



# Prosecuting Attorneys' Council of Georgia

## Policies & Procedures

Approved Oct. 17, 2002; amended April 11, 2006; March 2, 2007; March 27, 2009; Nov. 13, 2009

### 7.1

### Training

### In-State Training

## 1. General Provisions.

- (a) Pursuant to O.C.G.A. § 15-18-45 and subject to the availability of funds, the Council conducts basic and continuing legal education courses or other appropriate training programs for the district attorneys, solicitors-general, and other prosecuting attorneys of this state and the members of the staffs of such officials. Council conducted courses and training programs are designed to provide prosecuting attorneys and members of their support staff with training sufficient to equip them with the skills necessary to perform their duties and to meet continuing education or in-service training requirements applicable to the performance of their official duties.
- (b) The Training Committee of the Council shall oversee the development and coordination of all Council training programs.
- (c) The Training Division of the Council shall, subject to the availability of funds, coordinate and conduct those training programs approved by the Council.

## 2. Participation.

- (a) Subject to the conditions set forth in (b) below, the following personnel are eligible to participate as students in continuing education programs conducted by the Council:
  - (1) District attorneys and their staffs, including prosecuting attorneys ~~of a~~ assigned to juvenile court and assistant district attorneys who are assigned to child support enforcement duties.
  - (2) Solicitors-General of the State Courts and their staffs.
  - (3) Employees of the Georgia Department of Law.
  - (4) Employees of the United States Department of Justice including the United States Attorneys.<sup>1</sup>

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<sup>1</sup> Federal prosecutors are eligible to attend Council training programs under a reciprocal agreement which went into effect in 1975.



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- (5) Prosecuting attorneys of probate, magistrates and municipal courts who have jurisdiction to prosecute criminal cases on behalf of the State of Georgia , provided that the governing authority, or other authorized official of the political subdivision employing such prosecuting attorney provides the Council in advance of the training with written documentation certifying that the position has been established by law or ordinance and attesting to the appointment of the individual as the prosecuting attorney.<sup>2</sup>
  - (6) Members of the Judge Advocates Corps of the Armed Forces of the United States and of the State of Georgia.
  - (7) District attorneys-elect and solicitors-elect, including a candidate for the office of District Attorney or Solicitor-General who wins the Primary Election, and who does not have opposition in the General Election.<sup>3</sup>
  - (8) Retired prosecuting attorneys who are not engaged in the private practice of criminal law (see Section 6e concerning reimbursement).
  - (9) Other attorneys employed by the Executive, Legislative or Judicial branches of the State of Georgia whose duties encompass the investigation or prosecution of violations of the laws of this State.
- (b) Notwithstanding the fact that a part-time prosecuting attorney may be generally eligible to attend training under subsection (a) above, the training offered must also be directly relevant to the jurisdiction and duties of the individual. For example, part-time municipal and other lower court prosecuting attorneys and their staff would be eligible to attend courses that relate to the prosecution of DUI and other traffic

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<sup>2</sup> Generally this would not include attorneys who prosecute only violations of the ordinances of a municipality, county, or state authority. It would include attorneys who prosecute violations of the traffic laws of this State even though those violations may be treated as ordinance violations.

<sup>3</sup> Minutes 7/20/1976, p. 2. *Staff Note:* This provision does not affect the eligibility of incumbents or current employees of a prosecuting attorney's office who are also candidates for the elected position. As adopted this policy originally read "Democratic Primary". Council practice has been to apply it to any primary election.



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offenses, but would not be eligible to attend programs which deal exclusively with the prosecution of felony offenses or domestic violence.

