

CALIFORNIA CODE OF REGULATIONS

TITLE 4. BUSINESS REGULATIONS.

DIVISION 18. CALIFORNIA GAMBLING CONTROL COMMISSION.

CHAPTER 1. GENERAL PROVISIONS.

ARTICLE 1. DEFINITIONS AND GENERAL PROCEDURES.

**§ 12002. General Definitions.**

Unless otherwise specified, the definitions in Business and Professions Code section 19805, supplemented by the definitions found in Chapter 10 of Title 9 of Part 1 of the Penal Code (commencing with section 330), shall govern the construction of this division. As used in this division:

(a) “APA hearing” means an evidentiary hearing which proceeds pursuant to Business and Professions Code sections 19825 or 19930, under the Administrative Procedure Act (APA) and is conducted pursuant to the requirements of Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, Section 1000 et seq. of Title 1 of the California Code of Regulations, and Chapter 10 of this division.

~~(b)~~(a) “BCII” means the Bureau of Criminal Identification and Information in the California Department of Justice.

~~(c)~~(b) “Bureau” means the Bureau of Gambling Control in the California Department of Justice. For the filing of any information, reports or forms, Bureau refers to the Sacramento office of the Bureau of Gambling Control.

~~(d)~~(e) “California Games” means controlled games that feature a rotating player-dealer position, as described in Penal Code section 330.11.

~~(e)~~(d) “Commission” means the California Gambling Control Commission.

~~(f)~~(e) “Conviction” means a plea or verdict of guilty or a plea of *nolo contendere*, irrespective of a subsequent order of expungement under the provisions of Penal Code section 1203.4, 1203.4a, or 1203.45, or a certificate of rehabilitation under the provisions of Penal Code section 4852.13. Any plea entered pursuant to Penal Code section 1000.1 does not constitute a conviction for purposes of Business and Professions Code section 19859, subdivisions (c) or (d) unless a judgment of guilty is entered pursuant to Penal Code section 1000.3.

~~(g)~~(f) “Deadly weapon” means any weapon, the possession or concealed carrying of which is prohibited by Penal Code section 12020.

1 (h) “Employee or Agent of the Commission” means the staff employed at the Commission  
2 ultimately under the direction of the Executive Director.

3 (i)(g) “Executive Director” means the executive officer of the Commission, as provided in  
4 Business and Professions Code section 19816 or his or her designee. If the Executive Director  
5 position is vacant, the “Executive Director” means the officer or employee who shall be so  
6 designated by the Commission.

7 (j)(h) “Gambling Control Act” or "Act" means Chapter 5 (commencing with section 19800) of  
8 Division 8 of the Business and Professions Code.

9 (k) “GCA hearing” means an evidentiary hearing which proceeds pursuant to Business and  
10 Professions Code sections 19870 and 19871, under the Gambling Control Act (GCA).

11 (l) “Interim license” means a license issued by the Commission for some interim period which  
12 includes both an interim renewal license issued pursuant to section 12035 and an interim gambling  
13 license issued pursuant to section 12349.

14 (m) “Member of the Commission” means an individual appointed to the Commission by the  
15 Governor pursuant to sections 19811 and 19812 of the Business and Professions Code, and does not  
16 include an employee or agent of the Commission.

17 (n)(i) “Registrant” means a person having a valid registration issued by the Commission.

18 (o)(j) “Surrender” means to voluntarily give up all legal rights and interests in a license, permit,  
19 registration, or approval.

20 (p) “Temporary license” means a preliminary license issued by the Commission, prior to any  
21 action on an initial license application, with appropriate conditions, limitations or restrictions  
22 determined on a case by case basis.

23 Note: Authority cited: Sections 19811, 19823, 19824, 19840, 19841, 19853(a)(3), and 19854, Business and  
24 Professions Code. Reference: Sections 7.5, 19800, 19805, 19811, 19816, and 19951, Business and Professions  
25 Code.

26

27 **§ 12012. Ex Parte Communication.**

28 (a) The limitations on ex parte communication imposed by Government Code sections  
29 11430.10 through 11430.80 shall not apply unless a proceeding is pending. For purposes of  
30 Government Code section 11430.10, a proceeding is not pending until one of the following  
31 occurs:

32 (1) An applicant or licensee has requested an evidentiary hearing under Section 12054;

33 (2) The Commission has elected to hold an evidentiary hearing under Section 12054; or

1       (3) The Bureau or Commission has filed an accusatory pleading under Section 12554 or  
2 Business and Professions Code section 19930.

3       (b) The limitations on *ex parte* communication imposed by Business and Professions Code  
4 sections 19872 shall not apply unless an application is pending disposition. For purposes of  
5 Business and Professions Code section 19872, pending disposition shall be anytime after an  
6 application has been filed with the Commission, including while the Bureau performs a  
7 background investigation pursuant to Business and Professions Code section 19826, but before  
8 the Commission has issued a final decision pursuant to Section 12068.

9       (c) Providing information or documents to an employee or agent of the Commission that are  
10 related to an application pending disposition shall not be considered an *ex parte* communication  
11 for purposes of the Act, including Business and Professions Code section 19872 or for purposes  
12 of regulations adopted pursuant to the Act.

13       (d) If any information or document related to an application pending disposition is conveyed  
14 from an applicant or the Bureau to an employee or agent of the Commission and is subsequently  
15 conveyed directly or indirectly, to a member of the Commission, that information or document  
16 shall be provided to all parties within 10 days or when the application is discussed at a  
17 Commission meeting, GCA hearing or APA hearing, whichever is earlier, so that they may  
18 participate in the communication. The mere conveyance of information to an employee or agent  
19 of the Commission shall not provide a basis for denial of an application.

20       (e) If an applicant communicates directly or indirectly on an *ex parte* basis with a member of  
21 the Commission in a manner not covered by the exemptions set forth in subsection (b) or (c)  
22 above, such communication may be used as a basis for denial of the application and continuation  
23 of a meeting or hearing. The information or document(s) conveyed to the member of the  
24 Commission shall be provided to all parties within 10 days or when the application is discussed  
25 at a Commission meeting, GCA hearing or APA hearing, whichever is earlier, so that they may  
26 participate in the communication.

27       (f) If the Bureau communicates directly or indirectly on an *ex parte* basis with a member of  
28 the Commission in a manner not covered by subsection (b) or (c), the information or documents  
29 shall be provided to all parties within 10 days so that they may be aware of and participate in the  
30 communication.

