

NATIONAL  
INDIAN  
GAMING  
COMMISSION

NOV 19 1993

Terry L. Whitetree, Chief  
Seneca-Cayuga Tribe of Oklahoma  
R2301 E. Steve Owens Blvd.  
Box 1283  
Miami, Oklahoma 74355

Dear Chief Whitetree:

This letter responds to your request to review and approve the tribal gaming ordinance submitted on July 20, 1993, and amended on November 2, 1993, for the Seneca-Cayuga Tribe of Oklahoma (Tribe). This letter constitutes such approval under the Indian Gaming Regulatory Act (IGRA).

Under the IGRA and the regulations of the National Indian Gaming Commission (NIGC), the Chairman is directed to review ordinances with respect to the requirements of the IGRA and the implementing regulations. Thus, the scope of the Chairman's review and approval is limited to the requirements of the IGRA and the NIGC regulations. Provisions other than those required under the IGRA or the NIGC regulations that may be included in a tribal ordinance are not subject to review and approval. Also, such approval does not constitute approval of specific games.

It is important to note that the gaming ordinance is approved for gaming only on Indian lands as defined in the IGRA.

With the Chairman's approval of the Community's gaming ordinance, the Community is now required to conduct background investigations on its key employees and primary management officials. The NIGC expects to receive a completed application for each key employee and primary management official pursuant to 25 C.F.R. § 556.5(a) and an investigative report on each background investigation before issuing a license to a key employee or primary management official pursuant to 25 C.F.R. § 556.5(b).

Thank you for submitting the ordinance of the Seneca-Cayuga Tribe of Oklahoma for review and approval. The NIGC staff and I look forward to working with you and the Tribe in implementing the IGRA.

Sincerely yours,

Anthony J. Hope

Anthony J. Hope  
Chairman

cc: Jess Green, Esq.

**APPROVED**

R2301 E. Steve Owens Blvd.  
Box 1283  
Miami, Oklahoma 74355  
(918) 542-6609  
Resolution # 16-072093

"Approval of New Gaming Ordinance"

WHEREAS: The Seneca-Cayuga Tribe of Oklahoma is a Federally recognized Indian Tribe organized under the Oklahoma Indian Welfare Act of 1936 with a Constitution and By-Laws approved by the Secretary of Interior, April 26, 1937, and

WHEREAS: the Business Committee of the Seneca-Cayuga Tribe of Oklahoma is empowered to act in behalf of the Tribe under Article VI of the Constitution and By-Laws, and

WHEREAS: it is the policy of the Seneca-Cayuga Tribe of Oklahoma to exercise its powers of self-government through economic development which vitally affects the general economy of the Tribe and the public interest and the public welfare, and

WHEREAS: the Seneca-Cayuga Business Committee considers the tribal gaming enterprise as being of utmost importance in bringing in much needed revenue for the purposes of funding tribal government operations and tribal programs, to provide for the health, safety and welfare of the Seneca-Cayuga Tribe of Oklahoma and its members, to promote tribal economic development, and to provide immediate employment to Tribal members to help alleviate the twenty nine percent (29%) Tribe unemployment rate within the Tribal service area,  
NOW

THEREFORE, BE IT RESOLVED, that the Seneca-Cayuga Tribal Business Committee approves the attached Gaming Ordinance, NOW

THEREFORE, BE IT FURTHER RESOLVED, that the Seneca-Cayuga Tribal Business Committee delegates tribal attorney, Jess Green, to act under Section 1015 of such Gaming Ordinance to issue Regulations for the Business Committee until an Interim Gaming Commissioner is selected by the Tribe, NOW

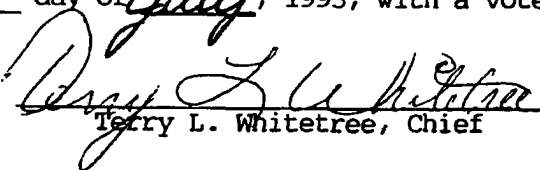
THEREFORE, BE IT FURTHER RESOLVED, that all prior Gaming Ordinances and/or Regulations are repealed.

