

## **SUBCHAPTER 4. CONFIDENTIAL INFORMATION**

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### **19:40-4.1 Definitions**

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

"Authorized personnel" means any member or employee of the Commission or any employee or agent of the Division.

"Confidential information" means any information or data, furnished to or obtained by the Commission or Division from any source, which is considered confidential pursuant to the provisions of N.J.S.A. 5:1274(d) and (e), or which is otherwise confidential pursuant to applicable statutory provision, judicial decision or rule of court.

"Secure storage facility" means any area, room, furniture, equipment, machinery or other device used by the Commission or Division for the storage of confidential information, access to which is limited to authorized personnel at all times by locks, alarms, codes or other appropriate security precautions.

#### **19:40-4.2 Determination of confidential status**

(a) Except as provided by N.J.S.A. 5:1274(h), all information and data furnished to or obtained by the Commission or Division which relates to the internal controls specified in N.J.S.A. 5:1299(a), or to the earnings or revenue of any applicant, registrant or licensee, or which pertains to an applicant's criminal record, family or background, shall be presumed to be confidential and shall not be released or disclosed to any person except in accordance with the provisions of this subchapter.

(b) Any question concerning whether or not a specific item of information or data within the possession of the Commission or Division is deemed to be confidential information under N.J.S.A. 5:1274(d) and (e), or any other applicable statutory provision, judicial decision or rule of court, shall be submitted to the Commission or its designee for determination or referral to appropriate authorities.

#### **19:40-4.3 Access**

Except as otherwise provided in N.J.A.C. 19:404.4 and N.J.A.C. 19:404.8, access to confidential information within the possession of the Commission or Division shall be restricted to authorized personnel who require such information in the performance of their official duties.

As amended, effective: 09/18/89

#### **19:40-4.4 State Records Storage Center: retention schedule; storage; destruction**

(a) With the approval of the State Records Committee, the Commission and Division shall establish and maintain a records retention schedule for all confidential information within their possession.

(b) Confidential information considered to be inactive by the Commission

or Division but required to be retained pursuant to the provisions of (a) above, may be transferred to the possession of the State Records Storage Center in accordance with N.J.S.A. 47:38.1 et seq., as implemented by N.J.A.C. 6:66, provided that:

1. The Commission is satisfied that access to any confidential information stored with the State Records Storage Center shall be limited to employees of the Center and authorized personnel of the Commission and Division;

2. A log is maintained of all authorized personnel who are granted access to or who remove confidential information stored with the State Records Storage Center, which log shall include the information required by N.J.A.C. 19:404.6(b);

3. Any confidential information transferred to the State Records Storage Center is contained in transfer cartons, sealed and marked in such a manner so as to preclude the undetected examination of the confidential information contained therein by any person other than authorized personnel; and

4. The Commission and Division periodically inspect and review any such stored confidential information to assure that it has not been disclosed or removed in violation of N.J.S.A. 52:13D25, N.J.S.A. 47:329 and the provisions of this subchapter.

(c) Any confidential information in the possession of the Commission, Division or State Records Storage Center shall be promptly destroyed in accordance with the provisions of the applicable records retention schedule required by (a) above.

As amended, effective: 09/18/89

#### **19:40-4.5 Retention in secure storage facilities; access**

(a) Confidential information which is not presently being utilized by

authorized personnel shall be stored in secure storage facilities designated for such purposes by the Commission or Division. No one except authorized personnel may gain access to designated secure storage facilities except in accordance with the provisions of this subchapter.

(b) All Commission and Division offices in which secure storage facilities are located shall be protected from unauthorized intrusion at all times. Proper security precautions during business hours shall include a requirement that all visitors to such offices be required to identify themselves and wear a visitor pass in a conspicuous location. Proper security precautions during nonbusiness hours shall include the use of alarm or security guard systems.

(c) Every secure storage facility shall be placed under the direct supervision and control of an appropriate section or unit supervisor who shall periodically review for their effectiveness all security procedures and precautions pertaining to the confidential information stored therein. Security procedures and precautions that are determined to be ineffective shall be immediately corrected.

