



Mille Lacs Band of Ojibwe Indians
Gaming Regulatory Authority
Detailed Gaming Regulations

DATA PRIVACY

Document No. DGR – 5

Effective: November 10, 2005

I. INTRODUCTION.

Scope. This section regulates the collection, creation, storage, maintenance, dissemination, and access to Authority Data. It establishes a presumption that Authority Data are public and are accessible by the public for both inspection and copying unless there is federal law, a provision of the Tribal-State Compact, Band statute, order or regulation, or a temporary classification of data that provides that certain data are not public.

II. ACCESS TO AUTHORITY DATA.

Section 1. Public Data. All Authority Data shall be public unless classified by Band statute, regulation or order, or temporary classification pursuant to section V, or federal law, as Confidential Data. The Designee shall keep records containing Authority Data in such an arrangement and condition as to make them easily accessible for convenient use. Photographic, photo-static, micro-photographic, or microfilmed records shall be considered accessible for convenient use regardless of the size of such records.

Section 2. Request for Access to Public Data.

- A. Upon request to the Designee, a Person shall be permitted to inspect and copy public Authority Data at reasonable times and places, and, upon request, shall be informed of the data's meaning. If a Person requests access for the purpose of inspection, the Designee may not assess a charge or require the requesting person to pay a fee to inspect data.
- B. For purposes of this section, "inspection" includes, but is not limited to, the visual inspection of paper and similar types of Authority Data. Inspection does not include printing copies by the Designee, unless printing a copy is the only method to provide for inspection of the data.
- C. The Designee shall provide copies of public Authority Data upon request. If a Person requests copies of the data, the Designee may require the requesting Person to pay the actual costs of searching for and retrieving Authority Data, including the cost of employee time, and for making, certifying and compiling, but may not charge for separating public from not public data. If the Designee is not able to provide copies at the time a request is made, copies shall be supplied as soon as reasonably possible.
- D. A Designee that maintains public Authority Data in a computer storage medium shall provide to any Person making a request under this section a copy of any public data contained in that medium, in electronic form, if the Designee can reasonably make the copy or have a copy made. This does not require the Designee to provide the data in an electronic format or program that is different from the format or program in which the data are maintained by the Authority. The Designee may require the requesting Person to pay the actual cost of providing the copy.
- E. If the Designee determines that the requested data is classified so as to deny the requesting Person access, the Designee shall inform the requesting Person of the determination either orally at the time of the request, or in writing as soon after that time as possible, and shall cite the specific Band statute, regulation or order, temporary classification, or specific provision of federal law on which the determination is based. Upon the request of any Person denied access to data, the Designee shall certify in writing that the request has been denied and cite the specific Band statute, regulation or order, temporary classification, or specific provision of federal law upon which the denial was based.

Section 3. Change in Classification of Data; Effect of Dissemination Among Agencies.



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- A. The classification of data in the possession of the Authority shall change if it is required to do so to comply with either judicial or administrative rules pertaining to the conduct of legal actions or with a specific Band statute, regulation or order applicable to the data in its possession.
 - B. To the extent that Authority Data is disseminated to state or federal agencies pursuant to the Compact or federal law, the data disseminated shall have the same classification in the hands of the agency receiving it as it had in the hands of the Authority.
 - C. If the Authority disseminates data to state or federal agencies, a classification provided for by law in the hands of the entity receiving the data does not affect the classification of the data in the hands of the Authority.

III. RIGHTS OF SUBJECTS OF DATA.

Section 1. Access to Data by Individual. Upon request to a Designee, an individual shall be informed whether the individual is the subject of Authority Data, and whether it is classified as public, Confidential Data, Confidential Limited Availability Data or Confidential Restricted Availability Data. Upon further request, an individual who is the subject of Confidential Limited Availability Data or public data shall be shown the data without any charge and, if desired, shall be informed of the content and meaning of that data. After an individual has been shown the Confidential Limited Availability Data and informed of its meaning, the data need not be disclosed to that individual for six months thereafter unless a dispute or action is pending or additional data on the individual has been collected or created. The Designee shall provide copies of the Confidential Limited Availability Data upon request by the individual subject of the data. The Designee may require the requesting person to pay the actual costs of making, certifying, and compiling the copies. The Designee shall comply immediately, if possible, with any request made pursuant to this subdivision, or within ten (10) days of the date of the request, excluding Saturdays, Sundays and legal holidays, if immediate compliance is not possible.

Section 2. Procedure When Data is Not Accurate or Complete.

