



Nathan Deal
Governor

Department of Community Supervision

2 Martin Luther King, Jr. Drive SE
Suite 458, Balcony Level, East Tower
Atlanta, Georgia 30334
www.dcs.georgia.gov



Michael W. Nail
Commissioner

PUBLIC NOTICE OF PROPOSED RULE ADOPTION

Pursuant to the Georgia Administrative Procedures Act, Official Code of Georgia (O.C.G.A.) 50-13-1 et seq., the Georgia Department of Community Supervision is required to provide public notice of its intent to adopt, amend or repeal certain rules other than the interpretive rules or general statements of policy. Accordingly, the Department hereby provides notice of its intent to propose the Rules for Misdemeanor Probation. These changes are being proposed pursuant to the authority granted to the Department in O.C.G.A § 42-3-2. An exact copy of the proposed rules are attached to this public notice.

NOTICE OF PUBLIC HEARING

An opportunity for public comment will be held on January 17, 2017 at 10:00 a.m., at the Department of Community Supervision (2 Martin Luther King Drive, East Tower, Atlanta, Georgia 30334) in the 8th Floor Boardroom. Oral comments may be limited to 10 minutes per person. Individuals who are disabled and need assistance to participate during this meeting should contact the Office of General Counsel at (404) 463-2072 at least three (3) business days prior to the meeting.

Citizens wishing to comment in writing on any of the proposed changes should do so on or before 5 p.m. of January 17, 2017. Comments may be faxed to (404) 860-1446, emailed to aura.russell@dcs.ga.gov or mailed to the following address:

Attn: Office of Legal Services
Georgia Department of Community Supervision
2 Martin Luther King, Jr. Drive, S.E.,
Suite 866, East Tower
Atlanta, Georgia 30334

Comments from the written and public testimony will be provided to the Board of Community Supervision prior to the January 19, 2017 Board meeting. The Board will vote on the proposed rules at the Board meeting to be held at 10:00 a.m. on January 19, 2017 at the Georgia Department of Community Supervision (2 Martin Luther King Drive, East Tower, Atlanta, Georgia 30334 in the 8th Floor Boardroom).

NOTICE IS HEREBY GIVEN THIS 15th DAY OF December 15, 2016

Michael W. Nail, Commissioner

Attachments

**RULES OF
GEORGIA DEPARTMENT OF COMMUNITY SUPERVISION**

**ADOPTION OF CHAPTER 105-1 and 105-2
RULES FOR MISDEMEANOR PROBATION SERVICES**

SYNOPSIS OF PROPOSED RULES

Statement of Purpose. The Georgia Department of Community Supervision proposes to adopt Rules and Regulations for Misdemeanor Probation Services, Chapter 105, in response to the adoption of SB 367 which modifies the existing law to transfer the powers, functions, and duties of the former County and Municipal Probation Council from the Board of Community Supervision to the Department of Community Supervision. These changes are being proposed pursuant to the authority granted the Department of Community Supervision in O.C.G.A. § 42-3-2 and O.C.G.A. § 42-3-3.

Main Feature of the Proposed Rule. Adoption of these rules for Misdemeanor Probation Services are in accordance with the requirements of Senate Bill 367.

**RULES OF
DEPARTMENT OF COMMUNITY SUPERVISION**

**CHAPTER 105
RULES AND REGULATIONS FOR
MISDEMEANOR PROBATION
SERVICES**

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105-1-.01 Transfer of Power, Duties, Functions.

All rules and regulations in effect upon the transfer of power, duties and functions to the Board of Community Supervision that specifically relate to Georgia Department of Corrections probation supervision, Board of Pardons and Parole community supervision, Department of Juvenile Justice probation supervision and reentry for Class A or B Designated Felony juvenile probationers, County and Municipal Probation Advisory Council, Governor's Office of Transition, Support, and Reentry shall remain in effect until adoption of new rules and regulations under the Board of Community Supervision.

O.C.G.A. §42-3-2

MISDEMEANOR PROBATION OVERSIGHT UNIT

105-2-.01 Name and Address.

The Misdemeanor Probation Oversight Unit (MPOU) of the Department of Community Supervision shall regulate entities and individuals that provide probation supervision services and administer laws and rules related to misdemeanor probation. The MPOU is located at 2 Martin Luther King, Jr. Drive, S.E., Balcony Level, East Tower, Atlanta, Georgia 30334.

O.C.G.A. § 42-3-3; O.C.G.A. § 43-3-5

105-2-.02 Purpose and Authority.

The Misdemeanor Probation Oversight Unit (MPOU) is authorized to register misdemeanor probation entities and individuals, conduct audits to determine compliance, and investigate potential violations of laws and/or rules. There shall be a director of the Misdemeanor Probation Oversight Unit who shall be appointed by the Commissioner. The director shall oversee the Unit and have authority, with the concurrence of the Commissioner, to impose sanctions for violations and to otherwise carry out the laws and rules in regard to misdemeanor probation supervision.

O.C.G.A. § 42-3-3

105-2-.03 Definitions.

- (a) "Commissioner" means the Commissioner of the Department of Community Supervision.
- (b) "Director" shall mean the director of Misdemeanor Probation Oversight for Department of Community Supervision.
- (c) "Entity Director" shall mean the director of a probation entity.
- (d) "Governing Authority" shall mean the elected body of any county or municipality or consolidated government with statutory power to enter into written contracts with corporations, enterprises or agencies to provide public services.
- (e) "Individuals" shall mean any entity director, owner, agent, probation officer, administrative employee, intern, or volunteer that provide services for a probation entity.
- (f) "Probationer" shall mean any misdemeanor offender sentenced by a court and assigned probation for supervision, counseling, financial collections of any kind, and compliance with any other court-ordered condition.
- (g) "Probation Entity" shall mean any private corporation, private enterprise, or private agency contracting to provide misdemeanor probation supervision services and/or county, municipality, or consolidated government probation office contracting to provide misdemeanor probation supervision services.
- (h) "Probation Officer" shall mean any private, public, or governmental officer that provides supervision of probationers.
- (i) "Service Agreement" shall mean any contracts between by the governing authority and the chief judge to provide probation services for that governmental district.