CERTIFICATION

The aforementioned resolution was adopted in a special called meeting by the Seneca-Cayuga Tribal Business Committee on the 20 day of July, 1993, with a vote of 5 for, 2 against, and 0 abstaining.

ATTEST:

  
Geneva Records, Secretary/Treasurer

  
Terry L. Whitetree, Chief

93015-0300

## SENECA-CAYUGA GAMING CODE

### 1001. Purpose

The Seneca-Cayuga Tribe of Oklahoma (hereinafter "Tribe") hereby enacts this ordinance in order to set the terms for gaming operations on tribal lands.

### 1002. Gaming Authorized

Class II gaming as defined in the Indian Gaming Regulatory Act, P.L. 100-447, 25 U.S.C. § 2703(7)(A) ("IGRA") and by the regulations promulgated by the National Indian Gaming Commission at 25 C.F.R. § 502.3 (as published in the Federal Register at 57 FR 12382-12393, April 9, 1992) is hereby authorized. Class III gaming as defined in the Indian Gaming Regulatory Act, P.L. 100-447, 25 U.S.C. §2703(8), and by regulations promulgated by the National Indian Gaming Commission, is authorized only to the extent allowed by such law and pursuant to an approved Tribal State Compact.

### 1003. Ownership of Gaming

The Tribe shall have the sole propriety interest in and responsibility for the conduct of any gaming operation authorized by this ordinance.

### 1004. Use of Gaming Revenue

A. Net revenues from gaming shall be used only for the following purposes: to fund tribal government operations and programs; provide for the general welfare of the Tribe and its members; promote tribal economic development; donate to charitable organizations; or help fund operations of local government agencies.

B. No per capita payments to tribal members shall be made from Gaming Revenue.

### 1005. Audit

A. The Tribe shall cause to be conducted annually an independent audit of gaming operations and shall submit the resulting audit reports to the National Indian Gaming Commission.

B. All gaming related contracts that result in the purchase of supplies, services, or concessions in excess of \$25,000.00 annually, except contracts for professional legal and accounting services, shall be specifically included within the scope of the audit that is described in subsection A above of this section.

1006. Protection of the Environment and Public Health and Safety

All gaming facilities shall be constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety.

1007. Licenses for Key Employees and Primary Management Officials

The Tribe shall ensure that the policies and procedures set out in this Section are implemented with respect to key employees and primary management officials employed at any gaming enterprise operated on Indian lands:

A. Definitions

For the purposes of this section, the following definitions apply:

1. Key employee means

- (a) A person who performs one or more of the following functions:
  - (1) Bingo caller;
  - (2) Counting room supervisor
  - (3) Chief of security;
  - (4) Custodian of gaming supplies or cash;
  - (5) Floor manager;
  - (6) Pit boss;
  - (7) Dealer;
  - (8) Croupier;
  - (9) Approver of credit; or
  - (10) Custodian of gambling devices including persons with access to cash and accounting records within such devices;
- (b) If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year; or
- (c) If not otherwise included, the four most highly compensated persons in the gaming operation.

2. Primary management official means

- (a) The person having management responsibility for a management contract;
- (b) Any person who has authority:

- (1) To hire and fire employees; or
  - (2) To set up working policy for the gaming operation; or
- (c) The chief financial officer or other person who has financial management responsibility.

E. Application Forms

1. The following notice shall be placed on the application form for a key employee or a primary management official before that form is filled out by an applicant:

In compliance with the privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the National Indian Gaming Commission in connection with the hiring or firing of an employee, the issuance or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to hire you in a primary management official or key employee position. The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.

2. Existing key employees and primary management officials shall be notified in writing that they shall either:

- (a) Complete a new application form that contains a Privacy Act notice; or

(b) Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice.

