
COURT OF APPEALS OF MARYLAND
STANDING COMMITTEE ON PRO BONO LEGAL SERVICE

**MODEL PRO BONO POLICY FOR GOVERNMENT
ATTORNEYS**

Introduction

The Court of Appeals of Maryland Standing Committee on Pro Bono Legal Service has prepared this Model Pro Bono Policy for Government Attorneys to facilitate the adoption of pro bono policies that encourage and support the pro bono work of attorneys employed by state, county and municipal governments in Maryland.

In 2002, the Court of Appeals amended Rule 6.1 of the Code of Professional Conduct by changing the definition of pro bono and providing for an aspirational goal of 50 hours of pro bono service annually for lawyers in full time practice. With this Rule change, together with the adoption of a mandatory pro bono reporting requirement pursuant to Rule 16-903, the Court of Appeals made it clear that pro bono service and/or a monetary contribution to legal services organizations was a professional responsibility of each Maryland attorney.

A number of government offices in Maryland have adopted pro bono policies, including the Office of the Attorney General, the Office of the Public Defender, the Baltimore City Solicitor's Office and the Baltimore County Office of Law. For a variety of reasons, however, many government law offices have not permitted their attorneys to engage in pro bono legal service.

In developing this Model Pro Bono Policy, it is the intention of the Standing Committee on Pro Bono Legal Service to assist and encourage government law offices to develop their own pro bono policies that address the particular needs of their offices. *This Model Policy is a template.* It includes provisions covering the key issues that may be included in a pro bono policy and addresses the primary concerns that government law offices may wish to consider as they develop their own pro bono policies. It is the hope of the Standing Committee that this Model Pro Bono Policy will be useful to government law offices throughout the state of Maryland as they develop and implement pro bono policies that encourage pro

bono service by their attorneys.

The Pro Bono Representation Policy

Overview

Rule 6.1 of the Maryland Rules of Professional Conduct addresses the professional obligation of all attorneys to provide *pro bono publico* legal services to people of limited means or agencies that serve people of limited means.

Given the growing need for such services, this Office has adopted this Pro Bono Representation Policy to encourage attorneys in this Office to actively engage in representing pro bono clients. Participation in pro bono service is voluntary and in addition to the official duties of the attorney in meeting the core responsibilities of this Office.

Attorneys are encouraged to volunteer to provide pro bono legal assistance to pre-screened clients in addition to their Office duties. The Office will provide central coordination of pro bono services including a conflicts review and a referral process. Reasonable secretarial and other support services are provided so long as the time used for pro bono work is secondary to the time needed to perform the core responsibilities of the Office.

1. The Pro Bono Committee/Coordinator

The Pro Bono Committee (Committee) is chaired by a supervisory attorney and consists of three attorneys from throughout the office. The function of the Committee is to centralize all pro bono services and provide whatever resources, including conflicts screening, which may be needed for attorneys to render necessary and appropriate legal services to pro bono clients.

During the pendency of a pro bono case, the Committee acts as liaison between the referral agency and the pro bono attorney and is a continuing legal resource for the attorney.

Alternate language for small offices: The Pro Bono Coordinator (Coordinator) is responsible for overseeing the pro bono work of attorneys in the Office and will act as a liaison between the referral agency and the pro bono attorney. The Pro Bono Coordinator will supervise conflicts screening within the Office and serve as a resource for attorneys rendering legal service to pro bono clients.

(a) The Referral Process. The Pro Bono Committee/Coordinator accepts clients from pro bono referral agencies that are funded by the Maryland Legal Services Corporation (MLSC).

(b) Case Screening. The Pro Bono Committee/Coordinator accepts clients pre-screened for financial eligibility from MLSC agencies. The Committee/Coordinator then screens the case for legal issues that may have policy implications for the Office.

(c) Conflicts Review. The Pro Bono Committee/Coordinator screens for conflicts by running a conflicts check through the Office case management system as well as emailing Office attorneys regarding each case being considered for pro bono services.

(1) If no conflict is identified, a case is assigned to an attorney who has volunteered to participate in the Pro Bono Program.

(2) Where a conflict is identified that cannot be readily and ethically resolved by the Pro Bono Committee/Coordinator, the case is returned to the pro bono referral agency.

(d) Case Assignment and Completion. Once a case is successfully screened, a case description is sent to the attorneys in the Office and the case is assigned to an attorney on a first come, first serve basis.

(1) Volunteer attorneys retain the case throughout their tenure in the Office.

(2) Each attorney has the continuing professional responsibility to identify conflicts and to ensure there is no conflict of interest at the time the case is received or later. If a conflict should arise later, the matter is referred back to the Pro Bono Committee/Coordinator to resolve the issue, or if the conflict cannot be readily and ethically resolved, to return the case to the pro bono referral agency.

