

ANNEX C
SELECTED INTERNATIONAL, REGIONAL AND NATIONAL
PRO BONO DOCUMENTS

International Bar Association's Pro Bono Declaration⁷

Approved by the IBA Council October 2008

The Council of the International Bar Association, the global voice of the legal profession:

- a) Inspired by the vision of a better, more just world;
- b) Affirming the vital role of the legal profession in achieving that vision;
- c) Recognizing that access to justice is essential to liberty, fairness, dignity, progress, development and the Rule of Law;
- d) Advocating that barriers to justice wherever they exist should be broken and dismantled as a matter of the highest priority;
- e) Deploring the fact that access to the courts and effective legal representation and advice are not afforded to all who need them, especially the poor, underprivileged and marginalized;
- f) Recalling that access to justice for all individuals is a human right and that governments have the primary responsibility to realize and protect that human right through measures such as state funded legal aid, as underscored in article 10 of the UN Declaration on Human Rights, article 14(3)(d) of the International Covenant on Civil and Political Rights, other major international, regional and national instruments, and also the Legal Aid Resolution adopted by this Council in 1996;
- g) Urging governments to allocate sufficient resources to make legal aid available to meet the critical legal needs of the poor, underprivileged and marginalized and not to use pro bono legal service as an excuse for reducing publicly funded legal aid;
- h) Realizing that public confidence in governmental and judicial institutions is eroded by the absence of justice or the existence of barriers to justice;
- i) Considering that the delivery of pro bono service by the legal profession is of vital public and professional interest and helps to fulfil the unmet legal needs of the poor, underprivileged, and marginalized and restore public confidence in the efficacy of governmental and judicial institutions;
- j) Conscious that the legal profession, given its commitment to a fair and equitable legal system, holds a unique and privileged position in matters of justice, and accordingly, has the duty and opportunity to provide pro bono legal service, together with the state, the judiciary, law schools and legal services organizations;
- k) Observing the value of existing traditions and new initiatives, including collaborations among bar associations, private and public interest law firms, law schools, foundations, and other non-governmental organizations to improve access to justice, and to provide effective pro bono legal service;

⁷ Source: <http://www.ibanet.org/Document/Default.aspx?DocumentUid=C4B06FD6-A807-44D4-A98A-C73B464589C6>.

- l) Noting that ‘pro bono’ is derived from the Latin phrase pro bono publico, which refers to work or actions carried out ‘for the public good’;
- m) Believing that a determined effort is needed to advance access to justice through pro bono work and to strengthen the commitment to public service in the legal profession;
- n) Mindful that the motivation for innovative pro bono standards and practices can be derived from the diversity to be found among nations’ legal systems and traditions; and
- o) Reflecting upon the valuable declarations made in this field on a domestic and regional level, notably the Pro Bono Declaration for the Americas, and encouraging more such declarations to be adopted and implemented;

Declares and resolves that:

1. The Council calls on lawyers, law firms and bar associations to provide pro bono legal service, which is work by a lawyer of a quality equal to that afforded to paying clients, without remuneration or expectation of remuneration, and principally to benefit poor, underprivileged or marginalized persons or communities or the organizations that assist them. Pro bono legal service may extend to: advice to or representation of persons, communities or organizations, who otherwise could not exercise or assert their rights or obtain access to justice; activities supporting the administration of justice, institution building or strengthening; assisting bar associations and civic, cultural, educational and other non governmental institutions serving the public interest that otherwise cannot obtain effective advice or representation; assisting with the drafting of legislation or participating in trial observations, election monitoring, and similar processes where public confidence in legislative, judicial and electoral systems may be at risk; providing legal training and support through mentoring, project management and exchanging information resources; and also other similar activities to preserve the Rule of Law.
2. The legal profession reaffirms its commitment to pro bono legal service, as an integral part of the profession, and lawyers and law firms are encouraged to specify a proportion of their time or resources which they will devote per lawyer to pro bono legal service each year.
3. Pro bono legal service should be provided on a consistent year-round basis, in all manner of criminal, civil and administrative matters where legal aid may be limited, and on a national and international level.
4. The importance and practice of pro bono legal service should be emphasized and promoted in legal education and practice, by making pro bono opportunities a part of the academic or practical programs for law students and by giving credit to lawyers taking continuing legal education or working in this field.
5. Lawyers, judges, law firms, bar associations, governmental and non governmental organizations and other interested persons should promote the awareness of domestic as well as cross border pro bono legal service, and implement measures designed to monitor and report to the profession and the public at large on the extent to which access to justice is being facilitated by pro bono measures.
6. Lawyers, law firms, bar associations, and other organizations employing lawyers, whether non profit or for profit, are strongly encouraged to develop or improve specific pro bono

policies and programs, to create the conditions and incentives so that pro bono work is encouraged, valued and rewarded, and to pursue or provide continuing legal education in this field, as pro bono legal service is closely linked to the corporate social responsibility of the legal profession.

