

PROPOSED AMENDMENTS TO
NEVADA GAMING COMMISSION REGULATION 5

**REQUIREMENTS REGARDING IMPLEMENTATION OF SEXUAL
HARASSMENT POLICY BY LICENSEES**

Draft Dated: 9/06/2018

PURPOSE STATEMENT: To amend the Nevada Gaming Commission (“NGC”) Regulations to set forth the requirement that Nevada gaming licensees implement comprehensive plans to address sexual harassment prevention and response in their workplaces; And to take such additional actions as may be necessary and proper to effectuate this stated purpose.

EFFECTIVE DATE: Effective upon adoption by the Nevada Gaming Commission.

EXPLANATION: Matter in *blue italics* is to be added; and matter between ~~*red italics with brackets and single strikethrough*~~ is to be omitted.

REGULATION 5

OPERATION OF GAMING ESTABLISHMENTS *AND BUSINESSES*

- 1 **5.011 Grounds for disciplinary action.** The board and the commission deem
2 any activity on the part of any licensee, his agents or employees, that is inimical to
3 the public health, safety, morals, good order and general welfare of the people of the
4 State of Nevada, or that would reflect or tend to reflect discredit upon the State of
5 Nevada or the gaming industry, to be an unsuitable method of operation and shall
6 be grounds for disciplinary action by the board and the commission in accordance
7 with the Nevada Gaming Control Act and the regulations of the board and the
8 commission. Without limiting the generality of the foregoing, the following acts or
9 omissions may be determined to be unsuitable methods of operation:
- 10 1. Failure to exercise discretion and sound judgment to prevent incidents which
11 might reflect on the repute of the State of Nevada and act as a detriment to the
12 development of the industry.

1 2. Permitting persons who are visibly impaired by alcohol or any other drug to
2 participate in gaming activity.

3 3. Complimentary service of intoxicating beverages in the casino area to persons
4 who are visibly impaired by alcohol or any other drug.

5 4. Failure to conduct advertising and public relations activities in accordance
6 with decency, dignity, good taste, honesty and inoffensiveness, including, but not
7 limited to, advertising that is false or materially misleading.

8 5. Catering to, assisting, employing or associating with, either socially or in
9 business affairs, persons of notorious or unsavory reputation or who have extensive
10 police records, or persons who have defied congressional investigative committees,
11 or other officially constituted bodies acting on behalf of the United States, or any
12 state, or persons who are associated with or support subversive movements, or the
13 employing either directly or through a contract, or any other means, of any firm or
14 individual in any capacity where the repute of the State of Nevada or the gaming
15 industry is liable to be damaged because of the unsuitability of the firm or
16 individual or because of the unethical methods of operation of the firm or
17 individual.

18 6. Employing in a position for which the individual could be required to be
19 licensed as a key employee pursuant to the provisions of Regulations 3.100 and
20 3.110, any person who has been denied a state gaming license on the grounds of
21 unsuitability or who has failed or refused to apply for licensing as a key employee
22 when so requested by the commission.

23 7. Employing in any gaming operation any person whom the commission or any
24 court has found guilty of cheating or using any improper device in connection with
25 any game, whether as a licensee, dealer, or player at a licensed game or device; as
26 well as any person whose conduct of a licensed game as a dealer or other employee
27 of a licensee resulted in revocation or suspension of the license of such licensee.

