

1 CHANGES TO 45-DAY COMMENT VERSION  
2 *45-day version additions in underline*  
3 *15-day version additions in italic; deletions in strikeout*  
4 Chapter 1. General Provisions

5 **12002. General Definitions**

6 Unless otherwise specified, the definitions in Business and Professions Code section  
7 19805, supplemented by the definitions found in Chapter 10 of Title 9 of Part 1 of the  
8 Penal Code (commencing with section 330), shall govern the construction of this division.  
9 As used in this division:

10 ....

11 (g) "Executive Director" means the executive officer of the Commission, as provided  
12 in Business and Professions Code section 19816 or his or her designee. If the  
13 Executive Director position is vacant, the "Executive Director" means the officer  
14 or employee who shall be *so* designated by the Commission.

15 ....

16 **Authority:** Sections 19811, 19823, 19824, 19840, 19841, 19853(a)(3), and 19854, Business and  
17 Professions Code; Section 7, Government Code.

18 **Reference:** Sections 7.5, 19800, 19805, 19811, 19816, and 19951, Business and Professions Code.

19 **12047. Withdrawal of Applications**

20 A request by an applicant to withdraw ~~an~~ *the submitted* application may be made at any  
21 time prior to the final action by the ~~Commission~~ *Division*. The request shall be made in  
22 writing to the Commission. The Commission, pursuant to Business and Professions Code  
23 section 19869, may deny the request or may grant the request, with or without prejudice.

24 *(a) If a request for withdrawal is granted without prejudice, any unused portion of the*  
25 *background investigation deposit shall be refunded by the Division.*

26 ~~(a)~~ *(b) If a request for withdrawal is granted with prejudice, the applicant shall not be*  
27 *eligible to apply again for licensure or approval until after the expiration of one year*  
28 *from the date the request for withdrawal is granted. Any unused *portion of the**  
29 *background investigation deposits shall be ~~refunded~~ *returned to the applicant* by the*  
30 *Division.*

31 ~~(b)~~ *(c) If the request for withdrawal is denied, the Division shall proceed with the*  
32 *investigation of the applicant and provide a recommendation to the Commission for*  
33 *action on the application.*

34  
35 **Authority:** Business and Professions Code Sections 19811, 19823, 19824, 19840, 19841, 19893, and  
36 19951.

37 **Reference:** Business and Professions Code Sections 19859, 19867, 19869, 19880, 19881, 19890, 19891,  
38 ~~and 19951, and 19984.~~

1 **12048. Abandonment of Applications**

2 At any time prior to final Commission action, the Executive Director may preliminarily  
3 determine that the application is abandoned. Such determination may be based upon  
4 recommendation of the Division, failure of the applicant to respond to *Division or*  
5 *Commission* inquiries, or notification by the applicant that the application is no longer being  
6 pursued. If the determination is not based upon applicant's notice to the Commission, then  
7 notice will be sent to the applicant, *with a copy to the applicant's employer* by *regular*  
8 *certified* mail indicating that unless the applicant contacts the Commission within *60-30*  
9 *days* from the date of the letter, the application will be deemed abandoned. ~~Once deemed~~  
10 ~~abandoned due to unresponsiveness of the applicant or by consent of the applicant, any~~  
11 ~~unused background investigation deposits shall be returned to the applicant by the~~  
12 ~~Division. *An abandoned application cannot be reactivated.*~~  
13

14 **Authority:** Business and Professions Code Sections 19811, 19823, 19824, 19840, 19841, 19893, and  
15 19951.

16 **Reference:** Business and Professions Code Sections 19859, 19867, 19869, 19880, 19881, 19890, 19891,  
17 and 19951.