- (c) When space is available, employees of state, local and/or federal law enforcement agencies, and individuals engaged in law enforcement training and support activities, may attend Council training programs with the prior approval of the Council.
  - (d) When space is available, spouses of individuals who are eligible to participate in Council Training programs are eligible to participate in Council training programs, provided they are active members of the State Bar of Georgia and they do not represent individuals who are defendants in any criminal or forfeiture action brought by the State of Georgia.
3. Based on the availability of funds and/or space, attendance at some programs may be restricted. When it is necessary to restrict the number of personnel who can attend a Council conducted program, eligibility restrictions will be published in the course brochure or course announcement.<sup>4</sup> In most cases where this is necessary, the priorities shown below normally will apply:
- (a) Personnel who have not previously received the training within 12 months of the course except where annual training in the subject is required (i.e., ethics and professionalism for attorneys; use of force and weapons for investigators) will receive priority over individuals who are repeating the training.
  - (b) Attorneys who have not completed the number of hours of continuing legal education required annually by the Rules of the State Bar of Georgia and investigators who have not met their annual in-service training requirements for investigators who are certified peace officers have priority over individuals who have met the annual requirement.
  - (c) Personnel whose duties provide them with primary jurisdiction over the subject matter of the particular training program have priority over other personnel.

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<sup>4</sup> An example would be the Basic Litigation Course where priority is given to those prosecuting attorneys with minimal prosecution experience.



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- (a) Personnel who are full-time employees have priority over part-time employees.

#### 4. Lodging.

- (a) The staff of the Prosecuting Attorneys' Council shall, prior to each training program, enter into contracts with a sufficient number of hotels/motels in the vicinity of the training to house the estimated number of participants. The staff shall prepare a list of the hotels/motels with whom it contracted listing their contracted rates.
- (b) The staff may make hotel/motel reservations for those speakers who specifically request that lodging arrangements on their behalf.
- (c) All Council members and Prosecuting Attorneys' Council staff members who attend scheduled training programs shall make their own arrangements for lodging at one of the hotels/motels on the contract list. If necessary, any Council staff member may apply for a cash advance to cover the costs of training programs they are required to attend.

#### 5. Registration Fees

- (a) A registration fee will be charged to each participant of a Council training program in an amount sufficient to offset the costs of the training program.
- (b) Any lawyer attending CLE programs sponsored by the Prosecuting Attorneys' Council, and who is not employed by the Attorney General, a Solicitor-General, a federal prosecutor or by a state or federal law enforcement agency, will be charged the comparable rate for attendance as is charged by the Institute of Continuing Legal Education (ICLE) in Georgia.
- (c) Exemptions.
  - (1) Speakers shall be exempt from the payment of registration fees for the training program that they serve as a speaker, and may participate in the entire activities of the training program.



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- (2) The registration fees of staff attorneys of the Council shall be paid by the Prosecuting Attorneys' Council.

### 6. Reimbursement of Expenses of Participants.

#### (a) Eligibility.

- (1) Subject to the provisions of subsection (b) and the Rules relating to reimbursement of travel expenses adopted by the Council, the following personnel are eligible to submit claims for reimbursement of expenses incurred while attending Council training programs:
  - (A) District attorneys and their staffs, including prosecuting attorneys of a juvenile court and attorneys assigned to child support enforcement.
  - (B) Solicitors-general of state courts and their staffs.
  - (C) Employees of the Prosecuting Attorneys' Council.
- (2) A part-time prosecutor who is engaged in the private practice of law is not eligible for reimbursement of expenses by the Council if, on or after July 1, 2009, he or she represents defendants in criminal or forfeiture cases brought by the State of Georgia in the courts of this State unless the course announcement specifically states that such part-time prosecutor will be eligible for reimbursement.<sup>5</sup> By submitting a request for reimbursement to

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The Council has determined that the use of state funds to provide reimbursement of expenses incurred by part-time personnel who actively represent criminal defendants in the courts of this state in subjects that are not directly related to such part-time personnel's jurisdiction and duties, constitutes a potential breach of the Council's fiduciary duties under Article I, Section II, Paragraph I of the Georgia Constitution, see *Georgia Dep't of Human Resources v. Sistrunk*, 249 Ga. 543, 547 (1982); *Crozer v. Reichert*, 275 Ga. 118, 120 (2002); *Ga. Ports Auth. v. Harris*, 274 Ga. 146, 149 (2001), and creates a potential conflict of interest for part-time prosecutors under the Ga. Rules of Professional Conduct. See GRPC R. 1.7(a) 1.11(b). An intentional violation of this policy could be considered "professional misconduct involving dishonesty, fraud, deceit or misrepresentation" under GRPC R. 8.4(a)(3). See e.g. *In re: McKinna*, 282 Ga. 469 (2007) *In re Johnson*, 281 Ga. 674 (2007). The maximum penalty for a violation of GRPC R. 8.4(a)(3) is disbarment. It also could be



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the Council, a part-time prosecutor is certifying that he or she does not represent such defendants.

(3) Volunteers.<sup>6</sup>


(A) A person who is a volunteer in a district attorney's or solicitor-general's office, serving without compensation by the state or a political subdivision, is eligible for reimbursement as a member of the staff of such office for expenses incurred while attending a Council training program, under the following conditions:

- (i) The volunteer is participating in a structured program organized, controlled and directed by the district attorney or the solicitor-general or an employee specifically designated by the district attorney or the solicitor-general;
- (ii) The volunteer is performing the duties and functions of a prosecuting attorney, investigator or victim advocate in such office, has been duly appointed to such position and taken the oath of office for such position, if required by law;
- (iii) Completion of the training is required in order for such volunteer to maintain their status or certification as an attorney, peace officer or victim advocate;
- (iv) The volunteer is not eligible for payment of expenses from any other public or private source; and
- (v) The district attorney or solicitor-general, or his or her designee, makes a written (email or fax is acceptable) request

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prosecuted as a violation of O.C.G.A. § 16-10-20.

<sup>6</sup> This provision relating to "Volunteers" was added Nov. 13, 2009.

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at least 15 days prior to the start of the training program, that the volunteer be eligible for reimbursement.

- (B) The director of training is the approving authority over requests for approval of reimbursement of volunteers. The director may set a maximum amount that a volunteer may be reimbursed or set such other reasonable conditions on reimbursement as may be appropriate based on available funds.
- (b) Subject to the availability of funds, the Council may reimburse the following expenses incurred by eligible participants of its training programs:
  - (1) **Lodging.** The staff of the Prosecuting Attorneys' Council will provide a list of those hotels who have agreed to allow special rates for the participants of Council training programs. The amount of lodging reimbursement will be the negotiated single rate for the hotel occupied by the participant. The Council will establish the maximum reimbursement rate for those occupying hotels that are not on the provided list. Such maximum reimbursement rates will be listed in the notice announcing the training program.
  - (2) **Meals.** Unless otherwise directed, the Council will reimburse for meals at the rates set out by the Prosecuting Attorneys' Council Travel Rules. Meal reimbursements are not cumulative. Individuals will not be entitled to increase the amount of a particular meal because of unused expenditures. The Council will notify participants in the notice announcing a training program of any change in the amounts participants will be entitled to claim for meals. In such event, the change will only apply to that particular training program and will be unaffected by any subsequent training program.
- (c) Reimbursement of Speakers.
  - (1) Employees of a district attorney or solicitor-general who serve as a speaker or faculty member at a Council training program shall be eligible for reimbursement as set out above and, in addition, shall be eligible for



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reimbursement of travel expenses to and from the location of the training program in accordance with Prosecuting Attorneys' Council Travel Rules.

- (2) Reimbursement of other speakers (out-of-state, other government agency employees or non-governmental) will be governed by the Prosecuting Attorneys' Council Travel Rules unless otherwise provided by contract.
- (3) This subsection does not apply to co-sponsored training programs.
- (d) [Reserved].
- (e) Limitation on Reimbursement of Participants at Council Training.
  - (1) Unless otherwise authorized by the Executive Director, participants at Council conducted training program will only be reimbursed for expenses incurred while attending one major Council training event per fiscal year.
  - (2) The following conferences and programs are designated as major training events:
    - (A) Summer Conference;
    - (B) Winter Conference;
    - (C) Spring Seminar for Solicitors-General;
    - (D) Key Personnel;
    - (E) Investigator training programs designated by the Council as required for promotion of state-paid district attorney investigators pursuant to Chapter 3 of the Rules of the Prosecuting Attorneys' Council.
  - (3) Attendance as a participant at Fundamentals of Prosecution and the Basic Litigation Course or at specialized training programs (i.e., DUI, mentor training, Train-the Trainer) or programs which are funded by grants or contracts does not affect a participant's eligibility to be reimbursed for attending a major training event.
  - (4) The limitation on reimbursement for attendance at major training events does not prohibit attendance at more than one major training event at an



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individual's own expense or a prosecutor's office from reimbursing members of their staff from any other non-state funds available for the operation and support of their office.

