

**PROPOSED AMENDMENTS TO  
NEVADA GAMING COMMISSION REGULATION 5**

**REQUIREMENTS ADDRESSING WORKPLACE DISCRIMINATION AND  
HARASSMENT PREVENTION AND RESPONSE**

**REQUIREMENTS ADDRESSING OTHER GAMING BUSINESSES**

**OTHER NON-SUBSTANTIVE MODIFICATIONS**

**Draft Dated: 11/6/2019**

**PURPOSE STATEMENT:** To amend the Nevada Gaming Commission (“NGC”) Regulations to set forth the requirement that certain Nevada gaming licensees adopt and implement written policies and procedures prohibiting workplace discrimination and harassment; to amend regulation 5.011 to clarify that the provisions apply to a registrant and person found suitable by the NGC; to amend regulation 5.011(8) to clarify that the provisions set forth therein apply to all gaming businesses, not just licensed gaming establishments; to make various non-substantive stylistic changes to the regulation to conform with standard rulemaking guidelines; and to take such additional actions as may be necessary and proper to effectuate this stated purpose.

**RECOMMENDED EFFECTIVE DATE:** Amendments to section 5.011, effective upon adoption by the Nevada Gaming Commission. All other amendments, effective on the first day of the fourth month following the month adopted by the Nevada Gaming Commission.

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

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REGULATION 5

**OPERATION OF GAMING ESTABLISHMENTS AND OTHER GAMING  
BUSINESSES**

1       **5.011 Grounds for disciplinary action.**

2        1. The Board and the Commission deem any activity on the part of ~~[any]~~ *a*  
3       licensee, *registrant, or person found suitable by the Commission,* ~~[the licensee's~~

1 ~~agents or employees~~ or an agent or employee thereof, that is inimical to the public  
2 health, safety, morals, good order ~~and~~ or general welfare of the people of the  
3 State of Nevada, or that would reflect or tend to reflect discredit upon the State of  
4 Nevada or the gaming industry, to be an unsuitable method of operation and shall  
5 be grounds for disciplinary action by the Board and the Commission in accordance  
6 with the Nevada Gaming Control Act and the regulations of the ~~Board and the~~  
7 Commission. ~~Without limiting the generality of the foregoing, the~~ The following  
8 acts or omissions, without limitation, may be determined to be unsuitable methods  
9 of operation:

10 ~~1.~~ (a) Failure to exercise discretion and sound judgment to prevent incidents  
11 which might reflect on the repute of the State of Nevada and act as a detriment to  
12 the development of the industry.

13 ~~2.~~ (b) Permitting ~~persons~~ a person who ~~are~~ is visibly impaired by alcohol or  
14 any other drug to participate in a gaming activity.

15 ~~3.~~ (c) Complimentary service of intoxicating beverages in the casino area to  
16 ~~persons~~ a person who ~~are~~ is visibly impaired by alcohol or any other drug.

17 ~~4.~~ (d) Failure to conduct advertising and public relations activities in  
18 accordance with decency, dignity, good taste, honesty, and inoffensiveness,  
19 including, ~~but not limited to,~~ without limitation, advertising that is false or  
20 materially misleading.

21 ~~5.~~ (e) Catering to, assisting, employing, or associating with, either socially or in  
22 business affairs, persons of notorious or unsavory reputation or who have extensive  
23 police records, or persons who have defied congressional investigative committees,  
24 or other officially constituted bodies acting on behalf of the United States, or any  
25 state ~~or jurisdiction of the United States,~~ or persons who are associated with or  
26 support subversive movements, or the employing either directly or through a  
27 contract, or any other means, of any firm or individual in any capacity where the  
28 repute of the State of Nevada or the gaming industry is liable to be damaged  
29 because of the unsuitability of the firm or individual or because of the unethical  
30 methods of operation of the firm or individual.

1       ~~{6.}~~ *(f)* Employing in a position for which the individual could be required to be  
2 licensed as a key employee pursuant to the provisions of ~~{Regulations}~~ *sections*  
3 3.100 and 3.110~~, any~~ *of these Regulations, a* person who has been denied a ~~{state}~~  
4 gaming license *or has had his or her gaming license revoked by the Commission* on  
5 the grounds of unsuitability, or who has failed or refused to apply for ~~{licensing}~~  
6 *licensure* as a key employee when so requested by the Commission.

