

## Sample Pro Bono Policy

**This Sample Pro Bono Policy was prepared by the Pro Bono Project of Legal Aid of East Tennessee, Inc., to assist law firms in developing their own policy.**

### *Preamble*

While the lawyers and staff of this firm owe a duty to each other to further the prosperity of the firm, we recognize a companion duty to serve our community. As lawyers, we are particularly committed to the principle that all persons are entitled to equal access to justice. Our legal system is not a guild to which dues must be paid as a condition to obtaining its benefits and protections. Because the poor in our community are often the least able to navigate the complexities of legal relationships, their inability to afford routine legal services frequently leads them into complicated legal quagmires. As a result of their encounters with the legal system, therefore, the poor may find the personal and economic security of themselves and their families in ever greater jeopardy, thereby further straining the resources of our community and denying society the full benefit of the contributions they might otherwise make.

In addition to furnishing a service to our community, we recognize that providing legal representation to the poor strengthens our firm. By undertaking pro bono work, we broaden our knowledge of the law, expand our understanding of the delivery of legal services, and enhance our personal satisfaction with our careers. Further, we acknowledge that the firm's participation in organized pro bono projects in cooperation with our colleagues in the bar serves to enhance the standing of the profession as a whole by alerting the public to the fact that lawyers are leaders in community service.

With these principles in mind, the firm adopts the following policies to encourage and support the pro bono activities of all lawyers and staff members.

### *Section 1--Definitions*

**1.01 "Assistance Organization"** means a non-profit group providing certain services to persons with limited financial resources.

- A. While the Firm supports all groups that strive to improve the quality of life in the community, for the purposes of the Firm's pro bono policy, an "Assistance Organization" means a group that provides the following types of services to persons with limited financial resources:
  - 1. Direct assistance in meeting basic needs (food, clothing, shelter, medical attention, employment training, job placement, etc.);

2. Securing or protecting rights established by law; or
  3. Advocating systemic social, political, and economic advances designed to enhance the opportunities and rights available to persons with limited financial resources.
- B. “Assistance Organizations” do not include civic groups, social clubs, religious institutions, or similar organizations except to the extent that the organization’s activities are directly connected with providing services of the type specified in section 1.01(A).

**1.02 “Committee”** means the group described in Section 2.

**1.03 “Firm”** means \_\_\_\_\_

**1.04 “LAET”** means Legal Aid of East Tennessee, Inc.

**1.05 “LAET-Firm Agreement”** means the memorandum of understanding between the Firm and LAET, which defines the scope of the LAET-Firm Project.

**1.06 “LAET-Firm Project”** means the services the Firm has agreed to provide through the LAET Pro Bono Project under the LAET-Firm Agreement.

**1.07 “Pro Bono Client”** means a person with limited financial resources. A person is considered having limited financial resources if the person

- A. Is designated as “indigent” by a court;
- B. Meets the income- and asset-eligibility standards of LAET; or
- C. Meets the income and asset limitations set by the Pro Bono Committee from time to time under Section 5.02.
- D. Is a business entity owned by individuals who would otherwise be considered pro bono clients and who created that entity as an entrepreneurial enterprise aimed at lifting those individuals from poverty.

**1.08 “Pro Bono Project Manual”** means LAET’s written statement of policies and procedures governing Pro Bono Service through LAET.

**1.09 “Pro Bono Service”** means the Firm’s delivery of legal services to Pro Bono Clients. While the Firm’s pro bono policy is flexible enough to include other types of services, Pro Bono Service typically means either direct or indirect delivery of the following

types of legal services to Pro Bono Clients:

- A. **Direct Representation.** We provide Pro Bono Services by direct representation of Pro Bono Clients in the following circumstances:
  - 1. Court appointments in civil or criminal matters;
  - 2. Representation of clients through the LAET-Firm Project; and
  - 3. Representation of other Pro Bono Clients in litigation or transactional matters.
  
- B. **Indirect Representation.** We provide Pro Bono Services indirectly in the following circumstances:
  - 1. Representation of Assistance Organizations in
    - a. Organization--selecting and implementing a structure (*e.g.*, incorporation), developing governance procedures (*e.g.*, bylaws), etc.;
    - b. Maintenance (*e.g.*, annual minutes, reports, grant applications, etc.); and
    - c. Special Projects (*e.g.*, training seminars, acquisition and transfer of property, contracts, etc.).
  - 2. Participation in LAET client intake, case placement, and advice clinics, and other LAET programs.