(3) The attorney/client relationship continues if the attorney leaves the Office.

(4) Once a case is completed, the attorney notifies the Committee/Coordinator that the case is closed, provides the number of pro bono hours spent on the case, and submits a case disposition form to be sent to the pro bono referral agency by the Committee/Coordinator.

(e) **Pro Bono Leave Bank.** The Committee/Coordinator shall establish a Pro Bono Leave Bank into which all attorneys may contribute usable or unusable leave and compensatory time. When there is time accumulated in the Pro Bono Leave Bank, pro bono attorneys may use time in the Pro Bono Leave Bank for a pro bono case at the discretion of the Committee/Coordinator.

2. Attorney Time

Attorneys are encouraged to provide pro bono legal representation outside normal working hours, not in lieu of Office time. This does not mean that lawyers may not do pro bono work during normal working hours.

(1) Attorneys are still obliged to work the required hours each week.

(2) More than two hours of pro bono time during the workday is recorded as leave or compensatory time.

(3) Where an attorney needs to use extensive Office time within required Office hours to properly represent the client, (i.e. a trial or hearing):

(a) The Office may allow an exception to the policy requiring the attorney to use leave time but the attorney must make up the lost Office time within a reasonable time thereafter.

(b) The attorney may request the Committee to permit use of leave time contributed to the Pro Bono Leave Bank.

(c) The attorney can request a flexible work schedule from a supervisor to make up the time needed for pro bono work.

(d) Leave and compensatory time may be blended to provide for a flexible work schedule. A supervisor's approval is required for such a flexible work schedule.

(4) All pro bono work must be recorded by date, case name, and number of hours on the attorney's time sheet.

(5) To encourage pro bono service, time spent on pro bono work shall be considered in the annual evaluations of all attorneys in the Office.

3. Attorney Capacity

Attorneys have a professional obligation to make clear to third parties, particularly clients, that the attorney is not acting in any official capacity and that legal representation is not by the Office but is pro bono service rendered by the individual attorney.

(a) Attorneys shall execute a Pro Bono Program Retainer Agreement for signature by the client.

(b) Office space may not generally be used for meetings with a client or opposing counsel. The attorney may contact the Committee/Coordinator to determine where outside office space exists for their use.

(c) All correspondence must be on official Pro Bono Program stationery provided by the Committee/Coordinator.

4. Clerical Support

Support staff may provide reasonable time and assistance to pro bono attorneys with the caveat that Office work has priority.

5. Equipment and Office Resources

Attorneys and support staff may use the following for pro bono work:

(a) Telephone and email for incoming and outgoing calls and correspondence.

(b) Lexis, WestLaw, FAX, copiers, computers.

(c) De minimus items as paper, electricity, postage, etc.

6. Expenses

Filing fees, out of pocket expenses, transcripts, parking, and the costs of litigation

are not reimbursed by the Office. Requests for payment of such expenses may be made to the pro bono referral agency or to the litigation fund managed by the Pro Bono Resource Center where such costs are not waived by petition to the Court.

7. Trust Fund Transactions

Where a pro bono attorney is required to deposit client funds in a trust account, the Office does not hold the funds. The attorney must make arrangements with the pro bono referral agency to make use of an existing client trust account.

8. Training.

It is the responsibility of the pro bono attorney to obtain any training necessary to assure his or her competent representation of the pro bono client through the pro bono referral agency or other training programs.

9. Professional Liability Insurance.

All attorneys representing clients referred by MLSC funded programs are provided professional liability insurance. No attorney may provide pro bono service of any kind without professional liability insurance.

10. Subject Areas of Law

Rule 6.1 provides a general description of pro bono legal services. In this Office, pro bono legal work may be provided in civil matters, including the areas listed below. Criminal cases are specifically excluded. This list is not exclusive and may be changed at the discretion of the Committee/ Coordinator.

- Advance Directives
- Wills and Estate Planning
- Guardianships
- Bankruptcy
- Social Security
- Divorce
- Child Support
- Child Custody
- Domestic Violence Protective Orders
- CINA and other Child Representation Cases
- Landlord Tenant
- Records Expungement
- Veterans Benefits
- Tax

- Business Law or Incorporation
- Real Estate

11. Short-Term Pro Bono Service.

In addition to representing individual pro bono clients as discussed above, attorneys are encouraged to participate in short-term pro bono service. Short-term pro bono service includes participation in programs such as “Ask a Lawyer” brief advice and counsel sessions, clinics and workshops for self-represented litigants, hotlines, and community education programs. Short-term pro bono also includes serving as faculty in trainings for pro bono attorneys, mentoring pro bono attorneys and participation in recruiting and other outreach efforts for pro bono programs.

12. Effective Date.

This Pro Bono Representation Policy is adopted by the _____ Office of Law on _____ and is effective immediately.