Rules and Regulations of the State of Georgia

Department 45 GEORGIA COUNCIL ON AMERICAN INDIAN CONCERNS

Current through Rules and Regulations filed through November 6, 2026

Table of Contents

ADMINISTRATIVE HISTORY
Chapter 45-1. ORGANIZATION OF COUNCIL.
Rule 45-1-.01. Mission Statement.
Rule 45-1-.02. Contacting the Council.
Chapter 45-2. COUNCIL PROCEDURES.
Rule 45-2-.01. Rules of Procedure for Regular Council Meetings.
Rule 45-2-.02. Procedure to Petition for Adoption of Rules.
Rule 45-2-.03. Procedure for Declaratory Rulings.
Rule 45-2-.04. Recommended Guidelines Concerning State Recognition of Indian Tribes.
Chapter 45-3. RULES FOR AMERICAN INDIAN HUMAN REMAINS AND BURIAL OBJECTS HELD BY MUSEUMS.
Rule 45-3-.01. Definitions.
Rule 45-3-.02. Museum Inventories.
Rule 45-3-.03. Priority of Ownership for Native American Cultural Items.
Rule 45-3-.04. Procedure for Complaints Alleging Violations of O.C.G.A. Secs. 44-12-261 and/or 44-12-262.
Rule 45-3-.05. Penalties for Violation of Code Sections 44-12-261 and 44-12-262.
Rule 45-3-.06. Notice of Proposed Penalty.
Rule 45-3-.07. Opportunity to Respond to Proposed Civil Penalty in Writing.
Rule 45-3-.08. Notice of Civil Penalty Determination.

Rule 45-3-.09. Filing for Petitions for Hearing on Civil Penalty Determinations; Time for Filing Petitions; Content.

ADMINISTRATIVE HISTORY

The **Administrative History** following each Rule gives the date on which the Rule was originally filed and its effective date, as well as the date on which any amendment or repeal was filed and its effective date. Principal abbreviations used in the Administrative History are as follows:

f. - filed

eff. - effective

R. - Rule (Abbreviated only at the beginning of the control number)

Ch. - Chapter (Abbreviated only at the beginning of the control number)

ER. - Emergency Rule

Rev. - Revised

Note: Emergency Rules are listed in each Rule's Administrative History by Emergency Rule number, date filed and effective date. The Emergency Rule will be in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency.

Chapter 45-1 entitled "Organization of Council" was adopted. F. May 18, 2012; eff. Jun. 7, 2012.

Chapter 45-2 entitled "Council Procedures" was adopted. F. May 18, 2012; eff. Jun. 7, 2012.

Chapter 45-3 entitled "Rules for American Indian Remains and Burial Objects Held by Museums" was adopted. F. May 18, 2012; eff. Jun. 7, 2012.

Rule 45-2-.04 adopted. F. May 27, 2025; eff. June 16, 2025.

Cite as Ga. Comp. R. & Regs. R. dept. 45, ADMINISTRATIVE HISTORY

Chapter 45-1. ORGANIZATION OF COUNCIL.

Rule 45-1-.01. Mission Statement.

The mission of the Georgia Council on American Indian Concerns is to preserve and foster the culture, heritage and well being of Georgia Indians

Cite as Ga. Comp. R. & Regs. R. 45-1-.01
Authority: O.C.G.A. § 50-13-3(a)(1), 44-12-283.2.
History. New Rule entitled "Mission Statement" adopted. F. May 18, 2012; eff. June 7, 2012.

Rule 45-1-.02. Contacting the Council.

Requests for information, submissions to, or other requests of the Council may be directed as follows:

Georgia Council on American Indian Concerns

c/o Department of Natural Resources

2 Martin Luther King, Jr., Drive, S.E.,

Suite 1352 East

Atlanta, Georgia 30334-9000.

Website: www.georgiaindiancouncil.org

Cite as Ga. Comp. R. & Regs. R. 45-1-.02
Authority: O.C.G.A. § 50-13-3(a)(1), 44-12-283.2.
History. New Rule entitled "Contacting the Council" adopted. F. May 18, 2012; eff. June 7, 2012.

