

BAY MILLS INDIAN COMMUNITY
GAMING COMMISSION RULES

RULE 2: BACKGROUND INVESTIGATIONS

(a) **Criminal History Checks.** All persons seeking employment from an Operator as a key employee, and any person who desires to serve as a primary management official shall be fingerprinted by staff of the Gaming Commission or its designee. The fingerprints shall be immediately transmitted to the National Indian Gaming Commission (NIGC) for the purpose of obtaining the person's criminal history record information (CHRI). Dissemination of information resulting from the CHRI shall be subject to the Memorandum of Understanding with NIGC and the Bay Mills Indian Community.

(b) **Personal History Prohibiting License Issuance.** No license shall be issued by the Commission for any person who:

(1) Has been convicted of or entered a plea of guilty to a gambling-related offense, fraud, or misrepresentation; or

(2) Has been convicted of or entered a plea of guilty or no contest to any other offense (not specified in subsec. (1), above) within the immediately preceding five (5) years, unless such person:

(i) has been pardoned by the Governor of the State in which the conviction occurred, or

(ii) is a member of the Bay Mills Indian Community and has been determined by the Commission to be a person who is not likely to again engage in any offensive or criminal course of conduct and that the public good does not require that the license be denied; or

(3) Has been terminated from employment with the Bay Mills Indian Community for fraud, theft, falsifying information, or embezzlement within the immediately preceding five (5) years, unless such person:

(i) was less than 18 years of age at the time of the termination, and the Executive Council of the Bay Mills Indian Community has authorized a waiver of the licensure prohibition for the conduct causing employment to be terminated, or

(ii) has been the subject of an investigation by the Gaming Commission, which has resulted in an explicit finding that the grounds cited for termination of employment were not supported by clear and convincing evidence of wrong-doing.

(4) As used in subsec. (1), "fraud or misrepresentation" means a criminal offense committed in Michigan or any other jurisdiction which involves theft, fraud or misrepresentation, which is a felony, or would be a felony if committed in Michigan, and which was committed by an adult or prosecuted as an adult offense, and which has not been effectively removed from the person's criminal record by executive pardon, state court order, or operation of law.

(5) As used in subsec. (2), above, "offense" means a crime under the provisions of the Michigan Penal Code, Act. No. 328 of the Public Acts of 1931, as amended, being MCL 750.1 to 750.568, or the controlled substance provisions of the Public Health Code, Act No. 368 of the Public Acts of 1978, as amended, being MCL 333.7101 to 333.7545, or, if committed in another jurisdiction, would be a violation of any of the above provisions of Michigan law, and which was committed by an adult or prosecuted as an adult offense, and which has not been effectively removed from the person's criminal record by executive pardon, state court order, or operation of law.

(c) **Background Investigation.** Upon receipt of an application for employment by a licensed Operator as a key employee or primary management official, the Operator shall immediately transmit the completed application to the Commission for its review. The employment application form shall be the basis for conducting the background investigation required by federal regulation and tribal law, and shall include all information specified in Sec. 6.2 of the Tribe's Gaming Ordinance. Utilization of the employment form(s) approved by the Commission is presumed to comply with this Rule and the Tribal Ordinance.

The Commission shall review the prospective employee's employment history and personal background to determine if the person is eligible for a license. In making such determination, the Commission shall:

(1) verify the accuracy and completeness of the person's employment history and personal background, through the contact by appropriate means of present and former employers, business partners, customers, and such other persons or entities as are appropriate;

(2) ascertain the existence of any adverse action by any gaming licensing authority on a license previously or currently issued to the person;

(3) ascertain the existence of violations of the Tribe's Gaming Ordinance by the prospective employee when previously licensed by the Commission, which resulted in documented disciplinary action by the Operator;

(4) prepare a written report concerning the results of the background investigation, which includes:

(i) steps taken in conducting the background investigation;

(ii) results obtained;

(iii) conclusions reached; and

(iv) basis for those conclusions.

(d) **Status of Person Pending Results of Background and CHRI Investigation; Temporary License.** The Commission may, but is not required, to issue a temporary license under Sec. 6 of the Tribe's Gaming Ordinance, subject to the completion of the Criminal History Record Information and the background investigations. No temporary license shall be issued for a period of more than 90 days.

