

NYC BAR ASSOCIATION PRO BONO AND LEGAL SERVICE COMMITTEE
INTERNATIONAL PRO BONO REPRESENTATIONS: TIPS FOR CLEARINGHOUSES AND
INTERMEDIARIES WORKING WITH NGOs AND OTHER ORGANIZATIONAL CLIENTS

These guidelines are intended for use with clients that are non-profits, such as non-governmental organizations, charities, and other organizations committed to the public good. These organizations collectively are referred to as “non-profits” throughout these guidelines. It’s helpful to remember that many volunteer lawyers have little or no experience working with non-profits and that those with whom the volunteer lawyers are coordinating at the non-profits may never have worked with a lawyer or with a lawyer on a pro bono basis. The way in which the guidelines apply to you will depend on the laws, ethical codes, and conventions of the jurisdiction in which you, the volunteer lawyers, and the pro bono clients are located, and you must ensure that you are compliant with applicable laws. Application of the guidelines also may depend on whether your non-profit is acting as a clearinghouse to refer matters, as co-counsel or counsel of record on the matter, or as the pro bono client.

What information should I have about the pro bono client?

Regardless of whether the non-profit by which you are employed is serving as the pro bono client, or whether you will be coordinating with another entity or an individual as the pro bono client, it’s helpful for you to ascertain: (1) the mission or purpose the client seeks to further; (2) the legal matter for which pro bono representation is sought; and (3) the primary contact person(s) at the non-profit. Some clearinghouses use intake forms to track information about prospective pro bono clients that either can be submitted by the client before the initial meeting or can be completed together during the meeting. In preparation for the initial meeting, it may be helpful to conduct on-line searches of the prospective pro bono client (including, for example, of a non-profit’s website, if any) to assemble publicly-available information.

What should I anticipate at the first meeting with the prospective client?

Try to allot a fair bit of time for the initial meeting with the pro bono client’s representative to confirm the scope and nature of the legal needs, help her understand the pro bono relationship, and explain legal needs that have been identified that likely will not be addressed by the volunteer lawyer. This also is an opportunity to create a good foundation for communication with your client by both managing expectations and making your role clear; for example, if you will not be co-counseling on the matter, explain that you will not be providing legal services, and let the prospective pro bono client know that there is no guarantee that you will be able to secure a lawyer to represent it or him/her. In the event it appears that you will not be able to refer the matter, it’s important that you promptly advise the prospective pro bono client, especially if the legal needs are time-sensitive. This also is a good time to specify the documents and other information that the client should try to assemble in anticipation of a meeting with the volunteer lawyer. It also is important to review how all communications will take place, how you can reach the client on a regular basis and in an emergency, and how the client can contact you.

In addition, you should review what steps a client should take if there are problems during the representation by the volunteer attorney. You also may provide the client with the *International Pro Bono Representations: Tips for Clients*.

Should there be a written agreement between the clearinghouse and the client?

Whether an engagement letter, retainer agreement, or other written document is appropriate between or among your non-profit, the pro bono client, and the volunteer lawyer likely will depend on the role your non-profit will be assuming in the matter. This may be determined by the ethical guidelines applicable in the jurisdiction in which you are practicing, and whether you

will be serving as co-counsel or counsel of record in the matter. Even when such a document isn't required, it's useful to memorialize the nature and scope of your relationship with the pro bono client and the volunteer lawyer to promote clarity and provide a guide to which the client can refer about the scope of your relationship and the terms of any engagement by you.

Will the client be expected to pay legal fees or expenses?

You should explain to the client that even when the volunteer lawyer provides his services without charge, the client may be expected to pay expenses related to the legal matter. Costs related to the pro bono attorney's services, such as travel, copy expenses, postage and delivery charges, telephone expenses, deposition costs, court filing fees, and other out-of-pocket expenses might be incurred, or sometimes may be waived by the volunteer lawyer when the pro bono client is indigent.

How can I maintain good communication with the client?

Discuss with the client the best way for you to communicate, bearing in mind the financial impact to the client of any suggested mode of contact such as the expense or technology required by participating in conference calls or webinars. Also, encourage the client to keep you updated about changes in personnel, office relocations, and other organizational developments that may impact on communications or other aspects of the representation. Maintaining regular contact with both pro bono clients and volunteer lawyers will allow you to diffuse potential problems before they arise. In addition, it is helpful for you to monitor the relationship by checking in from time to time with both the volunteer lawyer and the pro bono client.

How should I prepare for the initial meeting with the volunteer lawyer?

If you have not worked with a particular volunteer lawyer's firm or company before, it is important to get a clear picture of the needs and experience of the entity or attorney before referring a matter. Some clearinghouses use forms to track information about law firms, including: the size and location(s) of the law firm, areas of specialization, interest in matters for volunteer participation, anticipated staffing and availability, and the relevant contact person(s). You also may wish to provide the law firm or pro bono attorney with the *International Pro Bono Representations: Tips for Pro Bono Attorneys* to help manage expectations. It would be helpful to share with the volunteer lawyer your procedures for vetting the prospective client and the matter, and your criteria for acceptance. With respect to the specific matter to be proposed to the volunteer lawyer, it is helpful to help clarify whether she needs to be admitted to practice in a particular jurisdiction.

Who is the primary contact at the law firm?

Some law firms have well organized pro bono programs with pro bono coordinators or counsel who serve as the primary contact for all matters. Some firms may request that you regularly update both the pro bono attorney responsible for each particular matter as well as the coordinator on all matters. Other coordinators will expect occasional updates with most communication going directly to the attorney. If the law firm does not have a pro bono coordinator or the pro bono attorney is not at a firm, an individual lawyer may be the sole contact. It is important to become familiar at the outset with the volunteer lawyer's framework for pro bono representations to ensure good communication throughout the representation.

Should clearinghouses assign cases on a "first-come, first-served" basis?

The most important principle in assigning pro bono clients to volunteer attorneys is to be transparent and to ensure that the client's interests are served. A pure "first-come, first-served" basis is not necessarily the most appropriate method. Clearinghouses should make efforts to determine whether the pro bono attorney has the requisite expertise and commitment required for

the particular matter and also seek as feasible when multiple entities have qualified lawyers to distribute matters among volunteer lawyers on an equitable basis.

Should referring non-profits require participating law firms or pro bono attorneys to track and report the amount and value of hours that they spend working with the clients?

It's often helpful when feasible to obtain data on the amount of hours provided on a pro bono matter as well as the value of those services. Indeed, some non-profits may need to report the receipt and value of in-kind contributions, including certain kinds of legal services. Many law firms are willing and able to provide summary totals for both the number of hours worked and the total value of services provided on a particular pro bono matter or on a series of matters. Some clearinghouses develop a system of regular requests for such information, compiling aggregate figures that can be reported on an annual basis in order to track their own performance. These tracking systems help clearinghouses vet projects and assess the scope of time and expertise for referring projects in the future.

Should the volunteer attorney be expected to consult with the non-profit before doing additional legal work for a client referred through the non-profit?

It is helpful for the volunteer lawyer to inform the non-profit about additional representations to assist the non-profit assess the impact of its legal program and anticipate future legal needs of those it serves.