**RULES FOR INITIAL APPROVAL FOR AN ENTITY OR INDIVIDUAL TO ENGAGE IN
MISDEMEANOR PROBATION**

105-2-.04 Registration.

All probation entities or individuals are required to submit registration to and be approved by MPOU, as well as re-register as often as necessary to maintain current, up-to-date information. Registration is required to be approved prior to engaging in or providing services to a court and shall be made in such detail as MPOU may require. The failure or refusal to register or re-register as required shall subject the probation entity or individuals to sanctions provided in these rules.

(a) The following shall be ineligible for registration:

1. Any applicant whose registration approval has ever been revoked for falsifying probation entity records.
2. Any applicant whose registration approval has been revoked for any other reason within the 5 year period prior to application will not be approved to operate a new probation entity.
3. Any applicant who has a history of non-compliance with requirements as evidenced by at least 3 previous notices of noncompliance, suspension(s) or administrative fine(s).

OCGA §42-8-109.3 and OCGA §42-8-109.4

105-2-.05 Probation Entity Registration and Approval Requirements.

No probation entity may operate without first registering and being approved by MPOU as set forth herein.

(a) Registration application. All registration applications must be submitted as required and approved by MPOU, and must be truthful, accurate, and complete.

(b) Initial approval. After receipt of a completed registration evidencing that all owners and/or the entity director have met the qualifications set forth by law and in these rules and that other probation entity requirements are met, MPOU shall approve the probation entity. MPOU shall respond within 15 business days with approval of registration, a deficiency statement, or a notice that additional time is required. Applicants shall have 10 days to cure deficiencies. If deficiencies are not cured within the 10 days, the registration application shall be deemed denied.

1. Denials may be appealed by following procedures required by law and these rules.

(c) Ongoing approval. Once initially approved, a probation entity shall remain approved as long as it remains in compliance with applicable laws and rules. MPOU may require that certain documents and information be updated on a periodic basis to verify continuing compliance with requirements. Such documents shall include, but not be limited to, financial records as they pertain to the assessment, collection, and disbursement of court-ordered monies, contract renewal or termination information, employee training records, criminal history record information, insurance information (private probation entities only), and updated court listings/contracts.

(d) Additional information for verification. MPOU may require any applicant or approved probation entity to submit additional information or verification that is reasonably related to making a determination regarding initial approval or continued compliance with requirements.

(e) Compliance with Immigration Act: All owners and/or entity directors must comply with the 2011 Immigration Act per OCGA § 50-36-1. All owners and/or entity directors are required to submit a lawful presence affidavit at the request of MPOU.

(f) Non-transferability of registration approval. Approval of a probation entity is not transferable. Application for new (initial) registration approval must be submitted and approved prior to any change in probation entity ownership or control. All new owners, entity directors, or agents must meet the requirements set forth by law and these rules.

(g) Validity of registration approval. All registration approvals issued pursuant to the laws and regulations are valid only so long as the entity director and/or owner of record is actively engaged in the operation of a probation entity. In the event the director and/or owner of record ceases to be actively engaged in the operation of a probation entity, MPOU must be notified. Inactivity of a probation entity for a period of 3 months shall cause the entity's registration to lapse. Application may be made to MPOU for an extension of time, which may be granted at the discretion of MPOU.

(h) Voluntary withdrawal of registration. Any owner and/or entity director may voluntarily withdraw their registration for operation as a misdemeanor probation provider by submitting notice to MPOU; provided, however, that said probation entity does not have any pending complaints, investigations, or MPOU action. Notice of Withdrawal of Registration may be submitted via certified mail to the principal address of MPOU noted in Rule 105-2-.01 or by specific direction of the Director of MPOU.

(i) No probation entity may use any name like, or deceptively similar to, a name used by any other probation entity in this state. No probation entity may use the word "state" in any part of its name as to suggest that it is owned, operated, or endorsed by the State of Georgia.

OCGA §42-8-106.1, §42-8-109.3, and § 50-36-1

105-2-.06 Individual Registration and Approval Requirements.

No individual will provide services to probation entities without first registering and being approved by MPOU as set forth herein.

(a) Registration application. Registration applications for all individuals are required to be submitted as required and approved by MPOU, and must be truthful, accurate, and complete.

(b) Initial approval. After receipt of a completed registration evidencing that all individuals have the qualifications set forth by law and these rules and that other requirements are met,

MPOU shall respond within 15 days with approval of registration or deficiency statement. Applicants shall have 10 days to cure deficiencies. If deficiencies are not cured within the 10 days, the registration application shall be deemed denied.

(1) Denials may be appealed by following procedures evidenced by law and these rules.

(c) Ongoing approval. Once initially approved individuals shall remain approved as long as they remain in compliance with applicable laws and rules. MPOU may require that certain documents and information be submitted on a periodic basis to verify continuing compliance with requirements.

(d) Additional information for verification. MPOU may require any applicant or approved individuals to submit additional information or verification that is reasonably related to making a determination regarding initial approval or continued compliance with requirements.

