

TITLE 65 STATE LOTTERY COMMISSION

ARTICLE 1. THE COMMISSION

Rule 1. General Provisions

65 IAC 1-1-1 Definitions

Authority: IC 4-30-3-7; IC 4-30-3-9

Affected: IC 4-30

Sec. 1. (a) "Commission" means the state lottery commission created by IC 4-30. In order to differentiate the commission from agencies and commissions created in other states, the commission may use the name "The State Lottery Commission of Indiana", in the execution of agreements, contracts, and other documentation.

(b) "Chairman" means the chairman of the commission selected pursuant to IC 4-30-4-3.

(c) "Director" means the director of the commission appointed pursuant to IC 4-30-5. (*State Lottery Commission; 65 IAC 1-1-1; emergency rule filed Jul 20, 1989, 4:10 p.m.: 12 IR 2290; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 90; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268*)

65 IAC 1-1-2 Organization

Authority: IC 4-30-3-7; IC 4-30-3-9

Affected: IC 4-30-4

Sec. 2. The commission is composed of five (5) members appointed by the governor. The commission may adopt bylaws for its internal operation and procedures by majority vote of all its members. (*State Lottery Commission; 65 IAC 1-1-2; emergency rule filed Jul 20, 1989, 4:10 p.m.: 12 IR 2290; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268*)

65 IAC 1-1-3 Office of the commission

Authority: IC 4-30-3-7; IC 4-30-3-9

Affected: IC 4-30-5-5

Sec. 3. The principal office of the commission and the director shall be located at Pan Am Plaza, Indianapolis, Indiana, or at such other place within the city of Indianapolis as the director shall determine. (*State Lottery Commission; 65 IAC 1-1-3; emergency rule filed Jul 20, 1989, 4:10 p.m.: 12 IR 2290; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268*)

65 IAC 1-1-4 Seal

Authority: IC 4-30-3-7; IC 4-30-3-9

Affected: IC 4-30-3-1

Sec. 4. The seal of the commission shall be circular in form and shall contain the words "State Lottery Commission" around the periphery and the word "Seal" in the center. The seal of the commission may be affixed by impression, printing, stamping, or other method of reproduction and the director may use the design of the seal upon such stationery, printed matter, or other publications or broadcasts of the commission as the commission or the director may determine to be convenient or appropriate. (*State Lottery Commission; 65 IAC 1-1-4; emergency rule filed Jul 20, 1989, 4:10 p.m.: 12 IR 2290; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 90; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268*)

65 IAC 1-1-5 Meetings

Authority: IC 4-30-3-7; IC 4-30-3-9

Affected: IC 4-30-4; IC 5-14-1.5

Sec. 5. Meetings of the commission shall be held no less often than quarterly upon a call of the chairman or the director. The chairman shall call a meeting upon the written request of at least three (3) members of the commission. Upon calling a meeting, the chairman or director, as the case may be, shall give, or shall cause the secretary or an assistant secretary to give, written notice of the meeting, specifying the time, place, and general purpose of the meeting, to each commissioner, either personally, by mailing, by

messenger, by facsimile machine, or by telegram, at least forty-eight (48) hours in advance of the meeting, or such greater time in advance of the meeting as may be required by law. The secretary shall also give such notice and take such other actions as are required by IC 5-14-1.5. A commissioner's attendance at or participation in a meeting waives any notice to the commissioner of the meeting required by this section unless the commissioner at the beginning of the meeting objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting. A commissioner may waive the notice required by this section of a meeting either before or after the date and time stated in the notice, which waiver must be in writing and signed by the commissioner entitled to the notice. A meeting for which proper notice has been given or waived may be adjourned to another date and time stated in the minutes of the adjourned meeting and no additional notice shall be required. (*State Lottery Commission; 65 IAC 1-1-5; emergency rule filed Jul 20, 1989, 4:10 p.m.: 12 IR 2290; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268*)

65 IAC 1-1-6 Quorum and action

Authority: IC 4-30-3-7; IC 4-30-3-9

Affected: IC 4-30

Sec. 6. At any meeting of the commission, the presence of three (3) commissioners constitutes a quorum for the transaction of official business. Except as otherwise provided in IC 4-30 or this title, the act of a majority of the commissioners present at a meeting at which a quorum is present shall be the act of the commission. A vacancy in the commission's membership shall not impair the rights of a quorum of the commission to exercise all rights and perform all duties of the commission. (*State Lottery Commission; 65 IAC 1-1-6; emergency rule filed Jul 20, 1989, 4:10 p.m.: 12 IR 2290; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268*)

65 IAC 1-1-6.5 Participation in meetings by communication

Authority: IC 4-30-3-7; IC 4-30-3-9

Affected: IC 4-30-4; IC 5-14-1.5

Sec. 6.5. (a) This section applies to a meeting of the commission at which at least two (2) members of the commission are physically present at the place where the meeting is conducted.

(b) A member of the commission may participate in a meeting of the commission by using a means of communication that permits all other members of the commission participating in the meeting and all members of the public physically present at the place where the meeting is conducted to communicate simultaneously with one another during the meeting.

(c) A member of the commission who participates in a meeting by using a means of communication described in subsection (b) is considered to be present at the meeting.

(d) The memoranda prepared under IC 5-14-1.5-4 for a meeting at which a member of the commission participates under subsection (b) shall state the following:

(1) The name of each member of the commission who was physically present at the place where the meeting was conducted.

(2) The name of each member of the commission who participated in the meeting by using a means of communication described in subsection (b).

(3) The name of each member of the commission who was absent.

