

---

---

POLICY REGARDING PAYMENT FOR PETITIONS FOR CERTIORARI

---

---

**TO:** ASSIGNED COUNSEL

**FROM:** EXECUTIVE DIRECTOR FRAYLA TARPINIAN

**SUBJECT:** POLICY REGARDING PAYMENT FOR PETITIONS FOR CERTIORARI

**DATE:** March 11, 2026

**CC:** COMMISSION

PDS hereby adopts the following Policy with respect to payment to Assigned Counsel for representing assigned clients in petitions for certiorari to the Supreme Court of the United States.

**1. Definitions.**

- a. Assigned Counsel. “Assigned Counsel” means a private attorney designated by the Commission to provide indigent legal services at public expense.
  - b. Executive Director. “Executive Director” means the Executive Director of the Maine Commission on Public Defense Services or the Executive Director’s decision-making designee.
  - c. PDS or Commission. “PDS” or “Commission” means the Maine Commission on Public Defense Services.
- 2. Purpose.** The purpose of this Policy is to outline a procedure through which Assigned Counsel may request authorization for PDS to pay them for providing representation to an indigent person in a petition for certiorari in the Supreme Court of the United States.
- 3. Applicability.** This Policy only applies to representation by Assigned Counsel to “an indigent defendant or party or a juvenile for the purpose of filing, on behalf of that indigent defendant or party or juvenile, a petition for certiorari to the Supreme Court of the United States from an adverse decision of the Law Court on a case for which services were previously provided to that defendant or party or juvenile pursuant to [4 M.R.S. § 1802(4)(A-C)].” 4 M.R.S. § 1802(4)(D).

**4. Requirements.**

- a. To be eligible for payment from PDS for services rendered pursuant to 4 M.R.S. § 1802(4)(D), an attorney must obtain written authorization for the same from PDS

prior to filing the petition for certiorari. If counsel does not obtain prior written preauthorization from PDS, then the attorney will not be paid for their work on the petition for certiorari.

- b. Assigned Counsel may apply for preauthorization for payment to review a case for a potential petition for certiorari before they decide whether to file a petition. To be paid for that work, Assigned Counsel must have a preauthorization from PDS.
- c. Any payment made pursuant to this Policy is subject to all Commission rules, policies, and procedures.

## 5. Procedure.

- a. Requests for preauthorization must be submitted on a form designated by the Executive Director and include the following information:
  - i. The client's name;
  - ii. The case type and charge(s), if applicable;
  - iii. A copy of the Law Court order being appealed;
  - iv. A brief summary of the issue(s) being appealed;
  - v. A certification that the requesting attorney is admitted to practice in the Supreme Court of the United States;
  - vi. A certification that the client has exhausted all State court appeals; and
  - vii. If the request is for reviewing the merits of the case prior to filing a petition, the number of hours for which counsel is seeking preauthorization.
- b. Upon review of the request for preauthorization, the Executive Director may grant the request, deny the request, or ask for additional information before deciding whether to grant or deny the request.
- c. If a request for preauthorization for payment to review the merits of a case prior to filing a petition is granted, the preauthorization will include a maximum number of hours that are preauthorized for assessing the merits of the case.
  - i. If, after review, Assigned Counsel decides to accept representation for the purpose of pursuing a petition for certiorari, they must notify the Executive Director of the same prior to exceeding the preauthorized hours. At that point, the Executive Director may authorize payment to Assigned Counsel for full representation pursuant to 4 M.R.S. § 1802(4)(D).

- ii. Assigned Counsel will not be paid for more than the preauthorized hours absent further authorization of the Executive Director.
- d. The decision whether to grant a request made pursuant to this Policy is in the sole discretion of the Executive Director. If the request is granted, Assigned Counsel must attach a copy of the preauthorization to their voucher. The Executive Director's denial of a request for preauthorization pursuant to this Policy constitutes final agency action.