(d) Confidential information may be stored in secure storage facilities on micrographics, hard copy (paper), magnetic media or any other suitable medium, provided adequate security measures are maintained to prevent unauthorized access to or use of such information.

1. A coded filing system shall be utilized whenever practicable to prevent unauthorized access to stored confidential information.

2. Access to confidential information stored on computer or magnetic media shall be restricted to authorized personnel who have obtained the required operating key, code manual or access code from the appropriate section or unit supervisor. Operating keys, code manuals and access codes shall be limited in number and shall be controlled by the appropriate section or unit supervisor.

#### **19:40-4.6 Temporary custody by authorized personnel**

(a) Authorized personnel shall not remove confidential information from designated secure storage facilities unless such removal is necessary to the fulfillment of their official Commission or Division duties. Confidential information which is not presently being utilized by authorized personnel shall be promptly returned to its secure storage facility.

(b) A record shall be maintained of all confidential information which is removed from secure storage facilities other than those which utilize computer or magnetic media. This record shall include:

1. The name of the person removing the information;
2. The name of the person for whom the information is being obtained;
3. The date of removal;
4. A description of the information removed or the number of the file which has been removed; and
5. The date the information is returned.

(c) Confidential information shall not be removed from the offices of the Commission or Division without the prior approval of an appropriate section or unit supervisor. Such approval shall only be granted where removal of the confidential information is necessary to the performance of the official duties of authorized personnel.

(d) The integrity of confidential information in the possession of authorized personnel shall be preserved at all times. It shall be the personal responsibility of any individual granted temporary custody of confidential information to insure that the information is not shown, released or disclosed to any unauthorized person or to any otherwise authorized person who does not require such information in the performance of their official duties. Confidential information temporarily stored outside designated secure storage facilities shall be maintained in a locked desk or filing cabinet, or protected by other appropriate security precautions.

#### **19:40-4.7 Copies**

A hard copy of confidential information stored on computer or magnetic media, or any other copy of confidential information within the possession of the Commission or Division, shall only be made where absolutely necessary to the administration of the Act, or where an authorized release of the confidential information is made pursuant to the provisions of N.J.A.C. 19:40-4.8.

As amended, effective: 09/18/89

#### **19:40-4.8 Release; notice**

(a) Confidential information within the possession of the Commission or Division shall not be released or disclosed in whole or in part to any person, except:

1. In the course of the necessary administration of the act; or
2. Upon lawful order of a court of competent jurisdiction; or
3. With the approval of the Attorney General, to a duly authorized law enforcement agency; or
4. Upon presentation of proper identification, to the applicant, registrant or licensee who furnished the confidential information to the Commission or Division; or
5. Upon presentation of a duly executed and notarized release authorization by the applicant, registrant, or licensee who furnished the confidential information, to any person making a written request for specifically identified confidential information.

(b) If confidential information is released or otherwise disclosed to any person under any circumstances other than those identified in (a)3 through (5) above, written notice of such release or disclosure shall be given to any applicant, registrant or licensee affected, unless notice would otherwise imperil

the integrity of casino operations in this State. To the extent known, the notice shall include:

1. The name and address of the person to whom the information was released or disclosed;
2. A description of the information released or disclosed; and
3. The date of the release or disclosure.

(c) Whenever possible, any such notice of confidential information to be released or disclosed shall be given prior to the release or disclosure.

#### **19:40-4.9 Penalties**

(a) Any direct or indirect willful disclosure of confidential information by authorized personnel of the Commission under circumstances other than those identified in N.J.A.C. 19:404.8 shall be a violation of the Commission's Code of Ethics and shall subject such person to the penalties provided by N.J.S.A. 52:13D23(d). Such violations shall be heard by the Executive Commission on Ethical Standards in accordance with N.J.S.A. 52:13D-21(h).

(b) The unauthorized release or disclosure of confidential information may also be a violation of N.J.S.A. 52:13D25 or N.J.S.A. 47:329.

(c) Any violation of the provisions of this subchapter by authorized personnel may result in appropriate disciplinary action by the Commission or Division.

As amended, effective: 09/18/89