

TABLE OF CONTENTS

Administrative Procedure

Repealed 12-562-1—12-562-26

Definitions, Description of Organization, Administrative Procedures and Rules of Practice

Description of Organization and Public Information

Definitions. 12-562- 1a
 Creation and authority 12-562- 2a
 The gaming policy board—organization, functions, course and methods of operation 12-562- 3a
 Division of special revenue—organization, functions, course and method of operations. 12-562- 4a
 Location of principal offices 12-562- 5a
 Public information 12-562- 6a

Rules of Practice

Article I

General Provisions

Part I

Scope and Construction of Rules

Procedure governed. 12-562- 7a
 Waiver of rules 12-562- 8a
 Construction and amendment. 12-562- 9a
 Computation of time 12-562-10a
 Extension of time 12-562-11a
 Effect of filing 12-562-12a
 Consolidation of proceedings. 12-562-13a
 Ex parte communication 12-562-14a

Part 2

Formal Requirements

Date of filing 12-562-15a
 Repealed. 12-562-16a
 Signatures 12-562-17a
 Formal requirements as to documents and other papers filed in proceedings 12-562-18a
 Service. 12-562-19a

Article II

Contested Cases

Part I

Parties, Intervention and Participation

Designation of parties. 12-562-20a
 Application to be designated a party. 12-562-21a

Participation by nonparties	12-562-22a
Participation by persons admitted to participate as intervenors	12-562-23a
Procedure concerning added parties	12-562-24a
Status of party and of intervenor as party in interest	12-562-25a
Representation of parties and intervenors	12-562-26a

Part 2

Hearings, General Provisions

Place of hearings	12-562-27a
Repealed.	12-562-28a
Notice of hearings	12-562-29a
General provisions	12-562-30a
Witnesses, subpoenas, and production of records	12-562-31a
Rules of evidence.	12-562-32a
Filing of added exhibits and testimony	12-562-33a
Uncontested disposition of case	12-562-34a
Record in a contested case	12-562-35a
Final decision in a contested case	12-562-36a
Transcript of proceedings.	12-562-37a

Part 3

Hearings, Enforcement Proceedings

Scope and applicability	12-562-38a
Opportunity to show compliance.	12-562-39a
Summary suspension	12-562-40a
Disposition by consent decree	12-562-41a
Conduct of show cause hearings	12-562-42a
Notice and manner of service	12-562-43a
Default.	12-562-44a
Continuances, extensions of time	12-562-45a

Article III

Appeals to Gaming Policy Board

Appeals under sections 12-574 (i) and 12-574 (j).	12-562-46a
---	------------

Article IV

Rule Making

Authority to promulgate regulations	12-562-47a
Form of petition.	12-562-48a
Procedure after petition filed	12-562-49a
Procedure for the issuance, amendment or repeal of a regulation	12-562-50a

Article V

Miscellaneous Proceedings

Part I

Declaratory Rulings

General rule.	12-562-51a
-----------------------	------------

Form of petition for declaratory ruling 12-562-52a
Procedure after petition for declaratory ruling filed 12-562-53a

Part 2

Investigations and Inquiries

Investigations and inspections 12-562-54a
Investigative hearings or inquiries 12-562-55a

Article VI

Miscellaneous Provisions

Personal Data

Personal data 12-562-56a

Administrative Procedures

Secs. 12-562-1—12-562-26.

Repealed, October 24, 1986.

Administrative Procedures

Definitions, Description of Organization, Administrative Procedures and Rules of Practice

Description of Organization and Public Information

Sec. 12-562-1a. Definitions

The definitions provided by Section 4-166 C.G.S., shall govern the interpretation and application of Sections 12-562-1a through 12-562-19a, inclusive, of the Regulations of Connecticut State Agencies. In addition thereto and except as otherwise required by the context:

(a) “Appellant” means a person who takes an appeal to the gaming policy board from a decision of the executive director or other authorized hearing officer of the division of special revenue pursuant to the provisions of Section 12-574 (j) C.G.S.

(b) “Applicant” means a person applying for any license from the gaming policy board or executive director of the division of special revenue.

(c) “Board” or “GPB” means the gaming policy board of the state of Connecticut as established by Section 12-557d C.G.S.

(d) “Compliance conference or meeting” means an informal proceeding held in order to attempt to dispose of allegations of statutory or regulatory violation(s) by a licensee or permittee.

(e) “Contested case” means a formal proceeding conducted under oath, in the board’s or division’s disposition of matters delegated to their respective jurisdictions by law in which the legal rights, duties or privileges of a party are determined by the board or division after an opportunity for a hearing.

(f) “Division” means the division of special revenue of the state of Connecticut and, where appropriate to the context of Sections 12-562-1a through 12-562-56a, inclusive, of the Regulations of Connecticut State Agencies, any duly authorized representative thereof.

(g) “Executive director” means the executive director of the division of special revenue and, where appropriate to the context of Sections 12-562-1a through 12-562-56a, inclusive, of the Regulations of Connecticut State Agencies, any individual to whom his authority may be lawfully delegated.

(h) “Hearing” means that portion of the board’s or division’s procedures in the disposition of matters delegated to its jurisdiction by law wherein an opportunity for presentation of evidence and argument occurs, which is preceded by due notice and which includes both an opportunity to present such written and oral testimony and argument as the presiding officer deems appropriate and an opportunity to examine and cross-examine any witness giving testimony therein.

(i) “Intervenor” means each person admitted by the presiding officer as a participant in a contested case who is not a party.

(j) “License” includes the whole or part of any gaming policy board or division of special revenue permit, registration, approval, or similar form of permission which the board or the division issues under authority of Chapters 226, 226b, 229a and 98 C.G.S. and the regulations promulgated thereunder, the Mashantucket Pequot

Gaming Procedures and the Mohegan Tribe and State of Connecticut Tribal-State Compact.

(k) “Party” means each person named or admitted by the board or division as a party to a contested case, whose legal rights, duties or privileges will be determined by the board or division by the decision therein.

(l) “Person” means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character to whom or which Sections 12-562-1a through 12-562-19a, inclusive, of these **rules of practice** may apply in dealing with the board or division for any purpose.

(m) “Petitioner” means a person who has filed a petition to or request for a declaratory ruling from the board or the division.

(n) “Presiding officer” and “hearing officer” mean, as Sections 12-562-1a through 12-562-19a, inclusive, of these rules of practice may apply, and where appropriate to the context of the regulations herein set forth:

(1) The gaming policy board;

(2) The executive director or any individual designated by the executive director to whom the executive director’s authority to preside at hearings may be lawfully delegated.

(o) “Respondent” means a person against whom an order or a proceeding of the gaming policy board or division is directed.

(Effective October 24, 1986; amended June 4, 1999)

Sec. 12-562-2a. Creation and authority

The gaming policy board and the division of special revenue were originally established as agencies of the executive branch of state government by Public Act 79-404. The gaming policy board and the division of special revenue are statutorily reposed with the joint responsibility of administering and regulating legalized gaming activities within the state. The board and the division derive their authority primarily from Chapters 226, 226b, 229a and 98 of the Connecticut General Statutes and the Mashantucket Pequot Gaming Procedures and the Mohegan Tribe and State of Connecticut Tribal-State Compact.

(Effective October 24, 1986; amended June 4, 1999)

Sec. 12-562-3a. The gaming policy board—organization, functions, course and method of operations

(a) **Organization.** Pursuant to Section 12-557d of the Connecticut General Statutes, the gaming policy board consists of five members appointed by the governor with the advice and consent of the general assembly. The executive director of the division is a member of the board ex-officio.

To insure the highest standard of legalized gaming regulation at least four of the board members shall have training or experience in at least one of the following fields: corporate finance, economics, law, accounting, law enforcement, computer science or the pari-mutuel industry. At least two of these fields shall be represented on the board at any one time.