### *Section 2-Pro Bono Committee*

**2.01 Members.** The Firm's Pro Bono Committee shall consist of \_\_\_\_\_ members:

- A. One member shall be the Firm's managing partner, who shall also serve as the Committee chair.
- B. One member shall be the person designated as the coordinator of the LAET-Firm Project.
- C. Two members shall be elected by a majority vote of the Firm's partners. A member elected by the partners may be removed by a majority vote of the

partners with or without cause at a meeting of partners called for that purpose upon at least 72 hours' written notice to all partners of the time, place, and purpose of the meeting.

- D. One member shall be elected by a majority vote of the Firm's associates. A member elected by the associates may be removed by a majority vote of the associates with or without cause at a meeting of associates called for that purpose upon at least 72 hours' written notice to all associates of the time, place, and purpose of the meeting.

**2.02 Election.** Elected Committee members shall be chosen at an election to be held annually on \_\_\_\_\_ in accordance with rules established by the Committee from time to time.

**2.03 Meetings.**

- A. **Monthly.** The Committee shall meet at least monthly at a time and place set by the chair to evaluate the Firm's progress in implementing its Pro Bono Service policies. At a monthly meeting, the Committee may also consider whether to accept a proposed Pro Bono Service or any other matter brought before the Committee by a member if written notice of the matter is given to members at least 24 hours before the meeting.

- B. **Special.** The Committee shall meet at any time set by at least two members, who shall give written notice to other members at least 24 hours before the meeting of the time, place, and purpose of the meeting.

- C. **Quorum.** The Committee may transact business when a majority of the Committee is present in person or by proxy.

- D. **Consent.** The Committee may transact business without a meeting by written consent of a majority of members.

**2.04 Action.** The Committee acts by a majority vote of its members.

***Section 3—Accepting Pro Bono Clients***

While lawyers and staff members are free to perform services outside of the scope of this section (subject to the Firm's general policies), services shall not be considered "Pro Bono Services" except as provided in this Section 3.

**3.01 In-House Pro Bono Clients.**

- A. A Pro Bono Client is considered an "In-House Pro Bono Client" unless the Pro

Bono Service is (1) ordered by a court or (2) referred through the LAET-Firm Project.

- B. Pro Bono Service for an In-House Pro Bono Client must be approved in advance by the Committee. The Committee shall consider the following criteria in accepting or rejecting a proposal to provide Pro Bono Service:
  - 1. Whether the service furthers the Firm's Pro Bono Service policies, including service to the community and broadening opportunities for the Firm's lawyers and staff;
  - 2. The availability of personnel to handle the service;
  - 3. The amount of unreimbursable expenses the Firm will incur; and
  - 4. The same criteria used to determine whether the Firm will perform services for any other client (including, *inter alia*, the expertise of the Firm's lawyers and staff, conflicts of interest, and the likelihood of success).

**3.02 Proposal.** Any lawyer, staff person, or potential Pro Bono Client may request the Committee's approval of a proposed Pro Bono Service. To obtain approval to represent an In-House Pro Bono Client, the person making the request shall submit a written proposal to the Committee. The proposal shall include (A) the name of the client, (B) a description of the contemplated services, (C) an estimate of the time and expense to be incurred, (D) the results of a conflict-of-interests review, and (E) any information required by the Committee regarding the proposed client's income, assets, and liabilities.

**3.03 LAET-Firm Project.**

- A. The coordinator of the LAET-Firm Project shall assign referrals under the terms of the LAET-Firm Agreement.
- B. In addition to any other information reasonably requested by the Committee, the coordinator shall make a written report to the Committee at least monthly identifying all Pro Bono Clients referred through the LAET-Firm Project, identifying the lawyer and/or staff person(s) assigned to perform the Pro Bono Service, and describing the status of the Firm's representation.
- C. The Committee shall negotiate the terms of the LAET-Firm Agreement and shall review this agreement at least once every three years.

**3.04 Conditions.** If the Committee imposes any conditions of representation, these conditions shall be itemized in writing. The Committee shall not impose conditions that would (A) result in the Firm representing the Pro Bono Client differently than any other client (other than in billing) or (B) violate the terms of the LAET-Firm Agreement or a court order.