31       (g) A member of the Commission who communicates on an *ex parte* basis may disqualify

1 him or herself and withdraw from consideration of an application, at their discretion, as long as  
2 his or her withdrawal would not prevent the existence of a quorum qualified to act on the  
3 particular application. The information or document(s) conveyed shall be provided to all parties  
4 within 10 days or when the application is discussed at a Commission meeting, GCA hearing or  
5 APA hearing, whichever is earlier, so that they may participate in the communication.

6 (h) Where a proceeding is pending under both subsections (a) and (b), the more stringent  
7 relevant rule or penalty contained herein, under the Act or under the APA, shall apply.

8 Note: Authority cited: Sections 19811, 19823, 19824, 19840, 19841, and 19872, Business and Professions Code  
9 Sections 11400.20, 11410.40, 11415.10, and 11415.20, Government Code. Reference: Sections 19825, 19870,  
10 19871, and 19930, Business and Professions Code Sections, 11425.10, 11430.10 11430.20, 11430.30, 11430.50, and  
11 11430.60, Government Code.

12  
13 **§ 12015. Withdrawal of Applications.**

14 (a) A request by an applicant to withdraw the submitted application may be made at any time  
15 prior to the Bureau taking final action by issuing a recommendation to approve or deny the  
16 application. The request shall be made in writing to the Commission. Upon receipt of the  
17 request to withdraw, Commission staff shall send to the applicant at the applicant’s address of  
18 record written confirmation of receipt within 10 days. This written confirmation shall include a  
19 non-exhaustive list of possible consequences of withdrawal. Unless the applicant informs the  
20 Commission that the withdrawal request should be retracted, the Executive Director shall, within  
21 30 days, place the request before the Commission at a regularly scheduled meeting for approval  
22 under Section 12054.

23 (b) A withdrawal request granted by the Commission may be either with or without prejudice  
24 based upon the public interest and the applicable provisions of the Act, including for instance,  
25 where the applicant has failed to respond to Bureau or Commission inquires, or preliminary  
26 information has been provided by the Bureau which would indicate grounds for mandatory  
27 denial under Business and Professions Code section 19859.

28 (c) If a request for withdrawal is granted, any unused portion of a background investigation  
29 deposit shall be refunded.

30 (d) If a request for withdrawal is granted with prejudice, the applicant shall not be eligible to  
31 apply again for licensure or approval until after the expiration of one year from the date the  
32 request for withdrawal is granted.

1 (e) If the request for withdrawal is denied, the Bureau shall proceed with the investigation of  
2 the applicant and provide a recommendation pursuant to Business and Professions Code section  
3 19826.

4 Note: Authority cited: Sections 19811, 19823, 19824, 19840, 19841, 19869, 19893, and 19951 Business and  
5 Professions Code. Reference cited: Sections 19859, 19867, 19869, 19880, 19881, 19890, 19891, 19951, and 19984,  
6 Business and Professions Code Sections

7

8 **§ 12017. Abandonment of Applications.**

9 (a) At any time prior to the Commission’s consideration of an application pursuant to Section  
10 12054, and after the Bureau has taken final action by recommending approval or issued a report  
11 containing no recommendation, the Executive Director may determine an application to be  
12 abandoned based upon:

13 (1) Information provided to the Commission by the Bureau as a result of the Bureau’s  
14 background investigation;

15 (2) Failure of the applicant to respond to Bureau or Commission inquiries; or

16 (3) Notice by the applicant or their designated agent, that the application is no longer being  
17 pursued because, for example, the applicant is no longer employed by the gambling enterprise or  
18 is deceased.

19 (b) Within 10 days of receipt of the notice, Commission staff shall send to the applicant at the  
20 applicant’s address of record written confirmation of receipt and a non-exhaustive list of the  
21 possible consequences of abandonment, and unless the applicant informs the Commission within  
22 30 days that the application process should proceed, Commission staff shall forward the request  
23 to the Executive Director for consideration.

24 (c) If the Executive Director approves a request by the applicant or the applicant’s agent to  
25 abandon an application, any unexpended portion of a background investigation deposit shall be  
26 refunded.

27 (d) The Executive Director may also determine an application has been abandoned in  
28 advance of the Bureau taking final action where the applicant has failed to respond to Bureau or  
29 Commission inquiries.

30 (e) If the Executive Director determines an applicant has failed to respond to Commission or  
31 Bureau inquiries under subsection (2) of section (a) or section (d), or that an abandonment may  
32 be warranted based on information provided to the Commission by the Bureau, notice shall be

1 sent by certified mail to the applicant at the address of record and the applicant’s employer,  
2 where applicable, stating the reasons for abandonment of the application, and that the Executive  
3 Director will deem the application abandoned unless the applicant contacts the Commission  
4 within 30 days from the date of the notice. A refund of any unexpended portion of a background  
5 investigation deposit shall not be made if the Executive Director deems an application  
6 abandoned under this subsection.

7 (f) Where the Bureau has issued a recommendation to deny an application, the Commission  
8 may approve abandonment at its discretion, taking into consideration whether the applicant has  
9 requested abandonment and those criteria listed under subsection (a). The refund of any  
10 unexpended portion of a background investigation deposit shall be determined at the  
11 Commission’s discretion.

12 Note: Authority cited: Business and Professions Code Sections 19811, 19823, 19824, 19840, 19841, 19893, and  
13 19951. Reference cited: Business and Professions Code Sections 19859, 19867, 19869, 19880, 19881, 19890,  
14 19891, and 19951.

15  
16 ARTICLE 2. INTERIM RENEWAL LICENSES.

17 § 12035. Issuance of Interim Renewal Licenses.

18 (a) The Commission shall issue an interim renewal license to an applicant for renewal of a  
19 license in any case in which a request for an evidentiary hearing has been submitted after a  
20 tentative approval with conditions, limitations, or restrictions, or a tentative denial has been  
21 issued by the Commission pursuant to Section 12054. The interim renewal license shall be  
22 issued upon imposition of a stay of the Commission’s tentative decision. The Commission may  
23 also issue an interim renewal license where an accusation is pending or as necessary under  
24 paragraph (2) of subsection (b).

