

HOW TO UTILIZE LEGAL ASSISTANTS IN PRO BONO PUBLICO PROGRAMS

by The American Bar Association Standing Committee on Legal Assistants
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PREFACE

The American Bar Association established the Standing Committee on Legal Assistants to promote the utilization of legal assistants in the delivery of legal services.

As defined by the ABA, a legal assistant or paralegal is a person, qualified by education, training or work experience who is employed or retained by a lawyer, law office, corporation, governmental agency or other entity and who performs specifically delegated substantive legal work for which a lawyer is responsible. This publication from the Standing Committee on Legal Assistants encourages the utilization of legal assistants in pro bono public law programs that provide legal services to those who cannot afford to hire an attorney. Legal assistants volunteering in pro bono efforts are subject to the same laws, rules, and ethical considerations that apply to legal assistants in employment situations.

INTRODUCTION

Attorneys throughout the United States, on their own and through their local bar associations, provide pro bono public legal services to members of their community who cannot afford to hire an attorney. The ABA Model Rules of Professional Conduct set forth an ethical duty for such efforts (Rule 6.1) and the ABA Model Guidelines for the Utilization of Legal Assistant Services state that lawyers should facilitate legal assistant participation in pro bono activities. While attorneys, in ever growing numbers, are donating pro bono legal services, these efforts have not been able to keep up with the demand for pro bono services. The ABA Consortium on Legal Services and the Public, in its 1994 Legal Needs Report, states that 79% of those in low income households do not obtain the services of lawyer to handle their legal problems. Federally funded legal service programs for the poor, operating on reduced budgets, have been able to represent only a portion of those eligible for their services. The demand for legal services by those who cannot afford to hire an attorney far exceeds the ability of legal service organizations and pro bono programs to meet those needs. The increased utilization of legal assistants in these programs can help to extend the availability of their services.

THE ROLE OF THE PRO BONO LEGAL ASSISTANT

There are numerous opportunities for legal assistants to do pro bono work in existing or new programs. The following examples show where pro bono legal assistants are currently involved in programs providing legal services to those in need:

Government funded legal service programs, facing great demand with limited

resources, utilize legal assistants to provide intake interviewing and screening functions. The volunteer legal assistants are usually trained to conduct interviews and to make appropriate community referrals. This screening works best if it takes place in the office where the program is housed to ensure that the staff attorney or the program coordinator is available for consultation. The volunteer should have appropriate forms and guidelines to assist in the determination of the nature of the legal problems in each client's situation. A comprehensive list of community agencies should be available for appropriate referrals.

Local bar association pro bono programs also use legal assistants for intake and screening work. In some bar association pro bono programs, the volunteer legal assistant can continue to work with the program's attorney as a team member throughout the representation of the client. This approach works best if the attorney and the legal assistant are from the same firm and they volunteer together.

There are numerous volunteer legal service/advocacy programs that represent members of a particular group of clients in need of legal services, such as elderly or victims of domestic abuse. These programs may be sponsored by a bar association, court, governmental agency or non-profit agency. The role of the pro bono legal assistant varies greatly depending on the nature and organization of the program. In these highly specialized pro bono programs, legal assistants may be involved with intake and screening, working with attorneys on cases, or providing direct client advocacy, such as in the court-appointed special advocates (CASA) programs where volunteers advocate for children under court supervision. Volunteers often receive specialized training for these programs.

GETTING STARTED AS A PRO BONO LEGAL ASSISTANT

Legal assistants, either individually, as a group, or through local paralegal associations, are encouraged to become involved in pro bono programs. If there is an existing pro bono program in the community, the program supervisor may already have a plan for utilizing volunteer legal assistants. If not, the program supervisor can work with legal assistants to develop a program to utilize paralegal volunteers.

To develop a new pro bono program, potential pro bono legal assistants should first contact the local bar association or interested attorneys and offer to help start a new program. Legal Assistants Associations can be very effective in encouraging attorneys to start a program since these associations can provide a supply of trained and qualified paralegal volunteers. Care should be taken in deciding the scope of the pro bono project. The project should complement existing efforts and be focused on community needs. Cooperation with the local bar social service agencies helps guarantee success. Local legal service programs, the courts, and non-profit agencies that work with the poor may also be willing to establish programs using pro bono legal assistants. The ABA Center for Pro Bono provides a Pro Bono Coordinator's Materials Handbook to assist in starting a program.

SUPERVISION/COORDINATION OF A PRO BONO PROGRAM

Each pro bono program that utilizes legal assistants should have a coordinator/supervisor who is responsible for the overall administration of the program. The coordinator should oversee the recruitment and training of the volunteer paralegals, establish the procedures and forms to be used by volunteers, and coordinate the scheduling and work of the volunteers with attorneys. The coordinator should also evaluate the work of the volunteers and oversee all the program's finances, publicity, and public relations.

