

ABA/NLADA 2005 Equal Justice Conference

Defining Pro Bono for the 21st Century: Policy Updates for 2005

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- I. Original NYSBA Definition.
 - A. Committee report in 1989 on courts' proposed plan for mandatory pro bono.
 - 1. Pro bono should be voluntary.
 - 2. Definition should cover free legal services to benefit the poor.
 - 3. In the alternative, attorneys should financially support legal services programs.
 - 4. All attorneys should aspire to do 20 hours a year of pro bono.
 - B. NYSBA response to report.
 - 1. Report adopted.
 - 2. President's Committee on Access to Justice created.
 - 3. Department of Pro Bono Affairs created.
 - 4. Pro Bono Coordinators Network expanded.
 - C. Pro Bono Resolution of Administrative Board of the Courts in 1997.
 - 1. Definition should cover free legal services to benefit the poor.
 - 2. In addition, attorneys should financially support legal services programs.
 - 3. All attorneys should aspire to do 20 hours a year of pro bono.
- II. New NYSBA Definition.
 - A. Court system issues report on January 2004.
 - 1. Pro bono participation is static at 46%.
 - 2. Judiciary should play a role in increasing pro bono.
 - 3. Comments invited for 90 days.
 - B. NYSBA prepares response to report.
 - 1. House of Delegates has robust debate.
 - 2. Concepts endorsed:
 - a. There should be greater advocacy for increased legal services funding.

- b. The definition of pro bono should be expanded to capture the essential services attorneys regularly contribute to society for the public good.
 - c. Pro bono services and reporting should remain voluntary.
- C. Working group prepares definition.
 - 1. Three Presidents, two Executive Committee members, Pro Bono Director
 - 2. Original definition and ABA Model Rule 6.1 reviewed.
 - 3. Policy Statement, new EC 2-25, and revised court Resolution.
 - a. Every attorney should provide 20 hours of free legal services to the poor.
 - b. Every attorney should also make financial contributions to legal services programs.
 - c. In addition, attorneys should provide free or reduced fee services to nonprofits that serve the public good or the judicial system (ADR).
 - d. Pro bono also encompasses activities to improve the law, the legal system, and the legal profession.
 - e. Law firms, corporate, government, and other employers should encourage all attorneys in their employ to do pro bono.
- D. Comments and debate.
 - 1. In two rounds, 28 sets of comments from Association committees, sections, and delegates, and from local bars.
 - 2. Majority support expansion of definition, but there are concerns about diluting service to the poor.
 - 3. Working Group states primacy of poor has been sufficiently clarified and emphasized and that goal of more than 20 hours is too much for attorneys in small practices.
 - 4. Adoption of ABA Model Rule 6.1 or at least 50-hour goal debated.
 - 5. On April 2, by voice vote of estimated one-third to two-thirds, new definition is adopted.