(e) Any place where two (2) or more members of the commission are physically present and participating in a meeting by using a means of communication described in subsection (b) shall be open to the public to the same extent required under IC 5-14-1.5 for the place where the meeting is conducted. (*State Lottery Commission; 65 IAC 1-1-6.5; emergency rule filed Apr 3, 1990, 2:59 p.m.: 13 IR 1419; errata, 13 IR 1860; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268*)

65 IAC 1-1-7 Committees

Authority: IC 4-30-3-7; IC 4-30-3-9

Affected: IC 4-30-4

Sec. 7. The commission, by a majority vote of all commissioners, may appoint one (1) or more special committees from among its members as it determines to be necessary. The purpose of the committees may be to make recommendations to the commission or to assist the director in carrying out the policies and decisions of the commission from time to time during the interval between meetings of the commission. Such committees shall possess the powers and authority given to them by the commission. (*State Lottery*

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Commission; 65 IAC 1-1-7; emergency rule filed Jul 20, 1989, 4:10 p.m.: 12 IR 2291; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)

65 IAC 1-1-8 The chairman

Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30-4

Sec. 8. The chairman shall preside at meetings of the commission. The chairman shall discharge all the duties inherent to a presiding officer and perform such other duties as from time to time may be assigned to him by the commission or as prescribed by law or this rule. *(State Lottery Commission; 65 IAC 1-1-8; emergency rule filed Jul 20, 1989, 4:10 p.m.: 12 IR 2291; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)*

65 IAC 1-1-9 The director

Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30-3-14; IC 4-30-6

Sec. 9. The director shall be appointed by the governor. The director is the chief executive and operating officer of the lottery and has the full and complete authority to act in the name of the commission. The director shall have such powers and authority and perform such duties as are expressed or implied by law, by resolution of the commission, or by this title. Without limiting the generality of the foregoing, the director is specifically authorized to perform the following duties on behalf of the commission:

- (1) To negotiate and, upon prior approval or subject to subsequent ratification of the commission, to enter into on behalf of the commission, contracts for the purchase, lease, or lease-purchase of goods and services necessary for the operation and promotion of the lottery, including assistance provided by a governmental agency.
- (2) To execute contracts and agreements entered into by the commission and other instruments and documents for and on behalf of the commission.
- (3) To manage and control the commission's administrative offices and exercise all powers and authority necessary to manage and control such offices or customary for such an administrative officer.
- (4) To create divisions within the commission and allocate the various functions of the commission among these divisions, except that all security matters shall be assigned to the division of security created by IC 4-30-6.
- (5) To establish and maintain a personnel program and to take personnel actions as provided in IC 4-30-3-14.
- (6) To transact such business of the commission as may require attention between meetings of the commission and to report all such business transacted, other than of a routine nature, to the commission at its next meeting.
- (7) To exercise such other authority and powers as are customarily exercised under Indiana law by the chief executive and operational officer of an entrepreneurial business enterprise, except as otherwise required by law.

(State Lottery Commission; 65 IAC 1-1-9; emergency rule filed Jul 20, 1989, 4:10 p.m.: 12 IR 2291; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)

65 IAC 1-1-10 Vice chairman

Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30-4

Sec. 10. The chairman may appoint a vice chairman who shall preside at meetings of the commission when the chairman is not present. If no vice chairman is appointed by the chairman, the director shall preside at meetings of the commission when the chairman is not present. *(State Lottery Commission; 65 IAC 1-1-10; emergency rule filed Jul 20, 1989, 4:10 p.m.: 12 IR 2291; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)*

65 IAC 1-1-11 Selection of other officers

Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 11. The director shall select a secretary and such other assistants and other officers as the director may decide upon to

serve at the pleasure of the director. The secretary may, but need not, be a commissioner. *(State Lottery Commission; 65 IAC 1-1-11; emergency rule filed Jul 20, 1989, 4:10 p.m.: 12 IR 2291; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)*

65 IAC 1-1-12 The secretary

Authority: IC 4-30-3-7; IC 4-30-3-9

Affected: IC 4-30; IC 5-14-1.5

Sec. 12. The secretary shall attend all meetings of the commission and shall keep, or cause to be kept in a book provided for the purpose, a true and complete record of the proceedings of such meetings and shall perform a like duty for all standing committees appointed by the commission, when required. The secretary shall attend to the giving and serving of all notices of the commission and compliance with IC 5-14-1.5 and other legal notice requirements. The secretary shall, in addition, perform such other duties as this rule may require, or the director or commission may prescribe. *(State Lottery Commission; 65 IAC 1-1-12; emergency rule filed Jul 20, 1989, 4:10 p.m.: 12 IR 2292; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)*

65 IAC 1-1-13 Assistant officers

Authority: IC 4-30-3-7; IC 4-30-3-9

Affected: IC 4-30

Sec. 13. Such assistant officers as the director shall from time to time designate and appoint shall have such powers and duties as the officers whom they are elected to assist shall specify and delegate to them and such other powers and duties as this rule or the director or commission may prescribe. An assistant secretary may, in the event of the absence or disability of the secretary, attest to the execution by the commission or the director of all documents. *(State Lottery Commission; 65 IAC 1-1-13; emergency rule filed Jul 20, 1989, 4:10 p.m.: 12 IR 2292; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)*

65 IAC 1-1-14 Delegation of authority

Authority: IC 4-30-3-7; IC 4-30-3-9

Affected: IC 4-30

Sec. 14. In case of the absence of any officer or employee of the commission, or for any other reason that the commission or the director may deem sufficient, the commission (in the case of the chairman or the vice chairman) or the director (in the case of any other officer or employee) may delegate the powers or duties of such officer or employee to any other officer or employee, for the time being, provided in the case of a delegation by the commission that a majority of the entire commission concurs therein. *(State Lottery Commission; 65 IAC 1-1-14; emergency rule filed Jul 20, 1989, 4:10 p.m.: 12 IR 2292; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)*

