
Rules of
Department of Public Safety
Division 45—Missouri Gaming Commission
Chapter 31—Hearings

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**Title 11—DEPARTMENT OF
PUBLIC SAFETY
Division 45—Missouri Gaming
Commission
Chapter 31—Hearings**

**11 CSR 45-31.010 Proposed Suspensions,
Revocations, and Denials**

PURPOSE: This rule establishes the procedures for proposed suspensions, revocations, and denials.

(1) When notified of facts sufficient to support disciplinary action against a licensee, the commission may propose disciplinary action against a licensee. Any licensee whose license is proposed to be suspended, revoked or otherwise disciplined shall be sent notice of the proposed discipline via certified mail, postage prepaid by the commission. Such notice shall set forth the reasons for the proposed discipline.

(2) Whenever the commission finds an applicant unsuitable for licensing, the commission shall send a written letter to the applicant outlining the reasons for the finding. This letter shall be sent certified mail, return receipt requested.

(3) The applicant or licensee has forty-five (45) days from the mailing date of such notice to file a request for hearing with the hearing officer appointed by the commission. Failure to file a notice of appeal within forty-five (45) days of the mailing date of the notice constitutes an admission by the applicant or licensee of all facts alleged in the proposed action taken by the commission.

(4) In all proposed disciplinary actions and licensing hearings, the applicant or licensee shall be the petitioner. The burden of proof is at all times on the petitioner. The petitioner shall have the affirmative responsibility of establishing the facts of the case by clear and convincing evidence.

*AUTHORITY: section 313.065, RSMo (Cum. Supp. 1995). * Emergency rule filed Dec. 20, 1996, effective Dec. 30, 1996, expired June 27, 1997. Original rule filed Dec. 13, 1996, effective June 30, 1997.*

**Original authority 1981, amended 1993, 1995.*

11 CSR 45-31.020 Hearing Officer

PURPOSE: This rule describes appointment of hearing officers.

(1) The commission shall retain a hearing officer, as a full-time employee or on a contract basis, to conduct the hearings required by 11 CSR 45 Chapter 31.

(2) The hearing officer shall be a member in good standing of the Missouri Bar.

(3) Following each hearing, the hearing officer shall recommend proposed findings of fact, conclusions of law and a final order to the commission.

(4) The commission shall review the recommendation of the hearing officer and issue findings of fact, conclusions of law and enter a final order.

*AUTHORITY: section 313.065, RSMo (Cum. Supp. 1996). * Emergency rule filed Dec. 20, 1996, effective Dec. 30, 1996, expired June 27, 1997. Original rule filed Dec. 13, 1996, effective June 30, 1997.*

**Original authority 1981, amended 1993, 1995.*

11 CSR 45-31.030 Requests for Hearings

PURPOSE: This rule establishes the procedure for requesting a hearing.

(1) All requests for hearings must—

- (A) Be in writing;
- (B) State the name, current address and current telephone number of the petitioner;
- (C) State the number assigned to the matter by the commission;
- (D) State the particular section of the commission rules and/or statutes involved;
- (E) State in detail the reasons and facts upon which the petitioner will rely; and
- (F) All requests for hearing must be submitted in duplicate.

(2) A request for hearing must be submitted within forty-five (45) days from the date the notice of denial or disciplinary action was mailed.

(A) The petitioner may submit a request for hearing by—

- 1. Personal delivery;
- 2. United States mail, postage prepaid; or
- 3. Overnight express mail, postage prepaid.

(B) No documents or papers shall be considered filed until actually received by the commission.

(C) The hearing officer may deny a request for hearing if the statement of reasons and facts submitted by the petitioner do not establish a *prima facie* case.

(3) The petitioner shall be served with written notice of the time and place of hearing by—

- (A) Personal delivery;
- (B) Certified mail, postage prepaid; or
- (C) Overnight express mail, postage prepaid.

*AUTHORITY: section 313.065, RSMo (Cum. Supp. 1996). * Emergency rule filed Dec. 20, 1996, effective Dec. 30, 1996, expired June 27, 1997. Original rule filed Dec. 13, 1996, effective June 30, 1997.*

**Original authority 1981, amended 1993, 1995.*

11 CSR 45-31.040 Appearances

PURPOSE: This rule establishes the procedures for attorneys filing appearances.

(1) A party may be represented by an attorney who is licensed in Missouri. All attorneys who appear in a representative capacity on behalf of a party must file written notice of appearance setting forth—

- (A) The name, address and telephone number of the attorney(s);
- (B) The name and address of the party represented; and
- (C) An affirmative statement indicating that the attorney is licensed in Missouri including his/her bar number.

