



## **POLICY FOR AMICUS CURIAE BRIEFS**

Child and Family Advocates of Cuyahoga County (“CFACC”) has established this policy to address considerations on the involvement of the organization as an Amicus Curiae, consistent with its mission and function.

### **A. Area of Substantial Interest to the Mission of CFACC**

Before CFACC will participate as Amicus Curiae, the case must concern an issue of substantial interest to the mission and function of the organization. Our Mission Statement: “Child and Family Advocates of Cuyahoga County improves the lives of children and families involved in the juvenile justice, child welfare, and family law systems through service as Guardians Ad Litem and Court Appointed Special Advocates; education and training, advocacy, practice, and policy development; and collaborative alliances with related organizations.”

### **B. Independence**

CFACC will remain independent of the parties, including the party litigant who requests Amicus Curiae participation by CFACC. Maintaining its independence will best serve the interests of CFACC in furthering a credible and independent Amicus Curiae participation program that focuses on the values and principles of general application to the organization.

### **C. Amicus Curiae Committee**

An Amicus Curiae Committee shall be created, composed of five members appointed by the President of the Board of CFACC, and approved by the full Board, for the term of three years, and from these members, the President shall appoint a chair for a one-year term. In the event a member of the Committee can no longer serve on the Committee for any reason before the expiration of his/her term, the President of the Board will appoint a new member to complete the term.

The Amicus Curiae Committee performs two important functions:

1. The Amicus Curiae Committee reviews applications for Amicus Briefs and provides its recommendation to the Board on whether an application should be accepted. The Board considers, but is not bound by, the Amicus Curiae Committee’s recommendation; and
2. The Amicus Curiae Committee reviews the proposed brief, may request modifications, and determines whether the brief (with the Amicus Curiae

Committee's modifications) meets the organization's standards. Before a brief may be considered by the Board, the Amicus Curiae Committee must certify to the President that the brief (a) constitutes a significant contribution to the Court's consideration of the legal issues, (b) is a fair representation of CFACC policy, and (c) is of high professional quality.

**D. Amicus Curiae Committee Consideration for Acceptance of an Amicus Curiae Application**

The Amicus Curiae Committee will determine if the issue under consideration meets the mission and function of CFACC. Further, the Amicus Curiae Committee will consider whether briefs already before the Appellate Court provide the Court with a complete picture of how the particular issue and decision will impact the interests of CFACC as set forth in this policy. CFACC will generally decline to participate as Amicus Curiae where the issues of concern to CFACC are fully developed in the briefing submitted to the Court.

Finally, the Amicus Curiae Committee will determine if there exists any actual or potential conflict of interest with the acceptance of an application for Amicus Curiae. Areas of conflict include but are not limited to: (a) the request comes from a Board member of CFACC for a case in which the Board member is a litigant, or an attorney from the Board member's firm is a litigant, (b) CFACC has taken a contrary position in prior litigation, and (c) Article XII of the CFACC Bylaws, titled Conflicts of Interest, is applicable.

**E. Procedure for Requesting Amicus Curiae Brief Participation**

1. The request shall be directed to the Executive Director of CFACC, Judith Layne, 9300 Quincy Avenue, Third Floor, Cleveland, OH 44106 or by email to [JLayne@CFAdvocates.org](mailto:JLayne@CFAdvocates.org).
2. The requesting party shall provide the following information in its request:
  - (a) A statement that sets forth the specific legal issue(s) that the requesting party believes CFACC should address;
  - (b) A survey of significant cases that address the issue(s);
  - (c) A statement explaining how the legal issue(s) relate to the CFACC Amicus Curiae Policy;
  - (d) Whether time will be allowed for oral argument by CFACC; and
  - (e) The date by which the proposed CFACC Amicus Brief must be filed;
3. The requesting party shall provide copies of all appellate briefs filed in the case and, if requested by the Committee, the record on review.
4. The Amicus Curiae Committee will not make a recommendation to the Board before having an opportunity to review the brief of the requesting party and/or

discuss the position of the requesting party with counsel. If time is insufficient to review the brief or have the discussion with counsel, the Committee will determine if it is necessary to make the recommendation before reviewing the brief, or in the alternative, make the recommendation after the requesting party has filed its brief, and move the Court for permission pursuant to Appellate Rule 17 to grant leave for a later filing.

**F. Amicus Curiae Committee: Internal Procedures**

The Amicus Curiae Committee will attempt to notify all parties of the receipt of the request prior to Committee action, to the extent practicable. The notice will invite comment on whether the parties believe that CFACC should become involved in the Amicus Curiae process.

**G. Volunteer Attorneys**

CFACC shall maintain a list of attorneys with experience in appellate practice who volunteer their services to assist CFACC with writing and filing Amicus Curiae Briefs and in participating in oral arguments. Upon approval of the request for Amicus Curiae Brief participation by CFACC, the Amicus Curiae Committee shall forward all materials and due dates to the list of volunteer attorneys for their review and consideration. The volunteer attorneys will respond immediately as to whether they are willing and qualified to assist CFACC and in what capacity. The Amicus Curiae Committee will immediately assign the brief to a volunteer(s). The volunteer attorney(s) will write the assignments of error and forward them to the Amicus Curiae Committee for approval. Written or email approval of the assignments of error by at least three members of the Amicus Curiae Committee is needed to proceed. If fewer than all assignments of error are approved by at least three Amicus Curiae Committee members, the volunteer attorneys shall proceed upon only the assignments of error that have been approved.

**H. Content of Recommendation**

Upon obtaining a recommendation supported by a quorum of the Amicus Curiae Committee (i.e., at least three members), the Chair of the Committee shall cause a written recommendation to be prepared and presented to the CFACC Board. The recommendation shall include: (a) an affirmative or negative recommendation; (b) a brief statement of why the Committee believes an Amicus Curiae participation is warranted or should be declined; (c) a brief analysis of the issues raised by the case and a recommendation stating the position the Committee believes should be taken by CFACC; (d) whether any conflict of interest with the request exists, was considered and, if so, the recommendation of the Committee as to resolution of the conflict; (e) a statement of costs associated with complying with the request and suggestions regarding appropriate individuals to author the brief; (f) whether or not the Committee believes the CFACC should present oral argument and whether the requesting party will surrender oral argument time in order to allow the CFACC's participation.

**I. Emergency Procedure**

In the event that sufficient time is not available for the Board of Directors review and approval of the Amicus Curiae Application, upon a unanimous vote of the Amicus Curiae Committee, after a determination that participation by CFACC as Amicus Curiae is in the best interest of the mission

and function of CFACC, the Amicus Curiae Committee may proceed with authorizing the volunteer(s) to proceed in preparation of the brief and obtain ratification by the Board as soon as practicable.

**J. Costs and Copies**

CFACC will pay no legal fees for the preparation or review of an Amicus Brief. The completed brief will be forwarded to the Committee electronically for filing.

**K. Preparation and Signing of Brief**

The Amicus Curiae Committee will oversee and assist with the preparation and filing of the brief as necessary. Any Amicus Brief submitted to the Court shall be signed by the author of the brief and/or by the President of the Board of CFACC or his or her designee.

Approved 12-21-17

Revised 2-15-18 (Section H)