(b) **Gaming policy board; powers and duties.** The gaming policy board shall work in cooperation with the division of special revenue to implement and administer the provisions of Chapters 226, 226b and 229a of the general statutes and the Mashantucket Pequot Gaming Procedures and the Mohegan Tribe and State of Connecticut Tribal-State Compact. In carrying out its duties the board shall be responsible for: (1) Approving, suspending, or revoking licenses issued under subsection (a) of Section 12-574 of the General Statutes; (2) approving contracts for

facilities, goods, components or services necessary to carry out the provisions of Section 12-572 of the General Statutes; (3) setting racing and jai alai meeting dates; except that the board may delegate to the executive director the authority for setting make-up performance dates within the period of a meeting set by the board; (4) imposing fines on licensees under subsection (j) of Section 12-574 of the General Statutes; (5) approving the types of pari-mutuel betting to be permitted; (6) advising the executive director concerning the conduct of off-track betting facilities; (7) assisting the executive director in developing regulations to carry out the provisions of Chapters 226, 226b, 98 and 229, and approving such regulations prior to their adoption; (8) hearing all appeals taken under subsection (j) of said Section 12-574 of the General Statutes, Section 12-802b of the General Statutes, the Mashantucket Pequot Gaming Procedures and the Mohegan Tribe and State of Connecticut Tribal-State Compact; and (9) advising the Governor on state-wide plans and goals for legalized gaming.

(c) **Course and method of operations.** The board holds regular meetings monthly and convenes at such other times as its responsibilities may require. The powers of the board are vested in its members. All actions of the board are taken and motions and resolutions adopted by the affirmative vote of at least four members. Four members of the board constitute a quorum, or in the instance of a vacancy, a majority of the members remaining qualified.

(Effective October 24, 1986; amended June 4, 1999)

Sec. 12-562-4a. Division of Special Revenue—organization, functions, course and method of operations

(a) **Organization.** The division is currently composed of five units which are under the overall direction of the executive director. Each unit is under the supervision of a unit head, appointed by the executive director with the advice and consent of the board, who administers and coordinates the authorized activities in the unit head's respective unit. The current organization of the division is as follows:

(1) The executive director. Pursuant to Section 12-557c of the Connecticut General Statutes the governor appoints an executive director of the division, with the approval of the general assembly, to administer and coordinate the various programs within the division. The executive director shall be experienced in the functions of the division and shall have overall supervisory authority and responsibility over each of the operational units.

(2) Gambling regulation. This unit is responsible for regulating off-track betting, lottery, charitable games, racing and the game of jai alai, licensing and disclosure and the regulatory functions as provided for in the Mashantucket Pequot Gaming Procedures and Mohegan Tribe and State of Connecticut Tribal-State Compact.

(3) Integrity assurance and technical services. This unit is responsible for the accounting and auditing required to maintain control over the integrity of legalized gaming activities and for data processing functions.

(4) Security. This unit provides support services in the division's ongoing efforts to insure the highest standards of integrity and security in relation to its regulation activities. These services include the internal security and investigation necessary to enforce the provisions of Chapters 226, 226b, 229a and 98 C.G.S., the Mashantucket Pequot Gaming Procedures, the Mohegan Tribe and State of Connecticut Tribal-State compact and the division's regulations and procedures.

(5) Planning and research. This unit is responsible for conducting administrative hearings for licensing matters, researching the social and economic impact, as well

as the effectiveness of the various legalized gaming activities and for performing analyses relating to relevant issues.

(6) Division administration. This unit is responsible for division staff support services including, purchasing, general services, and general fund disbursements.

(b) **Functions.** Generally, the division, under its executive director, with the advice and consent of the board, implements and administers the statutory mandates placed upon the executive director by Chapters 226 and 266b. The division has the power to do whatever is reasonably necessary to carry out the intent of Chapters 226, 229a and 98 and the Mashantucket Pequot Tribe Gaming Procedures and the Mohegan Tribe and State of Connecticut Tribal-State Compact. The division acts as the board's agent for the purpose of filing materials and the implementation of policy decisions made by the board.

The division regulates the operation of off-track betting, lottery, charitable games, racing and jai alai. The division licenses all persons participating in any aspect of the operation or administration of legal gaming activities, licenses gaming employees of native american casino operations, registers gaming service enterprises and registers non-profit organizations conducting charitable games. It is the responsibility of the division to ensure that all laws and regulations regarding the establishment and operation of such legalized gaming activities are complied with and that the public interest is at all times protected.

The division reports at least annually to the governor concerning its activities and conducts studies at least quinquennially to determine the effects of legalized gaming on the citizens of the state and, when appropriate, the desirability of expanding, modifying, or reducing the amount of legalized gaming to be permitted.

(c) **Course and method of operations.** The executive director has overall responsibility for the operation of the division of special revenue and provides supervision and direction to the activities of the division. The executive director may appoint a deputy and an executive assistant for the efficient conduct of the business of the division. The deputy executive director shall, in the absence, disqualification or death of the executive director exercise the powers and duties of the executive director until the executive director resumes all official duties or the vacancy is filled. The deputy executive director and the executive assistant shall serve at the pleasure of the executive director. In carrying out the executive director's responsibilities, the executive director may delegate certain functions or authority to the deputy executive director, an individual unit head or a unit within the division, or individual employees within the division as the situation may require. In acquitting itself of its day to day responsibilities, the division, with the advice and consent of the board, has promulgated the following sets of substantive regulations as the same may, from time to time, be amended:

- (1) Rules and regulations governing the operation of lottery;
- (2) Rules and regulations governing the operation of parimutuel facilities;
- (3) Rules and regulations governing the licensing and disclosure requirements of the board and the division; and
- (4) Rules and regulations governing the operation of charitable games.

(Effective October 24, 1986; amended June 4, 1999)

Sec. 12-562-5a. Location of principal offices

The gaming policy board and the division of special revenue are located at 555 Russell Road, Newington, Connecticut 06111. All communications should be

addressed to the board or the division, as the case may be, P.O. Box 11424, 555 Russell Road, Newington, Connecticut 06111.

(Effective October 24, 1986; amended June 4, 1999)

Sec. 12-562-6a. Public information

The public may inspect the regulations, decisions and all public records of the gaming policy board and the division of special revenue at their offices in Newington. There is no prescribed form for requests for information. All such requests should be in writing and be sufficiently specific to allow facile identification of the matters or material requested. Such written requests should be submitted to the gaming policy board or the division, as the case may be, at the above stated principal office address.

(Effective October 24, 1986; amended June 4, 1999)

Rules of Practice

Article I

General Provisions

Part 1

Scope and Construction of Rules

Sec. 12-562-7a. Procedure governed

Sections 12-562-7a through 12-562-19a inclusive, of the Regulations of Connecticut State Agencies govern practice and procedure before the gaming policy board and the executive director of the division of special revenue, or the deputy executive director or a unit head or other individual authorized by law, under the applicable laws of the state of Connecticut and except where by statute otherwise provided.

(Effective October 24, 1986; amended June 4, 1999)

Sec. 12-562-8a. Waiver of rules

Where good cause appears, the board, the executive director or any presiding officer may permit deviation from Sections 12-562-1a through 12-562-19a, inclusive, of the Regulations of Connecticut State Agencies, except where precluded by law.

(Effective October 24, 1986; amended June 4, 1999)

Sec. 12-562-9a. Construction and amendment

Sections 12-562-1a through 12-562-19a inclusive, of the Regulations of Connecticut State Agencies, shall be construed by the board, the executive director or any presiding officer so as to secure just, speedy, and inexpensive determination of the issues presented hereunder. Amendments and additions to Sections 12-562-1a through 12-562-19a, inclusive, of the Regulations of Connecticut State Agencies, may be adopted by the executive director, with the advice and consent of the board, by being duly promulgated as regulations in accordance with Chapter 54, C.G.S.

