

## ***Preface to*** **Law Firm Pro Bono:** **A Model Policy**

*Law firms have the talent and resources to take the lead in increasing pro bono in New York State, so that we can better meet the legal needs of the poor. The culture is changing – law firm pro bono is growing. Yet many firms still lack a formal, written pro bono policy. Such a policy is critical: it sends a message that your firm supports pro bono and encourages every attorney to render such service. Your firm’s policy should define pro bono. A definition focusing on free legal help to the poor will help encourage service where it is most urgently needed. A more expansive definition may encourage broader participation and recognize the public service your firm’s attorneys already render. A policy should set an aspirational goal for every attorney. Twenty hours a year is typically the minimum goal.*

*Attorneys need to be assured that their pro bono work will not hurt their advancement at the firm. That assurance takes several forms. First, the existence of the policy itself sends a clear message, and firm leadership can constantly reinforce the promise that the firm stands behind pro bono. Second, the number of hours of pro bono service for which billable hours credit will be awarded must be clearly set forth. This model policy uses the figure of 50 hours a year; that is the aspirational goal for annual pro bono service established by the ABA’s Model Rule on pro bono. Third, attorneys must be assured that pro bono service will be positively considered in evaluation and compensation decisions. After all, doing pro bono enriches an attorney’s professional development and enhances the firm’s reputation in the community. The policy should also provide for the formal administrative support needed to help match attorneys and projects, monitor service and reward achievement.*

*This model policy was the product of a two-step process. First, critical elements present in numerous policies at law firms throughout the state and the country were identified and integrated into a draft model policy. Second, the policy was shared with several Capital District firms who helped further shape and refine it. The hope is that your law firm will be able to easily adapt this model policy to fit your unique needs.*

# **Law Firm Pro Bono: A Model Policy**

## **Pro Bono Commitment**

The firm is deeply committed to providing pro bono service in our community. We hope that all partners and associates will render a minimum of 20 hours a year in pro bono service and strongly encourage them to do more than that. Up to 50 hours a year of pro bono service will be treated as billable time.

An attorney's pro bono service to the community demonstrates a dedication and professionalism that are highly valued by this firm. Pro bono service will thus be a positive factor in performance evaluations and compensation decisions. We do not view pro bono service as a substitute for making a financial contribution to worthy organizations dedicated to providing free legal services to the poor. The firm will make financial contributions to such organizations, and we encourage individual attorneys to do so as well, to the best of their ability.

There are many reasons to do pro bono. The unmet legal needs of the poor and disadvantaged in our state are great. The legal profession possesses unique skills that allow us to serve this population and promote the public interest in a way no other profession can. In a profession dedicated to achieving justice, we all have an obligation to help ensure that New Yorkers have equal access to our system of justice, regardless of their income. Indeed, the Code of Professional Responsibility states that every attorney should render pro bono legal service (EC 2-25).

Pro bono benefits law firms and individual attorneys. The professional development of an attorney is broadened by the invaluable training and experience pro bono provides. Doing pro bono also increases an awareness of the diversity of people in the community, the problems they face and the creative ways those problems can be solved. The personal satisfaction that comes from changing the lives of people by rendering free legal services cannot be overstated. By doing such work, we also demonstrate the firm's commitment to the community, and we can help develop individual and corporate clients.

## **Definition of Pro Bono**

There are many different definitions of pro bono. Under our firm's definition, pro bono includes legal services rendered to poor persons or to public interest organizations dedicated to serving poor persons. Pro bono also includes legal services related to simplifying the legal process for poor persons or improving the availability or quality of legal services to such persons.

Pro bono does not include non-legal volunteer activities; uncollectible fee-generating or contingency fee matters; legal services to friends or family who do not have a low income; CLE instruction, board of directors or bar association participation, or legislative or lobbying efforts when these activities are not related to improving the availability or quality of legal services to poor persons.

We recognize that attorneys perform a wide variety of public service activities, such as providing free or low-cost legal services to charitable, religious, civic, community, government and educational organizations in matters furthering their organizational purposes. We applaud and encourage such efforts, but we also urge each attorney to ensure that at least 20 hours each year of his or her public service consists of pro bono – delivery of free legal services to the poor or to organizations serving the poor.

## **Pro Bono Coordinator**

We have designated a pro bono coordinator [or, for larger firms, a pro bono committee] responsible for overseeing the firm's pro bono activities.

[The pro bono committee consists of \_\_\_ partners and \_\_\_ associates, all of whom are appointed by the firm's managing partner/management committee, and are headed by a chair selected by committee members.]