65 IAC 1-1-15 Amendments

Authority: IC 4-30-3-7; IC 4-30-3-9

Affected: IC 4-30

Sec. 15. This rule may be altered, amended, suspended, or repealed at a meeting of the commission by the affirmative vote of a majority of the commissioners present and voting if a quorum is present at the meeting. *(State Lottery Commission; 65 IAC 1-1-15; emergency rule filed Jul 20, 1989, 4:10 p.m.: 12 IR 2292; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)*

65 IAC 1-1-16 Immunity

Authority: IC 4-30-3-7; IC 4-30-3-9

Affected: IC 4-30

Sec. 16. The commission as a separate body politic and corporate is intended to be a separate legal entity and as such the commissioners, the director, their employees, and the state of Indiana shall not be liable to any licensee, vendor, or any other person or entity entering into any contract or agreement with the commission for any damage arising in connection with the operation or conduct of the lottery except as may be provided by IC 4-30 or IC 34-4 *[IC 34-4 was repealed by P.L.1-1998, SECTION 221,*

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effective July 1, 1998.] such liabilities being solely those of the commission. (State Lottery Commission; 65 IAC 1-1-16; emergency rule filed Aug 3, 1989, 9:30 a.m.: 12 IR 2298; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)

65 IAC 1-1-17 Use of certain terms prohibited

Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30-14-6

Sec. 17. No person shall use the terms "State Lottery", "Indiana Lottery", "Indiana State Lottery", "Hoosier Lottery", or "Lottery" for purposes of an enterprise, other than the sale of lottery tickets pursuant to a license granted by the commission, without the prior written approval of the director. (State Lottery Commission; 65 IAC 1-1-17; emergency rule filed Aug 3, 1989, 9:30 a.m.: 12 IR 2298; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)

65 IAC 1-1-18 Fees

Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 18. The director shall collect the fees set out below when the following services are performed, unless provided to the contrary in this title:

Table with 2 columns: Service and Fee. Lists 15 services such as copying records, application fees, and bonding fees with corresponding fees ranging from \$10 to \$100 and 12% interest.

(State Lottery Commission; 65 IAC 1-1-18; emergency rule filed May 4, 1990, 4:35 p.m.: 13 IR 1724; emergency rule filed Jul 16, 1991, 5:00 p.m.: 14 IR 2261; emergency rule filed Dec 30, 1991, 11:30 a.m.: 15 IR 736; emergency rule filed Jan 29, 1992, 12:00 p.m.: 15 IR 1030; emergency rule filed Apr 14, 1992, 5:00 p.m.: 15 IR 1969; emergency rule filed Apr 19, 1993, 5:00 p.m.: 16 IR 2192; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; emergency rule filed Apr 6, 2006, 3:00 p.m.: 29 IR 2562; errata filed Apr 7, 2006, 1:10 p.m.: 29 IR 2546)

Rule 2. Confidentiality and Access to Records

65 IAC 1-2-1 Definitions

Authority: IC 4-30-3-7; IC 4-30-3-9

Affected: IC 4-30-2; IC 4-30-14-4; IC 5-14-3-2

Sec. 1. (a) The definitions in IC 4-30-2 and IC 5-14-3-2 apply to this rule.

(b) "Document" or "information" means any recorded information, regardless of its physical form or characteristics, including, without limitation:

- (1) written or printed material;
- (2) data processing card decks, printouts, disks, tapes, or other electronic media;
- (3) maps;
- (4) charts;
- (5) artwork;
- (6) photographs;
- (7) working notes and papers;
- (8) reproductions of such things by any means or process; and
- (9) sound, voice, or electronic recordings in any form;

in the possession of the commission or the director by which knowledge has been preserved and may be retrieved. (*State Lottery Commission; 65 IAC 1-2-1; emergency rule filed Aug 3, 1989, 9:30 a.m.: 12 IR 2298; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268*)

65 IAC 1-2-2 Treatment of confidential information

Authority: IC 4-30-3-7; IC 4-30-3-9

Affected: IC 4-30-3-14; IC 4-30-14-4

Sec. 2. (a) Information which is declared confidential under this rule shall not be disseminated, disclosed, released, or revealed, either orally or in writing, to any person who is not an employee of or vendor to the commission having need for such information in the performance of duties for the commission.

(b) An employee of the commission who knowingly or intentionally discloses confidential information or who fails to observe the requirements of this rule or the security guidelines of the director regarding the safeguarding of confidential information shall be subject to disciplinary action including dismissal. (*State Lottery Commission; 65 IAC 1-2-2; emergency rule filed Aug 3, 1989, 9:30 a.m.: 12 IR 2298; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268*)

65 IAC 1-2-3 Confidential information

Authority: IC 4-30-3-7; IC 4-30-3-9

Affected: IC 4-30-14-4; IC 5-14-1.5-6.1; IC 5-14-3-4; IC 5-14-3-5

Sec. 3. (a) The director may declare confidential and exempt from public disclosure at any time, whether before or after a request for disclosure has been made, any document or information which is exempt from disclosure at the discretion of the commission under IC 5-14-3-4(b).

