or enrolled person shall not, directly or indirectly, procure or attempt to procure from the Commission information or records that are not made available by proper authority. Any violation of this regulation constitutes reasonable cause for disciplinary action or to deny any application. (Adopted: 09/25/1991.)

Source: *Miss. Code Ann.* § 75-76-19

Part 1 Chapter 3: ENROLLMENT OF ATTORNEYS, ACCOUNTANTS, AND AGENTS.

Rule 3.1 Eligibility To Practice. No person shall be eligible to practice before the Commission unless such person is enrolled in accordance with these regulations, except that any individual may appear, without enrollment, on his own behalf or on behalf of a member of his immediate family, if such appearance is without compensation; and a member of a partnership, an officer of a corporation, or an authorized regular employee of an individual, partnership, corporation, or other business entity may likewise appear without enrollment in any matter relating to such individual or business entity. (Adopted: 09/25/1991.)

Source: *Miss. Code Ann.* § §75-76-33; 75-76-49

Rule 3.2 Scope Of Practice. Practice before the Commission shall be deemed to include all matters relating to the presentation of a client's matter to the Commission, the Executive Director, or a hearing examiner, including the preparation and filing of applications, reports, systems of internal control, financial statements, or other documents submitted to the Commission on behalf of such client. (Adopted: 09/25/1991.)

Source: *Miss. Code Ann.* § 75-76-33

Rule 3.3 Qualifications For Enrollment. The following persons may be admitted to practice before the Commission:

(a) Attorneys at law admitted to practice before the Supreme Court of the State of Mississippi and who are lawfully engaged in the active practice of their profession.

(b) Certified public accountants and public accountants qualified to practice under Mississippi law and who are lawfully engaged in active practice as such. (Adopted: 09/25/1991.)

Source: *Miss. Code Ann.* § 75-76-33

Rule 3.4 Procedures For Enrollment. An attorney or accountant meeting the qualifications described in section 3 shall be deemed automatically enrolled at the time the attorney or accountant first appears for or performs any act of representation on behalf of a client in any matter before the Commission. (Adopted: 09/25/1991.)

Source: *Miss. Code Ann.* § 75-76-33

Rule 3.5 Enrollment For A Particular Matter

(a) The following persons may, upon motion of an enrolled person, be admitted to practice before the Commission for the purposes of a particular case or matter:

1. Attorneys at law who have been admitted to practice before the courts of any state or territory or the District of Columbia, and who are in good standing with the court by which they are licensed.
2. Certified public accountants or public accountants who have duly qualified to practice as such in their own names, under the laws and regulations of any state or

territory or the District of Columbia, and who are in good standing with the entity by which they are licensed.

(b) No person enrolled for a particular matter may practice before the Commission except in association with the enrolled person who sponsored his enrollment. (Adopted: 09/25/1991.)

Source: *Miss. Code Ann.* § 75-76-33

Rule 3.6 Suspension And Revocation Of Enrollment

(a) A person's enrollment to practice before the Commission shall be suspended automatically without a hearing if his professional license is suspended or revoked.

(b) Any person enrolled to practice before the Commission may have his enrollment to practice suspended or revoked if, after a hearing, the Commission finds that:

1. The person made a materially false or misleading statement with regard to his application for enrollment;
2. The person willfully failed to exercise diligence in the preparation or presentation of any application, report, or other document filed with the Commission, or knowingly misrepresented any material fact to the Commission;
3. The person willfully violated or aided and abetted in the violation of any provision of the Act or these regulations;
4. The person does not possess the requisite qualifications or expertise to represent others before the Commission, lacks character or integrity, or has engaged in unethical or improper conduct.

(Adopted: 09/25/1991.)

Source: *Miss. Code Ann.* § 75-76-33

Rule 3.7 Reinstatement

(a) Any agent whose enrollment is suspended under section 6(a) shall be deemed automatically reinstated to practice before the Commission at the time he is reinstated to practice law or accounting by the applicable licensing authority.

(b) Any agent whose enrollment is suspended or revoked under section 6(b) may be reinstated by the Commission, upon application, for good cause shown. An applicant for reinstatement shall be afforded an opportunity for a hearing before the Commission on the application, and shall pay all reasonable costs of the proceeding. (Adopted: 09/25/1991.)

