



# THE FLORIDA BAR FOUNDATION

## Benchmarks for Pro Bono Legal Services Programs

Board Approved Revisions March 9, 2018

### Introduction

The Florida Bar Foundation (Foundation) provides funding for legal aid organizations that provide pro bono legal services to clients who are low-income individuals or groups that serve low-income individuals. Some of these pro bono programs are a project of a larger legal aid organization and others are stand-alone organizations.

The Foundation expects the pro bono programs it funds and collaborates with to work toward meeting the benchmarks described below. The Benchmarks will be used when the Foundation conducts an external assessment of a grantee and when the Foundation assesses grant applications for general operating or pro bono funding. The *Benchmarks' Self-Assessment Workbook* from the Foundation can be used as part of an organization's internal evaluation of its pro bono program.

### American Bar Association Standards

The American Bar Association (ABA) has adopted standards for civil legal aid providers (*Standards for Providers of Civil Legal Services for the Poor, revised 2006*) and additional standards for civil legal pro bono providers (*Standards for Programs Providing Civil Pro Bono Legal Services to Persons of Limited Means, 2013*). The Foundation expects grantees to use both sets of standards as guidelines for their work.

The Foundation's Benchmarks are complementary to the two sets of *Standards*—some repeating a point in the ABA's *Pro Bono Standards* to emphasize its importance to the Foundation and some expanding on a point of a standard in a way the Foundation believes is important. Note that although the Foundation's benchmarks do not directly address the quality of client services or many administrative operations, such as financial accountability, these are important areas for which the grantees should look to the ABA standards for guidance.

The benchmarks include examples of indicators of whether an organization may be meeting a benchmark. The indicators are illustrative of attributes or actions that demonstrate a benchmark is being met. The indicator lists are not exhaustive or exclusive.

### Pro Bono Benchmarks

**A. Budget.** “[T]he governing body should ensure the organization has sufficient resources to: Meet program priorities; Furnish training and support to volunteers and staff; and Provide adequate salaries and benefits to qualified, experienced staff.” (*Commentary to ABA Pro Bono Standard 1.3*). A pro bono program should have the resources necessary to be able to maximize the utilization of pro bono attorneys, whether it is solely a pro bono program or is part of a larger organization with a staff delivery component as well. An organization with a pro bono program

that is a component of its services should have a pro bono budget that is easily identifiable. An appropriate amount and/or percentage of a budget will vary among pro bono programs. For LSC-funded organizations, an appropriate amount may be more than 12.5 percent of the LSC funding if other funding is significant.

#### **Indicators**

- A.1. The pro bono budget is sufficient to fund staff and activities that maximize the utilization of pro bono attorneys.
- A.2. The budget for a pro bono program that is a component of a larger organization is delineated in a line-by-line budget.

**B. Staff.** “A pro bono program should employ personnel who are skilled, diverse, culturally competent, and committed to the provision of high quality legal services. Program staff should be sufficient in number to ensure that the program can achieve its mission and can work effectively and efficiently with clients and volunteers.” (*ABA Pro Bono Standard 2.1*). A Pro Bono Manager<sup>1</sup> should have “a professional attitude, excellent communication abilities and strong administrative, organizational and interpersonal skills.” (*Commentary to ABA Pro Bono Standard 2.1*). In addition to having a pro bono manager with strong skills and a commitment to the program’s mission, a pro bono program should be staffed with enough skilled individuals, so clients’ cases are processed in a timely manner and volunteer attorney recruitment and support can be done effectively and professionally.

