

		
Policies & Procedures		Approved February 19, 2021
4.15	Financial Services	Litigation expenses against a District Attorney

1. Authority.
 - (a) This policy is adopted pursuant to O.C.G.A. §§ 15-18-12, 15-18-40(c) and Chapter 6 of the Rules of the Prosecuting Attorneys’ Council of Georgia (PACGA).
 - (b) By law, the Council is “the fiscal officer for the prosecuting attorneys” of this state. As the fiscal officer, the Council has certain fiduciary responsibilities to manage the funds that are appropriated by the General Assembly for official travel by the district attorneys (D.A.) , or which are otherwise available for such purpose. Among those duties is the obligation to insure that expenditures do not exceed the sums specified by the annual appropriations Acts. See O.C.G.A. § 45-12-87.
2. Application. This policy applies to any lawsuit filed on or after the effective date of the policy.
3. When a District Attorney is sued in his or her official capacity for actions within the scope of their employment or given notice that they may be sued, the District Attorney shall promptly submit notification to the Attorney General requesting representation in the matter.
4. Should the Attorney General decline to represent a District Attorney, or fail to provide counsel in a reasonable time, or the District Attorney declines the representation of the Attorney General, the District Attorney may retain independent counsel. The District Attorney must then submit notification to the Governor requesting appointment of counsel per O.C.G.A. § 45-15-70.
5. The District Attorney may submit a written request to the Executive Director of the Prosecuting Attorney’s Council and the Chairman of the Council for assistance with regard to costs associated solely with the representation of the District Attorney in his or her official capacity. The request may include the name and contact information for appointed legal counsel and the rate at which legal counsel request for services. Notification must also be sent to the Department of Administrative Services (DOAS). The council shall review and vote on the request within three days of receipt of the application by the District Attorney. Such assistance is contingent on the availability from such funds as may be

		
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appropriated or otherwise available for the operation of prosecuting attorneys with regard to litigation. O.C.G.A. §15-18-40 (c)(2). No rate higher than what is allowed by DOAS, will be authorized except as approved by a majority vote of the Council and subject to the availability of funds. If approved, the Prosecuting Attorney’s Council will enter a Memorandum of Understanding with retained council for payment of costs in accordance with O.C.G.A. § 13-1-1 and §13-3-1.1. The Council shall also create a list of suitable firms available for representation of District Attorney’s if requested. However, such a list of possible firms shall not be considered exclusive to prevent a District Attorney from selecting their own representation for consideration for approval by the council.

6. When a District Attorney complies with the above steps the Council will vote as to whether funds will be allocated to assist in paying for the costs associated solely with the representation of the District Attorney in his or her official capacity. The Council may consider whether the behavior or conduct was beyond the District Attorney’s duties as outlined by the Ga. Const. Art. VI, § VIII, Para. I; O.C.G.A. § 15-18-6 and O.C.G.A. § 15-18-66. By a majority vote of the Council payment of attorney’s fees can be declined. The same procedure will apply when an elected seeks funds for overages not covered by the Department of Administrative Services (DOAS).