

POLICY MANUAL

CHAPTER 2 – RETAILER RULES AND REGULATIONS

2.1 – RETAILER DISPUTE RESOLUTION POLICY

2.1.0 APPLICABILITY OF POLICY

Amended 5.18.09

This dispute resolution policy contains the mechanism for retailers who have submitted to the Tennessee Education Lottery Corporation (the “TEL” or “Corporation”) a retailer application (each, an “Applicant”) or who have been approved as an authorized retailer of lottery products (each, a “Retailer”) to obtain a hearing on the denial of a retailer application or on the cancellation, revocation, suspension, termination or nonrenewal of a lottery retailer contract. In the event an Applicant is denied authorization by the TEL to sell lottery products or a Retailer’s lottery retailer contract is canceled, revoked, suspended, terminated or not renewed, this policy shall apply. In the event of a conflict between the provisions of this policy and the provisions of the Tennessee Education Lottery Implementation Law (the “Act”), the provisions of the Act shall govern.

2.1.1 DENIAL OF RETAILER APPLICATIONS

- A. In accordance with the requirements of the Act, the TEL shall perform a background investigation of each Applicant and its owners. This background check shall include, but not be limited to, criminal histories, state tax delinquencies, and credit reports. If the Applicant (or any of its owners) fails to successfully pass the criminal history check, is not current in the filing of state tax returns or owes the State of Tennessee any taxes, interest or penalties (excluding items under formal appeal pursuant to applicable state statutes), the TEL will deny Applicant’s application to become an authorized retailer. If the Applicant (or any of its owners) does not meet the standards for credit history established from time to time by the Chief Executive Officer of the TEL (“CEO”), or his or her designee, the Applicant shall be given the opportunity to post an appropriate bond with the TEL or to deposit and maintain with the TEL interest bearing or accruing securities. Eligible securities are (i) certificates of deposit, (ii) United States bonds, notes and bills for which the full faith and credit of the United States is pledged and (iii) federal agency securities issued by an agency of instrumentality of the United States government. The principal amount of the securities shall be established by the CEO, or his or her designee, from time to time. If the Applicant fails to take such action, the TEL will deny Applicant’s application to become an authorized retailer of lottery products.

Amended 8.3.09

- B. If the TEL denies an Applicant’s application to become an authorized retailer of lottery products, the TEL will deliver, or cause to be delivered, to the Applicant a written Notice of Denial mailed to the last known address of Applicant on file with the TEL’s Retailer Contracts Administration Department. Any Applicant is presumed to have received such Notice of Denial from the Corporation on the third business day following the date of such notice.

Amended 5.18.09

- C. Any person or entity whose application is denied by the TEL for failure to comply with the requirements to become an authorized lottery retailer may appeal the decision of the TEL to the Board of Directors (the “Board”) of the TEL or to a hearing officer to whom the Board has delegated its authority, pursuant to the Act, to hear such appeals.

Amended 8.3.09

- D. The Applicant must provide written notice of its intent to appeal and provide any additional evidence to the TEL within five (5) business days of receipt of the Notice of Denial described in Section 2.1.1.B, above.

Amended 5.18.09

- E. If there is no new evidence or facts presented, or if additional evidence would not affect the Board’s or hearing officer’s decision, then the Board or hearing officer will decide the case on the existing record without a hearing.

2.1.2 CANCELLATION, REVOCATION, SUSPENSION, TERMINATION AND NONRENEWAL OF RETAILER CONTRACTS

Amended 5.18.09, 8.3.09

- A. Any lottery retailer contract, subject to notice requirements (if any), may be canceled, revoked, suspended, terminated or not renewed by the Corporation, for any of the reasons set forth in the Retailer Contract or in section 4-51-119(a) of the Act.

Amended 5.18.09, 8.3.09

- B. If, in the discretion of the Chief Executive Officer (“CEO”), cancellation, revocation, suspension, termination or nonrenewal of any lottery retailer contract is in the best interest of the lottery, the public welfare or the State of Tennessee, the CEO, or such officer’s designee, may cancel, revoke, suspend, terminate or not renew such lottery retailer contracts, after notice and a right to a hearing, in accordance with the provisions of the Act and this policy. Notwithstanding the foregoing, a Retailer’s lottery retailer contract may be temporarily suspended by the CEO, or such officer’s designee, without prior notice pending any prosecution, hearing or

investigation, whether by a third party or by the CEO, or such officer's designee.