28 8. Failure to comply with or make provision for compliance with all federal,
29 state, and local laws and regulations and with all commission approved conditions
30 and limitations pertaining to the operations of a licensed *gaming* establishment *or*

1 *licensed gaming business* including, without limiting the generality of the
2 foregoing~~[- payment]~~:

3 (a) *Federal, state, and local laws and regulations pertaining to the payment or*
4 *withholding* of ~~[all]~~ license fees, ~~[withholding any]~~ payroll taxes, liquor *taxes*, ~~[and]~~
5 *or* entertainment taxes ~~[and antitrust]~~;

6 (b) *Antitrust* and monopoly statutes~~[+]~~; *or*

7 (c) *Federal, state, and local laws and regulations requiring the adoption of*
8 *written policies, and the adherence to those policies, with respect to diversity, anti-*
9 *discrimination and anti-harassment, including, but not limited to, sexual*
10 *harassment.*

11 ↪ The Nevada gaming commission in the exercise of its sound discretion can make
12 its own determination of whether or not the licensee has failed to comply with the
13 aforementioned, but any such determination shall make use of the established
14 precedents in interpreting the language of the applicable statutes. Nothing in this
15 section shall be deemed to affect any right to judicial review.

16 9. (a) Possessing or permitting to remain in or upon any licensed premises any
17 cards, dice, mechanical device or any other cheating device whatever, the use of
18 which is prohibited by statute or ordinance, or

19 (b) Conducting, carrying on, operating or dealing any cheating or thieving game
20 or device on the premises, either knowingly or unknowingly, which may have in any
21 manner been marked, tampered with or otherwise placed in a condition, or operated
22 in a manner, which tends to deceive the public or which might make the game more
23 liable to win or lose, or which tends to alter the normal random selection of criteria
24 which determine the results of the game.

25 10. Failure to conduct gaming operations in accordance with proper standards of
26 custom, decorum and decency, or permit any type of conduct in the gaming
27 establishment which reflects or tends to reflect on the repute of the State of Nevada
28 and act as a detriment to the gaming industry.

29 11. Whenever a licensed game or a slot machine, as defined in the Gaming
30 Control Act, is available for play by the public:

1 (a) At a nonrestricted location, failure to have an employee of the licensee
2 present on the premises to supervise the operation of the game or machine;

3 (b) At a restricted location, failure to have a responsible person who is at least 21
4 years old present on the premises to supervise the operation of the game or
5 machine.

6 12. Except as provided in NGC Regulation 5.140 and except as to transfers of
7 interest under NGC Regulation 8.030, the sale or assignment of any gaming credit
8 instrument by a licensee, unless the sale is to a publicly traded or other bona fide
9 financial institution pursuant to a written contract, and the transaction and the
10 terms of the contract, including but not limited to the discount rate, are reported to
11 the board for approval pursuant to NGC Regulation 8.130.

12 13. Issuing credit to a patron to enable the patron to satisfy a debt owed to
13 another licensee or person, including an affiliate (as that term is defined in NGC
14 Regulation 15.482–3) of the licensee. This subsection shall not prohibit a licensee
15 from collecting a debt owed to an affiliate of the licensee.

16 14. Denying any board or commission member or agent, upon proper and lawful
17 demand, access to, inspection or disclosure of any portion or aspect of a gaming
18 establishment as authorized by applicable statutes and regulation.

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20 **5.045 Compliance review and reporting system.**

21 1. Whenever the commission is acting upon any application of a licensee or
22 registrant, or pursuant to its powers provided in NRS 463.310, and if the
23 commission determines that special circumstances exist which require additional
24 management review by a licensee or registrant, the commission may impose a
25 condition upon any license or order of registration to require implementation of a
26 compliance review and reporting system by the licensee or registrant.

27 2. The terms of the condition may include, but shall not be limited to:

28 (a) That the condition shall expire on a certain date or after a designated period
29 of time without commission action;

30 (b) That the condition may be administratively removed by the board should a

1 specified activity cease or a specified event occur; or

2 (c) That a periodic review shall be conducted by the board and upon such review
3 the board may recommend and the commission may remove or continue to require
4 the condition.

5 3. Notwithstanding the provisions of subsection 2 above, upon application, a
6 licensee or registrant may request modification or removal of the condition imposed
7 and the commission may, after considering the recommendation of the board,
8 modify or remove the condition.