(e) Non-transferability of registration approval. Approval of individuals is not transferable. Application for new (initial) registration approval must be submitted prior to any change of an individual which must meet the requirements set forth in these rules.

(f) Validity of registration approval. All registration approvals issued pursuant to the laws and regulations are valid only so long as the individual of record is actively engaged in the operation of a probation entity. In the event the individual of record ceases to be actively engaged in the operation of a probation entity, MPOU must be notified.

OCGA §42-8-106.1, §42-8-109.3, and §42-8-109.4

REQUIRED CONDUCT FOR ENTITIES AND INDIVIDUALS

105-2-.07 Limitations on Who Can Operate or be Employed by a Probation Entity.

(a) No probation entity nor any individuals of such entities shall engage in any other employment, business, or activity which interferes or conflicts with the duties and responsibilities under contracts authorized in this article.

(b) No probation entity nor its individuals shall have personal or business dealings, including the lending of money, with probationers under their supervision.

(c) No probation entity nor its individuals, shall own, operate, have any financial interest in, be an instructor at, or be employed by any private entity which provides drug or alcohol education services or offers a DUI Alcohol or Drug Use Risk Reduction Program certified by the Department of Driver Services.

(d) No probation entity nor its individuals shall specify, directly or indirectly, a particular DUI Alcohol or Drug Use Risk Reduction Program which a probationer may or shall attend. This paragraph shall not prohibit furnishing any probationer, upon request, with the names of certified

DUI Alcohol or Drug Use Risk Reduction Programs. Any person violating this paragraph shall be guilty of a misdemeanor.

(e) No judicial officer, sheriff office and/or police department shall own, operate, or have financial participation or obligations with a probation entity with the exception of those entities with a entity director currently registered prior to January 2017.

(f) No judicial officer, probation officer, law enforcement officer, or other officer or employee of a court; no person who owns, operates, or is employed by a probation entity and no professional bondsman or agent or employee thereof shall specify, directly or indirectly, a particular provider center which the person may or shall utilize when required. This subsection shall not prohibit any judicial officer, probation officer, law enforcement officer, or other officer or employee of a court; owner or entity director of a probation entity; or professional bondsman or agent or employee thereof from furnishing any person, upon request, the names of certified provider centers.

(g) No probation entity or its individuals or professional bondsman or agent or employee thereof shall be authorized to own, operate, or be employed by a provider center.

(h) No probation entity or its individuals shall own or control any finance business or lending institution which makes loans to probationers under its supervision.

(i) No probation officer or individual shall simultaneously act as an interpreter for any judicial proceedings.

(j) The failure to adhere to any of the limitations in (a) through (i) above shall subject the probation entity or individual to sanctions as provided in these rules.

OCCA §42-8-109, §42-8-109.1, §42-8-109.4, and §42-8-114

102-2-.08 Service Agreements.

(a) Private and Governmental Probation Service Plan. All owners and/or entity directors are required to enter into a written service agreement with the local governing authority for each court that it plans to provide misdemeanor probation supervision services to. Each service agreement must be approved by the chief judge of each such court. A signed copy of each service agreement must be filed and maintained current with MPOU prior to providing probation supervision services. Probation entity service agreements must minimally contain the following information and must be filed and maintained current with MPOU:

1. Description of the extent of services to be rendered by the probation entity;
2. Individual qualifications which meet or exceed the statute;
3. Criminal records checks completed on all individuals in accordance with laws and these rules;

4. Policies and procedures for individual training;
5. Private Probation Entities Only-Liability Insurance (\$1 Million) and Bonding of staff (at least \$25,000);
6. Staffing levels and standards of supervision, including the type and frequency of contacts;
7. Collection procedures for handling court-ordered fines, fees, and restitution;
8. Procedures for handling indigent probationers, pay only cases, and consecutive sentences;
9. Revocation procedures and circumstances;
10. Reporting and record keeping procedures;
11. Default and contract termination procedures with specific expiration date not to exceed 5 years unless authorized by statute; and
12. A schedule of probation fees and charges assessed to the probationers supervised by the probation entity. The schedule should include all fees required by law or these rules.

(b) Service agreements are required to meet the standards in these rules and OCGA 42-8-101 by January 1, 2018. Service agreements in existence prior to December 31, 2017 must be in compliance with laws and rules in effect prior to that time.

(c) The failure to adhere to the Service Agreement standards shall subject the probation entity or individuals to sanctions as provided in these rules.

OCGA §42-8-106.1, OCGA §42-8-107, §42-8-109.3, and §42-8-109.4

105-2-.09 Requirements for All Probation Entities and Individuals. All individuals who provide service to probationers, or has access to probation records, or who has telephone or face-to-face contact with probationers under Georgia supervision, or access to probationer data, is required to be registered and approved by MPOU, to sign a confidentiality statement agreeing to hold probation records confidential and to be maintained in the individual's personnel file, have a clear criminal record, and to meet the following specific requirements:

(a) Entity Directors and Owners Requirements. To be approved to operate a probation entity, owners and/or directors must have the qualifications set forth below. These qualifications must be demonstrated at the time of registration and at any other time reasonably requested by MPOU.

1. Initial Qualifications of Probation Entity. Upon application for registration approval to operate a probation entity, the applicant must include at least one employed person who is responsible for the direct supervision of probation officers. This supervisor shall have a

minimum of 5 years experience in one or a combination of the following: corrections counseling, parole officer, or probation officer. In its discretion, MPOU may approve experience not listed above.

2. Ongoing Qualifications of Probation Entities.

- (i) Maintain a clear criminal record;
- (ii) Ensure each individual completes continuing education;
- (iii) Maintain continued employment of probation officer supervisor and;
- (iv) Adhere to all other requirements established in these rules.

