

Santa Clara Pueblo Gaming Commission



Enforcement: Notices, Fines, and Penalties Regulations

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CHAPTER I: DEFINITIONS, COMMISSION RULES, FINES

SECTION 3: ENFORCEMENT: NOTICES, FINES, AND PENALTIES

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CHAPTER I: DEFINITIONS, COMMISSION RULES, FINES

SECTION 3: NOTICES, FINES, AND PENALTIES

3.1 Violation of Commission Regulations, Gaming Code, Compact, or IGRA.

(1) Any Person who violates any provision of the Commission's regulations, the Pueblo's Gaming Code, the Compact, or IGRA, including the Gaming Enterprise and its managers and employees, shall be subject to one or any combination of the civil fines, penalties, or other sanctions listed below.

- (a) A civil fine, not to exceed five thousand dollars (\$5,000) per occurrence, for each day such violation occurs.
- (b) Suspension or revocation of a gaming license, pursuant to Sections 6.33 and 8.29 of Chapter II of these regulations.
- (c) In addition to the penalties authorized by Subsection 3.1(1)(a), the Commission may, upon written notice and the opportunity for a hearing and judicial review pursuant to Section 2.5 of these regulations, ban from the gaming facility any Person whose continued presence at the gaming facility poses a threat to the integrity of gaming and the public interest. Any notice and order banning a Person under this section shall make a specific finding of such a threat and state the facts on which such finding is based.

3.2 Notice of Investigation.

(1) Upon discovery or reporting of an allegation of impropriety, suspicious activity, non-compliance, or violation of applicable federal, state, or tribal laws and regulations, approved internal controls, game rules, policies, procedures, standards, or conduct which would discredit the Pueblo or gaming activity on Santa Clara Lands, the Commission shall immediately determine whether further investigation is necessary in accordance with Section 2.6(1) of these regulations.

- (a) Any violation or suspected violation of the applicable laws and regulations, controls, rules, policies, procedures, standards, or conduct which would discredit the Pueblo or gaming activity on Santa Clara Lands, discovered by a licensee must be reported directly to either:
 - (i) The licensee's immediate supervisor or through any other appropriate chain of command, or
 - (ii) The Commission for appropriate investigation.
- (b) If the licensee notifies their immediate supervisor or other management official of the violation or alleged violation, the supervisor or management official shall report to the Commission stating the specific type of violation and action taken, or to be taken, if any, to correct the problem.
- (c) The Gaming Enterprise or its management shall not take any adverse or retaliatory action, such as discharge, demotion, coercion, or threat, against any licensee who:
 - (i) Reports such violation, suspected violation or conduct to their supervisor or the Commission, or
 - (ii) Cooperates with an investigation by the Commission.

(2) When an investigation is warranted, the Commission shall undertake any and all actions it deems necessary to inquire into a matter or circumstances that could be a violation or alleged violation of an applicable law and regulation or other requisite standard, policy, procedure, or conduct which would discredit the Pueblo or gaming activity on Santa Clara Lands. The Commission shall conduct the investigation in a manner it deems necessary to investigate the matter.

(3) In the event of any investigation, the Commission, in its discretion, may elect to issue a Notice of Investigation, specifying the particular matter(s) to be investigated and the manner in which the investigation will proceed, including the time and place of any scheduled times for the receipt of testimony or other evidence pertaining to the investigation. The Commission shall provide copies of the Notice of Investigation to parties who have a need for such notice. However, the Commission shall not be required to issue a Notice of Investigation prior to commencing any type or level of investigation where the subject of the investigation must be conducted in a restricted or confidential manner

- (a) When conducting an investigation, the Commission will keep confidential the identity of each person or entity interviewed during the course of the investigation.
- (b) During the course of an investigation, the Gaming Enterprise employees, or other persons, or entities that are interviewed must maintain the confidentiality of the subject matter discussed with the Commission staff and shall not breach this confidentiality to any third party unless otherwise required by law.
 - (i) A third party includes, but is not limited to, co-workers, supervisors, managers, immediate family members or other relatives, government, and law enforcement agencies, etc.
 - (ii) Retaliation, in any form, by an employee or superior toward the interviewed individual who maintains the required confidentiality will constitute grounds for disciplinary action by the Commission against the perpetrator.