(Effective October 24, 1986; amended June 4, 1999)

Sec. 12-562-10a. Computation of time

Computation of any period of time referred to in Sections 12-562-1a through 12-562-19a, inclusive, of the Regulations of Connecticut State Agencies, begins with the first day following that on which the act which initiates such period of time occurs and ends on the last day of the period so computed. This last day of that period is to be included unless it is a day on which the offices of the board and

division are closed, in which event the period shall run until the end of the next following business day. When such period of time, with the intervening Saturdays, Sundays, and legal holidays counted, is five (5) days or less, the said Saturdays, Sundays, and legal holidays shall be excluded from the computation; otherwise such days shall be included in the computation.

(Effective October 24, 1986; amended June 4, 1999)

Sec. 12-562-11a. Extension of time

Except where statutorily mandated, the board, the executive director or any presiding officer may extend the time limit prescribed or allowed by Sections 12-562-1a through 12-562-19a, inclusive, of the Regulations of Connecticut State Agencies, for good cause. All requests for extensions shall be made before the expiration of the period originally prescribed or as previously extended. The board, the executive director or any presiding officer shall cause all parties to be notified of the action upon any such motion.

(Effective October 24, 1986; amended June 4, 1999)

Sec. 12-562-12a. Effect of filing

(a) **Obligation to comply.** The filing with the board or division of any application, petition, complaint, request for declaratory ruling, or any other filing of any nature whatsoever shall not relieve any person of the obligation to comply with any statute, regulation or order of the board or division.

(b) **Nonwaiver.** Unless the board or the division otherwise specifies in an express written waiver by accepting the filing of any petition, application, exhibit, or document of any kind whatsoever the board or division shall not have waived any failure to comply with Sections 12-562-7a through 12-562-19a, inclusive, of the Regulations of Connecticut State Agencies. Where appropriate the board or division may require the amendment of any filing.

(Effective October 24, 1986; amended June 4, 1999)

Sec. 12-562-13a. Consolidation of proceedings

Two or more proceedings involving related questions of law or fact may be consolidated at the direction of the board, executive director or any presiding officer.

(Effective October 24, 1986; amended June 4, 1999)

Sec. 12-562-14a. Ex parte communication

(a) **Board member prohibition.** No board member shall engage in any oral ex parte communications with any representative, agent, officer or employee of any business organization regulated under Chapter 226 C.G.S., the Mashantucket Pequot Gaming Procedures and the Mohegan Tribe and State of Connecticut Tribal-State Compact concerning any matter pending or impending before the board.

(b) **Contested case proceedings.** Unless required for the disposition of matters ex parte authorized by law, neither board members, the executive director, nor any designated division presiding officer shall communicate directly or indirectly with any party or intervenor concerning any issue of fact or law involved in any contested case that has been commenced under Sections 12-562-1a through 12-562-19a, inclusive, of the Regulations of Connecticut State Agencies, except upon notice and opportunity for all parties to participate. The board members, the executive director and any other designated presiding officer may severally communicate with each other ex parte and may communicate with and have the aid and advice of such members of the division staff as are assigned to assist them in any contested case. This rule shall not be construed to preclude such routine communications as are

necessary to permit division staff to investigate facts and to conduct informal staff conferences at any time before, during, and after the hearing of a contested case. The board, the executive director or any designated presiding officer may designate a staff person who is not assigned to render a decision or to make findings of fact or conclusions of law to communicate with any person or party for the purposes of conducting informal conferences at any time before, during or after the hearing of the contested case proceeding.

(Effective October 24, 1986; amended June 4, 1999)

Part 2

Formal Requirements

Sec. 12-562-15a. Date of filing

All orders, decisions, findings of fact, correspondence, motions, petitions, applications, and any other documents governed by Sections 12-562-1a through 12-562-19a, inclusive, of the Regulations of Connecticut State Agencies, shall be deemed to have been filed or received on the date on which they are received by the board or division at their principal office, except as hereinafter provided.

(Effective October 24, 1986; amended June 4, 1999)

Sec. 12-562-16a.

Repealed, June 4, 1999.

Sec. 12-562-17a. Signatures

Every application, notice, motion, petition, brief, and memorandum shall be signed by the filing person or by the filing person's attorney.

(Effective October 24, 1986; amended June 4, 1999)

Sec. 12-562-18a. Formal requirements as to documents and other papers filed in proceedings

(a) **Copies.** Except for routine correspondence and inquiries by the public, and as may be otherwise required by Sections 12-562-1a through 12-562-19a, inclusive, of the Regulations of Connecticut State Agencies, or by any other rules or regulations of the board or division or as ordered or expressly requested by the board or division, at the time motions, petitions, applications, documents, or other papers are filed with the board or division, there shall be furnished to the board or division the original of such papers. In addition to the original, there shall also be filed eight (8) copies if such submission is to the board for the use of the board and division staff, and the public, unless a greater or lesser number of such copies is expressly requested by the board. If such submission is to the division, there also shall be filed two copies in addition to the original unless a greater number is requested by the division.

(b) **Filing.** All motions, petitions, applications, documents or other papers relating to matters requiring action by the board or the division shall be filed with the board or the division at the principal offices as described in Section 12-576-5a of the Regulations of Connecticut State Agencies.

(c) **Noncompliance.** In the event of failure to comply with the provisions of this section, such motions, petitions, applications, documents or other papers deficient in filing may be returned for noncompliance by the board or executive director.

(Effective October 24, 1986; amended June 4, 1999)

Sec. 12-562-19a. Service

(a) **General rule.** Service of all documents and other papers filed in all contested cases, including but not limited to motions, petitions, applications, notices, briefs, and exhibits shall be by personal delivery, facsimile, or by first class mail, except as hereinafter provided.

(b) **On whom served.** In addition to the filing of such documents and papers by the person filing an original plus the copies provided in Section 12-562-18a (a) of the Regulations of Connecticut State Agencies, one copy shall be served on every person that has theretofore been designated a party in any proceeding. Certification of such service shall be endorsed on all documents and other papers when filed with the board or division.

(c) **Service by the board or division.** A copy of any documents or other papers served by the board or division showing the addresses to whom the document or other paper was mailed and the date of mailing shall be placed in the board's and division's files and shall be prima facie evidence of such service and the date thereof.

(d) **Service as written notice.** Written notice of all orders, decisions or authorizations issued by the board or division shall be given to the party affected thereby and to such other persons as the board or division may deem appropriate by personal delivery or by first class mail, as the board or division determines.

(Effective October 24, 1986; amended June 4, 1999)

Article II

Contested Cases

Part 1

Parties, Intervention and Participation

Sec. 12-562-20a. Designation of parties

In issuing the notice of hearing the board or the division, as the case may be, will designate as parties those persons known to them whose legal rights, duties or privileges are being determined in the contested case and any person whose participation as a party is then deemed necessary to the proper disposition of such proceeding. All other persons proposing to be named or admitted as parties shall apply for such designation in the manner hereinafter described. No other person shall be or have standing before the division as a party within the definition of Section 4-166 (8), C.G.S.

(Effective October 24, 1986; amended June 4, 1999)

Sec. 12-562-21a. Application to be designated a party

(a) **Filing of petition.** Any other person that proposes to be designated or admitted as a party to any proceeding, as defined by Section 4-166 (8), C.G.S., shall file a written petition to be so designated not later than five (5) days before the date of the hearing of the proceeding as a contested case.

(b) **Contents of petition.** The petition to be designated a party shall state the name and address of the petitioner. It shall describe the manner in which the petitioner claims to be substantially and specifically affected by the proceeding. It shall state the contention of the petitioner concerning the issue of the proceeding, the relief sought by the petitioner, the statutory or other authority therefore, and a summary of any evidence that the petitioner intends to present in the event that the petition is granted.

(c) **Designation as party.** The presiding officer shall consider all such petitions and will designate or admit as a party in a contested case any person whose legal rights, duties or privileges will be determined by the decision of the presiding officer after the hearing, if the presiding officer finds such person is entitled as of right to be party to said contested case or that the participation of such person as a party is necessary to the proper disposition of said contested case.

