

REGULATION 7A

PATRON DISPUTES

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7A.010 Construction. This regulation should be liberally construed to achieve fair, just, equitable, and expedient resolutions of all disputes governed by NRS 463.363 and 463.364.

(Adopted: 8/90.)

7A.015 Definitions. As used in this regulation unless the context requires otherwise:

1. "Patron" means a person who has participated in a game, tournament, contest, drawing, promotion, or similar activity or event conducted by, in conjunction with, or on behalf of a licensee and who claims a dispute regarding either

(a) The person's winnings, losses, or the award or distribution of cash, prizes benefits, tickets or any other item or items in such game, tournament, contest, drawing, promotion, or similar activity or event or

(b) The manner in which a game, tournament, contest, drawing, promotion, or similar activity or event is conducted.

2. "Hearing examiner" has the meaning ascribed to it in NRS 463.0163.

(Adopted: 9/92. Amended: 1/21; 7/24.)

7A.017 Limitations periods.

1. When a dispute is pursuant to NRS 463.362(2)(b), no action regarding the dispute may be commenced pursuant to NRS 463.361 to 463.366, inclusive, and 463.780 unless the patron notifies the Board of the dispute within:

(a) 30 days after the event giving rise to the dispute occurs for disputes that do not involve a betting ticket issued by a sports pool or race book or

(b) 1 year after the conclusion of the event wagered upon for disputes that involve a betting ticket issued by a sports pool or race book.

2. When a licensee is required to immediately notify the Board of a dispute pursuant to NRS 463.362(2)(a), no action regarding the dispute may be commenced pursuant to NRS 463.361 to 463.366, inclusive, and 463.780:

(a) Unless the patron notifies the licensee, or the licensee otherwise becomes aware, of the dispute within 30 days after the event giving rise to the dispute occurs for disputes that do not involve a betting ticket issued by a sports pool or race book or

(b) Unless the patron notifies the licensee, or the licensee otherwise becomes aware, of the dispute within 1 year after the conclusion of the event wagered upon for disputes that involve a betting ticket issued by a sports pool or race book.

(Adopted: 1/21. Amended: 9/21; 7/24.)

7A.020 Service. Except as otherwise provided in this regulation:

1. Upon notifying the Board of a dispute, a party may provide the Board with an electronic mail address. Parties appearing subsequently to the initial notice of dispute may provide the Board with an electronic mail address. The Board shall provide all parties of record to a dispute with the provided electronic mail addresses of the other parties and the electronic mail address the parties should use for the Board. The Board and all parties to a dispute may use the provided electronic mail addresses for purposes of service and providing other notices while the Board has jurisdiction over the dispute. The parties and the Board shall update any provided electronic mail addresses immediately and as often as is otherwise necessary.

2. All pleadings, notices, and other papers required by this regulation to be served may be served by personal delivery, by first class mail, or by electronic mail. Service shall be deemed sufficient if it is mailed to the last known address or electronically mailed to the electronic mail address provided by the Board of the person to be served. If a pleading, notice, or other paper is sent by the Board or hearing examiner by first class mail, it shall be deemed to have been received by the licensee or the patron 5 days after it is deposited with the United States Postal Service with the postage thereon prepaid. A pleading, notice, or other paper served by personal delivery or electronic mail is deemed to have been served on the date it is delivered or sent.

3. A party serving a pleading, notice or other paper required by this regulation to be served must file with the Board a proof of service in the form of a certificate signed by the party or the party's representative which specifies the date the notice or other paper was mailed, electronically mailed, or when personal service was effectuated.

(Adopted: 8/90. Amended: 9/92; 1/21; 7/24.)

7A.030 Initiation of hearing procedure; notice of hearing.

1. Proceedings to review a decision made by an agent of the Board pursuant to NRS 463.362 must be initiated by the filing and service of a petition in accordance with NRS 463.363. The petition shall include a statement specifying how the patron's dispute involves:

- (a) Alleged winnings;
- (b) Alleged losses;
- (c) The award or distribution of cash, prizes, benefits, tickets, or any other item or items in a game, tournament, contest, drawing, promotion, or similar activity or event; or
- (d) The manner in which a game, tournament, contest, drawing, promotion, or similar activity or event is conducted.