3. The following notice shall be placed on the application form for a key employee or a primary official before that form is filled out by an applicant.

A false statement on any part of your application may be grounds for not hiring you, or for firing you after you begin work. Also, you may be punished by fine or imprisonment. (U.S. Code, title 18, section 1001.)

4. The Tribe shall notify in writing existing key employees and primary management officials that they shall either:

(a) Complete a new application form that contains a notice regarding false statements; or

(b) Sign a statement that contains the notice regarding false statements.

C. Background Investigations

1. The Tribe shall request from each primary management official and from each key employee all of the following information:

(a) Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);

(b) Currently and for the previous 5 years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers license numbers;

(c) The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph (1) (b) of this section;

(d) Current business and residence telephone numbers;

- (e) A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;
- (f) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
- (g) The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
- (h) For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition if any;
- (i) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within 10 years of the date of the application, the name and address of the court involved and the date and disposition;
- (j) For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within 10 years of the date of the application and is not otherwise listed pursuant to paragraph (1) (h) or (1) (i) of this section, the criminal charge, the name and address of the court involved and the date and disposition;
- (k) The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
- (l) A current photograph with notarized affidavit as to date taken and person depicted.
- (m) Any other information the Tribe deems relevant; and
- (n) Fingerprints consistent with procedures adopted by the Tribe according to 25 C.F.R. § 522.2 (h).

2. The Tribe shall conduct an investigation sufficient to make a determination under subsection D. below. In conducting a background investigation, the Tribe or its agent shall promise to keep confidential the identity of each person interviewed in the course of the investigation.

D. Eligibility Determination

The Tribe shall review a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of a key employee or primary management official for employment in a gaming operation. If the Tribe determines that employment of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, a Tribal gaming operation shall not employ that person in a key employee or primary management official position.

E. Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the National Indian Gaming Commission

1. When a key employee or primary management official begins work at a gaming operation authorized by this ordinance, the Tribe shall forward to the National Indian Gaming Commission a completed application for employment and conduct the background investigation and make the determination referred to in subsection D of this section.

2. The Tribe shall forward the report referred to in subsection F of this section to the National Indian Gaming Commission within 60 days after an employee begins work or within 60 days of the approval of this ordinance by the Chairman of the National Indian Gaming Commission.

3. The gaming operation shall not employ as a key employee or primary management official a person who does not have a license after 90 days.

F. Report to the National Indian Gaming Commission

1. Pursuant to the procedures set out in subsection E of this section, the Tribe shall prepare and forward to the National Indian Gaming Commission an investigative report on each background investigation. An investigative report shall include all of the following:



- (a) Steps taken in conducting a background investigation;
- (b) Results obtained;
- (c) Conclusions reached; and
- (d) The bases for those conclusions.

2. The Tribe shall submit, with the report, a copy of the eligibility determination made under subsection D of this section.

3. If a license is not issued to an applicant, the Tribe:

- (a) Shall notify the National Indian Gaming Commission; and
- (b) May forward copies of its eligibility determination and investigative report (if any) to the National Indian Gaming Commission for inclusion in the Indian Gaming Individuals Records System.

4. With respect to key employees and primary management officials, the Tribe shall retain applications for employment and reports (if any) of background investigations for inspection by the Chairman of the National Indian Gaming Commission or his or her designee for no less than three (3) years from the date of termination of employment.

G. Granting a Gaming License

1. If, within a thirty (30) day period after the National Indian Gaming Commission receives a report, the National Indian Gaming Commission notifies the tribe that it has no objection to the issuance of a license pursuant to a license application filed by a key employee or a primary management official for whom the tribe has provided an application and investigative report to the National Indian Gaming Commission, the Tribe may issue a license to such applicant.

2. The Tribe shall respond to a request for additional information from the Chairman of the National Indian Gaming Commission concerning a key employee or a primary management official who is the subject of a report. Such a request shall suspend the 30-day period under paragraph G. 1. of this section until the Chairman of the National

Indian Gaming Commission receives the additional information.

