

Chapter 10. Compliance and Enforcement Regulations

Purpose of Chapter 10

These Compliance and Enforcement Regulations are designed to assist the Little River Casino Resort, and any entity created or authorized by the Tribe to engage in gaming activities on behalf of the Tribe, the employees, contractors and patrons of the entities, to understand the tribal and federal laws and regulations applicable to gaming and to provide for the protection and integrity of gaming operated or authorized by the Tribe. An effective enforcement protocol can only be successful when all parties charged with the duty of following the law are striving for compliance and held accountable for their actions. Entities can act only through the individuals hired as employees, contractors and agents, so therefore the individuals involved in gaming activities are responsible for compliance with tribal and federal laws and regulations. Tribal and federal laws and these Regulations hold all persons and entities involved in gaming activities responsible for compliance. Accordingly, these Regulations focus compliance responsibility upon the accountable employee or entity acting outside the parameters of the law and those accountable employees and entities that are supervising those actors. These Regulations grant an abundance of due process for accountable employees and entities charged with a violation of law, however there are mechanisms available to protect gaming integrity and Tribal assets if the allegation of wrongdoing is sufficiently serious to warrant expedited processes. Finally, the Gaming Commission, in promulgating these Regulations, has reflected upon its responsibility to the Tribe, its laws, traditions and customs and the preservation of the integrity of gaming activities by authorized entities and from those sources and for those purposes, the Gaming Commission draws its strength and desire to fulfill its role.

10.1. Definitions

As used in this chapter, the following terms shall have the following meanings:

10.1.1. "*Accountable Employee*" means the employee who is responsible for compliance with the Rules and correcting compliance issues and preventing future violations through training employees and supervising employees in a manner which reasonably assures compliance with the Rules.

Accordingly, the employee that commits the violation, as well as all employees in the chain of command, are potential Accountable Employees. The supervisory employee or entity who is ultimately responsible for correcting compliance issues is the General Manager or Management Contractor for a gaming enterprise.

10.1.2. "*Compliance Issue*" means a single event during which any Accountable Employee is in violation of one or more processes or procedures required under the Rules.

10.1.3. "*Corrective Action Plan*" means the statement of steps to be taken by the Supervisor of the Accountable Employee to correct or prevent the circumstances that prompted the Gaming Commission's issuance of a Notice.

10.1.4. "*Employee*" means any person employed in the Gaming Enterprise, whether employed by or contracted to the Tribe, including without limitation, managers, assistant managers, accounting personnel, security personnel, cashiers, supervisors, shift bosses, machine mechanics, management companies and their principals; and any other person whose employment duties require authorized access to areas of any gaming facility.

10.1.5. "*Rules*" mean Little River Band of Ottawa Indians Gaming Ordinance or other Tribal law, these Regulations, Tribal-State Compact, Indian Gaming Regulatory Act, federal regulations, or internal controls or policies and procedures of the Entity that impact the integrity of the gaming operation and other laws which include, but are not limited to, health, safety and environmental.

10.1.7. "Source" means the person or entity providing information to the Gaming Commission that a compliance issue may exist.

10.2 Enforcement Responsibility

10.2.1. *Responsibility.* The Gaming Commission, its Commissioners, employees and agents are responsible for enforcement of the Rules.

10.2.2. *Director.* The Director of the Gaming Commission may issue any of the Notices provided under these Regulations, provide the Gaming Commission's response to Accountable Employees responses to Notices and cause the investigation of allegations which may give rise to the issuance of a Notice under these Regulations.

10.2.3. *Compliance Manager.* The Compliance Manager of the Gaming Commission may issue a Notice of Inquiry and Notice of Non Compliance under these Regulations.

10.2.4. *Employees and Agents.* Employees and Agents of the Gaming Commission shall perform those duties and responsibilities as directed by the Commissioners and Director of the Gaming Commission and pursuant to their instructions may carry out and fulfill the Gaming Commission's duties and responsibilities.

10.3 Progressive Sanction Policy.

10.3.1. *General Compliance Policy.* It shall be the policy of the Gaming Commission to assure compliance by Accountable Employees with the Rules in a manner that, whenever possible in the Gaming Commissions sole discretion, allows for sanctions that are of increasingly progressive in severity. Provided that, the Gaming Commission reserves the right to issue sanctions outside the progressive policy to protect the health and safety of the patrons and employees, or protect the assets of the Tribe, or to protect the integrity or security of the gaming activities.