7. The Council calls on governments to promote and support the pro bono efforts of the legal profession in their countries and to desist from in any way deterring the provision of such service. Further, governments should assist and encourage pro bono legal service, through measures such as treating it as not being subject to tax, and where such service is presently taxed, such taxes should be rescinded.

8. The IBA recognizes and expresses its gratitude for the efforts of many lawyers and law firms who have already devoted or are devoting a portion of their professional activities to pro bono legal service. The IBA is committed to actively encouraging lawyers, judges, law firms, bar associations, law schools, governmental and non governmental organizations to participate in pro bono legal service, and invites them to use and contribute content to the information resources developed by the IBA in this field, notably the web sites www.internationalprobono.com, www.ibaprobono.com and www.roldirectory.org.

9. Lawyers, judges, law firms, bar associations, governmental and non governmental organizations, and other interested persons are particularly invited to organize, attend and support pro bono and access to justice conferences so that the design and delivery of pro bono legal service can be improved and so that those involved in pro bono legal service will have an extensive pool of resources on both the supply of and demand for such service from which to gain relevant experience.

10. This declaration launches a broad educational campaign and a multi-year process of consultation by the IBA to establish or promote a pro bono culture, to appreciate the meaning and the importance of pro bono legal service, to identify and agree best practices and desirable specific commitments of time and resources, to deepen the consensus and to make further progress in this field. The Pro Bono and Access to Justice Committee is charged to continue and expand its work in this field and to monitor and report on the application of this declaration.

Pro Bono Declaration for the Americas⁸

WHEREAS, access to justice and legal representation are essential to democratic societies;

WHEREAS, the resources of government and of legal services organizations are insufficient to satisfy the critical legal needs of poor and underprivileged persons and communities, often leaving these needs unmet;

WHEREAS, consequently, not all members of society have meaningful access to justice or effective legal representation, and this is especially the case for poor and underprivileged persons and communities;

WHEREAS, the absence of access to justice and legal representation undermines public confidence in governmental and judicial institutions and democracy;

WHEREAS, the legal profession has a privileged role and is uniquely positioned in matters of justice and therefore has the duty, means and opportunity to promote a fair and equitable legal system and respect for human and constitutional rights in collaboration with the State, the judiciary and legal services organizations;

WHEREAS, traditions exist across the Americas and new efforts are underway in several countries, including collaborations among bar associations, private and public interest law firms, law schools, foundations, governmental actors and non-governmental organizations, to address these pressing and unmet legal needs;

WHEREAS, a concerted movement across the Americas to promote access to justice through pro bono work would strengthen commitments to democracy and public service in the legal profession;

WE, the undersigned, solemnly declare our commitment to pro bono by stating as follows:

Members of the legal profession have a responsibility to provide pro bono legal services. This responsibility stems from the profession's role and purpose in society, and from its implicit commitment to a fair and equitable legal system.

Pro bono is derived from the Latin phrase *pro bono publico*, which refers to actions carried out "for the public good."

For purposes of this Declaration, pro bono legal services are those provided without a fee, or expectation of a fee, principally to benefit poor or underprivileged persons or communities or the organizations that assist them. They may include representation of persons, communities or organizations in matters of public interest who otherwise could not obtain effective representation. In addition, pro bono legal services can also benefit civic, cultural and educational institutions serving the public interest who otherwise could not obtain effective representation.

⁸ Source: <http://www.vancecenter.org/vancecenter/images/stories/vancecenter/english.pdf>.

Pro bono legal services should be provided with the same quality of representation as services provided to paying clients, and in a manner upholding the applicable ethical norms and standards.

Effective delivery of pro bono legal services requires cooperation among the different actors in the legal profession—including bar associations, private and public interest law firms, law schools, foundations, governmental actors and non-governmental organizations.

WE, the undersigned, each in a manner consistent with our respective roles in the legal profession, commit to:

Act to improve effective legal representation for poor or underprivileged persons and communities;

Enhance widespread and effective access to justice and to legal services for persons and communities who lack such access;

Provide, on a pro bono basis, more than 20 hours or three days of legal services per individual lawyer per annum, or in the case of law firms, institutions or other groups of lawyers, an average of more than 20 hours per lawyer per annum. This commitment should be met within three years of endorsing this Declaration;

Strengthen the profession's commitment to the provision and expansion of pro bono legal services by emphasizing its importance and practice in legal education;

Support the establishment, development and operations of non-governmental organizations dedicated to the delivery of legal services in the public interest; and

Advocate and promote within the profession for the recognition and promotion of pro bono legal services as part of lawyers' ethical standards and obligations.