2. A copy of the petition must be served on the respondent by the petitioner within 30 days of the filing and service with the Board. Absent a finding of good cause by the Board or hearing examiner, in the Board's or hearing examiner's sole and absolute discretion, failure of a petitioner to serve a copy of the petition on respondent within 30 days shall be deemed a withdrawal of the petition by petitioner.

3. The respondent may file and serve a written response within 15 days after being served with a copy of the petition.

4. After the time for respondent to file and serve a written response to the petition has expired, the Board or the hearing examiner shall determine the date, time and place of the hearing on the petition.

5. Notice of the hearing must be served by the Board on each of the parties at least 20 days before the hearing, unless the Board or hearing examiner reasonably determine that a lesser notice period is appropriate.

(Adopted: 8/90. Amended: 9/92; 1/21; 7/24.)

7A.040 Prehearing motions. Unless otherwise ordered by the Board or hearing examiner, all prehearing motions must be filed and served at least 10 days before the hearing.

(Adopted: 8/90. Amended: 7/24.)

7A.050 Nature of hearing.

1. The hearing to review a decision made by an agent of the Board pursuant to NRS 463.362 must be conducted:

- (a) By the Board or a hearing examiner.

(b) At such times and places, within or without this state, as may be convenient for the Board or hearing examiner.

(c) In public, unless the Board or hearing examiner orders otherwise.

2. Unless the Board or hearing examiner reasonably determines that a different procedure is appropriate, the hearing must be conducted in accordance with the following procedures:

(a) The petitioner may present an opening statement on the merits and the respondent may then make a statement of the defense. The respondent may reserve his or her statement of the defense for the presentation of his or her case.

(b) After the petitioner's opening statement, if made, and the respondent's statement of the defense, if not reserved, the petitioner shall present his or her case in chief in support of the petition.

(c) Upon conclusion of the petitioner's case in chief, the respondent may move for dismissal of the petition. The Board or the hearing examiner when designated by the Board pursuant to NRS 463.361(2)(b), may grant, deny or reserve decision on the motion, with or without argument.

(d) In the event the hearing is conducted before a hearing examiner and a motion to dismiss is made at the conclusion of the petitioner's case in chief, the hearing examiner, in his or her discretion, may hear argument on the motion and in those cases not being heard by the hearing examiner pursuant to NRS 463.361(2)(b), may suspend the hearing to refer the motion to the Board for decision.

(e) If no motion to dismiss is made, or if such motion is denied or decision is reserved thereon, the respondent shall then present his or her case in defense.

(f) Upon conclusion of the respondent's case, the petitioner may present rebuttal evidence.

(g) After the presentation of the evidence by the parties, the petitioner may present a closing argument. The respondent may then present his or her closing argument and the petitioner may then present a rebuttal argument. Thereafter the matter will stand submitted for decision.

3. All or part of the hearing may be conducted by telephone or other electronic medium of communication, including, without limitation, video conference.

4. The hearing must be recorded by the Board or hearing examiner on audio tape or other means of sound reproduction, unless it is reported stenographically for a party at the party's own expense, in which case the party must provide the original hearing transcript to the Board or hearing examiner.

5. Unless otherwise ordered by the Board or hearing examiner, the parties may submit written memoranda of points and authorities at any time before the hearing. The Board or hearing examiner may order or allow the parties to file written memoranda of points and authorities after the conclusion of the hearing.

(Adopted: 8/90. Amended: 9/92; 1/21; 7/24.)

7A.060 Presentation of evidence.

1. Oral evidence may be taken only upon oath or affirmation administered by the Board or hearing examiner.

2. Affidavits may be received in evidence as provided in subsection 3 of NRS 463.313.

3. Each party may:

(a) Call and examine witnesses;

(b) Introduce exhibits relevant to the issues of the case, including the transcript of testimony of any investigative hearing conducted by or on behalf of the Board;

(c) Cross-examine opposing witnesses on any matter relevant to the issues of the case, even though the matter was not covered in a direct examination;

(d) Impeach any witness, regardless of which party first called the witness to testify; and

(e) Offer rebuttal evidence.