3. Change of location. The owner and/or entity director must notify MPOU prior to any change in the location of the primary entity location or address.

4. Change of contact information. The owner and/or entity director must notify MPOU of any change in the probation entity's telephone number, email, or other pertinent contact information within 3 business days.

(b) Probation Officers Requirements. To be employed as a probation officer with a probation entity the following shall be required:

1. Initial Qualifications of Probation Officers.

- (i) Be at least 21 years of age at the time of appointment;
- (ii) Complete a standard 2 year college course of study or 90 quarter hours or 60 semester hours from an accredited institution or have four years of law enforcement experience as a certified peace officer or jurisdictional equivalent, at the time of appointment. Any private probation officer who was employed as of July 1, 1996 and who had at least 6 months of experience as a private probation officer, or any person employed as a probation officer by a county, municipality, or consolidated government as of March 1, 2006, shall be exempt from such college requirements. Documentation of education, law enforcement experience, and POST certification shall be maintained in the probation officer's personnel files;
- (iii) Complete a 40 hour initial orientation program within 6 months of appointment, and 20 hour annual in-service continuing education training program, consisting of a curriculum approved by MPOU. Training documentation shall be maintained in the probation officer's file and;
- (iv) Sign a statement co signed by the probation entity director or his/her designee that the probation officer has received an orientation on these rules as well as operations guidelines relevant to the probation officer's job duties which shall be maintained in the probation officer's

personnel files.

2. Ongoing qualifications of Probation Officers.

- (i) Maintain a clear criminal record;
- (ii) Ensure each individual completes continuing education and;
- (iii) Adhere to all other requirements established in these rules.

3. Change of contact information. All probation officers must notify MPOU of any change in his/her address, telephone number, email, or other pertinent contact information within 3 business days.

(c) Administrative Employee, Agent, Intern, or Volunteer Requirements. To work with a probation entity in any capacity, the following shall be required:

1. Initial qualifications of Administrative Employee, Agent, Intern, or Volunteer.

- (i) Be at least 18 years of age;
- (ii) Sign a statement co-signed by the probation entity director or his/her designee that the administrative employee, agent, intern, or volunteer has received an orientation on these rules as well as operations guidelines relevant to the administrative employee, agent, intern, or volunteer's job duties which shall be maintained in administrative employee, agent, intern, or volunteer's personnel files;
- (iii) High School diploma or equivalent and;
- (iv) Complete a 16 hour initial orientation program within 6 months of appointment and 8 hour annual in-service continuing education training program, consisting of a curriculum approved by MPOU.

2. Ongoing qualifications Administrative Employee, Agent, Intern, or Volunteer.

- (i) Maintain a clear criminal record;
- (ii) Ensure each individual completes continuing education and;
- (iv) Adhere to all other requirements established in these rules.

(d) The failure to adhere to the above requirements shall subject the probation entity or individual to sanctions as provided in these rules.

OCGA §42-8-106.1, and O.C.G.A §42-3-10

105-2-10 Background Checks Required for All Individuals (directors and/or owners, probation officers, administrative employees, agents, interns, or volunteers). All individuals of a probation entity are required to have a criminal background check completed by the Department of Community Supervision in accordance with OCGA §35-3-34. MPOU may also require criminal records checks at any point during employment, registration, compliance audits, or complaints. MPOU shall report to the probation entity the results of the criminal background checks for all individuals associated with that probation entity.

(a) Probation entities are responsible for fingerprinting new individuals through GAPS within 10 days of hire.

(b) No person may fill any of the positions listed above who has engaged in any of the following conduct:

1. Intentionally falsified, misrepresented, or omitted pertinent information while completing the employment application, preliminary interview questionnaires, polygraph or any other pre-employment document(s);
2. Deliberately made inaccurate, misleading, false, or fraudulent statements during the employment process;
3. Failed to meet required educational or professional licensing or certification (if applicable);
4. Has any felony conviction;
5. Has any outstanding misdemeanor or felony charge pending adjudication;
6. Has sufficient misdemeanor convictions to establish a pattern of disregard for the law;
7. Engaged in any crime of a serious or aggravated nature;
8. Convicted or plead nolo contendere within the past three (3) years for Driving Under the Influence of Drugs or Alcohol (DUI) or for any serious traffic offense, including, but not limited to: Fleeing or Attempting to Elude a Police Officer, Vehicular Homicide, Failure to Stop, Render Aid, or Leave Information, and Racing;
9. Has 5 or more convictions and/or pleas of nolo contendere within the past 2 years for any moving violations;
10. Ongoing criminal activity or history of criminal activity other than minor traffic offenses;

11. Completed first offender sentence for an offense that indicates a security risk;
12. Engaged in any illegal drug use within the past 12 months;
13. Any pattern of marijuana use that suggests unrehabilitated substance abuse;
14. Any pattern of drug use, other than marijuana, that suggests unrehabilitated substance abuse within the past 3 years;
15. Illegal sale, distribution or manufacturing (to include growing) of any drug;
16. Deliberate association of a personal nature within the past year with persons who use illegal drugs in the presence of the applicant;
17. Use of any prescription drug or legally obtainable substance in a manner for which it was not intended and/or;
18. Under sanction by Peace Officer Standards and Training (P.O.S.T).

