

REGULATION 7A

PATRON DISPUTES

- 7A.010 Construction
- 7A.015 Definitions.
- 7A.020 Service
- 7A.030 Initiation of hearing procedure; notice of hearing.
- 7A.040 Prehearing motions.
- 7A.050 Nature of hearing.
- 7A.060 Presentation of evidence.
- 7A.070 Admissibility of evidence.
- 7A.080 Subpoenas.
- 7A.090 Depositions.
- 7A.100 Official notice.
- 7A.110 Amended or supplemental pleadings.
- 7A.120 Continuances.
- 7A.130 Communications with the board.
- 7A.140 Default.
- 7A.150 Contempt.
- 7A.160 Burden of proof.
- 7A.170 Decision of the board or the hearing examiner.
- 7A.180 Rehearing
- 7A.190 Judicial review.

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, "Hearing Officer" means a member of the State Gaming Control Board, designated by the chairman of the board, or a hearing examiner appointed by the board.
(Adopted: 9/92.)

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

1. All pleadings, notices, and other papers required by this regulation to be served may be served by personal delivery or first class mail. Service shall be deemed sufficient if it is mailed to the last known address of the person to be served. If a pleading, notice, or other paper is sent by the board or hearing officer 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.

2. 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 his representative which specifies the date the notice or other paper was mailed or when personal service was effectuated.

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

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.

2. A copy of the petition must be served on the respondent.

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 officer 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 officer reasonably determine that a lesser notice period is appropriate.

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

7A.040 Prehearing motions. Unless otherwise ordered by the board or hearing officer, all prehearing motions must be filed and served at least 10 days before the hearing.
(Adopted: 8/90.)

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 one or more members of the board, as designated by the chairman of the board, or by a hearing examiner appointed by the board.

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

(c) In public, unless the board or hearing officer orders otherwise.

2. Unless the board or hearing officer 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 statement of the defense for the presentation of his case.

(b) After his opening statement, if made, and the respondent's statement of the defense, if not reserved, the petitioner shall present his 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 officer and a motion to dismiss is made at the conclusion of the petitioner's case in chief, the hearing officer, in his 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 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 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.

4. The hearing must be recorded by the board or hearing officer 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 officer.

5. Unless otherwise ordered by the board or hearing officer, the parties may submit written memoranda of points and authorities at any time before the hearing. The board or hearing officer 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.)

7A.060 Presentation of evidence.

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

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 him to testify; and

(e) Offer rebuttal evidence.

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

(Adopted: 8/90.)

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 as provided in subsection 1 of NRS 463.3125.

(Adopted: 8/90.)

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 officer 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 officer.

(Adopted: 8/90.)

7A.110 Amended or supplemental pleadings. The board or hearing officer 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 officer 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 officer must permit the parties to introduce additional evidence with respect to any new matter contained in the pleading.

(Adopted: 8/90.)

7A.120 Continuances. Continuances of the hearing date may be granted upon a showing of good cause by the party requesting the continuance.

(Adopted: 8/90.)

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 his 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 his 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 his counsel conferring with the hearing examiner, any member of the board, or the board's counsel on procedural matters.

(Adopted: 8/90.)

7A.140 Default. 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 officer 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 officer takes action based on an admission, the record must include the evidence upon which the action is based.

(Adopted: 8/90.)

7A.150 Contempt. If any person in proceedings before the board or hearing officer 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 officer 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 should not be punished for contempt. The court order and a copy of the statement of the board or hearing officer 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 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.)

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 NRS 463.361(2)(b), 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 NRS 463.361(2)(b), and where the hearing was conducted by a single board member or hearing examiner, the board shall consider the recommendation of the board member or hearing examiner and the record of the hearing before rendering its decision. In such a case, the board may remand the matter to the board member or 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.)

7A.180 Rehearing.

1. The board or the hearing examiner if the hearing was conducted pursuant to NRS 463.361(2)(b) 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 subsection 2(b) of this section, rebuttal evidence to the additional evidence may be admitted and considered by the board or hearing officer.

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.)

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