25 (b) The following conditions shall apply to all interim renewal licenses issued under  
26 subsection (a):

27 (1) An interim renewal license shall be issued with the same conditions, limitations, or  
28 restrictions, if any, as existed for the previous license, except for any condition that has been  
29 satisfied or is otherwise no longer applicable.

30 (2) An interim renewal license shall be valid for a period of two years from the date the  
31 previous license expires, or until a decision is final under Section 12068 after the conclusion of  
32 the hearing process, whichever is sooner, and is not subject to renewal; however, the

1 Commission may grant additional interim renewal licenses under Section 12054 if the hearing  
2 process has not, or will not be concluded by the expiration date of the interim renewal license.

3 (3) The holder of an interim renewal license for a state gambling license shall pay all  
4 applicable annual fees associated with that state gambling license.

5 (4) The issue date of the most recently granted interim renewal license shall serve as the  
6 issue date for any regular license granted thereafter.

7 (c) The issuance of an interim renewal license does not limit or impair, and is without  
8 prejudice to, any exercise of the discretion vested in the Commission with respect to the license  
9 at issue in the hearing process.

10 Note: Authority cited: Business and Professions Code Sections 19811, 19823, 19824, 19840, 19841, 19893, and  
11 19951. Reference cited: Business and Professions Code Sections 19859, 19867, 19869, 19876, 19880, 19881,  
12 19890, 19891, and 19951.

13

14 ~~§ 12047. Withdrawal of Applications.~~

15 ~~A request by an applicant to withdraw the submitted application may be made at any time~~  
16 ~~prior to the final action by the Bureau. The request shall be made in writing to the Commission.~~  
17 ~~The Commission, pursuant to Business and Professions Code section 19869, may deny the~~  
18 ~~request or may grant the request, with or without prejudice. (a) If a request for withdrawal is~~  
19 ~~granted without prejudice, any unused portion of the background investigation deposit shall be~~  
20 ~~refunded by the Commission. (b) If a request for withdrawal is granted with prejudice, the~~  
21 ~~applicant shall not be eligible to apply again for licensure or approval until after the expiration of~~  
22 ~~one year from the date the request for withdrawal is granted. Any unused portion of the~~  
23 ~~background investigation deposit shall be refunded by the Commission. (c) If the request for~~  
24 ~~withdrawal is denied, the Bureau shall proceed with the investigation of the applicant and~~  
25 ~~provide a recommendation to the Commission for~~  
26 ~~action on the application.~~

27 ~~Authority: Business and Professions Code Sections 19811, 19823, 19824, 19840, 19841, 19893, and 19951.~~  
28 ~~Reference: Business and Professions Code Sections 19859, 19867, 19869, 19880, 19881, 19890, 19891, 19951, and~~  
29 ~~19984.~~

30

31 ~~§ 12048. Abandonment of Applications.~~

32 ~~At any time prior to final Commission action, the Executive Director may preliminarily~~  
33 ~~determine that the application is abandoned. Such preliminary determination may be based upon~~

1 recommendation of the Bureau, failure of the applicant to respond to Bureau or Commission  
2 inquiries, or notification by the applicant that the application is no longer being pursued. If the  
3 determination is not based upon applicant's notice to the Commission, then notice will be sent to  
4 the applicant, with a copy to the applicant's employer by certified mail indicating that unless the  
5 applicant contacts the Commission within 30 days from the date of the letter, the application  
6 shall be deemed abandoned. An abandoned application cannot be reactivated.

7 Authority: Business and Professions Code Sections 19811, 19823, 19824, 19840, 19841, 19893, and 19951.  
8 Reference: Business and Professions Code Sections 19859, 19867, 19869, 19880, 19881, 19890, 19891, and 19951.

9

10 **§ 12050. Hearing Procedures; Appeal of Denial of or Imposition of Conditions on**  
11 **application for license, permit, or request for finding of suitability.**

12 (a) If the Bureau, after an investigation pursuant to Business and Professions Code section  
13 19826, subdivision (a), issues a recommendation to deny, limit, restrict, or condition a license,  
14 permit, or finding of suitability, the Bureau shall provide the applicant with a copy of the  
15 Bureau's final report as described in Business and Professions Code section 19868, subdivision  
16 (b), which includes a detailed factual and/or legal basis for any recommendation as well as the  
17 Bureau's recommendation to the Commission and any supplemental documents provided to the  
18 Commission at the time of the report and recommendation. Any applicant for any license,  
19 permit, or finding of suitability for whom Commission staff has issued a recommendation of  
20 denial or imposition of conditions shall be given notice by certified mail of the Commission  
21 meeting at which the application is scheduled to be heard and the Commission staff  
22 recommendation at least 10 days prior to the meeting. The applicant shall be afforded the  
23 opportunity to: (1) Address the Commission by way of an oral statement at a noticed  
24 Commission meeting, and/or may submit documents in support of the application, or (2) Request  
25 an evidentiary hearing.

26 (b) If the applicant requests an evidentiary hearing or the Commission elects to have an  
27 evidentiary hearing, the Executive Director shall set the matter for hearing pursuant to Business  
28 and Professions Code sections 19870 and 19871, or pursuant to Business and Professions Code  
29 section 19825 (conducted pursuant to Chapter 5 (commencing with section 11500) of Part 1 of  
30 Division 3 of Title 2 of the Government Code).

1       ~~(1) If the hearing is to proceed pursuant to Business and Professions Code section 19825~~  
2 ~~(Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the~~  
3 ~~Government Code; California Code of Regulations, title 1, section 1000 et seq.), the hearing~~  
4 ~~shall be before an administrative law judge sitting on behalf of the Commission. Notice shall be~~  
5 ~~effected pursuant to Government Code section 11500 et seq.~~

6       ~~(2) If the hearing is to proceed pursuant to Business and Professions Code sections 19870~~  
7 ~~and 19871, notice shall be effected by the Commission, and the hearing before the Commission~~  
8 ~~shall be conducted pursuant to Business and Professions Code section 19871:~~

