



State Bar of Nevada Gaming Law Section

# PRO BONO Gaming Employee REGISTRATION PROGRAM

# Frequently Asked Questions

## **Who decides what individuals qualify for this pro bono program?**

Each legal aid agency has its own defined parameters for what constitutes “indigent status.” The legal aid agency making the case assignment will make the evaluation on whether the individual meets its criteria as indigent.

## **How much time is involved in handling an assigned case?**

Typically, most clients just need to meet with a lawyer to understand the process. Thus, many cases are resolved after the initial meeting and only involve 1-3 hours.

## **If I have to appear with the client/applicant before the Board’s Hearing Examiner and/or Commission what is my involvement?**

You will want to (1) introduce yourself and your client, (2) state clearly on the record that you are representing the applicant pursuant to a case assignment from [name of legal aid agency, such as Legal Aid Center of Southern Nevada, Washoe County Legal Services, etc.], (3) summarize the matter before the Hearing Examiner or Commission, (4) have the applicant make a short statement for the record or provide testimony through questions, and (5) make a recommendation for resolution (i.e., overturn the objection, overturn the objection for some limited period with or without conditions).

**Contact the Gaming Law Section's Executive Committee to be placed on the list of gaming lawyers willing to accept pro bono cases assigned by a legal aid agency in the state.** Upon being assigned a case, check to make sure you have no conflicts in undertaking such representation. Thereafter, you will work with a representative of the legal aid agency making the assignment.

Thoroughly review the case summary and related materials provided to you by the legal aid agency.

You will arrange to meet with your client/applicant at the legal aid agency or your office. You should be prepared to discuss with the client the reason for the Board's objection, the applicable law and procedures (including statutory deadlines), likelihood of being successful in overturning the objection, as well as answering any questions your client may have.

Upon completion of the initial meeting, your client may decide to discontinue his or her appeal. If so, you may need to draft a letter for your client's signature to be sent to the Board asking that the appeal be withdrawn without prejudice to the client/applicant's ability to refile at some later date without incurring the one-year or five-year prohibition on refiling under Nevada Gaming Commission Regulation 5.109.

If your client wants to proceed forward with their appeal, be prepared to assist with the next step. This may involve (1) drafting a letter to the Board per NRS 463.335(11) requesting that the matter be heard by the Hearing Examiner and providing guidance at such hearing, and/or (2) if your client is unsuccessful before the Hearing Examiner and Board, then drafting a letter seeking to appeal the matter to the Nevada Gaming Commission (Commission) pursuant to NRS 463.335(13) and attending the hearing to assist the client in his or her presentation.

Upon completion of your representation, return any files to the legal aid agency representative and provide that person with the total hours you incurred during the representation of your client.

Students at the UNLV William S. Boyd School of Law are available to assist with your case. This provides a great opportunity for the students to be exposed to gaming law practice and pro bono opportunities therein. If you would like student assistance, please contact Jennifer Roberts, Adjunct Professor at the Boyd School of Law, at 702-236-8110 or [jennifer.roberts@unlv.edu](mailto:jennifer.roberts@unlv.edu).

## Factors to Consider in Case Evaluation

It is important to objectively assess a client's chances of success, as an unsuccessful appeal of the Board's objection will delay the time when the client can next seek reinstatement of his/her employee registration—first for 1 year beyond the final determination and then for 5 years. See Nev. Gaming Comm'n Reg. 5.109 (1) and (5). If a petition for reconsideration of the objection has already been filed, it may be withdrawn to start the time running and avoid an adverse result. See Nev. Gaming Comm'n Reg. 5.109 (7). Some factors to consider in assessing the client's likelihood of success include:

- **How long ago did the offense occur?** Recent offenses are more likely to result in denial of the petition, as the Board likes to see some period of time without similar offenses to convince it that the client has been rehabilitated.
- **Was the offense related to gaming or a gaming establishment?** Cheating or abuse of the trust given to a gaming employee by a former employer is likely to be viewed very seriously.
- **Does the client have more than one offense?** The more offenses the client has committed, the more difficult the case will be, unless there is a significant period that has elapsed since the last offense.
  - **If so, is there a reason for the client having multiple offenses, such as a problem with drugs or alcohol?**
    - **If so, has the client sought treatment for the drug/alcohol or other issues?** If the client blames drugs, alcohol or similar causes for the offenses, the Board will look for evidence of successfully completing treatment and will likely condition any registration to require random drug/alcohol testing.
- **Have any new issues arisen since the offense that gave rise to the objection?** A subsequent offense is likely to doom a petition, unless the later offense was very minor and not gaming related.
- **Was the charge that gave rise to the objection dismissed?** Dismissal of the charge creates a stronger case but does not necessarily result in success. This is an administrative process and not a criminal process.
  - **If so, did the dismissal result from evidence that the client did not commit the offense, or merely prosecutorial discretion, plea agreement, diversion program or other similar cause?** If there was a diversion program or similar conditions, did the client complete the program or fulfill the conditions successfully?
- **Is the client on parole or probation?** The Board will not grant employee registration to a person on parole or probation.
- **Is the client genuinely remorseful for committing the offense and committed to avoiding future transgressions?** The Board is trying to determine the risk to the industry if the client is granted an employee registration. If the Board is convinced that the offense was truly an aberration and will not be repeated, the chances of success increase.

**T**hank you for providing your time and knowledge to assist your client/applicant in exercising his or her rights under NRS 463.335(11) or (13) to appeal the Nevada Gaming Control Board's (Board) objection to their registration as a gaming employee (as defined by NRS 463.0157). Your legal service is invaluable in aiding individuals to formally and informally access justice and legal remedies.

Special thank you to the following individuals who helped design and implement this program: the late Melanie Kushnir, Pro Bono Project Director for the Legal Aid Center of Southern Nevada; Terry Johnson, Board Member, Nevada Gaming Control Board; Shawn Reid, Board Member, Nevada Gaming Control Board; and Scott Scherer, Executive Committee Member of the Gaming Law Section and a Partner at Holland & Hart, LLP.



# CONTACT NUMBERS:

Nevada Gaming Control Board,  
Office of the Hearing Examiner  
(775) 684-7705

## LEGAL AID AGENCIES:

— Northern Nevada —

Nevada Legal Services (Northern Nevada)  
(775) 284-3491, ext. 210

Washoe County Legal Service  
(775) 329-2727

— Southern Nevada —

Legal Aid Center of Southern Nevada  
(702) 386-1070

Nevada Legal Services (Southern Nevada)  
(702) 386-0404, ext. 129

— Rural Nevada —

Volunteer Attorneys for Rural Nevadans (VARN)  
(775) 883-8278 or (866) 448-8276

Nevada Legal Services  
(775) 753-5880



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