

**200 Office of the State Lottery**

**201 Video Lottery Employee Organization and Lottery Employee Regulations**

**1.0 Introduction**

These regulations are authorized pursuant to section 4805 of Title 29 of the Delaware Code. Video lottery operations in the State of Delaware are strictly regulated by the Delaware State Lottery Office through the powers delegated to the Director of the Lottery pursuant to Title 29 of the Delaware Code.

**2.0 Definitions**

The following words shall be accorded these meanings for purposes of these Regulations:

**"Agency"** means the Delaware State Lottery Office created pursuant to 29 Del.C. chapter 48.

**"Agent" or "Licensed Agent" or "Licensed Video Lottery Agent"** means any person licensed by the Director of the Agency to conduct licensed video lottery operations.

**"Applicant"** - any person applying for a license authorized under these regulations.

**"Background Investigations"** means the security, fitness, and background checks conducted of an applicant.

**"Director"** means the Director of the Delaware State Lottery Office as established by Title 29 of the **Delaware Code**.

**"Employee Organization"** means any organization that admits or seeks to admit to membership employees of a Delaware video lottery agent and which has a purpose the representation of such employees in collective bargaining, grievance representation, labor disputes, salaries, wages, rates of pay, hours of employment, or conditions of work.

**"Key Employee"** means any officer and any employee of an employee organization who has direct involvement with or who exercises authority, discretion or influence in the representation of employees of a Delaware video lottery agent in collective bargaining, grievance representation, labor disputes, salaries, wages, rates of pay, hours of employment or conditions of work.

**"Licensee"** means any person authorized by the Director to participate in video lottery operations.

**"Lottery"** means the public gaming system or games established and operated by the Delaware State Lottery Office.

**"Pension or Welfare System Maintained by an Employee Organization"** means any pension or welfare system created or established by an employee organization or one or more of the trustees or one or more members of the governing body of which is selected or appointed by the employee organization.

**"Pension System"** means any plan, fund or program which is maintained by an employee organization, or by an employee organization and an employer, to the extent that by its express terms or as a result of surrounding circumstances such plan, fund or program provides retirement income to employees or results in a deferral of income by employees for periods extending to the termination of covered employment or beyond, regardless of the method of calculating the contributions made to the plan, the method of calculating the benefits under the plan or the method of distributing benefits from the plan.

**"Person"** means an individual, general partnership, limited partnership, corporation or other legal entity.

**"Registrant"** means any employee organization or key employee applying for registration under these regulations.

**"Video Lottery"** means any lottery conducted with a video lottery machine or linked video lottery machines with an aggregate progression prize or prizes.

**"Welfare System"** means any plan, fund or program which is maintained by an employee organization or by an employee organization and an employer, to the extent that such plan, fund or program was established or is maintained for the purposes of providing for its participants, or their beneficiaries, through the purchase of insurance or otherwise, medical, surgical, or hospital care or benefits, or benefits in the event of sickness, accident, disability, death, or unemployment, or vacation benefits, apprenticeship, or other training programs, or day care centers, scholarship funds, or prepaid legal services, or any other such benefit other than pension on retirement or death, and insurance to provide such pensions.

