

3772-2-01

Organization.

- (A) The Commission consists of seven members appointed by the Governor with the advice and consent of the Senate.
- (B) The officers of the Commission shall include a Chairperson and a Vice-chairperson who shall be members of the Commission, and an Executive Director who shall not be a member of the Commission.
- (1) The Chairperson shall schedule and preside at all meetings of the Commission; shall appoint the members of the Commission to such committees as the Commission may, from time to time, establish; shall have the authority to accept for filing all license applications; shall have the authority to incur on behalf of the Commission such expenses as the Commission shall have approved in its operating budget; shall have general supervision, direction and control of the affairs of the Commission; and shall perform such other duties as are incidental to the office and as may be assigned, from time to time, by the Commission.
- (2) The Vice-chairperson shall be a member of the Commission from a different party than the Chairperson and shall be selected by the Commission members. The Vice-chairperson shall possess such powers and shall perform such duties as may be assigned, from time to time, by the Commission. In the absence or inability of the Chairperson to serve or in the event of a vacancy in the office of Chairperson, the Vice-chairperson shall be empowered to carry out all of the responsibilities of the Chairperson.
- (3) The Executive Director shall be appointed by the Commission and shall serve at its pleasure. The Executive Director shall be responsible for keeping all Commission records and supervising and administering casino gaming in accordance with the Act and enforcing all Commission rules.

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CERTIFIED ELECTRONICALLY

Certification

09/30/2011

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Promulgated Under: 119.03
Statutory Authority: 3772.02, 3772.03(D)(27), 3772.033(M)
Rule Amplifies: 3772.02

3772-2-02

Commission Procedure.

(A) Except as determined by this Chapter, Chapter 3772 of the Ohio Revised Code, or other statute, the Commission shall determine its practices and internal rules of procedure.

(B) In the absence of contrary action by the Commission, the most current version Robert's Rules of Order Newly Revised shall apply unless in conflict with Chapter 3772 of the Ohio Revised Code or this Chapter.

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Rule Amplifies: 3772.02

3772-2-03**Commission Meetings.**

- (A) All meetings of the Commission shall be open meetings under Section 121.22 of the Ohio Revised Code except as otherwise allowed by law.
- (B) Any member of the Commission may place an item on a Commission agenda for consideration by the entire Commission.
- (C) At any meeting of the Commission, the presence of five (5) members of the Commission constitutes a quorum for the transaction of official business.
- (D) Any action of the Commission may be effected only upon a motion which is considered by the Commission and passed with not fewer than four (4) affirmative votes.
- (E) Commission matters that are acted upon during a meeting shall be memorialized in the form of a resolution signed by the Chairperson or placed in the official minutes of the meeting.
- (F) A record of all Commission proceedings shall be kept by the Executive Director, and meeting minutes shall be subject to the approval of the Commission.

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Rule Amplifies: 3772.02

3772-2-04

Requests to Address the Commission.

(A) Unless otherwise authorized by the Executive Director, an individual who wishes to address the Commission at a meeting shall submit a written request to address the Commission to the Executive Director at least five (5) business days before the scheduled meeting.

(B) The written request shall contain, at a minimum, the following information:

(1) The name of the individual who wishes to address the Commission;

(2) The person the individual represents;

(3) The issue about which the individual wishes to address the Commission;

(4) The amount of time the individual requests;

(5) The business address and business telephone number at which the individual may be reached.

(C) The individual requesting an allotment of time shall submit to the Executive Director at least three (3) business days before the Commission meeting any documentation supporting the individual's position and that the individual wants the Commission to review. The Executive Director may require the individual to supplement the written request or to submit additional supporting documentation. The individual submitting any documentation must submit ten (10) copies of the documentation for distribution to the Commission.

(D) The Executive Director may deny any request to address the Commission if the individual fails to comply with subsections (A), (B) or (C) above.

(E) The Commission staff shall notify the individual of the Executive Director's decision regarding the individual's ability to address the Commission.

(F) If the Executive Director denies an individual's request to address the Commission, the Commission staff shall inform the Commission of the request and the denial and may forward any written information submitted by the individual to the Commission.

(G) The Executive Director may waive the time requirements set forth in subsections (A) and (C) if one of the following circumstances exists:

(1) The Executive Director determines that the issue the individual will discuss is of such import that it is in the best interest of the public to waive the time requirements;

(2) The timing of the announcement date of the meeting makes it impossible for the individual requesting the ability to address the Commission to meet the time

requirements.

(H) The Chairperson may impose such procedural and subject matter restrictions as he or she determines appropriate.