3. If, within the thirty (30) day period described above, the National Indian Gaming Commission provides the Tribe with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official for whom the Tribe has provided an application and investigative report to the National Indian Gaming Commission, the Tribe shall reconsider the application, taking into account the objections itemized by the National Indian Gaming Commission. The Tribe shall make the final decision to issue a license to such applicant.

H. License Suspension

1. If, after the issuance of a gaming license, the Tribe receives from the National Indian Gaming Commission reliable information indicating that a key employee or a primary management official is not eligible for employment under subsection D. above, the Tribe shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.

2. The Tribe shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.

3. After a revocation hearing, the Tribe shall decide to revoke or to reinstate a gaming license. The Tribe shall notify the National Indian Gaming Commission of its decision.

I. License Locations

The Tribe shall issue a separate license to each place, facility, or location on Indian lands where gaming is conducted under this ordinance.

J. Repeal

All prior gaming ordinances of the Tribe are hereby repealed.

1008. Gaming Commissioner

The office of Gaming Commissioner of the Tribe is hereby created. Such officer shall take an oath similar to that of elected officials and be sworn to service.

1009. Gaming Commissioner Term

The Gaming Commissioner of the Tribe shall serve a term of four years from the date of oath of office.

1010. Selection of Gaming Commissioner

At any time when a vacancy occurs in the office of Gaming Commissioner, the office shall be filled by nomination by the Tribal Chief and confirmation by the Business Committee. The Chief of the Tribe shall put the appointment upon the agenda of any regular or specially called Business Committee meeting and, at such meeting, nominate his selection. Thereafter, the Business Committee shall have thirty (30) days to confirm the appointment. Should the Business Committee fail to confirm the nomination by the Chief of the Tribe within the proscribed time period, the Chief of the Tribe shall make another nomination. This process shall continue until a nomination of the Chief of the Tribe is confirmed. Nothing herein shall require that a Gaming Commissioner be appointed.

1011. Interim Gaming Commissioner

An Interim Gaming Commissioner may be selected in the same manner as the Gaming Commissioner anytime a vacancy in the office exists. No person shall serve as Interim Gaming Commissioner more than 60 days after the qualifications of office are met. Should it be determined that the Interim Gaming Commissioner does not meet the qualifications of such office, upon such determination, the term of office shall expire.

1012. Gaming Commissioner Removal

A Gaming Commissioner may be removed from office at anytime upon a vote of no confidence by five (5) Business Committee members in a regular or special Business Committee meeting.

1013. Gaming Commissioner Qualifications

Prior to any nomination of a Gaming Commissioner for the Tribe by the Chief, such person shall have passed a background investigation, examination and check of the same nature as a key employee of a gaming enterprise pursuant to Section 1007. Nothing in this section shall prohibit a person from serving as Interim Gaming Commissioner pending the outcome of key employee review. A person may serve as Interim Gaming Commissioner only until background review is completed. Thereafter, such person shall be nominated for Gaming Commissioner within 30 days or his appointment shall terminate. Should an Interim Gaming Commissioner fail to pass the background review, he shall be deemed immediately terminated.

1014. Gaming Commissioner Salary

The Gaming Commissioner or Interim Gaming Commissioner shall be paid a salary set by the Business Committee, provided that the salary shall not be decreased while the Gaming Commissioner remains in office. Nothing herein prevents decrease of Interim Gaming Commissioner salary or required that an Interim Gaming Commissioner be paid any salary.

1015. Absence of a Gaming Commissioner

In the absence of a Gaming Commissioner or Interim Gaming Commissioner, the Business Committee of the Tribe shall be responsible to perform such duties either by delegation to one or more of its members, one or more Tribal employees, and/or one or more tribal attorneys.