- (f) The Council may reimburse expenses incurred by a retired prosecuting attorney who has registered with the Council as being willing and available to provide assistance pursuant to O.C.G.A. §15-18-30. Such reimbursement shall be on the same basis as other district attorney personnel.
- (g) The Council will not reimburse for expenses incurred by the following participants at Council training programs unless reimbursement of such participants is specifically provided for by the terms of a contract or grant that provides the funding for such training program:
  - (1) Any participant who has not paid the required registration fee of the training program for which reimbursement is sought.
  - (2) Any person attending a Council training program who is not eligible for reimbursement.
  - (3) Retired prosecuting attorneys not registered with the Council as being willing and available to provide assistance pursuant to O.C.G.A. §15-18-30.
  - (4) Federal prosecuting attorneys.
  - (5) Other attorneys employed by agencies of the Executive, Legislative or Judicial branches of the State of Georgia.
  - (6) Employees of state, local and/or federal law enforcement agencies, and individuals engaged in law enforcement training and support activities.
  - (7) Prosecuting attorneys of magistrates, probate and municipal courts.

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**7. CLE Certification.**

- (a) The Council staff shall apply for Continuing Legal Education (CLE) credits for Attorneys through the State Bar of Georgia, and Police Officer Standards Training (P.O.S.T.) credits for investigators through the Peace Officers Standards Training Council for Council training programs and shall provide forms for each participant to claim credits for the hours attended.
- (b) In order to request CLE credits or P.O.S.T. credits for attending a Council training program, the participant must submit an affidavit of attendance to the Council staff no later than 30 days following the training program. Payment for the CLE credits must accompany the affidavit of attendance.
- (c) Individuals who have not paid the registration fee for a training program will not be eligible for CLE and P.O.S.T. credits for that program.
- (d) Exemptions.
  - (1) Those who serve on the program of a Council training program in the capacity of speaker or faculty member may be exempt from the payment of CLE fees for the training program at which they serve, and may claim all hours that they attended for the course that they served as a speaker or faculty member. However, the Council will not pay for CLE credits beyond what is needed for the year in which they serve and the next succeeding year. This exemption does not apply to co-sponsored training programs.
  - (2) In order to be exempt from the payment of CLE credits as set out herein, a speaker must submit a handout for his/her presentation and the presentation must take the full time allotted.
  - (3) The CLE fees of staff attorneys of the Council shall be paid by the Prosecuting Attorneys' Council.

8. **Out-of State CLE Credit.** Those participants at Council training programs who are members of the Bar in states other than Georgia, and who require such certification in order



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to maintain their membership in such Bars, must submit the appropriate forms from the other State to the staff of the Prosecuting Attorneys' Council for Certification. The Council staff will certify the Georgia Continuing Legal Education Attendance and return the form to the participant for further processing as the participant deems appropriate.

### 9. Attendance.

- (a) Participants in Council conducted training programs are required to attend scheduled classes in order to be eligible for CLE or POST credit or reimbursement of expenses for the course. Individuals may register to attend only a portion of a course, in which case they will receive credit only for those classes actually attended.
- (b) If, during a course, a student becomes ill or for any other reason cannot complete the course, it is the student's responsibility to notify a representative of the Training Division.

### 10. Misconduct.

- (a) Students are expected to maintain a professional and courteous demeanor. Examples of conduct that is not considered professional and courteous demeanor include, but is not limited to, reading newspapers or books, surfing the Internet, playing games, or sleeping during lectures.
- (b) Any student who fails to adhere to reasonable standards of conduct and personal discipline will be subject to dismissal from the course. Students may be subject to additional standards of conduct that apply to specific courses.
- (c) The consumption of alcohol during classes, including scheduled breaks, is prohibited except when such consumption is part of the training activities and is under the direct supervision of the instructor.
- (d) Sanctions.
  - (1) Misconduct which results in dismissal from a course will be reported to the employing prosecuting attorney or agency head.



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- (2) Misconduct that constitutes a violation of the laws of this state will be reported to the appropriate law enforcement agency.
- (3) Misconduct which constitutes a violation of the Georgia Code of Professional Conduct will be reported to the State Bar of Georgia.