

STATE BAR OF NEVADA  
LABOR & EMPLOYMENT LAW SECTION  
AMICUS BRIEF STANDING COMMITTEE  
POLICIES AND PROCEDURES

**SECTION 1**

**Name and Short Form Designations**

**1.1     Name.**

This Committee shall be officially known as the “Amicus Brief Standing Committee of the Labor & Employment Law Section.”

**1.2     Short Form Designations.**

As used herein, the term “Committee” is the short form designation for the Amicus Brief Standing Committee of the Labor & Employment Law Section and the term “Section” is the short form designation for the Labor & Employment Law Section of the State Bar of Nevada.

**SECTION 2**

**Purpose**

**2.1     Statement of Purpose.**

Pursuant to Article V, Section 11 of the Section’s Bylaws, the Committee serves at the pleasure of the Section’s Executive Committee. When called upon by the Section’s Executive Committee, the Committee shall assist in responding in a timely and appropriate manner to all written requests or notices from the Nevada Supreme Court for legal analysis or an *amicus* brief on labor and employment law issues.

**2.2     Committee’s Assigned Role.**

As the Section is comprised of attorneys representing both employers and employees in labor and employment matters, as well as attorneys working for government entities charged with enforcing labor and employment laws, there will seldom be a consensus as to the merits of a particular case or what may be the correct/proper analysis of a specific legal issue. Therefore, it is the policy of the Section and this Committee to not support the position of any particular party in a case or to advocate for any particular result. Rather, the role of this Committee is to act as an informational resource for the Court and a provider of concise surveys of relevant law, legal analysis and policy considerations. Thus, in almost all instances, the Committee’s response to a request or notice from the Nevada Supreme Court must provide for *both* a defense/employer-side and plaintiff/employee-side analysis of the issues or the identification of majority and minority views of the courts and government entities that have confronted the issue under review.

**2.3     Coordination.**

The Section’s Executive Committee shall supervise and direct all matters of the Committee via its Chairperson or designee subject to and in accordance with these Policies and Procedures, the Section’s Bylaws, the Policies of the State Bar of Nevada’s Board of Governors, and the Rules and Regulations of the State Bar of Nevada.

**SECTION 3**  
**Committee Membership and Meetings**

**3.1 Members.**

As set forth in Article V, Section 11 of the Section's Bylaws, the Committee shall consist of not more than ten (10) members appointed by majority vote of a quorum of the Section's Executive Committee for three (3) years terms after a call for expressions of interest and nominations from the Section's General Membership has been issued. The Executive Committee is charged with making all reasonable efforts to ensure that the composition of the Committee is as equally composed of defense-side and plaintiff-side practitioners.

Both the Section's Chairperson and Vice Chairperson are *ex-officio* members of this Committee as provided for in Article VI of the Section's Bylaws.

**3.2 Meetings.**

Meetings of the Committee may be called by the Section's Executive Committee via its Chairperson or designee. Written notice of all such meetings shall be mailed, faxed or emailed to all members of the Committee.

**SECTION 4**  
**Receipt of Requests and Notices Issued By Nevada Supreme Court**

**4.1 Designated Recipient of Requests and Notices.**

All written requests or notices from the Nevada Supreme Court for the Section to provide legal analysis or an *amicus* brief on an employment or labor law issue should be directed to the Section's Chairperson. In the event any such written request or notice from the Nevada Supreme Court is directed to someone other than the Section's Chairperson, it must be immediately forwarded to the Section's Chairperson.

**4.2 Communicating Receipt of Requests and Notices.**

The Section's Chairperson or designee will promptly advise the Section's State Bar liaison and assigned Board of Governors' representative of any request or notice from the Nevada Supreme Court, unless such notice was first received by the State Bar or the Board of Governors.

In addition, the Section's Chairperson or designee shall forward a copy of the Court's request/notice by way of mail, fax or email to each member of the Section's Executive Committee and each member of this Committee.

**SECTION 5**  
**Initial Assessment and Approval Process**

**5.1 Initial Assessment Meeting.**

Within five (5) days of the Section Chairperson's receipt of a written request or notice from the Court, the Section Chairperson or designee shall schedule the date, time and place for the Committee to:

(a) determine if any Committee member has an actual or potential conflict of interest associated with the underlying case, such that the Committee member should voluntarily abstain from participating in



the initial assessment meeting or any other aspect of the Section's response. Any unresolved conflict of interest issues will be addressed by the Section's Executive Committee;

(b) undertake an initial review and assessment of how to appropriately respond to the Court's request or notice and determine the format of the response (*i.e.*, letter, memorandum, brief, motion or similar document);

(c) determine staffing assignments associated with any need for a more intensive review and assessment before providing the Committee's recommendation to the Section's Executive Committee for approval;

(d) pending approval of the Section's Executive Committee, identify the individuals charged with preparing a draft letter to the Board of Governors or its Executive Committee seeking approval to file an *amicus* brief or other response;

(e) identify which Committee member(s) will be designated to conduct any necessary research, prepare the draft response and review/edit the draft response; and

(f) addresses any other necessary matters related to the Court's request or notice.