(4) The Commission shall not jeopardize any investigation through the untimely or inappropriate release of any investigative information, including evidence, to any third party prior to the completion of the investigation, unless required to do so by law. Information and evidence may be released to the following entities upon approval of the Commission:

- (a) NIGC.
- (b) FBI.
- (c) An authorized representative of federal, tribal, state, or local government law enforcement agency or court when the information sought relates to a civil, criminal, or regulatory investigation or prosecution.

(5) If during the course of an investigation it is discovered that the matter exceeds the investigatory authority of the Commission, the Commission shall notify the proper law enforcement authorities and take such action to preserve the information and evidence obtained by the Commission to that point. In the event that the investigation is to be turned over to another entity, the Commission shall obtain a written receipt for evidence prior to releasing any gathered evidence to the acquiring entity if necessary.

3.3 Notice of Concern. The Commission and its agents, may, in its discretion, issue a Notice of Concern, advising the Respondent of the Commission's belief that a violation is occurring and giving Respondent a reasonable time to remedy the violation.

(1) The Notice of Concern shall state the violation as an unsuitable method of operation and that failure to correct the alleged violation within the time stated, not to exceed ten (10) days, can result in the issuance of a formal Notice of Violation and accompanying fine and/or penalty pursuant to Sections 3.6 of these regulations and also Sections 6.33 and 8.29 of Chapter II of these regulations.

(2) The decision to issue a Notice of Concern rather than a formal Notice of Violation lies solely within the discretion of the Gaming Commission, and it shall be no defense to a formal Notice of Violation that it was not preceded by a Notice of Concern.

(3) The Commission will endeavor to provide written notice of infractions prior to issuing a formal Notice of Violation but reserves the right to issue a Notice of Violation in the first instance when, in the opinion of the Commission, circumstances are sufficiently serious to so warrant.

3.4 Notice of Violation. Enforcement proceedings under this Section shall be commenced by the issuance of a Notice of Violation, by the Chairman of the Commission or the Executive Director of the Gaming Commission, except that proceedings for the immediate suspension of a gaming license shall be governed by the procedures set forth in Section 6.33 of these regulations. The Notice of Violation shall be served by personal delivery to Respondent or by certified and electronic mail, return receipt requested.

(1) A Notice of Violation shall contain the following:

- (a) A citation to the provision(s) of the Gaming Code, Commission Regulations, Compact, IGRA, or other applicable law that has been or is being violated.
- (b) The date and a plain English description of the circumstances surrounding the violation.
- (c) The action(s) that must be taken to correct the violation.
- (d) Notice that the violation must be either corrected or contested in writing within fifteen (15) days from receipt of the Notice of Violation.
- (e) Notice of the civil fine and/or other enforcement action proposed to be imposed or taken.
- (f) Notice of the maximum civil fine and/or other penalty or enforcement action that may be imposed or taken.
- (g) Notice of the procedural rights available to the Respondent, described in Section 3.4(3).

(2) In determining an appropriate penalty or penalties for a violation enforceable by this Section, the Commission may consider any factor it reasonably deems relevant and appropriate, including but not limited to:

- (a) The seriousness of the violation, including its potential to jeopardize the integrity of the Pueblo's Gaming Operation, the Pueblo's assets, or the public health, safety, or welfare;
- (b) The Respondent's willfulness of the violation;
- (c) The Respondent's past history of violations and/or detrimental conduct;
- (d) Any other factor reasonably relevant to the violation alleged and the penalty contemplated.

(3) Procedures.

- (a) A Respondent wishing to contest a Notice of Violation shall file a written objection with the Commission within fifteen (15) calendar days of receipt of the Notice of Violation. The objection shall state the factual and/or legal basis for the challenge. A Respondent may submit with the written objection documentary evidence to support the challenge.
- (b) A Respondent challenging a Notice of Violation may request a hearing before the Commission. The request for hearing must be included in the written objection and filed within fifteen (15) calendar days of receipt of the Notice of Violation. Any hearing requested pursuant to this section shall be conducted pursuant to the procedures set forth in Section 6.35 of these regulations.
- (c) If no written objection is received by the Commission within fifteen (15) calendar days of Respondent's receipt of the Notice of Violation, the proposed penalty or penalties set forth

in the Notice of Violation shall become the final, unappealable action of the Commission, enforceable by the Tribal Court.

