

**CHAPTER 61D-3  
STEWARDS AND JUDGES PROCEDURES**

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**61D-3.001 Hearings Before Stewards/Judges.**

(1) Jai Alai game infractions shall be decided by the court judges. Any alleged violation of Chapter 550, F.S., at a jai alai fronton will be governed by Sections 120.569 and 120.57, F.S.

(2) Alleged violations of Chapter 550, F.S., or Chapter 61D, F.A.C., in horseracing ~~may~~ shall be heard by a board of stewards or in accordance with Sections 120.569 and 120.57, F.S. Each horseracing permitholder shall establish a board of three stewards, at least one of whom shall be the state/division steward selected and hired by the division.

(3) Alleged violations of Chapter 550, F.S., or Chapter 61D, F.A.C., in greyhound racing ~~may~~ shall be heard by the division judge or in accordance with Sections 120.569 and 120.57, F.S.

(4) All hearings on alleged violations set forth in Section 120.80(4)(a), F.S., which are to be heard by the stewards or division judge must be conducted pursuant to the following procedures set forth in subsections (6)-(20) below when the purpose of the hearing is to impose a fine or suspend a license. For purposes of review of a decision of the division judge or stewards, the division is hereby designated a proper party.

(5) All proceedings involving violations other than those described in Section 120.80(4)(a), F.S., which are to be heard by the stewards or division judge shall be conducted in accordance with the applicable provisions of Chapter 120, F.S.

(6) Initiation of Proceedings.

(a) Proceedings before stewards and the division judge shall be made by written document entitled "Notice of Violation and Hearing."

(b) Each Notice of Violation and Hearing shall contain the name and address of the respondent, a statement of the statute(s) and/or rule(s) alleged to have been violated and a brief statement of the underlying facts and the date, time and place of the hearing on the charges.

(7) Prior to a hearing for an alleged medication or drug violation, where redistribution of the purse may be involved, the stewards or division judge shall give at least five business days notice to each owner who may be adversely affected by the purse redistribution of the date, time, and location of the hearing.

(8) Documents. Upon request to the stewards or division judge, any respondent shall be entitled to obtain copies of all audio and video recordings, witness statements, and laboratory analyses. A respondent requesting production shall pay the actual cost of production of such material. A respondent shall also be entitled to the names and addresses of all witnesses and investigators with information relevant to the matter(s) to be heard by the stewards or division judge.

(9) Subpoenas.

(a) Subpoenas to compel the attendance of witnesses at hearing shall be issued by the division upon the request of a party, the stewards or division judge. All requests for the issuance of subpoenas shall be directed to the stewards and division judge and such requests shall be forwarded to the division for issuance. The respondent requesting the subpoena shall arrange for their own service and pay all costs for the service of each subpoena.

(b) A subpoena may be served by any person authorized by law to serve process or by any person who is not a respondent and who is of majority age. Service shall be made by delivering a copy thereof to the person named in the subpoena. Proof of such service shall be made by affidavit of the person making service if not served by an officer authorized by law to do so. The cost of service shall be paid by the respondent requesting the subpoena.

(10) Witnesses. All witnesses shall be sworn and subject to examination and cross-examination.

(11) Conduct of Hearing/Evidence.

(a) Oral testimony shall be taken only on oath or affirmation. Stewards and the division judge shall administer oaths and examine witnesses.

(b) Each party shall have the right to present evidence relevant to the issues; to cross-examine opposing witnesses; to impeach any witness regardless of which party first called him to testify; and to rebut the evidence presented against it.

(c) Any relevant evidence shall be admitted if it is the sort of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs. Irrelevant and unduly repetitious evidence shall be excluded.

(12) Recordation. The stewards and division judge shall assure that a record of the proceedings is preserved. Proceedings shall be recorded on whatever media is available. Any respondent to a hearing may, at his/her own expense, provide a certified court reporter. Any respondent who wishes to make a written transcript of the recorded testimony shall request a copy of the recorded testimony and transcribe the same at his/her own expense.

(13) Representation. A respondent in any proceeding conducted before stewards and the division judge may be represented by an attorney admitted to practice law in Florida or by any qualified representative as defined in Rule 28-106.106, F.A.C., who agrees to comply with the requirements of Rule 28-106.107, F.A.C. After written notice of appearance that a respondent is being represented by an attorney or qualified representative, all communications to a respondent concerning the case shall be made to the respondent's attorney or representative, and the respondent's attorney or representative shall be entitled to exercise the rights granted to the respondent under these rules.

(14) Service of Notices of Violation and Hearing.