When a local legal assistant association is involved with the program, the coordinator can utilize the association to assist in carrying out some of these functions. When a new program is started, funding is usually an issue. The ABA's Pro Bono Coordinator's Materials Handbook has an excellent section on funding possibilities.

RECRUITMENT OF VOLUNTEER LEGAL ASSISTANTS

Local paralegal associations can provide a prime source of volunteers for pro bono programs. They already have a network to reach many working paralegals and can assist in the recruitment and coordination of the volunteers. The local bar association can ask for legal assistant volunteers from the firms in the community. Public sector and corporate law departments should not be overlooked. Paralegal schools in the community may have alumni associations that can assist in recruitment. Many paralegal schools provide internship credit to advanced students for this type of volunteer work. Some paralegal students may be available for day-time volunteer work.

"HIRING" THE VOLUNTEER LEGAL ASSISTANT

A screening process should be established to assure that only qualified volunteers are employed in pro bono work. Volunteers should fill out an application form and a screening interview should be conducted by the person coordinating the program. Volunteers should be evaluated at the end of the first few weeks on the job.

TRAINING

Training must be provided to the volunteer legal assistants in pro bono programs. At a minimum, this training should include an understanding of the mission of the program, the exact nature of the services provided by the program, including the ethical and legal restrictions that apply to the volunteers, the eligibility requirements for persons screened for the program, and an explanation of possible referral options to local agencies. Additional training concerning some of the procedural aspects of law that relate to the program's clients is usually necessary. For example, in a family law clinic, while some legal assistant volunteers may have expertise in family law, others may need several hours of orientation and "clinical training" in local family court procedures before they are ready to work with clients. Some pro bono programs that serve a target population, such as the elderly, provide extensive training in that area of law for all volunteers.

PUBLIC RELATIONS

Publicity is important to the success of pro bono projects. Information disseminated to the public advises the community that the program exists and serves to recruit volunteers. Publicity can also be used to recognize the efforts of the individual legal assistants and their local paralegal associations, where appropriate. Public service announcements and press releases to print and broadcast media, flyers on the program circulated throughout the community, invitations to the media to visit the program, attend program functions, or serve on the program advisory board often result in favorable press. The pro bono program can provide speakers to community schools, clubs, and associations.

MALPRACTICE AND ETHICS

Because pro bono legal services are subject to all the same legal responsibilities as paid legal services, it is advisable for the pro bono program to have malpractice liability insurance that covers the attorney and all other volunteers.

Attorney supervision is required for all legal services performed for the

client. Legal assistants must clearly inform clients that they are not attorneys and cannot give legal advice. The program training, supervision, and evaluations should be monitored carefully to avoid problems.

PROGRAM EVALUATION

There should be ongoing evaluation of the program. This evaluation can be accomplished through exit interviews with the paralegal volunteers at the end of their service and by sending evaluation forms to the clients. The results of these evaluations can be used to monitor the effectiveness of the pro bono program.

EXAMPLES OF PROGRAMS THAT UTILIZE LEGAL ASSISTANTS IN PRO BONO WORK

A. Programs that Utilize Legal Assistants for Intake Screening:

Central Virginia Legal Aid Society and the Richmond Association of Legal Assistants

Maine Volunteer Lawyers Project

Legal Services of Eastern Missouri

Legal Services Program of Northern Indiana

B. Programs that Utilize Legal Assistants with Target Populations:

Bar Association of San Francisco Volunteer Legal Services Program:

a. Cooperative Restraining Order Clinic for Battered Women

b. Homeless Advocacy Project

c. Civil Legal Assistance Program (Family Law and Guardianship)

Legal Counsel for the Elderly (Washington D. C.)

Will on Wheels (Rocky Mountain Legal Assistants Association)

P.A.V.E. (Paralegal Advocacy Volunteers for the Elderly)

C. Programs that Utilize Legal Assistants in Agency Programs:

National Court Appointed Special Advocate Association (CASA)

a. CASA at Family Focus, Inc., Denver

b. CASA at King County Superior Court, Seattle

Beverly Hills Bar Association Guardianship Volunteer Program

Philadelphia VIP Program's Volunteer du Jour

D. Legal Assistant Associations

National Association of Legal Assistants

Phone: 918-587-6828,

E-mail: nalanet@nala.org

Website: www.nalanet.org

National Federation of Paralegal Associations

Phone: 816-941-4000

E-mail: info@paralegals.org

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E. ABA Center for Pro Bono

Phone: (312) 988-5769

E-mail: abalegalsvcs@staff.abanet.org

Website: www.abanet.org/legalervices/probono.html

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