#### **Indicators**

- B.1. Pro bono staff are skilled.
- B.2. Pro bono staff are diverse.
- B.3. Pro bono staff are culturally competent.
- B.4. Pro bono staff are committed to high quality pro bono legal services.
- B.5. Pro bono staff have good communication skills.
- B.6. Pro bono staff are high performers.
- B.7. Pro bono staff are flexible.
- B.8. Pro bono staff use creativity to keep the program fresh, fun and productive.
- B.9. New pro bono staff receive orientation and training in pro bono methods, operations and philosophy.
- B.10. The pro bono manager is an active member of the Florida Pro Bono Coordinators Association.
- B.11. The pro bono manager and other pro bono program staff regularly attend trainings and conferences, including the Equal Justice Conference, to update and improve their skills.
- B.12. The pro bono manager and other pro bono professional staff solicit and share pro bono ideas through national, state, regional and local groups, including through national and state listservs.
- B.13. Pro bono staff use the resources on the ABA’s website.
- B.14. A pro bono manager who is not an attorney has appropriate attorney supervision and support from an attorney who has sufficient time, training, and commitment.
- B.15. Staffing is sufficient for timely processing of cases.
- B.16. Staffing is sufficient for effective recruitment and support of volunteer attorneys.

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<sup>1</sup> The *ABA Standards for Programs Providing Civil Pro Bono Legal Services to Persons of Limited Means* use the phrase “Pro Bono Manager” for the position in charge of the pro bono program. In many programs, this position is called “Pro Bono Coordinator.”

**C. Administration.** “A pro bono program should develop and maintain internal systems for identifying conflicts and for managing, retrieving and evaluating data regarding prospective clients, clients, volunteers, partner agencies, services provided, and program operations.” (*ABA Pro Bono Standard 2.3*). A pro bono program should maximize the use of its Case Management System (CMS) by ensuring that all pro bono staff are proficient with and take full advantage of the CMS’ pro bono capabilities.

**Indicators**

- C.1. Pro bono staff have been trained in the CMS and participate in further training, when offered.
- C.2. Pro bono staff use the CMS effectively to check for conflicts, make case assignments, utilize pro bono attorneys appropriately, and maintain data.
- C.3. Pro bono staff send e-mails to groups of volunteer attorneys via the CMS, when appropriate.
- C.4. Pro bono staff, including the pro bono manager, produce reports that assist them and funders to evaluate the pro bono program.

**D. Management and Board Involvement.** When a pro bono program is part of a larger entity, “...it is especially important for parent program leadership to send a clear message to staff, the legal community and the community-at-large that pro bono is valued. (*Commentary to ABA Pro Bono Standard 1.11*). “The governing body should support the operation of the pro bono program by assisting in activities such as program advocacy, fundraising, volunteer recruitment, volunteer recognition and public relations.” (*ABA Pro Bono Standard 1.4*). “First and foremost, governing body members should be advocates for the program as a key component of the community’s overall legal services delivery system. They should value the role of pro bono legal services delivery and support the value the pro bono program provides for clients, the courts and the legal profession. (*Commentary to ABA Pro Bono Standard 1.4*).

The executive director and other management staff should support the operation of the pro bono program by assisting in such activities as well. Attorney members of the board of directors of a pro bono program should provide pro bono legal services through the program and be involved with recruiting and recognizing their peers.

**Indicators**

- D.1. The Board of Directors is knowledgeable about the pro bono program.
- D.2. A pro bono program within a larger organization makes a presentation at least annually at a Board of Directors meeting.
- D.3. Board members are effective ambassadors on behalf of the pro bono program.
- D.4. Attorney board members provide pro bono assistance through the pro bono program.
- D.5. The Executive Director recruits volunteer attorneys.
- D.6. Board members recruit volunteer attorneys.
- D.7. The Executive Director thanks individual volunteer attorneys.
- D.8. Board members thank individual volunteer attorneys.
- D.9. The Executive Director and other attorneys, as appropriate, are involved with the bar association(s), developing relationships with attorneys who provide pro bono services with the program and other attorneys who could be recruited to provide pro bono services.
- D.10. Board members are involved with the bar association(s), developing relationships with attorneys who provide pro bono services with the program and other attorneys who could be recruited to provide pro bono services.