18  
19 **12050. Denial; Appeal of Denial of application for license, permit, or request**  
20 **for finding of suitability.**

21 (a) Any applicant for any ~~state gambling~~ license, permit, or finding of suitability ~~for a tribal~~  
22 ~~key employee or resource supplier~~ for whom Commission staff has issued a  
23 recommendation of denial *or imposition of conditions* shall be given notice by  
24 certified mail of the Commission meeting at which the application is scheduled to be  
25 heard and the Commission staff recommendation at least *20-10* days prior to the  
26 meeting. Further, the Division shall provide the applicant with a summary of the  
27 Director's final report *which includes a factual and/or legal basis for any*  
28 *recommendation* and *the Division's* recommendation, if any, not less than 30 days  
29 prior to the *Commission* meeting. The applicant shall be afforded the opportunity  
30 ~~and shall make an election in writing to the Executive Director which is received not~~  
31 ~~less than 10 days prior to the scheduled meeting, or in person at the meeting, as~~  
32 ~~follows to:~~

33 (1) ~~The applicant may address~~ *Address* the Commission by way of an oral  
34 statement at a noticed Commission meeting, and/or may submit documents  
35 in support of the application ~~not less than five days prior to the meeting,~~ or

36 (2) ~~The applicant may request~~ *Request* an evidentiary hearing.

37 (b) If the applicant requests an evidentiary hearing *or the Commission elects to have an*  
38 *evidentiary hearing*, the Executive Director shall set the matter for hearing pursuant  
39 to Business and Professions Code sections 19870 and 19871, or pursuant to  
40 Business and Professions Code section 19825 (which will be conducted pursuant to  
41 Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the  
42 Government Code).

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

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

11 (A) The applicant and the Division or Commission staff or Deputy Attorney  
12 General *or other representative* presenting the case shall exchange a  
13 list of potential witnesses with the general subject of the testimony of  
14 each witness and shall disclose and make available copies of all  
15 documentary evidence intended to be introduced at the hearing and  
16 not previously provided, reports or statements of parties and  
17 witnesses and all other writings containing relevant *and admissible*  
18 evidence, at least *five-ten* calendar days prior to the hearing. *Such*  
19 *documentary evidence may be redacted as needed to prevent the*  
20 *disclosure of confidential information.* The Commissioners may  
21 prohibit testimony of a witness that is not disclosed and may prohibit  
22 the introduction of documents that have not been disclosed. *Nothing*  
23 *in this subsection confers upon an applicant a right to discovery of the*  
24 *Division's confidential investigative reports or to require production of*  
25 *any document or information the disclosure of which is otherwise*  
26 *prohibited by any provision of the Gambling Control Act, or is*  
27 *privileged from disclosure or otherwise made confidential by law.*

28 (B) *Nothing in this section confers upon an applicant a right to discovery*  
29 *of the Commission's or Division's confidential information or to require*  
30 *production of any document or information the disclosure of which is*  
31 *otherwise prohibited by any provision of the Gambling Control Act, or*  
32 *is privileged from disclosure or otherwise made confidential by law.*  
33 *Documentary evidence may be redacted as needed to prevent the*  
34 *disclosure of confidential information.*

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

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

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

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

16 ~~(F)~~(G) At the conclusion of the hearing, the Commission shall take the  
17 matter under submission *and may schedule future closed session*  
18 *meetings for deliberation. and shall issue a written decision within 30*  
19 *days which complies with Business and Professions Code section*  
20 *19870, subdivision (c).* In taking the matter under consideration, any  
21 Commissioner who participated at the hearing shall be allowed to vote  
22 by mail or by other appropriate method. *Within 30 days of the*  
23 *conclusion of the hearing, the Commission shall issue a decision*  
24 *which complies with Business and Professions Code section 19870,*  
25 *subdivision (c), and shall serve the decision by certified mail on the*  
26 *applicant and on any business entity with which the applicant is*  
27 *associated.*

28 (3) At the hearings described in subsections (b)(1) and (2) above, the burden of  
29 proof rests with applicant to demonstrate why a license, permit, or finding of  
30 suitability should *be issued.* The applicant may choose to represent himself,  
31 herself, or itself, or may retain an attorney or lay representative at his, her, or  
32 its own expense. A representative of the Division shall present the reasons  
33 why the license, *permit, or finding of suitability* should not be granted. In the  
34 event that the Division does not present the case, the Commission may seek  
35 outside representation or one or more Commission staff members shall *be*  
36 *segregated from the Commissioners and Commission legal unit to* present  
37 the case.