## **5.2 Recommendation to Section's Executive Board for Approval.**

A Committee member will be appointed to take notes and prepare a summary of the initial assessment meeting, as well as any subsequent assessment meeting if more intensive review is needed. Such a summary shall be immediately transmitted to the Section's Executive Committee, along with a recommendation from the Committee as to whether or not a response should/can be prepared and the intended format.

## **5.3 Obtaining Board of Governors Approval.**

With the consent of the Section's Executive Committee, the Committee shall prepare a draft letter to the Board of Governors or its Executive Committee requesting preliminary approval to respond to a request or notice from the Court. The draft letter to the Board of Governors or its Executive Committee must:

(a) state whether the Section plans to file a brief of its own volition or at the invitation of the Court;

(b) include a synopsis of the issue involved and the posture of the underlying case; and

(c) identify when the Section authorized the response/brief according to the Section's Bylaws or these Policies and Procedures and list all individuals participating in writing the response/brief.

The letter seeking the Board of Governors approval must be finalized, signed and submitted by the Section's Chairperson or designee.

Additionally, the Committee must provide the completed brief (or a near final draft) for review and approval by the Board and/or the Executive Committee. In its introduction, the brief must clearly state that the Section is speaking on its own behalf and not on behalf of the State Bar.

The Committee may be required to obtain an extension of time from the Court to obtain the required approvals.

## **SECTION 6**

### **Preparation of Responses**

#### **6.1 Appointment of Executive Committee Member.**

For the preparation of any particular response, the Section's Chairperson has the discretion to either serve as or appoint an "Executive Committee Member." The Executive Committee Member shall be responsible for:

(a) coordinating the Committee's efforts in preparing an appropriate and timely response to an assigned request or notice from the Nevada Supreme Court, including meeting all deadlines and complying with Nevada Rule of Appellate Procedure 29 and all other applicable rules associated with *amicus curiae* briefs;

(b) after securing the Section's Executive Committee's approval to proceed with preparing a response to a request or notice from the Nevada Supreme Court, working with the Section's Membership and Communications Subcommittee Chairperson to inform the Section's General Membership and solicit input for the Committee's consideration and use;

(c) filing written correspondence, memorandums, letters, briefs, including requests for extension of time with the Court, upon securing approval from the Section's Executive Committee and the State Bar of Nevada;

(d) providing periodic reports and otherwise communicating with the Section's Executive Committee, as well as the Section's State Bar Liaison and the Section's Board of Bar Governors if approved by the Section's Chairperson or designee concerning the assigned response; and

(e) providing members of the Section's Executive Committee and the members of this Committee with copies of any and all written responses filed with the Nevada Supreme Court.

#### **6.2 Deadlines.**

The Committee shall complete all draft responses in a manner that allows for: (a) internal review and approval by both the Section's Executive Board and the State Bar Board of Governors; and (b) filing within the time frames set forth in Nevada Rule of Appellate Procedure 29, unless a different time period is designated by the Court in its written request/notice or the Court grants leave for a later filing.

## **SECTION 7**

### **Amendments to Policies and Procedures**

The Section's Executive Committee may amend these Policies and Procedures as necessary upon its own action or at the request of the Committee.

## **SECTION 8**

### **Miscellaneous**

#### **8.1 Action of the Committee.**

No action of the Committee shall be represented or construed as an action of the Section until and unless approved by the Section's Executive Committee or as an action of the State Bar of Nevada until and unless approved by the Board of Governors or its Executive Committee.

## **8.2 Financial Obligations.**

The Committee is not authorized to incur financial obligations/expenses unless approved by the Section's Executive Committee.

## **8.3 Reimbursement of Expenses.**

No salary or other compensation shall be paid to any member of the Committee for performance of services to the Section's Executive Committee. However, Committee members may be reimbursed for such reasonable and necessary expenses, such as those for conference calls, copying costs and other similar out-of-pocket expenses incurred as a result of the performance of services for the Committee as specifically authorized by the Section's Executive Committee.

### **CERTIFICATION**

The undersigned, duly appointed Chairperson of the Labor & Employment Law Section does hereby certify that a quorum of the members of the Executive Committee of the Section of Labor & Employment Law adopted the foregoing Policies and Procedures of the Amicus Brief Standing Committee on the 19<sup>th</sup> day of June, 2014.

**APPROVED.**



Edwin A. Keller, Jr.  
Chairman