

SCEL TICKET HOLDER COMPLAINT PROCEDURE

The following procedure has been adopted by the Board of the South Carolina Lottery Commission for the orderly handling of consumer complaints that are not resolved by staff in an informal manner.

(A) If a ticket purchaser or ticket holder files a written complaint with the Executive Director relating to the sale of a ticket, payment of a prize, conducting of a promotion or other activity relating to the South Carolina Education Lottery (SCEL) or an SCEL product, the Executive Director shall forward the complaint to appropriate staff for further review. Any such complaint shall be filed in a reasonable amount of time after complainant becomes aware of the facts upon which the complaint is based.

(B) Complaints relating to SCEL licensed retailers shall be referred to the Director of Security and are not subject to the procedures provided herein.

(C) All matters contained in this policy that call for action of the Executive Director may be executed by a designee appointed by the Executive Director or, when appropriate, appointed by the Chairman of the Legal Committee or, in the absence of the Chairman of the Legal Committee, the Chairman of the Board.

(D) For the purposes of this procedure the terms:

- (1) "Executive director" means the Executive Director of the South Carolina Lottery Commission or his designee.
- (2) "Board" means the Board of Commissioners of the South Carolina Lottery Commission or its designee.

(E) The complaint will be reviewed to determine its validity and to determine if the information provided is sufficient. Although the burden may shift on a particular matter, the complainant has the burden of going forward and of proof. If the review of the complaint indicates that additional information is necessary for an appropriate response, the complainant may be required to provide additional information, including but not limited to:

- (1) the name, address, and telephone number of the complainant and the name address and telephone number of the complainant's legal counsel, if any;
- (2) a detailed statement of facts supporting the complainant's position;
- (3) a detailed statement outlining the reason(s) for the complaint, including any law or other authority upon which the complainant relies;
- (4) the name(s), address(es), and telephone number(s) of witness(es) who may need a subpoena to appear;
- (5) any other relevant information the SCEL may reasonably prescribe; and
- (6) the evidence, clearly identified, to be considered by the Executive Director.

(F) The complainant will be notified in writing if more information is needed and will be afforded a reasonable time to respond. If any information requested is not provided within the prescribed time period, or if the information submitted fails to present a claim for which relief may be granted, the complaint may be dismissed by the Executive Director. In his discretion, upon receipt of sufficient information, the Executive Director may schedule a hearing rather than issuing a decision on the written material submitted. If a hearing is denied, the complainant may request reconsideration: 2

The request for reconsideration for a hearing must be in writing, and must be submitted to SCEL within thirty (30) days of the date of the determination or dismissal.

(G) The Executive Director may require or the complainant may request a conference in an attempt to expedite the orderly conduct of the hearing or the settlement of the complaint prior to the scheduled hearing. If a conference is scheduled to discuss settlement of the complaint, the settlement discussion is confidential in the same manner as provided in the Circuit Court Alternative Dispute Resolution Rules 5(d), and no part of this discussion may be used as evidence in any hearing or trial.

(H) A complainant may represent his or her own interest or may be represented by an attorney at law, licensed to practice law in the State of South Carolina. Other than complainants or South Carolina attorneys representing complainants, no person or organization may represent the interests of a complainant.

(I) If a complainant fails to appear at a hearing after due notice, the Executive Director may dismiss or continue the matter, or decide the matter. Upon timely application and proper notice, the Executive Director may grant a motion for a continuance or other change in the date, time and place of the hearing.

(J) All complaint hearings shall be open to the public and the press, except as provided in subsection (G) listed above.

(K) The hearing need not be conducted according to technical rules of evidence. The hearing will be conducted generally in accordance with Rule 47 of the Rules of Procedure of the Administrative Law Judge Division to the extent and fashion deemed appropriate by the Executive Director.

All hearings will be recorded by a certified court reporter. If a complainant desires the testimony be transcribed into a transcript or files an appeal, the complainant shall order directly from the reporter an original and one copy, both of which are the financial responsibility of the complainant ordering the transcript. The original transcript shall be filed by the reporter directly with SCEL.

(L) Any decision of the Executive Director regarding a ticket purchaser or holder's written complaint, including decisions regarding denial or dismissal of a complaint without a hearing or decisions made after hearing all of the testimony, facts and evidence presented, must:

- (1) be in writing and sent by United States Postal Service certified mail, a commercial overnight delivery service or hand-delivered to the complainant as soon as practicable;
- (2) explain the basis for the determination;
- (3) explain the information necessary to file an appeal and the time periods in which an appeal must be filed with the Board; and
- (4) inform the complainant that he or she may request a hearing before the Board, or in lieu of a hearing, may request that an appeal may be decided upon the written materials presented for the appeal.
- (5) A complainant aggrieved by a decision of the Executive Director may request a hearing before the Board, subject to the provisions of paragraph (M) below, within fifteen (15) days of the written determination by the Executive Director. The appellant must be granted a hearing before the Board or its designee as soon as practicable but not later than sixty (60) days after the written determination of the Executive Director.

(M) The Board, pursuant to the power granted to it in S.C. Code Ann. §59-150-40(H), has authorized the Legal Committee to hear and dispose of administrative appeals from the Executive Director, as the Committee deems appropriate, including, but not limited to, designating one of its members to consider an act on an appeal on behalf of the Commission. Therefore, references herein to “Board” shall be read to take this delegation of authority into account.

(N) The Board shall adopt the record of the proceedings before the Executive Director. Based upon the record, the Board may reverse a decision of the Executive Director if the appellant proves the decision to be:

- (1) in violation of constitutional or statutory provisions;
- (2) in excess of the statutory authority of the Executive Director;
- (3) in excess of the authority granted to the Executive Director by the Board;
- (4) made upon unlawful procedure;
- (5) affected by other error of law;
- (6) clearly erroneous in view of the reliable, probative, and substantial evidence of the whole record; or
- (7) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

(O) The Board may remand an appeal to the Executive Director for further consideration or investigation.

(P) The Board’s determination must be in writing and must:

- (1) be sent by United States Postal Service certified mail, a commercial overnight delivery service or hand delivered to the appellant;
- (2) explain the basis for the Board's determination; and

(3) inform the appellant of his or her right to appeal under S.C. Code Ann. §59-150-300 (as amended).

APPROVED:

December 29, 2004