OCGA §42-8-106.1, §42-8-107, §42-8-109.3 and §42-8-109.4

105-2-.11 General Probation Responsibilities. In addition to meeting all other requirements, probation entities and individuals are responsible for the following:

- (a) Providing services for the supervision, counseling and collection of court-ordered fines of probationers assigned to the probation entity by the court;
- (b) The actions of all employees carried out within the scope of employment, whether they are characterized as employees, agents, interns, volunteers, or independent contractors (Applicable to Entity owners/directors only);
- (c) Prohibiting the solicitation of probationers for insurance, legal services, bail bonds, specific clinical evaluations or treatment providers, or any other product or service;
- (d) Ensuring the quality of case management, case notes, case status, special conditions, and execution of all court orders in a professional and timely manner;
- (e) Being accountable to the court in reporting the status of probation cases assigned to the probation entity for supervision;
- (f) Prohibiting solicitation, and/or the requirement for advanced payment of probation supervision fees;
- (g) Abiding by statute in reference to treatment of indigent probationers and revocation requirements per O.C.G.A. §42-8-102;

(h) Abiding by statute in reference to pay only cases per O.C.G.A. §42-8-103;

(i) Abiding by statute in reference to consecutive misdemeanor sentences per O.C.G.A. §42-8-104;

(j) Abiding by statute in reference to the tolling of misdemeanor sentences per O.C.G.A. §42-8-105 and;

(k) The failure to adhere to these responsibilities shall subject the probation entity or individuals to sanctions as provided in these rules.

OCGA §42-3-3, §42-3-6, §42-8-106.1, O.C.G.A. §42-8-102, O.C.G.A. §42-8-103, O.C.G.A. §42-8-104, and O.C.G.A. §42-8-105

105-2-12 Training and Individual Development. The primary objective of MPOU training curriculum is to ensure that individuals receive sufficient training to enable them to provide probation services that are professional, competent and efficient. To satisfy these training requirements, the curricula are required to be submitted to MPOU for approval. The following training is required:

(a) Probation Officer Initial Orientation Training. All probation officers providing probation services are required to obtain 40 hours of initial orientation training as set forth below. Probation officers with evidence of satisfactorily completing a probation or parole officer basic course of training certified by the Georgia Peace Officer Standards and Training Council are exempt from the 40-hour initial orientation training requirement. Initial training of new probation officers shall be completed within the first 6 months of employment.

1. Probation Officer Orientation Curriculum

(i) A 5-hour block of instruction covering General Probation Overview and consisting of: The History of Probation, Ethics and Professionalism, Probation Officer Liabilities and Responsibilities, Constitutional Law, and Probation Law;

(ii) A 20-hour block of instruction covering Probationer Management and consisting of: Confidentiality, Intake, Preparation and Maintenance of Files, Case Documentation, Interviewing and Communication Skills, Available Sentencing Options, Financial Collections, Community Service, Alcohol and Substance Abuse, and Personal Welfare and Safety; and

(iii) A 15-hour block of instruction covering Legal Procedures and Reports and consisting of: General Report Writing Techniques, Violations, Delinquency Reports and Warrants, Courtroom Protocol, Testimony and Revocation Proceedings, First Offender Act, Case Termination Reports, Domestic Violence, and Statutory Changes and Updates.

(b) Probation Officer Annual In-Service. All probation officers are required to obtain 20 hours of annual in-service training. In-service training shall be completed on a calendar year basis. The initial orientation training hours completed during the first calendar year of employment shall also count towards satisfying the annual in-service training requirements for that same period.

1. Annual In-Service Training shall be on topics that relate to the criminal justice system and/or the operation of the probation entity as approved by MPOU.

(c) Administrative Employee Agent, Intern, or Volunteer Initial Orientation Training. All Administrative Employee, Agent, Intern, or Volunteer are required to obtain 16 hours of initial orientation training.

1. Administrative Employee, Agent, Intern, or Volunteer Orientation Curriculum.

(i) A 4-hour block of instruction covering: The History of Probation, Ethics and Professionalism, Probation Officer Liabilities and Responsibilities, Constitutional Law, and Probation Law;

(ii) A 8-hour block of instruction covering Probationer Management and consisting of: Confidentiality, Intake, Preparation and Maintenance of Files, Case Documentation, Interviewing and Communication Skills, Available Sentencing Options, Financial Collections, Community Service, Alcohol and Substance Abuse, and Personal Welfare and Safety; and

(iii) A 4-hour block of instruction covering Legal Procedures and Reports and consisting of: General Report Writing Techniques, Violations, Delinquency Reports and Warrants, Courtroom Protocol, Testimony and Revocation Proceedings, First Offender Act, Case Termination Reports, Domestic Violence, and Statutory Changes and Updates.

(d) Administrative Employee, Agent, Intern, or Volunteer Annual In-Service Training. All Administrative Employee, Agent, Intern, or Volunteer will obtain 8 hours of annual in-service training. In-service training shall be completed on a calendar year basis. The initial orientation training hours completed during the first calendar year of employment shall also count towards satisfying the annual in-service training requirements for that same period.

1. Annual In-Service Training shall be on topics that relate to the criminal justice system and/or the operation of the probation entity as approved by MPOU.

(e) Training Responsibilities. The progress and completion of initial orientation and in-service training is required to be documented and maintained in the individual's files utilizing the forms approved by MPOU.

(f) Training Resources. Probation entities and individuals providing probation services may obtain training resource information from MPOU, local law enforcement agencies, local colleges

and schools, and national professional associations such as the American Probation and Parole Association, Georgia Professional Association of Community Supervision, American Correctional Association, and/or credible sources approved by MPOU. All training must be approved by MPOU.

(g) Trainer Requirement. Trainers will have expertise in the area of training. A college degree or POST certification is preferred. Probation entities shall maintain a description of the course and the contact information of the trainer on file. Training provided by professional training services shall be accepted so long as a description of the course and the trainer's contact information is maintained on file and has been approved by MPOU.