(Effective October 24, 1986; amended June 4, 1999)

Sec. 12-562-22a. Participation by nonparties

(a) **Request to participate.** At any time prior to the commencement of oral testimony in any hearing in a contested case any person may request that the presiding officer permit that person to participate in the hearing. Any person not a party that is so permitted to participate in the hearing will be identified an intervenor in Sections 12-562-1a through 12-562-19a, inclusive, of the Regulations of Connecticut State Agencies.

(b) **Contents of request.** The request of the proposed intervenor shall state such person's name and address and shall describe the manner in which that person is affected by the contested case. The proposed intervenor shall further state in what way and to what extent he proposes to participate in the hearing, and shall summarize any evidence he proposes to offer.

(c) **Designation as intervenor.** The presiding officer will act to determine the proposed intervenor's participation in the hearing, taking into account whether or not such participation will furnish assistance to the board or division in resolving the issues of the contested case. The presiding officer may grant the request to intervene if he finds that the proposed participation as an intervenor will add evidence or arguments on the issue of the contested case that would otherwise not be available to the board or division.

(Effective October 24, 1986; amended June 4, 1999)

Sec. 12-562-23a. Participation by persons admitted to participate as intervenors

The intervenor's participation shall be limited to those particular issues, that state of the proceeding, and that degree of involvement in the presentation of evidence and argument that the presiding officer shall permit at the time such intervention is allowed, and thereafter by express order upon further application by the said intervenor.

(Effective October 24, 1986; amended June 4, 1999)

Sec. 12-562-24a. Procedure concerning added parties

(a) **During hearing.** In addition to the designation of parties in the initial notice and in response to board or division petition, the presiding officer may act in behalf of the board or division to add parties at any time during the pendency of any hearing upon the presiding officer's finding that the legal rights, duties or privileges of any person will be determined by the decision after the hearing or that the participation of such person as a party is necessary to the proper disposition of the contested case.

(b) **Notice of designation.** In the event that the presiding officer thus designates or admits any party after service of the initial notice of hearing in a contested case, the board or division shall give notice thereof to all parties theretofore designated or admitted. The form of the notice shall be a copy of the order of the presiding officer naming or admitting such added party and a copy of any petition filed by

such added party requesting designation as a party. Service of such notice shall be in the manner provided in Section 12-562-19a of the Regulations of Connecticut State Agencies.

(Effective October 24, 1986; amended June 4, 1999)

Sec. 12-562-25a. Status of party and of intervenor as party in interest

(a) **Party as party in interest.** By the decision of a contested case the board or division shall dispose of the legal rights, duties and privileges of each party designated or admitted to participate as a party in the proceeding. Each such party is deemed to be a party in interest who may be aggrieved by any final decision, order or ruling of the board or division.

(b) **Status of a nonparty that has been admitted to participate.**

Status as a nonparty or as an intervenor shall not be deemed to be an expression by the board or division that the person permitted to intervene is a party in interest who may be aggrieved by any final decision, order or ruling of the board or division unless the presiding officer explicitly so states.

(Effective October 24, 1986; amended June 4, 1999)

Sec. 12-562-26a. Representation of parties and intervenors

Each person authorized to participate in a contested case as a party or as an intervenor shall file a written notice of appearance with the presiding officer. Such appearance may be filed in behalf of parties and intervenors by an attorney who is not required to be a member of the Connecticut bar or other duly authorized representative subject to the rules hereinabove stated.

(Effective October 24, 1986; amended June 4, 1999)

Part 2

Hearings, General Provisions

Sec. 12-562-27a. Place of hearings

All hearings conducted by the board or the division shall be held at their principal offices, unless a different location is designated by statute or by direction of the board or division.

(Effective October 24, 1986; amended June 4, 1999)

Sec. 12-562-28a.

Repealed, June 4, 1999.

Sec. 12-562-29a. Notice of hearings

(a) **Persons notified.** Except when the presiding officer shall otherwise direct, the presiding officer shall give written notice of a hearing in any pending matter to all persons designated as parties, to all persons who have been permitted to participate as intervenors, to all persons otherwise required by statute to be notified, and to such other persons as have filed with the presiding officer their written request for notice of hearing in the particular matter. Written notice shall be given to such additional persons as the presiding officer shall direct.

(b) **Contents of notice.** Notice of a hearing shall include but shall not be limited to the following: (1) a statement of the time, place, and nature of the hearing; (2) a statement of the legal authority under which the hearing is to be held and the identification of statutes or regulations that are involved; (3) a short and plain

statement of fact describing the purpose of the hearing. Notice of all board or division hearings shall comply with the requirements of Section 4-177 (b) C.G.S. (Effective October 24, 1986; amended June 4, 1999)

Sec. 12-562-30a. General provisions

(a) **Purpose of hearing.** The purpose of any hearing that the board or executive director conducts under Chapter 54 C.G.S. shall be to provide to all parties an opportunity to present evidence and argument on all issues to be considered.

(b) **Order of presentation.** In hearings on requests and petitions, the party that shall open and close the presentation of any part of the matter shall be the complainant or the petitioner unless otherwise provided by the presiding officer. In hearings concerning license denials, suspensions or revocations, the party that shall open and close the presentation of any part of the matter shall be the division's representative unless otherwise provided by the presiding officer.

(c) **Limiting number of witnesses.** To avoid unnecessary cumulative evidence, the presiding officer may limit the number of witnesses or the time for testimony upon a particular issue in the course of any hearing.

(d) **Burden of proof.** The respondent, complainant or petitioner shall have the burden of proving with substantial evidence that his or her position is justified in any hearing, except in any hearing conducted to revoke or suspend a license.

(e) **Discovery.** The board and division are not required to respond to pre-hearing interrogatories or to other requests for discovery other than public records in the possession of the division.

(Effective October 24, 1986; amended June 4, 1999)

Sec. 12-562-31a. Witnesses, subpoenas, and production of records

(a) The board, the executive director, or any presiding officer authorized to conduct any inquiry, investigation or hearing shall have power to administer oaths and affirmations and take testimony under oath relative to the matter under inquiry, investigation or hearing.

(b) At any hearing ordered by the board or executive director the presiding officer, or any agent authorized by law to issue such process, may subpoena witnesses and require the production of records, papers and documents pertinent to such inquiry. Any party, not represented by a member of the bar of the state of Connecticut, may request that such process be issued. The request shall be in writing and contain the following: the name and address of each person upon whom such process is to be served; an adequate description of any records, papers and documents sought to be produced; and a short explanation of the testimony or evidence to be offered at the hearing and its materiality to the subject thereof. It shall be the sole responsibility of the party requesting such process to cause it to be served in accordance with law.

(c) If any person disobeys such process or, having appeared in obedience thereto, refuses to answer any pertinent question put to him or to produce any records and papers pursuant thereto, the presiding officer may apply to the superior court setting forth such disobedience to process or refusal to answer, as provided by Section 12-565 C.G.S.

(Effective October 24, 1986; amended June 4, 1999)

Sec. 12-562-32a. Rules of evidence

The following rules of evidence shall be followed in the admission of testimony and exhibits in all hearings held under Chapter 54 C.G.S.

(a) **General.** Any oral or documentary evidence may be received; but the presiding officer shall, as a matter of policy, exclude irrelevant, immaterial, or unduly repetitious evidence. The presiding officer shall give effect to the rules of privilege recognized by law in Connecticut where appropriate to the conduct of the hearing. Subject to these requirements any testimony may be received in written form as herein provided.

(b) **Documentary evidence, copies.** Documentary evidence should be submitted in original form, but may be received in the form of copies or excerpts at the discretion of the presiding officer. Upon request by any party an opportunity shall be granted to compare the copy with the original if available, which shall be produced for this purpose by the person offering such copy as evidence.

(c) **Cross-examination.** Cross-examination may be conducted as the presiding officer shall find to be required for a full and true disclosure of the facts.

(d) **Facts noticed, scope and procedure.** The presiding officer may take administrative notice of generally recognized technical or scientific facts within the presiding officer's specialized knowledge. Parties shall be afforded an opportunity to contest the material so noticed by being notified before or during the hearing, or by an appropriate reference in preliminary reports or otherwise of the material noticed. The presiding officer shall nevertheless employ his or her experience, technical competence, and specialized knowledge in evaluating the evidence presented at the hearing for the purpose of making his or her finding of facts and arriving at a final decision.