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Rule Amplifies: 3772.02

3772-2-05

Delegation of Commission Authority.

- (A) The Commission may, in its discretion and where permitted by law, delegate its authority to perform any of its functions under the Act to the Executive Director or to other employees of the Commission. Except as provided in subsection (D) below, such action shall for all purposes be deemed the final action of the Commission, without approval, ratification or other further action by the Commission.
- (B) Any delegation of Commission authority shall be effected through the adoption of a formal resolution at a public meeting of the Commission. Such resolution shall specify the following, without limitation:
- (1) The specific authority delegated;
 - (2) The employee or employees of the Commission to whom such authority is delegated; and
 - (3) Any limitations or conditions imposed on the authority delegated.
- (C) All delegations of authority made pursuant to this section shall remain in effect indefinitely, unless otherwise specified in the implementing resolution. Any delegation of authority previously approved by the Commission may be revoked or modified by the Commission through the adoption of a subsequent formal resolution.
- (D) Any determination by the Commission's employees pursuant to delegated authority shall be presented for review by the full Commission, upon timely request by any party adversely affected by such determination. Such request shall be in writing, and must be received by the Commission within three days after the date of such determination. Any determination by the Commission's employees pursuant to delegated authority shall be deemed final unless modified or reversed by the Commission.
- (E) Notwithstanding any other provision of this section, any matter which has otherwise been delegated to the Commission's employees may alternatively be presented to and determined by the full Commission on its own motion or at the discretion of the Chairperson, or upon the request of the Commission's employees.

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Statutory Authority: 3772.03(D)(27), 3772.033(M)
Rule Amplifies: 3772.06

3772-2-06**Subpoena Power.**

(A) In the discharge of any duties imposed by Chapter 3772 of the Ohio Revised Code, the Commission may require that testimony be given under oath and administer such oath, issue subpoenas compelling the attendance of witnesses and the production of any papers, books, and accounts, and cause the deposition of any witness.

(B) In the event of the refusal of any person without good cause to comply with the terms of a subpoena issued by the Commission or the refusal to testify on matters about which the person may lawfully be questioned:

(1) The prosecuting attorney of the county in which such person resides, upon the petition of the Commission, may bring a proceeding for contempt against such person in the court of common pleas of that county; and

(2) The Commission may suspend or revoke any license issued pursuant to R.C. Chapter 3772 of the Ohio Revised Code and this Chapter if held by the person refusing to submit to a properly issued subpoena or such person's employer.

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Statutory Authority: 3772.03(D)(27), 3772.033(M)
Rule Amplifies: 3772.03(F), 3772.04

3772-2-07**Ethics and Code of Conduct.**

(A) The Commission shall create, and, as needed, update, a Code of Conduct governing Commission members, the executive director, and Commission employees, as well as those doing or seeking to do business with, interested in matters before, or regulated by the Commission.

(B) Members of the Commission, the executive director of the Commission, and other employees of the Commission must comply with Chapter 102 and Sections 2921.42 and 2921.43 of the Revised Code, as well as any advice provided by the Ohio Ethics Commission and decisions by Ohio courts that interpret these statutes. Further, they shall abide by the Ohio Casino Control Commission Code of Conduct.

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Rule Amplifies: 3772.02, 3772.06

3772-2-08

Definitions.

For the purposes of administrative rules promulgated in accordance with section 1347.15 of the Revised Code, the following definitions apply:

- (A) “Access” as a noun means an instance of copying, viewing, or otherwise perceiving whereas “access” as a verb means to copy, view, or otherwise perceive.
- (B) “Acquisition of a new computer system” means the purchase of a “computer system,” as defined in this rule, that is not a computer system currently in place nor one for which the acquisition process has been initiated as of the effective date of the agency rule addressing requirements in section 1347.15 of the Revised Code.
- (C) “Computer system” means a “system,” as defined by section 1347.01 of the Revised Code, that stores, maintains, or retrieves personal information using electronic data processing equipment.
- (D) “Confidential personal information” (CPI) has the meaning as defined by division (A)(1) of section 1347.15 of the Revised Code and identified by rules promulgated by the agency in accordance with division (B)(3) of section 1347.15 of the Revised Code that reference the federal or state statutes or administrative rules that make personal information maintained by the agency confidential.
- (E) “Employee of the state agency” means each employee of a state agency regardless of whether he/she holds an elected or appointed office or position within the state agency. “Employee of the state agency” is limited to the specific employing state agency.
- (F) “Incidental contact” means contact with the information that is secondary or tangential to the primary purpose of the activity that resulted in the contact.
- (G) “Individual” means a natural person or the natural person’s authorized representative, legal counsel, legal custodian, or legal guardian.
- (H) “Information owner” means the individual appointed in accordance with division (A) of section 1347.05 of the Revised Code to be directly responsible for a system.
- (I) “Person” means a natural person.
- (J) “Personal information” has the same meaning as defined in division (E) of section 1347.01 of the Revised Code.
- (K) “Personal information system” means a “system” that “maintains” “personal information” as those terms are defined in section 1347.01 of the Revised Code. “System” includes manual and computer systems.
- (L) “Research” means a methodical investigation into a subject.

