

PHILADELPHIA MODEL PRO BONO POLICY

Unanimously endorsed by:

The Board of Governors of the Philadelphia Bar Association; The Young Lawyers Section of the Philadelphia Bar Association; & The Board of Directors of the Philadelphia Volunteers for the Indigent Program (Philadelphia VIP)

Re: Philadelphia Model Pro Bono Policy

Dear Colleague:

The Philadelphia Bar Association's Young Lawyers Section, its Committee on the Delivery of Legal Services, and its pro bono program, Philadelphia Volunteers for the Indigent Program (VIP), have developed a Model Pro Bono Policy for use by all law firms in Philadelphia, including corporate and governmental law departments.

That Policy was adopted by unanimous vote of the Association's Board of Governors at its July 1991 meeting. On behalf of the Board, I am sending it to you, with the request and hope that you and your colleagues read it, discuss it, and adopt it for your firm.

The purpose of the Model Policy is to increase the participation of Philadelphia lawyers in pro bono activities by having their firms consider and approve written pro bono policies. Many lawyers, especially younger lawyers, want to undertake pro bono work but are concerned that their firms do not endorse such activities. This Model Policy affords firms in the City a framework in which to evaluate their pro bono commitment. A clearly articulated policy within each firm will provide encouragement for the lawyers in that firm to pursue their pro bono interests.

The Philadelphia Bar Association recommends that firms give up to 50 hours of billable hour credit for pro bono work to their lawyers. Even so, we recognize that firms will have different approaches to how they should honor their pro bono commitments. For that reason, the enclosed Model Policy contains several alternatives for your consideration. It contains both a policy statement and a procedures memorandum, drawn for the fictitious law firm of "Lincoln & Douglas." The policy statement articulates the firm's basic support of pro bono activities. The procedures memorandum provides an example of how a firm might administratively implement the policy. The procedures may be more complex than is necessary in smaller firms, and such firms are encouraged to adopt more streamlined procedures.

The need by the poor of Philadelphia for legal assistance is great, and growing. There are many fine legal services programs in this City through which our lawyers can volunteer their services. If we are to honor our nation's pledge of providing "Liberty and Justice for All," then all law firms must join together in encouraging all lawyers - partners as well as associates - to undertake pro bono work.

Please read the enclosed materials and make sure that your firm adopts a written pro bono policy. If you need assistance in developing your pro bono policy or if you have questions regarding the Model Policy, please contact the Philadelphia Bar Association at 238-6300.

Sincerely yours,

Robert C. Heim
Chancellor

PRO BONO POLICY STATEMENT OF LINCOLN & DOUGLAS

The law firm of Lincoln & Douglas encourages its lawyers to render public interest legal service. The lawyers in the firm are engaged in a wide variety of such endeavors, including [list current efforts].¹

The firm's support of public interest legal service is based first and foremost on the duty of lawyers, as professionals, to contribute to the welfare of the community. In a society governed under the rule of law, lawyers have an obligation to make sure the legal system works, especially for the disadvantaged.

The firm also supports public interest legal service because it provides valuable experience for the younger lawyers in the firm and because it gets lawyers of all ages actively involved in the community.

An associate's involvement in pro bono activities is an important factor in the partnership's ongoing evaluation of the associate. A willingness to serve, and become involved with, the community evidences a level of maturity and professionalism which is highly prized by the firm.

ALT. 1: For evaluation purposes, each lawyer in the firm is given billable hour credit for time spent on pro bono matters up to 50 hours per year. ALT. 2: All time spent on pro bono matters is treated in the same manner as billable hours for purposes of evaluating lawyers. ALT. 3: The firm encourages each of its lawyers to have one pro bono matter on his or her active docket at all times. ALT. 4: Although there is no strict formula by which a lawyer is

¹ This sentence can be used to highlight any past or present accomplishments of the firm in the area of public interest legal service. If the firm has not been active in such activities to date, the sentence can be omitted.

given "credit" for pro bono work, the firm recognizes that participation in pro bono activities decreases a lawyer's time on billable matters.²

The term "Philadelphia lawyer" means a lawyer who is an expert at his or her profession, and who believes that all citizens are entitled to the protection of their rights under the law. The firm of Lincoln & Douglas believes that it is the duty of every lawyer to make a part of his or her practice the provision of legal service to the poor, thereby promoting the growth of justice within our community.

PRO BONO PROCEDURES MEMORANDUM OF LINCOLN & DOUGLAS

TO: All Lawyers and Paralegals
FROM: Management Committee
DATE: _____, _____

² There are many approaches to the question of giving "credit" for pro bono work in the firm's evaluation of lawyers. Associates in particular are concerned with this issue.