(e) **Facts noticed, board or division records.** The presiding officer may take administrative notice of judicially cognizable facts, including the records and the prior decisions and orders of the board or division. Any exhibit admitted as evidence by the board or division in a prior hearing may be offered as evidence and admitted as an exhibit in a subsequent hearing; but the presiding officer shall not deem such exhibit to be cognizable in whole or in part for this purpose and shall not consider any facts set forth therein unless such exhibit is duly admitted as evidence in the matter then being heard.

(Effective October 24, 1986; amended June 4, 1999)

Sec. 12-562-33a. Filing of added exhibits and testimony

Upon order of the presiding officer before, during, or after the hearing any party shall prepare and file added exhibits and written testimony. Such added exhibits and testimony shall be deemed to be an offer of evidence and shall be subject to such comment, reply, and contest as due process shall require.

(Effective October 24, 1986; amended June 4, 1999)

Sec. 12-562-34a. Uncontested disposition of case

Unless precluded by law, any contested case may be resolved by stipulation, agreed settlement, consent order or default, upon the order of the presiding officer. Upon such disposition a copy of the order of the presiding officer shall be served on each party.

(Effective October 24, 1986; amended June 4, 1999)

Sec. 12-562-35a. Record in a contested case

The record before the presiding officer in a contested case shall include:

(1) All motions, applications, petitions, requests for action, pleadings, notices of hearing, and intermediate rulings;

(2) The evidence received and considered by the presiding officer;

(3) Questions and offers of proof, objections, and the rulings thereon during the hearing;

(4) The decision, opinion or report by the presiding officer. The presiding officer may designate other documents or portions of the proceedings as part of the record in a contested case. Requests to so designate other material as part of the record should be made to the presiding officer within thirty (30) days after the final decision is issued.

(Effective October 24, 1986; amended June 4, 1999)

Sec. 12-562-36a. Final decision in a contested case

All decisions and orders of the presiding officer concluding a contested case shall be in writing. Findings of fact and conclusions of law shall be separately stated. The presiding officer shall serve a copy of his final decision on each party in the manner required by Sections 12-562-1a through 12-562-19a, inclusive, of the Regulations of Connecticut State Agencies and by Chapter 54 C.G.S.

(Effective October 24, 1986; amended June 4, 1999)

Sec. 12-562-37a. Transcript of contested case proceedings

(a) **Proceedings recorded.** All hearings in contested case proceedings shall be either electronically or stenographically recorded.

(b) **Written transcript.** At the close of the reception of evidence, the respondent or any other party of record may file a written request with the presiding officer for a written transcript of the proceedings. If no such written request is filed, the presiding officer may order that a written transcript be prepared.

(c) **Reasonable costs.** If any party of record desires a copy of the transcript, it will be made available upon written request and payment of the reasonable cost to the division.

(Effective October 24, 1986; amended June 4, 1999)

Part 3

Hearings, Enforcement Proceedings

Sec. 12-562-38a. Scope and applicability

In addition to the general provisions of this article governing hearings, the following special provisions shall apply to all proceedings instituted by the board or division which might result in the revocation or suspension of any license, or in the imposition of a fine.

(Effective October 24, 1986; amended June 4, 1999)

Sec. 12-562-39a. Opportunity to show compliance

(a) No revocation, suspension, annulment or withdrawal of any license is lawful unless prior to the institution of proceedings, the agency gave notice to the licensee of facts or conduct which warrant the intended action, and the licensee was given the opportunity to show compliance with all lawful requirements for the retention of the certificate, license or registration.

(b) Notification of such compliance conference shall be by first class mail or personal delivery. Said notice shall contain:

(1) A statement of the time, date and place of the compliance conference;

(2) A reference to any statute or regulation allegedly violated;

(3) A clear and concise factual statement sufficient to inform each respondent of the acts or practices alleged to be in violation of the law; and

(4) A statement informing each respondent that he may be represented by counsel.

(c) Compliance conferences may be recorded but need not be transcribed and the rules of evidence are not applicable.

(d) The board or executive director shall designate a person to preside at such compliance conference. After said compliance conference said designated presiding officer shall report in writing his recommendations to the board or executive director.

(Effective October 24, 1986; amended June 4, 1999)

Sec. 12-562-40a. Summary suspension

If the board or the division finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined by the board or the division.

(Effective October 24, 1986; amended June 4, 1999)

Sec. 12-562-41a. Disposition by consent decree

(a) A respondent may agree to enter into a written consent decree in lieu of an adjudicated hearing on an issue. The acceptance of a consent decree is within the complete discretion of the board or the division.

(b) A consent decree shall contain:

(1) An admission of all jurisdictional facts;

(2) An express waiver of the requirement that the decision of the board or the division contain findings of fact and conclusions of law, stated separately;

(3) An express waiver of the right to appeal or otherwise challenge or contest the validity of the decree;

(4) A statement that the consent decree shall have the same force and effect as provided by statute for other final decisions or decrees and shall become final when issued;

(5) The signature of the presiding officer.

(c) A consent decree is a matter of public record and will be available for public inspection in the offices of the board or division.

(d) A consent decree has the same force and effect as a final decision or decree issued following a show cause hearing.

(Effective October 24, 1986; amended June 4, 1999)

Sec. 12-562-42a. Conduct of show cause hearings

(a) As the matter may require, show cause hearings shall be presided over by at least four board members where the respondent is a board licensee or by the executive director, the deputy executive director, any unit head, assistant unit head or executive assistant appointed by the executive director as a hearing officer where the respondent is a division licensee.

(b) The board members and the executive director and other authorized presiding officers shall have the power:

(1) To administer oaths and affirmations;

(2) To rule upon offers of proof and receive evidence and exclude irrelevant, immaterial, or unduly repetitious evidence;

(3) To regulate the course of the hearing and the conduct of the parties and their counsel therein;

(4) To hold conferences for informal dispositions and simplification of issues;

(5) To consider stays and rule upon, as justice may require, all procedural and other motions appropriate in a show cause proceeding;

(6) To make and file final decisions, recommendations, and orders;

(7) To exercise any and all other powers as provided in the Connecticut General Statutes;

(c) Unless varied or modified by the board, the executive director or other authorized hearing officer, the order of proof at show cause hearings shall be:

(1) Evidence of the violations alleged;

(2) Cross-examination of board or division witnesses;

(3) Evidence by respondent charged and his witnesses;

(4) Cross-examination of the person charged and his witnesses;

(5) Such rebuttal or other evidence on behalf of the board or the division or any party in interest as may be regarded as relevant by the board or the division.

(d) Each party at a show cause hearing shall have the right to present evidence of a visual or oral nature, cross-examine witnesses, enter motions and objections, and assert all other rights essential to a fair hearing. The rules of evidence shall be as prescribed in Section 4-178 C.G.S. and Section 12-562-32a of the Regulations of Connecticut State Agencies.

(e) Objections to evidence shall be timely and shall briefly state the grounds relied upon. Rulings on all decisions and any exceptions thereto shall appear on the record.

(Effective October 24, 1986; amended June 4, 1999)

Sec. 12-562-43a. Notice and manner of service

(a) **Contents of notice.** A notice of the institution of a show cause hearing by the board or division shall contain all the informational requirements set forth in Section 4-177 (b) C.G.S. and Section 12-562-29a (b) of the Regulations of Connecticut State Agencies.

(b) **Manner of service.** Notwithstanding any other provisions of Sections 12-562-1a through 12-562-19a, inclusive, of the Regulations of Connecticut State Agencies regarding the method or manner of service of documents by the board or division to the contrary, service of notice and particulars upon respondents in show cause hearings shall be by either:

(1) Certified mail, return receipt requested, directed to respondent at the last known home or business address on file with the board or division; or,

(2) Personal delivery by an agent of the board or division which may include in hand service to respondent or service at the premises of respondent's last known home or business address on file with the division or the board. The board or division serving agent shall endorse a copy of the notice of show cause hearing and make return to the board or division.