(h) The failure to adhere to these training requirements shall subject the probation entity and/or individuals to sanctions as provided in these rules.

OCGA §42-8-106.1

105-2-.13 Probation Entity Reports. All probation entities shall provide the judge and MPOU with a quarterly probation entity activity report in such detail as the judge and MPOU may require.

(a) Probation entity quarterly activity reports shall be submitted within 15 days after the close of each calendar quarter and shall be made utilizing forms approved by MPOU. Quarterly reports must be received by MPOU as follows: 1st quarter (Jan-March) due April 15th, 2nd quarter (April-June) due July 15th, 3rd quarter (July-Sept.) due Oct. 15th, 4th quarter (Oct.-Dec.) due Jan 15th

1. If the 15th day after the close of the quarter falls on a weekend or state or federal holiday, the quarterly report shall be submitted by the following business day. MPOU in its discretion shall allow for adjustments of due dates based on a case by case basis as long as the request for extension is received by MPOU in writing prior to the due date.

2. Failure to submit quarterly reports in a timely manner may result in sanctioning.

(b) The quarterly reports shall include the following:

1. Number of probationers under supervision;
2. The amount of fines, statutory surcharges, and restitution collected;
3. The amount of fees collected and the nature of such fees, including probation supervision fees;
4. Rehabilitation programming fees;
5. Electronic monitoring fees;
6. Drug or alcohol detection device fees;
7. Substance abuse or mental health evaluation or treatment fees if such services are provided directly or otherwise to the extent such fees are known;
8. Drug testing fees;
9. The number of community service hours performed by probationers under supervision;

10. A listing of any other service for which a probationer was required to pay to attend;
 11. The number of probationers for whom supervision or rehabilitation has been terminated and the reason for the termination;
 12. The number of warrants issued during the quarter and;
 13. These reports shall be in such detail as MPOU may require.
- (i) Entities shall be given 90 days advance notice of changes in reporting requirements.

OCGA §42-8-108 and §42-3-3

105-2-.14 Probation Entity Records. Each probation entity must maintain the following records for the period required by law and the records must be available and accessible for inspection by the affected county, municipality, consolidated government, the court, the Department of Audits and Accounts or MPOU upon request.

(a) Required records are as follows:

1. All written contracts or service agreements for probation services;
2. All court orders for all probationers assigned to the entity for supervision;
3. All accounting ledgers and related documents;
4. All payment receipts issued to probationers for all funds received;
5. All probation case history and management reports and documents;
6. All other documents pertaining to the case management of each probationer assigned to the entity for supervision;
7. The probation entity and individual applications for registration and supporting documents submitted to MPOU;
8. All training records and individual personnel files;
9. The registration approval issued to the probation entity and individuals by MPOU; and
10. All documents related to the case management of probationers to include but not limited to case history, accounting ledgers, and payment receipts must be retained for a period required by law after the probation case closes.

OCGA §42-8-106.1 and OCGA §42-8-109.2

105-2-.15 Money Collection. No probation entity or individual shall assess or collect from a probationer or disburse any funds, except as authorized by written order of the court, as authorized by the written service agreement, or as required by State law.

(a) A current schedule of all probation fees, authorized through a service agreement, must be filed by the probation entity with MPOU and comply with applicable laws and rules.

(b) No probation entity or individual may offer any program services or component for an additional fee unless the fee is authorized by the probation entities service agreement and has been ordered by the court, or as required by State law.

(c) It shall be the duty of the probation entity to collect and disburse funds and faithfully keep the records of accounts as required by the court, MPOU, and State law.

(d) No probation entity or individual shall require collection of probation supervision fees prior to providing services.

(e) The failure to adhere to any of these requirements in (a) through (d) above shall subject the probation entity and individuals to sanctions as provided in these rules.

OCGA §42-8-106.1

105-2-16 Transfer of Probation Supervision. Probation case supervision may be transferred from one probation entity to another with the approval of the court of original jurisdiction and/or as provided by Interstate Compact.

(a) The Sending Probation Entity. The sending probation entity will be responsible for contacting the receiving probation entity and determining if the transfer is feasible. The sending probation entity shall provide the court of original jurisdiction with necessary information for consideration of the transfer.

(b) Approval of the Transfer. Upon approval of the transfer, the sending probation entity will instruct the probationer in writing as to where and when to report to the receiving probation entity and will forward a case management package to the receiving probation entity. The package should include: a copy of the sentence, a copy of all case history information and a statement of financial obligations and collections to date.

(c) Transfer of Cases Involving Financial Collections. When a case is transferred from one probation entity to another, the sending probation entity remains responsible for the collection of all original fines, fees and surcharges, with the exception of monthly probation supervision fees unless otherwise ordered by the court.

(i) Monthly probation fees collected and retained by the sending probation entity shall not exceed an amount equal to the number of months that the probationer was actually supervised. As of the date of transfer, monthly probation supervision fees shall be collected and retained by the receiving probation entity.

(ii) The sending probation entity will remain responsible for the collection of all other financial obligations and is responsible for instructing the probationer regarding forwarding scheduled financial payments back to the original probation entity unless otherwise ordered by the court.

(d) Probation Violations by Transferred Probationers. When violations occur during supervision by the receiving probation entity, it is the responsibility of the receiving probation entity to investigate and report back to the sending probation entity in order for the court of original jurisdiction to be informed unless otherwise ordered by the court.