9 4. The compliance review and reporting system shall be created for the purpose
10 of monitoring activities relating to the licensee's or registrant's continuing
11 qualifications under the provisions of the Nevada Gaming Control Act and
12 regulations of the commission in accordance with a written plan to be approved by
13 the board administratively or as otherwise ordered by the commission.

14 5. The written plan must provide for the operation of the compliance review and
15 reporting system and must designate who shall be responsible for said system. The
16 plan must provide for involvement of at least one person knowledgeable of the
17 provisions of the Nevada Gaming Control Act and the regulations of the
18 commission. The plan must require periodic reports to senior management of the
19 licensee or registrant. Such reports shall be advisory and the licensee or registrant
20 shall maintain responsibility for compliance with the Gaming Control Act and
21 regulations of the commission. Copies of the reports must be provided to the board.

22 6. The activities to be monitored must be set forth in the written plan and must
23 be determined by the circumstances applicable to the licensee or registrant. Without
24 limitation, the activities that may be required to be monitored pursuant to the
25 compliance review and reporting system include the following:

26 (a) Associations with persons denied licensing or other related approvals by the
27 commission or who may be deemed to be unsuitable to be associated with a licensee
28 or registrant;

29 (b) Business practices or procedures that may constitute grounds for denial of a
30 gaming license or registration;

1 (c) Compliance with other special conditions that may be imposed by the
2 commission upon the licensee or registrant;

3 (d) Review of reports submitted pursuant to the Nevada Gaming Control Act and
4 regulations of the commission;

5 (e) Compliance with the laws, regulations, or orders of duly constituted
6 governmental agencies or entities having jurisdiction over the gaming affairs, or
7 such other business activities which the board or the commission may deem
8 necessary or proper, of the licensee, registrant, or its affiliates, *including, without*
9 *limiting the generality of the foregoing, their written policies, and their adherence to*
10 *such policies, with respect to diversity, anti-harassment, including, but not limited*
11 *to, sexual harassment;* and

12 (f) Review of such other activities determined by the board or the commission as
13 being relevant to the licensee's or registrant's continuing qualifications under the
14 provisions of the Nevada Gaming Control Act and the regulations of the
15 commission.

16 ***5.250 Licensee required to maintain written policies and procedures***
17 ***addressing prevention, reporting, and investigation of and response to***
18 ***sexual harassment in the licensee's workplace.***

19 *1. Each licensee shall adopt and maintain comprehensive plan and written*
20 *policies addressing sexual harassment awareness and prevention in the licensee's*
21 *workplace:*

22 (a) *Providing the procedures and methods available for reporting sexual*
23 *harassment;*

24 (b) *Detailing the procedures the licensee will follow to investigate a report of*
25 *sexual harassment;*

26 (c) *Setting forth the potential consequences for any person within the licensee's*
27 *organization found to have committed an act of sexual harassment; and*

28 (d) *Requiring and annual assessment of such policies and procedures to ensure*
29 *that employees are being effectively educated thereof.*

30 *2. The Chair shall determine the minimum standards regarding the plan,*

1 *policies, and procedures to meet the requirements set forth in subsection 1, and shall*
2 *prepare and make available a checklist setting forth those minimum standards.*

3 *Each licensee shall complete and file the referenced checklist annually with the*
4 *Board as follows:*

5 *(a) For nonrestricted licensees, on or before February 28th each year, covering the*
6 *period of January 1st through December 31st of the preceding year.*

7 *(b) For restricted licensees, on or before August 31st each year, covering the period*
8 *of July 1st through June 30th of the preceding year.*

9 *3. Upon written request from a licensee, the Chair may, in the Chair's sole and*
10 *absolute discretion, grant a waiver or modification to the minimum standards*
11 *referenced in subsection 2 or the related reporting requirements. Such waiver or*
12 *modification shall be in writing.*

13 *4. The Board shall be entitled, at any time, to inspect a licensee's written policies*
14 *and procedures and all records related thereto.*