(2) Upon motion, the hearing officer may permit a member in good standing of the bar of the highest court of any state or of any United States district court to argue or conduct a particular hearing in whole or in part.

(3) An attorney may only withdraw his/her appearance upon written notice to the hearing officer stating the reasons therefore and after permission from the hearing officer.

(4) Any individual may appear on his/her own behalf.

*AUTHORITY: section 313.065, RSMo (Cum. Supp. 1996). * Emergency rule filed Dec. 20, 1996, effective Dec. 30, 1996, expired June 27, 1997. Original rule filed Dec. 13, 1996, effective June 30, 1997.*

**Original authority 1981, amended 1993, 1995.*

11 CSR 45-31.050 Proceedings

PURPOSE: This rule establishes procedures for conducting hearings.



(1) Upon receipt of a request for hearing filed by a licensee whose license has been proposed to be suspended, revoked or otherwise disciplined, the hearing officer for the commission shall notify the attorney general and the commission that such request for hearing has been filed. The hearing officer shall determine the time and place of the hearing as soon as is reasonably practical after receiving the respondent's answer.

(2) During any hearing to determine the validity of any suspension, revocation or other form of discipline of any licensee or to determine the validity of the denial of any license application, the burden of proof shall be at all times on the applicant or licensee to demonstrate by clear and convincing evidence why s/he should be licensed or should not be disciplined.

(3) At all hearings conducted by the hearing officer—

(A) Oral evidence may be taken only upon oath or affirmation;

(B) Every party has the right to—

1. Call and examine witnesses;

2. Introduce exhibits relevant to the issues of the case, including the transcript of testimony at any investigative hearing conducted by or on behalf of the commission;

3. Cross-examine opposing witnesses on any matters relevant to the issues of the case, even though the matter was not covered in a direct examination;

4. Impeach any witness regardless of which party first called him/her to testify; and

5. Offer rebuttal evidence;

(C) If the petitioner does not testify in his/her own behalf, s/he may be called and examined as if under cross-examination;

(D) The hearing need not be conducted according to the technical rules relating to evidence and witnesses. Any relevant evidence may be admitted and shall be 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 or a jury trial;

(E) The parties or their counsel may by written stipulation agree that certain specified evidence may be admitted even though such evidence might otherwise be subject to objection; and

(F) The 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 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 to be determined by the hearing officer.

(4) Affidavits may be received in evidence at any hearing in accordance with the following:

(A) The party wishing to use an affidavit must, not less than ten (10) days before hearing date, serve upon the opposing party or counsel, either personally or by certified mail, a copy of the affidavit which s/he proposes to introduce into evidence together with a notice as provided in subsection (4)(B); and

(B) Unless the opposing party, within seven (7) days after such service, mails or delivers to the proponent a request to cross-examine the affiant, his/her right to cross-examine the affiant is waived and the affidavit, if introduced in evidence, must be given the same effect as if the affiant had testified orally. If an opportunity to cross-examine an affiant is not afforded after request therefor is made in accordance with this subsection, the affidavit may be introduced in evidence, but must be given only the same effect as other hearsay evidence.

AUTHORITY: section 313.065, RSMo (Cum. Supp. 1996). Emergency rule filed Dec. 20, 1996, effective Dec. 30, 1996, expired June 27, 1997. Original rule filed Dec. 13, 1996, effective June 30, 1997.

**Original authority 1981, amended 1993, 1995.*

11 CSR 45-31.060 Transmittal of Record and Recommendation to the Commission

PURPOSE: This rule establishes the procedures for transmittal of the record and recommendations from the hearing officer.

(1) The record shall consist of the following:

(A) The commission's notice to petitioner, the rulings on all motions and Petitioners Request for Hearing;

(B) All evidence received;

(C) A statement of matters officially noticed;

(D) Offers of proof, objections and rulings on them; and

(E) The recommendations and any findings of fact and conclusions of law made by the hearing officer.

(2) Oral proceedings, shall be recorded to adequately insure the preservation of the testimony or oral proceedings and shall be tran-

scribed on request of any party. The transcript shall be paid for by the requesting party.

(3) Final Commission Order.

(A) The commission shall review the entire record and shall render a written decision on the merits which shall contain findings of fact and conclusions of law, and after that will issue a final commission order. The commission may adopt the findings of fact and conclusions of law issued by the hearing officer.

(B) Copies of the final commission order shall be served on a petitioner by certified or overnight express mail, postage prepaid, or by personal delivery.

*AUTHORITY: section 313.065, RSMo (Cum. Supp. 1996). *Emergency rule filed Dec. 20, 1996, effective Dec. 30, 1996, expired June 27, 1997. Original rule filed Dec. 13, 1996, effective June 30, 1997.*

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