This Declaration is not intended to alter or supersede any existing legislation, resolution or ethical code in any jurisdiction, firm or institution that is more conducive to the provision of pro bono legal services.

This Declaration will be effective from January 1, 2008.

Czech Republic: Pro Bono Declaration⁹

We, the undersigned members of the Czech legal profession, hereby declare our solemn intention to bear our share of responsibility for protecting human rights and the public interest and to carry on the tradition of volunteer work by attorneys in these areas.

Our society is developing rapidly, both economically and socially. The law plays an important role during this development. We are convinced that it is very important not to forget that it is the task of a modern state, based on the rule of law, to provide the widest possible access for all to qualified legal aid.

By signing this Declaration we are supporting the idea, expressed in the Code of Conduct for European Lawyers, that 'In a society founded on respect for the rule of law the lawyer fulfils a special role.'¹⁰ We also build on Recommendation Rec (2000) 21 on the freedom of exercise of the profession of lawyer, which encourage to promote access to justice of persons in economically weak position, in particular provision of legal aid and advice.¹¹

We therefore support the development of the provision of pro bono legal services. We believe it is important for attorneys to voluntarily devote some of their capacity, as far as they are able, towards providing free legal services to the benefit of disadvantaged individuals, groups and interests.

In this context we must point out the irreplaceable role played by the state in providing access to legal aid. We hereby emphasise that the development of the pro bono concept does not relieve the state of its own responsibility in this area.

Aware of these circumstances, we want to support the development of the idea of pro bono in order to express not only our interest in public and social affairs and to encourage ethical conduct within the legal profession. As an influential professional group, we also want to contribute to the development of civil society.

Our aim is to support, to the greatest possible extent, those institutions and individuals contributing to the protection of the public interest, including the protection of human rights. We recall the exceptionally important role played in these areas by non-governmental, non-profit organisations (NNOs). We consider cooperation between attorneys and NNOs to be both natural and desirable.

We are aware that not all attorneys in the Czech Republic have the capacity to set aside a significant part of their time and capabilities for pro bono work. Nevertheless, we are

⁹ Pro Bono Declaration was drafted... by Pro Bono Alliance (www.probonoalliance.cz, www.probonocentrum.cz). Declaration was opened for signature at the official clearinghouse opening in Prague, 25.6. 2008. Source: <http://www.probonocentrum.cz/english/pro-bono-declaration>.

¹⁰ Preamble, Code of Conduct for Lawyers in the European Union, adopted at the CCBE Plenary Session held on 28 October 1988, and subsequently amended during the CCBE Plenary Sessions on 28 November 1998 and 6 December 2002.

¹¹ Recommendation Rec(2000)21 of the Committee of Ministers to member states on the freedom of exercise of the profession of lawyer (Adopted by the Committee of Ministers on 25 October 2000).

convinced that there is outstanding potential for developing the pro bono concept in this country, and we are ready to contribute to that development as far as we are able.

Germany: Definition of Pro Bono by Members of Pro Bono Deutschland e.V.¹²

The members of Pro Bono Deutschland e.V. have developed the following definition for their pro-bono work:

“Pro bono legal advice is gratuitous legal counselling for a good cause and consists of the counselling and representation of non-profit organizations, non-governmental organizations, trust funds and needy individuals who pursue legitimate causes yet do not benefit from the statutory legal aid system, as well as engagement to promote and spread the rule of law and human rights. The aim of the pro bono legal counselling is to make the professional expertise and resources of a law firm available for a good cause, in most cases a charitable cause, and to therewith develop civic engagement as a part of the professional activities. Pro bono legal advice is committed to meeting the same professional quality standards as fee-based legal services. In principle, pro bono legal services are also only rendered in those cases for which no or a very limited one “market” exists. Parties requesting such advisory services are mostly not in a position to bear the costs of legal counselling due to their economic situation or by-laws, or are unwilling to do so on grounds of a preferential use of their funds for their own charitable purposes.”

¹² An association of over 30 law firms, domestic and international, founded in 2011 in Germany: <http://www.pro-bono-deutschland.org>.

Hungary: Hungarian Lawyers' Role in Advancing the Public Good (Pro Bono Publico)¹³

In making this Declaration, we recall the long and proud heritage of the Hungarian legal profession in advancing the public good.

We acknowledge that in recent decades the change of our political system and the growing need for legal services generated by our economic transformation placed severe burdens on practicing lawyers, resulting in increasingly heavy workloads and insufficient attention to the public good.

Because of this, we Hungarian lawyers signing this document feel the need to reaffirm our ethical and professional commitment to the longstanding principles of pro bono legal service by obliging ourselves to contribute in some way to providing free or reduced cost legal services to individuals who cannot otherwise afford them and to organizations which dedicate themselves to worthy causes in the service of our country.