9       ~~(A) The Bureau or Commission staff or Deputy Attorney General or other representative~~  
10 ~~presenting the case (Complainant) shall provide the applicant, at least 30 calendar days prior to~~  
11 ~~the hearing, a list of potential witnesses with the general subject of the testimony of each witness~~  
12 ~~and shall disclose and make available copies of all documentary evidence intended to be~~  
13 ~~introduced at the hearing and not previously provided, reports or statements of parties and~~  
14 ~~witnesses and all other writings containing relevant evidence, including all evidence made~~  
15 ~~available to the Commissioners. The applicant shall provide Complainant with similar~~  
16 ~~information to be introduced at the hearing and not previously provided at least ten calendar days~~  
17 ~~prior to the hearing. The Commissioners may prohibit testimony of a witness that is not~~  
18 ~~disclosed and may prohibit the introduction of documents that have not been disclosed.~~

19       ~~(B) Nothing in this section confers upon an applicant a right to discovery of the~~  
20 ~~Commission's or Bureau's confidential information or to require production of any document or~~  
21 ~~information the disclosure of which is otherwise prohibited by any provision of the Gambling~~  
22 ~~Control Act, or is privileged from disclosure or otherwise made confidential by law.~~  
23 ~~Documentary evidence may be redacted as needed to prevent the disclosure of confidential~~  
24 ~~information. Exculpatory or mitigating information shall not be withheld from the applicant, but~~  
25 ~~may be redacted.~~

26       ~~(C) Within the guidelines of subsection (b)(2)(A) above, each party shall have the right to~~  
27 ~~call and examine witnesses; to introduce relevant exhibits and documentary evidence; to cross-~~  
28 ~~examine opposing witnesses on any relevant matter, even if the matter was not covered in the~~  
29 ~~direct examination; to impeach any witness, regardless of which party first called the witness to~~  
30 ~~testify; and to offer rebuttal evidence. If the applicant does not testify on the applicant's own~~  
31 ~~behalf, the applicant may be called and examined as if under cross-examination.~~

1       ~~(D) The hearing need not be conducted according to technical rules of evidence. Any~~  
2 ~~relevant evidence may be considered, and is sufficient in itself to support findings if it is the sort~~  
3 ~~of evidence on which responsible persons are accustomed to rely in the conduct of serious~~  
4 ~~affairs, regardless of the existence of any common law or statutory rule that might make~~  
5 ~~improper the admission of that evidence over objection in a civil action. A presiding officer,~~  
6 ~~which shall be an administrative law judge or an attorney designated by the Commission, shall~~  
7 ~~rule on the admissibility of evidence and on any objections raised.~~

8       ~~(E) Oral evidence shall be taken upon oath or affirmation, which may be administered by a~~  
9 ~~staff member of the Commission or by a Commissioner.~~

10       ~~(F) The hearing shall be stenographically or electronically recorded by the Commission.~~

11       ~~(G) At the conclusion of the hearing, the Commission shall take the matter under submission~~  
12 ~~and may schedule future closed session meetings for deliberation. In taking the matter under~~  
13 ~~consideration, any Commissioner who participated at the hearing shall be allowed to vote by~~  
14 ~~mail or by other appropriate method. Within 30 days of the conclusion of the hearing, the~~  
15 ~~Commission shall issue a decision which complies with Business and Professions Code section~~  
16 ~~19870, subdivision (c), and shall serve the decision by certified mail on the applicant and on any~~  
17 ~~business entity with which the applicant is associated.~~

18       ~~(3) At the hearings described in subsections (b)(1) and (2) above, the burden of proof rests~~  
19 ~~with applicant to demonstrate why a license, permit, or finding of suitability should be issued or~~  
20 ~~not conditioned. The applicant may choose to represent himself, herself, or itself, or may retain~~  
21 ~~an attorney or lay representative at his, her, or its own expense. A representative of the Bureau~~  
22 ~~shall present the reasons why the license, permit, or finding of suitability should not be granted~~  
23 ~~or should be granted with conditions imposed. In the event that the Bureau does not present the~~  
24 ~~case, the Commission may seek outside representation or one or more Commission staff~~  
25 ~~members shall be segregated and present the case.~~

26       ~~(e) If the application is denied or conditions imposed:~~

27       ~~(1) The Commission's decision shall provide the effective date of the decision and may~~  
28 ~~include further directions as to stay provisions or orders to divest.~~

29       ~~(2) If the denied applicant is an officer, director, employee, agent, representative, or~~  
30 ~~independent contractor of a corporation licensed, registered, or found suitable by the~~

1 Commission, the denied applicant shall resign according to the date specified in the decision and  
2 shall so notify the Commission in writing.

3 (3) If the denied applicant is an officer or director of a corporation licensed, registered, or  
4 found suitable by the Commission, the corporation shall immediately remove that person from  
5 office and shall so notify the Commission in writing. If the denied applicant is an employee,  
6 agent, representative, or independent contractor of a corporation licensed, registered, or found  
7 suitable by the Commission, the corporation shall terminate its relationship with that person  
8 pursuant to the date specified in the decision and shall so notify the Commission in writing. The  
9 denied applicant and the corporation licensed, registered, or found suitable by the Commission  
10 shall comply with Business and Professions Code section 19882.

11 (4) If the denied applicant is a general or limited partner in a general or limited partnership  
12 licensed, registered, or found suitable by the Commission, the denied applicant shall resign as  
13 partner. If the denied applicant is an owner or holder of an interest in a limited partnership  
14 licensed, registered, or found suitable by the Commission, the denied applicant and the limited  
15 partnership shall comply with Business and Professions Code section 19892 and shall so notify  
16 the Commission in writing.

17 (5) If the denied applicant is a principal in a business entity not otherwise described above  
18 which is licensed, registered, or found suitable by the Commission, the denied applicant shall  
19 resign his or her position within that entity and divest whatever interest is held in that entity  
20 pursuant to the timelines and instructions specified in the decision, and shall so notify the  
21 Commission in writing. The business entity shall remove the denied applicant from any  
22 principal role in the business entity and shall so notify the Commission in writing.