Source: *Miss. Code Ann.* § 75-76-29

Rule 3.8 Proof Of Authority. The Commission may require all persons seeking to appear before it to disclose the identity of those they represent and to present proof that they are authorized to act on their behalf. (Adopted: 09/25/1991.)

Source: *Miss. Code Ann.* § 75-76-33

Rule 3.9 Effect Of Representation.

(a) Any person represented by an attorney, accountant, agent, or other person before the Commission shall be bound by the acts or omissions of such representative to the same extent as if he had acted or failed to act personally.

(b) In any appearance by an attorney, accountant, agent, or other representative at any hearing or meeting of the Commission, the person represented shall be deemed to have waived all privileges with respect to any information in the possession of such attorney, accountant, agent, or representative, or any testimony by him, except for privileges afforded by the constitution of this state or the United States, where applicable. (Adopted: 09/25/1991.)

Source: *Miss. Code Ann.* § 75-76-33

Rule 3.10 Obligations Of Truthfulness And Diligence.

(a) Enrolled persons shall not be intentionally untruthful to the Commission, nor withhold from the Commission any information which the Commission is entitled to receive, nor interfere with any lawful effort by the Commission to obtain such information.

(b) Enrolled persons shall exercise due diligence in preparing or assisting in the preparation of documents for submission to the Commission.

(c) Enrolled persons have a continuing responsibility on behalf of their clients to monitor the accuracy and completeness of information submitted to the Commission in any matter pertaining to their clients. Whenever an enrolled person becomes aware that information furnished to the Commission is no longer accurate and complete in any material respect, the enrolled person shall promptly furnish the Commission with appropriate supplemental and corrected information. (Adopted: 09/25/1991.)

Source: *Miss. Code Ann.* § 75-76-33

Rule 3.11 Knowledge Of Client's Omission. An enrolled person who knows that a client has not complied with the Act or the regulations of the Commission, or that a client has made a material error in or a material omission from any application, report, or other document submitted to the Commission, shall advise his client promptly of the fact of such noncompliance, error, or omission. (Adopted: 09/25/1991.)

Source: *Miss. Code Ann.* § 75-76-33

Rule 3.12 Certification Of Documents. Every application, report, affidavit, written argument, brief, statement of fact, or other document prepared or filed on behalf of a client represented by an enrolled person, must be signed by the enrolled person, and the signature shall be deemed to constitute a certification that the document was prepared in conformity with the requirements of the Act and regulations. (Adopted: 09/25/1991.)

Source: *Miss. Code Ann.* § 75-76-33

Part 1 Chapter 4: EMPLOYMENT OF CERTAIN PUBLIC SERVANTS

Rule 4.1 Prior approval required for hiring of public servant. No licensee or applicant for a license, without prior approval of the Mississippi Gaming Commission, shall hire any public servant of the government of the State of Mississippi or its political subdivisions, whose

approval is necessary for the licensee or applicant to operate or when the duties of such person pertain to the enforcement of the provisions of the Gaming Control Act. (Adopted: 06/28/1993.)

Source: *Miss. Code Ann.* § 75-76-21

Rule 4.2 Grounds for Denial of Approval. Approval may be denied in the following instances:

- (a) Employment deemed to be in violation of the ethics laws of the State of Mississippi;
- (b) Public servant has been instrumental in licensing or other agency approval of licensee or applicant;
- (c) Employment poses a threat to the public interest of the State of Mississippi or to the effective regulation and control of gaming;
- (d) Employment creates or enhances the dangers of unsuitable, unfair or illegal practices, methods and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto; or
- (e) Any other cause deemed reasonable by the Commission. (Adopted: 06/28/1993.)

Source: *Miss. Code Ann.* § 75-76-21

Rule 4.3 Future Employment Consideration. The Mississippi Gaming Commission will make a determination concerning future employment within thirty (30) days after written notice is served on the Executive Director and each commissioner. Failure to make a determination within the time allotted will constitute approval. Such requests will be treated as confidential. (Adopted: 06/28/1993.)

Source: *Miss. Code Ann.* §§ 75-76-21; 75-76-61

Rule 4.4 Future Employment Grievance. Any public servant, licensee, or applicant aggrieved by a decision of the Mississippi Gaming Commission, regarding future employment, may request a hearing utilizing the procedural rules applicable to denial of a work permit. (Adopted: 06/28/1993.)

Source: *Miss. Code Ann.* §§ 75-76-21; 75-76-61