(M) “Routine” means commonplace, regular, habitual, or ordinary.

(N) “Routine information that is maintained for the purpose of internal office administration, the use of which would not adversely affect a person” as that phrase is used in division (F) of section 1347.01 of the Revised Code means personal information relating to employees and maintained by the agency for internal administrative and human resource purposes.

(O) “System” has the same meaning as defined by division (F) of section 1347.01 of the Revised Code.

(P) “Upgrade” means a substantial redesign of an existing computer system for the purpose of providing a substantial amount of new application functionality, or application modifications that would involve substantial administrative or fiscal resources to implement, but would not include maintenance, minor updates and patches, or modifications that entail a limited addition of functionality due to changes in business or legal requirements.

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Rule Amplifies:	1347.15(B)(3)

3772-2-09

Procedures for accessing confidential personal information.

For personal information systems, whether manual or computer systems, that contain confidential personal information, the agency shall do the following:

(A) Criteria for accessing confidential personal information. Personal information systems of the agency are managed on a “need-to-know” basis whereby the information owner determines the level of access required for an employee of the agency to fulfill his/her job duties. The determination of access to confidential personal information shall be approved by the employee’s supervisor and the information owner prior to providing the employee with access to confidential personal information within a personal information system. The agency shall establish procedures for determining a revision to an employee’s access to confidential personal information upon a change to that employee’s job duties including, but not limited to, transfer or termination. Whenever an employee’s job duties no longer require access to confidential personal information in a personal information system, the employee’s access to confidential personal information shall be removed.

(B) Individual’s request for a list of confidential personal information. Upon the signed written request of any individual for a list of confidential personal information about the individual maintained by the agency, the agency shall do all of the following:

(1) Verify the identity of the individual by a method that provides safeguards commensurate with the risk associated with the confidential personal information;

(2) Provide to the individual the list of confidential personal information that does not relate to an investigation about the individual or is otherwise not excluded from the scope of Chapter 1347. of the Revised Code; and

(3) If all information relates to an investigation about that individual, inform the individual that the agency has no confidential personal information about the individual that is responsive to the individual’s request.

(C) Notice of invalid access.

(1) Upon discovery or notification that confidential personal information of a person has been accessed by an employee for an invalid reason, the agency shall notify the person whose information was invalidly accessed as soon as practical and to the extent known at the time. However, the agency shall delay notification for a period of time necessary to ensure that the notification would not delay or impede an investigation or jeopardize homeland or national security. Additionally, the agency may delay the notification consistent with any measures necessary to determine the scope of the invalid access, including which individuals’ confidential personal information

invalidly was accessed, and to restore the reasonable integrity of the system.

“Investigation” as used in this paragraph means the investigation of the circumstances and involvement of an employee surrounding the invalid access of the confidential personal information. Once the agency determines that notification would not delay or impede an investigation, the agency shall disclose the access to confidential personal information made for an invalid reason to the person.

- (2) Notification provided by the agency shall inform the person of the type of confidential personal information accessed and the date(s) of the invalid access.
- (3) Notification may be made by any method reasonably designed to accurately inform the person of the invalid access, including written, electronic, or telephone notice.
- (D) Appointment of a data privacy point of contact. The agency’s executive director shall designate an employee of the agency to serve as the data privacy point of contact. The data privacy point of contact shall work with the chief privacy officer within the office of information technology to assist the agency with both the implementation of privacy protections for the confidential personal information that the agency maintains and compliance with section 1347.15 of the Revised Code and the rules adopted pursuant to the authority provided by that chapter.
- (E) Completion of a privacy impact assessment. The agency’s executive director shall designate an employee of the agency to serve as the data privacy point of contact who shall timely complete the privacy impact assessment form developed by the office of information technology.

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Rule Amplifies:	1347.15(B)

3772-2-10

Valid reasons for accessing confidential personal information.