1016. Duties and Authority of Gaming Commissioner

The Gaming Commissioner shall be responsible to determine that provisions of the Gaming Code are followed and may exercise any proper power and authority necessary to perform the duties assigned. Such Commissioner shall be responsible to make regulations which shall include but not be limited to:

- A. Design forms for background checks; and employee applications;
- B. Design and describe procedures for conducting background checks;
- C. Design and describe procedures to issue tribal licenses to primary management officials and key employees,
- D. Design and describe procedures for resolving disputes between the gaming public and the Tribe or the Gaming enterprise management.
- E. Designate an agent for service of legal notices.
- F. Designate a law enforcement agency that will take fingerprints.
- G. Design and describe procedures for conducting criminal and credit historys and checks.
- H. Design and describe procedures to prevent theft and insure the integrity of the gaming enterprise.
- I. Design and describe procedures for collection of license fees, taxes, other fees and levys as the same relates to the gaming enterprise.

J. Supervise collection of all gaming enterprise receipts and the payment of gaming enterprise obligation.

1017. Regulations

Any regulations promulgated by the Gaming Commissioner shall have full force and effect from the date of issuance, provided however, the Business Committee may by affirmative action repeal, amend and/or enact such regulations. Any regulation enacted by the Business Committee shall not be subject to amendment by the Gaming Commissioner. Nonetheless, the Commissioner may withdraw, replace or amend any regulation that he has made or any regulations which have been amended by the Business Committee.

1018. Notice of Proposed Regulations

A. In adopting, amending or repealing any regulations under this code, the Gaming Commissioner shall give a minimum of five (5) days notice of proposed regulations changes to all key employees, primary management officials, and the members of the Business Committee.

B. No notice is required for regulation changes made by the Business Committee.

C. Notice shall be deemed made by regular posting to the address of all persons describe herein, by hand delivery from the Gaming Commissioner or his designate, or by telephone confirmed facsimile.

1019. Notice of Regulations

A. A copy of all adopted regulations shall be maintained at the Tribal Office and Gaming Enterprise.

B. Copies will be available to the public for copy costs of twenty five cents (\$.25) per page at either location.

1020. Suspension of license or Right to Participate in Gaming

The Gaming Commissioner shall have the right to suspend any licensee, employee, or participant in Gaming for violation of any Tribal Regulations Tribal Compact, Tribal Ordinance, Federal Regulations or Federal Law. Such suspension shall be for a period of not more than ninety (90) days for licensees and not more than two (2) years for participants in Gaming. Prior to any such suspension the person reviewed shall:

A. Be given notice of specific facts concerning the violation alleged. Such allegation shall describe in writing the offense and give ten (10) days prior to any hearing.

B. Such notice of proceedings shall be accomplished by regular mail to the last known address and by publicly posting the same within gaming enterprise. Service by mail is not necessary if the Gaming Commissioner has no address for the person or entity.

C. At the hearing, the Gaming Commissioner shall state the Gaming Commissioner's understanding of the facts and allow the person or entity subject to the hearing the opportunity to be heard and present evidence.

D. At the hearing the subject shall show cause that specific facts alleged are inaccurate or that special conditions exist which should mitigate suspension.

E. Following the hearing, the Gaming Commissioner shall issue in writing an order regarding the subject within seven (7) days, or the matter shall be deemed dismissed. IF a suspension order is made, it shall state:

- (1) The specific violation of law or regulation of the subject, and
- (2) The suspension period imposed stating beginning date and concluding date of suspension.

F. Notice of Order shall be accomplished in the same manner as notice of proceedings.

1021. Suspended Persons

All persons or entities that are subject to a suspension order shall be excluded from the gaming enterprise during such suspension. The Gaming Commissioner shall have the authority to direct gaming enterprise security to enforce the exclusion of any person suspended under terms of Section 1022.

1022. Informants

The Gaming Commissioner may refuse to reveal, at any court proceedings, the identity of any informant.