(e) **Transmittal of Investigation Report to NIGC.** Upon completion of the background investigation, the Commission shall determine whether or not the applicant is suitable for a license. The results of the investigation and the licensing eligibility determination shall be memorialized on a Notification of Results (NOR) form and transmitted to NIGC within 60 days after an employee begins work as a key employee and/or a primary management official.

(1) If, after receipt of the NOR form, NIGC notifies the Commission that it has no objection to the issuance of a key employee or primary management official license, the Commission may proceed to issue a permanent license to the applicant.

(2) If, after receipt of the NOR form, NIGC provides the Commission with a statement itemizing objections to the issuance of a license to a key employee or primary management official, the Commission shall reconsider the application, taking into account the objections itemized by NIGC. The Commission shall make the final decision whether to issue a license to such applicant.

(f) **Investigation of Persons Doing Gaming-Related Business with the Bay Mills Indian Community.** The procedures of this Rule, except subsec. (a), above, shall apply to any person, partnership, association, and stock and non-stock corporation with whom the Tribe is, or is contemplating, engaging in:

- (1) purchasing gaming equipment or supplies;
- (2) management of gaming activities for the Tribe or an Operator licensed by the Commission; or
- (3) provision of funds to the Tribe for its conduct of gaming-related activities.

The applicant for a vendor's license is responsible for payment of any cost incurred by the Commission in carrying out the investigation required by this Rule. All such costs shall be payable, in addition to the license fee established by Game Rule 5, prior to the issuance of a vendor license.

(g) **Background Procedures and Costs for License Applicants Residing Outside the United States.** In addition to the criminal history check procedures of this Rule, any person who has resided in any foreign country within the last 10 years and seeking a gaming license shall obtain a criminal history check by law enforcement officials of each foreign jurisdiction in which the applicant has resided, as specified in this subsection. The costs of such background check will be assessed against the applicant, payable upon such terms as the Commission shall direct. For applicants who have resided in Canada, the following is required:

(1) Submission of a C-Pic form by an applicant is required for issuance by the Commission of:

- (i) A temporary license; and
- (ii) Annual renewal of a gaming license.

(2) Within 30 days of issuance of a temporary license, the Commission must receive written evidence that the applicant has submitted a C-Pic form to the Receiver General of Canada. Failure by the applicant to provide the requisite evidence of form submission shall result in termination of the temporary license.

(3) The Commission may issue a gaming license to any applicant whose license submission does not include the Receiver General's finger-print based criminal history report, provided that the applicant has complied with the documentation requirement of subsec.

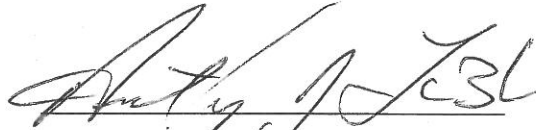
(2), above. Any license issued to such applicant shall be terminated or revoked upon receipt of the Receiver General's report which documents any offense listed in subsec. (b) of this Rule.

(4) If the Receiver General's criminal history report is not received within 180 days of the Commission's issuance of a temporary license, the Commission may terminate or revoke any license issued to the applicant under Section 6.8(A)(1) of the Gaming Ordinance, on the basis that the absence of criminal history information constitutes withholding of pertinent information.

(h) **Fees for Background Investigation.** All persons seeking employment as a key employee or primary management official shall remit a fee in the amount of Forty Dollars (\$40.00) as and for reimbursement to the Commission for the cost of conducting a background investigation. The fee must accompany the application for licensure; no application shall be processed unless or until the fee is paid by the applicant.

CERTIFICATION

This is to certify that the above Gaming Commission Rule No. 2, as amended by revising Sec. (b)(3)(i) and (ii), has been passed and approved at a meeting of the Bay Mills Executive Council held at Bay Mills, Michigan on the 22d day of December, 2014, with a vote of 4 for, 6 opposed, 1 abstaining, and 0 absent. The Tribal President must abstain except in the event of a tie.



Anthony J. LeBlanc, Secretary
Bay Mills Executive Council