

# **AMICUS CURIAE BRIEFS: POLICY GUIDELINES FOR PARTICIPATION**

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**Adopted by the board of directors, April 1989; amended October 2002**

The LGA board of director unanimously endorses in principle the LGA's participation as amicus curiae in certain circumstances when the litigation is generally significant to local government operations in Virginia.

Participation will be determined on a case-by-case basis, by applying a set of guidelines adopted by the board. These guidelines ensure that the LGA will "take into consideration the association's unique position as a fellowship of attorneys whose principal obligation is to the representation of their jurisdictions, and the limited resources available to LGA members."

The LGA will give primary consideration to cases involving the following factors:

1. The general extension or limitation of the powers of local governing bodies and school boards with respect to their administration of public programs and their regulatory powers, that are not solely related to the affected jurisdiction.
2. Cases involving the Tenth Amendment to the United States Constitution.
3. Cases involving land use and zoning principles of general applicability.
4. Cases of general applicability involving taxation.
5. Cases involving statutes or regulations where an erroneous interpretation would have a significant detrimental impact on Virginia local governments.

The board of directors will consider the following additional factors:

1. The likely impact of the case upon the particular jurisdiction involved, and upon other jurisdictions.
2. Likely financial impact on the jurisdiction(s) involved, and their ability adequately to finance defense of the locality's position.
3. Significance of the case in the development of municipal law.
4. Whether the LGA may help win a case that might otherwise be lost, or limit damage that might otherwise occur, because the LGA has an alternative theory to that being advanced, or can make a point that the jurisdiction may be unwilling or unable to make.
5. Whether the LGA might be seen as an authoritative voice on matters because of the particular expertise of its membership.

Jurisdictions seeking amicus assistance from the LGA should write the president, describing the case in detail, and giving reasons why the LGA ought to intervene in accordance with the foregoing policies.

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## **AMICUS CURIAE BRIEFS: POLICY GUIDELINES FOR PARTICIPATION (cont'd)**

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The LGA will ordinarily participate only in appeals beyond the trial court level. Request for assistance at trial will be considered, but the resources available to the LGA must necessarily limit such assistance to the extraordinary case.

Factors that will militate against participation shall be:

1. Development of 'bad' facts or the development of a poor or inadequate trial record.
2. Lack of consensus on position among jurisdictions or litigants.
3. The existence of partisan disputes.
4. Disputes between localities.