**E. Collaboration.** “A pro bono program should strive to cooperate, collaborate and coordinate with other providers of legal services, the organized bar, the judiciary, law schools and community organizations. (*ABA Pro Bono Standard 2.6*). One good way to accomplish some of this is through collaboration with the Judicial Circuit Pro Bono Committees, which includes many of these stakeholders. Collaboration with The Florida Access to Justice Commission and The Florida Bar’s Standing Committee on Pro Bono Legal Service on pro bono policy development should be a responsibility for many pro bono managers.

**Indicators**

- E.1. The pro bono program is an active member or supporter of the local judicial circuit pro bono committee(s).
- E.2. The pro bono program cooperates, collaborates and/or coordinates with other providers of legal services in its service area to identify clients’ legal needs.
- E.3. The pro bono program cooperates, collaborates and/or coordinates with other providers of legal services in its service area on the establishment of program priorities.
- E.4. The pro bono program cooperates, collaborates and/or coordinates with other providers of legal services in its service area on the development of training events and materials.
- E.5. The pro bono program cooperates, collaborates and/or coordinates with other providers of legal services in its service area on specific assistance projects.
- E.6. The pro bono program collaborates with other providers of legal services in its service area to have a coordinated delivery system.
- E.7. The pro bono program cooperates, collaborates and/or coordinates with other providers of legal services *outside* its service area.
- E.8. The pro bono program cooperates, collaborates and/or coordinates recruitment efforts with the local bar association(s) and other bar groups.
- E.9. The pro bono program cooperates, collaborates and/or coordinates recognition efforts with the local bar association(s) and other bar groups.
- E.10. The pro bono program involves the judiciary in recruitment efforts.
- E.11. The pro bono program involves the judiciary in recognition efforts.
- E.12. The pro bono program cooperates, collaborates and/or coordinates with the local law school(s).
- E.13. The pro bono program cooperates, collaborates, and/or coordinates with community organizations.
- E.14. The pro bono manager collaborates with the Florida Access to Justice Commission or The Florida Bar’s Standing Committee on Pro Bono Legal Service on pro bono policy development.

**F. Integration with Staff Organization.** A legal services organization that has both a pro bono delivery component and a staff delivery component should ensure that staff in the two components of the organization work as an integrated delivery system. Staff of the pro bono program and pro bono attorneys should be viewed and treated by all staff as valuable members of the delivery system’s team who can expand the scope and ability of the organization to serve the needs of clients. Where appropriate, new and existing legal projects designed to address a particular issue should utilize pro bono attorneys as part of the project.

**Indicators**

- F.1. Staff attorneys and volunteer attorneys co-counsel cases.
- F.2. Staff attorneys mentor volunteer attorneys.

- F.3 Volunteer attorneys mentor staff attorneys.
- F.4. Volunteer attorneys and staff attorneys work on projects together.
- F.5. Pro bono staff are respected by staff of the staff delivery component.
- F.6. Volunteer attorneys are respected and valued by staff attorneys.
- F.7. The intake process of the staff and pro bono programs are integrated and result in the most appropriate assignment between staff and pro bono attorneys.
- F.8. Staff attorneys and other staff provide training for pro bono attorneys.
- F.9. Pro bono attorneys provide training for staff advocates.
- F.10. Staff attorneys are involved with the bar association(s), developing relationships with attorneys who provide pro bono services with the program and other attorneys who could provide pro bono services.
- F.11. Staff attorneys recruit volunteer attorneys.
- F.12. The organization's management encourages and facilitates integration of the staff and pro bono program.
- F.13. The pro bono staff is represented on the management team.
- F.14. Pro bono staff periodically attend intake meetings of substantive law units/teams.

**G. Attorney Input.** “A program should also seek the views of its volunteers regarding their overall satisfaction with the program and any suggestions that they may have for improving it. (*Commentary to ABA Pro Bono Standard 2.18*). A pro bono program should regularly solicit and receive, from a variety of attorneys, advice about its pro bono projects and operations, including how to most effectively recruit and retain volunteer attorneys and improve the program. These attorneys should be from a wide range of ages and a variety of practice settings. They should include both those who volunteer with the pro bono program and those who do not. Input should be solicited as well from judges and from representatives of voluntary bar associations to ensure good communication between the pro bono program and bar associations.