(b) It is declared by the commission that the following types of information are confidential and exempt from public disclosure:

- (1) Investigatory records of the security division of the commission and investigatory records of other law enforcement agencies in the possession of the commission, except to the extent disclosure is required by IC 5-14-3-5.
- (2) The work product of any attorney representing the commission, the director, or any employee of the commission.
- (3) Documents and information containing advisory or deliberative material prepared by or delivered to the commission, the director, or any employee of the commission, including material developed by a vendor and material otherwise described in IC 5-14-3-4(b)(6), that contain expressions of opinion or are of a speculative nature and that are communicated for the purpose of decision making, including, but not limited to, decisions involving competitive marketing strategies.
- (4) Personnel files of the director or employees of the commission and files of applicants for employment with the commission, except to the extent disclosure is required by IC 5-14-3-4(b)(8).
- (5) Administrative or technical information that would jeopardize a record keeping or security system associated with the commission or the lottery, including, without limitation, the following:

(A) Information concerning the manner, systems, and procedures relating to the printing, production, packaging, shipping, delivery, storage, and verification of tickets.

(B) Information concerning the operation of on-line terminals and electronic equipment.

(C) Information relating to prize structure and detailed game specifications.

(6) Computer programs, computer codes, computer filing systems, and other software owned by the commission or entrusted to it.

(7) Information and documents specifically prepared for discussion, or developed during discussion, in an executive session under IC 5-14-1.5-6.1, except for information required to be available for inspection and copying under IC 5-14-3-4(b)(8).

(8) Information and documents submitted to the commission as part of the commission's procurement of goods and services shall be confidential and exempt from public disclosure prior to the announcement of a procurement decision. Information received during the procurement process that is properly identified as a trade secret or otherwise confidential shall continue to be exempt after the announcement of a procurement decision.

(9) Information and documents submitted to the commission and files maintained by the commission with respect to retailer applications and financial data.

(10) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.

(11) Any and all other matters which may be declared confidential.

(c) Notwithstanding the declaration in subsection (b), the director may release information described in subdivisions (b)(2), (b)(3), (b)(7), (b)(9), (b)(10), and (b)(11) if the director determines that disclosure of such information is in the best interest of the commission or, in the case of disclosure of such information to a vendor, that disclosure of such information would facilitate performance of a contract between the commission and the vendor. Disclosure of information to a vendor under this subsection to facilitate performance of a contract does not entitle any other person to obtain disclosure of such information. (*State Lottery Commission; 65 IAC 1-2-3; emergency rule filed Aug 3, 1989, 9:30 a.m.: 12 IR 2298; emergency rule filed Jan 24, 1990, 4:00 p.m.: 13 IR 1067; emergency rule filed Jul 6, 1990, 5:00 p.m.: 13 IR 2009; emergency rule filed May 10, 1993, 3:00 p.m.: 16 IR 2196; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268*)

65 IAC 1-2-4 Access to public records

Authority: IC 4-30-3-7; IC 4-30-3-9

Affected: IC 4-30; IC 5-14-3

Sec. 4. All public records of the commission shall be open to reasonable public inspection during regular business hours of the commission. The director may adopt reasonable written procedures governing inspection and copying of public records, including, without limitation, a requirement for reasonable advance notice for extensive inspection or copying of public records and payment of a fee for copying. (*State Lottery Commission; 65 IAC 1-2-4; emergency rule filed Aug 3, 1989, 9:30 a.m.: 12 IR 2299; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268*)

65 IAC 1-2-5 Fees for copies

Authority: IC 4-30-3-7; IC 4-30-3-9

Affected: IC 4-30

Sec. 5. The director shall collect a fee in the amount specified in 65 IAC 1-1-18 for copying records of the commission. This fee may be waived by the director upon a finding that such a waiver is in the best interests of the lottery. (*State Lottery Commission; 65 IAC 1-2-5; emergency rule filed Oct 2, 1989, 2:10 p.m.: 13 IR 299; emergency rule filed Oct 24, 1989, 2:15 p.m.: 13 IR 404; emergency rule filed May 4, 1990, 4:35 p.m.: 13 IR 1724; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268*)

65 IAC 1-2-6 Commercial use of public records

Authority: IC 4-30-3-7; IC 4-30-3-9

Affected: IC 4-30; IC 5-14-3-2

Sec. 6. If a person requests that public records be provided on a disc or tape, information so supplied may not be used for commercial purposes, including to sell, advertise, or solicit the purchase of merchandise, goods, or services or to sell, loan, give away, or otherwise deliver the information obtained by the request to any other person (as defined in IC 5-14-3-2) for these purposes.

Use of information obtained in this manner in connection with the preparation or publication of news, for nonprofit activities, or for academic research is not prohibited. A person who uses information in a manner contrary to this rule may be prohibited from obtaining a copy or any further data on disc or tape. (*State Lottery Commission; 65 IAC 1-2-6; emergency rule filed Jul 30, 2001, 9:40 a.m.: 24 IR 4004; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268*)

Rule 3. Personnel

65 IAC 1-3-1 Employment status

Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-15-2; IC 4-30-3-14; IC 4-30-6

Sec. 1. Employees of the commission are not employees of the state of Indiana and are not merit system employees under IC 4-15-2. Employees of the commission serve at the pleasure of the director and are subject to suspension, dismissal, reduction in pay, demotion, transfer, or other personnel action at the discretion of the director. Except as provided in IC 4-30-6, employees shall not be hired or fired on the basis of political affiliation. (*State Lottery Commission; 65 IAC 1-3-1; emergency rule filed Oct 2, 1989, 2:10 p.m.: 13 IR 299; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268*)

65 IAC 1-3-2 Equal employment opportunity

Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30-3-14

Sec. 2. (a) The commission is committed to equal employment opportunity and nondiscrimination in the provision of all services to the public without regard to race, color, religion, sex, age, national origin, or physical or mental handicap.