The most important factor in overcoming this evaluation anxiety is for the firm (especially the senior lawyers in the firm) to truly support pro bono work and to acknowledge and encourage lawyers who become involved. Some ways in which this encouragement can be manifest are set forth in the attached procedures memorandum. A preliminary question, however, is whether the firm will give formulaic credit for pro bono work. Some firms give hour-for-hour billable credit for pro bono work. Other firms give billable hour credit up to a specific number of hours. Still others generally encourage pro bono without any formulas. Another approach is for the firm to encourage each of its lawyers to handle one active pro bono matter at a time.

In August 1988, the American Bar Association passed a resolution urging all of its members to contribute 50 hours each year to the delivery of legal services to the poor, either by providing such service, or by making an equivalent financial contribution. In September 1990, the Law School of the University of Pennsylvania began its new Public Service Program, which requires every student, as a condition for graduation, to spend 35 hours in each of their second and third years in some public service program. In December 1990, the Pennsylvania Bar Association Task Force for Legal Services To The Needy released the report of its intensive eighteen-month investigation of the unmet legal needs of the poor, and recommended that all lawyers devote a minimum of 15-25 hours each year to the delivery of legal services to the poor through their local pro bono programs, in addition to making financial contributions to their local legal services and/or pro bono programs. In April 1991, the Young Lawyers Section of the Philadelphia Bar Association passed a resolution calling upon all firms to adopt a written pro bono policy encouraging each attorney to maintain one active pro bono matter on his or her active docket at all times.

The Philadelphia Bar Association urges all lawyers to adopt as their personal goal the ABA's standard of fifty hours of pro bono service each year and urges all firms to adopt Alternative 1. In doing so, however, it recognizes that firms will have different approaches to how they should honor their ethical obligation to render public interest service under Rule 6.1 of the Pennsylvania Rules of Professional Conduct. For that reason, the Model Policy contains several alternatives. Each policy has its own merit; all have the same purpose: to encourage each attorney to take seriously and satisfy our profession's ethical responsibility to ensure that "Equal Justice Under Law" means what it says, for all people, regardless of their ability to pay a lawyer. The Philadelphia Bar Association recognizes that the law firms will have the critical role to play in ensuring that this ethical responsibility is recognized, accepted, and satisfied by each of their attorneys.

RE: Pro Bono Procedures

This firm is committed to support the pro bono activities of its lawyers and paralegals, and has adopted a written Policy Statement expressing the terms of that commitment. The purpose of this memorandum is to outline certain procedures which will be followed within the firm with respect to the firm's Pro Bono Program.

1. ***Pro Bono Committee.***³ The firm will have a Pro Bono Committee consisting of approximately lawyers and one paralegal appointed by the Management Committee. The committee's task will be to supervise the firm's Pro Bono Program and to encourage lawyers and paralegals in the firm to become active in pro bono activities.

Although pro bono work encompasses a broad range of activities, the Pro Bono Committee will concern itself with a narrower range of pro bono work, to wit: legal work that a lawyer does for free, which is in lieu of (and of the same character as) legal work one would perform on behalf of a paying client, and which is on behalf of someone who needs assistance and is unable to pay.⁴

2. ***Pre Acceptance Procedures.*** Before accepting such a pro bono matter, a lawyer should do two things:

a. ***Contact Pro Bono Committee.*** Call [name of coordinator], or, if he/she is unavailable, call any other member of the Pro Bono Committee. The purpose of this step is to permit a member of the Pro Bono Committee generally to review the matter to make sure (i) that the firm does not have a policy against handling such matters and (ii) that the firm has the resources to handle the matter properly.

b. ***Conflict Check.*** The lawyer should distribute a regular conflict memorandum.⁵

3. ***Opening File and Timerecord.*** Once a pro bono matter has been approved and cleared for conflicts, the lawyer should open a file and a timerecord. All pro bono

³ Most firms with active pro bono programs have a Pro Bono Committee to supervise pro bono work. It may consist of anywhere from three to ten persons. It is most beneficial for the program if the committee is chaired by a partner. Often a senior associate on the committee is designated as the contact person or "pro bono coordinator") to act as the liaison with the local pro bono programs; referrals come in through this contact person.

Other firms do not have a committee but rather designate one lawyer or administrator to be the pro bono coordinator.

⁴ There are many definitions of what constitutes "pro bono work." The definition included in the memorandum is a narrow definition encompassing only true legal work for the indigent and the disadvantaged. Other more general charitable and civic work can be encouraged by the firm but probably does not require coordination by the Pro Bono Committee.