- A. An individual subject of the data may contest the accuracy or completeness of public or Confidential Limited Availability Data. To exercise this right, an individual shall notify in writing the Director describing the nature of the disagreement. The Director shall investigate the allegations and issue a Compliance Recommendation within five days of assembling all information relevant to the dispute. The Authority shall hold a Determination/Appeal hearing within ten (10) days and either:
 - 1. Correct the data found to be inaccurate or incomplete and attempt to notify past recipients of inaccurate or incomplete data, including recipients named by the individual; or
 - 2. Notify the individual that the Authority believes the data to be correct. Data in dispute shall be disclosed only if the individual's statement of disagreement is included with the disclosed data.

The determination by the Authority shall take the form of a Compliance Determination, and may be appealed to the Court of Central Jurisdiction pursuant to the Appeal Policies found in these Detailed Gaming Regulations. See DGR 2.

- B. Data on individuals that has been successfully challenged by an individual must be completed, corrected, or destroyed. After completing, correcting, or destroying successfully



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challenged data, the Authority may retain a summary of the dispute between the parties that does not contain any particulars of the successfully challenged data.

IV. DUTIES OF RESPONSIBLE AUTHORITY.

Section 1. Limitation. Collection and storage of all data on individuals and the use and dissemination of Confidential Data on individuals shall be limited to that necessary for the administration and management of programs specifically authorized by the Authority.

Section 2. Authorization. Confidential Data may be used and disseminated to individuals or agencies specifically authorized access to that data by Band statute, regulation or order, the Compact, state statute or federal law.

Section 3. Use and Dissemination. Confidential Data may be used by and disseminated to any person or agency if the individual subject or subjects of the data have given their informed consent. The format for informed consent is as follows, (unless otherwise prescribed by the HIPAA, Standards for Privacy of Individually Identifiable Health Information, Code of Federal Regulations, Title 45, Section 164): informed consent shall not be deemed to have been given by an individual subject of the data by the signing of any statement authorizing any person or agency to disclose information about the individual to an insurer or its authorized representative, unless the statement is:

- A. In plain language;
- B. Dated;
- C. Specific in designating the particular persons or agencies the data subject is authorizing to disclose information about the data subject;
- D. Specific as to the nature of the information the subject is authorizing to be disclosed;
- E. Specific as to the persons or agencies to whom the subject is authorizing information to be disclosed;
- F. Specific as to the purpose or purposes for which the information may be used by any of the parties named in DGR 5 Section 3 (E), both at the time of the disclosure and at any time in the future;
- G. Specific as to its expiration date which should be within a reasonable period of time, not to exceed one year.

The Designee may require a person requesting copies of data under this paragraph to pay the actual costs of making, certifying, and compiling the copies.

Section 4. Preparation of Summary Data. The use of summary data derived from Confidential Data is permitted. Unless classified pursuant to Band statute, regulation, order, or federal law, summary data is public. The Designee shall prepare summary data from Confidential Data upon the request of any person if the request is in writing and the cost of preparing the summary data is borne by the requesting person. The responsible authority may delegate the power to prepare summary data:

- A. To the administrative officer responsible for any central repository of summary data; or
- B. To a person outside of its agency if the person's purpose is set forth, in writing, and the person agrees not to disclose, and the agency reasonably determines that the access will not compromise private or confidential data on individuals.

Section 5. Intergovernmental Access of Data. The Authority shall allow other responsible agencies of Mille Lacs Band Government access to data classified as Confidential Data when the access is



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authorized or required by Band statute, regulation or order, the Compact, state statute or federal law. The Authority may require the requesting agency to pay the actual cost of supplying the data.

V. TEMPORARY CLASSIFICATION.

Section 1. Application for Temporary Classification. The Authority may classify Authority Data as Confidential Data temporarily where no Band statute, regulation or order, or federal law currently exists which either allows or forbids classification as Confidential Data; and either

- A. That data similar to that for which the temporary classification is sought has been treated as either private or confidential by the Corporate Commission or other agencies of Mille Lacs Band Government or by the federal government; or
- B. That a compelling need exists for immediate temporary classification, which if not granted could adversely affect the public interest or the health, safety, or well being of the subject of the data.

Section 2. Determination. If the Authority classifies certain Authority Data as Confidential Data under this section, that classification shall become effective immediately.

No later than July 1 of each year the Authority shall submit all temporary classifications then in effect to the Corporate Commissioner for review. The Corporate Commissioner may comment on the classification and the Authority shall consider the comments of the Corporate Commissioner in reaching its decision. If the Corporate Commissioner fails to act by July 1 of the year following the submission of a temporary classification hereunder, then the classification shall thereupon expire.