10.3.2. *Purpose of Progressive Sanction Policy.* The intent of the progressive sanction policy is to:

- a. Encourage self-regulation and corrective action by any Accountable Employee without involvement of the Gaming Commission;
- b. Engage in fact finding and tracking of initial and recurring compliance issues before imposing sanctions that are progressively more severe;
- c. Identify Accountable Employees to facilitate implementation of corrective actions;
- d. To track compliance issues by type and frequency for which employees are accountable;
- e. To track compliance issues for employees supervised by one or more common employees to determine if a pattern of non-compliance exists for which that Accountable Employee is responsible; and
- f. Authorize informal resolution of compliance issues regarding the operation of gaming by any Accountable Employee including specifically the General Manager before formal involvement of the Gaming Commission ensues.

10.3.3. *Progressive Sanction Notices.* The Gaming Commission shall implement the progressive sanction policy through the submission of notices to the General Manager and to the Accountable Employee that are of increasing severity and to be issued in the following manner:

- a. Notice of Inquiry; then
- b. Notice of Non-Compliance; then
- c. Notice of Concern; then
- d. Violation Citation.

10.3.4. *Sanctions.* The Gaming Commission may impose sanctions on any Accountable Employee for any violation of the Rules. Sanctions may include:

- a. Tracking an incidence of noncompliance against any enforcement record of any Accountable Employee(s)
- b. An order requiring implementation of corrective action within a specified period of time.
- c. Where the event of noncompliance results in the issuance of a Violation Citation, the Gaming Commission may impose sanctions which include:
 1. Civil penalties of up to \$5,000 per violation;
 2. License suspensions, revocation or imposing conditions upon a licensee's continued licensing (provided that the suspension, revocation or conditioning of any license for regulatory violations shall proceed in accordance with the Tribal Gaming Ordinance and any applicable hearings procedures adopted by the Gaming Commission); and
- d. Referral for Criminal prosecution in courts of competent jurisdiction.

10.3.5. *Reservation of Enforcement Authority.* The Gaming Commission reserves the right to deviate from the progressive sanction policy or, take summary enforcement action when such actions are deemed necessary under any the following circumstances:

- a. The compliance issue poses a threat to the physical safety of another individual or tribal property or to impair the operation of gaming activities; or
- b. The compliance issue presents an immediate threat to me honesty, integrity, fairness or security of gaming activities; or
- c. The conduct of an Accountable Employee evidences a pattern of noncompliance or a willful disregard for the Rules.

In the event the Gaming Commission takes any summary enforcement action, any Accountable Employee whose license is affected by such summary action shall immediately be notified in writing of the reason for the action, the right to appeal the action, and the appropriate appeal process. Any hearing on the action taken against any employee(s) shall be conducted in accordance with the Gaming Ordinance and any applicable hearing procedures adopted by the Gaming Commission.

10.4 Self-Correction by Enterprise

10.4.1. The General Manager shall inform the Gaming Commission of any and all violations of the Rules and any and all potential violations of the Rules.

10.4.2. The General Manager may seek from the Gaming Commission a waiver of the enforcement provisions of these Regulations. The Gaming Commission shall take into account any and all mitigating circumstances that justify a waiver of the enforcement provisions of these Regulations. Whether the Gaming Commission issues a waiver is within the sole discretion of the Gaming Commission.

10.4.3. Mitigating circumstances include, but are not limited to:

- a. whether the violation or potential violation is self reported
- b. whether the accountable employee reasonably addressed precipitating events
- c. the foresee ability of the violation or potential violation
- d. the position, experience and sophistication of the Accountable Employee involved
- e. the severity of the violation or potential violation
- f. the history of violations involving the Accountable Employee involved in the violation or potential violation
- g. the cooperation forthcoming in the investigation of the violation or potential violation
- h. the reasonableness of the corrective action taken by the Accountable Employee and
- i. the timing of the self reporting, corrective action and other matters.

10.4.4. Compliance issues which are identified and self-corrected by Accountable Employees and where the Gaming Commission has issued a waiver in accordance with this section shall not prejudice any Accountable Employee for purposes of tracking compliance issues in accordance with section 10.3 of these regulations.

10.5. Commencement of Action - General Provisions

10.5.1. The process of enforcing compliance with any Rules commences when the Gaming Commission receives information from any source that the acts or omissions of any Accountable Employee at the gaming enterprise creates an actual, potential or perceived threat to the honesty, integrity, security, or fairness to the operation of the gaming enterprise.

10.5.2. The Gaming Commission shall make all reasonable efforts to issue a notice to the Accountable Employee in accordance with section 10.9 within ten calendar days of the date the Gaming Commission receives information from any source that the acts or omissions of any employee(s) at the gaming enterprise create an actual, potential or perceived threat to the honesty, integrity, security, or fairness to the operation of the gaming enterprise.