1023. Public Hearings

The Gaming Commissioner shall hold public hearings not less than annually to allow public comment about operation of the gaming enterprise. The manager of any gaming enterprise shall attend such hearings and may be directed by the Gaming Commissioner to respond to questions or explain operations at the Gaming Commissioner's discretion.

1024.        Depositions

The Gaming Commissioner shall have authority upon three (3) days written notice to depose any licensee, employee or gaming participant.

1025.        Submission of Documents

Any document, affidavit, return or report fee, instrument or payment required to be filed, delivered or served upon the Gaming Commissioner or Tribe shall be deemed to be properly filed delivered or served if it is filed delivered or served as the case may be upon the Gaming Commissioner or the Tribal Administrator at the Tribal Complex or as the Gaming Commissioner may otherwise direct by regulation.

1026.        Deputy Gaming Commissioners

The Gaming Commissioner may authorize in the same fashion as a law enforcement officer the issuance of positions of Deputy Commissioner on a temporary, part time and/or full time basis. Any person who is employed full time as a Deputy Gaming Commissioner shall be required to meet the same qualifications as the Gaming Commissioner in accord with Section 1007.

1027.        Salary of Deputy Commissioners

The salary of a Deputy Gaming Commissioners if any shall be subject to the budgeting process of the Tribe and shall be established by the Business Committee.

1028.        Gross Revenues Tax

A tax of four percent (4%) is assessed by the Tribe on the gross revenues of any enterprise that involves the active conduct of gaming within Tribal jurisdiction. Such tax includes but is not limited to associated sales of souvenirs and concessions. The manager of any gaming enterprise shall be responsible to assure payment is remitted daily to the Tribe from gross revenues of the enterprise for which such manager is responsible.

1029.        Head Tax

A tax of one dollar (\$1) per player attending each regular or special session is hereby assessed against each player. The manager of any gaming enterprise shall be responsible to collect and remit daily to the tribe amounts assessed as head tax of the enterprise which such manager is responsible.

1030.        Food and Beverage Tax

A tax of fifty cents (\$.50) per player is assessed against each player as food and beverage tax. The manager of any gaming enterprise shall be responsible to collect and remit daily to the Tribe amounts assessed as Food and Beverage Tax against players of the enterprise for which such manager is responsible.

1031.        Machine Tax

A tax of One hundred fifty dollars (\$150) per year is assessed against machine aids to Gaming provided, however, the tax shall not apply to aids which are dispensed under the trade names of Fortunet or Bingo Card Minder or any paper pull tab dispensers. The manager of any gaming enterprise shall be responsible to collect and remit daily to the Tribe amounts assessed and collected as Machine Tax for machines used within the enterprise for which such manager is responsible.

1032.        Disputes with Management

Any gaming enterprise participant or supplier may file a grievance against management with the Gaming Commissioner. The Gaming Commissioner shall establish a time for hearing, give notice to all parties, hold hearing(s) and rule upon the grievance. The ruling of the Gaming Commissioner may be appealed to the Tribal Court if any shall exist or to the Code of Federal Regulations Court of Indian Offenses for the Seneca Cayuga Tribe. This section shall in no way be construed as a waiver of the Tribes sovereign immunity.

A.    Nature of Grievance

Any participant who has been denied benefits of gaming by manager or management, who is injured on the premises due to the fault of manager or management, or has any other claim for relief against manager or management or any supplier who may have a claim for relief may have his grievance against management heard by filing the same with the Gaming Commissioner in writing. If no Gaming Commissioner or Interim Gaming Commissioner exists, the same shall be filed with the Tribal Administrator. The grievance shall describe the date, time and event which gives rise to the grievance and be signed and verified by the aggrieved person and signed by any legal counsel he may have.

B.    Time for Hearing

The Gaming Commissioner shall set a date for hearing the grievance within ninety (90) days of the filing of the same.