We firmly believe that all of our colleagues can find an appropriate balance between working for their clients who can afford to pay and for those who cannot, since it is our ethical responsibility to ensure that all members of the Hungarian society are provided with legal services.

We note, with agreement, the Council of Europe's recommendation that "[l]awyers should be encouraged to provide legal services to persons in an economically weak position"¹⁴ as well as its explanation that "equal access to the law for rich and poor alike is essential to the maintenance of the rule of law. It is therefore important to provide effective legal services to all those whose rights and interests are threatened, including persons who are not able to pay for them. The primary obligation to provide these services and to guarantee their quality is the responsibility of the legal profession and arises from its independence. However, the state (and the community as a whole) has an obligation to assist the legal profession in carrying out this responsibility."¹⁵

By joining in this Declaration, we acknowledge and embrace the spirit of the Code of Conduct for lawyers in the European Union¹⁶, which asserts that "[i]n a society founded on respect for the rule of law the lawyer fulfils a special role."

While we are aware that not every lawyer in Hungary has the capacity to commit to the same level of pro bono work, we nonetheless encourage all lawyers to look for ways to share the responsibility to help.

¹³ Adopted in 2006.

¹⁴ Council of Europe Recommendation No. R(2000)21 on Freedom of Exercise of the Profession of Lawyer.

¹⁵ Council of Europe Recommendation No. R(2000)21, Explanatory Memorandum ([http://cm.coe.int/ta/rec/2000/ExpRec\(00\)21.htm](http://cm.coe.int/ta/rec/2000/ExpRec(00)21.htm)).

¹⁶ Adopted by the Council of the Bars and Law Societies of the European Union (CCBE) in 1988, amended in 1998 and 2002. (http://www.ccbe.org/doc/En/code2002_en.pdf).

Nigeria: Pro Bono Declaration for members of the Nigerian Bar Association¹⁷

WHEREAS, access to justice and legal representation are essential to democratic societies;

WHEREAS, the resources of government and of legal services organizations are insufficient to satisfy the critical legal needs of poor and underprivileged persons and communities, often leaving these needs unmet;

WHEREAS, consequently, not all members of society have meaningful access to justice or effective legal representation, and this is especially the case for poor and underprivileged persons and communities;

WHEREAS, the absence of access to justice and legal representation undermines public confidence in governmental and judicial institutions and democracy;

WHEREAS, the legal profession has a privileged role and is uniquely positioned in matters of justice and therefore has the duty, means and opportunity to promote a fair and equitable legal system and respect for human and constitutional rights in collaboration with the State, the judiciary and legal services organizations;

WHEREAS, new efforts are underway in Nigeria, including collaborations among bar associations, private and public interest law firms, law schools, foundations, governmental actors and non-governmental organizations, to address these pressing and unmet legal needs;

WHEREAS, the NBA is leading a concerted movement in Nigeria to promote access to justice through pro bono work that would strengthen commitments to democracy and public service in the legal profession;

WE, the undersigned, solemnly declare our commitment to pro bono by stating as follows:

Members of the NBA have a responsibility to provide pro bono legal services. This responsibility stems from the profession's role and purpose in society, and from its implicit commitment to a fair and equitable legal system.

Pro bono is derived from the Latin phrase *pro bono publico*, which refers to actions carried out "for the public good."

For purposes of this Declaration, pro bono legal services are those provided without a fee, or expectation of a fee, principally to benefit poor or underprivileged persons or communities or the organizations that assist them. They may include representation of persons, communities or organizations in matters of public interest who otherwise could not obtain effective representation. In addition, pro bono legal services can also benefit civic, cultural and

¹⁷ Prepared by the Office of the President, Nigerian Bar Association, NBA Secretariat, Abuja. Source: http://www.internationalprobono.com/resources/item.291360-Nigerian_Pro_Bono_Declaration

educational institutions serving the public interest who otherwise could not obtain effective representation.

Pro bono legal services should be provided with the same quality of representation as services provided to paying clients, and in a manner upholding the applicable ethical norms and standards.

Effective delivery of pro bono legal services requires cooperation among the different actors in the legal profession—including bar associations, private and public interest law firms, law schools, foundations, governmental actors and non-governmental organizations.

WE, the undersigned, each in a manner consistent with our respective roles in the legal profession, commit to:

Act to improve effective legal representation for poor or underprivileged persons and communities;

Enhance widespread and effective access to justice and to legal services for persons and communities who lack such access;

Provide, on a pro bono basis, more than 20 hours or three days of legal services per individual lawyer per annum, or in the case of law firms, institutions or other groups of lawyers, an average of more than 20 hours per lawyer per annum. This commitment should be met within three months of endorsing this Declaration;

Strengthen the profession's commitment to the provision and expansion of pro bono legal services by emphasizing its importance and practice in legal education;

Support the establishment, development and operations of non-governmental organizations dedicated to the delivery of legal services in the public interest; and

Advocate and promote within the profession for the recognition and promotion of pro bono legal services as part of lawyers' ethical standards and obligations.