(a) The stewards and division judge shall set the time and place for all hearings and written notice thereof shall be served on all respondents, counsel, or other qualified representatives by personal service, when possible, ~~otherwise in accordance with Section 120.60, F.S.~~ At least five days notice shall be given for the hearing, unless otherwise agreed by the respondent.

(b) Any respondent who is served with a Notice of Violation and Hearing and does not appear at a hearing before the stewards or division judge, either in person or through representation, waives the right to the hearing.

(15) Service of Papers. Unless the stewards or division judge otherwise order, every paper filed in a proceeding, except Notices of Violation and Hearing (as provided for in subsection (14) above) and requests for witness subpoenas, shall be served on each respondent. Service shall be made upon the respondent or respondent's representative by hand delivering a copy or in accordance with Rule 28-106.110, F.A.C.

(16) Continuances. The stewards or division judge shall grant a continuance of a hearing for good cause shown. In deciding whether good cause is shown, the division judge and stewards must consider whether the reason given by the licensee for requesting a continuance is an event out of the licensee's control, such as the death of an immediate family member. Requests for continuance shall be made in writing.

(17) Computation of Time. In computing any period of time prescribed or allowed by these rules or by any applicable statute, the day of the act from which the designated period of time begins to run shall not be included. Five days shall be added to prescribed time limits when service is made by mail.

(18) Disqualification. Unless good cause is shown, all motions for disqualification of stewards or the division judge shall be made to the division in writing at least five days prior to the date scheduled for hearing. In deciding whether good cause is shown, the division must consider whether the reason given by the licensee for not meeting the five-day limitation is an event out of the licensee's control, such as the death of an immediate family member.

(19) Orders.

~~(a) In the event the stewards or division judge determine a statute or rule has been violated and a penalty of a license suspension of 60 days or less, or a fine not to exceed \$1,000 is sufficient to address the violation, the stewards or division judge shall enter an order within 14 days after the hearing. The order shall include a caption, time and place of the hearing, findings of fact, statement of rules or statutes violated, and a ruling stating the length of any suspension and the amount of the fine imposed for each violation.~~

~~(b) In the event the stewards or division judge determine a statute or rule has been violated and a penalty of a license suspension of greater than 60 days, or a fine of greater than \$1,000 should be imposed for the violation, the stewards or division judge shall forward a recommendation to the division stating their findings of fact, statement of statutes or rules violated, and recommended penalty within 14 days after the hearing. The recommendation shall be served to each party at the time it is forwarded to the division. A party shall have 14 days from the date the recommendation is issued in which to file a response with the division prior to the entry of a final order.~~

(20) Conflict of Interest. The permitholder shall not employ a steward in any other capacity or assign duties of other employees to a steward.

(21) No person other than a party in a noticed proceeding shall attempt to influence the decision of the stewards or division judge regarding any case pending before them under this rule. This rule shall not prohibit the stewards or division judge from consulting with counsel regarding a matter pending before them.

(22) A steward or judge employed by the division shall not sit in judgment of a matter pending before the permitholders' stewards or judges that is based solely upon any rule of the permitholder.

*Rulemaking Authority 120.80(4)(a), 550.0251(3), 550.2415(12) FS. Law Implemented 120.80(4)(a), 550.0251, 550.1155 FS. History--New 10-20-96, Amended 12-15-97, 4-12-06, 6-26-11.*

### **61D-3.002 Appeal Procedures.**

(1) The stewards and division judge shall include in their decision a notice to the licensee of the licensee's right to an appeal hearing before the division director or his/her designee. In addition, the stewards and division judge shall provide the licensee with the procedures and time limits for invoking the right to an appeal. All requests for an appeal must be submitted in writing or on Form DBPR PMW-3100, Request for Appeal of Stewards'/Judges' Ruling, effective 3-4-07, adopted herein by reference, <http://www.flrules.org/Gateway/reference.asp?No=Ref-00306>, and can be obtained at [www.myfloridalicense.com/dbpr/pmw](http://www.myfloridalicense.com/dbpr/pmw) or by contacting the Division of Pari-Mutuel Wagering at 1940 North Monroe Street, Tallahassee, Florida 32399-1035. The appeal shall state in writing the reason the licensee believes the judge's or stewards' order should be reversed.

(2) Failure of the licensee to file a request for an appeal hearing within 10 days of the decision of the stewards or division judge constitutes a waiver of the right to an appeal.

(3) Upon receipt of an appeal, the division shall review the appeal and the record to determine whether a legitimate issue of law has been presented that would require an appeal hearing to be scheduled. The division shall not substitute its judgment for the judgment of the stewards or division judge as to a finding of fact or the weight and credibility of evidence in the record. The division shall issue an order affirming the stewards or division judge if an appeal that merely disputes findings of fact based upon evidence is received by the stewards or division judge. Appeal hearings shall be conducted in person, by telephone, or by other electronic means.

(4) In the event the stewards or division judge make a determination that there is a reasonable suspicion to believe that a violation of Section 550.2415, F.S., has occurred, or in the event of a positive test for a substance prohibited under Section 550.2415, F.S., any purse money in question which has not been disbursed shall be placed on account with the permitholder's comptroller. In the event that any purse money has been distributed, all individuals to whom the purse money has been directly distributed shall place monies equal to the amount received from the purse in a segregated interest bearing account in a recognized financial institution, and shall notify the division of the location of the account. The monies shall remain in the account until final disposition of the case, at which time control of the monies shall be returned to the original individuals; or if a violation is proved, the monies shall be transmitted to the permitholder for redistribution.

(5) If the division determines that the division judge or stewards have exceeded their jurisdiction, departed from the essential requirements of law, or incorrectly applied law to facts, it shall void their decision and either enter a decision for the licensee or shall prosecute the alleged violation itself with the respondent receiving rights to an administrative hearing pursuant to Section 120.57, F.S.

(6) No appeal shall be filed solely for the purpose of delaying imposition of a penalty through a stay pending appeal pursuant to Rule 61D-3.003, F.A.C. If it becomes apparent that an appeal was sought solely to obtain a stay and delay the imposition of a penalty, the division shall issue an order dismissing the appeal and referring the case to the stewards or division judge to determine whether additional penalties should be imposed.

(7) Upon conclusion of the appeal hearing, the division director shall affirm or reverse the decision of the stewards/division judge with directions for an appropriate disposition of the case under the pari-mutuel statutes or rules.

*Rulemaking Authority 120.80(4)(a), 550.0251(3), 550.2415(12) FS. Law Implemented 120.80(4)(a), 550.0251, 550.054, 550.1155 FS. History--New 10-20-96, Amended 1-5-98, 4-12-06, 6-26-11.*

### **61D-3.003 Stay of Stewards'/Judge's Penalty.**

(1) A request for an appeal hearing following a stewards'/judge's ruling shall not automatically stay the decision of the stewards/judge regarding the penalty imposed. Any request for a stay of the penalty imposed shall specify the reasons supporting the issuance of a stay. The licensee's request for a stay must be in writing or on Form DBPR PMW-3090, Request for Stay, effective 3-4-07, adopted herein by reference, <http://www.flrules.org/Gateway/reference.asp?No=Ref-00307>, and can be obtained at [www.myfloridalicense.com/dbpr/pmw](http://www.myfloridalicense.com/dbpr/pmw) or by contacting the Division of Pari-Mutuel Wagering at 1940 North Monroe Street, Tallahassee, Florida 32399-1035.

(2) Any party desiring a stay of stewards'/judge's ruling shall first seek the stay from the stewards/judge, who shall grant the stay unless:

(a) The stewards or division judge enter a suspension of 60 days and refer the matter to the division with a recommendation for entry of an emergency suspension pursuant to Section 120.60(6), F.S., or an order of summary suspension pursuant to Section 550.2415(3)(c), F.S.; or

(b) The stewards or division judge find after a hearing with notice to the party seeking the stay that the stay is being sought solely for the purpose of delaying a penalty.

(3) The decision of the stewards/judge shall be in writing and shall be transmitted to the division and the parties within five days from the date the request for stay is received by the stewards/judge.

(4) If the stewards/judge deny the request for a stay or do not issue a written decision as required under subsection (3), the party is entitled to seek a stay from the division. After reviewing the decision of the stewards or division judge, the request for stay, and the record, the division shall grant or deny the stay.

*Rulemaking Authority 120.80(4)(a), 550.0251(3) FS. Law Implemented 120.80(4)(a), 550.0251, 550.1155 FS. History—New 10-20-96, Amended 1-5-98, 4-12-06, 6-26-11.*

### **61D-3.004 Payment of Fines.**

All administrative~~civil~~ penalties imposed by the stewards/division judge must be paid within 15 days of the ruling unless the ruling is appealed and a stay has been entered pursuant to Rule 61D-3.003, F.A.C. The fine must be paid within 15 days of the resolution of the appeal.

*Rulemaking Authority 120.80(4)(a), 550.0251(3), 550.2415(12) FS. Law Implemented 120.80(4)(a), 550.0251, 550.054, 550.1155, 550.2415 FS. History—New 10-20-96, Amended 1-5-98, 4-12-06, 6-26-11.*