

CHAPTER 01 - DEPARTMENTAL RULES

06 NCAC 01 .0101 ADMINISTRATION

The Council shall be served by a secretary who shall be appointed by the Governor. In the absence of the Governor, the Lieutenant Governor shall preside. In the absence of the Lieutenant Governor, the Council shall be chaired by a member of the Council to be determined by the order in which members are listed in Article III, Section 7 of the North Carolina Constitution.

*History Note: Authority North Carolina Constitution, Article III, Section 2,7,8;
Eff. February 3, 1976;
Amended Eff. May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.*

06 NCAC 01 .0102 PURPOSE

The Council of State shall function as an executive advisory committee to aid in the establishment and implementation of policy. It shall also act as statutorily mandated.

*History Note: Authority North Carolina Constitution, Article III, Section 8;
Eff. February 3, 1976;
Amended Eff. May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.*

06 NCAC 01 .0103 MEETINGS

The Council of State shall convene at such times and places, as the Governor shall deem necessary.

*History Note: Authority G.S. 147-13;
Eff. February 3, 1976;
Amended Eff. July 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.*

06 NCAC 01 .0104 LOCATION

The Council of State has no permanent office or staff. Matters to be brought before the Council of State should be submitted to the Council's Secretary through the Office of the Governor unless by statute or specific rule they must first be presented to an executive department for transmittal to the Council.

*History Note: Authority G.S. 147-13;
Eff. February 3, 1976;
Amended Eff. May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.*

06 NCAC 01 .0105 PROXIES

No proxies will be counted in order to establish a quorum for conducting business.

*History Note: Authority G.S. 147-13;
Eff. February 3, 1976;
Amended Eff. May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.*

06 NCAC 01 .0106 AGENDA

The agenda for each Council of State meeting shall be compiled by the Council's Secretary. The Secretary is authorized to make sufficient inquiries and request sufficient information to insure that the Council will have

adequate information with which to consider any agenda item. On each agenda there shall be an occasion provided for any individual Council of State member to bring before the Council any other matter desired.

History Note: Authority G.S. 147-13;
Eff. February 3, 1976;
Amended Eff. May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

06 NCAC 01 .0107 RECORDS OF MEETINGS

The minutes of the Council of State meetings shall be kept by the Secretary and shall be compiled into the journal of the Council of State. The journal shall be kept in the Office of the Governor and shall be open to public inspection during regular business hours.

History Note: Authority G.S. 132-1; 147-13;
Eff. February 3, 1976;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

CHAPTER 2 - RULE-MAKING PROCEDURES

06 NCAC 02 .0101 PRELIMINARY STEPS FOR RULE-MAKING

In those instances where the Council of State must approve a rule adopted by an executive department or when it adopts a rule itself, proposed text for the rule must be submitted to the Council for review beforehand. The proposed text shall be submitted by the executive department responsible for administering the statute to which the proposed rule relates. The executive department must follow Chapter 150B of the General Statutes on rule-making before submitting its recommendation to the Council. The hearing procedures applicable to that executive department apply. The Council may initiate rule-making in those matters which require its approval.

History Note: Authority G.S. 126-12; 143-260.8(g); 143-341(4),(8)(k); 143-345.1; 146-1;
Eff. February 3, 1976;
Amended Eff. May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

06 NCAC 02 .0102 PETITIONS FOR RULE-MAKING HEARINGS

Whenever any person submits a petition for rule-making relating to matters for which the Council of State must approve or promulgate rules, the chief executive official of the responsible department shall determine if the public interest will be served by granting the request. If the request is denied, the petitioning party may appeal that decision to the Council of State by filing a request for review of the denial decision with the secretary to the Council within 15 days after receipt of the notice of denial. If the Council determines that a hearing would serve the public interest, it may direct the chief executive official of the responsible executive department to designate a hearing officer and conduct a rule-making hearing or the Council itself may conduct a rule-making hearing.

History Note: Authority G.S. 126-12; 143-260.8(g); 143-341(4),(8)(k); 143-345.1; 146-1;
Eff. February 3, 1976;
Amended Eff. May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

06 NCAC 02 .0103 ADOPTION OR APPROVAL OF RULES

Upon completion of the departmental rule-making process, the department will forward proposed rules which must be approved or adopted by the Council, along with a record or minutes of the rule-making hearing and any other written submissions desired, to the Council's secretary for inclusion on the agenda of the Council's next meeting. The Council may request such other information as it deems necessary and appropriate from the department.

History Note: Authority G.S. 126-12; 143-260.8(g); 143-341(4),(8)(k); 143-345.1; 146-1; 147-13;
150B-9;
Eff. February 3, 1976;
Amended Eff. May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

06 NCAC 02 .0104 FILING OF RULES

Rules adopted by the Council of State are recorded in the journal of the Council and are codified pursuant to the provisions of the North Carolina Administrative Procedure Act with the rules of the executive department responsible for administering the rules and related statutes.

History Note: Authority G.S. 147-13; 150B-59;
Eff. February 3, 1976;
Amended Eff. May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

CHAPTER 4 - DECLARATORY RULINGS

06 NCAC 04 .0101 DECLARATORY RULING PROCESS

Any person substantially affected by a rule approved or adopted by the Council of State may request a declaratory ruling as to either the manner in which the rule applies to a given factual situation, if at all, or as to whether a particular rule of the Council is valid. Such persons may also request either type of declaratory ruling concerning the statute under which the rule was adopted. All requests for declaratory rulings shall be submitted to the executive department responsible for administering the statute to which the rule relates. All such requests shall be in accordance with the administrative procedures of the responsible executive department. The chief executive officer of the responsible executive department shall respond to the request in accord with the applicable administrative procedures of the department. The chief executive officer of the responsible department shall also notify the Council of any such request received and the department's proposed disposition thereof. The Council may, in its discretion, review and amend any such proposed departmental declaratory rulings. It may also take such other action in regard thereto as it deems necessary.

*History Note: Authority G.S. 147-13; 150B-17;
Eff. February 3, 1976;
Amended Eff. May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.*

06 NCAC 04 .0102 RECORDS OF DECLARATORY RULINGS

A record of all declaratory ruling proceedings shall be maintained in the executive department responsible for administering the statute to which the questioned rule relates. The record shall be maintained in accordance with the department's administrative procedures. Also, a record of the dispositions of all such declaratory ruling proceedings shall be kept in the Council journal.

*History Note: Authority G.S. 147-13; 150B-17;
Eff. February 3, 1976;
Amended Eff. May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.*