This Declaration is not intended to alter or supersede the LPA or any other existing legislation, resolution or ethical code of the NBA that is more conducive to the provision of pro bono legal services.

This Declaration will be effective from January 1, 2009.

Poland: Polish Lawyers for the Public Good / Pro Bono Publico Declaration¹⁸

Through this Declaration, we, the undersigned representatives of the Polish legal profession, recall our long-standing tradition of work for the public good.

Due to economic growth and social development in our country, we note an increase in demand for free legal services to the most needy, including both individuals and the non-governmental agencies representing the interests of the disadvantaged and excluded, as well as an increase in the duties of representatives of all legal professions. As a result, our profession has not always been able to fulfil the expectations and needs of the society in which we live and work, and action for the public good now requires greater commitment and dedication from us.

Consequently, as representatives of the Polish legal profession, we wish to revitalize the concept of work for the public good, to demonstrate our regard for professional ethics and encourage all lawyers to seek means to enable them to work for the good of society.

We believe that it is our duty to ensure that all members of society, irrespective of their financial situation, are able to receive professional advice when necessary. It is our intention that to the extent possible our profession should serve those institutions and organisations that work for the good of society and all persons who have insufficient means to obtain necessary legal advice, free of charge or for a symbolic fee.

In signing this declaration, we support the spirit of the Code of Conduct for European Lawyers, which subscribes to the principle that “*In a society founded on respect for the rule of law, the lawyer fulfils a special role*”¹⁹. We believe that our profession has always fulfilled this role and will continue to do so.

Employing our professional knowledge we wish to serve this principle and contribute to building of a true civil society in Poland.

United Kingdom: Joint Protocol for Pro Bono Legal Work²⁰

¹⁸ Adopted in 2007.

¹⁹ Code of Conduct for European Lawyers (CCBE), point 1.1 of the Preamble

²⁰ Source: http://lawworks.org.uk/?id=protocol_text.

The Pro Bono Protocol, developed jointly by the Bar Pro Bono Unit and LawWorks, sets out how pro bono work should be delivered. It has been signed by a wide range of those involved in provision of pro bono services including the Bar Council, the Bar Pro Bono Unit, sets of Chambers, law firms and law schools.

<...>

JOINT PROTOCOL FOR PRO BONO LEGAL WORK

At all stages throughout their career many lawyers regard Pro Bono Legal Work as an integral part of being a member of the legal profession, in providing access to justice and meeting unmet legal need. This Protocol has been agreed to set out the core values of such work and to assist both those who undertake it and their clients. Many lawyers undertake charitable work of many different kinds. However, the purpose of this protocol is to concentrate specifically on the provision by lawyers of their legal skills in the form of Pro Bono Legal Work.

What is Pro Bono Legal Work?

1.1. When we refer to Pro Bono Legal Work we mean legal advice or representation provided by lawyers to individuals and community groups who cannot afford to pay for that advice or representation and where public funding is not available.

1.2. Legal work is Pro Bono Legal Work only if it is free to the client, without payment to the lawyer or law firm (regardless of the outcome) and provided voluntarily either by the lawyer or his or her firm.

1.3. Pro Bono Legal Work is always only an adjunct to, and not a substitute for, a proper system of publicly funded legal services.

How should Pro Bono Legal Work be done?

2.1. Pro Bono Legal Work should always be done to a high standard. That means in particular that:

2.2. The availability of appropriate publicly funded legal advice or representation should always be considered before a lawyer undertakes Pro Bono Legal Work.

2.3. When a lawyer is requested to agree to undertake a piece of Pro Bono Legal Work the lawyer should give his/her decision within a reasonable time.

2.4. The terms on which the Pro Bono Legal Work is undertaken including the circumstances in which the relationship may be terminated should be made clear at the outset.

2.5. The Pro Bono Legal Work should only be undertaken by a lawyer who is adequately trained, has appropriate skills and experience and, where necessary, is adequately supervised for the work in question.

2.6. The lawyer undertaking a piece of Pro Bono Legal Work (and where appropriate his or her supervisor) should have no less than the minimum level of legal expertise and experience as would be required if the particular work in question was paid work.

2.7. In no case should the client be misled as to the lawyer's skill or ability to undertake the Pro Bono Legal Work.

2.8. Once a lawyer has agreed to undertake a piece of Pro Bono Legal Work the lawyer (and if appropriate his or her firm) must give that work the same priority, attention and care as would apply to paid work.

2.9. Pro Bono Legal Work must not be undertaken without appropriate insurance.

2.10. A lawyer in doubt or difficulty in relation to a piece of Pro Bono Legal Work should seek advice from a Pro Bono organisation or from the Bar Council, the Law Society or the Institute of Legal Executives.