Formal groups may be able to help with this input. Possibilities include an advisory committee for a pro bono program that is a component of a larger organization, a pro bono program's Board of Directors, or a Circuit Pro Bono Committee. Pro bono programs may also obtain advice and ideas from individual attorneys and ad hoc groups and use information gathered by similar pro bono programs.

**Indicator**

- G.1. The pro bono program regularly solicits and uses suggestions about changes and improvements from a wide variety of attorneys.

**H. Volunteer Opportunities for Pro Bono Attorneys.** “A pro bono program should establish a design for delivery of legal services which effectively and efficiently meets identified client need and is tailored to local circumstances, including existing resources and services and volunteers' ability and willingness to deliver services.” (*ABA Pro Bono Standard 2.10*). “When possible, a program should try to develop a broad range of volunteer opportunities and systems for delivering service, to increase its ability to recruit volunteers.” (*Commentary to ABA Pro Bono Standard 4.1*).

Having a variety of volunteer opportunities makes it more likely that a pro bono program's volunteer recruitment and retention efforts will be successful. A pro bono program should offer volunteer lawyers a full range of pro bono opportunities that allow them to provide different levels of assistance, including intake (if appropriate), advice, brief service, extended representation, assistance for pro se litigants, and community legal education.

Attorneys who volunteer to assist in an infrequently-needed area of the law, including transactions, should be utilized in their areas as much as possible and encouraged to assist clients in other areas of the law when their specialty area is not needed. They should be offered training that gives them the expertise and support needed for them to do so.

The volunteer opportunities should be in a variety of areas of the law if the pro bono program assists clients in various legal areas.

The volunteer opportunities should offer pro bono attorneys choices for time commitment amounts and should include convenient times for volunteering, including outside regular work hours.

Pro bono programs that have law schools in their service area should provide pro bono opportunities for law students for future attorneys to have experienced pro bono service.

#### **Indicators**

- H.1. Volunteer opportunities include a variety of types of legal assistance from advice to extended representation.
- H.2. Volunteer opportunities are offered in a variety of the program's priority legal areas.
- H.3. Pro bono opportunities' time commitments are varied and include convenient times for volunteering.
- H.4. The pro bono program is flexible when developing and implementing volunteer opportunities.
- H.5. New volunteer opportunities are added when client legal needs change or expand.
- H.6. Where appropriate, pro bono opportunities are provided for law students.

**I. Recruitment of Pro Bono Attorneys.** "A pro bono program should develop effective strategies for recruiting volunteers." (*ABA Pro Bono Standard 4.1*). Although general recruitment is sometimes appropriate, a pro bono program should target its recruitment efforts to maximize results. Attorneys who are of the same racial/ethnic groups of the client community and/or speak the languages spoken by the client community should be recruited to increase a pro bono program's ability to provide culturally competent services. Attorneys who have expertise in the legal areas of greatest needs should be asked to share their expertise with pro bono clients.

A pro bono program should encourage, organize and support efforts for current pro bono attorneys to recruit their peers, e.g., solo practitioners, firm associates, government attorneys, retirees, etc.

"Members of the program's governing body should view recruitment of volunteers as one of their important responsibilities." (*Commentary to ABA Pro Bono Standard 4.1*).

Personal interaction and solicitation (in-person or telephone) should be used as much as possible, while also using methods appropriate for different attorneys, i.e., social media for younger attorneys.

Pro bono programs should cooperate with statewide efforts to recruit volunteer attorneys. The paper and on-line materials used for recruitment should be professional-grade and easy to use. Attorneys should be able to become a volunteer through a pro bono program's website.

“Publicizing the program and its good work is an important recruitment tool...” (*Commentary to ABA Pro Bono Standard 4.1*).

