

27 NCAC 02 RULE 6.1 VOLUNTARY PRO BONO PUBLICO SERVICE

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;
 - (2) charitable, religious, civic, community, governmental and educational organizations in matters that are designed primarily to address the needs of persons of limited means; or
 - (3) 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.
- (b) provide any additional services through:
 - (1) the delivery of legal services described in Paragraph (a) at a substantially reduced fee; or
 - (2) 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.

Comment

[1] Every lawyer, regardless of professional prominence or professional work load, 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 North Carolina State Bar urges all lawyers to provide a minimum of 50 hours of pro bono services annually. 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-criminal matters for which there is no government obligation to provide funds for legal representation, such as post-conviction death penalty appeal cases.

[2] The critical need for legal services among persons of limited means is recognized in Paragraphs (a)(1) and (2) of the Rule. Legal services to persons of limited means consists 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 Paragraph (a). Accordingly, services rendered cannot be considered pro bono if an anticipated fee is uncollected, but the award of statutory attorneys' 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 described in Paragraphs (a)(2) and (3).

[5] 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), (2), and (3), and (b) (1). 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)(2). Such lawyers and judges are not expected to undertake the reporting outlined in Paragraph [12] of this Comment.

[6] Paragraph (a)(3) includes the provision of certain types of legal services to those whose incomes and financial resources place them above limited means. 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)(1) 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)(2) 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 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.

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

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

[12] Lawyers are encouraged to report pro bono legal services to Legal Aid of North Carolina, the North Carolina Equal Access to Justice Commission, or other similar agency as appropriate in order that such service might be recognized and serve as an inspiration to others.

History Note: Authority G.S. 84-23;
Adopted Eff. January 28, 2010.