23 (6) An applicant denied a license, permit, registration, or finding of suitability, or whose  
24 license, permit, registration, or finding of suitability has had conditions imposed upon it may  
25 request reconsideration by the Commission within 30 days of notice of the decision. The request  
26 shall be in writing and shall outline the reasons for the request, which must be based upon either  
27 newly discovered evidence or legal authorities that could not reasonably have been presented  
28 before the Commission's issuance of the decision or at the hearing on the matter, or upon other  
29 good cause for which the Commission in its discretion decides merits reconsideration. The  
30 Commission Chair may delegate to the Executive Director the authority to determine whether to  
31 place requests for reconsideration on the Commission agenda or to act on them at the

1 ~~Commission staff level. If placed on the Commission agenda, the applicant requesting~~  
2 ~~reconsideration shall be notified of the date and time of the agenda item. The granting or denial~~  
3 ~~of reconsideration is at the discretion of the Commission. The Commission shall notify the~~  
4 ~~applicant requesting reconsideration whether or not reconsideration is granted or denied within~~  
5 ~~30 days of the applicant’s request. If the Commission grants reconsideration, the effective date~~  
6 ~~of the decision shall be stayed or vacated, at the Commission’s discretion, while the decision is~~  
7 ~~reconsidered.~~

8 (d) ~~An appeal of a denial or imposition of conditions by the Commission shall be subject to~~  
9 ~~judicial review under Code of Civil Procedure section 1085 (pursuant to Business and~~  
10 ~~Professions Code section 19870, subdivision (e)). Neither the right to petition for judicial review~~  
11 ~~nor the time for filing the petition shall be affected by failure to seek reconsideration.~~

12 (e) ~~Proceedings to revoke, suspend, or discipline a license, registration, permit, finding of~~  
13 ~~suitability, or other approval shall be pursuant to Chapter 10 of these regulations.~~

14 ~~Note: Authority cited: Sections 19804, 19870 and 19872, Business and Professions Code. Reference: Sections~~  
15 ~~19868, 19870, 19879, 19883, 19892, Business and Professions Code.~~

16

17 ARTICLE 3. HEARING PROCEDURES AND DECISIONS.

18 § 12050. Commission Meetings; General Procedures; Scope.

19 (a) Nothing in this Article is intended to limit the Commission’s authority or discretion under  
20 the Act or this division including, without limitation, the way it reviews an application.

21 (b) This Article does not apply to proceedings brought under Business and Professions Code  
22 section 19930, subdivision (b) to revoke, suspend, or discipline a license, registration, permit,  
23 finding of suitability, renewal or other approval under the Act or Chapter 10 of this division.

24 (c) An applicant for any license, permit, finding of suitability, renewal, or other approval  
25 shall be given notice and a copy of any Commission staff report and any recommendation at least  
26 10 days prior to the date of the meeting at which the application is scheduled to be heard. Notice  
27 shall be given by certified mail addressed to the applicant at the applicant’s address of record.  
28 The notice shall inform the applicant of the following:

29 (1) The date, time and location of the Commission meeting at which the application is  
30 scheduled to be heard;

31 (2) That the applicant will be afforded the opportunity to:

- 1        (A) Address the Commission by way of an oral statement, written statement, or both; and
- 2        (B) Submit documents in support of the application.
- 3        (3) That the applicant may request an evidentiary hearing pursuant to Section 12062, if the
- 4        Commission issues a tentative approval with conditions, limitations, or restrictions, or a tentative
- 5        denial.

6        Note: Authority cited: Sections 19811, 19823, 19824, 19840, and 19841, Business and Professions Code.  
 7        Reference cited: Sections 19823, 19834, 19856, 19870, 19871, and 19930, Business and Professions Code.

8

9        **§ 12052. Bureau Recommendation and Information; Commission Staff Recommendation.**

10        (a) If the Bureau takes final action by issuing a recommendation to deny, limit, restrict, or  
 11        condition a license, permit, finding of suitability, renewal, or other approval, as described in  
 12        Business and Professions Code section 19868, subdivisions (b) and (c), or if the Bureau provides  
 13        any information on an application, the Bureau shall provide to the applicant a copy of its final  
 14        report which shall include any Bureau recommendation to the Commission, a detailed factual  
 15        and/or legal basis for any recommendation, and any supplemental documents provided to the  
 16        Commission. The report and recommendation shall be provided to the applicant at the same time  
 17        it is provided to the Commission.

18        (b) If the Bureau or Commission staff makes a recommendation to the Commissioners, the  
 19        Commissioners or Administrative Law Judge, sitting on behalf of the Commission at a  
 20        subsequent APA hearing, will determine what, if any, significance the recommendation has  
 21        regarding the application and they are not bound by its rationale or conclusion in any way.

22        Note: Authority cited: Sections 19811, 19823, 19824, 19840, and 19841, Business and Professions Code.  
 23        Reference cited: Sections 19824, 19826, 19827, 19868, 19869, 19870, 19871, and 19930, Business and Professions  
 24        Code.

25

26        **§ 12053. Scheduling.**

27        If the Executive Director determines it is appropriate, based on information contained in the  
 28        Bureau’s report or other appropriate sources, he or she may set an application for consideration  
 29        at a GCA hearing pursuant to Section 12062, subsection (c) with notice provided to the Bureau  
 30        and the applicant at the applicant’s address of record no later than 45 days in advance of the  
 31        hearing, provided however that the Commission retains the authority under Business and

1 Professions Code section 19825 to send a matter to an APA hearing pursuant to Section 12062,  
2 subsection (b) if the Commission deems it appropriate.

3 Note: Authority cited: Sections 19811, 19823, 19824, 19825 19840, and 19841, Business and Professions Code.  
4 Reference cited: Sections 19816, 19824, 19825, 19870, and 19871, Business and Professions Code.

5  
6 **§ 12054. Commission Meeting; Tentative Approval, Denial, Limitation or Conditioning;**  
7 **Commission Elected Hearings.**

8 (a) At a Commission meeting where an application for a license, temporary license, interim  
9 license, registration, permit, finding of suitability, renewal or other approval under the Act or this  
10 division, other than under Chapter 10, is scheduled to be heard, the Commission in its discretion  
11 may take the following action:

12 (1) Issue a license, temporary license, interim license, registration, permit, finding of  
13 suitability, renewal or other approval.

14 (2) Elect to hold a hearing in accordance with Section 12062.

15 (3) Issue a tentative approval with conditions, limitations or restrictions, of a license,  
16 registration, permit, finding of suitability, renewal or other approval. A tentative approval under  
17 this subsection does not give rise to a revocable privilege to conduct gambling operations, work  
18 in a gambling establishment, or otherwise operate until the tentative approval becomes final  
19 under subsection (e).

20 (4) Issue a tentative denial of a license, registration, permit, finding of suitability, renewal or  
21 other approval.