#### **Indicators**

- I.1. Pro bono attorneys personally recruit their peers to be volunteers.
- I.2. Volunteer attorneys are recruited for specific projects, when appropriate.
- I.3. Recruitment methods that use the internet, websites and social media are employed.
- I.4. A variety of attorneys, diverse by gender, age, practice setting, and specialty are recruited.
- I.5. New attorneys are specifically recruited when admitted and a year or two later.
- I.6. Former law students who were volunteers or employees of the pro bono program are recruited.
- I.7. The judiciary is involved in recruitment of pro bono attorneys.
- I.8. A clear, detailed description of pro bono opportunities is posted on the program’s website and given to attorneys being recruited.
- I.9. New volunteers can volunteer via e-mail, mail, website and in person.
- I.10. Statewide recruitment materials are used when appropriate.
- I.11. All recruitment materials are professional-grade and easy to understand.
- I.12. Current research findings about civil legal aid communications, including those from Voices of Civil Justice at <https://voicesforciviljustice.org/>, are used.
- I.13. The pro bono program sponsors or participates in Pro Bono Month activities designed for recruitment.

**J. Training of Pro Bono Attorneys.** “A pro bono program should offer training, mentoring and supervision to its volunteers.” (*ABA Pro Bono Standard 4.8*). “[T]he types of cases that program volunteers are willing to accept can be expanded by offering training and support services in areas that volunteers may not usually handle in their private practices, but would be willing to address if provided with the proper tools.” (*Commentary to ABA Pro Bono Standard 4.8*)

A pro bono program should offer volunteer attorneys access to free, regular training to give them the knowledge and skills they feel they need to provide pro bono legal services. The training may be provided by the pro bono program or made available through another organization. Pro bono programs are encouraged to enlist the resources of local bar associations and other groups to sponsor and assist with training.

Both in-person events and on-line videos/webinars should be offered. Experienced practitioners should be recruited to mentor less experienced volunteer attorneys.

Attorneys being recruited should be told of specific, training resources and when they are available. Training should be offered regularly in the areas in which attorneys are volunteering and in the areas in which a pro bono program would like them to volunteer. Volunteer attorneys should be encouraged to take training in areas outside of their areas of expertise.

#### **Indicators**

- J.1. Training is available soon after attorneys are recruited.
- J.2. Training is provided for each volunteer opportunity.
- J.3. Training is free for volunteers and attorneys who agree to be volunteers.
- J.4. Updated training sessions are provided regularly.
- J.5. Training is available in a variety of formats, including events, webinars and manuals.

- J.6. Free CLE credit is available for taking training from the pro bono program.
- J.7. Experienced practitioners are available to mentor less experienced volunteer attorneys.

**K. Utilization and Retention of Pro Bono Attorneys.** “If the time and skills of...volunteers are unused or underutilized, the stature, credibility and effectiveness of the program are greatly diminished.” (*Commentary to ABA Pro Bono Standard 4.9*). “[I]t is vital that programs develop effective strategies for utilizing volunteers to meet the needs of clients. Such strategies should ensure that every volunteer is utilized as soon after being identified as possible, should make effective use of each volunteer in relation to the volunteer’s resources, level of skill and expertise and should maximize each volunteer’s commitment of time and resources” (*Commentary to ABA Pro Bono Standard 4.9*).

“One of the key elements to successfully retaining volunteers is having a good program in place that is sensitive to the needs of volunteers.” (*Commentary to ABA Pro Bono Standard 3.5-7*).

A pro bono program should ensure that pro bono attorneys are volunteering regularly, and evaluate how it is utilizing pro bono attorneys to determine if other models of service delivery may more effectively and efficiently leverage the volunteer resources to meet client needs.”

**Indicators**

- K.1. Pro bono attorneys are utilized within a timely manner of their volunteering, including as soon as possible after receiving training.
- K.2. Pro bono attorneys are utilized at least once within a two-year period.
- K.3. Pro bono attorney development occurs where current volunteers are engaged in new pro bono opportunities, including opportunities where they provide higher levels of assistance than they provided in the past.
- K.4. Volunteers who have not participated in the last twelve months are contacted and encouraged to sign up for a specific volunteer opportunity.
- K.5. Active and inactive volunteers are solicited for their comments and ideas about how to improve volunteer experiences.
- K.6. Pro bono attorneys can volunteer for a case through the program’s website.
- K.7. Pro bono attorneys can volunteer for a case through Florida Pro Bono Matters.
- K.8. Pro bono attorneys receive case materials via e-mail, if desired.