Pursuant to the requirements of division (B)(2) of section 1347.15 of the Revised Code, this rule contains a list of valid reasons, directly related to the agency's exercise of its powers or duties, for which only employees of the agency may access confidential personal information (CPI) regardless of whether the personal information system is a manual system or computer system:

(A) Performing the following functions constitute valid reasons for authorized employees of the agency to access confidential personal information:

- (1) Responding to a public records request;
- (2) Responding to a request from an individual for the list of CPI the agency maintains on that individual;
- (3) Administering a constitutional provision or duty;
- (4) Administering a statutory provision or duty;
- (5) Administering an administrative rule provision or duty;
- (6) Complying with any state or federal program requirements;
- (7) Processing or payment of claims or otherwise administering a program with individual participants or beneficiaries;
- (8) Auditing purposes;
- (9) Licensure, certification, registration, filing or eligibility processes;
- (10) Investigation or law enforcement purposes;
- (11) Administrative hearings;
- (12) Litigation, complying with an order of the court, or subpoena;
- (13) Human resource matters (e.g., hiring, promotion, demotion, discharge, salary/compensation issues, leave requests/issues, and time card approvals/issues);
- (14) Complying with an executive order or policy;
- (15) Complying with an agency policy or a state administrative policy issued by the department of administrative services, the office of budget and management or other similar state agency;
- (16) Complying with a collective bargaining agreement provision; or

(17) Any other reason the executive director documents is necessary for the agency to carry out its duties to regulate the casino gaming industry.

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Rule Amplifies:	1347.15(B)(3)

3772-2-11**Confidentiality statutes.**

The following federal statutes or regulations or state statutes and administrative rules make personal information maintained by the agency confidential and identify the confidential personal information within the scope of rules promulgated by this agency in accordance with section 1347.15 of the Revised Code:

- (A) Social security numbers: 5 U.S.C. 552a., unless not otherwise designated as confidential information by section 3772.16 of the Revised Code and the individual was told that the number would be disclosed.
- (B) “Bureau of Criminal Investigation and Information” criminal records check results: section 4776.04 of the Revised Code.
- (C) All of the information designated by section 3772.16 of the Revised Code as confidential and not subject to disclosure as a record under section 149.43 of the Revised Code, unless waived by the individual pursuant to section 3772.16 of the Revised Code.

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Statutory Authority:	1347.15
Rule Amplifies:	1347.15(B)(3)

3772-2-12

Restricting and logging access to confidential personal information in computerized personal information systems.

For personal information systems that are computer systems and contain confidential personal information, the agency shall do the following:

(A) Access restrictions. Access to confidential personal information that is kept electronically shall require a password or other authentication measure.

(B) Acquisition of a new computer system. When the agency acquires a new computer system that stores, manages or contains confidential personal information, the agency shall include a mechanism for recording specific access by employees of the agency to confidential personal information in the system.

(C) Upgrading existing computer systems. When the agency modifies an existing computer system that stores, manages or contains confidential personal information, the agency shall make a determination whether the modification constitutes an upgrade. Any upgrades to a computer system shall include a mechanism for recording specific access by employees of the agency to confidential personal information in the system.

(D) Logging requirements regarding confidential personal information in existing computer systems.

(1) The agency shall require employees of the agency who access confidential personal information within computer systems to maintain a log that records that access.

(2) Access to confidential information is not required to be entered into the log under the following circumstances:

(a) The employee of the agency is accessing confidential personal information for official agency purposes, including research, and the access is not specifically directed toward a specifically named individual or a group of specifically named individuals.

(b) The employee of the agency is accessing confidential personal information for routine office procedures and the access is not specifically directed toward a specifically named individual or a group of specifically named individuals.

(c) The employee of the agency comes into incidental contact with confidential personal information and the access of the information is not specifically directed toward a specifically named individual or a group of specifically named individuals.

(d) The employee of the agency accesses confidential personal information about an individual based upon a request made under either of the

following circumstances:

(i) The individual requests confidential personal information about himself/herself.

(ii) The individual makes a request that the agency takes some action on that individual's behalf and accessing the confidential personal information is required in order to consider or process that request.

(3) For purposes of this paragraph, the agency may choose the form or forms of logging, whether in electronic or paper formats.

(E) Log management. The agency shall issue a policy that specifies the following:

(1) Who shall maintain the log;

(2) What information shall be captured in the log;

(3) How the log is to be stored; and

(4) How long information kept in the log is to be retained.

Nothing in this rule limits the agency from requiring logging in any circumstance that it deems necessary.

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Rule Amplifies:	1347.15(B)(4) and (9)