3.5 Violation Classifications. Violations shall be classified, in order of severity as determined by the Commission, into the three categories (Category A, Category B, and Category C):

- (1) Category A. violations shall be considered the most severe, to include but not be limited to:
 - (a) Cheating, theft, embezzlement, conspiracy or attempt to commit same.
 - (b) Offering, accepting unauthorized gratuity, bribery, compensation, conspiracy to attempt the same.
 - (c) Conducting unauthorized gaming, including underage gaming, or allowing same.
 - (d) Failure to remit fees assessed by the Commission.
 - (e) Allowing any individual or vendor to conduct, do business with, provide payment, and/or provide goods/services for the gaming prior to obtaining the appropriate gaming license.
 - (f) Tampering with any record(s) or/and equipment utilized at the gaming facilities.
 - (g) Misuse of Gaming Operation funds.
 - (h) Violating health and safety codes, regulations or procedures, the act or omission of which poses serious and immediate threat to the health or safety of any individual.
 - (i) Failure to adhere to applicable federal, state, or tribal laws and regulations, approved internal controls, game rules, policies, procedures, standards, or conduct which would discredit the Pueblo or gaming activity on Santa Clara Lands.
- (2) Category B. violations shall be considered of medium severity, to include but not be limited to:
 - (a) Refusing to allow an authorized agent of the Commission to enter or inspect any area of the gaming facility or inspection of Gaming Operation records.
 - (b) Knowingly submitting false or misleading information to the Commission.
 - (c) Failure to fully cooperate with the Commission as a witness or as a party to any investigation or process.
 - (d) Performing job duties in a manner that impacts the integrity of a fair game offered for play at a gaming facility.
 - (e) Threats, threatening behavior, or acts of violence against any Commission or Gaming Enterprise employees, visitors, or others at a gaming facility. This includes physical attacks, verbal or physical threats, destruction of property, verbal or physical intimidation, or abusive language.
- (3) Category C. Violations shall be considered the least severe, to include but not be limited to:
 - (a) Violating health and safety codes, regulations or procedures, the act or omission of which poses a potential threat to the health or safety of any individual.
 - (b) Working in a position and/or authorizing an employee to work in a position without proper notification to the Commission and concurrence.
 - (c) Working without a badge issued by the Commission.
 - (d) Failure to report any/all criminal matters to the Commission Licensing Department, within seventy-two (72) hours or the next business day after having been released from arrest, including via email notification.

3.6 Fine Schedule. For categories of commonly occurring violations, the Commission may but is not required to issue a fine schedule setting forth minimum or specific fines. Any violation for which a specific scheduled fine has been published shall be subject to the published fine, and shall not be subject to the consideration of the factors set forth in this Section 3.4(2), provided, however, that if a fine schedule

establishes only a minimum and/or maximum fine, the Commission shall base the specific amount of the fine imposed on the factors set forth in this Section 3.4(2) and shall state its reasons for doing so. The issuance or revision of a fine schedule pursuant to this section shall not be considered the promulgation of a regulation and may be adopted by the Commission without need for the publication and public comment requirements of Section 2.4 of these regulations. Any fine schedule issued by the Commission shall be a public document available from the Commission upon request.

FINE SCHEDULE

Pursuant to Section 3.6 of the regulations of the Santa Clara Pueblo Gaming Commission, the Commission hereby adopts the following schedule of fines. The fine for any violation not specifically identified in this Fine Schedule, or the specific fine where only a minimum and maximum range are identified in this Fine Schedule, shall be determined by application of the factors set forth in Section 3.4(2) of the regulations.

Person	Category	Minimum Fine	Sanctions
Patrons/ Visitors	A	\$250	Banishment from gaming facility
	B	\$100	Banishment from gaming facility
	C	\$50	
Gaming Employee	A	\$500	Possible suspension and/or revocation of gaming license
	B	\$250	Possible Suspension and/or revocation of gaming license
	C	\$100	
Gaming Operation	A	\$2500	Temporary closure of all or part of gaming facility
	B	\$1000	
	C	\$500	
Gaming Vendor	A	\$5000	Possible Suspension and/or revocation of gaming license
	B	\$2500	Possible Suspension and/or revocation of gaming license
	C	\$1000	Possible Suspension and/or revocation of gaming license