



## LEGAL DEFENSE FUND OPERATING GUIDELINES

### I. Primary Purpose:

The AAUP exists to facilitate a more effective cooperation among teachers and research scholars in universities and colleges, and in professional schools of similar grade, for the promotion of the interests of higher education and research, and in general to increase the usefulness and advance the standards, ideals, and welfare of the profession. The AAUP Foundation is organized exclusively for such educational and charitable purposes as shall qualify it for exemption from federal taxation under section 501(c)(3) of the Internal Revenue Code, including, but not limited to, establishing and supporting principles of academic freedom and the quality of higher education in a free and democratic society; and shall be operated exclusively, to promote the charitable and educational functions of the AAUP.

The Legal Defense Fund furthers such educational and charitable purposes by providing financial assistance in cases at the trial and appellate levels that involve potential violations of AAUP policy and that have the potential for affecting higher education law and, preferably, precedential value.

### II. Guidelines for Legal Defense Fund Funding:

- A. Cases must involve violations of AAUP supported policies;
- B. Cases are eligible for funding once a complaint has been filed at the trial level or an appeal has been docketed with a higher court;
- C. Cases should have a record detailing the issues and progress in the case. Some examples are records of faculty hearings, grievance procedures and findings, EEOC findings, lower court decisions, *etc.*;
- D. Legal issues presented should present important legal rights that involve potential violations of AAUP policy and that have the potential for affecting higher education law and, preferably, precedential value. The Legal Defense Fund does not support cases involving disputes over individual salary, benefits, and/or tenure except to the extent that such cases present a potential violation of AAUP policy and have the potential for affecting higher education law.
- E. Payment for the preparation and filing of briefs *amicus curiae* is within the scope of the Legal Defense Fund.
- F. Legal Defense Fund assistance is available to any litigant regardless of whether the applicant is a member of, or otherwise associated with, AAUP.

G. Grant requests made by the AAUP may include a request for AAUP direct expenses (staff time and benefits) and a reasonable overhead, or indirect cost, rate as determined by the AAUP legal and finance departments.

### III. Governance of Fund

A. The Legal Defense Fund is administered by a Grants Committee of at least three people, including AAUP members and non-members with general legal expertise on AAUP-related higher education topics. Grant Committee members are appointed by the AAUP Foundation President and serve three-year terms, subject to renewal. The Grants Committee includes the AAUP Executive Director, AAUP Foundation President, and General Counsel as non-voting *ex officio* members. The Board determines the policies which shall govern the Fund and provides for the administration of the Fund by the Executive Director. The Fund Application Process Guidelines must be followed.

B. The Board is committed to bringing the Legal Defense Fund to the attention of all who are eligible. To achieve that goal, the Board and staff actively publicize the Fund.

C. Requests for assistance are submitted to the AAUP Legal Office, reviewed by the AAUP Executive Director or his or her delegate, and approved by a majority vote of the Grants Committee. The Board, in its sole discretion, may remove grantmaking authority from the Grants Committee; and it may modify any grant decision if, in the Board's discretion, such decision making is inconsistent with and does not support or benefit the supporting organization structure between AAUP and the Foundation.

D. Members of the Grants Committee or the Board will recuse themselves from debate or decision on any case in which the Grants Committee or Board member or member of his or her family has a financial interest in the outcome in accordance with AAUP Foundation's Conflicts-of-Interest Policies. Grants Committee members who are lawyers will abide by the ethical standards of the profession.

E. If at any time a Grants Committee member or a Board member is unsure as to whether a conflict (as defined in III. D. above and in accordance with AAUP Foundation's Conflicts-of-Interest Policy) might exist, that Grants Committee member or Board member shall raise the issue with the rest of the Board and the Board shall determine by majority vote whether the member in question is required to recuse him or herself from debate and decision on the case.

F. All awards of the Legal Defense Fund are extended as loans to be repaid without interest should the applicant achieve recovery in the litigation, and otherwise as grants.

G. The Legal Defense Fund is a restricted fund. All contributions are considered as independent of other financial operations of AAUP and AAUP Foundation and are controlled through separate accounting from the AAUP Foundation.