7       ~~{7.}~~ *(g)* Employing in ~~{any}~~ *a* gaming operation ~~{any}~~ *a* person whom the  
8 Commission or ~~{any}~~ *a* court has found guilty of cheating or using ~~{any}~~ *an* improper  
9 device in connection with ~~{any}~~ *a* game, whether as a licensee, dealer, or player at a  
10 licensed game or device; as well as ~~{any}~~ *a* person whose ~~{conduct}~~ *conducting* of a  
11 licensed game as a dealer or other employee of a licensee resulted in revocation or  
12 suspension of the license of such licensee.

13       ~~{8.}~~ *(h)* Failure to comply with or make provision for compliance with all federal,  
14 state, ~~{and}~~ *or* local laws and regulations and with all ~~{Commission approved}~~  
15 conditions and limitations ~~{pertaining}~~ *approved by the Commission relating* to the  
16 operations of a licensed *gaming* establishment *or other gaming business*, including,  
17 without ~~{limiting the generality of the foregoing, payment}~~ *limitation, those relating*  
18 *to:*

19           *(1) Payment or withholding of {all} license fees, {withholding any} payroll*  
20 *taxes, liquor taxes, {and} or entertainment taxes, as applicable; {and antitrust}*

21           *(2) Antitrust and monopoly statutes{,}; and*

22           *(3) Workplace discrimination or harassment of a person based on the person's*  
23 *race, color, religion, sex, sexual orientation, gender identity or expression, age,*  
24 *disability, or national origin, including, without limitation, sexual harassment.*

25       ~~{The Nevada gaming Commission in the exercise of its sound discretion can make~~  
26 ~~its own determination of whether or not the licensee has failed to comply with the~~  
27 ~~aforementioned, but any such determination shall make use of the established~~  
28 ~~precedents in interpreting the language of the applicable statutes. Nothing in this~~  
29 ~~section shall be deemed to affect any right to judicial review.]~~

30       ~~{9. (a)}~~ *(i)* Possessing or permitting to remain in or upon any licensed premises

1 any cards, dice, mechanical device, or any other cheating device ~~{whatever}~~, the  
2 use of which is prohibited by statute, *regulation*, or ordinance, ~~{or}~~

3 ~~{(b)}~~ *(j)* Conducting, carrying on, operating, or dealing any cheating or thieving  
4 game or device on the premises, either knowingly or unknowingly, which may have  
5 ~~{in any manner}~~ been marked, tampered with or otherwise placed in a condition, or  
6 operated in a manner, which tends to deceive the public, or which might make the  
7 game more liable to win or lose, or which tends to alter the normal random selection  
8 of criteria which determine the results of the game.

9 ~~{10.}~~ *(k)* Failure to conduct gaming operations in accordance with proper  
10 standards of custom, decorum, and decency, or permit ~~{any}~~ a type of conduct in  
11 ~~{the}~~ a gaming establishment ~~{which}~~ *that* reflects or tends to reflect on the repute  
12 of the State of Nevada and act as a detriment to the gaming industry.

13 ~~{11.}~~ *(l)* Whenever a licensed game or a slot machine, as defined in the *Nevada*  
14 Gaming Control Act, is available for play by the public:

15 ~~{(a)}~~ *(1)* At a nonrestricted location, failure to have an employee of the licensee  
16 present on the premises to supervise the operation of the game or *slot* machine;

17 ~~{(b)}~~ *(2)* At a restricted location, failure to have a responsible person who is at  
18 least 21 years old present on the premises to supervise the operation of the game or  
19 *slot* machine.

20 ~~{12.}~~ *(m)* Except as provided in ~~{NGC Regulation}~~ *section 5.140 of these*  
21 *Regulations* and except as to transfers of interest under ~~{NGC Regulation}~~ *section*  
22 *8.030* ~~{of these Regulations}~~, the sale or assignment of ~~{any}~~ a gaming credit  
23 instrument by a licensee, unless the sale is to a publicly traded or other bona fide  
24 financial institution pursuant to a written contract, and the transaction and the  
25 terms of the contract, including ~~{but not limited to}~~, *without limitation*, the  
26 discount rate, are reported to the Board for approval pursuant to ~~{NGC Regulation}~~  
27 *section 8.130* ~~{of these Regulations}~~.