(Effective October 24, 1986; amended June 4, 1999)

Sec. 12-562-44a. Default

In any duly noticed proceeding when the respondent fails to appear, the presiding officer, upon a finding of actual or constructive notice of the pendency of such proceedings, may note such failure upon the record, and render a decision by default.

(Effective October 24, 1986; amended June 4, 1999)

Sec. 12-562-45a. Continuances, extensions of time

If a respondent can reasonably show a need for additional time to prepare a defense to alleged statutory or regulatory violations, the presiding officer may, in

his or her complete discretion, grant an extension of time for a reasonable period. Such continuances or extensions of time will be granted for good cause only. A second request for a continuance or extension of time advanced by a respondent in any show cause hearing proceeding will only be granted in consequence of extraordinary circumstances.

(Effective October 24, 1986; amended June 4, 1999)

Article III

Appeals to Gaming Policy Board

Sec. 12-562-46a. Appeals under sections 12-574 (i) and 12-574 (j)

(a) **General.** These rules set forth the procedure to be followed in the disposition of appeals to the board from final decisions of the division pursuant to Sections 12-574 (i) and (j) and 12-568a of the general statutes, Chapter 229a, Section 5(g) of the Mashantucket Pequot Gaming Procedures and Section 5(g) of the Mohegan Tribe and State of Connecticut Tribal-State Compact.

(b) **Time limit for appeal.** Appeals to the board under this section may be made by an applicant for a license or licensee aggrieved by a final decision of the executive director. Any such appeal shall be in writing and made within fifteen days of the date notice was mailed of the final decision to be appealed.

(c) **Form of appeal.** All appeals shall conform to the general provisions of Sections 12-562-1a through 12-562-19a, inclusive, of the Regulations of Connecticut State Agencies and shall set forth clearly and concisely the basis of appeal together with all pertinent documents or exhibits attached thereto.

(d) **Stay of execution.** The filing of an appeal does not of itself stay enforcement of the division's decision. Upon application the division may grant, or the board may order, a stay upon appropriate terms.

(e) **Submission of record; procedure.** If the board shall find that the appeal conforms to the requirements of Sections 12-562-1a through 12-562-19a, inclusive, of the Regulations of Connecticut State Agencies, oral arguments on the merits of the appeal shall be scheduled by the board. Prior to oral argument, the executive director shall certify and submit to the board and the appellant the record in the division proceeding. The record so certified shall consist of those items specified in Section 12-562-35a of the Regulations of Connecticut State Agencies. Oral argument may be waived by the appellant and the appeal determined by the board on the basis of memoranda or briefs.

(f) **Additional evidence.** If before the date set for oral argument it is shown to the satisfaction of the board that the presentation of additional evidence is material and that there were good reasons for failure to present it in the proceedings before the division, the board may permit the additional evidence to be taken before the division which may thereafter modify its decision.

(g) **Scope of appeal.** The appeals made to the board under this section shall be confined to the record made at the division proceeding, however proof may be taken of alleged procedural irregularities before the division not shown in the record. The board shall not substitute its judgment for that of the division as to the weight of the evidence on questions of fact. The board may affirm, modify, remand, or reverse the division's decision if substantial rights of the appellant have been prejudiced because of the division's findings, inferences, or conclusions, or if the division's decision is: (1) in violation of constitutional or statutory provisions; (2) in excess of the statutory authority of the division; (3) made upon unlawful procedure; (4)

affected by other error of law; (5) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or (6) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

(h) **Notice of decision.** The board shall render its decision on the merits of the appeal within a reasonable time after oral argument, if any, and after the submission of written memoranda or briefs. Notice of the board's decision on the appeal shall be forwarded to all appellants and such other persons as the board may deem appropriate, in accordance with the provisions of Sections 12-562-7a through 12-562-19a, inclusive, of the Regulations of Connecticut State Agencies. Any final agency action may be appealed to the Superior Court within forty-five days after mailing of the final decision, pursuant to Section 4-183 C.G.S.

(Effective October 24, 1986; amended June 4, 1999)

Article IV

Rule Making

Sec. 12-562-47a. Authority to promulgate regulations

The executive director derives the statutory authority from Chapters 226, 226b, 98 and 229a C.G.S. to adopt, amend, or repeal regulations with the advice and consent of the board.

(Effective October 24, 1986; amended June 4, 1999)

Sec. 12-562-48a. Form of petition

Any person may at any time petition the executive director to promulgate, amend, or repeal any regulation. The petition shall set forth clearly and concisely the text of the proposed regulation, amendment, or repeal. Such petition shall also state the facts and arguments that favor the action it proposes by including such facts and arguments in the petition or in a brief annexed thereto. The petition shall be addressed to the executive director and sent by mail or delivered in person during normal business hours. The petition shall be signed by the petitioner and shall furnish the address of the petitioner and the name and address of petitioner's attorney, if applicable.

(Effective October 24, 1986; amended June 4, 1999)

Sec. 12-562-49a. Procedure after petition filed

(a) **Decision on petition.** Upon receipt of the petition, the executive director shall within thirty (30) days, deny the petition or initiate regulation-making proceedings.

(b) **Procedure on denial.** If the executive director denies the petition, the executive director shall give the petitioner notice in writing, stating the reasons for the denial based upon the facts and arguments submitted with the petition and upon such additional facts and arguments as the executive director deems appropriate.

(Effective October 24, 1986; amended June 4, 1999)

Sec. 12-562-50a. Procedure for the issuance, amendment or repeal of a regulation

(a) **Initiation.** Proceedings for the issuance, amendment, or repeal of a regulation may be commenced by the division on its own initiative, on the initiative of the board, or pursuant to a petition submitted by an interested person.

(b) **Notice.** Notice of the proposed issuance, amendment or repeal of a regulation will appear in the Connecticut Law Journal at least thirty (30) days prior to the intended action. The notice will contain:

- (1) A statement of the purpose of the proposed action.
- (2) A statement of the terms or substance of the intended action.
- (3) A statement of the time, place and date of the public hearing or other opportunity for the presentation of views, and the manner in which said views may be presented.
- (4) Reference to the statutory authority under which the division is acting.
- (c) **Public participation.** The division shall give all interested parties an opportunity to participate in the proceedings through the submission of written or oral data, views, arguments, or suggestions.
- (d) **Approval.** After any necessary revisions have been made, and the regulations have been approved by the board, the proposed regulations will be forwarded to the attorney general and to the legislative regulation review committee of the general assembly for approval, and the division shall comply with all notice requirements to interested persons as required under Sections 4-168, 4-169 and 4-170 C.G.S.
- (e) **Emergency regulations.** When the division, with the approval of the board, finds that imminent peril to the public health, safety or welfare so requires, the division may adopt emergency regulations as provided in Section 4-168 (b) C.G.S.
- (f) **Effective date.** The new regulations shall take effect upon filing with the secretary of the state, unless otherwise indicated as provided in Section 4-168 (f) C.G.S.

(Effective October 24, 1986; amended June 4, 1999)

Article V

Miscellaneous Proceedings

Part 1

Declaratory Rulings

Sec. 12-562-51a. General rule

Sections 12-562-51a through 12-562-53a inclusive, of the Regulations of Connecticut State Agencies set forth the procedure to be followed by the board and division in the disposition of a request for declaratory rulings as to the validity or applicability of any statutory provision or of any regulation or order of the board or division. Such a ruling of the board or division disposing of a petition for a declaratory ruling shall have the same status as any decision or order of the board or division in a contested case.