Chapter 45-2. COUNCIL PROCEDURES.

Rule 45-2-.01. Rules of Procedure for Regular Council Meetings.

Regular meetings of the Council shall be conducted, to the extent practicable, in accordance with Robert's Rules of Order, 10th edition, 2000, which are hereby adopted as the Rules of Procedure for conducting such meetings. The Council Chair, or the Council member acting in that capacity, shall have the authority to make rulings regarding procedural matters and issues coming before

the Council. Once a quorum is established, a majority of those present and voting may alter, amend, or reverse any such procedural ruling. A copy of Robert's Rules of Order shall be maintained by the Secretary of the Council and shall be available at all regular meetings.

Cite as Ga. Comp. R. & Regs. R. 45-2-.01
Authority: O.C.G.A. § 50-13-3(a)(1).
History. New Rule entitled "Rules of Procedure for Regular Council Meetings" adopted. F. May 18, 2012; eff. June 7, 2012.

Rule 45-2-.02. Procedure to Petition for Adoption of Rules.

(1) Any interested person desiring to petition the Council requesting the promulgation, amendment or repeal of a rule shall submit three copies of the petition, in writing, to the Georgia Council on American Indian Concerns, c/o Department of Natural Resources, 2 Martin Luther King, Jr. Drive, S.E., Suite 1352 East, Atlanta, Georgia 30334-9000.

No special form of petition shall be required but the petition shall state fully the rule involved, the reason for the desired change, any parties who it is known will be affected by the change, and any additional facts known to the petitioner which might influence the decision of the Council to initiate or not initiate rulemaking.

(2) The Council shall act upon the petition as prescribed in O.C.G.A § 50-13-9.

Cite as Ga. Comp. R. & Regs. R. 45-2-.02
History. New Rule entitled "Procedure to Petition for Adoption of Rules" adopted. F. May 18, 2012; eff. June 7, 2012.

Rule 45-2-.03. Procedure for Declaratory Rulings.

(1) Any person wishing to file a petition for a declaratory ruling as to the applicability of a statute or rule or order shall submit three copies of the petition, in writing, to the Georgia Council on American Indian Concerns, c/o Department of Natural Resources, 2 Martin Luther King, Jr. Drive, S.E., Suite 1352 East, Atlanta, Georgia 30334-9000.

(2) The petition shall state all the facts, including the names of those parties involved in the fact situation, and shall include a statement of the legal issue sought to be resolved. A declaratory ruling will not be issued on a hypothetical fact situation, and any ruling requested must affect a specific fact situation and specific parties, including the person or persons requesting the ruling. If the parties involved in the fact situation include persons in addition to the person requesting the ruling, the person or persons requesting the ruling shall serve a copy of the petition upon such additional persons by personal delivery or by mail. Service by mail shall be complete upon mailing by first class mail, with proper postage attached, to such person. Every submission shall be accompanied either by an acknowledgement of service from the person served, or his authorized agent for service,

or by a certificate of service stating the date, place, and manner of service, and the name and address of the persons served. Any person, including the additional parties served, may seek to participate in a declaratory ruling proceeding in the manner and under the standards provided by O.C.G.A § 50-13-14.

(3) Upon receiving the petition for a declaratory ruling, the Council shall issue a ruling thereon as promptly as possible. In doing so, the Council may seek the opinion of the Attorney General.

(4) A ruling disposing of a petition for a declaratory ruling shall have the same status as an administrative law judge decision or order in a contested case.

Cite as Ga. Comp. R. & Regs. R. 45-2-.03
Authority: O.C.G.A. § 50-13-3(a)(1), 44-12-283.2.
History. New Rule entitled "Procedure for Declaratory Rulings" adopted. F. May 18, 2012; eff. June 7, 2012.

Rule 45-2-.04. Recommended Guidelines Concerning State Recognition of Indian Tribes.

(1) The Georgia Council on American Indian Concerns will use these guidelines in its advisory deliberations and issuance of any subsequent report recommending for or against acknowledgement of Indian groups within the State of Georgia.