38 (c) If the application is denied *or conditions imposed:*

39 (1) *A detailed statement of reasons shall be issued by the Commission within 30*  
40 *days, and served on the denied applicant and on any business entity with which*  
41 *the denied applicant is associated by mail. The Commission's decision will*  
42 *provide the effective date of the decision and may include further directions as to*  
43 *stay provisions or orders to divest.*

- 1 (2) If the applicant is an officer, director, employee, agent, representative, or  
2 independent contractor of a corporation licensed by the Commission, the *denied*  
3 applicant shall resign ~~effective immediately upon receipt of~~ *pursuant to the date*  
4 *specified in the decision notice of the denial* and shall so notify the Commission  
5 *in writing.*
- 6 (3) If the denied applicant is an officer or director of a corporation licensed by the  
7 Commission, the corporation shall immediately remove that person from office  
8 and shall so notify the Commission *in writing.* If the denied applicant is an  
9 employee, agent, representative, or independent contractor of a corporation  
10 licensed by the Commission, the corporation shall ~~immediately~~ terminate its  
11 relationship with that person *pursuant to the date specified in the decision* and  
12 shall so notify the Commission *in writing.* If the denied applicant is a  
13 shareholder of a corporation licensed by the Commission, the corporation shall  
14 repurchase that person's shares, for cash, in an amount not greater than fair  
15 market value within 30 days after receipt of the denial and statement of findings,  
16 and shall so notify the Commission *in writing.*
- 17 (4) If the denied applicant is an owner or holder of an interest in a general or limited  
18 partnership licensed by the Commission, the denied applicant shall resign as  
19 partner and the general or limited partnership shall, within 30 days after receipt  
20 of the denial and statement of findings, return to the denied applicant, in cash,  
21 the amount of the denied applicant's capital account as reflected on the books of  
22 the partnership, and shall so notify the Commission in writing.
- 23 (5) If the denied applicant is a principal in a business entity licensed by the  
24 Commission not otherwise described above, the denied applicant shall resign  
25 his or her position within that entity and divest whatever interest is held in that  
26 entity ~~effective~~ *pursuant to the timelines and instructions specified in the*  
27 *decision* ~~immediately upon receipt of the denial~~, and shall so notify the  
28 Commission *in writing.* The business entity shall remove the denied applicant  
29 from any principal role in the business entity and shall so notify the Commission  
30 in writing.
- 31 (6) ~~The denied applicant~~ An applicant denied a license or whose license has had  
32 *conditions imposed upon it* may request reconsideration by the Commission  
33 within 30 days of notice of ~~the denial~~ *the decision.* The request shall be in writing  
34 and shall outline the reasons for the request, which must be based upon either  
35 newly discovered evidence *or legal authorities* that could not reasonably have  
36 been ~~brought~~ *presented* before the ~~denial or~~ *Commission's issuance of the*  
37 *decision or at the hearing on the matter, or upon* other good cause for which the  
38 Commission in its discretion decides merits reconsideration. The Commission  
39 Chair may delegate to the Executive Director the determination of whether to  
40 place requests for reconsideration on the Commission agenda or to act on them  
41 at the Commission staff level. If placed on the Commission agenda, the  
42 applicant requesting reconsideration shall be notified of the date and time of the  
43 agenda item. The granting or denial of reconsideration is at the discretion of the

1 Commission. *The Commission shall notify the applicant requesting*  
2 *reconsideration whether or not reconsideration is granted or denied within 30*  
3 *days of the applicant's request. If the Commission grants reconsideration, the*  
4 *effective date of the decision shall be stayed or vacated, at the Commission's*  
5 *discretion, while the decision is reconsidered.*

6 (d) ~~Unless otherwise specified, any~~An appeal of a ~~final~~ denial by the Commission shall be  
7 subject to judicial review under ~~to~~ Code of Civil Procedure, section 1085 (pursuant  
8 to Business and Professions Code, section 19870, subdivision (e)). *Neither the*  
9 *right to petition for judicial review nor the time for filing the petition shall be affected*  
10 *by failure to seek reconsideration.*

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

13 Authority: Sections 19804, 19870 and 19872, Business and Professions Code.

14 Reference: Sections 19868, 19870, 19879, 19883, 19892, Business and Professions Code.

15  
16  
17 Chapter 6. State Gambling Licenses and Approvals for  
18 Gambling Establishments, Owners, and Key Employees

