
MANAGEMENT DIRECTIVE

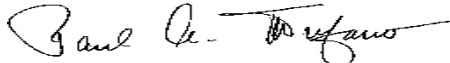
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COMMONWEALTH OF PENNSYLVANIA GOVERNOR'S OFFICE

Subject:

Pro Bono Publico Legal Services

By Direction Of:


Paul A. Tufano, General Counsel

Date:

February 11, 1999

This directive establishes policy and procedures for lawyers employed by the Office of General Counsel who participate in pro bono legal services, etc.

1. PURPOSE. To establish policy and procedures for the participation by Office of General Counsel lawyers in pro bono legal services, programs, and activities.

2. SCOPE. This directive applies to all lawyers employed by the Office of General Counsel.

3. POLICY.

a. The Office of General Counsel encourages lawyers to participate in volunteer programs for community service. The Supreme Court of Pennsylvania has adopted *Rule 6.1* of its *Rules of Professional Conduct (Pa. R.P.C.)*. This rule provides that a lawyer should render public interest legal services. The American Bar Association has adopted goals for lawyers to provide pro bono services to persons of limited means.

b. Lawyers employed by the Office of General Counsel may participate in pro bono publico activities only in accordance with the requirements and procedures set forth in this directive. The term "lawyer" or "lawyers" refers to a lawyer or lawyers employed by the Office of General Counsel.

c. Lawyers may participate in any approved pro bono programs.

d. Lawyers are encouraged to provide legal services in connection with such approved charitable, religious, governmental, educational, or other community activities as their interests may direct.

4. RESPONSIBILITIES.

a. The Pro Bono Coordinating Committee (hereinafter referred to as "Committee") is hereby established. The Committee shall have a Chairperson and such other members as may be appointed by the General Counsel. The Committee will:

(1) Have general responsibility for the operation of the Office of General Counsel pro bono program.

(2) Review and approve or disapprove acceptance of pro bono matters by Office of General Counsel lawyers.

(3) Serve as the liaison with referral agencies and the Office of General Counsel lawyers providing pro bono services. The Committee will assist Office of General Counsel lawyers with conflict of interest questions and will provide advice on any issues which arise from the pro bono program.

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b. Office of General Counsel Lawyers.

(1) Lawyers may accept pro bono assignments approved by the Committee in the following areas:

(a) Domestic relations cases in which an order of protection is the only relief sought.

(b) Landlord/tenant cases.

(c) Consumer protection cases.

(d) Service as a guardian ad litem.

(e) Wills, living wills, powers of attorney, durable powers of attorney, and guardianships.

(f) Participation in dispute arbitration, mediation, or resolution services.

(g) Legal work for a nonprofit organization in matters designed primarily to address the needs of persons of limited means.

(h) Legal work for charitable, religious, governmental, educational, or other community organizations.

(i) Participation in communities or activities related to the delivery of pro bono services.

(j) Educational activities, training, and teaching designed to improve law, the legal system, the legal profession, or community understanding of the law and the legal profession.

(k) Literacy, tutoring, or mentoring programs for youth offenders or persons of limited means.

(l) Other areas authorized by the Committee.

(2) Lawyers may not provide pro bono services in criminal matters.

(3) Lawyers may not accept or continue representation in the following:

(a) Any matter in which the Commonwealth or any of its agencies has an interest even if that agency has no connection to the lawyer's normal duties.

(b) Any matter which would require representation before a Commonwealth agency.

(c) Any matter in which a challenge to the constitutionality of a state statute is the indicated course of action.

(d) Any matter in which participation would create an appearance of a conflict of interest.

(e) Any matter that would interfere unduly with the lawyer's abilities to perform his or her regular duties.

(f) Any matter which would constitute a conflict of interest as provided in *Pa. R.P.C. 1.7 – 1.12*.

(g) Any other matter in which participation may be inappropriate as determined by the Committee.

5. PROCEDURES.

a. Notice and Approval.

(1) Before agreeing to provide legal services in a pro bono matter, the lawyer must notify the Chief Counsel of the lawyer's agency, who shall forward the request to the Committee. The request shall include such information as prescribed by the Committee. The Chief Counsel shall recommend whether the request should be approved or disapproved.

(2) The Committee will approve or disapprove the matter and determine what limitations, if any, will apply. The Committee will communicate the approval or disapproval and any limitations to the lawyer.

