

REGULATION 2A

DECLARATORY RULINGS

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2A.010 Definitions.

1. "Chair" means the Chair of the Nevada Gaming Commission or the Chair's designee.
2. "Contested case" means any pending disciplinary action governed by Regulation 7, tax dispute proceeding pursuant to Regulation 6.170 or 6.180, list of exclusion proceedings governed by Regulation 28, patron dispute or work permit matter governed by chapter 463 of the Nevada Revised Statutes and similar proceedings pursuant to chapters 463A, 463B and 464 of the Nevada Revised Statutes.
3. "Declaratory ruling" means a ruling on the meaning or application of a statute, regulation or decision or order entered by the Commission, and does not include the granting of approvals, findings of suitability, or other determinations that require the filing of an application as defined by section 463.0135 of the Nevada Revised Statutes.
4. "Executive secretary" means that person appointed pursuant to NRS 463.085.
5. "Interested person" means any applicant, licensee, registrant, person found suitable, person affected by chapter 463, 463A, 463B or 464 of the Nevada Revised Statutes, a group or association of such licensees, registrants or persons, or the Board. The term also includes a governmental agency or political subdivision of this state.
6. "Meeting" means the gathering of members of the Commission at which a quorum is present, for the purpose of deliberating toward a decision or making a decision.
7. "Petitioner" means an interested person who has filed a petition for a declaratory ruling in accordance with the provisions of section 2A.030.
8. "Regulatory comment" means a written statement or prepared testimony of the Board that analyzes any issue raised by a petition for a declaratory ruling without taking a position in opposition to or in support of such a petition.
(Adopted: 9/90.)

2A.020 Purpose of declaratory rulings. A declaratory ruling is an extraordinary remedy that will be considered by the Commission only when the objective of the petitioner cannot reasonably be achieved by other means and when the ruling would be significant to the regulation of gaming or to the gaming industry.
(Adopted: 9/90.)

2A.030 Petitions for declaratory rulings.

1. Only an interested person may petition the Commission for a declaratory ruling.
2. A petition for a declaratory ruling shall be filed with the executive secretary, together with a nonrefundable filing fee in the amount of \$300.00 unless the petitioner is the Board or a governmental agency or political subdivision of this state. A copy of the petition must be served by the petitioner upon the Board and the attorney general within 3 working days of the date of filing.
3. The executive secretary shall maintain and keep current a list of persons who have requested notice of petitions for declaratory rulings and shall transmit a copy of such list to a petitioner as soon as practicable after the filing of a petition for declaratory ruling. The petitioner shall serve a copy of the petition by personal delivery or first-class mail upon each person on such list no later than 7 days after receiving such list and shall provide an affidavit of service to the executive secretary. Each person receiving a copy of the petition for declaratory ruling may, within 7 days after receipt, request the executive secretary to provide the person notice of the time set for the hearing on the petition for declaratory ruling.
4. The petition for a declaratory ruling must contain:

- (a) The name, business address and telephone number of the petitioner;
 - (b) A statement of the nature of the interest of the petitioner in obtaining the declaratory ruling;
 - (c) A statement identifying the specific statute, regulation or Commission decision or order in question;
 - (d) A clear and concise statement of the interpretation or position of the petitioner relative to the statute, regulation or Commission decision or order in question;
 - (e) A description of any contrary interpretation, position or practice that gives rise to the petition;
 - (f) A statement of the facts and law that support the interpretation of the petitioner;
 - (g) A statement showing why the subject matter is appropriate for Commission action in the form of a declaratory ruling and why the objective of the petitioner cannot reasonably be achieved by other administrative remedy, including a resolution by the Board;
 - (h) A statement identifying all persons or groups who the petitioner believes will be affected by the declaratory ruling, including the gaming industry as a whole, and the manner in which the petitioner believes each person will be affected;
 - (i) The signature of the petitioner or the petitioner's legal representative; and
 - (j) An affidavit of service upon the Board and the attorney general.
5. An interested person may not file a petition for declaratory ruling involving questions or matters that are issues in a contested case in which the interested person is a party.
(Adopted: 9/90.)

2A.040 Scheduling of petitions for hearing.

1. If, within 45 days of the date the petition for declaratory ruling was filed, the Chair does not cause the executive secretary to schedule the petition for declaratory ruling for hearing at a meeting of the Commission, the executive secretary shall notify the other members of the Commission. Any member of the Commission may, within 30 days of such notification, cause the executive secretary to schedule the petition for declaratory ruling for hearing at a meeting of the Commission.
2. The Board shall notify the Chair through the executive secretary within 30 days of the date the petition for declaratory ruling was filed if the Board or any member objects to consideration of the petition.
3. The Chair and any other member of the Commission may consult with any member of the Board or legal counsel or employee of the Board before deciding whether to cause a petition for declaratory ruling to be scheduled for hearing at a meeting of the Commission.
4. If a petition for declaratory ruling is not scheduled for hearing pursuant to this subsection, it is deemed dismissed.
(Adopted: 9/90.)

2A.050 Response to petition; regulatory comments; briefs and appearances by interested persons.

1. If a petition is scheduled for a hearing at a meeting of the Commission, the executive secretary shall give the petitioner, the Board and each person requesting notice of hearing pursuant to section 2A.030(3) at least 45 days' notice of the time set for the hearing.
2. The Board may file with the Commission a written response in opposition to or in support of a petition for declaratory ruling no later than 30 days after notice from the executive secretary, unless the time is extended by the Chair.
3. The Board may file with the Commission a regulatory comment at any time at least 10 days before the time set for the hearing on the petition for a declaratory ruling.
4. Any interested person may file a brief in support of or in opposition to a petition for declaratory ruling at least 30 days before the time set for the hearing on the petition for declaratory ruling. Such brief shall substantially comply with the requirements for petitions for declaratory rulings provided in Regulation 2.030.
5. The petitioner may file a reply to a response by the Board or a brief by another interested person at least 15 days before the time set for the hearing on the petition for declaratory ruling.
6. The Commission, in the discretion of the Chair, may permit any interested person, whether or not the interested person filed a brief, to present oral argument at the hearing on the petition for declaratory ruling.
(Adopted: 9/90.)

2A.060 Disposition of petitions for declaratory ruling.

1. The Commission, with or without oral argument, may dismiss the petition, in whole or in part, for any reason.

2. If the Commission issues a ruling on the petition, its order shall delineate the Commission's interpretation of the meaning or application of the statute, regulation, decision or order that is the subject of the petition.

(Adopted: 9/90.)

2A.070 Effect of declaratory ruling upon judicial remedies. The provisions of this regulation shall not be construed to limit, restrict or condition the right of any person to commence and maintain any action or proceeding authorized by section 463.343 of the Nevada Revised Statutes. A person may not obtain judicial review of a Commission order entered pursuant to section 2A.060.

(Adopted: 9/90.)

End – Regulation 2A