

GAMING COMMISSION REGULATIONS

FOR APPROVING THE RULES FOR PLAYING GAMES

Coyote Valley Gaming Commission Coyote Valley Band of Pomo Indians

Chapter 8

PATRON COMPLAINTS

Sections:

- 8.010 Applicability.
- 8.020 Refusal to pay winnings/cheating.
- 8.030 Notice to patrons.
- 8.040 Effective date of decision.
- 8.050 Review of decision.
- 8.060 Notice of hearing.
- 8.070 Presentation of evidence.
- 8.080 Admissibility of evidence.
- 8.090 Subpoenas.
- 8.100 Official Notice.
- 8.110 Continuances.
- 8.120 Communications with the Commission.
- 8.130 Default.
- 8.140 Contempt.
- 8.150 Burden of proof.
- 8.160 Decision of the Commission.

8.010 Applicability. The dispute resolution procedures set forth in this Chapter shall apply to all gaming enterprises and facilities authorized to conduct Class II and III games, as defined by the Indian Gaming Regulatory Act, on the Coyote Valley Indian Reservation.

8.020 Refusal to pay winnings/cheating. Whenever any licensee is accused by a patron of cheating at the playing of any game or any gaming enterprise or facility refuses payment of alleged winnings to a patron, and the general manager of that enterprise or facility and the patron are unable to resolve the dispute to the satisfaction of the patron and the dispute involves:

- a. At least \$500, the general manager shall immediately notify the Gaming Commission, in writing. The Commission shall immediately conduct whatever investigation it deems necessary and shall determine, within ten (10) days of notification, whether a refund of the wager, in the event of cheating, or payment should be made; or

b. Less than \$500, the general manager shall inform the patron of his/her right to request that the Gaming Commission conduct an investigation and the fact that the patron must request an investigation within five (5) days of the alleged cheating or payment refund. Upon receipt of such a request, the Gaming Commission shall conduct whatever investigation it deems necessary and shall determine within seven (7) days whether payment should be made.

8.030 Notice to patrons. The Gaming Commission shall mail written notice by certified mail, return receipt requested, to the general manager and the patron of its decision resolving the dispute. If the dispute results from an equipment malfunction or violation of an operations procedure or Commission Regulation, the general manager shall immediately correct the problem or disable the equipment. In addition, the general manager shall notify the Gaming Commission within five working days of the steps that have been taken to ensure that a similar problem does not occur in the future.

8.040 Effective date of decision. The decision of the Gaming Commission is effective on the date it is received by the aggrieved party, as reflected on the return receipt.

8.050 Review of decision. Within twenty (20) days after the date of receipt of the written decision, the aggrieved party may file a petition with the Gaming Commission requesting a review of the decision. The Gaming Commission may set a hearing on the matter or may make a decision based upon the prior decision and other documentation provided to it by the patron and the general manager as part of the request for review. The Commission shall then issue a written decision and mail it to the parties pursuant to the procedures set forth in Section 8.030 above. The decision of the Commission shall be final and binding upon the patron and general manager and shall not be subject to judicial review or other legal action.

8.060 Notice of hearing.

1. The hearing to review a decision made by the Commission pursuant to Section 8.040 above must be conducted:

a. By the Commission or by a hearing examiner appointed by the Commission.

b. At such times and places, within or without the Reservation, as may be convenient for the Commission or hearing officer.

c. In public, unless the Commission or hearing officer orders otherwise.

2. Unless the Commission 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 Commission 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 thereafter may suspend the hearing to refer the motion to the Commission. The Commission will then decide whether the motion should be granted.

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 Commission 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 Commission or hearing officer.

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

8.070 Presentation of evidence.

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

2. Affidavits may be received in evidence.

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 Commission;

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.

8.080 Admissibility of evidence.

1. The hearing need not be conducted according to technical court 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 court 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.

8.090 Subpoenas. At the request of a party, subpoenas must be issued by the Commission.

8.100 Official Notice. The Commission 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 the State of California. 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 Commission or hearing officer.

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

8.120 Communications with the Commission.

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 member of the Commission 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 Commission 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 Commission or the hearing examiner from consulting with the Commission's counsel concerning any matter related to the hearing.

b. A party or his counsel conferring with the hearing examiner, any member of the Commission, or the Commission's counsel on procedural matters.

8.130 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 Commission 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 Commission or hearing officer takes action based on an admission, the record must include the evidence upon which the action is based.

8.140 Contempt. If any person in proceedings before the Commission 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 Commission or hearing officer may issue and order directly the person to appear before the

Commission and show cause why he should not be punished for contempt. The show cause order must be served on the person cited to appear. Thereafter the Commission 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 state superior court.

8.150 Burden of proof. The petitioner bears the burden of showing by a preponderance of the evidence that the decision made by the Commission, pursuant to Section 8.040 above, should be reversed or modified.

8.160 Decision of the Commission.

1. After the hearing, the Commission shall render a written decision on the merits that sustains, modifies, or reverses the initial decision.
2. The decision of the Commission must contain findings of fact and determination of the issues presented.
3. In any case where the hearing was conducted by a hearing examiner, the Commission shall consider the recommendation of the hearing examiner and the record of the hearing before rendering its decision. In such a case, the Commission 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 Commission and stating the date and manner of service. The decision is effective and final upon service on all parties, unless otherwise ordered by the Commission. If the decision is sent by mail, it will be presumed to have been served five (5) days after it is mailed.

CERTIFICATION

The foregoing Regulation was adopted at a regular meeting of the Coyote Valley Gaming Commission held on March ____, 1996, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Chairman of the Coyote Valley
Gaming Commission

ATTESTED:

Secretary of the Coyote Valley Gaming Commission