**L. Recognition of Pro Bono Attorneys.** “A pro bono program should develop effective methods for retaining and recognizing its volunteers.” (*ABA Pro Bono Standard 4.12*). “Acknowledgement of the contribution made by program volunteers can provide much satisfaction to volunteers and can be a factor in their decision to remain actively involved in pro bono work. Recognition of current volunteers’ efforts also can aid in the recruitment of new volunteers who learn of the program through recognition events.” (*Commentary to ABA Pro Bono Standard 4.12*).

A pro bono program should use a variety of methods to give recognition to its pro bono attorneys, ensuring that all are thanked personally and recognized publicly. At least once a year, a personal thank-you note should be sent from or a telephone call made by a judge, the pro bono program’s executive director, or a member of the Board of Directors. The firm or employer of a volunteer attorney should be thanked and recognized, if the volunteer attorney wants his/her employer to know of his/her service. Public recognition should include acknowledgement for various types of service, not just the most pro bono service.



### **Indicators**

- L.1. A variety of individual and public recognition methods are used.
- L.2. The judiciary is involved in personal and/or public recognition of pro bono attorneys.
- L.3. All volunteer attorneys who have provided pro bono service are thanked personally soon after their service and at least once a year.
- L.4. The employers of volunteer attorneys are thanked at least once a year, if the volunteer attorney approves of the employer being thanked.
- L.5. Clients are encouraged to write a thank-you note.
- L.6. Individual client satisfaction forms are sent to the client's pro bono attorney when the attorney is expressing appreciation or sharing positive results.
- L.7. The pro bono program sponsors or participates in Pro Bono Month recognition activities.

**M. Program Effectiveness.** "A pro bono program should strive to achieve meaningful and lasting results responsive to clients' needs and objectives...." (*ABA Pro Bono Standard 2.16*). "[P]rograms should examine the impact of their work, and design and refine their service delivery models to maximize that impact." (*Commentary to ABA Pro Bono Standard 2.16*). "A pro bono program should periodically evaluate its operational effectiveness and implement appropriate improvements as needed."

"Once priorities have been established, the program should periodically review them to ascertain that they continue to reflect the significant legal needs of clients and take into account both the areas of expertise and interest of volunteers and the priorities of other local providers of legal services." (*Commentary to ABA Pro Bono Standard 2.9*).

"A program should re-evaluate its acceptance policy regularly, taking into consideration changes in: its priorities, its staffing, its volunteer pool, its delivery design and the availability of other resources in the community to provide legal assistance to prospective clients." (*Commentary to ABA Pro Bono Standard 2.15*).

A pro bono program should use research findings, including those of ABA studies, to inform its inquiries and analysis.

A pro bono program should develop and implement an annual workplan that includes needed changes and improvements.

"A program should periodically review its entire operation because the needs of clients and the needs and interests of volunteers can change, systems can become outdated, and effectively planning for the future necessitates examining past performance." (*Commentary to ABA Pro Bono Standard 2.18*). A pro bono program should evaluate how effectively it is meeting the ABA Pro Bono Standards and the Foundation's Benchmarks and take steps to implement needed changes and improvements.

### **Indicators**

- M.1. Immediate case outcomes are collected and analyzed.
- M.2. Long-term client impact is measured and analyzed.
- M.3. Program priorities are reviewed regularly.
- M.4. Case acceptance policies are reviewed regularly.
- M.5. The pro bono program develops and implements an annual workplan that moves the program forward.

- M.6. The management of the pro bono program or the overall organization conducts a self-evaluation of the program at least every two years.
- M.7. The pro bono program has an independent evaluation of the program conducted at least every five years.
- M.8. Improvements are made to the pro bono program based on the results of an evaluation of the program.