

NATIONAL INDIAN GAMING COMMISSION



Basic IGRA



Key Points:

Welcome to Basic IGRA.

My Notes:

National Indian Gaming Commission



Key Points:

ZOOM Poll Question – What is your role within Tribal Gaming?

- A. TGRA
- B. Gaming Operation
- C. State Regulatory Agency
- D. CPA Firm
- E. Attorney
- F. Other

My Notes:

Introduction to IGRA



Enacted by Congress in 1988

25 U.S.C. §§ 2701 – 2721

Key Points

IGRA was enacted in 1988. The text of IGRA can be found at 25 U.S.C. §§ 2701 – 2721.

My Notes:

History of IGRA

- 1987 --*California v. Cabazon Band of Mission Indians*.
- Tribes have the authority to game on reservations unfettered by any state or county regulation.
- Recognized the importance of Tribal self-governance and self-determination.

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Key Points:

Cabazon affirmed that tribes have the authority to game on reservations without state or county regulations.

Cabazon recognized the importance of tribal self-governance and self-determination.

My Notes:

Cabazon & IGRA

- Congress established IGRA in the wake of *Cabazon*.
- Maintains Tribes as primary regulators, but also establishing a regulatory role for the federal government (NIGC) and, for Class III gaming, the States.

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Key Points:

IGRA developed from the Supreme Court case *California v Cabazon Band of Mission Indians*, 480 U.S. 202 (1987).

Under IGRA tribes are the primary regulator. NIGC and States also have a roll.

My Notes:



Purposes of IGRA

Provide a statutory basis for the operation of gaming by tribes to promote:

Tribal
Economic
Development

Self-
Sufficiency

Strong Tribal
Governments

Key Points:

The three goals of IGRA are to promote (1) tribal economic development, (2) self-sufficiency, and (3) strong tribal governments.

My Notes:



Purposes of IGRA

Provide a statutory basis for the regulation of gaming adequate to:

Shield

Primary
Beneficiary

Fair and
Honest

Key Points:

IGRA has safeguards to (1) shield it from organized crime and corrupting influences, (2) ensure tribe is the primary beneficiary of the gaming; and (3) gaming is fair and honest by the operator and the player.

My Notes:

What Does IGRA Do?



Independent Federal
regulatory authority for
gaming on Indian lands;

and

Federal standards for
gaming on Indian lands.

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Key Points:

IGRA established NIGC as an independent federal regulatory agency.

IGRA provides standards for gaming on Indian lands.

My Notes:

The Commission



The Commission is composed of three full-time members.

- The Chair
- Two associate members
- Two members of the Commission may be of the same political party.
- At least two members must be enrolled members of a tribe.



Key Points:

IGRA establishes that NIGC will be headed by a three member commission.

The Chair is appointed by the President and confirmed by the Senate.

Two associate members are appointed by the Secretary of the Interior.

My Notes:

National Indian Gaming Commission

NIGC Commission



E. Sequoyah Simermeyer
Chairman



Jeannie Hovland
Vice Chair

Vacant
Associate Commissioner

Key Points:

My Notes:

NIGC Mission

- To ensure that Indian gaming is regulated according to policies set forth by IGRA.
- To maintain the integrity of Indian gaming.
- To ensure that the tribe is the primary beneficiary of the gaming operation.
- To ensure that gaming is conducted fairly and honestly by both the operator and player.

Key Points:

The NIGC's mission is to (1) promote tribal economic development, self-sufficiency, and strong tribal governments; (2) maintain the integrity of the Indian gaming industry; and (3) ensure that Tribes are the primary beneficiaries of their gaming activities.

My Notes:

NIGC Mission

NIGC adheres to the principles of good government.

- Transparency and agency accountability.
- Fiscal responsibility.
- Operate with consistency and clarity.
- Respect the capabilities and responsibilities of tribes.

Key Points:

NIGC strives to meet the public's expectation for administrative processes that uphold good governance practices and support efficient and effective decision-making to protect tribal assets."

My Notes:

Authority



- Authority for the regulation of Indian gaming is shared among the tribes, the Federal Government and, in some cases, states.
- The NIGC works closely with tribal gaming commissions, state gaming commissions, governments, and other Federal agencies to ensure the integrity of the industry.

Key Points:

Regulation of Indian gaming is shared among the tribes, federal government and in some cases states.

NIGC works with multiple stakeholders to ensure the integrity of Indian gaming.

My Notes:

NIGC Responsibilities



Monitor

Review
Contracts

Background
Investigations

Review
Gaming
Ordinances

Audits

Key Points:

NIGC responsibilities include:

- Monitor gaming operations.
- Review contracts for the management of gaming operations.
- Conduct background investigations on management company officials and principal investors.
- Review all tribal gaming ordinances.
- Review and conduct audits.