Indian groups seeking recognition by the Georgia General Assembly are encouraged to prepare a formal petition for recognition using a format suggested by the Georgia Council on American Indian Concerns. Although not presently required by law, the Georgia General Assembly is encouraged to seek the advice of the Georgia Council on American Indian Concerns prior to final consideration of any recognition legislation.

(a) **Historicity:** The petitioning group should demonstrate a direct genealogical connection to one of the American Indian Tribes, bands, groups, or communities that has been documented historically with reasonable certainty as having inhabited lands within the present boundaries of the State of Georgia for a period of at least forty years prior to the Removal Era.

(b) **Membership:** The petitioning group shall possess formal membership rolls and written standards for membership that are based on unbroken genealogical descent from one of the American Indian Tribes, bands, groups, or communities indigenous to Georgia, as defined in criterion #1.

(c) **Government:** The petitioning group should be able to demonstrate that it is a distinct cultural entity capable of self-regulation by documenting the existence and function of its governmental and social institutions and traditions.

(d) **Geographical Area:** A substantial portion of the members of the petitioning group should presently inhabit a defined area, and its tribal headquarters should be located within the State of Georgia.

(e) **Ethnic Identity:** The members of the petitioning group should be a community that is generally viewed as American Indian and culturally distinct from all other communities surrounding it.

(f) **Exclusions:** The petitioning group shall not be considered if it falls into one of the following categories:

1. The petitioning group is limited to a single family;
2. It is of recent origin;
3. It is determined to be a splinter group or political faction that has separated from the main body of a tribe, band, group, or organized Indian Community previously recognized by the State of Georgia;
4. There is reasonable evidence that the petitioning group was "self-created" for the purpose of improperly gaining American Indian status;
5. The majority of the members of the petitioning group are also members of other American Indian tribes, bands, groups, or communities.

Cite as Ga. Comp. R. & Regs. R. 45-2-.04
Authority: O.C.G.A. § 44-12-283.2.
History. Original Rule entitled "Recommended Guidelines Concerning State Recognition of Indian Tribes" adopted. F. May 27, 2025; eff. June 16, 2025.

Chapter 45-3. RULES FOR AMERICAN INDIAN HUMAN REMAINS AND BURIAL OBJECTS HELD BY MUSEUMS.

Rule 45-3-.01. Definitions.

(1) "APA" means Georgia Administrative Procedure Act (O.C.G.A. Title 50, Chapter 13).

(2) "Attorney General" means the Attorney General of the State of Georgia.

(3) "Contested Case" means a proceeding in which the legal rights, duties, or privileges of a party are required by law to be determined by an agency after an opportunity for hearing, in accordance with the APA.

(4) "Secretary of State" means the Secretary of State of the State of Georgia.

Cite as Ga. Comp. R. & Regs. R. 45-3-.01
Authority: O.C.G.A. § 44-12-260, 50-13-3(a)(1).
History. New Rule entitled "Definitions" adopted. F. May 18, 2012; eff. June 7, 2012.

Rule 45-3-.02. Museum Inventories.

(1) Museums were required to complete an inventory of American Indian human remains or burial objects in their possession by July 1, 1997. The deadline for submission of inventories shall now be sixty (60) days after the Council's adoption of the Rules for American Indian Human Remains and Burial Objects Held by Museums as provided in this Chapter 45-1-3. Immediately upon completion, said inventory is to be first-class mailed to the Georgia Council on American Indian Concerns, c/o Department of Natural Resources, 2 Martin Luther King, Jr. Drive, S.E., Suite 1352 East, Atlanta, Georgia 30334-9000.

Cite as Ga. Comp. R. & Regs. R. 45-3-.02
Authority: O.C.G.A. § 44-12-261.
History. New Rule entitled "Museum Inventories" adopted. F. May 18, 2012; eff. June 7, 2012.

Rule 45-3-.03. Priority of Ownership for Native American Cultural Items.