22 (5) Table or continue an item for consideration at a subsequent meeting, for any purpose,  
23 including obtaining new or additional information from the applicant, Bureau, or Commission  
24 staff, provided however that in the case of renewals, the Commission must act before the license  
25 expires.

26 (6) Extend a state gambling license up to 180 days as necessary under Business and  
27 Professions Code section 19876, subdivision (c).

28 (b) If the Commission issues a tentative approval with conditions, limitations, or restrictions,  
29 or a tentative denial, Commission staff shall, within 10 days of the Commission action, provide  
30 written notice to the applicant and Bureau of the Commission’s tentative decision, and of the  
31 applicant’s right to a hearing in accordance with Section 12062 if the request is made within 60

1 days after service of the notice. Unless a written request for hearing is made and received by the  
2 Commission within that 60-day period, the applicant’s right to a hearing is deemed waived.  
3 Service of the notice of the decision may be made in the manner authorized for service of  
4 summons in civil actions, or by certified mail addressed to the applicant at the latest address filed  
5 by the applicant in writing with the Commission in his or her application or otherwise. Service  
6 by mail is effective on the date of mailing.

7 (c) An applicant may waive the notice in subsection (b) and the right to a hearing pursuant to  
8 Section 12062 in a written form, Waiver of Evidentiary Hearing, CGCC-0XX (New 07/10),  
9 attached in Appendix A of this chapter, at the meeting at which the tentative decision was issued  
10 or at any time prior to the expiration of the 60-day period specified in subsection (b). If the  
11 applicant waives the right to a hearing, the tentative decision shall immediately become a final  
12 decision of the Commission upon the Commission’s receipt of the executed waiver.

13 (d) If the applicant requests a hearing pursuant to subsection (b) within the 60-day period, the  
14 tentative decision will be stayed for the duration of the hearing process until the Commission  
15 issues a final decision. Where a tentative decision has been stayed regarding the renewal of a  
16 license, the applicant shall receive an interim renewal license pursuant to Section 12035.

17 (e) The Commission is not bound by its tentative decision and is free to vacate, reverse, or  
18 revise it for any reason before it becomes a final decision, including without limitation, a request  
19 for an evidentiary hearing under Section 12062, or a compelling reason presented by the  
20 applicant.

21 (f) A tentative decision shall become a final decision of the Commission upon:

22 (1) The applicant’s affirmative waiver of the right to a hearing in a written form to the  
23 Commission;

24 (2) The deemed waiver of the right to a hearing under subsection (b) above; or

25 (3) The adoption by the Commission of the tentative decision after an evidentiary hearing  
26 process pursuant to Section 12062 and the expiration of the period for reconsideration pursuant  
27 to Section 12068.

28 (g) The Executive Director shall provide notice of the final decision under subsection (f) to  
29 the Bureau and the applicant at the applicant’s address of record within 10 days.

30 (h) If the Executive Director or the Commission approves or denies the withdrawal or  
31 abandonment of an application pursuant to Sections 12015 or 12017, that decision is final when

1 issued, unless the Commission specifies otherwise. No tentative decision shall be issued for the  
2 denial of a withdrawal or an abandonment. An applicant shall not have a right to an evidentiary  
3 hearing pursuant to Section 12062 for the denial of a withdrawal or an abandonment.

4 Note: Authority cited: Sections 19811, 19823, 19824, 19840, and 19841, Business and Professions Code.  
5 Reference cited: Sections 19816, 19823, 19824, 19869, 19870, and 19871, Business and Professions Code.

6  
7 **§ 12056. Pending Accusations; Renewals.**

8 If the Bureau files an accusatory pleading with the Commission pursuant to Business and  
9 Professions Code section 19930 prior to Commission action on a renewal application, the  
10 Commission may, in its discretion, act on the renewal application pursuant to Section 12054, or  
11 issue an interim renewal license pursuant to Section 12035. The Commission may act under  
12 Section 12054 to grant additional interim renewal licenses as necessary until it has issued a final  
13 decision pursuant to Section 12068. The Commission, under this section, may not table or  
14 continue an item for a subsequent meeting under paragraph (5) of subsection (a) of Section  
15 12054 past the expiration date of the current license or the interim renewal license.

16 Note: Authority cited: Sections 19811, 19823, 19824, 19840, and 19841, Business and Professions Code.  
17 Reference cited: Sections 19823, 19824, 19826, 19827, 19824, 19870, 19871, 19876 and 19930, Business and  
18 Professions Code.

19  
20 **§ 12058. Rescheduling of Meeting.**

21 Any application for a license, permit, approval or finding of suitability scheduled for  
22 Commission consideration at a noticed public meeting may be rescheduled for a later public  
23 meeting by the Executive Director prior to the meeting or by the Commission at the meeting,  
24 provided that in the case of renewal applications, the Commission must act before the license  
25 expires.

26 Note: Authority cited: Sections 19811, 19823, 19824, 19840, and 19841, Business and Professions Code.  
27 Reference cited: Sections 19816, 19823, 19824, and 19876, Business and Professions Code.

28  
29 **§ 12060. Reconsideration of Tentative Decision.**

30 (a) Prior to a tentative decision becoming final under Section 12054, an applicant may  
31 request reconsideration of that decision. The Executive Director may schedule the tentative  
32 decision for reconsideration at a subsequent meeting if all of the following apply:

1 (1) Both Bureau and Commission staff recommended approval, with or without conditions,  
2 of an application for a license, permit, or finding of suitability;

3 (2) The applicant was informed by Commission staff that approval had been recommended  
4 by Commission staff;

5 (3) New or additional concerns emerged during further review of the application and  
6 associated Bureau or Commission staff reports or during the public meeting on the application;

7 (4) The new or additional concerns had not been provided to the applicant in advance of the  
8 public meeting;

9 (5) The new or additional concerns constituted possible grounds for denial, limitation,  
10 restriction, or imposition of conditions; and

11 (6) The applicant has shown good cause as to why reconsideration should be granted.

12 (b) A request for reconsideration of a tentative decision does not toll the period for requesting  
13 an evidentiary hearing pursuant to Section 12054. An applicant has no right to an evidentiary  
14 hearing pursuant to Section 12062 for the denial of reconsideration of a tentative decision.

