

NATIONAL ASSOCIATION OF COUNSEL FOR CHILDREN



Amicus Curiae Policies and Procedures¹

I. NACC Participation Criteria

- A. *Amicus Curiae* participation must promote and be consistent with the NACC mission.
- B. *Amicus Curiae* cases must have widespread impact in the field of children's law and not merely serve the interests of a particular litigant.
- C. The *Amicus Curiae* legal argument must be supported by existing law or the good faith extension of the law.
- D. There must be a reasonable prospect of prevailing.
- E. The case must be at the appellate level.

II. Procedures for Review of Formal Requests

- A. **Request:** To request NACC *Amicus Curiae* participation, the applicant must complete and submit the *Amicus Curiae* Formal Request Form, available at: http://www.naccchildlaw.org/?page=amicus_curiae. In cases where the NACC is being asked to join a brief being prepared on behalf of another organization, requests must be submitted at least 15 days before the date upon which the brief must be filed. If the NACC is being asked to prepare its own amicus brief, the request must be submitted at least 60 days before the date upon which the brief must be filed. The Executive Director may waive these deadlines for good cause.
- B. Review by NACC Executive Director:
 - 1. The NACC Executive Director shall make a preliminary determination regarding the request, taking into account whether the threshold criteria have been established and whether it is practicable and /or in the interests of the NACC to participate.
 - 2. If the Executive Director rejects the request, the request shall be denied and the applicant notified.
 - 3. If the Executive Director accepts the request, the request shall be presented to the *Amicus Curiae* Workgroup.
- C. **Review by the *Amicus Curiae* Workgroup:**
 - 1. The *Amicus Curiae* Workgroup ("Workgroup") shall be comprised of attorneys with expertise in the field of children's law, the majority of whom shall be NACC Board members. The members shall be appointed by the President of the Board of Directors.
 - 2. The Workgroup shall accept or reject the case or request further information by the close of the second business day after the receipt of the request.
 - 3. The Workgroup member's decision/vote can be reached independently or through communication with the Executive Director or other workgroup members. Upon consideration of a case, if at least 2/3 of Workgroup votes to proceed, the case shall proceed to the next step. If 2/3 of the Workgroup does not approve the request, the case shall not proceed.

¹ Adopted: October 9, 1994. Amended: (1) June 20, 2000; (2) July, 2004; (3) April 21, 2007; (4) 4/30/11; (5) August 16, 2012

4. In the event that a member of the Workgroup is not available to vote, the *Amicus Curiae* Workgroup shall rely on an alternate, based on the following priority: 1) President of the NACC Board of Directors; 2) Vice- President of the NACC Board of Directors; 3) NACC Program Committee Chair. The alternate must be an attorney.

D. Review by the NACC Board of Directors:

1. Upon acceptance of an amicus curiae case by the Amicus Workgroup, the Executive Director or designee shall notify all Board of Directors that the case has been accepted by the Workgroup and allow for a 48 hour objection period. Board members must explain their objections and share them with all Board members and the Working Group.
2. If there are no objections, the NACC's participation in the case shall continue to the brief approval stage set forth below.
3. If there are any objections, the full Board must vote on whether to accept or reject the case.
4. If 1/3 of the full Board objects, the case will not be accepted; otherwise the case will proceed to the brief approval stage. A Board member's failure to vote in this matter shall constitute consent.
5. If accepted, the case will be referred back to the Amicus Workgroup and Executive Director for review and final approval of the brief.

III. Procedures for Review of Final Brief

- A. NACC participation as *amicus curiae* in a case remains conditional until approval of the final *amicus curiae* brief.
- B. Once the brief is final, the Amicus Workgroup and the Executive Director shall review the brief and reject or approve it.
- C. A "final" brief for purposes of this review constitutes a brief that is indeed final, or in a near-final form wherein no substantive changes will be subsequently made.

IV. Recusal

- A. A Committee Member is required to recuse himself/herself from voting on any case in which he/she, or the legal entity or institution with which he/she is associated represents a party to the action or the minor who is the subject of the action.
- B. The recused member shall be deemed unavailable.
- C. The recused member is entitled to participate in the discussions regarding the case after the disclosure of the conflict. The member should remain mindful of his/her duties regarding loyalty, conflict of interest, and professionalism throughout the discussions.

V. Executive Director's Authority to Act in Amicus Matters

Unless the full Board votes to reject participation in an amicus case as set out above, the Executive Director has the continuing authority to determine NACC participation throughout the course of an amicus matter. For example, the Executive Director may discontinue NACC participation in an amicus matter should participation become impracticable or not in the interests of the NACC.