

Fundamentals of Tribal Casino Gaming Regulation – A Primer for Regulators

Top 10 Considerations for Tribal Gaming Regulatory Agencies Regarding Issuing Conditional Licenses

When considering the issuance of a conditional gaming license, the fundamental question should never simply be "Does this applicant have a problem?" The appropriate regulatory question is: "Does the available evidence establish a material gaming-suitability risk, and if so, can that risk be reasonably managed through a narrowly tailored, measurable, and temporary licensing condition?" That distinction makes conditional licensing a component of risk-based gaming regulation rather than punitive regulation and is consistent with the broader objective of protecting tribal assets, patrons, employees, and the integrity of the gaming operation. The following are the top ten considerations for Tribal Gaming Regulatory Agencies (TGRAs) considering issuing conditional gaming licenses.

1. Treat Conditional Licensing as a Regulatory Risk-Management Tool

A conditional gaming license should not be viewed as punishment or as a lesser form of gaming license. It is a risk-management mechanism that allows a TGRA to address an identifiable suitability concern when that concern does not presently justify denial. This reflects a central regulatory principle: regulatory action should be proportional to the risk presented.

IGRA requires tribes to maintain licensing systems that prevent employment of persons whose prior activities, criminal record, reputation, habits, or associations pose a threat to the public interest or effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal gaming practices. A conditional license therefore occupies an important regulatory space between: Unrestricted License, Conditional License, License Denial or Revocation

2. Establish a Clear Nexus Between the Condition and Gaming Suitability

Not every issue in an applicant's life is a gaming-regulatory problem. Before imposing a condition, the TGRA should be able to answer: How does this circumstance reasonably relate to the applicant's suitability or risk to the integrity, security, honesty, or effective regulation of gaming? Relevant considerations can include honesty, judgment, financial vulnerability, criminal conduct, regulatory history, questionable associations, access to gaming assets, and compliance with law.

The principle is especially important when considering ordinary life events. Divorce, unemployment, bankruptcy, foreclosure, family emergencies, caregiving responsibilities,

identity theft, or the death of a family member may explain adverse financial circumstances without establishing unsuitability. The NIGC framework requires meaningful eligibility determinations based on background investigations, and NIGC's 2026 training continues to emphasize suitability and protection of gaming integrity as central purposes of Parts 556 and 558.

3. Evaluate the Totality of Circumstances, Not a Single Event

Conditional licensing decisions should not ordinarily be based on one numerical threshold, arrest, debt, judgment, bankruptcy, or other isolated fact. TGRA Licensing should evaluate the totality of circumstances, including:

- Nature and seriousness of the issue;
- Recency;
- Frequency and whether a pattern exists;
- Applicant's explanation;
- Corroborating documentation;
- Mitigating circumstances;
- Rehabilitation or remediation;
- Position sensitivity;
- Applicant candor;
- Continuing risk to gaming integrity.

This is particularly important with financial suitability. For example, \$100,000 of performing mortgage and student-loan debt may present considerably less regulatory concern than \$10,000 of concealed gambling debt or unexplained obligations to questionable individuals.

4. Distinguish Life Circumstances from Conduct Demonstrating Unsuitability

One of the most important principles for a modern TGRA is distinguishing something that happened to an applicant from something the applicant did. A person may experience bankruptcy because of a business failure, divorce, unemployment, catastrophic property loss, family obligations, or other circumstances. Those facts should not automatically be treated the same as financial problems arising from fraud, chronic gambling, intentional failure to satisfy obligations, unexplained expenditures, or deceptive conduct.

Similarly, an arrest is not equivalent to a conviction, and a civil lawsuit is not proof of wrongdoing. Relevant life circumstances can include divorce or separation; death of a spouse or family member; unemployment; foreclosure; bankruptcy; business failure; identity theft; family financial emergencies; caregiving responsibilities; tax problems; civil

litigation; and other significant disruptions. The regulator's responsibility is to determine the regulatory significance of the underlying facts and the potential risk the circumstance presents to the gaming operation, not merely record that an adverse event occurred.

5. Give Significant Weight to Applicant Candor

The applicant's response to adversity can sometimes be more significant than the underlying problem. Consider two applicants:

Applicant A: Discloses \$30,000 in delinquent tax obligations, explains the circumstances, produces supporting documentation, establishes a payment agreement, and complies with it.

Applicant B: Has a \$5,000 judgment but intentionally conceals it and provides misleading information during the suitability background investigation. The smaller financial problem may present the greater regulatory concern because it raises questions about honesty and integrity in the licensing process.

The emphasis for TGRA Licensing is: Not to evaluate only the adverse information, evaluate how the applicant disclosed, explained, and addressed it.

6. Consider Position Sensitivity and Opportunity

Conditional licensing should be risk-based and position-sensitive. The same background concern can present substantially different risks depending upon the employee's duties and access. Heightened scrutiny may be appropriate for positions involving access to: cash and equivalents, cage/vault operations, count rooms, gaming systems, player information, surveillance operations, financial systems, sensitive databases, gaming equipment, administrative credentials, and regulatory information

An employee with substantial delinquent debt but no access to gaming assets may present a different risk profile from a cage supervisor, slot technician, system administrator, controller, surveillance employee, or executive with comparable financial circumstances. A useful analytical model is: Underlying Concern × Position Sensitivity × Opportunity × Applicant Conduct × Mitigating Factors = Regulatory Risk

7. Make Every Condition Specific, Measurable and Achievable

Conditions should never be vague directives such as: *"Improve your finances"* or *"Maintain good character"* or *"Stay out of trouble."* Instead, conditions should identify objectively verifiable requirements. For example: Maintain compliance with the documented tax

repayment agreement and provide verification upon request, or notify the TGRA within ten calendar days of any material change in the pending criminal proceeding and provide copies of disposition documents.