(3) Before discussing a case, the lawyer must inform a pro bono client or the referral agency, as appropriate, that the lawyer must receive Committee approval before final acceptance of the matter.

(4) The lawyer, before performing any services for the pro bono client, must provide the client with an engagement letter which includes such terms as the Committee may prescribe.

b. Case Management. Once a lawyer has approval to accept the matter, the lawyer shall follow the procedures set by the referral agency, if any, for establishing and administrating files, tracking deadlines, statutes of limitations, and all other matters pertinent to the case. The Office of General Counsel is not responsible for any of these matters.

c. Legal Malpractice Insurance. The Office of General Counsel does not provide insurance coverage for pro bono services and assumes no liability for pro bono activities performed by any of its lawyers. Coverage may be provided by a referral agency, particularly those providing direct legal representation of pro bono clients. In matters in which insurance is unavailable or impractical to procure, such as startup representation of nonprofit corporations, lawyers should recognize the risk of personal liability that they assume before undertaking to provide legal services.

d. Use of the Name of the Commonwealth or Any Commonwealth Agencies. Lawyers who provide pro bono services do so in an individual capacity and shall not represent to any person that they are acting on behalf of the Commonwealth, or any agency of the Commonwealth. Lawyers shall not:

(1) Use office stationery or anything bearing the Commonwealth or any Commonwealth agency letterhead or logo.

(2) Distribute business cards provided by the Commonwealth or any Commonwealth agency.

(3) Use anything else that associates the pro bono services being performed with the official work of the Commonwealth or any Commonwealth agency.

e. When Pro Bono Legal Services May be Provided.

(1) Lawyers must give first priority to their official duties. Pro bono matters should be handled outside regular work hours, such as during lunch

periods, before and after regular work hours, and on weekends, holidays, and leave time, whenever feasible.

(2) It is recognized that, due to limitations on use of Commonwealth resources for pro bono purposes, as set forth in Section f. below, it may be necessary for a lawyer to perform pro bono services on-site at the referral agency or nonprofit organization during regular work hours.

(3) Time spent on pro bono services during regular work hours shall be made up by the lawyer, on a weekly basis, so that the lawyer can:

(a) Account for the required hours per week on official duties; or

(b) Utilize approved annual, personal, or unpaid leave.

f. Use of Resources.

(1) The general policy is that a lawyer must not use Commonwealth resources for pro bono matters.

(2) Direct expenses for any pro bono work, such as filing fees, court costs, and transcripts will not be paid by the Commonwealth. Lawyers must make appropriate arrangements with the client, the referral agency, or other body through which the matter was referred. Court costs and filing fees may be waived whenever an *in forma pauperis* petition and a lawyer certification of free legal service are filed with a court pursuant to *Pa. R.P.C. 240*.

(3) Lawyers are specifically prohibited from using the following Commonwealth resources for pro bono matters:

(a) Vehicles.

(b) Credit cards.

(c) Accounts for payment of costs and expenses.

(d) On-line computer research services billed to the Commonwealth on a fee-per-use basis.

(e) Telephones for long distance calls except to a referral agency.

(f) Postage.

(4) Lawyers may use the following Commonwealth resources and supplies for pro bono matters so long as the use does not interfere with the agency's work or efficiency:

(a) Library.

(b) Dictation equipment.

(c) Computers and typewriters.

(d) Facsimile and copying equipment.

(e) Printer paper, copy paper, envelopes, and similar supplies within reasonable limits.

(5) Lawyers are prohibited from using their workplace to meet with pro bono clients or others concerning such matters.

(6) Lawyers are prohibited from accepting telephone calls from pro bono clients at their workplace. In those instances where a referring agency is involved, a pro bono client must be given only the telephone number of the referring agency for the purpose of contacting the lawyer by telephone.

(7) The referral agency or organization for which pro bono matters are undertaken should be consulted at the outset about policies on use of their offices, support staff, credit cards, telephones, equipment, and supplies so that their resources can be used to the maximum extent permitted and feasible.

g. Training.

(1) Lawyers representing pro bono clients are subject to *Pa. R.P.C. 1.1*, which provides that a lawyer shall provide competent representation to a client. Lawyers should not accept any case for which they do not have the requisite legal knowledge and skills necessary for the representation.

(2) The Office of General Counsel does not assume responsibility to provide appropriate training opportunities for lawyers in pro bono programs.