My Notes:

Responsibilities



- The Commission has the authority to take actions against violations of the IGRA, NIGC regulations, and Tribal ordinances approved by the NIGC.
 - The Chairman can issues orders of temporary closure and levy and collect civil fines.
- The NIGC encourages voluntary compliance with IGRA and NIGC regulations. Agency staff is available to provide guidance on the regulations and to respond to public's concerns regarding Indian gaming.

Key Points:

NIGC has authority to take action against violations of IGRA, NIGC regulation, and approved tribal gaming ordinances.

NIGC encourages voluntary compliance.

My Notes:

Prerequisites for IGRA Gaming

- All gaming must be on “Indian Lands”
- Approved Tribal Gaming Ordinance
- Facility License
- Tribal Internal Control Standards (TICS) for Class II Gaming
- Approved Compact or DOI Procedures for Class III Gaming
- Gaming Personnel Licenses
- Approved Management Contract (For Any Third-Party Managers)

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Key Points:

These are the requirements for gaming under IGRA.

My Notes:

Indian Lands



- Gaming must be conducted on “Indian lands”
- Definition of “Indian lands” in IGRA & NIGC regulations
- “After-Acquired” lands prohibition and exceptions.



Key Points:

IGRA requires gaming on Indian lands.

Indian lands include (1) reservation lands and (2) trust or restricted fee land in which the tribe exercises governmental power over the land.

IGRA prohibits gaming on tribal lands acquired after the enactment of IGRA.

Indian gaming is available on after acquired lands with a two-part determination.

My Notes:

Tribal Gaming Ordinance

- Class II or III gaming ordinance must be enacted according to tribal constitution/law and approved by Chair of the NIGC.
- Must contain all provisions required by IGRA and NIGC regulations
 - Content Requirements –
 - ❖ 25 C.F.R. §§ 522.4(b), 522.6.
 - Submission Requirements –
 - ❖ 25 C.F.R. § 522.2.
- Disapproval may be appealed within 30 days.
- Amendments must be submitted within 15 days.
- NIGC Model Gaming Ordinance and informal review.

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Key Points:

IGRA requires a tribal gaming ordinance for Indian gaming.

The gaming ordinance must be approved by the NIGC Chair before gaming.

IGRA and NIGC regulations spell out the requirements that must be in a tribal gaming ordinance.

NIGC has a model gaming ordinance and will do an informal review of a draft gaming ordinance.

My Notes:



Facility License

- NIGC regulations 25 CFR part 559.
- 120-day advanced notice to NIGC for new facilities, along with basic lands information.
- 60 day expedited process may be granted by Chair.
- Attest that construction, maintenance and operation are conducted so as to adequately protect EPHS.

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Key Points:

Before gaming a tribe must obtain a facility license.

My Notes:

Tribal Internal Control Standards



- Must be at least as stringent as NIGC's Minimum Internal Control Standards (MICS) at 25 C.F.R. part 543.
- Designed to ensure integrity of gaming and protect against cheating and theft.
- Legal requirement applies only to class II gaming after *CRIT v. NIGC*, 466 F.3d 134 (D.C. Cir. 2006) unless tribe's gaming ordinance, compact, or secretarial procedures incorporates MICS for class III gaming (25 C.F.R. part 542).

Key Points:

A tribe must have internal controls for tribal gaming.

NIGC regulations have minimum internal control standards for Class II and Class III gaming.

Class III regulations do not legally apply to tribes.

My Notes:

Approved Compact



- Necessary for any Class III gaming.
- Negotiated between the tribe and state, and approved by the Secretary of the Interior.
- May include restrictions on scope of gaming, locations, hours of operation, etc.
- May include internal control regulations and allocation of tribal-state jurisdiction.
- May not include a state tax, but may include assessments for services provided, funding of mitigation measures, and revenue sharing in exchange for some benefit to the tribe, such as exclusivity.

Key Points:

For Class III gaming a tribe must have an approved gaming compact.

My Notes:

Gaming Personnel Licenses



- Tribe must background and license all “key employees” and “primary management officials.”
- Notice of results of background investigation must be provided to NIGC within 60 days of employee start date.
- NIGC may raise objections or provide more information for Tribe’s consideration.
- Final licensing determination **must be** made by tribe within 90 days of employee start date.
- Must notify NIGC if a license is issued or not.

Key Points:

A tribe must background and license all key employees and management officials and provide NIGC with the results of the background investigation.

A tribe must notify NIGC if a license was issued or not.