4. If a party does not testify on his or her own behalf the party may be called and examined as if under cross-examination.

(Adopted: 8/90. Amended: 7/24.)

7A.070 Admissibility of evidence.

1. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be admitted and is sufficient in itself to support a finding if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in a civil action.

2. The parties or their counsel may by stipulation agree that certain evidence be admitted even though such evidence might otherwise be subject to objection.

3. Irrelevant and unduly repetitious evidence should not be admitted.

(Adopted: 8/90.)

7A.080 Subpoenas. At the request of a party, subpoenas must be issued by the Board or hearing examiner as provided in subsection 5 of NRS 463.140. All witnesses appearing pursuant to subpoena, other than parties, officers or employees of the State of Nevada or any political subdivision thereof, are entitled to receive fees and mileage in the same amounts and under the same circumstances as provided by law for witnesses in civil actions in the district courts. Witnesses entitled to fees or mileage who attend hearings at points so far removed from their residences as to prohibit return thereto from day to day are entitled, in addition to witness fees and in lieu of mileage, to the per diem compensation for subsistence and transportation authorized for state officers and employees for each day of actual attendance and for each day necessarily occupied in traveling to and from the hearings. Fees, subsistence and transportation expenses must be paid by the party at whose request the witness is subpoenaed. A reasonable estimate of fees, subsistence, and transportation must be paid in advance of the hearing for which the witness is subject to subpoena or the witness is not required to attend the hearing.

(Adopted: 8/90. Amended: 1/21; 7/24.)

7A.090 Depositions. The testimony of any material witness residing within or without this state may be taken by deposition in the manner provided by the Nevada Rules of Civil Procedure and may be used at the hearing.

(Adopted: 8/90.)

7A.100 Official notice. The Board or hearing examiner may take official notice of any generally accepted information or technical or scientific matter within the field of gaming, and of any other fact which may be judicially noticed by the courts of this state. The parties must be informed of any information, matters or facts so noticed and must be given a reasonable opportunity, on request, to refute such information, matters or facts by evidence or by written or oral presentation of authorities. The manner of such refutation shall be determined by the Board or hearing examiner.

(Adopted: 8/90. Amended: 7/24.)

7A.110 Amended or supplemental pleadings. The Board or hearing examiner may, before submission of the case for decision, permit the filing of an amended or supplemental petition or response, including an amended or supplemental pleading that conforms to the evidence presented during the hearing. A request for permission to file an amended or supplemental pleading may be made orally during the hearing or in writing. If the request is in writing, a copy must be served on the opposing party. The Board or hearing examiner thereafter shall provide the opposing party a reasonable opportunity to make objections thereto. If an application for leave to file an amended or supplemental pleading is granted, the Board or hearing examiner must permit the parties to introduce additional evidence with respect to any new matter contained in the pleading.

(Adopted: 8/90. Amended: 7/24.)

7A.120 Continuances. Continuances of the hearing date may only be granted by the Board or hearing examiner at the Board's or hearing examiner's sole and absolute discretion upon a showing of good cause by the party requesting the continuance.

(Adopted: 8/90. Amended: 1/21; 7/24.)

7A.130 Communications with the Board.

1. Unless required for the disposition of ex parte matters authorized by statute or regulation:

(a) Neither a party nor a party's representative shall communicate, directly or indirectly, with any Board member or the hearing examiner regarding any matter related to the hearing, except upon notice and opportunity to all parties to participate.

(b) Neither a member of the Board nor the hearing examiner shall communicate, directly or indirectly, with any party or any party's representative regarding any matter related to the hearing, except upon notice and opportunity to all parties to participate.

2. This section does not preclude:
 - (a) Any member of the Board or the hearing examiner from consulting with the Board's counsel concerning any matter related to the hearing.
 - (b) A party or a party's counsel conferring with the hearing examiner, any member of the Board, or the Board's counsel on procedural matters.
- (Adopted: 8/90.)

7A.140 Failure to appear.

1. The unexcused failure of a party to appear at the hearing may constitute a default and an admission of any facts that may have been alleged by the opposing party. The Board or hearing examiner may take action based on such default or admission or on any other evidence without further notice to the defaulting party. If the Board or hearing examiner takes action based on an admission, the record must include the evidence upon which the action is based.
 2. In the alternative and absent a finding of good cause by the Board hearing examiner, in the Board's or hearing examiner's sole and absolute discretion, the unexcused failure of a petitioner to appear at the hearing may be deemed a withdrawal of the petition by petitioner.
- (Adopted: 8/90. Amended: 1/21; 7/24.)

7A.150 Contempt. If any person in proceedings before the Board or hearing examiner under this regulation disobeys or resists any lawful order or refuses to respond to a subpoena, or refuses to take the oath or affirmation as a witness, or thereafter refuses to be examined, or is guilty of misconduct during the hearing or so near the place thereof as to obstruct the proceeding, the Board or hearing examiner may certify the facts to the district court in and for the county where the proceedings are held. At the request of the Board, the court shall then issue an order directing the person to appear before the court and show cause why he or she should not be punished for contempt. The court order and a copy of the statement of the Board or hearing examiner must be served on the person cited to appear. Thereafter the court has jurisdiction of the matter, and the same proceedings must be had, the same penalties may be imposed and the person charged may purge himself or herself of the contempt in the same way as in the case of a person who has committed a contempt in the trial of a civil action before a district court.

(Adopted: 8/90. Amended: 7/24.)

7A.160 Burden of proof. The petitioner bears the burden of showing by a preponderance of the evidence that the decision made by an agent of the Board pursuant to NRS 463.362 should be reversed or modified.

(Adopted: 8/90.)

7A.170 Decision of the Board or the hearing examiner.

1. After the hearing, the Board or the hearing examiner in those cases being heard pursuant to paragraph (b) of subsection 2 of NRS 463.361, shall render a written decision on the merits that sustains, modifies or reverses the initial decision of its agent.
2. The decision of the Board or the hearing examiner must contain findings of fact and a determination of the issues presented.
3. In a case that is not processed pursuant to the provisions of paragraph (b) of subsection 2 of NRS 463.361, and where the hearing was conducted by a hearing examiner, the Board shall consider the recommendation of the hearing examiner and the record of the hearing before rendering its decision. In such a case, the Board may remand the matter to the hearing examiner for the purpose of taking or considering additional evidence.
4. A copy of the decision must be served on each party. The decision must be accompanied by proof of service in the form of a certificate signed by an agent or employee of the Board and stating the date and manner of service. The decision is effective and final upon service on all parties. If the decision is sent by mail, it shall be deemed to have been served upon the licensee or the patron 5 days after it is deposited with the United States Postal Service with the postage thereon prepaid.

(Adopted: 8/90. Amended: 9/92; 7/24.)

7A.180 Rehearing.

1. The Board or the hearing examiner if the hearing was conducted pursuant to paragraph (b) of subsection 2 of NRS 463.361 may, upon motion made within 7 days after the decision is served on all parties, order a rehearing upon such terms and conditions as it may deem just and proper, provided a petition for judicial review of the decision has not been filed.

2. A motion for rehearing must not be granted except upon a showing that:

(a) The Board or the hearing examiner has misconstrued applicable law; or

(b) There exists additional evidence which is material and reasonably calculated to change the decision, and sufficient reason existed for the party's failure to present such additional evidence at the hearing.

3. On rehearing under paragraph (b) of subsection 2, rebuttal evidence to the additional evidence may be admitted and considered by the Board or hearing examiner.

4. After rehearing, the Board or the hearing examiner may modify the decision consistent with applicable law or any additional evidence and rebuttal evidence taken.

(Adopted: 8/90. Amended: 9/92; 7/24.)

7A.190 Judicial review. Judicial review of a final decision of the Board or the hearing examiner may be had in accordance with NRS 463.366 to 463.3668, inclusive.

(Adopted: 8/90. Amended: 9/92.)

End – Regulation 7A