

# **Santa Clara Pueblo Gaming Commission**



## **Resolution of Disputes; Complaints**

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## **CHAPTER IV – GENERAL PROVISIONS**

### **SECTION 28: RESOLUTION OF DISPUTES; COMPLAINTS**

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## **CHAPTER V – GENERAL PROVISIONS**

### **SECTION 28: RESOLUTION OF DISPUTES; COMPLAINTS**

**28.1 Purpose.** The purpose of these regulations is to require for the Commission to adopt and enforce procedures, to resolve disputes of decisions by the gaming operation, that affect patrons of the gaming operation equitably, and to protect the honesty, integrity, security, and fairness, for the conduct of Class III Gaming that are in compliance with the Tribal/State Compact approved on October 23, 2015.

**28.2 Authority.** The Commission has authority to regulate and to promulgate and enact regulations pursuant to delegated authority from the Santa Clara Pueblo Tribal Council and the Santa Clara Pueblo Gaming Code. The Commission has the responsibility under the Gaming Code to enforce all policies and procedures for dispute resolutions applicable to the gaming operation. The Commission also has the authority to issue regulations, not inconsistent with the Gaming Code, the Compact, and IGRA, to govern the operation and management of each gaming operation and gaming facility. The Commission shall work with each gaming enterprise or management contractor to establish policies and procedures for the resolution of patron disputes applicable to the gaming operation and/or occurring on the gaming premises.

#### **28.3 Disputes; Complaints.**

- (1) These regulations shall cover any and all disputes or complaints that arise between any patron of a gaming operation and the gaming operation itself or any employee thereof with respect to the manner in which any gaming activity in which the patron was involved was conducted such as the operation of any gaming device, the conduct of another patron or employee of the gaming operation, or any other dispute on the basis of which the patron believes they lost money unfairly or did not receive money to which they believe were entitled.
- (2) A complaint may be seen as a difference of opinion between the gaming operation and a patron, which does not involve any money or item of value, whereas a dispute is defined as a claim for a specific amount of cash or merchandise.
- (3) Notwithstanding the foregoing, these regulations shall have no applicability whatsoever to any tort claim by any patron with respect to any alleged personal injury of any kind whatsoever claimed to have been suffered by such patron or by any third party, and for which the gaming enterprise or any employee thereof is alleged to have been at fault.

#### **28.4 Administrative Handling of Disputes.**

- (1) If a patron of a gaming operation informs any employee of the gaming operation of a dispute or complaint within the scope of these regulations and if the employee is unable to resolve to the patron's satisfaction, the employee shall immediately notify a supervisor of the existence and nature of the dispute or complaint. The employee shall, if requested, give the supervisor a written report providing all the information known to the employee concerning the nature and circumstances of the dispute or complaint.

(2) The supervisor shall immediately attempt to obtain as much information as possible as to the circumstances of the dispute or complaint. The supervisor shall make every effort to resolve the dispute to the patron's satisfaction, but if unable to do so, shall notify the patron in writing of his or her right to be heard and decided by the gaming manager of the gaming operation. The supervisor shall prepare a written report of the matter, including all relevant details, and shall promptly forward the report, together with any other relevant documents (including reports of other employees having relevant personal knowledge) to the gaming manager.

- (a) If a dispute or complaint in any way pertains to actions of an employee of the gaming enterprise or of another patron, or if for any other reason an understanding of the facts or circumstances could be aided by a visual record of the events, the supervisor shall immediately notify Surveillance of the circumstances and identify the precise location within the gaming facility where the incident arose, and request Surveillance to locate any footage that might bear on the facts and circumstances behind the dispute or complaint.

(3) Any patron who wishes to have his or her dispute reviewed by management of the gaming operation shall be given the opportunity to meet with the gaming manager within the (10) days of the request, however, that the gaming manager shall have an opportunity prior to meeting with the patron to review the report concerning the matter, with all accompanying documentation, and also to review any footage identified by Surveillance as bearing on the facts pertaining to the dispute. The patron shall be entitled to have a copy of the report concerning the dispute, available on request.

- (a) If the dispute involves the operation of any gaming device, the gaming manager shall cause a full investigation of the device to be made prior to meeting with the patron, and a written report prepared documenting such investigation. The gaming manager shall also conduct any other investigation into the facts he or she deems appropriate.
- (b) The gaming manager shall meet with the patron and shall review all the facts and circumstances surrounding the dispute with the patron. The patron may be entitled to have persons present who witnessed any of the facts relevant to the patron's contentions.
- (c) The gaming manager shall attempt to resolve the dispute, in keeping with the policies of these regulations, and in any event shall make a final, written proposal to the patron, on behalf of the gaming operation, for final settlement of the dispute.
- (d) If the patron accepts the written proposal, the gaming manager shall also have the patron sign documentation fully and finally settling the matter.
- (e) If the patron is unwilling to accept the final offer made by the gaming manager, the patron shall be advised of his or her right to have the dispute heard by the Commission.

(4) When the patron and the gaming manager have had a full opportunity to settle a dispute, the gaming manager shall provide a written decision to the patron delivered no later than five (5) days following the date of the hearing. The gaming manager's decision shall be final for the gaming operation.

