



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

**Gaming Regulatory Authority
Employee Appeals Procedure**

Document No. DGR - 19

Effective: June 07, 2013

Pursuant to 15 MLBSA § 305(a)(15), the GRA Board hereby promulgates the Employee Appeals Procedure for GRA employees:

I. Definitions: The following definitions shall apply to the provisions of this Procedure.

- A. Adverse Employment Action means the denial of the Grievant's application for employment or a significant unfavorable alteration in the terms and conditions of the Grievant's employment with the GRA for which the Grievant received a formal written notice from the respective Director including such actions as the following: a) involuntary termination of employment; b) denial of a promotion; c) a demotion; d) disciplinary action resulting in a loss of pay and/or benefits; and/or e) a reduction in hours of work or in total compensation. Extending an employee's introductory (probationary) period shall not constitute an Adverse Employment Action.
- B. Band Elected Officials means the Chief Executive, the Secretary Treasurer, and the District Representatives of the Mille Lacs Band of Ojibwe.
- C. Grievant means the individual who is the subject of the Adverse Employment Action.
- D. The Director means the Director of the relevant department within the GRA.
- E. Parties means the Grievant who requested the hearing and the Director upon whose Adverse Employment Action the hearing is predicated.

II. Initiation of Hearing.

- A. Notice of Adverse Employment Action. A Grievant against whom Adverse Employment Action has been taken shall have ten (10) business days from the receipt

of the notice of the Adverse Employment Action within which to request the hearing.

B. Request for Hearing.

The Grievant shall have no more than ten (10) business days following notice of the Adverse Employment Action to file a written request for a hearing. Such request shall be deemed to have been made when delivered personally to the Administrative Assistant of the OGR&C or when sent by certified mail to the GRA Board, c/o Administrative Assistant, 700 Grand Avenue, Onamia, Minnesota 56359, properly addressed and postage prepaid. The request for hearing shall contain a concise statement of the Grievant's grounds for contesting the Adverse Employment Action, and a list of witnesses, if any, expected to testify on behalf of the Grievant.

C. Waiver by Failure to Request a Hearing.

A Grievant who fails to request a hearing within the time and in the manner specified in Part II (B) waives any right to such hearing to which he might otherwise have been entitled.¹ Such waiver shall constitute acceptance of the Adverse Employment Action of the Director, which shall thereupon become effective as the final decision of the GRA Board.

III. Hearing Prerequisites.

A. Notice of Time and Place of Hearing.

Upon receipt of a timely request for hearing, the GRA Board shall, as applicable, schedule and arrange for a hearing. At least seven (7) business days prior to the hearing, the GRA Board shall send the Grievant

¹ Gender References. All references to the Grievant in this Procedure designate both sexes, and whenever the male or female gender is used, such term shall be construed to include both male and female gender.



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special notice of the time, place and date of the hearing. The hearing date shall be not less than fifteen (15) business days from the date of receipt of request for hearing unless by mutual agreement of the Grievant and the GRA Board. The hearing date shall not be more than thirty (30) business days from the date of receipt of the request for the hearing unless the Presiding Officer determines otherwise.

B. Hearing Examiner.

At its option, the GRA Board may appoint a Hearing Examiner to conduct a hearing. A Hearing Examiner shall be an attorney at law and must be experienced in conducting hearings. He shall act in an impartial manner as the presiding officer of the hearing. If requested by the GRA Board, he may participate in its deliberations and act as its legal advisor.

C. Hearing Procedure.

1. Personal Presence. The personal presence of the Grievant who requested the hearing shall be required. A Grievant who fails without good cause to appear and proceed at such hearing shall be deemed to have waived his rights to a hearing.
2. Presiding Officer. Either the Chair of the GRA Board or the Hearing Examiner, if one is appointed by the GRA Board, shall be the Presiding Officer. The Presiding Officer shall act to maintain decorum and to assure that all participants in the hearing have a reasonable opportunity to present relevant oral and documentary evidence. He shall be entitled to determine the order of procedure during the hearing and shall make all rulings on matters of

law, procedure and the admissibility of evidence.

