

PROGRAMS AND SERVICES
LEGAL ASSISTANCE AND *AMICUS* POLICY

Legal Assistance and *Amicus* Policy

In General

The Association shall offer, through its Director of Legal and Policy Services and staff attorneys:

- A. Legal assistance to all boards of education and Association committees; and
- B. Legal research and consultation with the local school board attorney, upon request

In addition to assisting boards of education, and local school board attorneys the Association shall make its legal staff available to give information, but not advice, on school law to board members, charter school trustees, chief school administrators, board secretaries, school business officials, and other associate members upon request. The Executive Director shall issue regulations to implement the legal information service in such a fashion as to assure the proper and most efficient use of staff attorneys.

Legal Expenses

The Association will pay for all legal services rendered by Association counsel to the local board attorney, as well as for its own expenses in participating as *amicus curiae*. The local board will be expected to pay for the attorney who represents the board and for its own litigation costs, and the Association will not be responsible for same.

Amicus Curiae Participation

The Association will participate as *amicus curiae* in those cases which will set a precedent or have a significant statewide impact upon the operation of the State's educational system.

All requests for *amicus* participation by the Association shall be referred to the General Counsel, who shall, after a review of the relevant documents and legal issues in the case, submit a recommendation to the Executive Director. The determination to formally intervene as *amicus* shall be made by the Executive Director, provided that the position to be taken by the Association in the case is supported by Association policy. The Executive Director shall promptly advise the President of the Association of all decisions to intervene as *amicus curiae*.

If the Executive Director concludes that the case is an important one, but that the Association has no existing policy position relative to the issues presented, the decision to formally intervene as *amicus* and the policy position to be taken by the Association shall be made by the Board of Directors upon the recommendation of the Executive Director; or, in the case of an emergency between meetings of the Board, by the Executive Committee.

The following facts shall be considered in making a determination as to formal *amicus* participation in a particular case:

- A. The relative importance or potential statewide impact of the legal issue to boards of education;

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- B. Whether the legal arguments presented by the Association would be helpful in providing a statewide perspective, and would not be merely duplicative of the arguments presented by the parties and other amici in the case;
- C. The court or administrative agency before which the case is pending (e.g., Supreme Court, Appellate Division, PERC, the Commissioner, State Board of Education, federal district court);
- D. The presence and importance of factual issues in addition to the legal issues in the case;
- E. The probability of success;
- F. The available resources of the Association.
- G. The likelihood that the court or administrative agency will grant entry into the case in accordance with R. 1:13-9, N.J.A.C. 6A:4-3.2 or other applicable rule.

The determination of the Executive Director or Board of Directors where appropriate, shall be communicated to the requesting party in writing by the General Counsel.

The General Counsel shall periodically report to the Board of Directors concerning all *amicus* cases and the Association's participation therein.

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