**3.0 Registration of Employee Organizations**

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- 3.1 Any employee organization representing or seeking to represent employees employed by a Delaware video lottery agent shall register with the Director of the Agency. An employee organization shall be required to file a registration application with the Agency within ten (10) business days after it secures a signed authorization card from any employee who is employed by a Delaware video lottery agent. Any registration statement filed by an employee organization after the signature of an authorization card but prior to the employee organization's petition for election shall not be subject to disclosure by the Agency to any video lottery agent.
- 3.2 The employee organization shall register with the Agency on registration forms supplied by the Agency. Registration forms shall require the employee organization to provide the following, without limitation:
- 3.2.1 The name of the registrant as shown on its charter or in its constitution;
- 3.2.2 The current and former business addresses of the registrant, including the address of any office where matters pertaining to employees of a video lottery agent will be conducted;
- 3.2.3 The names of all persons principally involved in the original creation of the employee organization;
- 3.2.4 The name and address of:
- 3.2.4.1 all affiliates which are either a parent body or any superior organization with any right or ability to control, supervise, discipline or set policy for this organization;
- 3.2.4.2 all affiliates which are chartered by the same parent body as this organization;
- 3.2.4.3 all affiliates which are governed by the same constitution or bylaws.
- 3.2.5 The nature of the actual or probable involvement of any affiliate which represents or is seeking to represent employees who are employed by a video lottery agent, or which is involved or seeking to be involved in the control or direction of such representation.
- 3.2.6 Information on any pension or welfare system maintained by the employee organization that hold any direct financial interest in any video lottery agent or technology provider.
- 3.2.7 Disclosure of pension and welfare systems maintained by the employee organization and the names and titles of each officer or agent responsible for management of the pension or welfare system.
- 3.2.8 With respect to all employee organization personnel:
- 3.2.8.1 Full name, including any known alias or nickname;
- 3.2.8.2 Designation of all key labor employees in the employee organization;
- 3.2.8.3 Title or other designation in the employee organization;
- 3.2.8.4 A brief description of the duties and activities of each individual;
- 3.2.8.5 The business address and telephone number of each individual; and,
- 3.2.8.6 Annual compensation including salary, allowances, and other direct or indirect disbursements (including reimbursed expenses).
- 3.2.9 Any other information the Director determines is needed to determine the competence, honesty, and integrity of the applicant as required by Title 29 of the **Delaware Code**.
- 3.2.10 A written certification under oath in a form signed by the local employee organization president and secretary-treasurer, and chief official of the local employee organization if his title is other than president or secretary-treasurer, that the information contained on the application is complete and accurate.
- 3.2.11 A statement whether the employee organization has ever been found by any court or governmental agency to be unsuitable to represent employees under a federal or state labor statute.
- 3.2.12 A list of any litigation involving the employee organization over the last five years.
- 3.2.13 A Release Authorization directing all courts, probation departments, selective service boards, employers, educational institutions, financial and other institutions and all governmental agencies to release any and all information pertaining to the registrant as requested by the Agency or the Delaware State Police.
- 3.2.14 A waiver of liability as to the State and its instrumentalities and agents for any damages resulting to the registrant from any disclosure or publication of information acquired during the investigation process.
- 3.3 To the extent, if any, that the information supplied in the registration or otherwise supplied by the employee organization or on the employee organization's behalf, becomes inaccurate or incomplete, the employee organization shall so notify the Agency in writing as soon as it is aware that the information is inaccurate or incomplete, and shall at that time supply the information necessary to correct the inaccuracy or incompleteness of the information.
- 3.4 Upon request of the Agency, the employee organization shall supplement the information provided in the registration form as deemed necessary by the Agency.

- 3.5 All registration statements filed under these Regulations shall be valid for a one-year period and a renewed registration form or an updated supplemental registration form must be filed annually. The employee organization filing the registration form is under a continuing duty to promptly notify the Director of the Agency of any changes in disclosed information.

**4.0 Registration of Key Employees of Employee Organizations**

- 4.1 Any key employee of an employee organization shall be required to register with the Agency at the same time as the application for registration is filed under section 3.0 of these Regulations, or within thirty (30) days after the date on which such individual is elected, appointed, or hired, whichever is later.
- 4.2 The key employee shall register with the Agency on registration forms supplied by the Agency. Registration forms shall require the key employee to provide the following, without limitation:
- 4.2.1 Name, including any aliases or nicknames;
  - 4.2.2 Title or position with the employee organization;
  - 4.2.3 Date and place of birth;
  - 4.2.4 Physical description;
  - 4.2.5 Current address and residence history;
  - 4.2.6 Social security number;
  - 4.2.7 Citizenship and, if applicable, information concerning alien status;
  - 4.2.8 Telephone number at current place of employment;
  - 4.2.9 Employment history, including all positions held with a labor organization, union or affiliate, whether or not compensated;
  - 4.2.10 Excluding minor traffic offenses, a detailed description of the following areas of criminal conduct, if any, including whether the crime involved is denominated a felony or a misdemeanor:
    - 4.2.10.1 Any convictions;
    - 4.2.10.2 Any criminal offenses, that occurred within ten years of the application or registration, for which the applicant or registrant was arrested, charged, indicted or summoned to answer, which are pending or for which he was not convicted;
    - 4.2.10.3 Any criminal offenses for which he received a pardon;
  - 4.2.11 Whether he has ever been denied a business, liquor, gaming, or professional license, or has had such license revoked;
  - 4.2.12 Whether he has ever been found by any court or governmental agency to be unsuitable to be affiliated with a labor organization and if so, all details relating thereto;
  - 4.2.13 Whether he has ever been subpoenaed as a witness before any grand jury, legislative body, administrative body, or crime commission on matters pertaining to the operation or performance in any labor organization, which shall include all details relating thereto.
  - 4.2.14 All key employee applicants will be required to submit a complete set of fingerprints to the Delaware State Bureau of Identification along with the standard release information.
  - 4.2.15 Any other information the Director determines is needed to determine the competence, honesty, and integrity of the applicant as required by Title 29 of the Delaware Code.
  - 4.2.16 A written certification under oath by the applicant that the information contained on the application is complete and accurate.
  - 4.2.17 A Release Authorization directing all courts, probation departments, selective service boards, employers, educational institutions, financial and other institutions and all governmental agencies to release any and all information pertaining to the applicant as requested by the Agency or the Delaware State Police that bears on and is necessary and reasonably related to the statutory standards of competence, honesty, or integrity as specified by 29 **Del.C.** section 4805 (a)(24)(c)(ii).
  - 4.2.18 A waiver of liability as to the State and its instrumentalities and agents for any damages resulting to the applicant from any disclosure or publication of information acquired during the investigation process.
- 4.3 To the extent, if any, that the information supplied in the application form, or otherwise supplied by the applicant, becomes inaccurate or incomplete, the applicant shall so notify the Agency in writing as soon as it is aware that the information is inaccurate or incomplete, and shall at that time supply the information necessary to correct the inaccuracy or incompleteness of the information.