⁵ The firm's regular conflict procedure should be followed for pro bono matters.

matters should be opened under the client designation "Pro Bono" having the client number "XXXXX". The matter designation should include the name of the referring agency, if applicable, and the name of the client. For example, if you take a case on behalf of John Doe through Philadelphia VIP, the full designation should be "Pro Bono, re: VIP - John Doe" and the number would be XXXXX/#####.⁶

4. **Legal Services Agreement.** The lawyer should prepare and have the pro bono client execute a legal services agreement. The agreement should specifically define the scope of the representation. For matters accepted through Philadelphia VIP, the VIP form may be used. In all other cases, the form of agreement should be approved by [name of pro bono coordinator].⁷

5. **Associate Evaluations.** The firm wishes to ensure that associates' pro bono work is given serious consideration during the annual associate evaluation process. Just prior to each evaluation period, the Pro Bono Committee will request from each associate a short memorandum describing his or her pro bono activities during the last year. The Pro Bono Committee will then forward these memoranda, along with any additional comments from the Pro Bono Committee, to the Associate Evaluation Committee. The Management Committee has instructed the Associate Evaluation Committee to give serious consideration to each associate's pro bono work in the evaluation process in accordance with the firm's Pro Bono Policy Statement.⁸

6. **Training; Supervision.** The Pro Bono Committee should make lawyers in the firm aware of training sessions relating to pro bono areas of the law. Such sessions are presented annually by Philadelphia VIP and other legal service organizations in Philadelphia. Lawyers are encouraged to attend such training sessions.

Each pro bono case should be supervised in the same manner as fee-generating cases are supervised within the firm.

7. **New Lawyers.** The Pro Bono Committee should hold annual meetings with the firm's summer associates and new full-time associates to inform them of pro bono opportunities and of the firm's pro bono policy. These summer associates and new lawyers should be encouraged to make pro bono work a regular part of their practice.

⁶ Of course, every firm has its own filing and timerecords systems. To ease administration, pro bono matters should, to the greatest extent possible, be treated in the firm's filing and timerecords systems the way billable matters are treated.

⁷ The firm may wish to prepare a form of legal services agreement for pro bono matters based on the Philadelphia VIP model. This form of agreement can then be attached as an exhibit to the Pro Bono Procedures Memorandum.

⁸ This procedure should be adjusted to conform to your firm's associate process. The important point is that the evaluators (a) be aware of each associate's pro bono activities and (b) give positive credit to associates or their pro bono work.

8. ***Paralegals.*** Paralegals are also encouraged to work on pro bono matters. All pro bono legal work by paralegals must be performed under the supervision of a lawyer in accordance with the Rules of Professional Conduct.⁹

9. ***Other Matters.*** The Pro Bono Committee is authorized to address any other matters which may arise with respect to the firm's Pro Bono Program.

RESOLUTION OF THE BOARD OF GOVERNORS OF THE PHILADELPHIA BAR ASSOCIATION

WHEREAS, in August, 1988, the American Bar Association called upon all lawyers to render fifty hours each year in public interest legal service; and

WHEREAS, in December, 1990, the Pennsylvania Bar Association's special Task Force for Legal Services to the Needy issued its Report documenting "a severe and growing unmet need for legal representation for the poor and near-poor in Pennsylvania" and finding that "the consequences - to the poor and to society as a whole - of failing to meet this need are enormous"; and,

WHEREAS, the need for legal services of Philadelphia's poor- now numbering more than 420,000 - far exceeds the resources available to Community Legal Services and other organizations providing services or assistance to the poor; and,

WHEREAS, there are many fine public interest law firms in Philadelphia through which lawyers may undertake pro bono legal representation of the poor and disadvantaged in a wide variety of legal matters; and,

WHEREAS, this Association recognizes that law firms, including corporate and governmental legal departments, will have different approaches to how best to honor their attorneys' ethical obligation to render public interest legal service, but wishes to urge each firm and legal department to encourage all attorneys to contribute in some meaningful measure to the delivery of legal services to the poor and disadvantaged; and,

WHEREAS, this Association's Young Lawyers Section, its Committee on the Delivery of Legal Services, and its pro bono program, Philadelphia VIP, have together developed the attached Philadelphia Model Pro Bono Policy, which provides a guide for the development of written pro bono policies by law firms and legal departments; and,

WHEREAS, this Association wishes to encourage its attorneys to render fifty hours of pro bono service each year to poor persons and to organizations which have as their primary purpose service or assistance to the poor and disadvantaged;

⁹ Pennsylvania Rules of Professional Conduct, Rule 5.3.

NOW, THEREFORE, BE IT RESOLVED by the Board of Governors of the Philadelphia Bar Association as follows:

1. The Association hereby renews its commitment to ensure the delivery of legal service to all persons in need but unable to pay for legal services, and urges all law firms and legal departments to encourage all of their attorneys, partners as well as associates, to help provide pro bono legal service to the poor and disadvantaged.

2. The Association hereby adopts the Philadelphia Model Pro Bono Policy and calls upon each law firm and legal department in this City to develop and adopt its own written pro bono policy.

3. The Chancellor and staff of the Association are authorized to take such reasonable steps as the Chancellor may determine to publish and distribute the Philadelphia Model Pro Bono Policy.

4. The Association hereby adopts, and urges each of its members and law firms to adopt, the goal of having each attorney contribute each year fifty hours of legal service to the poor and disadvantaged, or to organizations having as their primary purpose service or assistance to the poor and disadvantaged, whether by providing direct service, through cash or in-kind donations, or by a combination of these methods.

Adopted Unanimously on July 25, 1991