Every conditional license should identify: Basis for condition → Regulatory nexus → Required action → Evidence of compliance → Duration → Review date → Removal criteria

8. Establish the Exit Strategy When the Condition Is Imposed

TGRA Licensing should know how a licensee gets off conditional status before placing the licensee on conditional status. Conditional licenses should ordinarily contain predetermined review periods, such as 6 or 12 months, rather than remaining conditional indefinitely.

The governing principle should be: a condition should be removed when its underlying basis has been resolved, sufficiently mitigated, or no longer presents a material risk to the gaming operation. Importantly, remediation does not always mean complete elimination of the underlying issue. A licensee with significant debt, for example, might demonstrate sufficient financial stability through 12 months of timely payments, compliance with creditor agreements, no significant new delinquencies, timely disclosures, and responsible financial management. Requiring the person to eliminate a large debt entirely could keep the individual on conditional status for years without advancing a legitimate regulatory objective.

9. Require Documented Periodic Review and Avoid "Permanent Probation"

Conditional licenses should have formal review mechanisms. At the review date, TGRA Licensing should determine whether to: remove the condition; modify the condition; extend it based upon documented continuing risk; or initiate appropriate suspension, revocation, or other proceedings.

There should be a presumption favoring removal once predetermined conditions have been successfully satisfied, absent new or continuing suitability information. That approach prevents conditional licensing from becoming informal permanent probation. The decision should also be documented sufficiently to demonstrate why continued restrictions are, or are no longer, necessary.

10. Protect Regulatory Independence, Consistency and Due Process

Perhaps the most important operational consideration is that conditional licensing decisions must remain regulatory decisions. Casino management should not influence whether an applicant receives a conditional license merely because it wants to hire or retain the employee. Conversely, conditional licensing should not be used by regulators as an informal disciplinary mechanism when the underlying matter does not legitimately implicate licensing suitability.

A high-performing TGRA should therefore adopt a written Conditional Gaming License Policy and Decision Protocols establishing: eligibility criteria, risk factors, mitigating factors, position-sensitivity considerations, permissible conditions, standard review periods, documentation requirements, removal criteria, commission review authority, and due-process procedures.

A Practical TGRA Conditional Licensing Model:

These ten considerations can be distilled into a straightforward regulatory sequence:

- Identify the concern
- Establish its nexus to gaming operation risk
- Investigate the underlying facts
- Consider life circumstances and mitigation
- Assess position sensitivity
- Determine risk level
- Decide whether license conditions can mitigate that risk
- Establish measurable conditions
- Set the review/removal criteria
- Document and periodically reassess the decision.

Barnes & Noble

<https://www.barnesandnoble.com/s/fundamentals%20of%20tribal%20casino%20gaming%20regulation>

Amazon

https://www.amazon.com/Fundamentals-Tribal-Casino-Gaming-Regulation/dp/B0G3638B28/ref=sr_1_1?crid=2K9T0QWDG83YO&dib=eyJ2ljojMSJ9.obBxcBbXzj5xWyEES1FTTQ.yz6WjQiZKI4wsjP5cMgqP5Xchm_zDfpe3ByqllSc4o&dib_tag=se&keywords=fundamentals+of+tribal+casino+gaming+regulation&qid=1764177136&srefix=%2Caps%2C112&sr=8-1

Magers & Quinn

<https://www.magersandquinn.com/product/FUNDAMENTALS-OF-TRIBAL-CASINO/28792171>

Bookscape

https://bookscape.com/product-details/fundamentals-of-tribal-casino-gaming-regulation-9798318806810?utm_source=chatgpt.com

While there are several excellent texts describing the legal construct of tribal casino gaming, replete with case studies and court decisions, there are few resources available to the aspiring or journeyman level tribal gaming regulator or casino professional. This book endeavors to describe the construct of the tribal gaming regulatory agency, organizing commissions and the processes, protocols, and operational procedures employed to fulfill the mission of ensuring the integrity of gaming, the protection of tribal assets, and the health and safety of casino employees, patrons and visitors. Nothing in this book is meant to convey legal advice and the reader should first and foremost rely on the rules, regulations, and direction of their tribal government in guiding their course of action in regulating casino gaming.



David Vialpando has served as Executive Director and Commission Chairman for several tribal gaming commissions in California, Michigan, and Indiana and serves as the Vice-Chairman of the Tribal Gaming Protection Network. With extensive experience in tribal gaming regulation, he has been recognized for his contributions to the field, earning the 2017 IMGL Gaming

Regulator of the Year award. Vialpando's leadership roles at various gaming commissions throughout the U.S., and as the Special Agent in Charge of the California Department of Justice, Bureau of Gambling Control in Southern California, overseeing the largest concentration of casinos and the largest casinos in the U.S., highlight his commitment to enhancing regulatory practices within the tribal gaming sector. His insights, experience and expertise are invaluable resources for regulators, casino professionals, and tribal government officials navigating the complexities of gaming regulation and committed to the economic success of their gaming enterprises.

 **PALMETTO**
PUBLISHING
EST. 2002
www.palmettopublishing.com



FUNDAMENTALS OF TRIBAL CASINO
GAMING REGULATION: A PRIMER FOR REGULATORS

DAVID VIALPANDO

FUNDAMENTALS OF TRIBAL CASINO



GAMING REGULATION:
A PRIMER FOR REGULATORS

DAVID VIALPANDO