To signal the firm's commitment to pro bono, the pro bono coordinator is a member of the firm's management/executive committee. The coordinator is responsible for:

- fostering a relationship with, and serving as a contact person for, organized pro bono programs
- coordinating case screening and assignments, as described in "Pro Bono Procedures" below
- disseminating information on pro bono opportunities
- matching attorneys and opportunities
- monitoring the status of cases
- providing quarterly and annual reports on the number of attorneys who did pro bono, the hours of service rendered, the monetary value of such service and total disbursements paid
- recognizing outstanding service
- coordinating publicity on pro bono.

## **Pro Bono Opportunities**

The law firm encourages attorneys to do pro bono through local, organized pro bono programs, including the Legal Aid Society of Northeastern New York, The Legal Project of the Capital District Women's Bar Association and county bar associations. Such organizations provide many benefits, including free CLE training; screening for income eligibility, case merit and mentoring; professional liability insurance; and reimbursement for some disbursements. For pro bono services rendered at Legal Aid and The Legal Project, CLE credit is available, as described in the pro bono CLE brochure annexed to this policy. The firm's pro bono coordinator will keep all attorneys informed of relevant opportunities.

Pro bono service may also be rendered pursuant to court assignment, such as through a mandatory pro bono divorce program. Such service will be credited toward your aspirational goal of 20 hours of service.

In addition, individual attorneys may suggest and seek approval for other pro bono matters they would like to handle. An easy-to-use, online guide on pro bono opportunities is available at [www.nysba.org/probono](http://www.nysba.org/probono) and may provide ideas for appropriate projects.

## **Pro Bono Procedures**

Pro bono service should meet the same standards of professionalism and service, and follow the same procedures, as for any other work undertaken by the firm. Each attorney is given a copy of this policy and meets with the pro bono coordinator to discuss it.

***Conflicts.*** A conflicts check must be conducted before any pro bono case is accepted.

***Eligibility.*** For pro bono matters not referred by an organized pro bono program, the pro bono coordinator screens potential clients to ensure that they are persons of limited means, pursuant to firm income eligibility guidelines. Such guidelines were adopted, after we consulted federal poverty guidelines and local pro bono programs, to ensure consistent treatment of potential pro bono clients.

***File.*** After the conflicts check and pro bono coordinator approval, a file is opened. A separate file number is established for each pro bono matter, with a notation that the matter is being handled pro bono. All pro bono time is billed to the firm's pro bono number. When pro bono service is provided for a matter other than a specific client/file, such as at a legal clinic, such time is logged to the firm's pro bono number.

***Letter.*** The next step is to discuss and execute a retainer letter, or letter of engagement. The letter follows the same general approach as such letters for paying clients, except as to payments for services and expenses. The scope of the engagement is based on consultation with the client; it helps to focus the lawyer and the client on what they hope to accomplish and to identify the

most significant issues. The letter states that specified legal services will be provided at no charge and that the client *may* be required to reimburse *some* out-of-pocket expenses incurred.

***Supervision.*** Overall monitoring of pro bono cases is performed by the pro bono coordinator, who assigns a supervising attorney for each pro bono case handled by an associate to ensure that quality representation is provided.

***Disbursements.*** We encourage our attorneys to do pro bono through local pro bono programs, which provide many advantages, including reimbursement of some disbursements. Where disbursements are not covered by a pro bono program, generally, the firm will cover such expenses in pro bono cases for individuals, since the financial status that qualifies clients for free legal services makes it impracticable for them to pay disbursements. Where the firm is representing a not-for-profit organization, the client may be expected to pay out-of-pocket expenses associated with legal work. Judicious use of firm resources is essential, and pro bono coordinator approval must be obtained for disbursements exceeding \$300. Each attorney should endeavor to limit costs wherever possible, by making *in forma pauperis* applications and by consulting legal services programs regarding existing arrangements for free services from court reporters, process servers and the like.

***Record.*** Each month the firm billing department will provide the pro bono coordinator with a record of the amount of pro bono service performed and disbursements paid.

***Evaluation and Compensation.*** As stated in the “Pro Bono Commitment,” your pro bono service will be considered a positive factor in performance evaluations and compensation decisions. Up to 50 hours of such service will be treated as billable hours.

***Departing Attorneys.*** *When an attorney handling a pro bono case leaves this firm, he or she should work with the pro bono coordinator to (i) locate another attorney in our firm to take over the representation of the pro bono client or (ii) take the case with him or her, in which case the attorney must notify the pro bono client in writing that this firm is withdrawing from representation or (ii) see if the referring organization can facilitate another placement.*