15 (c) If reconsideration of the tentative decision is scheduled for a subsequent meeting, the  
16 applicant shall be:

17 (1) Given notice, by certified mail at their address of record, at least 10 days in advance of  
18 the rescheduled Commission meeting at which the reconsideration is scheduled to be heard, and  
19 of the details of the concern or concerns, including copies of any documents not previously  
20 provided to the applicant.

21 (2) Advised to attend the scheduled Commission meeting.

22 (3) Afforded the opportunity to:

23 (A) Address the Commission by way of an oral statement at the noticed Commission  
24 meeting;

25 (B) Submit documents in support of the application; and

26 (C) Request an evidentiary hearing pursuant to Section 12062, if a hearing has not already  
27 been requested.

28 Note: Authority cited: Sections 19811, 19823, 19824, 19840, and 19841, Business and Professions Code.  
29 Reference cited: Sections 19816, 19823, 19824, 19870, and 19871, Business and Professions Code.

30  
31 **§ 12062. Evidentiary Hearings.**

1 (a) If the applicant requests an evidentiary hearing or the Commission elects to hold an  
2 evidentiary hearing, the hearing will be a GCA hearing conducted pursuant to Business and  
3 Professions Code sections 19870 and 19871, unless the Executive Director or the Commission  
4 determines the matter should be conducted as an APA hearing under Business and Professions  
5 Code section 19825.

6 (b) Under an APA hearing, before the Complainant files a Request to Set with the Office of  
7 Administrative Hearings, the Commission shall determine whether the APA hearing will be held  
8 before an Administrative Law Judge sitting on behalf of the Commission or before the  
9 Commission itself with an Administrative Law Judge presiding at the hearing in accordance with  
10 Government Code section 11512. Notice of the APA hearing shall be provided to the applicant  
11 pursuant to Government Code section 11500 et seq.

12 (c) Under a GCA hearing, the Executive Director shall give notice to the Office of the  
13 Attorney General, the Bureau and the applicant at the applicant’s address of record no later than  
14 45 days in advance of the GCA hearing. The GCA evidentiary hearing conducted pursuant to  
15 this section shall be the “meeting” referred to in Business and Professions Code sections 19870  
16 and 19871.

17 (d) In either an APA or GCA hearing, the Complainant shall be the Bureau. In the case of an  
18 APA hearing, the Complainant shall comport with the requirements of Government Code section  
19 11504 in the preparation and filing of a Statement of Issues. In the case of a GCA hearing, the  
20 Complainant will be required to present the Bureau’s report to the Commission. However, under  
21 either an APA or GCA hearing, the Complainant is not required to recommend approval or  
22 denial of an application, unless it so chooses, but rather simply to present the facts and law  
23 related to the application and investigation so that the Commission or an Administrative Law  
24 Judge can make an informed decision on the suitability of the applicant. The applicant has the  
25 burden of proof, not the Complainant.

26 (e) Under a GCA hearing:

27 (1) The Complainant shall provide to the applicant, at least 20 days prior to the GCA hearing:

28 (A) A list of potential witnesses with the general subject of the testimony of each witness;

29 (B) Copies of all documentary evidence intended to be introduced at the hearing and not  
30 previously provided;

31 (C) Reports or statements of parties and witnesses; and

1 (D) All other written comments or writings containing relevant evidence, including all  
2 evidence made available to the Commissioners.

3 (2) The applicant shall provide to the Complainant, at least 10 days prior to the GCA hearing,  
4 the information specified in subparagraphs (A) through (D) of paragraph(1) that will be  
5 introduced at the hearing and that has not been previously provided.

6 (3) The Commission may, upon a showing of prejudice by the objecting party, prohibit the  
7 testimony of any witness or the introduction of any documentary evidence that has not been  
8 disclosed pursuant to paragraphs (1) or (2).

9 (4) The Complainant shall present all facts and information in the Bureau’s report and any  
10 reasons why the license, permit, or finding of suitability should not be granted or should be  
11 granted with conditions, limitations, or restrictions imposed.

12 (5) The burden of proof rests with the applicant to demonstrate why a license, permit, or  
13 finding of suitability should be issued or not conditioned, limited, or restricted.

14 (6) The applicant may choose to represent himself, herself, or itself, or may retain an attorney  
15 or lay representative at his, her, or its own expense.

16 (7) Except as otherwise provided in paragraph (3), each party shall have the right to call and  
17 examine witnesses under oath; to introduce relevant exhibits and documentary evidence; to  
18 cross-examine opposing witnesses on any relevant matter, even if the matter was not covered in  
19 direct examination; to impeach any witness, regardless of which party first called the witness to  
20 testify; and to offer rebuttal evidence. If the applicant does not testify on the applicant’s own  
21 behalf, the applicant may be called and examined, under oath, as if under cross-examination.

22 (8) The GCA hearing need not be conducted according to technical rules of evidence. Any  
23 relevant evidence may be considered, and is sufficient in itself to support findings if it is the sort  
24 of evidence on which responsible persons are accustomed to rely in the conduct of serious  
25 affairs, regardless of the existence of any common law or statutory rule that might make  
26 improper the admission of that evidence over objection in a civil action. A presiding officer,  
27 which shall be an Administrative Law Judge or an attorney designated by the Commission, shall  
28 rule on the admissibility of evidence and on any objections raised.

29 (9) Oral evidence shall be taken upon oath or affirmation, which may be administered by  
30 Executive Director, a member of the Commission, or an Administrative Law Judge.

31 (10) The hearing shall be stenographically or electronically recorded by the Commission.

1 (f) At the conclusion of an APA or GCA hearing, the members of the Commission shall take  
2 the matter under submission, may discuss the matter in a closed session meeting, and may  
3 schedule future closed session meetings for deliberation.

4 (g) Nothing in this section confers upon an applicant a right to discovery of the  
5 Commission’s or Bureau’s confidential information or to require production of any document or  
6 the disclosure of information which is otherwise prohibited by any provision of the Gambling  
7 Control Act, or is privileged from disclosure or otherwise made confidential by any other  
8 provision of law. Documentary evidence may be redacted as needed to prevent the disclosure of  
9 confidential information. Exculpatory or mitigating information shall not be withheld from the  
10 applicant, but any confidential information may be redacted by the Complainant.

11 Note: Authority cited: Sections 19811, 19823, 19824, 19840, and 19841, Business and Professions Code.  
12 Reference cited: Sections 19816, 19823, 19824, 19825, 19868, 19870, and 19871, Business and Professions Code;  
13 Section 11512, Government Code.