VI. GENERAL NONPUBLIC DATA.

Section 1. Confidential Limited Availability Data. The following Authority Data is classified as Confidential Limited Availability Data:

- A. Applicant Data as described in DGR 5 Part IX Section 2.
- B. Compliance Recommendations and the record upon which the Compliance Recommendation is based, except to the extent the GRA Board (or Hearing Examiner) adopts a Compliance Recommendation or accepts the record developed by the Director in its Compliance Determination, which information so accepted or relied upon shall be public.
- C. Exclusion Lists, except that an individual identified on the Exclusion List is entitled only to verification that his or her name is on the list, and not to a copy of the entire Exclusion List.
- D. Licensing Data, except as otherwise classified in DGR 5 Part VIII.
- E. Personnel Data, except as otherwise classified in DGR 5 Part IX.

Section 2. Confidential Restricted Availability Data. The following Authority Data is classified as Confidential Restricted Availability Data:

- A. Financial Information on a Gaming Enterprise.
- B. Information on a Pending Compliance Recommendation.
- C. Information on a Pending License Application.
- D. Licensing Data as described in DGR 5 Part VIII Section 3.
- E. Security Information.
- F. Trade Secret Information.



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VII. INTERNAL AUDITING DATA. Data, notes, and preliminary drafts of reports created, collected, and maintained by the Band or persons performing audits for the Band, and relating to an audit or investigation are Confidential Data until the final report has been published or the audit or investigation is no longer being pursued actively.

VIII. LICENSING DATA.

Section 1. Public Data. The following licensing data collected, created or maintained by the Authority are classified as Public Data: All Compliance Determinations made by the Authority (or a Hearing Examiner, if applicable), and any other information not classified as nonpublic data pursuant to the Gaming Regulatory Act and the Detailed Gaming Regulations promulgated thereunder.

Section 2. Confidential Limited Availability Data. The following licensing data collected, created or maintained by the Authority are classified as Confidential Limited Availability Data: All data required by 15 MLBSA § 307(c) and any Detailed Gaming Regulations promulgated thereunder.

Section 3. Confidential Restricted Availability Data. The following licensing data collected, created or maintained by the Authority are classified as Confidential Restricted Availability Data: the identity of each person interviewed in the course of conducting a License Investigation under 15 MLBSA § 307(h); the identity of complainants who have made reports concerning licensees or applicants which appear in inactive complaint data unless the complainant consents to the disclosure; the nature or content of unsubstantiated complaints when the information is not maintained in anticipation of legal action.

Section 4. Releasing Data. The Authority may make any data classified as Confidential Limited Availability Data or Confidential Restricted Availability Data pursuant to this section accessible to an appropriate person or agency if the Authority determines that failure to make the data accessible is likely to create a clear and present danger to public health or safety.

IX. PERSONNEL DATA.

Section 1. Public Data.

- A. The following Personnel Data on current and former employees, volunteers, and independent contractors of the Authority or the OGR&C is public:
1. Name; employee identification number, which must not be the employee's social security number; salary range; contract fees; actual gross pension; the value and nature of employer paid fringe benefits; and the basis for and the amount of any added remuneration, including expense reimbursement, in addition to salary;
 2. Job title; job description; education and training background; and previous work experience;
 3. Date of first and last employment;
 4. The final disposition of any disciplinary action together with the specific reasons for the action and data documenting the basis of the action, excluding data that would identify confidential sources who are employees of the Authority or OGR&C; and
 5. Work location; a work telephone number; badge number; and honors and awards received.



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- B. For purposes of this subdivision, a final disposition occurs when the Authority or OGR&C makes its final decision about the disciplinary action, regardless of the possibility of any later proceedings or court proceedings.
 - C. The Authority or OGR&C may display a photograph of a current or former employee to a prospective witness as part of the Authority's or OGR&C's investigation of any complaint or charge against the employee.

Section 2. Other Data. All other Personnel Data including Applicant data is Confidential Limited Availability Data. Applicant Data includes, but is not limited to:

- A. All data required by 15 MLBSA § 307(c);
- B. Any Detailed Gaming Regulations promulgated thereunder;
- C. Personal and Uniform History Statement; and
- D. Hiring of Felon's Policy.

History. Approved by Band Assembly on November 10, 2005.

Change to I: Introduction, Format change, removed "Section 1" - no need for it. Section 2 removed and placed into DGR 1: Definitions; Change to II, Section 1: Removed "photostatic" and replaced with "photo-static"; Removed "microphotographic" and replaced with "micro-photographic"; Change to II, Section 2: Removed the word "Initial". ; Change to V, Section 2: Removed A for formatting reasons.; Change to VIII, Section 1: Removed the word "Initial"; Change to VIII, Section 2: Removed the word "Initial"; Change to IX, Section 2, B: Removed the word "Initial" approved by the Gaming Regulatory Authority on April 8, 2011. **Effective date of changes April 8, 2011.**