(e) If the probationer fails to report or the case is determined to be unacceptable to the receiving probation entity, the receiving probation entity should contact the sending probation entity in an effort to resolve the problem. If the situation cannot be resolved, the case management package should be returned to the sending probation entity with sufficient documentation of the problem and the original sending probation entity should inform the court of original jurisdiction of the situation unless otherwise ordered by the court.

(f) If probation violations occur subsequent to a transfer, the sending probation entity and the court of original jurisdiction retains responsibility to pursue appropriate follow-up action unless otherwise ordered by the court.

(g) Sentence Expiration. When the terms of the probation sentence expire for a transferred probationer, the receiving probation entity will forward a brief confirmation report back to the original sending probation entity confirming that probation supervision has been terminated. In accordance with court policy, the sending probation entity shall inform the court that probation supervision has been terminated.

(h) Transfer of Probation Supervision Into and Out of State. Probation case supervision will be transferred from a probation entity to a probation office or probation entity between states according to the requirements of the Interstate Compact for Adult Offender Supervision.

(i) All probation entities and individuals shall abide by the Interstate Compact statute O.C.G.A. §42-9-81.

OCGA §42-8-106.1, OCGA §42-8-109.2, and OCGA §42-9-81.

105-2-17 Notification of Probation Entity Sales, Mergers or Acquisitions. In the event a probation entity becomes associated with another corporation, enterprise or agency, or becomes consolidated with another government, whether through acquisition, merger, sale or any other such transaction, that probation entity shall inform MPOU of such change within 10 days after the transaction. The written notice shall include the names, addresses and telephone numbers of all primary parties, the effective date of the merger or sale or consolidation, and the nature of the business relationship of the new probation entity. A violation of any provision contained in the applicable statute may result in a breach of contract for all probation services rendered.

(a) All new parties must be approved by MPOU to provide misdemeanor probation supervision services prior to the merger, sale or any other such transaction.

(b) Failure to obtain such approval shall subject the entity to sanctions provided by these rules.

OCGA §42-8-106.1 and §42-8-109.3

105-2-.18 Probation Entity Advertising and Solicitation. Any probation entity that solicits business is required to meet the following requirements:

- (a) Any advertisement must contain the full name of the probation entity;
- (b) No probation entity may advertise in any manner that is false or misleading, nor may any advertisement make any false or misleading claim and;
- (c) No Probation entity may use the logo or the seal of the State of Georgia in any advertising or on any probation entity stationary or correspondence.

OCGA §10-1-372, OCGA §10-1-421, OCGA §42-8-106.1, OCGA §50-3-8

105-2-.19 Audits, Inspections, Investigations, and Probation Entity Monitoring. MPOU is authorized and empowered to conduct audits, inspections, and investigations of probation entities and individuals to determine and monitor compliance with requirements.

- (a) Audits and inspections may be conducted at any site, location, or place, and may be initiated any time during operating or other reasonable hours, of such probation entity in order to assess compliance with requirements.
- (b) MPOU is authorized and empowered to conduct investigations to determine whether any probation entity or individual requirements have been, or are being violated. Such investigations may be conducted at any site, location, or place, may be initiated any time during operating or other reasonable hours, may continue during a pending administrative action initiated by MPOU, and may involve any person who may have information related to an alleged or suspected violation by a probation entity. Investigations may be initiated by MPOU, at its discretion, when it suspects actual or potential noncompliance with requirements on the part of a probation entity or individual, or when any person alleges facts which, if true, likely would constitute a violation of the law or these rules.
- (c) Consent to entry and access. A registration application or the approval by MPOU constitutes consent by the registration applicant and the owner/director of the premises for MPOU representatives to enter the premises for the purpose of conducting an audit, inspection, investigation, or monitoring.
- (d) MPOU representatives must be allowed immediate entrance and access to the probation entity premises and to sources of information determined by MPOU to be pertinent to making a full compliance determination. This information includes, but is not limited to: all individuals, all parts of the premises, probationers records, and any document(s) related to the initial or continued registration approval of a probation entity or individual.
- (e) MPOU additionally shall have the authority to require the probation entity or individual to provide any relevant documents including originals where available or photocopies or portions

thereof. This authority extends to documents to which confidentiality or privilege otherwise would attach.

(f) Cooperation with inspection. Probation entities and individuals must cooperate with any inspection or investigation by MPOU and must provide, without delay, any information reasonably requested by MPOU.

OCGA §42-8-106.1 and §42-8-109.3

105-2-.20 Enforcement of Probation Entity Requirements. MPOU in addition to other sanctions shall have the authority to deny, suspend, and revoke the registration approval of a probation entity for noncompliance with any applicable laws or rules. MPOU shall also have the authority to revoke existing registration if an entity fails or refuses to adhere to registration requirements. Additionally, it shall have the authority to issue a written reprimand or assess administrative fines in addition to other sanctions against any probation entity or individual for noncompliance with requirements. In considering which sanction to impose, MPOU shall consider the history of compliance, the seriousness of the violations, whether the probation entity, or individual voluntarily reported problems giving rise to any violation, and whether good faith efforts were exhibited to correct areas of noncompliance prior or subsequent to their discovery by MPOU.