**3.05 Fees.**

- A. The Firm adopts the Attorney Fee Policy contained in the Pro Bono Project Manual.
- B. The Firm shall charge reduced fees for all cases designated by the Committee as “Reduced-Fee Files” under Section 5.02.

**3.06 Budget.** The Firm shall include a fund reserved for unreimbursable expenses incurred in Pro Bono Service as a line item in its annual operating budget. The Committee shall make a recommendation to the Firm’s budget committee regarding the amount of that allocation, but the budget committee shall determine the amount actually included in the budget.

**3.07 Expenses.**

- A. Pro Bono Clients shall not pay normally billable “overhead” expenses (such as copy charges, postage, etc.), unless (1) the client is an In-House Pro Bono Client and (2) the Committee determines that the “overhead” expense is unusually high (in comparison with the “overhead” expenses typically billed to other clients), in which case the expense shall be considered an “out-of-pocket” expense under Section 3.07(B).
- B. The Committee shall determine the extent to which an In-House Pro Bono Client shall pay out-of-pocket expenses (such as filing fees, deposition costs, etc.).
- C. The Firm shall seek any available reimbursement from the government or other agencies for out-of-pocket expenses incurred in connection with representing court-appointed Pro Bono Clients.
- D. The Committee may (by majority vote) seek any available reimbursement from LAET for out-of-pocket expenses incurred in connection with representing clients referred through the LAET-Firm Project.

**3.08 Engagement Agreements.** All Pro Bono Clients shall have a written engagement

agreement specifying (A) fee waiver or reduction, (B) the policy established by the Committee for payment of out-of-pocket expenses, and (C) any other permitted conditions of representation.

### *Section 4–Service Expectations*

- 4.01 Standards.** Lawyers and staff members shall provide the same standards of professional attention, staffing, and supervision to Pro Bono Services as provided to other client services.
- 4.02 Assignments.** Pro Bono Services may be assigned to associates and staff members in the same manner that responsibility for other services are assigned, by cooperation between the Committee and the lawyer responsible for making assignments. Therefore, Pro Bono Services shall be considered when determining an individual’s availability for other assignments.
- 4.03 Billable Hours.** For the purpose of calculating the number of hours spent on substantive versus administrative tasks, time spent on Pro Bono Services is considered “billable” time up to a maximum of \_\_\_\_ hours per year. Additional hours may be considered “billable” time with the written approval of the Committee.
- 4.04 Minimum Hours.**
- A. **Partners.** Partners shall devote at least \_\_\_\_ hours per year to Pro Bono Services.
  - B. **Associates.** Associates shall devote at least \_\_\_\_ hours per year to Pro Bono Services.
  - C. **Paralegals.** Paralegals shall devote at least \_\_\_\_ hours per year to Pro Bono Services.
  - D. **Other Staff.** Other staff members shall devote at least \_\_\_\_ hours per year to Pro Bono Services.
  - E. **Overtime Pay.** Staff members who entitled to “overtime” compensation under applicable wage-and-hour regulations shall perform Pro Bono Services during regular work hours, except to the extent that overtime is permitted under the Firm’s personnel policies.
- 4.05 Evaluations.** Compliance with the Firm’s pro bono policy shall be one component in

the performance evaluation of all lawyers and staff members.

### ***Section 5–In-House Client Eligibility and Fees***

**5.01 Economic Eligibility.** The Committee may set standards to define whether a potential client is considered a person of limited financial resources. If the Committee elects to adopt such standards, the standards shall

- A. Consider the potential client’s liabilities as well as his or her income and assets;
- B. Not be more restrictive than the income-eligibility and asset-eligibility standards for LAET;
- C. Provide a procedure by which the financial information is kept confidential, segregated from the case file, and in compliance with any financial privacy regulations; and
- D. Include guidelines for how the financial information may be obtained from the potential client in a manner demonstrating the Firm’s respect for the potential client’s dignity and privacy.

**5.02 Reduced-Fee Guidelines.** The Committee may adopt a policy for reducing the fees normally charged by the Firm. If the Committee adopts such a policy, any solicitation of financial information from a potential Pro Bono Client to determine eligibility for a reduced-fee program shall be subject to the restrictions itemized in Section 5.01.