

DEPUTIES LAW ENFORCEMENT ASSOCIATION

Fair Representation and Legal Policy

FAIR REPRESENTATION AND LEGAL POLICY

Date Revised: May 5, 2007

To meet its duty of fair representation, the Deputies Law Enforcement Association (DLEA) Board has adopted the following policy:

A substantial amount of members' dues goes toward legal costs and grievance representation. The law firm of Michael Napier, P.C., which handles nearly all of DLEA's organizational and group legal work, is expert at representing law enforcement officers in labor issues, disciplinary cases, grievances, and personal matters. When you need to be represented by an attorney, you want the best. DLEA believes it offers its members the best in legal services.

Any fees and all related expenses for legal representation provided under this policy shall be borne by the Association or the Legal Defense Fund. Non-members will not be given free legal representation.

TRUTHFULNESS

Complete and candid disclosure of all facts relating to any matter being grieved or appealed on a member's behalf by the Association is absolute. The failure to be completely truthful, or the discovery of a member's untruthfulness to the Association's representatives, officers, or agents will be sufficient cause to immediately cease DLEA's involvement in the representation. The member's grievance or appeal will be deemed not to have merit and further involvement in the matter by DLEA shall end. If a question of truthfulness arises, the Board will determine continued representation.

NON-MEMBERS

As soon as practical after being contacted by a deputy seeking legal representation, the Law Offices of Michael Napier will verify that deputy's membership by contacting the Association. Deputies who are not dues-paying DLEA members during an incident or departmental investigation, who subsequently join DLEA and request representation related to the incident or matter, will not be entitled to free legal representation. This is to prevent abuse of membership privileges by deputies who join DLEA to obtain grievance/legal representation without previous financial support (dues) to the organization.

CONTINUATION OF DUES

Members who have obtained authorized representation for a grievance, appeal, or other legal action shall keep their dues current. Hardship cases may be brought before the Board which may elect to waive this requirement.

MERIT SYSTEM CASES

When a member receives a suspension, demotion or dismissal, DLEA will furnish an attorney, upon the member's request subject to the conditions below:

1. To protect the member's rights prior to any formal charges and to make course of action recommendations to the member.
2. To appeal disciplinary action to the Maricopa County Law Enforcement Merit System Commission unless disapproved by the Board.
 - a. The Board will examine the appellant's prior service record, his/her culpability, actions and/or inactions, potential for performance improvement or rehabilitation, the member's candor and truthfulness, the accuracy of the investigation and discipline notice, comparisons of similar cases, and the excessiveness of the discipline to determine whether the appeal has merit in the opinion of the Board. The Board may hear from any source it deems appropriate. If there is any doubt in the mind of the Board members as to whether or not to disapprove the legal representation, the doubt shall go in favor of the member.
 - b. It is the member's responsibility to comply with all appeal time limits imposed under the Maricopa County Law Enforcement Merit System Rules.
 - c. An individual is entitled to DLEA representation for Merit System matters only if he/she was a dues-paying member throughout the time period of the incident and subsequent administrative investigation and if he/she presently is a member in good standing.
3. To appeal matters to State or Federal Court, or Arizona Peace Officers' Standards and Training Board (AzPOST), when approved by the Board.

CIVIL LITIGATION AGAINST MEMBER

1. DLEA, through the Legal Defense Fund, may furnish an attorney upon request of the affected member with the approval of the Board,
 - a. if the civil litigation (state or federal) arises out of the official performance of the member's duties as a deputy, and
 - b. the county refuses to represent the member.
2. Refusal by the county to represent a member will include situations where there is incompetent representation in the opinion of the Legal Defense Fund.
3. Questions as to whether the member's conduct arose out of official performance of his duties will be determined by the Legal Defense Fund.
4. Trustees and Agents will be provided legal representation for action stemming from the course of their Association duties. The issue of agency shall be determined by the Board.

AFFIRMATIVE CIVIL LITIGATION

DLEA may, with the approval of the Board, furnish an attorney to a member to file civil suits (Equal Employment Opportunity - EEO - complaints, Civil Rights complaints, etc.), including declaratory actions, (to obtain court interpretation of prevailing statutes or contract rights), where the outcome potentially would benefit the membership.

When appropriate, the Board may support a member in a "class action" type lawsuit provided that the issue affects the Association as a whole.

Damages awarded by a judgment shall go to the individual members as appropriate. Attorney's fees, when awarded, shall go to the Association's legal counsel. Costs awarded in an action shall go to reimburse the Association.

CRIMINAL LITIGATION

DLEA may furnish a legal consultation during the preliminary criminal investigation of a member with the approval of the Board. The Association is not obligated to represent members in criminal defense matters except under the terms and conditions of the Legal Defense Fund plan.

ADDITIONAL COVERAGE'S AND EXCEPTIONS

Any additional legal coverage may be provided by DLEA as determined by the Board, or, when an emergency exists, by the Board, after consultation with the Association's legal advisor.

Where extraordinary circumstances warrant, the Board may approve exceptions to any portion of this legal policy on a case-by-case, non-precedent-setting basis.

LEGAL DEFENSE FUND (LDF)

Eligibility – Any “Active” or “Associate Member” in good standing may request representation through the LDF. As long as the association is a member of the Legal Defense Fund (LDF), association members will be entitled to those benefits described in Plan II of the Plan Document. Retired members are not eligible for LDF benefits.

Members involved in “scope of employment” incidents, which may result in criminal or civil action against the member, may request legal assistance through the LDF (Benefit Plan II). Requests for the LDF assistance are subject to the following conditions:

1. Requests for representation may be made through the Legal Defense Fund, (800) 255-5610.
2. Eligibility for the LDF coverage terminates when a member severs membership with the association or retires. Retired members shall be entitled to benefits in accordance with the plan for any act or omission while he or she was a participant, if, subsequent to the act or omission, he or she retires.
3. Provisions and terms of the LDF will be interpreted pursuant to the plan manual as amended.
4. The plan deductible in the amount of \$500.00 will be paid by the Association for each qualifying event.