
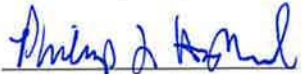


District of Columbia Department of Health		PROCEDURE 271.000 Implementing Office: Office of the Director/Office of the General Counsel Training Required: Yes Originally Issued: Jan. 14, 2020 Revised/Reviewed: <p style="text-align: center;">DEC 17 2021</p> (First Revision)
<h2>Rulemaking</h2>		
Approved by:  LaQuandra S. Nesbitt MD, MPH; Agency Director	Review by Legal Counsel:  Phillip Husband, Esq.; General Counsel	Effective Date: DEC 17 2021 Valid Through Date: DEC 17 2024

I. Authority	Reorganization Plan No. 4 of 1996; Mayor’s Order 1997-42.
II. Reason for the Policy	Rulemaking, or the drafting and enactment of regulations, is an integral part of how the executive branch of DC government implements and enforces statutes. DC Health may need to draft regulations and submit them to the Executive Office of the Mayor (EOM) for approval when new legislation is enacted. Regulations can also fall out of date for a range of reasons, necessitating a revision. A protocol is necessary to guide DC Health programs in drafting content and coordinating with the DC Health Office of the General Counsel (OGC) to ensure rules are drafted correctly, legally sufficient, and receive the needed intra-agency and inter-agency approvals.
III. Applicability	This SOP shall apply to all DC Health employees, contractors, interns, and summer youth employees. These individuals are referred to collectively herein as “employees” or “DC Health employees.”
IV. Policy Statement	<p>The rulemaking process is overseen by OGC. The General Counsel is the accountable manager over all tasks assigned to OGC.</p> <p>The General Counsel will assign an OGC attorney to work with the implementing DC Health program and write the first draft of the regulations. This includes, but is not limited to, ensuring that the draft regulatory language:</p>

1. aligns with the corresponding statute;
2. does not inadvertently create legal exposure for the Department; and
3. is correctly formatted and organized with the correct numbering convention.

The Program Manager of the implementing program is responsible for assembling and directing a team to provide subject matter expertise to the assigned attorney.

If the legislation creates a new mandate for DC Health, and does not specify which administration or program that will implement the law, the DC Health Director will designate an implementing administration and program. The Program Manager, or designee, is responsible for ensuring that the content of draft regulations:

1. Reflect the most current peer-reviewed science and accepted best practices regarding the public health issue the regulations are intended to address;
2. Align with the DC Health Director's strategic vision for the Department;
3. Use subject-specific terminology accurately and correctly; and
4. Can be feasibly implemented (after accounting for any resources allocated to DC Health in the text of the associated legislation).

For rulemaking applicable to a health professional licensing board, the Executive Director of that board shall act as the Program Manager. If the Director assigns multiple programs/administrations to contribute subject matter expertise, all identified Program Managers share the above list of responsibilities.

The DC Health General Counsel will sign any draft regulations, declaring them legally sufficient before being routed to the Director for approval. The process of obtaining approvals outside of DC Health may only begin once the Director has approved the draft. This is the case even when the DC Health Director is not the official promulgator.

	<p>Once the Director has approved draft regulations, OGC will add the draft to its internal log. The General Counsel will designate an employee within OGC to maintain the log.</p> <p>The General Counsel, or designee, is responsible for routing the Director-approved draft to the Office of Policy and Legal Affairs (OPLA) and the Office of the Deputy Mayor for Health and Human Services (DMHHS), both within EOM, and coordinating responses to follow-up questions from both offices.</p> <p>Once OPLA and DMHHS approvals have been obtained, OGC is responsible for coordinating with the District of Columbia Office of the Attorney General (OAG) to obtain a Certification of Legal Sufficiency. Only OGC personnel may communicate directly with OAG. Other employees may do so in the presence of an OGC representative.</p> <p>After obtaining the Certification of Legal Sufficiency from OAG, OGC will route the complete rulemaking package to EOM for the required approvals across offices within EOM and, subsequently, publication in the DC Register. OGC is responsible for coordinating responses to any follow-up questions from EOM during this process. OGC will create an entry in the OGR electronic tracker and send the complete rulemaking package to the Director of the Office of Government Relations (OGR).</p> <p>Any employee in violation of any part of this SOP may be subject to commensurate disciplinary action.</p>
<p>V. Definitions & Acronyms</p>	<p>DMHHS- Office of the Deputy Mayor for Health and Human Services</p> <p>EOM- Executive Office of the Mayor</p> <p>OAG- District of Columbia Office of the Attorney General</p> <p>OGC- DC Health Office of the General Counsel</p> <p>OGR- DC Health Office of Government Relations</p> <p>OPLA- Office of Policy and Legal Affairs within the Executive Office of the Mayor.</p>

	<p>Regulation- A general statement issued by an agency, board, or commission that has the force and effect of law. For purposes of DC Health, the whole or any part of any Mayor's or agency's statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or to describe the organization, procedure, or practice requirements of the Mayor or of any agency.</p> <p>Rulemaking- The Mayor's or agency's process for the formulation, amendment, or repeal of a rule.</p>
<p>VI. Procedures</p>	<p>Procedure A: Drafting and Internal Approvals</p> <ol style="list-style-type: none"> 1. The General Counsel will designate an attorney to write draft rules. 2. The Program Manager will name a team to provide subject matter expertise to the assigned attorney. 3. The OGC attorney will complete the initial draft with technical assistance support from the program team. 4. The OGC attorney will review the finished draft, coordinating revisions with the Program Manager as applicable. 5. The General Counsel will review the rulemaking package for legal sufficiency, noting any necessary revisions to the Program Manager and OGC attorney. 6. The General Counsel will route the rulemaking package to the Director upon declaring it legally sufficient. 7. The Director will review the rulemaking package, directing any revision requests to the General Counsel and Program Manager. 8. When the rulemaking package has been amended to the Director's satisfaction (if applicable), s/he will authorize it to progress to external approvals.

	<p>9. The General Counsel’s designee will log the draft in the OGC log.</p> <p>Procedure B: External Approvals</p> <ol style="list-style-type: none"> 1. The General Counsel, or designee, will forward the rulemaking package to OPLA and DMHHS and copy OGR. 2. The General Counsel, or designee, will coordinate responses to any follow-up questions received from OPLA or DMHHS. 3. Upon receipt of approval from OPLA and DMHHS, the General Counsel will forward the rulemaking package to OAG. 4. Upon receipt of the Certification of Legal Sufficiency from OAG, the General Counsel will forward it to EOM for review and approval. 5. OGC will forward the final draft regulations to the DC Register. 6. OGC will log the draft regulations in the OGR electronic tracker. 7. OGC will forward the final draft regulations to the Director of OGR.
VII. Contacts	General Counsel
VIII. Related Documents, Forms and Tools	None