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- 4.4 Upon request of the Agency, the applicant shall supplement the information provided in the application form as deemed necessary by the Agency.
- 4.5 All registration forms filed under these Regulations shall be valid for a one-year period and a renewed registration form or an updated supplemental registration form must be filed annually. The entity or individual filing such form is under a continuing duty to promptly notify the Director of any changes in disclosed information.

#### 1 DE Reg. 1576 (04/01/98)

### 5.0 Procedure for Review of Registration Applications

- 5.1 All registration statements filed under these Regulations shall be valid for a one year period and a renewed registration must be filed annually. The entity or individual filing such form is under a continuing duty to promptly notify the Director of any changes in disclosed information. The Delaware State Police shall conduct all background investigations required for by these Regulations and 29 **Del.C.** section 4805(a)(24)(a).
- 5.2 All applications for registration shall be deemed approved unless the Director notifies the applicant within sixty (60) days of his decision not to approve the registration or unless extenuating circumstances require a longer period, in which case the Director shall act with all deliberate speed to complete the process.
- 5.3 The application for registration by an employee organization or key employee of such employee organization may be denied or registration revoked under the following circumstances:
- 5.3.1 If the employee organization or key employee of such employee organization is in violation of standards established under the Labor Management Reporting and Disclosure Procedure Prohibition Against Persons Holding Office, 29 U.S.C. section 504(a).
- 5.3.2 The applicant's competence, honesty or integrity pose a threat to the public interest of the State or to the reputation of or effective regulation and control of the video lottery based on the applicant's associations or by virtue of the fact that the applicant has been convicted of a felony crime of moral turpitude or arrested for an act constituting racketeering under 11 **Del.C.** section 1502(9)(a)(b)(2)(4-10) within ten (10) years prior to applying for registration hereunder or at anytime thereafter. Any employee or employee organization denied registration based on an arrest for an act constituting racketeering under 11 **Del. C.** section 1502(9)(a)(b)(2)(4-10) may apply for reconsideration of registration if subsequently acquitted or a nolle prosequi is entered or the charge is otherwise dismissed. In such instances, the Lottery shall reconsider the applicant's registration based on the criteria set forth in these Regulations and 29 **Del.C.** section 4805(a)(24).
- 5.3.3 The organization or individual has knowingly made or caused to be made any written statement to any representative of the Agency or the Delaware State Police or who has orally responded to an official inquiry by the Agency, its employees or agents, which was at the time and in light of circumstances under which it was made false or misleading.
- 5.3.4 The organization or key employee thereof holds or obtains a direct financial interest in any video lottery agent, provided the employee organization is provided a thirty (30) day period to divest of any such direct financial interest.
- 5.4 Any employee organization may continue to provide services to employees of a Delaware video lottery agent during the review of the application process and the appeal process, except where the employee organization is found in violation of section 5.3(iv) of these Regulations or there has been a previous violation of sections 5.3(i-iii) of these Regulations by the employee organization within the previous ten (10) years.
- 5.5 The failure of any key employee to satisfy the requirements of sections 5.3(i-iv) of these Regulations may constitute grounds for suspension of the registration of the employee organization if the organization does not remove the key employee from his or her duties as defined in 29 **Del.C.** section 4803(j) and the definition of "key employee" contained in section 2.0 of these Regulations. The employee organization will be given a reasonable opportunity to remove or replace any key employee found to be in violation of sections 5.3.1 through 5.3.4 of these Regulations.
- 5.6 In any case where the Director determines that a registration of an employee organization or key employee shall be denied or revoked, the Agency shall first give written notice to the applicant or registrant of the intended action, the reasons therefor, and the right to a hearing as provided for in 29 **Del.C.** chapter 101. The notice of the intended denial, suspension, or revocation shall comply with any applicable requirements of the Delaware Administrative Procedures Act in 29 **Del.C.** sections 10133-10134 and, at a minimum, afford the applicant or registrant an opportunity for a hearing.