#### **28.5 Dispute Review by the Gaming Manager.**

(1) Any dispute arising between the gaming operation and any patron of the gaming operation shall be reviewed according to the following procedure:

- (a) A patron may initiate a dispute orally or in writing. In the event the dispute is raised orally, the gaming manager shall provide the dispute in writing and verified by the patron for accuracy. In no event, except upon written consent of the Commission, shall a dispute be raised more than thirty (30) days after the dispute is alleged to have occurred.
- (b) The gaming manager shall be initially responsible for attempting to resolve any patron dispute and shall attempt to satisfy the customer. If the dispute can be resolved, the gaming manager shall record the decision in writing and shall retain such record for a period of three (3) years.
- (c) If the dispute cannot be resolved by consent of the parties, the gaming manager shall issue a written decision, with reasons, and shall serve a copy of the decision to the patron. In no event shall the time period, from the time any patron first raises a dispute with gaming operation to the time the dispute is resolved by the gaming manager, either by mutual consent or by decision of the gaming manager, exceed fifteen (15) days. The gaming manager's decision shall be final for the gaming operation.

## **28.6 Dispute Review by the Commission**

(1) Any patron who is dissatisfied with the decision of the gaming manager and/or the gaming operation regarding the dispute may appeal the decision of the gaming manager by presenting his or her dispute to the Commission shall be reviewed according to the following procedures:

- (a) A patron may appeal to the Commission within five (5) days of the gaming manager's decision. A patron shall submit a written account of the dispute on forms approved by the Commission. The account shall include a description summary of the events leading up to the dispute.
- (b) The Commission shall inform the gaming manager of the dispute review and shall require a response, acknowledging the Commission's inquiry.
- (c) The Commission shall conduct its own investigation in accordance with the provisions of Section 3.2 of Chapter I of these regulations. The Commission may request additional or more specific information from either the patron or the gaming manager, or it may accept written statements from any other person that may be submitted by the patron, or the gaming manager. Any such written statements shall be accompanied by an explanation of their relevance to the dispute under consideration and received within a time period set by the Commission.
- (d) The Commission shall complete its investigation within thirty (30) days of receiving the patron's dispute, any additional time to complete the investigation must be approved by the Commission Board but shall not exceed fifteen (15) additional days.
- (e) If the Commission determines that sufficient grounds exist to support the decision of the gaming manager, a recommendation will be made to the Commission Board to dismiss the dispute. The Commission shall issue a written statement, with reasons, and shall serve a copy of the decision to the patron.
- (f) If the Commission determines that sufficient information is obtained to support the patron's dispute, a recommendation will be made to the Commission Board to convene a hearing at which point the patron and the gaming manager shall present their positions and any evidence relevant to the dispute. All such hearings shall be held in accordance with the provisions of Section 2.5 of Chapter I of these regulations.
- (g) If the Commission Board determines that the decision of the gaming manager was incorrect, it shall take whatever action it determines is necessary to resolve the dispute.

Financial compensation shall be limited to actual losses suffered by the customer as a result of the dispute and the actions of the gaming operation and its employees.

- (h) Financial compensation shall be limited to revenues of the gaming operation and actual monetary losses suffered as a result of the dispute.

#### **28.7 Complaint Review by the Commission.**

- (1) Any patron who is dissatisfied with the decision of the gaming manager and/or the gaming operation may report a formal complaint to the Commission.
- (2) When the Commission receives a written complaint, the Commission shall determine whether the complaint may involve any possible violation of any regulation of the Commission, and if so, shall give written notice thereof to the gaming manager of the gaming operation, and shall initiate an investigation in accordance with the provisions of Section 3.2 of Chapter I of these regulations.
- (3) Should the Commission determine that a violation of these regulations contributed materially to the patron's complaint, and that the resolution of the complaint failed to take such violation properly into account as bearing on the responsibility of the gaming operation in the matter, the Commission shall deal with the matter as it would any other violation in accordance with the provisions of Section 3.3-3.4 of Chapter I of these regulations.

#### **28.8 Notice to Patrons.**

- (1) Every gaming facility shall have posted, in at least three prominent locations, a notice, on a cardboard backing no less than 8-1/2 by 11 inches in size, and with printed area no less than 6 by 9 inches in size.
- (2) The notice shall contain the following text, in boldface, capital letters no less than one inch high:
  - (a) NOTICE TO PATRONS.

#### **CUSTOMER DISPUTE PROCEDURE.**

IF YOU HAVE DISPUTE OVER THE OPERATION OF A GAMING DEVICE, THE CONDUCT OF PLAY OF ANY GAMING ACTIVITY, THE BEHAVIOR OF ANY EMPLOYEE, OR ANY OTHER PROBLEM AS A RESULT OF WHICH YOU CLAIM TO HAVE LOST MONEY OR NOT RECEIVED MONEY THAT YOU BELIEVED YOU SHOULD HAVE WON, YOU ARE ENTITLED TO HAVE YOUR DISPUTE HEARD, AND YOU HAVE RIGHTS OF APPEAL. FOR FULL DETAILS, CONTACT ANY SUPERVISOR WITHIN THIS FACILITY, OR WRITE THE SANTA CLARA PUEBLO GAMING COMMISSION PO BOX 2688 ESPANOLA, NM 87532.

**28.9 Employee Training.** Each gaming enterprise shall see that all of its applicable employees are fully trained in the requirements of these regulations pertaining to customer disputes, in appropriate handling of patrons who have complaints, in documentation of the facts pertaining to such disputes, and in other related matters applicable to the gaming operation and/or occurring on the gaming premises. Such training shall be updated regularly by the gaming enterprise.

**28.10 Role of the Commission.** The Commission shall ensure the gaming enterprise has procedures established to administer, monitor and ensure compliance with this regulation.