10.6. Form of Notice

10.6.1. Any notice issued shall include the following components:

- a. Identification of the facts resulting in the notice, including:
 1. A citation to the Rule(s) involved;
 2. A copy, or identification (by date and number) of any notice(s) previously forwarded to the General Manager and Accountable Employee by the Gaming Commission, if applicable;
 3. The Accountable Employee involved, including identification of the employee's position, department and shift; and
 4. The particular conduct or circumstances involved.
 5. The approximate date and time of the Compliance Issue
- b. Classification of the compliance issue into one or more of the following compliance categories:
 1. IGRA;
 2. Gaming Ordinance;
 3. Compact;
 4. Tribal Law;
 5. Federal Law;
 6. Gaming Regulations;
 7. NIGC or Tribal Minimum Internal Controls;
 8. Integrity;
 9. Health and/or Safety;
 10. Security;
 11. Entity policy or procedure or system of internal controls; or
 12. Other action reasonably related to the protection of the integrity or security of the games or gaming operation, or related to the health or safety of the employees or patrons of the gaming operation.
- c. Request for a signed written response from the Accountable Employee in the form described in section 10.7.3.
- d. Notification that failure to respond in whole or in part could result in action being taken against the Accountable Employee with respect to the compliance issue(s), and facts related to or identifying the compliance issue.

10.7. Response to Notice

10.7.1 *Time for Response.* The Accountable Employee shall respond to any notice issued by the Gaming Commission within ten calendar days after issuance of the notice. The Gaming Commission may, for good cause, grant an extension of up to ten additional days to submit the response. All responses, including requests for extensions, shall be made in writing.

10.7.2. *Failure to Respond in Whole or in Part.* The failure of an Accountable Employee to fully respond may result in action being taken against the Accountable Employee. The Gaming Commission will assume the facts described in the Notice are true and action will be taken as the Gaming Commission may deem just and proper.

10.7.3. *Form of Response.* Responses submitted by an Accountable Employees shall be in the form prescribed in sections 10.7.4 through 10.7.6.

10.7.4. *Acceptance in Whole.* Any response to accept, in whole, the compliance issues and facts described in the notice issued by the Gaming Commission, shall include but is not limited to, the following:

- a. Acceptance of the factual statement depicting the compliance issue as provided in the notice issued by the Gaming Commission;
- b. Acknowledgment of the compliance issue;
- c. Identification of the Accountable Employee, and
- d. Statement of the Corrective Action Plan to resolve the compliance issue, including the corrective actions by the Supervisor of the Accountable Employee and follow-up by the Supervisor of the Accountable Employee responsible for implementing and assuring compliance with the Corrective Action Plan. The Supervisor of the Accountable Employee preparing the response shall provide the Gaming Commission with a record of any and all disciplinary actions (i.e. Verbal Warnings, Written Warnings) taken as part of the corrective action.

10.7.5. *Acceptance in Whole and Request for Exception.* A response to accept, in whole, the compliance issues and facts described in the notice, with a request for the Gaming Commission to provide an exception to the progressive sanction process, shall include but is not limited to the following:

- a. Acceptance of the factual statement depicting the event as described in the notice issued by the Gaming Commission;
- b. Acknowledgment of the compliance issue;
- c. Identification of the Accountable Employee; and
- d. Request for the exception, including but not limited to, justification for the exception, with supporting documentation, if applicable. Moreover, a statement of the Corrective Action Plan to resolve the compliance issue, including the corrective actions by the Supervisor of the Accountable Employee.

10.7.6. *Denial of the Compliance Issue in Whole or in Part.* Any response to deny, in whole or in part, the compliance issue provided in the Notice, shall include a detailed statement of the factual and/or legal basis supporting the denial, with supporting documentation, if applicable.

10.8. Action Following Response by Accountable Employee

10.8.1. *Action Following Receipt of Acceptance in Whole.*

- a. The Gaming Commission shall issue a Statement of Resolution to the Accountable Employee within ten calendar days of receipt of the response accepting, in whole, the compliance issues and facts.
- b. The Statement of Resolution shall provide notice to the Accountable Employee that the Gaming Commission:

1. Accepts the manner in which the compliance issue was resolved or is in the process of being resolved; or
2. Disapproves the manner in which the compliance issue was resolved or is in the process of being resolved, which specifies the basis for its disapproval, and provides notice of the Accountable Employee's right to appeal the Gaming Commission's decision

10.8.2. *Action Following Receipt of Acceptance in Whole and Request for Exception.*

- a. If the Accountable Employee accepts the compliance issue and facts described in the Notice, but requests an exception to the progressive sanction process, the Gaming Commission shall consider the request and the facts supporting the request for exception and render a decision as to the merit of the request and whether a waiver was granted, within twenty-one calendar days of receipt.
- b. The effect of the Gaming Commission decision to grant an exception is the waiver of the utilization of the compliance issues and facts for tracking of the compliance issues involving the Accountable Employee involved in accordance with section 10.3.
- c. If the Gaming Commission denies the Accountable Employee's request for an exception, the Gaming Commission's response shall inform the Accountable Employee of the specific reasons for the denial and the right to request the Gaming Commission to reconsider the request for an exception.