(Effective October 24, 1986; amended June 4, 1999)

Sec. 12-562-52a. Form of petition for declaratory ruling

Any person may at any time request a declaratory ruling of the division with respect to the validity or applicability to such person of any statute, regulation or order enforced, administered, or promulgated by the board or division. Such request shall be addressed to the division and sent by mail or delivered in person during normal business hours. The request shall be signed by the person in whose behalf the inquiry is made. It shall give the address of the person requesting the declaratory ruling and the name and address of such person's attorney, if applicable. The request shall state clearly and concisely the substance and nature of the request; it shall identify the statute, regulation or order concerning which the request is made and shall identify the particular aspect thereof to which the request is directed. The

request for a declaratory ruling shall be accompanied by a statement of any supporting data, facts and arguments that support the position of the person making the inquiry.

(Effective October 24, 1986; amended June 4, 1999)

Sec. 12-562-53a. Procedure after petition for declaratory ruling filed

(a) **Notice to other persons.** The board or division may give notice to any person that such a declaratory ruling has been requested and may receive and consider data, facts, argument and opinions from persons other than the person requesting such ruling.

(b) **Provision for hearing.** If the division deems a hearing necessary or helpful in determining any issue concerning the request for declaratory ruling, the division shall schedule such hearing and give such notice thereof as shall be appropriate. The provisions of Sections 12-576-20a through 12-576-45a, inclusive, of the Regulations of Connecticut State Agencies govern the practice and procedure of the division in any hearing concerning the issuance of a declaratory ruling.

(c) **Decision on petition, ruling denied.** If the board or division determines that a declaratory ruling will not be rendered, the board or division shall within thirty (30) days thereafter notify the person so inquiring that the request has been denied and furnish a statement of the reasons on which the board or division relied in so declining.

(d) **Decision on petition, ruling granted.** If the board or division renders a declaratory ruling, a copy of the ruling shall be sent to the person requesting it and to that person's attorney, if applicable, and to any other person who has filed a written request for a copy with the board or division.

(e) **Approval of board.** If the request for a declaratory ruling is directed to the division and the division determines to issue such ruling in compliance with such request, the approval of the board to such recommended ruling is a prerequisite to its issuance by the division.

(Effective October 24, 1986; amended June 4, 1999)

Part 2

Investigations and Inquiries

Sec. 12-562-54a. Investigations and inspections

The board or the executive director may at any time institute investigations in order to carry out their statutory responsibilities. Statutory authority to conduct investigations and inspections is derived from, but not limited to, Sections 12-562, 12-565, 12-574, 12-575, 12-577 and 12-584 C.G.S. Upon direction of the board or executive director, the person being investigated shall file such data, facts, arguments and statements of position as shall be necessary to respond to the inquiry of the board or the executive director, subject to the subpoena authority set forth in Section 12-565 C.G.S.

(Effective October 24, 1986; amended June 4, 1999)

Sec. 12-562-55a. Investigative hearings or inquiries

(a) For the purposes of carrying out the provisions of Chapters 226, 226b, 98 and 229a C.G.S., the Mashantucket Pequot Gaming Procedures and the Mohegan Tribe and State of Connecticut Tribal-State Compact, the executive director or the board may convene any inquiry or investigative hearing pursuant to the provisions of Section 12-565 C.G.S. The provisions of Sections 12-562-27a through 12-562-45a of the Regulations of Connecticut State Agencies concerning procedures in

contested case hearing proceedings do not apply to such investigative hearings. The board or the executive director shall have the following powers in convening any such investigative hearing:

(1) To subpoena witnesses and require the production of records, papers and documents pertinent to such inquiry;

(2) To administer oaths and affirmations;

(3) To regulate the course of the investigative hearing and the conduct of the parties and their counsel therein;

(4) To require the sequestration of witnesses therein;

(5) To limit or restrict entirely the cross-examination of witnesses;

(6) To issue reports and recommendations at the conclusion of said investigative hearing for further action by the board or executive director.

(b) Orders instituting any such investigative hearing shall indicate the nature of the matters to be investigated by the board or executive director and shall be served upon all persons being investigated or witnesses whose attendance is required.

(Effective October 24, 1986; amended June 4, 1999)

Article VI

Miscellaneous Provisions

Personal Data

Sec. 12-562-56a. Personal data

(a) Definitions

(1) The following definitions shall apply to Section 12-562-56a of these regulations:

(A) Category of personal data. Classifications of personal information set forth in the Personal Data Act, Connecticut General Statutes Section 4-190 (9).

(B) Other data. Any information which because of name, identifying number, mark or description can be readily associated with a particular person.

(C) Division. The division of special revenue.

(D) Board. The gaming policy board.

(2) Terms defined in Connecticut General Statutes Section 4-190 shall apply to Section 12-562-56a of the Regulations of Connecticut State Agencies.

(b) General nature and purpose of personal data systems.

The gaming policy board does not maintain personal data systems. The division of special revenue maintains the following personal data systems:

(1) Personnel records.

(A) All personnel records are maintained at the offices of the division, 555 Russell Road, Newington, Connecticut.

(B) Personnel records are maintained in both automated and written or typewritten form.

(C) Personnel records are maintained for the purpose of providing a history of payroll, promotion, discipline and related personnel information concerning division employees.

(D) Personnel records are the responsibility of the executive director of the division, whose business address is division of special revenue, 555 Russell Road, Newington, Connecticut. All requests for disclosure or amendment of these records should be directed to the executive director of the division.

(E) Routine sources for information retained in personnel records are generally the employee, previous employers of the employee, references provided by applicants for employment, the employee's supervisor, the comptroller's office, department of administrative services, division of personnel and labor relations, and state insurance carriers.

(F) Personal data in personnel records are collected, maintained and used under authority of the State Personnel Act, Connecticut General Statutes Section 5-193 et seq.

(2) Retirement system participant records.

(A) Participant records are maintained at the offices of the division, 555 Russell Road, Newington, Connecticut.

(B) Participant records are maintained in both automated and written or typewritten form.

(C) Participant records are maintained for the purpose of determining the eligibility for and the amount of benefit payments to be made to participants and beneficiaries.

(D) Participant records are maintained with the executive director of the division, 555 Russell Road, Newington, Connecticut. All requests for disclosure or amendment of these records should be directed to the executive director of the division.

(E) Routine sources of information retained in participant records are generally the participant and current and previous employers of the participant.

(F) Personal data in retirement system participant records are collected and maintained and used under authority of Connecticut General Statutes Section 5-152 et seq.

(3) Licensing and integrity assurance records.

(A) Licensing and integrity assurance records are maintained at the division, 555 Russell Road, Newington, Connecticut.

(B) Licensing and integrity assurance records are maintained in both automated and written or typewritten form.

(C) Licensing and integrity assurance records are maintained for the purpose of enabling the division to discharge its regulatory responsibilities relative to licensing and to assuring the integrity of pari-mutuel operations, lottery, charitable games and native american casino operations.

(D) Licensing and integrity assurance records are the responsibility of the executive director of the division, 555 Russell Road, Newington, Connecticut. All requests for disclosure or amendment of licensing and integrity assurance records should be directed to the executive director of the division.

(E) Routine sources of information retained in licensing and integrity assurance records are generally the license applicants, licensees, and pari-mutuel and lottery winners.

(F) Licensing and integrity assurance records are collected, maintained and used under authority of Chapters 226, 226b, 229a and 98 of the Connecticut General Statutes.

(c) **Categories of personal data.**

(1) Personnel records.

(A) The following categories of personal data are maintained in personnel records:

(i) Educational records.

(ii) Medical or emotional condition or history.

(iii) Employment records or business history.

(iv) Other reference records.

(B) The following categories of other data may be maintained in personnel records:

- (i) Addresses.
- (ii) Telephone numbers.
- (C) Personnel records are maintained on employees of the division.
- (2) Retirement system participant records.

(A) The following categories of personal data are maintained in retirement system participant records:

- (i) Educational records.
- (ii) Medical or emotional condition or history.
- (iii) Employment records.
- (iv) Salary records.
- (v) Contributions records.
- (vi) Income tax withholding information.
- (vii) Social security number.

(B) The following categories of other data may be maintained in retirement system participant records:

- (i) Addresses.
- (ii) Marital status.
- (iii) Retirement system membership number.
- (iv) Telephone numbers.
- (v) Date of birth.

