



INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS®

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SUMMARY OF POLICIES GOVERNING ASSISTANCE PROVIDED BY THE IAFF GENERAL COUNSEL'S OFFICE

Thank you for contacting the IAFF Legal Department. This handout has been prepared to provide you with a summary of policies governing assistance that may be provided to IAFF affiliates by the IAFF General Counsel's Office.

LEGAL ASSISTANCE POLICIES

The IAFF has several policies designed to assist its affiliates with legal actions. A brief summary of these policies, and the procedures affiliates must follow to apply for assistance under these policies, is set forth below. Please note that this is only a summary of the most frequently utilized policies, and is not intended to serve as a comprehensive listing of all of the Convention and Executive Board policies governing legal matters.

I. IAFF Policy Regarding Assistance for FLSA Actions

The IAFF currently maintains a policy designed to assist its affiliates in pursuing meritorious claims under the Fair Labor Standards Act (FLSA). If an affiliate is interested in seeking such assistance, it should be familiar with this policy, adopted in 1989, which generally states:

- The request for assistance from the IAFF and its General Counsel's Office must originate with the IAFF District Vice President with approval for IAFF participation determined by the International President.
- The IAFF will provide financial assistance for General Counsel legal fees in an amount not to exceed \$10,000. Fees for expenses of IAFF General Counsel beyond the \$10,000 limit (and any local attorney) are the responsibility of the local. Any stipulated or negotiated conclusion to the case must provide for reimbursement to the IAFF for the cost of its legal fees.
- Legal fees advanced by the IAFF and recovered subsequently are to be credited to the proper IAFF Budget Line so that the program is self sustaining.

II. IAFF Policy Regarding Financial Assistance for Legal Actions from the Emergency Disputes Fund (EDF)

Under appropriate circumstances, IAFF affiliates are eligible to receive financial assistance from the IAFF for costs and fees incurred by the affiliate in a meritorious court action. This assistance is provided from the Emergency Disputes Fund (EDF).

In 1996, the IAFF Convention adopted a policy requiring affiliates to obtain a second legal opinion from the International's General Counsel's Office if the affiliate is considering filing a court action that could lead to a request for the International's financial assistance from the EDF. That policy generally states:

EDF Court Actions: Where a local affiliate is considering initiating a court action that may eventually lead to a request for financial assistance from the

International's EDF, it is required to follow the procedure of contacting the IAFF district vice president for permission to seek a second legal opinion from the IAFF's General Counsel's office. The cost of the second legal opinion will be paid by the International from the EDF. The local's submission seeking the second legal opinion will include:

1. The written legal analysis and opinion of the Local's attorney, including the proposed retainer arrangement about how the litigation would be handled and paid for; and
2. The relevant facts and documents needed to render a proper second legal opinion.

Prior to requesting EDF assistance from the IAFF, local affiliates are required to bring such request (indicating the amount of, and reason for, the request) before a general or special membership meeting for approval. An affiliate that fails to contact the IAFF for a second legal opinion prior to commencing litigation will not be considered eligible for EDF assistance about that matter.

If the legal advice from the IAFF General Counsel's office is that the proposed litigation lacks merit, but the affiliate nevertheless chooses to pursue the litigation, it will not be considered eligible for EDF assistance (unless the affiliate prevails in that litigation).

Nothing contained in this policy is intended to impair or interfere with the autonomy of the local affiliates which retain full and final decision-making authority concerning litigation affecting such affiliates. . . . [This] policy will [also] apply with regard to a decision to pursue a pending case to the next level of court appeal. Based upon a clear showing of extraordinary circumstances in a particular case, the Executive Board may approve an exception to this policy only by a unanimous vote of the Board.

The IAFF Executive Board will review applications for EDF assistance and will determine the type (loan or grant) and amount of assistance, if any, to be granted an affiliate based upon criteria set forth in the EDF Policy. No EDF funds will be appropriated to any affiliate in an amount beyond what is supported by invoices or receipts submitted by the affiliate.

Any affiliate seeking a grant for matters involving disciplinary actions against union leaders for union-related activities must seek assistance for the case through the Legal Guardian Policy. Only if the case is approved for assistance under the Guardian Policy will an EDF grant for the case be considered appropriate under the EDF Policy.