ANCILLARY PROVISIONS

1. RELATIONSHIPS BETWEEN PRO BONO ORGANISATIONS AND LAWYERS

1.1. Where practical, lawyers able to undertake pro bono work are encouraged to do so through a pro bono organisation, through the not-for-profit sector, or through both.

1.2. Pro Bono Legal Work will be more effectively delivered through co-ordinating the relationships between lawyers, pro bono organisations, and not-for-profit agencies such as Law Centres and CABx.

1.3. When a lawyer is asked by a pro bono organisation or not-for-profit agency to undertake a particular piece of Pro Bono Legal Work, the lawyer is expected to have proper regard to any prior confirmation given to the pro bono organisation or not-for-profit agency that the lawyer was prepared to undertake Pro Bono Legal Work.

1.4. Sets of chambers, law firms and legal departments should, wherever possible, seek to encourage and support the undertaking of appropriate Pro Bono Legal Work by their lawyers, including the undertaking of that work "in-house".

2. THE CONTRIBUTION OF PERSONS WHO ARE NOT FULLY QUALIFIED, OR WHO ARE OTHERWISE UNABLE, TO DO PRO BONO LEGAL WORK

2.1. Non-lawyer staff within a set of chambers or a firm should be enabled to make the same contribution to the undertaking of a piece of Pro Bono Legal Work as they would for a piece of paid work.

2.2. Law students, pupil barristers and trainee solicitors have an important contribution to make to Pro Bono Legal Work. However that contribution must be properly supervised and must be preceded by proper training.

2.3. Where suitably qualified and experienced, academic lawyers and employed lawyers are particularly encouraged to consider providing training to others to enable them to undertake Pro Bono Legal Work if they are not able themselves to provide legal advice or representation.

The provision of pro bono legal training without charge is an important contribution to Pro Bono Legal Work.

3. PARTICIPATION IN PRO BONO LEGAL WORK AS A CHARACTERISTIC OF BEING A MEMBER OF THE LEGAL PROFESSION

3.1. A commitment to the delivery of Pro Bono Legal Work is encouraged throughout a lawyer's professional life, as a student and in practice, through to and including retirement.

United States: American Bar Association's Model Rule 6.1 Voluntary Pro Bono Service²¹

Every lawyer has a professional responsibility to provide legal services to those unable to pay. A lawyer should aspire to render at least (50) hours of pro bono publico legal services per year. In fulfilling this responsibility, the lawyer should:

(a) provide a substantial majority of the (50) hours of legal services without fee or expectation of fee to:

(1) persons of limited means or

(2) charitable, religious, civic, community, governmental and educational organizations in matters which are designed primarily to address the needs of persons of limited means; and

(b) provide any additional services through:

(1) delivery of legal services at no fee or substantially reduced fee to individuals, groups or organizations seeking to secure or protect civil rights, civil liberties or public rights, or charitable, religious, civic, community, governmental and educational organizations in matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization's economic resources or would be otherwise inappropriate;

(2) delivery of legal services at a substantially reduced fee to persons of limited means; or

(3) participation in activities for improving the law, the legal system or the legal profession.

In addition, a lawyer should voluntarily contribute financial support to organizations that provide legal services to persons of limited means.

Comment²²

[1] Every lawyer, regardless of professional prominence or professional workload, has a responsibility to provide legal services to those unable to pay, and personal involvement in the problems of the disadvantaged can be one of the most rewarding experiences in the life of a lawyer. The American Bar Association urges all lawyers to provide a minimum of 50 hours of pro bono services annually. States, however, may decide to choose a higher or lower number of hours of annual service (which may be expressed as a percentage of a lawyer's professional time) depending upon local needs and local conditions. It is recognized that in some years a lawyer may render greater or fewer hours than the annual standard specified, but during the course of his or her legal career, each lawyer should render on average per year, the number of hours set forth in this Rule. Services can be performed in civil matters or in criminal or quasi-

²¹ Source: http://www.americanbar.org/groups/probono_public_service/policy/aba_model_rule_6_1.html

²² Source: http://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_6_1_voluntary_pro_bono_publico_service/comment_on_rule_6_1.html.

criminal matters for which there is no government obligation to provide funds for legal representation, such as post-conviction death penalty appeal cases.

[2] Paragraphs (a)(1) and (2) recognize the critical need for legal services that exists among persons of limited means by providing that a substantial majority of the legal services rendered annually to the disadvantaged be furnished without fee or expectation of fee. Legal services under these paragraphs consist of a full range of activities, including individual and class representation, the provision of legal advice, legislative lobbying, administrative rule making and the provision of free training or mentoring to those who represent persons of limited means. The variety of these activities should facilitate participation by government lawyers, even when restrictions exist on their engaging in the outside practice of law.