(b) The commission will comply with all federal, state, and local laws relating to equal employment opportunity and nondiscrimination in services to the general public.

(c) Sexual harassment of any commission employee by any other commission employee is prohibited. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, or other unwelcome verbal or physical conduct of a sexual nature when the response or reaction affects employment decisions or creates a hostile work environment. Violations of this subsection will result in appropriate disciplinary action, up to and including discharge from employment. (*State Lottery Commission; 65 IAC 1-3-2; emergency rule filed Oct 2, 1989, 2:10 p.m.: 13 IR 299; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268*)

65 IAC 1-3-3 Security investigation

Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30-3-14

Sec. 3. Prior to the commencement of employment by the commission, a security investigation or background check shall be conducted, in whole or in part, for each employee. In the event that all aspects of this investigation are not completed at the time an employee is hired, continued employment of the employee shall be subject to the satisfactory completion of the security investigation or background check. The information disclosed by a security investigation or background check is confidential to the commission and shall not be disclosed to the employee or any other individual or entity, unless required by federal or state law. (*State Lottery Commission; 65 IAC 1-3-3; emergency rule filed Oct 2, 1989, 2:10 p.m.: 13 IR 299; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268*)

65 IAC 1-3-4 Purchase of lottery tickets prohibited

Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30-3-14; IC 4-30-12-2

Sec. 4. Employees of the commission and relatives living in the same household with employees of the commission shall not purchase a lottery ticket. (*State Lottery Commission; 65 IAC 1-3-4; emergency rule filed Oct 2, 1989, 2:10 p.m.: 13 IR 299; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268*)

65 IAC 1-3-5 Care of commission documents and materials

Authority: IC 4-30-3-7; IC 4-30-3-9

Affected: IC 4-30-3-14

Sec. 5. (a) All commission records and documents in the custody of commission employees are for official use only. Employees of the commission shall not conceal, alter, mutilate, obliterate, or destroy commission records or documents without permission from the director, or remove or attempt to remove commission records or documents with the intention of concealing, altering, mutilating, obliterating, disclosing, or destroying such records or documents without permission from the director. Employees shall not remove commission records and documents from official files without approval from the director. Working papers, copies of reports, and other official records and documents must be sent promptly to file when no longer needed for official purposes. Records and documents shall be disposed of in accordance with procedures established by the director.

(b) Commission employees will be held responsible for the loss, disappearance, or theft of official documents when attributable to negligence or carelessness. Recovery of documents may not necessarily relieve the employee of responsibility for their loss. (*State Lottery Commission; 65 IAC 1-3-5; emergency rule filed Oct 2, 1989, 2:10 p.m.: 13 IR 299; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268*)

Rule 4. Ethics

65 IAC 1-4-1 Definitions

Authority: IC 4-30-3-7; IC 4-30-3-9

Affected: IC 4-30-3-1

Sec. 1. (a) The definitions in this section apply to this rule.

(b) "Business relationship" means dealings between the commission and a person seeking, obtaining, establishing, maintaining, or implementing:

- (1) a pecuniary interest in a contract or procurement; or
- (2) a retailer contract.

(c) "Compensation" means any money, thing of value, or economic benefit conferred on or received by any person in return for services rendered, or to be rendered, whether by that person or another.

(d) "Conflict of interest" means a situation in which a person's private interest, usually of a financial or economic nature, may influence the person's judgment in the performance of the person's public duty.

(e) "Economic interest" means a person's substantial financial interest in investments, employment, awarding of contracts, grants, loans, purchases, leases, sales, or similar matters under consideration or consummated by the commission. A person will not be deemed to have an economic interest in a matter under consideration or consummated by the commission solely by reason of owning one percent (1%) or less of any class of outstanding securities which are issued by a party to the matter under consideration or consummated and are listed on a national securities exchange or actively traded in an over-the-counter market.

(f) "Employee" means an employee of the commission who is not an officer.

(g) "Honorarium" means a fee received for speeches, written articles, participation in discussion groups, and similar activities but does not include reimbursement for expenses.

(h) "Member" means a member of the commission, as described in IC 4-30-3-1.

(i) "Officer" means the director, any assistant director, and the director of the division of security for or of the commission.

(j) "Public meeting" means an event that:

- (1) is a gathering of public officials not arranged to solicit the procurement of goods or services;
- (2) involves a speech or participation in a presentation by a member, officer, or employee in the member's, officer's, or employee's official capacity; or
- (3) includes a formal educational program that the member, officer, or employee is attending to assist in the performance of official responsibilities.

(*State Lottery Commission; 65 IAC 1-4-1; emergency rule filed Oct 24, 1989, 2:15 p.m.: 13 IR 404; emergency rule filed Dec 17, 1990, 3:20 p.m.: 14 IR 1073; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; emergency rule filed Jul 22, 2004, 11:05 a.m.: 27 IR 4034*)

65 IAC 1-4-2 Policy

Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 2. The commission cannot function effectively without maintaining the integrity of the lottery. Members, officers, and employees, therefore, must encourage confidence in the commission by maintaining high standards of honesty, integrity, and impartiality. Members, employees, and officers should conduct themselves in a manner that will enhance public respect for the lottery. (*State Lottery Commission; 65 IAC 1-4-2; emergency rule filed Oct 24, 1989, 2:15 p.m.: 13 IR 404; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268*)

65 IAC 1-4-3 Conflict of interest

Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 3. (a) Any conduct that would lead a reasonable person, knowing all the circumstances, to a conclusion that a member, officer, or employee has a conflict of interest or is biased is unacceptable.