(C) Retirement system participant records are maintained on current and former division employees.

(3) Licensing and integrity assurance records. Such records are primarily related to licensing and pari-mutuel and lottery winnings.

(A) The following categories of personal data related to licensing are maintained in licensing and integrity assurance records:

- (i) Social security or federal identification number.
- (ii) Family and military information.
- (iii) Employment and business history.
- (iv) Financial statements and tax returns.
- (v) Miscellaneous financial information, i.e., bank accounts, safe deposit boxes, securities, liabilities, etc.

(B) The following categories of personal data related to pari-mutuel and lottery winnings are maintained to enable the division to meet internal revenue service reporting and withholding requirements, and for providing historical payment files for annuity winners, including, but not limited to:

- (i) Names.
- (ii) Addresses.
- (iii) Social security numbers.
- (iv) Amounts won.
- (v) Amounts withheld.
- (vi) Transaction numbers.
- (vii) Types of wagers.
- (viii) Payment histories.

(C) The following categories of other data may be maintained in licensing and integrity assurance records:

- (i) Name.
- (ii) Address.

(iii) Telephone number.

(iv) Marital status.

(d) **Maintenance of personal data—general.**

(1) Personal data will not be maintained by the division of special revenue unless relevant and necessary to accomplish the lawful purposes of the agency. Where the agency finds irrelevant or unnecessary public records in its possession, the agency shall dispose of the records in accordance with its records retention schedule and with the approval of the public records administrator as per Connecticut General Statutes Section 11-8a, or if the records are not disposable under the records retention schedule, request permission from the public records administrator to dispose of the records under Connecticut General Statutes Section 11-8a.

(2) The division shall collect and maintain all records accurately and completely.

(3) Insofar as it is consistent with the needs and mission of the division, the division, wherever practical, shall collect personal data directly from the persons to whom a record pertains.

(4) Employees of the division involved in the operations of the agency's personal data systems will be informed of the provisions of (A) the Personal Data Act, (B) the agency's regulations adopted pursuant to Section 4-196, (C) the Freedom of Information Act and (D) any other state or federal statute or regulation concerning maintenance or disclosure of personal data kept by the agency.

(5) All employees of the division shall take reasonable precautions to protect personal data under their custody from the danger of fire, theft, flood, natural disaster and other physical threats.

(6) The division shall incorporate by reference the provisions of the Personal Data Act and regulations promulgated thereunder in all contracts, agreements or licenses for the operation of a personal data system or for research, evaluation and reporting of personal data for the agency or on its behalf.

(7) The division shall have an independent obligation to insure that personal data requested from any other state agency is properly maintained.

(8) Only employees of the division who have a specific need to review personal data records for lawful purposes of the agency will be entitled to access to such records under the Personal Data Act.

(9) The division will keep a written up-to-date list of individuals entitled to access to each of the agency's personal data systems.

(10) The division will insure against unnecessary duplication of personal data records. In the event it is necessary to send personal data records through interdepartment mail, such records will be sent in envelopes or boxes sealed and marked "confidential."

(11) The division will insure that all records in written or typewritten personal data systems are kept under lock and key and, to the greatest extent practical, are kept in controlled access areas.

(e) **Maintenance of personal data—automated systems.**

(1) To the greatest extent practical, automated equipment and records shall be located in a limited access area.

(2) To the greatest extent practical, the division of special revenue shall require visitors to such limited access area to sign a visitor's log and permit access to said area on a bona-fide need-to-enter basis only.

(3) To the greatest extent practical, the division of special revenue will insure that regular access to automated equipment is limited to operations personnel.

(4) The division shall utilize appropriate access control mechanisms to prevent disclosure of personal data to unauthorized individuals.

(f) Maintenance of personal data—disclosure.

(1) Within four business days of receipt of a written request therefor, the division shall mail or deliver to the requesting individual, a written response in plain language, informing him as to whether or not the division maintains personal data on that individual, the category and location of the personal data maintained on that individual and procedures available to review the records.

(2) Except where nondisclosure is required or specifically permitted by law, the division shall disclose to any person upon written request, all personal data concerning that individual which is maintained by the division. The procedures for disclosure shall be in accordance with Connecticut General Statutes Sections 1-15 through 1-21k, inclusive. If the personal data is maintained in coded form, the division shall transcribe the data into a commonly understandable form before disclosure.

(3) The division is responsible for verifying the identity of any person requesting access to his own personal data.

(4) The division is responsible for ensuring that disclosure made pursuant to the Personal Data Act is conducted so as not to disclose any personal data concerning persons other than the person requesting the information.

(5) The division may refuse to disclose to a person medical, psychiatric or psychological data relating to that person if the division determines that such disclosure would be detrimental to him.

(6) In any case where the division refuses disclosure, it shall advise that person of his right to seek judicial relief pursuant to the Personal Data Act.

(7) If the division refuses to disclose medical, psychiatric or psychological data to a person based on its determination that disclosure would be detrimental to that person and nondisclosure is not mandated by law, the division shall, at the written request of such person, permit a qualified medical doctor to review the personal data contained in the person's records to determine if the personal data should be disclosed. If disclosure is recommended by the person's medical doctor, the division shall disclose the personal data to such person; if nondisclosure is recommended by such person's medical doctor, the division shall not disclose the personal data and shall inform such person of the judicial relief provided under the Personal Data Act.

(8) The division shall maintain a complete log of each person, individual, agency or organization which has obtained access to, or whom disclosure has been made of, personal data under the Personal Data Act, together with the reason for each such disclosure or access. This log must be maintained for not less than five years from the date of such disclosure or access or for the life of the personal data record, whichever is longer.

(g) Contesting the content of personal data records.

(1) Any person who believes that the division is maintaining inaccurate, incomplete or irrelevant personal data concerning him may file a written request with the division for correction of said personal data.

(2) Within 30 days of receipt of such request, the division shall give written notice to that person that it will make the requested correction, or if the correction is not to be made as submitted, the division shall state the reason for its denial of such request and notify the person of his right to add his own statement to his personal data records.

(3) Following such denial by the division, the person requesting such correction shall be permitted to add a statement to his personal data record setting forth what that person believes to be an accurate, complete and relevant version of the personal data in question. Such statements shall become a permanent part of the division's personal data system and shall be disclosed to any individual, agency or organization to which the disputed personal data is disclosed.

(h) Uses to be made of the personal data.

(1) Personnel records.

(A) Employees of the division who are assigned personnel and payroll responsibilities use the personal data contained in the division's personnel records in processing promotions, reclassifications, transfers to another agency, retirement, and other personnel actions. Supervisors use the personal data when promotion, career counseling, or disciplinary action against such employee is contemplated, and for other employment-related purposes.

(B) Personnel records are retained in accordance with a records retention schedule adopted pursuant to Connecticut General Statutes Section 11-8a, a copy of which is available at division offices.

(2) Retirement system participant records.

(A) Retirement system participant records are used for the preparation of retirement applications and longevity payrolls.

(B) Retirement system participant records are retained in accordance with a records retention schedule adopted pursuant to Connecticut General Statutes Section 11-8a, a copy of which is available at division offices.

(3) Licensing and integrity assurance records.

(A) Licensing and integrity assurance records are maintained for the purposes of determining the qualifications of license applicants and the continued suitability of licensees.

(B) Licensing and integrity assurance records are retained in accordance with a records retention schedule adopted pursuant to Connecticut General Statutes Section 11-8a, a copy of which is available at division offices.

(4) When an individual is asked to supply personal data to the division, the division shall disclose to that individual, upon request, the name of the agency and the division or unit within the agency which is requesting the data, the legal authority under which the agency is empowered to collect and maintain the personal data, the individual's rights pertaining to such records under the Personal Data Act and the agency's regulations, the known consequences arising from supplying or refusing to supply the requested personal data, and the proposed use to be made of the requested personal data.

(Effective October 24, 1986; amended June 4, 1999)