[3] Persons eligible for legal services under paragraphs (a)(1) and (2) are those who qualify for participation in programs funded by the Legal Services Corporation and those whose incomes and financial resources are slightly above the guidelines utilized by such programs but nevertheless, cannot afford counsel. Legal services can be rendered to individuals or to organizations such as homeless shelters, battered women's centers and food pantries that serve those of limited means. The term "governmental organizations" includes, but is not limited to, public protection programs and sections of governmental or public sector agencies.

[4] Because service must be provided without fee or expectation of fee, the intent of the lawyer to render free legal services is essential for the work performed to fall within the meaning of paragraphs (a)(1) and (2). Accordingly, services rendered cannot be considered pro bono if an anticipated fee is uncollected, but the award of statutory lawyers' fees in a case originally accepted as pro bono would not disqualify such services from inclusion under this section. Lawyers who do receive fees in such cases are encouraged to contribute an appropriate portion of such fees to organizations or projects that benefit persons of limited means.

[5] While it is possible for a lawyer to fulfill the annual responsibility to perform pro bono services exclusively through activities described in paragraphs (a)(1) and (2), to the extent that any hours of service remained unfulfilled, the remaining commitment can be met in a variety of ways as set forth in paragraph (b). Constitutional, statutory or regulatory restrictions may prohibit or impede government and public sector lawyers and judges from performing the pro bono services outlined in paragraphs (a)(1) and (2). Accordingly, where those restrictions apply, government and public sector lawyers and judges may fulfill their pro bono responsibility by performing services outlined in paragraph (b).

[6] Paragraph (b)(1) includes the provision of certain types of legal services to those whose incomes and financial resources place them above limited means. It also permits the pro bono lawyer to accept a substantially reduced fee for services. Examples of the types of issues that may be addressed under this paragraph include First Amendment claims, Title VII claims and environmental protection claims. Additionally, a wide range of organizations may be represented, including social service, medical research, cultural and religious groups.

[7] Paragraph (b)(2) covers instances in which lawyers agree to and receive a modest fee for furnishing legal services to persons of limited means. Participation in judicare programs and acceptance of court appointments in which the fee is substantially below a lawyer's usual rate are encouraged under this section.

[8] Paragraph (b)(3) recognizes the value of lawyers engaging in activities that improve the law, the legal system or the legal profession. Serving on bar association committees, serving

on boards of pro bono or legal services programs, taking part in Law Day activities, acting as a continuing legal education instructor, a mediator or an arbitrator and engaging in legislative lobbying to improve the law, the legal system or the profession are a few examples of the many activities that fall within this paragraph.

[9] Because the provision of pro bono services is a professional responsibility, it is the individual ethical commitment of each lawyer. Nevertheless, there may be times when it is not feasible for a lawyer to engage in pro bono services. At such times a lawyer may discharge the pro bono responsibility by providing financial support to organizations providing free legal services to persons of limited means. Such financial support should be reasonably equivalent to the value of the hours of service that would have otherwise been provided. In addition, at times it may be more feasible to satisfy the pro bono responsibility collectively, as by a firm's aggregate pro bono activities.

[10] Because the efforts of individual lawyers are not enough to meet the need for free legal services that exists among persons of limited means, the government and the profession have instituted additional programs to provide those services. Every lawyer should financially support such programs, in addition to either providing direct pro bono services or making financial contributions when pro bono service is not feasible.

[11] Law firms should act reasonably to enable and encourage all lawyers in the firm to provide pro bono legal services called for by this Rule.

[12] The responsibility set forth in this Rule is not intended to be enforced through disciplinary process.

United States: American Bar Association's Recommendation 121-A [excerpts]²³

PRO BONO POLICIES AND PROCEDURES (AUGUST 2006)

<...>

²³ Source:

<http://www.americanbar.org/content/dam/aba/migrated/leadership/2006/annual/dailyjournal/hundredtwentyonea.doc>.

I. POLICIES AND PROCEDURES FOR LARGER LAW FIRMS

Pursuant to Resolution 121-A, the American Bar Association urges larger law firms to adopt effective strategies to provide their lawyers with opportunities to do pro bono work and to adopt internal policies and procedures to support such work, including policies and procedures that ensure that firms:

