

AAUP AMICUS CURIAE BRIEF APPLICATION PROCESS

The AAUP files amicus briefs in cases involving academic freedom, tenure, discrimination, affirmative action, sexual harassment, and intellectual property issues, among other areas, in accord with the Association's principles and litigation priorities.

The decision to file a brief is made by the AAUP President, General Counsel, and General Secretary; the AAUP's Litigation Committee (<http://www.aaup.org/AAUP/comm/advisorycommittees.htm>), composed of legal experts in a variety of areas, provides additional guidance. The AAUP generally files amicus briefs only in appellate or supreme courts at the state or federal level.

The AAUP legal staff sometimes takes primary responsibility for drafting and submitting an amicus brief; other times, the AAUP signs onto a "coalition" brief that has been drafted primarily by another organization but implicates an important interest of the AAUP.

The first category of briefs generally relate squarely to issues in higher education – for instance, tenure, academic freedom, economic security for faculty members, the meaning of a faculty handbook, or faculty members' intellectual property rights. Examples of such cases are *Otero-Burgos vs. Inter-American University*, *Hong v. Grant*, *Schrier v. University of Colorado*, *Saxe v. Board of Trustees of Metropolitan State College of Denver*, and *Pittsburg State University/Kansas NEA v. Kansas Board of Regents, PSU and PERB*.

The second kind of briefs are generally filed in cases that could have a significant impact on faculty but do not arise in the context of higher education or do not squarely implicate the First Amendment or free speech rights. In these cases, we can preserve our resources by working with other organizations to articulate shared concerns. For instance, *Crawford v. Metropolitan Government of Nashville and Davidson County*, involved the limits of Title VII protection for an employee who responded to questions as part of an internal sexual harassment investigation. The AAUP joined other interested organizations in submitting a brief to the Supreme Court, which agreed with the AAUP and our partners that Title VII was intended to cover employees who participate in a variety of ways in efforts to root out sexual harassment. Although the case originated in a government office and not a university, this holding helps to protect any faculty member who is asked to provide information in an internal sexual harassment investigation or who participates in a faculty grievance committee focusing on harassment- or discrimination-related disputes.

Similarly, the AAUP signed on to an amicus brief in a case involving an employment dispute at a nuclear power laboratory (*Meacham v. KAPL*). This case involved the Age Discrimination in Employment Act, and asked who has the burden of showing whether an employee was fired because of his or her age. Although the case did not arise in a university context, the AAUP signed on because we believed that our members would be harmed if the Supreme Court concluded that an employee had the difficult responsibility of obtaining information about an employer's decision making. The Supreme Court agreed that the burden of proof must rest upon the employer, helping to protect the significant proportion of faculty members who are protected by the Age Discrimination in Employment Act.

In short, the AAUP stands watch for cases that relate to higher education at their core as well as those that may, if decided badly now, have damaging consequences for faculty later. Our amicus briefs help to

increase the influence of our members, safeguard important constitutional and contractual rights, and ultimately contribute to an academic environment that allows all faculty members to flourish.

In order to request amicus curiae brief assistance from the AAUP's legal office, please submit your request in writing to the AAUP Legal Department via e-mail legal.dept@aaup.org or mail to:

AAUP
ATTN: Legal Department
1133 19th Street, N.W., Ste. 200
Washington, D.C. 20036.

Your request should include the following:

- 1.) A summary of the legal issues involved in your case, the status of any legal proceedings currently in progress, and the court's deadline for submission of amicus briefs.
- 2.) Names of all parties to the litigation, including the name and location of the University or College involved in the dispute.
- 3.) The name and jurisdiction of the court where the case is pending.
- 4.) The case identification number assigned to your case by the court of jurisdiction.
- 5.) Copies of the following legal documents applicable to your case:
 - a. Original Complaint and any subsequent amended Complaints.
 - b. Answer to the Complaint and any subsequent amended Complaints.
 - c. All motions for dismissal or summary judgment and supporting memoranda of law or legal briefs related to those motions.
- 6.) Copies of any Orders or Judgments or other dispositive rulings on the merits of the case.
- 7.) Copies of any other relevant and pertinent documents, such as contracts and correspondence from your institution, etc.
- 8.) Copies of any news coverage regarding your case

When sending documents, please send copies only; we cannot return originals.

The AAUP Legal Office will strive to review your request in a timely manner, but please allow a minimum of 30 days for us to evaluate your request for assistance.

For further information concerning amicus briefs the AAUP has filed, please see our website: <http://www.aaup.org/AAUP/programs/legal/2005-11+amicus.htm> .