14  
15 **§ 12064. Issuance of GCA Hearing Decisions.**

16 (a) Within 30 days of the conclusion of a GCA hearing, the Administrative Law Judge or  
17 other designated presiding officer shall prepare and submit to the Commission a proposed  
18 decision containing a detailed statement of reasons.

19 (b) Within 45 days of the issuance of the proposed decision, the Commission shall issue its  
20 decision, which shall comply with Business and Professions Code section 19870, and shall serve  
21 the decision by certified mail on the applicant at the applicant’s address of record and, in the case  
22 of a gambling license, on any associated or endorsed owner or owner-licensee.

23 (c) All decisions of the Commission issued pursuant to this section shall specify an effective  
24 date and may include further directions as to any stay provisions or orders to divest.

25 (d) Only members of the Commission who heard the evidence presented in the hearing are  
26 eligible to vote on a decision and may vote by mail or by another appropriate method unless such  
27 a requirement would prevent the existence of a quorum qualified to act on the particular  
28 application. In that event, a member of the Commission who has not heard the evidence may be  
29 allowed to vote after a review of the complete record and any additional briefing or hearing the  
30 Commission believes necessary.

31 Note: Authority cited: Sections 19811, 19823, 19824, 19840, and 19841, Business and Professions Code.  
32 Reference cited: Sections 19823, 19824, 19825, 19870, 19871, 19883 and 19892, Business and Professions Code.

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§ 12066. Decisions Requiring Resignation or Divestiture.

When an application is denied or conditions, limitations, or restrictions are imposed under the Act or this chapter, any requirements set forth in the decision shall be complied with, and the following shall apply to the extent not inconsistent with the decision, as applicable:

(a) If the denied applicant is an officer, director, employee, agent, representative, or independent contractor of a corporation licensed, registered, or found suitable by the Commission, the denied applicant shall be removed from office or shall resign according to the date specified in the Commission’s decision and shall so notify the Commission in writing.

(b)(1) If the denied applicant is an officer or director of a corporation licensed, registered, or found suitable by the Commission, the corporation shall immediately remove that person from office and shall so notify the Commission in writing.

(2) If the denied applicant is an employee, agent, representative, or independent contractor of a corporation licensed, registered, or found suitable by the Commission, the corporation shall terminate its relationship with that person pursuant to the date specified in the decision and shall so notify the Commission in writing.

(3) Any denied applicant subject to paragraphs (1) or (2) of this subsection and the corporation licensed, registered, or found suitable by the Commission, shall comply with Business and Professions Code section 19882, if applicable.

(c)(1) If the denied applicant is a general or limited partner in a general or limited partnership licensed, registered, or found suitable by the Commission, the denied applicant shall resign as a partner according to the date specified in the Commission’s decision and shall so notify the Commission in writing.

(2) If the denied applicant is an owner or holder of an interest in a limited partnership licensed, registered, or found suitable by the Commission, the denied applicant and the limited partnership shall comply with Business and Professions Code section 19892 and shall so notify the Commission in writing.

(d) If the denied applicant is a principal in a business entity not otherwise described above that is licensed, registered, or found suitable by the Commission:

1       (1) The denied applicant shall resign his or her position within that entity and divest whatever  
2 interest is held in that entity pursuant to the timelines and instructions specified in the  
3 Commission’s decision, and shall so notify the Commission in writing.

4       (2) The business entity shall remove the denied applicant from any principal role in the  
5 business entity and shall so notify the Commission in writing.

6 Note: Authority cited: Sections 19811, 19823, 19824, 19840, and 19841, Business and Professions Code.  
7 Reference cited: Sections 19823, 19824, 19825, 19870, 19871, 19883 and 19892, Business and Professions Code.

8  
9 **§ 12068. Requests for Reconsideration; Final Decision after GCA or APA Hearing.**

10       (a) After the Commission issues a decision following a GCA hearing conducted pursuant to  
11 Section 12062, an applicant denied a license, permit, registration, or finding of suitability, or  
12 whose license, permit, registration, or finding of suitability has had conditions, restrictions, or  
13 limitations imposed upon it, may request reconsideration by the Commission within 30 days of  
14 service of the decision.

15       (b) A request for reconsideration shall be in writing and shall state the reasons for the  
16 request, which must be based upon either:

17       (1) Newly discovered evidence or legal authorities that could not reasonably have been  
18 presented before the Commission’s issuance of the decision or at the hearing on the matter; or

19       (2) Other good cause for which the Commission may decide, in its sole discretion, merits  
20 reconsideration.

21       (c) The Executive Director shall initially determine, whether a request for reconsideration is  
22 complete, potentially meritorious, and should be placed on the Commission agenda at a public  
23 meeting for consideration.

24       (1) If no action is taken by the Executive Director on the request within 30 days, the request  
25 shall be deemed denied.

26       (2) If the request is to be heard by the Commission, the request shall be set on the  
27 Commission’s agenda within 60 days of its receipt. The applicant shall be given at least 10 days  
28 advance written notice of the date and time of the Commission meeting at which the request will  
29 be heard. The applicant, whether present at that meeting or not, shall be notified in writing of the  
30 Commission’s decision on the request within 10 days following the meeting. The effective date  
31 of the decision will be stayed while the decision is under reconsideration.

1        (d) The granting or denial of reconsideration under this section shall be at the sole discretion  
2 of the Commission.

3        (e) The appeal of a denial or imposition of conditions by the Commission shall be subject to  
4 judicial review under Code of Civil Procedure section 1085 (pursuant to Business and  
5 Professions Code section 19870, subdivision (e)). Neither the right to petition for judicial review  
6 nor the time for filing the petition shall be affected by failure to seek reconsideration.

7        (f) A decision of the Commission following a GCA or APA hearing shall become a final  
8 decision:

9            (1) 30 days after service of the decision, if reconsideration has not been granted;

10          (2) Immediately after the Commission affirms its decision or issues a reconsidered decision if  
11 reconsideration has been granted;

12          (3) Immediately if the applicant has waived reconsideration.

13 Note: Authority cited: Sections 19811, 19823, 19824, 19840, and 19841, Business and Professions Code.

14 Reference cited: Sections 19823, 19824, 19825, 19870, and 19871, Business and Professions Code; Section 11521  
15 Government Code.