3. Representation. The Grievant who requested the hearing and the Director shall each be entitled to be represented at the hearing by an attorney or other representative of their choosing. In the discretion of the GRA Board, the GRA Board's retained counsel may represent the Director.
4. Rights of the Parties. During a hearing, each of the parties shall have the right to:
 - a. call and examine witnesses;
 - b. introduce exhibits and present relevant evidence;
 - c. cross-examine any witness on any matter relevant to the issues;
 - d. impeach any witness;
 - e. rebut any evidence;
 - f. request that the record of the hearing be made by use of a court reporter or an electronic recording unit; and/or
 - g. submit a written statement at the close of the hearing.

If the Grievant who requested the hearing does not testify in his own behalf, he may be called and examined as if under cross examination.

- D. Attorneys. If the Grievant desires to be represented by an attorney at a hearing, his request for such hearing must so state. The Grievant shall include the name, address and telephone number of the attorney in his request. The Director may also be allowed representation by an attorney upon providing notice to that effect to the Grievant prior to the scheduled hearing. The foregoing shall not be deemed to limit the GRA Board in the use of legal counsel in connection with preparation for a hearing.



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When legal counsel attend and participate in proceedings, it is with the understanding that they recognize the proceedings are not a judicial forum, but a forum for evaluation of an Adverse Employment Action.

Accordingly, the GRA Board retains the right to limit the role of legal counsel as participants in the proceedings.

- E. Waiver. If at any time after receipt of notice of an Adverse Employment Action the Grievant fails to make a required request or appearance or otherwise fails to comply with this Process, he shall be deemed to have consented to such Adverse Employment Action and to have voluntarily waived all rights to which he might otherwise have been entitled under this Procedure with respect to the matter involved.
- F. Number of Reviews. Notwithstanding any other provision of this Procedure, no Grievant shall be entitled as a right to more than one (1) evidentiary hearing with respect to an Adverse Employment Action.
- G. Ex parte Communication Prohibited. From the time of the receipt of the notice of Adverse Employment Action through the issuance of the decision of the GRA Board, the parties and their representatives, if any, shall not, except in the course of official proceedings, communicate with or cause another to communicate with any member of the GRA Board concerning the subject of the hearing.
- H. Evidence. The hearing shall not be conducted strictly according to the rules of law relating to the examination of witnesses or presentation of evidence. Any relevant evidence shall be admitted if, in the judgment of the Presiding Officer, it is the sort of evidence upon which responsible persons customarily rely in the conduct of

serious affairs, regardless of the admissibility of such evidence in a court of law. Each party shall serve the other party, personally or via certified mail, copies of any evidence it will seek to submit and/or a list of any witnesses it will call at the hearing. Such documents shall be personally delivered or postmarked at least five (5) business days prior to the hearing.

- I. Written Statements. Each party shall, prior to or during the hearing, be entitled to submit memoranda concerning any issue of law or fact, and such memoranda shall become a part of the hearing record. The GRA Board may require one or both parties to prepare and submit to the GRA Board, written statements of their position on the issues, prior to, during, or after the hearing.
- J. Hearing Procedure. The Director whose decision resulted in the Adverse Employment Action shall present evidence and/or witness testimony supporting his decision. The Grievant shall have the opportunity to cross-examine the Director's witnesses and refute evidence presented. Following the Director's presentation, the Grievant shall present evidence and/or witness testimony contesting the Director's decision. The Director shall have the opportunity to cross-examine the Grievant's witnesses and refute evidence presented. The Presiding Officer and the GRA Board may ask questions of any party or witness at any time.
- K. Oaths. The Presiding Officer may, but shall not be required to, order that oral evidence be taken only on oath or affirmation by any person designated by him and entitled to notarize documents.
- L. Judicial Notice. In reaching a decision, the GRA Board may take note, for evidentiary



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purposes, either before or after submission of the matter for decision, any generally accepted technical or scientific matter relating to the issues under consideration and of any facts that may be judicially noticed. Parties present at the hearing shall be informed of the matters to be noticed and those matters shall be recited in the hearing record. Any party shall be given opportunity, on timely request, to request that a matter be evidentially noticed and to refute the evidentially noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the GRA Board.