As a condition of receiving an EDF grant for any matter involving the use of legal counsel, an affiliate and its legal counsel must understand and agree to the following terms and conditions:

1. The affiliate's expenditure of any grant from the EDF is subject to continuous review and oversight of the IAFF Executive Board, which has the sole discretion to award both initial and subsequent funding for a matter. The Executive Board's oversight authority may be guided by the IAFF's General Counsel.
2. The affiliate and its counsel shall pursue, to the fullest extent possible, the recovery of any attorneys' fees and costs incurred in the case. Failure to take good faith efforts toward this end could adversely affect the Executive Board's decision regarding funding of the matter.
3. A stipulation will be included at all times, stating that if an affiliate recovers attorney and/or court costs, any Emergency Disputes Funds granted to cover those costs will be returned to the EDF.

III. Legal Assistance to IAFF Affiliates Under the Guardian Policy

The 1996 Convention also adopted a policy directing the IAFF to pursue whatever legal remedies are available and appropriate to protect union leaders who are disciplined or otherwise discriminated against because of their union activities.

Consistent with this policy, on February 2, 2001, General President Schaitberger proposed, and the IAFF Executive Board adopted, the "Guardian Policy", which makes available, in appropriate circumstances, legal representation by and/or through the International's General Counsel's Office where: (a) an affiliate, officer, or a member of a United States or Canadian affiliate has suffered, or is subject to suffering, adverse harm by an employer because of his/her union-related activities; or (b) where a court decision could establish a precedent that would have a significant impact upon other IAFF affiliates. "Protected activities" are defined as follows: (1) organizing, leading, or supporting an IAFF affiliate; (2) participating in union affairs; (3) participating in political activity or a political campaign supported by the affiliate (such as supporting a candidate for local government office); (4) participating in claims supported by the affiliate (such as an OSHA claim, an FLSA claim, a state or provincial law claim, a whistleblower claim, or a grievance or arbitration claim); and (5) speaking out on a matter of public concern affecting the IAFF, an affiliate, or its members.

Under the policy, the District Vice President will communicate with the General President concerning a request for the legal services of the General Counsel's Office, and will submit, in coordination with the affected affiliate, the facts fully describing the matter and how it should qualify for assistance under this policy. The General Counsel's Office will study the information, and make a recommendation to the General President as to whether the matter has merit and qualifies for assistance. In a matter involving a Canadian affiliate, the General President may confer with a Canadian attorney. The General President's decision will be guided by the availability of funding, the merits and significance of the case, the potential impact of a court ruling on the membership of the

IAFF, and other appropriate factors. In addition, the General President may consult with the General Secretary-Treasurer and the chairpersons of appropriate committees with regard to any decision made under this policy. The General President's decision shall be forwarded as soon as is practical to the District Vice Presidents.

An application for assistance under the Guardian Policy may be obtained from your District Vice President.

IV. Front Line Policy

In May, 2003, General President Schaitberger proposed, and the IAFF Executive Board adopted, the Front Line Policy. This policy is intended to make available legal representation by and/or through the International's General Counsel's Office for legal cases in which it is determined that the IAFF and its members have a significant interest arising from the death or serious injury of an IAFF member because of defective products or the negligence of a third-party. This policy also provides financial assistance from the International to cover initial out-of-pocket costs related to cases handled under the policy.

The first category of cases covered by this policy include those in which IAFF members have died or suffered serious injury because their on-the-job equipment (including, but not limited to, gear, apparatus, tools, and apparel) did not meet acceptable standards, or because such equipment was defectively designed or manufactured. It is also intended to cover qualifying litigation against the manufacturer of products that have malfunctioned in the line-of-duty, where the malfunction contributed to the death or serious injury of an IAFF member. The second category of cases covered by this policy includes litigation involving claims against third-parties, such as property-owners or possessors of hazardous materials, whose negligence has resulted in the death or serious injury of an IAFF member.