10.8.3. *Action Following Receipt of Denial of Compliance Issue or Facts.*

- a. If the Accountable Employee denies the compliance issues or facts described in the Notice, the Gaming Commission shall consider the factual and legal support for the denial and render a decision as to the merit of the denial within ten calendar days of receipt.
- b. The effect of the Gaming Commission decision to agree with the Accountable Employee's denial of the compliance issues or facts is to modify the compliance issues or facts recorded for purposes of tracking compliance issues involving the Accountable Employee in accordance with section 10.3.
- c. If the Gaming Commission rejects the Accountable Employee's denial, the Gaming Commission's response shall inform the Accountable Employee of their right to appeal the decision of the Gaming Commission pursuant to section 10.10.

10.8.4. *Action Following Receipt of Denial of the Compliance Issue in Whole or in Part.*

- a. If the Accountable Employee denies that the event or facts described in the notice constitute a compliance issue; the Gaming Commission shall consider the factual and legal support for the denial and render a decision as to the merit of the denial within ten calendar days of receipt.
- b. The effect of the Gaming Commission decision to agree with the Accountable Employee's denial that the event or facts constitute a compliance issue is to expunge the compliance issues and facts for tracking purposes in accordance with section 10.3.
- c. If the Gaming Commission rejects the Accountable Employee's denial, the Gaming Commission's response shall inform the Accountable Employee of their right to appeal the decision of the Gaming Commission pursuant to section 10.11.

10.9 Notices from Gaming Commission

10.9.1. *Basis for Issuing Notice of Inquiry.* The Gaming Commission may issue a Notice of Inquiry upon receipt of information from any source that compliance issues which did, or could, result in an actual or potential threat to the honesty, integrity, security, and fairness of the operation of the gaming enterprise.

10.9.2. *Basis for Issuing Notice of Non-Compliance.* The Gaming Commission shall issue a Notice of

Non-Compliance if:

- a. A Notice of Inquiry was previously issued; and
- b. The Gaming Commission has received information from any source that a subsequent compliance issue, has occurred or is occurring, which consists of facts that are the same or similar to those enumerated in a previously issued Notice of Inquiry.
- c. The Gaming Commission did not submit a Notice of Inquiry but did receive information from any source that:
 1. At least two (2) independent compliance issues involving the same Accountable Employee(s) did occur within a seven (7) day period; and
 2. Each independent compliance issue consists of facts that are the same or similar in content.

10.9.3. *Notice of Concern.*

- a. The Gaming Commission shall issue a Notice of Concern if:
 1. A Notice of Non-Compliance was previously issued; and
 2. The Gaming Commission has received information from any source that a compliance issue has occurred or is occurring which consists of facts that are the same or similar to those enumerated in a previously issued Notice of Non Compliance.
 3. The Gaming Commission receives information from any source that:
 - A. At least three (3) independent compliance issues involving the same Accountable Employee did occur within a seven (7) day period; and
 - B. Each independent compliance issue consists of facts that are the same or similar in content to the Notice.
 4. The Notice of Concern shall, in addition to the other notice requirements set forth in this Regulation, describe the steps necessary to effect a cure of the Rules violations(s).
 5. The Accountable Employee receiving a Notice of Concern may meet with the Gaming Commission and discuss a resolution which may cure the compliance issue. It is the Accountable Employee's duty to request a meeting with the Gaming Commission and a failure to request a meeting in writing and delivered to the offices of the Gaming Commission within seven calendar days of the issuance of the Notice of Concern will cause the Gaming Commission to assume that a meeting is not sought by the Accountable Employee.