- M. **Burden of Proof.** The Director whose decision resulted in the Adverse Employment Action shall have the burden of proving, by a preponderance of the evidence, that the Adverse Employment Action is supported by facts and that the conclusions drawn therefrom are fair and reasonable.
- N. **Record of Hearing.** The GRA Board shall select the method to be used for making the record, such as court reporter, electronic recording unit, detailed transcription, video tape, or minutes of the proceedings. Each party shall bear his own costs of obtaining a copy of the transcript.
- O. **Postponement.** Requests for postponement of a hearing shall be granted by the GRA Board only upon a showing of good cause. The hearing shall be postponed no more than two times at the request of the Grievant.
- P. **Recesses and Adjournment.** The GRA Board may recess the hearing and reconvene the same without additional notice for the convenience of the participants or for the purpose of obtaining new or additional

evidence or consultation. Upon conclusion of the presentation of oral and written evidence, the hearing shall be closed. The GRA Board shall thereupon, at a time convenient to itself, conduct its deliberations outside the presence of the parties. Upon the conclusion of its deliberations, the hearing shall be declared finally adjourned.

- Q. **GRA Board Decision.** Within five (5) business days after final adjournment of the hearing, the GRA Board shall issue its findings and decision in the matter and shall forward the same to the parties. The finding and decision of the GRA Board shall be final, binding upon the parties and unappealable.

History. Approved by of Band Assembly on June 29, 2005. Changes Approved by GRA Board on June 07, 2013.

Changes to formatting where applicable.; Remove “Executive” from the front of Director where applicable.; Change to introductory paragraph: replaced “Gaming Regulatory Authority” with “GRA”; Change to Introductory paragraph: deleted “OGR&C and Surveillance”; Change to Introductory paragraph: added “for GRA employees” after Procedure; Change to Part I A: deleted “Office of Gaming Regulation and Compliance or Surveillance”; Change to Part I A: added “the GRA” after employment with; Change to Part I A: added “Extending an employee’s introductory (probationary) period shall not constitute an Adverse Employment Action.” at end of Section A.; Change to Part I D: deleted “Office of Gaming Regulation and Compliance (“OGR&C”) or the Executive Director of Surveillance.”; Change to Part I D: added “relevant department within the GRA” after means the; Change to Part II B: deleted “to a member of the GRA Board in person”; Change to Part II B: added “personally to the Administrative Assistant of the OGR&C” after delivered; Change to Part II C: replaced “Section” with “Part” after specified in; Change to Part III B: replaced “but” with “and” after at law; Change to Part III B: deleted “In the sole discretion of the GRA Board, it may delegate to the Hearing Examiner all of its authority and responsibility to conduct the hearing and to make a final and binding decision in the matter.”; Change to Part III H: added “Each party shall serve the other party,



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personally or via registered mail, copies of any evidence it will seek to submit and/or a list of any witnesses it will call at the hearing. Such documents shall be personally delivered or postmarked at least five (5) days prior to the hearing” at the end of section.; Change to Part III I: deleted “GRA Board may establish rules of procedure including, but not limited to, requiring the submission prior to the hearing of lists of proposed witnesses and exhibits within 30 days of adoption of this Procedure.”; Change to Part III I: added: “Director whose decision resulted in the Adverse Employment Action shall present evidence and/or witness

testimony supporting his decision. The Grievant shall have the opportunity to cross-examine the Director’s witnesses and refute evidence presented. Following the Director’s presentation, the Grievant shall present evidence and/or witness testimony contesting the Director’s decision. The Director shall have the opportunity to cross-examine the Grievant’s witnesses and refute evidence presented. The Presiding Officer and the GRA Board may ask questions of any party or witness at any time.”; Change to Part III Q: replaced “three (3)” with “five (5)” after within