(b) A member, officer, or employee shall not accept any form of compensation other than from the commission for any services rendered as part of the member, officer, or employee's official duties for the commission.

(c) A member, officer, or employee shall not participate in any business being transacted with the commission by any private concern in which the member, officer, or employee or the spouse or children of the member, officer, or employee living in the same household has an economic interest.

(d) Members, officers, and employees shall not directly or indirectly solicit, accept, or agree to accept for themselves or another person or entity any compensation or thing of value to influence them in the performance of their official duties or to create the opportunity to commit fraud against the commission.

(e) Members, officers, and employees shall not imply or allow to be inferred that they represent the commission in any situation which is not related to their official duties.

(f) Members, officers, and employees shall not show through work or action any preferential attitude or treatment to any person, group, or other entity in the performance of their official duties.

(g) If a member, officer, or employee is given an assignment by the commission that involves a person, group, or other entity with which the officer or employee has a financial or beneficial relationship, the member, officer, or employee shall notify his or her supervisor (or the director, in the case of a member) immediately.

(h) If a member has an economic interest in any person, group, or entity involved in a matter under consideration or consummated by the commission, the member shall notify the director immediately upon becoming aware of the matter. Any contract between the commission and a person, group, or entity in which a member has an economic interest shall be submitted to the commission as a whole for approval or rejection. (*State Lottery Commission; 65 IAC 1-4-3; emergency rule filed Oct 24, 1989, 2:15 p.m.: 13 IR 404; emergency rule filed Dec 17, 1990, 3:20 p.m.: 14 IR 1073; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268*)

65 IAC 1-4-4 Financial interest restricted

Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 4. All members, officers, and employees shall refrain from participating on a private basis, directly or indirectly, in any financial transaction if their private interests are, or may reasonably be expected or construed to be, in conflict with their official duties. (*State Lottery Commission; 65 IAC 1-4-4; emergency rule filed Oct 24, 1989, 2:15 p.m.: 13 IR 405; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268*)

65 IAC 1-4-5 Gifts and gratuities

Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 5. (a) Members, officers, and employees shall not directly or indirectly request or accept any gift, favor, service, loan,

or entertainment for themselves or others under circumstances that might reasonably be construed to influence the performance of their official duties for the commission.

(b) A member, officer, employee shall not accept gifts, favors, services, entertainment, food, or drink in any amount from a person who has a business relationship with the commission. Notwithstanding the foregoing, it shall not be a violation of this section for a member, officer, or employee to:

- (1) accept gifts, favors, services, entertainment, food, or drink from public agencies or public institutions;
- (2) consume food or drink at a public meeting to which twenty-five (25) or more individuals are invited;
- (3) accept mementos or souvenirs of nominal value received at public events, public ceremonies, or events commemorating official business;
- (4) give or accept gifts, favors, services, entertainment, food, or drink from relatives and social relationships provided that:
 - (A) any items of value are not deducted as a business expense; and
 - (B) the member, officer, or employee does not exercise decision making authority over a policy making or procurement decision affecting the business interests of the person;
- (5) accept discount and promotional programs approved and made available through the state of Indiana; or
- (6) attend a social function or other gathering, including a party or a meal, provided by a vendor if the event takes place at a convention, seminar, or gathering of lottery personnel from more than one (1) state and the invitation to the social function or gathering is generally made to all attendees at the convention, seminar, or gathering.

(c) Honoraria may only be accepted when:

- (1) the underlying activities are not connected with the member's, officer's, or employee's employment or appointment responsibilities;
- (2) preparations for the underlying activities are on the member's, officer's, or employee's noncommission time and without use of commission resources; and
- (3) the honoraria are not from a vendor doing business with the commission.

(d) Any gift, favor, or consideration which can be construed (as determined by the director or the members) to be provided in connection with commission duties and which a member, officer, or employee is not permitted by this section to accept shall be returned to the donor immediately using such procedures as the director establishes for such purpose.

(e) The director may, in the director's sole discretion, make exceptions to this section provided the rationale for such exceptions is in writing and consistent with the public interest. (*State Lottery Commission; 65 IAC 1-4-5; emergency rule filed Oct 24, 1989, 2:15 p.m.: 13 IR 405; emergency rule filed Dec 17, 1990, 3:20 p.m.: 14 IR 1074; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; emergency rule filed Jul 22, 2004, 11:05 a.m.: 27 IR 4034*)

65 IAC 1-4-5.5 Contractor ethics restrictions

Authority: IC 4-30-3-7; IC 4-30-3-9

Affected: IC 4-30

Sec. 5.5. Except as set forth in section 5 of this rule, contractors shall not offer or provide gifts, favors, services, entertainment, food, or drink to commission members, officers, or employees while seeking, obtaining, establishing, maintaining, or implementing a procurement or contract with the commission. In the event of a violation of this section, the commission may, in its sole discretion, terminate the contract. (*State Lottery Commission; 65 IAC 1-4-5.5; emergency rule filed Jul 22, 2004, 11:05 a.m.: 27 IR 4035; emergency rule filed Aug 17, 2004, 10:25 a.m.: 28 IR 217, eff Aug 16, 2004 [IC 4-22-2-37.1 establishes the effectiveness of an emergency rule upon filing with the secretary of state. LSA Document #04-237(E) was filed with the secretary of state August 17, 2004.]*)

65 IAC 1-4-6 Attempted bribery

Authority: IC 4-30-3-7; IC 4-30-3-9

Affected: IC 4-30

Sec. 6. A member, officer, or employee who receives an offer of anything of value with the intention that the officer or employee will fail to discharge his or her official duties for the commission properly shall do the following:

- (1) Avoid any statement or implication that the offer will or will not be accepted.
- (2) Immediately report the matter to the security division of the commission.

