

 Prosecuting Attorneys' Council of Georgia		
Policies & Procedures		Approved Oct. 17, 2002; amended April 11, 2006; March 2, 2007; March 27, 2009; Nov. 13, 2009; April 17, 2013
7.1	Training	In-State Training

1. Authority. This policy is adopted pursuant to O.C.G.A. § 15-18-45.

2. 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.
- (b) The primary purpose of Council conducted courses and training programs is to assist the prosecuting attorneys and their staffs in their efforts against criminal activity in the state by providing training sufficient to equip them with the skills necessary to perform their official duties. To the extent possible with existing resources, Council courses and training programs will also be designed to help the prosecuting attorneys of this state and their support staff meet continuing education and in-service training requirements prescribed by law, court rules or special conditions of grant programs that are applicable to their official position.
- (c) To the extent possible with existing resources, the Council staff will provide training to law enforcement officers and other organizations as authorized by the Executive Director.

3. Development of Training Programs.

- (a) The Training Committee of the Council oversees the development and coordination of all Council training programs and assists in the evaluation of programs.
- (b) The Training Division of the Council shall, subject to the availability of funds, coordinate and conduct training programs.
- (c) The Training Division may cooperate with other agencies and organizations in the conduct of training programs that will enhance the skills of the prosecuting attorneys of this state and their support staffs.

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4. Eligibility.

(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, prosecuting attorneys 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) Volunteers, law students and law school graduates working for a district attorney, solicitor-general or the Council, whether compensated or not.
- (4) Employees of the Georgia Department of Law.
- (5) Prosecuting attorneys of juvenile, probate, magistrates and municipal courts (see subsection (b) below) who are not members of the staff of a District Attorney's office or a Solicitor-General's office and who are, by law, authorized to prosecute violations of the criminal laws of the State of Georgia.
 - (A) Prosecuting attorneys of juvenile, probate, recorders, magistrates and municipal courts are not eligible to attend Council training programs unless the governing authority, or other authorized official of the political subdivision employing such prosecuting attorney has provided the Council with all information required by law and Council Policy 13.1.
 - (B) Prosecuting attorneys of probate, recorders, magistrates and municipal courts who are employed on a part-time basis and are engaged in the private practice of law which includes the representation of persons charged with violations of the criminal laws of this state are eligible to attend only those training programs that

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are designed to specifically address the prosecution of those state criminal offenses that the court in which they prosecute has trial jurisdiction.¹

- (6) Retired prosecuting attorneys who are not engaged in the private practice of criminal law and are eligible for appointment pursuant to O.C.G.A. § 15-18-30 (see Section 6e concerning reimbursement).
- (7) 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.
- (8) If space is available, prosecuting attorneys from other jurisdictions:
 - (A) Employees of the United States Department of Justice including the United States Attorneys.
 - (B) Members of the Judge Advocates Corps of the Armed Forces of the United States and of the State of Georgia assigned to duty as Trial Counsel and prosecute violations of state law under the Assimilative Crimes Act, 18 U.S.C. § 13.
 - (C) Full-time prosecuting attorneys from another state, or a territory, dominion or possession of the United States, and the chief prosecutor of the office employing such attorney has approved attendance at the conference.
 - (D) Full-time prosecuting attorneys from another country if the government of such country has been recognized by the United States and:
 - (i) The prosecuting authority of such country is a member of the International Association of Prosecutors; and

¹ 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.

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- (ii) A request to attend the training program has been submitted in writing to the Council from the director of public prosecution or the head of justice ministry in that country and verified by an officer of an accredited mission of that country to the United States (embassy or consulate) or the U.S. Department of State or the Office of International Affairs of the U.S. Department of Justice has approved such request; and
 - (iii) The registration fee is paid in full in advance of the stated deadline and is non-refundable.
- (9) District attorneys-elect and solicitors-general-elect. For the purposes of this Policy the following are considered to be a district attorney or solicitor-general-elect:
- (A) A candidate whose election to office has been certified by the Secretary of State following the general election;
 - (B) A candidate who has been certified by the Secretary of State as having won the Primary Election but does not have opposition in the General Election.²
- (10) Such other persons as the Executive Director or the Director of the Training Division authorize to attend.
- (b) Notwithstanding the fact that a prosecuting attorney may be 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 offenses, but are not eligible to attend programs which deal primarily

² 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" but in practice it was always applied it to the primary elections for all recognized political parties. If a person qualifies as a write-in candidate pursuant to O.C.G.A. § 21-2-133 in an election where there is only one candidate remaining after the Primary election, the winner of the primary is not considered to be a district attorney or solicitor-general-elect.

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with the prosecution of felony offenses or domestic violence or the conduct of jury trials such as the Summer and Winter Conference.

(c) When space is available, the following may be permitted to attend Council conducted continuing education programs:

(1) Employees of state, local and/or federal law enforcement agencies, and individuals engaged in law enforcement training and support activities, if approved by the Director of the Training Division.

(2) Spouses of individuals who are eligible to participate in Council Training programs, provided they are active members of the State Bar of Georgia and they do not represent defendants in any criminal or forfeiture action brought by the State of Georgia.

5. Based on the availability of funds, the space available or special conditions imposed by a grant providing funds for the training program, 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. In most cases where this is necessary, the priorities shown below normally will apply:

(a) Personnel who have not previously received the training³ 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 qualification 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.

³ An example would be the Basic Litigation Course where priority is given to those prosecuting attorneys with minimal prosecution experience.

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(d) Personnel who are full-time prosecuting attorneys or employees have priority over part-time prosecuting attorneys or employees.

6. Lodging.

- (a) The staff of the Prosecuting Attorneys' Council will attempt to, 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 at the best possible rates. The staff will make available to eligible students 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 be made on their behalf.
- (c) All Council members and Prosecuting Attorneys' Council staff members who attend scheduled training programs are expected to 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.

7. 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 eligible to participate as a student as provided in Paragraph 4(a), 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 and members of the Training Committee are exempt from the payment of registration fees for the training program and may participate in the entire activities of the training program.

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

8. Reimbursement of Expenses of Participants.

(a) Eligibility.

(1) Subject to the provisions of subsection (b) and the Rules related 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 full-time prosecuting attorneys of a juvenile court and assistant district attorneys assigned to child support enforcement;
- (B) Full-time solicitors-general of state courts and full-time employees of a solicitor-general;
- (C) Employees of the Prosecuting Attorneys' Council;
- (D) Members of the Training Committee;
- (E) Part-time prosecuting attorneys, including part-time solicitors-general and part-time assistant solicitors-general, who are permitted to engage in the private practice of law if the prosecuting attorney submits a statement to the Training Division that he or she does not represent defendants in criminal or forfeiture cases brought on behalf of the State of Georgia, or any of its political subdivisions, in the courts of this State. Such statement shall be signed by the prosecuting attorney subject to the provisions of O.C.G.A. § 16-10-20.⁴

⁴ 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). It also creates a potential conflict of interest for part-time

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(F) **Volunteers.** 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 at least 15 days prior to the start of the training program, that the volunteer be eligible for reimbursement.
- (vi) 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.

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

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- (2) Part-time prosecuting attorneys and full-time municipal prosecuting attorneys not otherwise eligible for reimbursement of expenses may be reimbursed by the Council for expenses incurred while attending a Council training program if funding for the program authorizes such reimbursement and the course announcement specifically states that part-time prosecuting attorneys and municipal prosecuting attorneys will be eligible for reimbursement.

- (b) Reimbursement of expenses incurred by eligible participants is subject to the availability of funds for such purpose. When funding is available, reimbursement is subject to the Rules relating to reimbursement of travel expenses that have been adopted by the Council subject to the following limitations:
 - (1) **Lodging.** If the staff of the Prosecuting Attorneys' Council has negotiated special rates with facilities that will be housing participants, the amount of lodging reimbursement will be the negotiated single rate for those facilities. The Council staff may require participants to use the designated facilities or may establish the maximum reimbursement rate for those participants who elect to stay in other facilities. Reimbursement is not allowed for lodging in a private residence.

 - (2) **Meals.** Unless otherwise directed, the Council will reimburse for meals as provided in Chapter 6 of the Council Rules. The Council staff will notify participants of any change in the amounts participants are entitled to claim for meals for a specific training program.

- (c) Reimbursement of Speakers.
 - (1) Employees of a district attorney or solicitor-general who serve as a speaker or faculty member and members of the Training Committee at a Council training program are eligible for reimbursement as set out above and, in addition, shall be eligible for reimbursement of travel expenses to and from the location of the training program in accordance with the Council Travel Rules.

 - (2) Reimbursement of other speakers (out-of-state, other government agency employees or non-governmental) will be governed by the Council Travel Rules unless otherwise provided by contract.

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(d) 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 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 student 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 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.

(e) 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.

(f) 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:

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- (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) Prosecuting attorneys employed by another state or a political subdivision of another state, the Federal government or a foreign government.
- (5) Other attorneys employed by agencies of the Executive, Legislative or Judicial branches of the State of Georgia.
- (6) Employees of state, local, federal law or foreign enforcement agencies, and individuals engaged in law enforcement training and support activities.
- (7) Prosecuting attorneys of magistrates, probate and municipal courts.

9. 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. Students and faculty will receive appropriate forms for them 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 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.

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(d) Exemptions.

- (1) Speakers, faculty members and members of the Training Committee are exempt from the payment of CLE fees for the training program which they teach. They may submit a CLE affidavit for all classroom hours that they attended. However, the Council will not pay for more than 12 hours of CLE credits per year. This exemption does not apply to co-sponsored training programs.
- (2) Speakers who prepare “thorough, high quality, readable, and carefully prepared written materials” as required by Continuing Education Regulations of the Commission on Continuing Legal Competency of the State Bar of Georgia are eligible to receive three (3) hours of CLE credit for each hour of presentation.
- (3) The CLE fees of state prosecuting attorneys of the Council shall be paid by the Prosecuting Attorneys’ Council.

10. 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 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. Any fees must be paid by the person requesting certification of hours attended.

11. 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.

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12. 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 are 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 training events, 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.
 - (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.

13. Security.

No one, other than registered students, speakers, Training Committee members, Council staff and designated security personnel are permitted to attend Council training events while training is taking place except by the express permission of the Executive Director.