Amended 5.18.09, 8.3.09

- C. Each Retailer whose lottery retailer contract has been canceled, revoked, suspended, terminated or not renewed will receive written notice thereof stating the reason therefore from the Corporation, and, in the case of a temporary suspension, the term of the suspension. Such notice shall be sent by certified mail, return receipt requested. Any Retailer is presumed to have received such notice from the Corporation on the third business day following the date such notice was placed in the mail, addressed to the last known address of such Retailer on file with the TEL's Retailer Contracts Administration Department.

Amended 8.3.09

- D. A Retailer may not sell lottery Tickets during the term of the suspension set forth in the notice of suspension. Upon a hearing or an appeal of a suspension of a retailer contract, the term of suspension may be delayed pending the final outcome of any hearing or appeal.

Amended 5.18.09, 8.3.09

- E. After suspension, revocation, termination, cancellation or non-renewal of a Retailer's lottery retailer contract, the Retailer shall settle its account with the TEL, in a form, manner and timeframe acceptable to the TEL, on a date designated by the CEO or his/her designee.

Amended 8.3.09

- F. Immediately upon any cancellation, revocation, termination or nonrenewal of a Retailer's retailer contract, such Retailer shall return to the Corporation the Certificate of Authority issued to it by the Corporation, as well as all lottery tickets, goods, materials and equipment in its possession. Immediately upon any suspension of a Retailer's retailer contract, Retailer shall return to the Corporation the Certificate of Authority issued to it by the Corporation and all lottery tickets in its possession.

2.1.3 REQUEST FOR HEARING

Amended 8.3.09

- A. Any Retailer may request a hearing regarding the cancellation, revocation, suspension, termination or nonrenewal of its lottery retailer contract. Any request for a hearing shall be in writing, addressed to the CEO and be filed with the Corporation within five (5) business days of the date of receipt of written notice described in Section 2.1.2.C, hereof. The Retailer must provide any additional evidence to the TEL along with its notice.
- B. All requests for hearings shall be sent by a national overnight carrier, certified mail, return receipt requested, or hand delivered, to the following address:

Chief Executive Officer
Tennessee Education Lottery Corporation
200 Athens Way, Suite 200
Nashville, Tennessee 37228

The request will be timely if it bears a United States Postal Service postmark showing mailing on or before the fifth (5th) day prescribed in Section 2.1.3.A, above. A request delivered by hand or national overnight carrier will be timely only if received by the Corporation at the above-stated address during its normal business hours on or before the fifth (5th) day prescribed in 2.1.3.A, above.

Amended 8.3.09

- C. If there is no new evidence or facts presented, or if additional evidence would not affect the Board's or hearing officer's decision, then the Board or hearing officer will decide the case on the existing record without a hearing.

2.1.4 HEARING PROCEDURES

Amended 5.18.09

- A. All hearings conducted under this policy shall be conducted by the CEO, or by a hearing officer appointed by the CEO or, in the case of a denial of an application, delegated by the Board. The hearing officer's actions, decisions and orders shall be deemed to be on behalf of the CEO or the Board and effective as though taken by the CEO or the Board, subject to the appeals procedures as hereinafter provided.

Amended 5.18.09

- B. A hearing shall be held within thirty (30) days following receipt of any appeal request given in accordance with the provisions of this policy. A notice which will set forth the time, date and location of the hearing will be sent to the party or parties requesting such hearing at least ten (10) days before the date set for such hearing.

Amended 5.18.09

- C. In connection with a hearing, the CEO or the hearing officer may:
1. Conduct the hearing in an informal manner without formal rules of evidence or procedure;
 2. Hold pre-hearing conferences to:

- a) Settle, simplify or identify the issues involved in the hearing;
 - b) Consider other matters that may aid in the expeditious disposition of the hearing;
3. Require each complaining party to state, either orally or in writing, its position concerning the various issues involved in the hearing;
 4. Require each complaining party to produce for examination those relevant witnesses and documents under its control;
 5. Rule on motions and other procedural items pending before him or her, including, without limitation, the methods, scope and extent of discovery available to the complaining party;
 6. Regulate the course of the hearing and conduct of the participants, including the imposition of reasonable time limits;
 7. Establish time limits for submission of motions or memoranda;
 8. Take official notice of any material fact not appearing in evidence in the record, if the fact is among the traditional matters of judicial notice;
 9. Administer oaths or affirmations; and
 10. Issue subpoenas.
- D. Any complaining party may request that the hearing be conducted before a court reporter. Such request must be in writing and include an agreement by the requesting party that it shall pay for, or that it shall procure at its own cost and on its own initiative, the court reporting services for such hearing. To be made part of the record, the original transcript of any such proceedings shall be submitted to the hearing officer as soon as the transcript is available, but not later than five (5) business days of the hearing.