28 ~~{13.}~~ *(n)* Issuing credit to a patron to enable the patron to satisfy a debt owed to  
29 another licensee or person, including, *without limitation*, an affiliate ~~{(as that term~~  
30 ~~is defined in NGC Regulation 15.482-3)}~~ of the licensee. This subsection ~~{shall}~~ *does*

1 not prohibit a licensee from collecting a debt owed to an affiliate of the licensee. As  
2 used in this paragraph, “affiliate” has the meaning ascribed to it in NRS 463.0133.

3 ~~{11.}~~ (o) Denying ~~{any}~~ a member or agent of the Board or Commission ~~{member~~  
4 ~~or agent.}~~, upon proper and lawful demand, access to, inspection, or disclosure of  
5 any portion or aspect of a gaming establishment or other gaming business as  
6 authorized by applicable statutes and ~~{regulation.}~~ regulations.

7 2. The Commission, in the exercise of its sound discretion, may make its own  
8 determination as to whether or not a licensee has failed to comply with a law or  
9 regulation described in paragraph (h) of subsection 1, but any such determination  
10 shall make us of established precedents when interpreting the applicable statute.  
11 Nothing in this section affects the right of a licensee to judicial review.

12 3. As used in this section, “other gaming business” has the meaning ascribed to it  
13 in subsection 5 of section 5.250 of these Regulations.

14 . . . .

#### 15 **5.045 Compliance review and reporting system.**

16 1. Whenever the Commission is acting upon ~~{any}~~ an application ~~{off}~~ for a license  
17 ~~{licensee}~~ or ~~{registrant.}~~ registration, or pursuant to its powers provided in NRS  
18 463.310, and if the Commission determines that special circumstances exist which  
19 require additional management review by a licensee or registrant, the Commission  
20 may impose a condition upon ~~{any}~~ a license or order of registration to require  
21 implementation of a compliance review and reporting system by the licensee or  
22 registrant.

23 2. The terms of ~~{the}~~ a condition imposed pursuant to subsection 1 may include,  
24 ~~{but shall not be limited to:}~~ without limitation:

25 (a) That the condition ~~{shall}~~ expire on a certain date or after a designated period  
26 of time without further action by the Commission; ~~{action.}~~

27 (b) That the condition may be administratively removed by the Board ~~{should a}~~  
28 if a specified activity ~~{cease}~~ ceases or a specified event ~~{occur}~~ occurs; or

29 (c) That the Board conduct a periodic review ~~{shall be conducted by the Board}~~,  
30 and upon such review, the Board may recommend and the Commission may remove

1 or continue to require the condition.

2 3. Notwithstanding the provisions of subsection 2 ~~[above]~~, upon application, a  
3 licensee or registrant may request modification or removal of ~~[the]~~ a condition  
4 imposed and the Commission may, after considering the recommendation of the  
5 Board, modify or remove ~~[the]~~ such condition.

6 4. ~~[The]~~ A compliance review and reporting system ~~[shall]~~ required pursuant to a  
7 condition imposed pursuant to subsection 1 must be created for the purpose of  
8 monitoring activities relating to the ~~[licensee's]~~ continuing qualifications of the  
9 licensee or ~~[registrant's continuing qualifications]~~ registrant under the provisions of  
10 the Nevada Gaming Control Act and regulations of the Commission in accordance  
11 with a written plan ~~[to]~~ that must be approved administratively by the Board-  
12 ~~[administratively]~~ or as otherwise ordered by the Commission.

13 5. ~~[The]~~ A written plan approved or ordered pursuant to subsection 4 must  
14 provide for the operation of the compliance review and reporting system and must  
15 designate ~~[who shall be]~~ those responsible for ~~[said]~~ such system. The written plan  
16 must provide for the 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 written plan must require periodic reports to senior management  
19 of the licensee or registrant. Such reports ~~[shall be]~~ are advisory, and the licensee or  
20 registrant shall maintain responsibility for compliance with the Nevada Gaming  
21 Control Act and regulations of the Commission. ~~[Copies]~~ The licensee or registrant  
22 shall provide copies of the reports ~~[must be provided]~~ to the Board.