(3) Submit, as soon as possible, a memorandum to the security division stating the full circumstances concerning the offer.

(4) Cooperate fully in any ensuing investigation, and avoid any unnecessary discussion of the offer or the investigation.

(State Lottery Commission; 65 IAC 1-4-6; emergency rule filed Oct 24, 1989, 2:15 p.m.: 13 IR 405; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)

65 IAC 1-4-7 Outside employment

Authority: IC 4-30-3-7; IC 4-30-3-9

Affected: IC 4-30

Sec. 7. (a) An officer or employee shall obtain written permission from the director before accepting any outside employment, except for outside employment which existed at the time the officer or employee was hired and which was specifically disclosed at that time to the director and the human resources director for the commission. Permission will be denied (or permission previously given will be revoked) if the nature of the work is considered to or does create a possible conflict of interest or the appearance of a conflict of interest or otherwise interferes with the officer or employee's duties for the commission.

(b) An officer or employee granted permission for outside employment shall not conduct any business or perform any activities, including solicitation, related to outside employment on premises owned or used by the commission or during the officer or employee's working hours for the commission.

(c) For purposes of this section, outside employment includes operation of a proprietorship, participation in a partnership or group business enterprise, or performance as a director or corporate officer of any for-profit corporation, business enterprise, building and loan association, or banking or credit institution, but does not include service as an officer or director of nonprofit, tax-exempt organizations such as cooperative housing corporations, scouts, or civic, fraternal, religious, educational, veterans, social, community, or charitable organizations unless the management of any business-type activity involves the operation of a commercial clubhouse or if tax liable profit-making is involved. *(State Lottery Commission; 65 IAC 1-4-7; emergency rule filed Oct 24, 1989, 2:15 p.m.: 13 IR 406; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)*

65 IAC 1-4-8 Political activity

Authority: IC 4-30-3-7; IC 4-30-3-9

Affected: IC 4-30

Sec. 8. Officers and employees shall not engage in political activity or politically-related activity during working hours and shall not engage in political activity or politically-related activity at any time which would interfere with their official duties for the commission. *(State Lottery Commission; 65 IAC 1-4-8; emergency rule filed Oct 24, 1989, 2:15 p.m.: 13 IR 406; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)*

65 IAC 1-4-9 Consequences of violation

Authority: IC 4-30-3-7; IC 4-30-3-9

Affected: IC 4-30

Sec. 9. Violation of this rule may constitute cause for removal of a member from the commission or result in disciplinary action, including termination, for an officer or employee. The commission may waive a violation of the terms of this rule if it determines that the conduct involved does not violate the purpose of this rule. Violation of this rule does not create a private cause of action in favor of any person. *(State Lottery Commission; 65 IAC 1-4-9; emergency rule filed Oct 24, 1989, 2:15 p.m.: 13 IR 406; emergency rule filed Jan 24, 1990, 4:00 p.m.: 13 IR 1067; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)*

Rule 5. Internal Audit

65 IAC 1-5-1 Definitions

Authority: IC 4-30-3-7; IC 4-30-3-9

Affected: IC 4-30

Sec. 1. (a) The definitions in this section apply to this rule.

(b) "Audit programs" means detailed lists of audit procedures or questionnaires to be completed or considered in the performance of an audit, inquiry, or examination.

(c) "Audit staff" means the professional and clerical staff under the direction of the internal auditor.

(d) "GAAP" means generally accepted accounting principles.

(e) "Internal auditor" means the person appointed by the director to direct the internal audit functions for the commission. (*State Lottery Commission; 65 IAC 1-5-1; emergency rule filed Oct 24, 1989, 2:15 p.m.: 13 IR 406; emergency rule filed Jan 24, 1990, 4:00 p.m.: 13 IR 1068; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268*)

65 IAC 1-5-2 Authorization

Authority: IC 4-30-3-7; IC 4-30-3-9

Affected: IC 4-30

Sec. 2. The director shall appoint an internal auditor who shall report directly to the commission. The internal auditor and the audit staff shall have full, free, and unrestricted access to all activities, records, property, and personnel of the commission consistent with the performance of the internal auditor's responsibilities under this rule. (*State Lottery Commission; 65 IAC 1-5-2; emergency rule filed Oct 24, 1989, 2:15 p.m.: 13 IR 406; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268*)

65 IAC 1-5-3 Responsibilities

Authority: IC 4-30-3-7; IC 4-30-3-9

Affected: IC 4-30

Sec. 3. The internal auditor shall perform the following duties:

(1) Review and evaluate internal controls necessary to ensure the fiscal accountability of the commission.

(2) Conduct financial, compliance, and performance audits of the commission and prepare audit reports.

(3) Act as a liaison with external auditors and coordinate internal assistance to facilitate the conduct of audits and prevent duplications or omissions.

(*State Lottery Commission; 65 IAC 1-5-3; emergency rule filed Oct 24, 1989, 2:15 p.m.: 13 IR 406; emergency rule filed Jan 24, 1990, 4:00 p.m.: 13 IR 1068; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268*)

65 IAC 1-5-4 Standards of performance

Authority: IC 4-30-3-7; IC 4-30-3-9

Affected: IC 4-30

Sec. 4. The internal auditor and the audit staff shall abide by the Code of Ethics and Standards for the Professional Practice of Internal Auditors, Inc. and Statements of Internal Auditing Standards published by the Institute of Internal Auditors, Inc. Audits shall be conducted in compliance with GAAP and generally accepted auditing standards, where appropriate. (*State Lottery Commission; 65 IAC 1-5-4; emergency rule filed Oct 24, 1989, 2:15 p.m.: 13 IR 407; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268*)

65 IAC 1-5-5 Internal audits

Authority: IC 4-30-3-7; IC 4-30-3-9

Affected: IC 4-30

Sec. 5. The internal auditor shall develop a system of internal audits for the commission. The system of internal audits may include, but shall not be limited to, the following activities:

(1) Examination of internal controls intended to safeguard the assets of the commission, evaluation of those controls for operational sufficiency, and as appropriate, verification of the existence of assets.