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- E. If a hearing officer conducts the hearing on behalf of the CEO, he or she shall make a written recommendation containing the hearing officer's ruling, in the form of an Executive Order, to the CEO, within the later to occur of (i) thirty (30) days after the conclusion of the hearing or (ii) thirty (30) days after receiving an original transcript of the hearing pursuant to Section 2.1.4.D, above. A copy of the Executive Order must be sent by certified mail, return receipt requested, or hand delivered to the complaining party(ies). Any Retailer is presumed to have received such

Executive Order from the Corporation on the third business day following the date such decision was mailed to the last known address of such Retailer.

- F. If an Executive Order is received by the CEO, he or she must render a decision in writing and deliver or mail the decision to the parties within thirty (30) days after receiving the Executive Order from the hearing officer.
1. If the CEO receives a recommendation in an Executive Order from a hearing officer, he or she may:
 - a) accept, modify or reject the hearing officer's recommendation in whole or in part;
 - b) return the matter to the hearing officer with instruction;
 - c) make any other appropriate disposition; or
 - d) issue a no action response.
 2. If the CEO issues a no action response, then the determination in the Executive Order of the hearing officer will be deemed to be accepted by the CEO.

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- G. If the CEO conducts the hearing, he or she must render a decision in writing within the later to occur of (i) thirty (30) days after the conclusion of such hearing, or (ii) thirty (30) days after receiving an original transcript of the hearing, if applicable. The CEO's written decision shall be sent by certified mail, return receipt requested, or hand delivered to all parties. Any Retailer is presumed to have received such decision from the Corporation on the third business day following the date such decision was mailed to the last known address of such appellant.

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- H. If a hearing officer conducts a hearing pursuant to authority delegated by the Board, the hearing officer shall make a written opinion containing the hearing officer's ruling. Such opinion must be made within the later to occur of (i) thirty (30) days after the conclusion of the hearing or (ii) thirty (30) days after receiving an original transcript of the hearing pursuant to Section 2.1.4.D, above. A copy of the opinion must be sent by certified mail, return receipt requested, or hand delivered to the complaining party(ies). Any applicant is presumed to have received such decision from the Corporation on the third business day following the date such decision was mailed to the last known address of such appellant. The hearing

officer's opinion shall be deemed to be the decision of the Board. Any further appeal shall be conducted pursuant to Section 2.1.7, below.

2.1.5 PROCEDURE FOR FILING AN APPEAL WITH THE BOARD

Amended 8.3.09

- A. Any appeal from a decision of the CEO must be filed with the Board within five (5) business days of the date of receipt of such decision, as provided in Section 2.1.4.E or Section 2.1.4.G, as the case may be.
- B. An appeal must be sent by certified mail, return receipt requested, or hand delivered to the following address:

Chairperson, Board of Directors
Tennessee Education Lottery Corporation
200 Athens Way, Suite 200
Nashville, Tennessee 37228
Attn: Legal Office

An appeal will be timely filed if it bears a United States Postal Service postmark showing mailing on or before the fifth (5th) day prescribed in Section 2.1.5.A, above. An appeal delivered by hand will be timely filed only if received by the Corporation at the above-stated address during its normal business hours on or before the fifth (5th) day prescribed by Section 2.1.5.A, above.

- C. A filed appeal must be in writing and shall contain the following:
 - 1. A copy of the decision of the CEO;
 - 2. A copy of the transcript, if one was provided; and
 - 3. The basis for the precise factual or legal error in the decision of the CEO from which the appeal is taken.
- D. The Board shall notify interested parties of the appeal within five (5) calendar days after the appeal is filed.
- E. Any interested party may file a written brief stating its position on the appeal within five (5) calendar days after receipt of such notice.

2.1.6 BOARD'S DECISION

- A. The Board, or a committee of the Board, will review the record and issue a written decision on behalf of the Board. As to an appeal by a Retailer, the Board, or a committee of the Board, may, in its sole discretion, also

conduct its own review or investigation, including, without limitation, a de novo review, in whole or in part, of such claim, in the manner and under procedures that the Board or its committee shall deem appropriate under the circumstances.

- B. A copy of the Board’s written decision will be sent to the appellant by certified mail, return receipt requested, or hand delivered. The original written decision shall be retained by the Board. The written decision of the Board, or a committee of the Board, will be final, and no further appeal to the Board will be allowed.

2.1.7 JUDICIAL REVIEW.

Any final decision of the Board shall be subject to judicial review pursuant to T.C.A. § 4-51-127 by any person or entity who was a party to the appeal, and the complaint seeking review must be filed with the Chancery Court of Davidson County, Tennessee.