- 5.7 If the applicant or registrant desires a hearing, it shall provide the Agency with a written statement within ten days of receipt of the notice which contains the following:
- 5.7.1 A clear and concise assignment of each error which the applicant or registrant alleges to have been committed in the tentative determination to deny, suspend, or revoke the registration. Each assignment of error should be listed in a separately numbered paragraph.
  - 5.7.2 A clear and concise statement of the facts on which the applicant or registrant relies in support of each assignment of error.
  - 5.7.3 A prayer setting forth the relief sought.
  - 5.7.4 The signature of the individual or an officer of the employee organization authorized to request the hearing.
  - 5.7.5 A verification by the person requesting the hearing or counsel that the statements contained in the statement are true.
- 5.8 The Secretary of Finance shall, within a reasonable time, if requested by the Director, appoint a hearing officer to determine whether the application for registration should be denied, suspended, or revoked. The appointed hearing officer shall be bound to conduct all hearings in conformance with the requirements of 29 **Del.C.** section 10131. Notice of the hearing shall be given at least twenty (20) days before the date it is to be held.
- 5.9 The applicant or registrant may appear individually, by legal counsel, or by any other duly authorized representative. In the absence of the registrant, written evidence of a representative's authority shall be presented to the hearing officer in a form satisfactory to the hearing officer.
- 5.10 The applicant or registrant or his duly authorized representative, may with the approval of a hearing officer waive the hearing and agree to submit the case for decision on the record, with or without a written brief. Such a waiver or agreement shall be in writing and placed on the record.
- 5.11 The applicant or registrant shall be given an opportunity for argument within the time limits fixed by the hearing officer following submission of the evidence. The hearing officer, upon request of the licensee, may accept briefs in lieu of argument. The briefs shall be filed within ten days after the hearing date or within such other time as fixed by the hearing officer.
- 5.12 The Delaware Uniform Rules of Evidence shall be in effect in all proceedings before the hearing officer. The hearing officer may exclude any evidence which is irrelevant, unduly repetitious, or lacking a substantial probative effect.
- 5.13 A record shall be made of all hearings and all witnesses shall be sworn and subject to cross examination.
- 5.14 Following the conclusion of the hearing and within ten days of the receipt of the transcript thereof, or within such other time as fixed by the hearing officer but in no event later than 45 days following the hearing, the hearing officer shall prepare a final decision, including his or her findings of fact and conclusions of law, and the order signed by the hearing officer shall be final. A copy of said order shall be served upon the party requesting the hearing or their attorney of record in person or by registered or certified mail.
- 5.15 The hearing officer's decision to deny an application of registration or to suspend or revoke a registration shall be appealable to the Superior Court under the provisions of the Delaware Administrative Procedures Act.

## **6.0 Lottery Employee Investigations**

- 6.1 The Director shall conduct employment investigations for any person seeking employment with the Agency for compensation for a position which has direct access to lottery ticket sales agents, video lottery agents, or vendors. Those new employee applicants who do not meet the requirements of these Regulations and 29 **Del.C.** chapter 48 may not be permitted to be employed by the Lottery.
- 6.2 Applicants for Lottery positions in section 6.1 of these Regulations will be required to submit a set of their fingerprints to the State Bureau of Identification along with a signed standard release. The submitted fingerprints shall be processed by the S.B.I. in order to provide the Director with the individual's entire federal and state criminal history record.
- 6.3 Any applicant for a Lottery position in section 6.1 of these Regulations shall be required to submit an application form to the Agency to allow the Director to determine that the applicant does not pose a threat to the public interest of the State of Delaware or the integrity of the Lottery Office. The application materials shall request, without limitation:
- 6.3.1 Name, including any aliases or nicknames;
  - 6.3.2 Title or position to be applied for;
  - 6.3.3 Date and place of birth;

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- 6.3.4 Current address and residence history;
- 6.3.5 Social security number;
- 6.3.6 Citizenship and, if applicable, information concerning alien status;
- 6.3.7 Telephone number;
- 6.3.8 Employment and educational history.
- 6.3.9 Qualifications for the position applied for;
- 6.3.10 Excluding minor traffic offenses, a detailed description of the following areas of criminal conduct, if any, including whether the crime is denominated a felony or a misdemeanor:
  - 6.3.10.1 Any convictions;
  - 6.3.10.2 Any criminal offenses for which the applicant was charged, indicted, or summoned to answer, but for which he was not convicted;
  - 6.3.10.3 Any criminal offense for which he received a pardon;
- 6.3.11 Any other information the Director determines is needed to determine the qualifications and fitness of the applicant.

**1 DE Reg. 1576 (04/01/98)**

**7.0 Severability**

The sections and subsections of these rules and regulations shall be deemed severable. Should any section or subsection be deemed by judicial opinion or legislative enactment to be invalid, unconstitutional or in any manner contrary to the laws of the State of Delaware, then such opinion or enactment shall invalidate only that particular section or subsection of these rules and regulations and all other sections shall remain in full force and effect.

**1 DE Reg. 1576 (04/01/98)**