10.9.4. *Notice of Citation Violation.*

- a. The Gaming Commission shall issue a Notice of Violation Citation if:
 1. A Notice of Concern was previously issued, and
 2. The Gaming Commission has received information from any source that a compliance issue has occurred or is occurring which consists of facts that are the same or similar to those enumerated in a previously issued Notice of Concern.
- b. A Violation Citation shall include:
 1. Notice of Hearing which includes a date, time and location of a hearing, the purpose for the hearing, the recipient's opportunity to obtain a copy of the Rules, the possible sanctions if the Violation Citation is sustained, the Accountable Employee's right to procure at their own cost, the representation of legal counsel, call witnesses and offer evidence, and notice that a failure to appear at the hearing may cause the Gaming Commission to consider and rule on the substance of the Violation Citation without the Accountable Employee's participation.
 2. Identification of the underlying nature of the Violation Citation resulting in the notice, including:

- A. A citation to the Rule(s) involved;
 - B. A copy, or, identification (by date and number) of any notice(s) previously forwarded to the Accountable Employee, by the Gaming Commission, if applicable;
 - C. The Accountable Employee involved, including identification of the employee's position, department and shift; and
 - D. The particular conduct or circumstances involved.
 - E. The approximate date and time of the Compliance Issue
- b. In addition to the form of notice required by section 10.6, the Accountable Employee shall also be provided a Notice of Hearing, which informs them of the date and time of a hearing before the Gaming Commission, or its designated hearing examiner, to consider the merit and substance of the compliance issues and facts supporting the Notice. The Notice of Hearing shall inform the Accountable Employee that the purpose of the hearing will be to determine whether the Gaming Commission will issue the Violation Citation. The Notice of Hearing shall provide the recipient information regarding their opportunity to receive a copy of the Gaming Ordinance to, among other things, access their rights under Section 12 of that Ordinance. The Notice of Hearing shall provide information regarding possible sanctions as referenced in Section 10.3.4 of these Regulations.
- c. Any hearing conducted by the Gaming Commission, or its designated hearing examiner, under these Regulations, shall be conducted pursuant to the procedures described in the Gaming Ordinance and in accordance with any hearing procedures adopted by the Gaming Commission.
- d. The Gaming Commission shall issue a Violation Citation against the Accountable Employee if:
- 1. A hearing was conducted to determine the merit and substance of the compliance issue; and
 - 2. The Gaming Commission finds that it is more likely than not that the compliance issue described in the Notice of Violation Citation occurred.
- e. The Violation Citation shall include the following components:
- 1. A description of the circumstances surrounding the violation, set forth in common and concise language;
 - 2. A citation to the Rule(s) that has been or is being violated;
 - 3. Date of the hearing before the Gaming Commission;
 - 4. Sanction(s) that may be imposed; and
 - 5. Right to appeal the decision to the Tribal Court.
- f. The Gaming Commission may issue an order temporarily suspending an Accountable Employee's gaming license pending a hearing before the Gaming Commission. Any Accountable Employee affected by such orders shall be provided a notice of temporary suspension and/or a notice of intent to revoke such Accountable Employee's gaming license in accordance with the Gaming Ordinance. Affected Accountable Employee's shall also be informed of their right to request a hearing before the Gaming Commission, or in the case of Accountable Employees whose licenses have been summarily or temporarily suspended, and the right to request an appeal of the Gaming Commission's decision to the Tribal Court.

10.10. Appeals to Gaming Commission

10.10.1. Action or inaction by Gaming Commission employees or agents is subject to review by the Gaming Commission. A review of Gaming Commission employee or agent action or inaction shall be characterized procedurally as a "Request for Administrative Review of Compliance Issue." An

Accountable Employee that seeks administrative review of a Gaming Commission employee or agent action or inaction shall initiate the process in writing by titling the document "Request for Administrative Review of Compliance Issue," set forth the substance of the action or inaction which is for review, execute the document and deliver the document to the Gaming Commission within ten calendar days of the date of the Gaming Commission employee action or inaction. The Gaming Commission shall review the Request for Administrative Review of Compliance Issue and issue a written ruling in response. The Gaming Commission in its sole discretion may provide the Accountable Employee an opportunity to be heard on the issues involved in the matter.

10.10.2. The Gaming Commission shall render a written decision within twenty-one calendar days of its receipt of the matter for consideration or at the close of the final hearing, if any, on the matter.

10.11. Appeal to Little River Band of Ottawa Indians Tribal Court.

10.11.1. Accountable Employees may seek judicial review in Tribal Court of any decision of the Gaming Commission as provided in the Tribal Gaming Ordinance.

10.11.2. In any instance in which the Gaming Commission has issued a summary or emergency order, including an order temporarily suspending the gaming license of any Accountable Employee, the Accountable Employee shall have the right to file an immediate appeal with the Tribal Court.

10.12. Compliance Audit.

10.12.1. The Gaming Commission shall conduct compliance audits to confirm the representation from the Accountable Employee that a compliance issue is resolved or in the process of resolution within thirty (30) days of receipt of the response to the notice issued by the Gaming Commission.