(2) Examination of security controls related to the commission's computer systems.

(3) Review of the existence of and compliance with the following policies and procedures:

(A) Daily cash balancing policies and procedures.

(B) Inventory procedures.

- (C) Winner validation and prize payment policies and procedures.
- (D) Procurement policies and procedures, including quality control.
- (E) Cash collections policies and procedures.
- (F) Contract management policies and procedures.
- (G) Property management policies and procedures.
- (H) Vendor payments policies and procedures.
- (I) Payroll policies and procedures.
- (J) Accounts receivable and collections policies and procedures.
- (K) Security policies and procedures.

- (4) Preparation of procedures for examination and monitoring of drawing equipment and prize results.
- (5) Determination that all commission operations are in compliance with Indiana statutes, rules, regulations, policies, and procedures.
- (6) Determination that financial reports are presented fairly and in accordance with GAAP.
- (7) Participation in general management reviews of all phases of commission operations including regional inventory and distribution procedures.
- (8) Completion of special reviews and audits as requested by the director or the commission.
- (9) Completion of follow-up audit reviews on issued audit reports to ensure that corrective action was actually taken.

(State Lottery Commission; 65 IAC 1-5-5; emergency rule filed Oct 24, 1989, 2:15 p.m.: 13 IR 407; errata filed Jun 19, 1990, 4:56 p.m.: 13 IR 2002; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)

65 IAC 1-5-6 Procedure for internal audits

Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 6. (a) The internal auditor shall develop a written annual audit plan each year. The plan shall document the goals and objectives for the ensuing year, provide direction for the implementation of the audit effort, and provide the basis for performance monitoring. The annual plan shall identify projects for the current year and prioritize the projects based on audit requirements, priority of audit issues, and other relevant information. The annual plan shall also contain provisions to address special audit requests initiated by the director or the commission. The internal auditor shall develop a staffing plan to ensure that an adequate number of qualified personnel are available to accomplish the goals and objectives set forth in the annual audit plan.

(b) For each internal audit project, the internal auditor shall prepare an audit work schedule, which shall contain a description of the internal audit project and the scope of the project including an estimate of the time required to complete each audit assignment.

(c) A study and evaluation of internal accounting and administrative controls shall be performed for each audit.

(d) Written audit programs shall be developed for each audit performed.

(e) Audit work papers shall be maintained for any audit performed including audit procedures used to document evidence and support conclusions reached by the internal auditor.

(f) An exit conference shall be held at the conclusion of each audit with the appropriate division supervisor prior to the issuance of the final audit report. *(State Lottery Commission; 65 IAC 1-5-6; emergency rule filed Oct 24, 1989, 2:15 p.m.: 13 IR 407; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)*

65 IAC 1-5-7 Internal audit reports

Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 7. Internal audit reports containing findings and recommendations as well as the response of the commission staff to these findings will be submitted to the director and to the members of the commission. *(State Lottery Commission; 65 IAC 1-5-7; emergency rule filed Oct 24, 1989, 2:15 p.m.: 13 IR 408; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)*

Rule 6. Promotional Activities

65 IAC 1-6-1 Promotional drawings

Authority: IC 4-30-3-7; IC 4-30-3-9

Affected: IC 4-30-3-8

Sec. 1. (a) "Promotional drawing" means, for purposes of this section, a drawing or other event involving random selection of winners which does not require participants to purchase or hold lottery tickets in order to win.

(b) The commission is authorized to advertise and promote participation in instant games and on-line games by conducting promotional drawings. The director shall determine and announced the date or dates, time or times, entry requirements, and procedures for any promotional drawings and shall post such information at the site of the promotional drawing. The director may change the date or dates, time or times, entry requirements, or procedures for any promotional drawing prior to the time of the promotional drawing and publicize the change if the director finds that the change is in the best interests of the lottery or the public. Disputes regarding such dates, times, requirements, or procedures shall be resolved by the director in the exercise of the director's sole discretion. All participants in a promotional drawing shall be deemed to have agreed to all requirements and procedures by their participation in the promotional drawing or any proceedings in connection with the promotional drawing.

(c) All promotional drawings involving a prize with a fair market value greater than five thousand dollars (\$5,000) shall be witnessed by an independent certified public accountant. Promotional drawings not involving a prize with a fair market value greater than five thousand dollars (\$5,000) shall be witnessed by an independent certified public accountant if required by the director. All promotional drawings shall be witnessed by a representative of the commission's security division.

(d) The liability of the commission, the director, and the commission's employees for wrongful failure to enter any person into a promotional drawing, for any improper operation or conduct of any promotional drawing, or for the wrongful failure of any person to win a prize in a promotional drawing is limited to entry of the aggrieved person in another promotional drawing with prizes of similar value, and each participant in a promotional drawing agrees by the act of participating in the promotional drawing to this limitation of liability. *(State Lottery Commission; 65 IAC 1-6-1; emergency rule filed Oct 17, 1990, 4:17 p.m.: 14 IR 455; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)*

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