19 **12348. Mandatory and Discretionary Grounds for Denial of Application for a**  
20 **State Gambling License or Key Employee License.**

21 (a) An application for a state gambling license or key employee license shall be denied by  
22 the Commission if any of the following apply:

23 (1) The Commission finds that the applicant is ineligible, *unqualified, disqualified, or*  
24 *unsuitable pursuant to the criteria set forth in the Act or other applicable law or*  
25 *that granting the license would be inimical to public health, safety, welfare, or*  
26 *would undermine the public trust that gambling operations are free from criminal*  
27 *or dishonest elements. ~~pursuant to the criteria set forth in Business and~~*  
28 ~~Professions Code section 19852, subdivisions (a) through (h) inclusive.~~

29 ~~(2)The Commission finds that the applicant is unqualified pursuant to the criteria set~~  
30 ~~forth in Business and Professions Code section 19857, subdivisions (a) through~~  
31 ~~(c) inclusive.~~

32 ~~(3)The Commission finds that the applicant is unsuitable pursuant to Business and~~  
33 ~~Professions Code section 19858.~~

34 ~~The Commission finds that the applicant is disqualified pursuant to Business and~~  
35 ~~Professions Code section 19859, subdivisions (a) through (g) inclusive.~~

36 (2) The Commission finds that the local ordinance does not conform to the  
37 requirements of Business and Professions code section 19860.

38 ~~(6)The Commission finds that the applicant, if a publicly traded racing association or~~  
39 ~~a qualified racing association, has failed to meet the criteria set forth in Business~~  
40 ~~and Professions Code section 19863.~~

1 ~~(7)The Commission finds that the applicant, if a corporation, is ineligible pursuant to~~  
2 ~~the criteria set forth in Business and Professions Code section 19880.~~

3 ~~(8)(3) The Commission finds that the applicant, if a limited partnership, is ineligible~~  
4 ~~pursuant to the criteria set forth in Business and Professions Code section~~  
5 ~~19890.~~

6 (b) An applicant for a state gambling license may be denied if:

7 (1) The Commission finds that the applicant meets any of the criteria for license  
8 denial set forth in Business and Professions Code section 19862, subdivision  
9 (a).

10 (2) The Commission finds that an applicant has attempted to communicate or has  
11 communicated *ex parte*, as that term is defined in Business and Professions  
12 Code section 19872, subdivision (e), with one or more Commissioners, through  
13 direct or indirect means, regarding the merits of the application while the  
14 application is pending disposition at the Division or the Commission.

15 (3) The Commission finds that the applicant's past behavior calls into question the  
16 applicant's qualification requirements and considerations outlined in Business  
17 and Professions Code section 19856. Examples of past behavior that may be  
18 considered include, but are not limited to:

19 (A) Convictions which demonstrate a pattern of ~~willful~~ disregard for the law,

20 (B) A conviction involving gambling or gambling-related activities,

21 (C) A ~~conviction regarding or~~ final administrative decision concluding that  
22 there was a violation ~~of Labor Code section 450 of law involving gambling~~  
23 *or gambling-related activities*, or

24 (D) A conviction regarding or final administrative decision concluding that  
25 there was a violation of campaign finance disclosure or contribution  
26 limitations applicable to an election conducted pursuant to Business and  
27 Professions Code section 19960.

28 (4) The Commission finds that the applicant has, within ten years immediately  
29 preceding the submission of the application, willfully or persistently violated any  
30 of the following:

31 (A) Any regulation adopted by the Commission or Division.

32 (B) Any condition, limitation, or directive imposed on a previously held state  
33 gambling or key employee license.

34 (c) The grounds for denial set forth in this section apply in addition to any grounds  
35 prescribed by statute or any grounds that would support revocation under chapter  
36 10 of these regulations.

37 **Authority:** Sections 19811, 19823, 19824, 19840, 19841, 19850, 19854, 19861, 19870, 19872, 19880,  
38 19890, and 19982, Business and Professions Code.

39 **Reference:** Sections 19850, 19851, 19852, 19857, 19858, 19859, 19860, 19862, 19863, and 19960,  
40 Business and Professions Code.