My Notes:



Management Contract

- A “management contract” is a contract, subcontract or collateral agreement that provides for management of all, or part of, a gaming operation.
- Applies if tribe uses third-party management company or person who is not a tribal employee.
- NIGC Chair must approve contract before management begins.
- Content requirements and restrictions.
 - Length of term does not exceed 5 years or 7 years if “good cause” is shown.
 - Fees must be reasonable “in light of surrounding circumstances” and can’t exceed 30% of net revenues. Except in rare circumstances may exceed 30%, but not 40%.
 - Background investigations.
- Managing without an approved contract is a substantial violation that can lead to fines and closure.

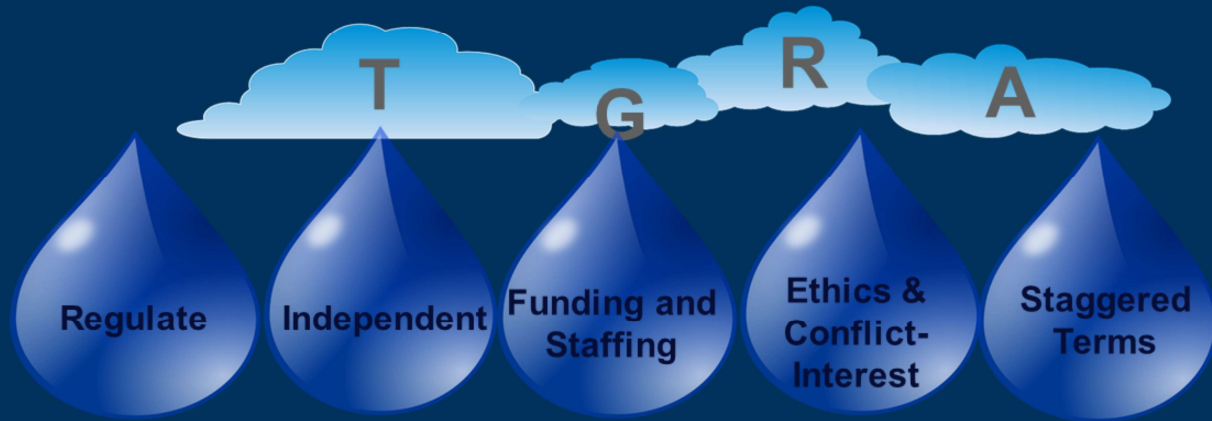
Key Points:

NIGC Chair must approve management contracts before management begins.

Managing without an approved contract is a substantial violation that can lead to closure and fines.

My Notes:

Tribal Gaming Commission



Key Points:

A tribal gaming commission is important to ensuring the integrity of tribal gaming.

My Notes:



Key Points:

ZOOM Poll Question -Do you think your Tribal Gaming Commission is independent?

- A. Yes
- B. No
- C. Unsure

My Notes:

Tips for Compliance



- Be proactive
 - Know the laws that apply to you and your gaming operation and where to find them.
 - Be assertive
 - Take advantage of NIGC expertise, services and on-line resources.
- Seek assistance
 - For compliance issues contact NIGC Regional staff
 - For legal questions contact OGC.
- Learn from other examples
 - www.nigc.gov/general-counsel

Key Points:

Reach out to NIGC if you need assistance or have questions.

My Notes:



Tips for Compliance

- Be informed & use on-line tools
- Visit NIGC website
 - Review relevant bulletins
 - Print and use:
 - Model Gaming Ordinance & Checklist
 - Fee schedule, worksheet & calculation tool
 - MICS worksheet & audit checklists
 - AUP Report formats
 - Management Contract checklists
 - Review upcoming trainings and attend one
 - Access IGRA and NIGC & DOI regulations



Key Points:

NIGC has resources available online to help.

My Notes:

Tips For Compliance (Deadlines)



- Gaming Ordinances & Amendments - 15 days after enactment
- Notice of Results of Investigation – within 60 days after applicant begins work
- Licensing of PMO/KE Notices – 30 days after decision.
- Management Contracts – 60 days after execution.
- Management Contract Amendments – 30 days after execution

Facility License Notices - 120 days before issuance.

Notice of license issuance – within 30 days of issuance

Facility License Renewal Notice – within 30 days of issuance

Notice of revocation/reinstatement of license – within 30 days

Key Points:

My Notes:

Questions?



National Indian Gaming Commission
Office of General Counsel
(202) 632-7003

Key Points:

Thank you for joining us today.

If you have any questions or comments
please send them to
TRAININGINFO@nigc.gov

My Notes:



Thank you

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Key Points:

Follow us on social media.

My Notes: