

Rules of the Prosecuting Attorneys' Council of Georgia

Chapter 2

Adoption of Rules

2.1. Authority.

These rules have been adopted by the Prosecuting Attorneys' Council of Georgia with the advice and consent of a majority of the district attorneys pursuant to O.C.G.A. §§ 15-18-19(c) effective July 1, 1997.

2.2. Committee on District Attorney Personnel.

- a. The Committee on Personnel shall consist of not less than 3 members appointed by the Chairman.
- b. It shall be the duty of the Committee to:
 - (1) Consider and recommend to the Council policies, rules or regulations for the appointment, classification, promotion, transfer, demotion, leave, travel, records, reports and training for all state paid personnel employed by the district attorneys;
 - (2) Monitor the usefulness of existing policies, rules or regulations and recommend amendments to the Council as appropriate;
 - (3) Review and take appropriate action on petitions to adopt, amend or repeal any policy, rule or regulation as provided in R. 2-1.03.

2.3. Procedures.

- a. Petition for adoption of Rules submitted by a District Attorney.
 - (1) Any district attorney may petition the Council for the adoption, amendment or repeal of any rule.
 - (2) Each petition shall be filed with the Council in writing and shall set forth:
 - (A) The name of the petitioner;
 - (B) The full text of the rule requested to be amended or repealed, or the full text of the rule desired to be promulgated;
 - (C) A particularized statement of the reasons why such rule should be amended, repealed or promulgated, including a statement of all pertinent and existing facts as to the petitioner's interest in the matter;
 - (D) Citations of legal authorities, if any, which authorize, support, or require the action requested by the petitioner.
 - (3) Upon receipt of the petition, the Director, or his or her designee, shall mail a copy of the petition to the Committee.

Adoption of Rules

- (A) Within 60 days of the receipt of the petition the Committee shall review and act on the petition. Any such action shall be transmitted to the Council within 30 working days of the Committee's decision.
 - (B) Within 90 days of the receipt of the report of the action taken by the Committee on the petition, the Council shall act on the recommendation, unless the Council determines that a longer period of time is needed, in which case the Council Chairman will notify the petitioner. The Director or his/her designee will provide written notice to the petitioner of the Council's decision in the case.
- b. Upon receipt of the report of the Committee recommending the adoption or amendment of any policy, rule or regulation, the Chairman shall cause the proposed policy, rule or regulation to be placed on the agenda for the next Council meeting.
 - c. If the Council approves the proposed policy, rule or regulation for submission to the district attorneys, the Council shall determine the manner in which the proposed policy, rule or regulation shall be submitted to the district attorneys for their advice and consent as provided in Rule 2-1.04.
 - d. Following the decision by the Council to submit a proposed policy, rule or regulation to the district attorneys for their advice and consent, the Director shall send a true copy of the proposed policy, rule or regulation to each district attorney and to the presiding officers of the Judiciary Committee of the House of Representatives and the Judiciary Committee of the Senate. In addition, the Director shall include either a notice of the conference of district attorneys or a ratification ballot as provided in Rule 2-1.04. Such notice must be sent not less than 30 days prior to the date of the conference or the date on which ballot must be returned to the Council office.

2.4. Procedures for Obtaining the Advice and Consent of the District Attorneys.

- a. The Council shall select either a conference of the district attorneys or balloting as the manner in which the advice and consent of the district attorneys shall be sought as to any proposed policy, rule or regulation.
- b. Conference of District Attorneys.
 - (1) If a policy, rule or regulation is to be submitted to a conference of district attorneys for their advice and consent, written notice of the meeting shall be sent to each district attorney in the name of the Chairman as provided in Rule 2-1.03. The notice shall include the date, time location of the meeting and a true copy of the proposed policy, rule or regulation. If any other matters are to be presented at the conference they may be included in the notice.
 - (2) At least 50% plus one of the district attorneys currently holding office on the date of the meeting shall be required for a quorum.
 - (3) The Chairman of the Council shall preside at the conference and the Secretary of the Council shall be responsible for taking the official minutes.
 - (4) As to a policy, rule or regulation which has been submitted for the advice and consent of the district attorneys, the issue before the conference shall be "Shall the proposed (policy)

(rule) (regulation) be adopted?"

- (5) Pursuant to O.C.G.A. § 15-18-19(c), a majority of the district attorneys holding office on the date of the conference must vote in favor of the proposed policy, rule or regulation for it to take effect.
- (6) All votes to advise and consent to a policy, rule or regulation shall be recorded and each district attorney present shall vote viva voce or by ballot.

c. Ballot.

(1) If a policy, rule or regulation is to be submitted to the district attorneys for their advice and consent by written ballots, written notice shall be sent to each district attorney in the name of the Chairman as provided in Rule 2-1.03. The notice shall include a ballot, the date by which the ballot must be returned to the Council offices and a true copy of the proposed policy, rule or regulation.

(2) The ballot shall be in the following form:

"Shall the proposed (policy) (rule) (regulation) relating to (here state the subject matter) be adopted?"

_____ Yes
_____ No

Date: _____ /s/ _____
District Attorney
_____ Judicial Circuit"

- (3) To be valid, a ballot must be signed and dated by the district attorney.
- (4) Pursuant to O.C.G.A. § 15-18-19(c), a majority of the district attorneys holding office on the date specified in the notice for ballots to be received at the Council office, must vote in favor of the proposed policy, rule or regulation for it to take effect.
- (5) On the next working day following the date specified in the notice for return of the ballots, Director or the Director's designee, shall notify the Council of the results.

d. If a majority of the district attorneys vote in favor of the adoption of a policy, rule or regulation, the Council staff shall cause the approved policy, rule or regulation to be sent to all district attorneys and published in the Prosecuting Attorneys Deskbook.

e. If a proposed policy, rule or regulation fails to receive a statutory majority, it shall automatically be referred back to the Committee for revision.

f. All recorded votes and ballots advising and consenting to the adoption of any policy, rule or regulation shall be filed in the Council office and made a part of the official minutes of the Council.

Adopted this _____ day of _____, 1997

Chairman

Adoption of Rules

2.5. **Publication of Council Rules; Authority to Make Corrections and Editorial Changes; Effect of Notes and Footnotes.**

- a. The Council Staff shall publish the Rules adopted by the Council and ratified by the District Attorneys. In compiling, editing, arranging, and preparing the Rules for publication and without altering the sense, meaning, or effect of such Rules, the Council Staff is authorized to:
- (1) Correct the spelling of words;
 - (2) Change capitalization for the purpose of uniformity;
 - (3) Correct manifest typographical and grammatical errors;
 - (4) Substitute the proper citation for any statute, rule, regulation or judicial citation cited in the Rules;
 - (5) Renumber, redesignate, and rearrange chapters, articles, parts, subparts, sections, or any combination or portion thereof;
 - (6) Change cross-reference numbers to agree with renumbered chapters, Code sections, or portions of the Code;
 - (7) Substitute the proper calendar date for "the effective date of this chapter" and other phrases of similar import;
 - (8) Strike out figures if they are merely a repetition of written words or vice versa, or substitute figures for written words or vice versa for the purpose of uniformity;
 - (9) Correct manifest errors in references to laws;
 - (10) Correct inaccurate references to the titles of officers, the names of departments or other agencies of the state, local governments, or the federal government, and the short titles of other laws and make such other name changes as are necessary to be consistent with the laws currently in effect;
 - (11) Rearrange definitions in alphabetical order;
 - (12) Insert or delete hyphens in words so as to follow correct grammatical usage;
 - (13) Change numerals or symbols to words or vice versa for purposes of uniformity and style;
 - (14) Change nouns from the singular to the plural or vice versa for purposes of style and grammar; and
 - (15) Change punctuation for purposes of uniformity and consistency of style.¹
- b. Any change or correction made by the Council Staff pursuant to its authority under subsection (a) of this Code section shall not be binding if such change or correction results in an alteration of the meaning, sense, or effect of the resolution adopted by the Council and ratified by the District Attorneys even though such change or correction may have been included in a published edition of the Rules.²

¹ Subsection (a) is derived from the language of O.C.G.A. § 28-9-5(a) which specifies the duties of the Code Revision Commission with regard to the Official Code of Georgia. It authorizes the staff to correct typographical and grammatical errors which are found in an approved Rule before it is published provided that the change does not alter the intent of the adopted Rule.

² Subsection (a) is derived from the language of O.C.G.A. § 28-9-5(c).

- c. The descriptive headings or catchlines immediately preceding the text of the a Rule, except the Rule section numbers included in the headings or catchlines immediately preceding the text of a Rule, and any notes or footnotes contained in the published version of the Rules do not constitute part of the Rules.³

2.6. Effective date.

Unless otherwise specified in the resolution adopting such amendment, any amendment to the Rules adopted by the Council pursuant to O.C.G.A. § 15-18-19(c) shall be effective upon the first day of the month following its ratification by a majority of the District Attorneys.

³ Subsection (c) of this Rule is based on O.C.G.A. § 1-1-7.

Adoption of Rules