(a) In addition to any other sanction, probation entities or individuals may be sanctioned for any of the following:

1. Knowingly making misleading, deceptive, untrue, or fraudulent representation in obtaining certification, fulfilling reporting requirements, or in the operations of an entity or individual, or knowingly engaging in fraud or deceit or making false statements in any matter required by law or these rules;
2. Failing or refusing to provide MPOU with meaningful access to the probation entity premises, individuals, probationers records, including refusing to provide MPOU with documents reasonably necessary to making a compliance determination;
3. Changing ownership of a private probation entity in order to avoid or avert the denial, revocation, or suspension of registration;
4. Altering or falsifying any probation entity or individual records;
5. Failing or refusing to remit required reports as outlined in these rules;
6. Failing to demonstrate adherence to and satisfaction of the requirements, qualifications, or standards required by law or by these rules; probation entity or individual requirements or violating any law relating to the operation of a probation entity;

7. Failing or refusing to abide by, or comply with, any order or directive issued by MPOU pursuant to its authority as provided by law or by these rules and regulations;
8. Failing or refusing to properly supervise its probation officers, agents, or individual employees to the detriment of the public;
9. Engaging in any unprofessional, unethical, deceptive, or deleterious conduct or practice harmful to the public, to a court, or to persons under the supervision of the entity or the individual;
10. Violating or attempting to violate any law, constitutional provision, rule, or regulation of this state, any other state, the United States, or any other lawful authority relating to the supervision of probationers or the operations of an entity or individual that engages in such supervision;
11. Committing any act or omission which is indicative of bad moral character or untrustworthiness;
12. Being terminated by a court or governing authority for disciplinary reasons and/or;
13. Committing any act or omission that MPOU finds to be contrary to the spirit of these rules and regulations or contrary to the public good.

OCGA §42-8-106.1 and §42-8-109.3

105-2-.21 Sanctions that May Be Imposed. When the Misdemeanor Oversight Unit Director finds that a violation of laws or these rules has taken place, the Director may take any one or more of the following actions:

- (a) Administer a reprimand to the entity or individual.
- (b) Suspend for a fixed period of time the entity or individual's certification or authorization to do business, to engage in a specific activity as part of the business, or to supervise probationers.
- (c) Limit or restrict any authorization, certificate, or approval that has been previously approved by the MPOU.
- (d) Impose a fine or violations fee against the probation entity or individual in an amount not to exceed \$5,000 per violation.
- (e) Impose any of the above sanctions but withhold enforcement of such sanctions and place the probation entity or individual on probation for a definite period of time under such conditions

as may be imposed by the MPOU Director. Upon violation of any of the terms of probation, as determined by the MPOU Director, the original sanctions shall immediately take effect.

(f) MPOU shall notify all courts served by the probation entity of any sanction imposed upon the probation entity for violating these rules and regulations.

(g) MPOU Director shall have the authority to take emergency action against a probation entity or individual to immediately suspend its registration approval if MPOU finds that the public health, safety, or welfare imperatively requires emergency action.

OCGA §42-8-106.1 and §42-8-109.3

105-2-22 Procedure for Imposition of Sanctions. Upon a finding that a violation has occurred, MPOU shall send a letter by certified mail to the probation entity or individual, specifically noting the alleged violations.

(a) The probation entity or individual shall have 15 days from the date of such letter in which to submit any additional documents or other evidence in response to the allegations.

(b) After consideration of the allegations and any additional evidence received from the probation entity or individual, the Director, with the concurrence of the Commissioner, shall determine what, if any, sanction shall be appropriate for each violation. Once the determination is made, the MPOU will notify the probation entity and/or individual, by certified mail, setting forth the violations found to exist and the sanctions imposed. The letter shall also inform the violator of the right to review by the Board of Community Supervision.

(c) Within 10 days of receiving the sanctions notice, the probation entity or individual may request review by the Board of Community Supervision. If the violator does not seek review the sanction will be final. Except for emergency sanctions under Rule 105-2-21(g), if the violator seeks Board review, the sanction will be stayed until the Board reviews the sanction and acts on the sanction as provided in subsection (f) below.

(d) It is the responsibility of all probation entities to maintain their mailing address current and up-to-date with MPOU as any and all correspondence will be sent to the address on file.

(e) If the probation entity or individual requests review of the sanction imposed by the MPOU Director, the record, including any materials submitted by the probation entity or individual, shall be forwarded to the Board of Community Supervision for review. The request for review should be made in writing and addressed to the MPOU Director.

(f) The Board of Community Supervision shall review the sanction imposed and affirm the sanction, alter the sanction, or remand the matter to the Director.

(g) If the Board affirms the sanction or imposes an alternative sanction, notice of the sanction shall be sent to the probation entity or individual sanction by certified mail. The entity or individual against whom the sanction has been imposed may appeal as provided by O.C.G.A §42-3-10.

OCGA §42-8-106.1, OCGA §42-8-109.2, O.C.G.A §42-3-10

105-2-23 Severability. In the event that any rule, sentence, clause or phrase of any of these rules and regulations may be construed by any court of competent jurisdiction to be invalid, illegal, unconstitutional, or otherwise unenforceable, such determination or adjudication shall in no manner affect the remaining rules or portions thereof. The remaining rules or portions thereof shall remain in full force and effect, as if such rule or portions thereof so determined, declared, or adjudicated invalid or unconstitutional were not originally a part of these rules.

OCGA §42-3-2, §42-3-3, §42-3-6, §42-8-106.1

105-2-24 Filing of Complaints. All probation entities and individuals affiliated with misdemeanor probation supervision are expected to conduct themselves in a professional manner and adhere to all applicable statutes and regulations. Citizens may file a complaint with MPOU. All complaints will be investigated and remain confidential until the investigation is completed.

(a) MPOU shall open an investigation and notify the probation entity and/or the individual of the investigation in writing. A copy of the complaint or summary of the complaint shall be sent to the probation entity and/or individual. Identifying information of complainants may be redacted.

(b) The MPOU shall develop procedures and forms, as needed, for the acceptance of complaints from members of the public regarding conduct of entities or individuals subject to these rules.

O.C.G.A. § 42-8-106.1