(1) For the purpose of identifying ownership of Native American human remains or burial objects the Council suggests that priority be given in the order listed

(a) To the known lineal descendants of a particular Native American Indian Tribe, or

(b) In any case in which such lineal descendants cannot be ascertained

1. To the Indian tribe on whose current tribal land such objects or remains were discovered,

2. To the Indian tribe which has the closest cultural affiliation with such remains or objects, or

3. If the cultural affiliation cannot be reasonably ascertained and if the objects are not subject to Federal Law, Public Law 101-601

(i) To the Indian tribe that is recognized as originally occupying the area in which the objects were discovered, or

(ii) If it can be shown that a different tribe has a stronger cultural relationship with the remains or objects then the Native American Indian Tribe within the State of Georgia that has the strongest demonstrated relationship will retain objects or remains.

Cite as Ga. Comp. R. & Regs. R. 45-3-.03
Authority: O.C.G.A. § 44-12-261, 44-12-283.2.
History. New Rule entitled "Priority of Ownership for Native American Cultural Items" adopted. F. May 18, 2012; eff. June 7, 2012.

Rule 45-3-.04. Procedure for Complaints Alleging Violations of O.C.G.A. Secs. 44-12-261 and/or 44-12-262.

(1) All complaints to be considered by the Council shall be filed in writing with the Council and shall contain the following:

(a) The name and address of the complainant(s).

(b) The sworn verification and signature of the complainant.

(c) The name and address of the party or parties against whom the complaint is made.

(d) A clear and concise statement of the facts upon which the complaint is based.

(e) A statement of each specific section of O.C.G.A. §§ 44-12-261 and /or 44-12-262 alleged to have been violated.

(f) Any further information, which might support the allegations in the complaint including, but not limited to, the following:

1. The name and address of all other persons who have firsthand knowledge of the facts alleged in the complaint;

2. Any documentary evidence that supports the facts alleged in the complaint.

(2) Upon receipt of a written complaint that the Secretary of the Council determines does not conform to the requirements of paragraph (1) of this Rule, the complaint shall be returned by mail, along with a copy of this Rule and a letter advising the complainant of the defect in the complaint and that the complaint will not be considered until it is resubmitted with all the information required by paragraph (1).

(3) Upon receipt of a written complaint that conforms to the requirements of paragraph (1) the Council shall send a copy of the complaint to the party or parties against whom the

complaint is made. The Council will then allow the party or parties the opportunity to respond to the complaint within sixty (60) days in writing.

(3) Upon receipt of the complaint, the complainant will receive an acknowledgment from the Council.

Cite as Ga. Comp. R. & Regs. R. 45-3-.04
Authority: O.C.G.A. §§ 50-13-3(a)(2), 44-12-264.
History. New Rule entitled "Procedure for Complaints Alleging Violations of O.C.G.A. §§ 44-12-261 and /or 44-12-262" adopted. F. May 18, 2012; eff. June 7, 2012.

Rule 45-3-.05. Penalties for Violation of Code Sections 44-12-261 and 44-12-262.

Any museum which fails to comply with the provisions of O.C.G.A §§ 44-12-261 or 44-12-262 shall be subject to a civil penalty to be imposed by the Council. The amount of such penalty shall be based upon:

(a) The archeological, historical, or commercial value of the item involved;

(b) The damages suffered, both economic and noneconomic, by an aggrieved party; and;

(c) The number of violations that have occurred.

In no event shall the aggregate amount of such civil penalty exceed $5,000 for violations stemming from a single occurrence.

Cite as Ga. Comp. R. & Regs. R. 45-3-.05
Authority: O.C.G.A. §§ 44-12-264(a).
History. New Rule entitled "Penalties for Violation of Code Sections 44-12-261 and 44-12-262" adopted. F. May 18, 2012; eff. June 7, 2012.

Rule 45-3-.06. Notice of Proposed Penalty.

(1) Whenever the Council proposes to subject a person to the imposition of a civil penalty under O.C.G.A § 44-12-264, the Council shall notify such person in writing:

(a) Setting forth the date, facts, and nature of each act or omission with which the museum is charged;

(b) Specifically identifying the particular provision(s) of the Code section, rule, regulation, order, license, or registration certificate involved in the violation; and

(c) Advising of each penalty which the Council proposes to impose and its amount.