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

28 (a) Associations with persons denied ~~[licensing]~~ licensure or other related  
29 approvals by the Commission or who may be deemed ~~[to be]~~ unsuitable to be  
30 associated with a licensee or registrant;

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

3 (c) Compliance with other special conditions that may be imposed by the  
4 Commission upon the licensee or registrant;

5 (d) Review of reports submitted pursuant to the Nevada Gaming Control Act and  
6 regulations of the Commission;

7 (e) Compliance with the laws, regulations, or orders of duly constituted  
8 governmental agencies or entities having jurisdiction over the gaming affairs, or  
9 such other business activities which the Board or the Commission may deem  
10 necessary or proper, of the licensee, registrant, or its affiliates, including, without  
11 limitation, the adoption and implementation of written policies and procedures  
12 prohibiting workplace discrimination or harassment of a person based on the  
13 person's race, color, religion, sex, sexual orientation, gender identity or expression,  
14 age, disability, or national origin, including, without limitation, sexual harassment,  
15 pursuant to section 5.250; and

16 (f) Review of such other activities determined by the Board or the Commission  
17 as being relevant to the ~~[licensee's]~~ continuing qualifications of the licensee or  
18 ~~[registrant's continuing qualifications]~~ registrant under the provisions of the  
19 Nevada Gaming Control Act and the regulations of the Commission.

20 . . . .

21 **5.250 Licensed gaming establishment or other gaming business required**  
22 **to maintain written policies and procedures prohibiting workplace**  
23 **discrimination or harassment.**

24 1. Each licensed gaming establishment or other gaming business that employs 15  
25 or more employees shall adopt and implement written policies and procedures  
26 prohibiting workplace discrimination or harassment of a person based on the  
27 person's race, color, religion, sex, sexual orientation, gender identity or expression,  
28 age, disability, or national origin, including, without limitation, sexual harassment.  
29 Such written policies and procedures must include, without limitation:

30 (a) The procedures and methods available to a person seeking to report an

1 instance of workplace discrimination or harassment; and

2 (b) The procedures the licensed gaming establishment or other gaming business  
3 will follow when investigating a report of workplace discrimination or harassment.

4 2. The written policies and procedures required by this section shall address and  
5 apply to workplace discrimination or harassment, including, without limitation,  
6 sexual harassment, committed by:

7 (a) A person within the organization, including, without limitation, an owner,  
8 manager, employee, or independent contractor; or

9 (b) A person outside the organization, including, without limitation, a customer,  
10 client, vendor, contractor, consultant, or other person that does business with the  
11 organization.

12 ↪ For purposes of this subsection, the term “organization” means a licensed gaming  
13 establishment or other gaming business.

14 3. The Board Chair, the Chair’s designee, or a Board Member may, at any time,  
15 inspect the written policies and procedures required pursuant to this section, and all  
16 records related thereto of a licensed gaming establishment or other gaming business.

17 4. The Board Chair, or the Chair’s designee, may require a licensed gaming  
18 establishment or other gaming business submit the written policies and procedures  
19 adopted and implemented pursuant to subsection 1 for the Chair’s, or the Chair’s  
20 designee’s, review. If the Chair, or the Chair’s designee, makes an administrative  
21 determination that the licensed gaming establishment’s or other gaming business’s  
22 written policies and procedures do not adequately address the requirements set forth  
23 in subsection 1, the Chair, or the Chair’s designee, may issue a determination  
24 identifying the deficiency and specifying a time certain within which the deficiency  
25 must be cured. Any licensed gaming establishment or other gaming business affected  
26 by such an administrative determination may appeal the determination as provided  
27 in sections 4.190 and 4.195 of these Regulations.

28 5. As used in this section, “other gaming business” means a business entity or sole  
29 proprietor, other than a licensed gaming establishment, licensed, registered, or found  
30 suitable under chapter 463 of NRS.