C. Notice of Hearing

The Gaming Commissioner shall give notice of such hearing together with a copy of the grievance to the manager and management of the gaming enterprise involved in the grievance and give notice of the hearing to the person filing the grievance by regular mail posted not less than ten days in advance of the hearing.

D. Hearing

At hearing on any grievance, the person filing the same, manager and management shall be entitled to legal counsel. The person filing the grievance must be present for hearing of the same and shall be responsible to present a prima facie case for relief before response by the manager is required. The Gaming Commissioner shall be free to question any person present, continue the hearing from time to time and conduct independent investigation of facts. Upon conclusion of hearing the Gaming Commissioner shall have forty five (45) days to render a written opinion. In the absence of a written opinion by the Gaming Commissioner within the time specified, the matter shall be deemed dismissed.

1033. Alternative to Hearing Grievance

The Gaming Commissioner shall at any time prior to decision of any grievance have the authority to suspend proceedings and direct arbitration or mediation of the grievance under such terms as the Gaming Commissioner may direct.

1034. Procedures for Background Investigation

A. Selection of contractor to conduct background investigations.

- (1) The Tribal Gaming Commissioner shall select an outside contractor to conduct background investigations on any person employed in gaming. Such outside contractor shall be licensed as a Private Investigations company and shall possess the reliability, means and experience necessary to meet the needs of the Tribe.
- (2) The investigative work performed shall be submitted in a standard report format in duplicate to the Tribal Gaming Commissioner for his review and examination. The Manager of any Gaming Hall owned by the Tribe shall have access to such reports will examine and approve the reports. The cost of such reports shall be attributable to the Gaming Hall from which the application originated.

- (3) The Tribal Gaming Commissioner shall submit the results of each background investigation to the National Indian Gaming Commission as may be required and update such information at any time that changes occur in prior submissions so as to maintain complete up to date background investigations on all employees.
- (4) The Tribal Gaming Commission shall obtain or cause to be obtained a current set of fingerprints on each person for whom background investigations are required, using forms supplied by the National Indian Gaming Commission.
- (5) Should the Tribal Gaming Commissioner or the National Indian Gaming Commission, in a final nonappealable decision, find that any person has prior activities, criminal record, if any, or reputation, habits, and associations that pose a threat to the public interest, or the tribal interest, or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming or the carrying on of related business and financial arrangements, then and in that event such person shall be excluded from all association with the Tribe's gaming operations.

B. The minimum investigative procedures of a contractor who provide investigations shall include but not be limited to the following:

- (1) Verify by written or oral communication the information submitted by the employee or prospective employee including but not limited to:
  - (a) Full name, other names used (oral or written), birth date, place of birth, citizenship, gender, all languages (spoken or written);
  - (b) Business and employment positions held, ownership interests in businesses, business and residence addresses, and drivers license numbers;
  - (c) The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph 1(b) of this section;

- (d) Current business and residence telephone numbers;
  - (e) A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;
  - (f) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
  - (g) The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not the license or permit was granted;
  - (h) For each felony charge which has been filed, the charge, the name and address of the court involved, and the date and disposition if any;
  - (i) For each misdemeanor charge (excluding minor traffic violations) within 10 years of the date of the application, the name and address of the court involved and the date and disposition;
  - (j) The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
  - (k) A current photograph with affidavit of date taken;
  - (l) Fingerprints consistent with procedures adopted by the Tribe according to Tribal or Code of Federal Regulation Law Enforcement.
- (2) Inquire into the applicant's prior activities, criminal record, if any, and reputation, habits and associations; interview a sufficient number of knowledgeable people such as former employers, personal references, and others to whom referred in order to provide a basis for the Tribe to make a finding concerning the eligibility for employment in a gaming operation.
  - (3) Document the disposition of all potential problem areas noted and disqualifying information obtained.

C. The minimum investigative report on each background investigation shall set forth the following:

- (1) Steps taken in conducting the background investigation;
- (2) Results obtained;
- (3) Conclusions reached and
- (4) The basis for those conclusions.