For qualifying cases in which coverage under this policy is deemed appropriate, the International may provide an amount not to exceed \$10,000 to be used solely for the purpose of covering initial out-of-pocket costs incurred in the litigation. The Front Line Policy is intended to provide legal assistance directly through the IAFF General Counsel's Office, which may utilize local counsel in litigating qualifying cases. The \$10,000 in financial assistance will only be made available for litigation pursued under this policy. Fees for legal services and representation by the General Counsel's Office and local counsel will be handled pursuant to a contingency fee arrangement which is favorable to the members.

The decision to make available legal services and representation by the General Counsel's Office and financial assistance related to the litigation pursuant to this policy would be made by the IAFF General President, generally according to the same procedures used for the Guardian Policy. The General President's decision may be guided by the General Counsel's opinion; the availability of funding; the merits and potential precedent-setting impact of the case on the membership of the IAFF; the need for a coordinated and centralized approach to the case; the opportunity presented by the case to serve as a foundation for advancing the safety and health interests of the membership in securing

favorable legislation, regulations, or policies; and other appropriate factors. In addition, the General President may consult with the General Secretary-Treasurer and the chairpersons of appropriate committees with regard to any decision made under this policy.

An application for assistance under the Front Line policy may be obtained from your District Vice President.

V. Amicus Brief Policy

The IAFF has also adopted a policy (entitled the “IAFF Amicus Brief Policy”) governing how the General President’s authorization shall be obtained for the preparation and submission of an amicus brief by the IAFF General Counsel’s Office (GCO).

An “amicus” brief means, literally, a “friend of the court” brief. The IAFF has traditionally drafted and submitted various amicus briefs for the purpose of advocating the IAFF’s views on a case to which the IAFF is not a party but where the outcome could impact our members’ interests. Historically, the General President has approved such requests on an “ad hoc” basis. While this approach has generally been successful, there have been instances where the request for an amicus brief was not submitted in a timely enough fashion to enable the GCO to prepare and submit the brief. In addition, significant delays in approving a request for an amicus brief can arise if it is not clear that the request is supported by the IAFF membership.

It is both appropriate and desirable for the IAFF to assert its views in cases where the outcome of the case could affect the interests of IAFF members. For this reason, the IAFF adopted this policy to govern the approval of requests for amicus briefs.

Pursuant to this policy, all requests for the IAFF to prepare and submit an amicus brief must originate from an IAFF affiliate or an International officer. Requests originating from IAFF affiliates should be sent to the General President’s office by the District Vice President for the affiliate’s district. The request must be submitted sufficiently prior to any applicable court deadlines to provide adequate time for the preparation and filing of the brief. For this reason, the requesting party should, if possible, include any such deadlines as part of its request.

Requests submitted to the General President should include a brief statement, along with material (briefs, prior rulings, contact information for the attorney handling the case, etc.), fully describing the matter and how it qualifies for assistance under this policy. Approval shall ordinarily be granted by the General President upon a showing that the brief is necessary to advocate the position of the IAFF on a pending case where the outcome of the case could have a significant or precedential effect on IAFF members. The General President may refer the request to the GCO for a recommendation as to whether the request meets this criterion. In a legal matter involving a Canadian affiliate or member, the General President may consult with a Canadian attorney as well as the GCO. The General President may then authorize the GCO to prepare and file an amicus brief in accordance with the

request. The General President's decision shall be forwarded as soon as is practical to the requesting parties.

VI. Requests from Affiliate Leaders for Assistance with Specific Issues

Please be aware that, while the Legal Department may provide informal guidance to IAFF affiliate officers with respect to issues that may arise within their locals, **the IAFF Legal Department's communications with IAFF members is strictly governed by IAFF Executive Board Policy**. Pursuant to this Policy, the IAFF Legal Counsel's office may provide informal guidance to an IAFF affiliate regarding such matters only if the affiliate's District Vice President has provided prior approval and the inquiry is from the president or the secretary of an IAFF local or state/provincial association. An officer other than a president or secretary may contact the IAFF Legal Department through the District Vice President only if the officer receives explicit authorization from his or her local or state/provincial association president. Questions regarding the IAFF Constitution, and formal guidance or opinions on other matters, will be issued by the IAFF General President only upon a written request from the affiliate making the request.

If circumstances prohibit the requesting party from satisfying these requirements, he or she should submit his or her concerns or questions in writing to the General President's office for a formal response. The inquiry will then be handled accordingly.