(2) Such written notice shall be sent by registered or certified mail or statutory overnight delivery by the Council to the last known address of such person. The notice shall also advise such person that, upon failure to pay the civil penalty finally determined, if any, the penalty may be collected by civil action.

Cite as Ga. Comp. R. & Regs. R. 45-3-.06
Authority: O.C.G.A. §§ 44-12-264(b).
History. New Rule entitled "Notice of Proposed Penalty" adopted. F. May 18, 2012; eff. June 7, 2012.

Rule 45-3-.07. Opportunity to Respond to Proposed Civil Penalty in Writing.

The person so notified of the proposed penalty shall be granted an opportunity to show the Council in writing, within thirty (30) days of mailing of such notice, why such penalty should not be imposed. To be considered timely, a written response must be received by the Council or mailed by first-class mail, with proper postage attached, and properly addressed to the Council, within thirty (30) days of the mailing of the notice of the proposed civil penalty.

Cite as Ga. Comp. R. & Regs. R. 45-3-.07
Authority: O.C.G.A. §§ 44-12-264(b).
History. New Rule entitled "Opportunity to Respond to Proposed Civil Penalty in Writing" adopted. F. May 18, 2012; eff. June 7, 2012.

Rule 45-3-.08. Notice of Civil Penalty Determination.

Should the Council determine that the imposition of a civil penalty is warranted for a violation or violations of O.C.G.A. §§ 44-12-261 and /or 44-12-262, the Council shall notify such person in writing. Any person upon whom the Council imposes a civil penalty may file a petition for hearing appealing such penalty. Any imposition of a civil penalty shall be stayed upon the filing of a petition until ten (10) days after the administrative law judge has rendered a decision.

Cite as Ga. Comp. R. & Regs. R. 45-3-.08
Authority: O.C.G.A. §§ 44-12-283.2, 50-13-13; O.C.G.A. §§ 50-13-19(d)(1).
History. New Rule entitled "Notice of Civil Penalty Determination" adopted. F. May 18, 2012; eff. June 7, 2012.

Rule 45-3-.09. Filing for Petitions for Hearing on Civil Penalty Determinations; Time for Filing Petitions; Content.

(1) Any person upon whom the civil penalty is imposed may file a petition within thirty (30) days of the mailing of the notice of the civil penalty determination for a hearing before an administrative law judge assigned by the Office of State Administrative Hearings.

(2) An original and two copies of the petition for hearing shall be filed on 8 1/2 by 11 inch white paper with the Council. If the petition is timely filed, the Council will forward the petition to the Attorney General, who will forward it to the Office of State Administrative Hearings along with OSAH Form 1. Submissions shall be deemed filed on the date by which they are received by first-class mail by the Council. All submissions shall meet the applicable requirements of the OSAH Rules, Chapter 616-1-2.

(3) A petition for hearing shall contain

(a) a copy of the notice for which the hearing is sought,

(b) a statement of the facts on which the civil penalty is challenged,

(c) a statement of the legal authority and jurisdiction under which the hearing is requested,

(d) a statement of the relief requested,

(e) petitioner's full name and address,

(f) the name and address of the petitioner's counsel,

(g) the name and address of all interested persons who may testify.

(4) The hearing before the administrative judge shall be conducted in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." The decision of the administrative law judge shall constitute the final decision of the Georgia Council on American Indian Concerns and any party to the hearing, including the Council, shall have the right of judicial review thereof in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedures Act."

Cite as Ga. Comp. R. & Regs. R. 45-3-.09
Authority: O.C.G.A. §§ 50-13-22, 50-13-40(c), 44-12-264(b), 44-12-283.2.
History. New Rule entitled "Filing for Petitions for Hearing on Civil Penalty Determinations; Time for Filing Petitions; Contents of Petitions" adopted. F. May 18, 2012; eff. June 7, 2012.