- (a) count pro bono hours as billable hours;
- (b) consider attorneys' commitment to pro bono activity as a favorable factor in advancement and partner and associate compensation decisions;
- (c) set annual goals regarding the number of hours contributed through firm pro bono programs and the number of attorneys who participate;
- (d) establish and maintain systems that ensure that firm pro bono programs are managed effectively, that participating attorneys receive training and guidance, and that the highest levels of firm management oversee and participate in their programs;
- (e) support the pro bono commitment and involvement of senior and retired lawyers; and
- (f) report to law school placement offices specific information regarding their pro bono policies, practices and activities, including:
 - (i) their stated goals regarding the number of pro bono hours to be contributed by the firm each year;
 - (ii) the number of actual pro bono hours contributed by the firm in each of the last three years;
 - (iii) the average number of pro bono hours contributed by junior associates, midlevel associates, senior associates, and partners at the firm in each of the last three years;
 - (iv) whether and to what extent pro bono hours are counted as billable hours (if attorneys are expected to meet billable hours targets);
 - (v) whether and to what extent attorneys' commitment to pro bono activity is considered a favorable factor in promotion and compensation decisions;
 - (vi) what formal structures the firm maintains to manage its pro bono program and to provide training and guidance to participating attorneys; and
 - (vii) whether the firm provides opportunities to participate in pro bono activities through sabbatical and part-time pro bono programs, fellowships, or rotation programs.

<...>

United States: Law Firm Pro Bono Challenge^{® 24}

Recognizing the growing severity of the unmet legal needs of the poor and disadvantaged in the communities we serve, and mindful that major law firms must—in the finest traditions of our profession—play a leading role in addressing these unmet needs, our firm is pleased to join with other firms across the country in subscribing to the following statement of principles and in pledging our best efforts to achieve the voluntary goals described below.

1. Our firm recognizes its institutional obligation to encourage and support the participation by all of its attorneys in pro bono publico activities. We agree to promulgate and maintain a clearly articulated and commonly understood firm policy which unequivocally states the firm's commitment to pro bono work.
2. To underscore our institutional commitment to pro bono activities, we agree to use our best efforts to ensure that, by no later than the close of calendar year 2015, our firm will either:
 - (1) annually contribute, at a minimum, an amount of time equal to 5 percent of the firm's total billable hours or 100 hours per attorney to pro bono work; or
 - (2) annually contribute, at a minimum, an amount of time equal to 3 percent of the firm's total billable hours or 60 hours per attorney to pro bono work.
3. In recognition of the special needs of the poor for legal services, we believe that our firm's pro bono activities should be particularly focused on providing access to the justice system for persons otherwise unable to afford it. Accordingly, in meeting the voluntary goals described above, we agree that a majority of the minimum pro bono time contributed by our firm should consist of the delivery of legal services on a pro bono basis to persons of limited means or to charitable, religious, civic, community, governmental, and educational organizations in matters which are designed primarily to address the needs of persons of limited means.
4. Recognizing that broad-based participation in pro bono activities is desirable, our firm agrees that, in meeting the minimum goals described above, we will use our best efforts to ensure that a majority of both partners and associates in the firm participate annually in pro bono activities.

²⁴ Obtained from the Pro Bono Institute and reprinted with its kind permission. For the Pro Bono Institute's Commentary to the Statement of Principles, see: <http://www.probonoinst.org/wp-content/uploads/Law-Firm-Challenge-Commentary-2014.pdf>. Also, the National Pro Bono Resource Center, an Australian NGO that supports and promotes pro bono legal services in Australia, had developed a similar Statement of Principles that incorporates, in part, language developed by the US Pro Bono Institute for its Law Firm Pro Bono Challenge[®] above: <http://www.nationalprobono.org.au/page.asp?from=8&id=170#LawFirm>.

5. In furtherance of these principles, our firm also agrees:
 - a. To provide a broad range of pro bono opportunities, training, and supervision to attorneys in the firm, to ensure that all of our attorneys can avail themselves of the opportunity to do pro bono work;
 - b. To ensure that the firm's policies with respect to evaluation, advancement, productivity, and compensation of its attorneys are compatible with the firm's strong commitment to encourage and support substantial pro bono participation by all attorneys; and
 - c. To monitor the firm's progress toward the goals established in this statement and to report its progress annually to the members of the firm and to the Law Firm Pro Bono Project.
6. This firm also recognizes the obligation of major law firms to contribute financial support to organizations that provide legal services free of charge to persons of limited means.
7. As used in this statement, the term "pro bono" refers to activities of the firm undertaken normally without expectation of fee and not in the course of ordinary commercial practice and consisting of (i) the delivery of legal services to persons of limited means or to charitable, religious, civic, community, governmental, and educational organizations in matters which are designed primarily to address the needs of persons of limited means; (ii) the provision of legal assistance to individuals, groups, or organizations seeking to secure or protect civil rights, civil liberties, or public rights; and (iii) the provision of legal assistance to charitable, religious, civic, community, governmental, or educational organizations in matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization's economic resources or would be otherwise inappropriate.

Please return the signed Challenge to: Law Firm Pro Bono Project/Pro Bono Institute

1025 Connecticut Avenue, NW, Suite 205 ~Washington, DC 20036

202.729.6699~202.296.0303 fax~probono@probonoinst.org~www.probonoinst.org

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