

RULES REGULATING THE FLORIDA BAR
CHAPTER 4. RULES OF PROFESSIONAL CONDUCT
4-6. PUBLIC SERVICE

Rule 4-6.1. Pro bono public service

(a) Professional Responsibility. Each member of The Florida Bar in good standing, as part of that member's professional responsibility, should (1) render pro bono legal services to the poor and (2) participate, to the extent possible, in other pro bono service activities that directly relate to the legal needs of the poor. This professional responsibility does not apply to members of the judiciary or their staffs or to government lawyers who are prohibited from performing legal services by constitutional, statutory, rule, or regulatory prohibitions. Neither does this professional responsibility apply to those members of the bar who are retired, inactive, or suspended, or who have been placed on the inactive list for incapacity not related to discipline.

(b) Discharge of the Professional Responsibility to Provide Pro Bono Legal Service to the Poor. The professional responsibility to provide pro bono legal services as established under this rule is aspirational rather than mandatory in nature. The failure to fulfill one's professional responsibility under this rule will not subject a lawyer to discipline. The professional responsibility to provide pro bono legal service to the poor may be discharged by:

- (1) annually providing at least 20 hours of pro bono legal service to the poor; or
- (2) making an annual contribution of at least \$350 to a legal aid organization.

(c) Collective Discharge of the Professional Responsibility to Provide Pro Bono Legal Service to the Poor. Each member of the bar should strive to individually satisfy the member's professional responsibility to provide pro bono legal service to the poor. Collective satisfaction of this professional responsibility is permitted by law firms only under a collective satisfaction plan that has been filed previously with the circuit pro bono committee and only when providing pro bono legal service to the poor:

- (1) in a major case or matter involving a substantial expenditure of time and resources; or
- (2) through a full-time community or public service staff; or
- (3) in any other manner that has been approved by the circuit pro bono committee in the circuit in which the firm practices.

(d) Reporting Requirement. Each member of the bar shall annually report whether the member has satisfied the member's professional responsibility to provide pro bono legal services to the poor. Each member shall report this information through a simplified reporting form that is made a part of the member's annual membership fees statement. The form will contain the following categories from which each member will be allowed to choose in reporting whether the member has provided pro bono legal services to the poor:

- (1) I have personally provided _____ hours of pro bono legal services;
- (2) I have provided pro bono legal services collectively by: (indicate type of case and manner in which service was provided);
- (3) I have contributed \$_____ to: (indicate organization to which funds were provided);
- (4) I have provided legal services to the poor in the following special manner: (indicate manner in which services were provided); or
- (5) I have been unable to provide pro bono legal services to the poor this year; or
- (6) I am deferred from the provision of pro bono legal services to the poor because I am: (indicate whether lawyer is: a member of the judiciary or judicial staff; a government lawyer prohibited by statute, rule, or regulation from providing services; retired, or inactive).

The failure to report this information shall constitute a disciplinary offense under these rules.

(e) Credit Toward Professional Responsibility in Future Years. In the event that more than 20 hours of pro bono legal service to the poor are provided and reported in any 1 year, the hours in excess of 20 hours may be carried forward and reported as such for up to 2 succeeding years for the purpose of determining whether a lawyer has fulfilled the professional responsibility to provide pro bono legal service to the poor in those succeeding years.

(f) Out-of-State Members of the Bar. Out-of-state members of the bar may fulfill their professional responsibility in the states in which they practice or reside.

Former Rule 4-6.1 deleted June 23, 1993, effective Oct. 1, 1993. New Rule 4- 6.1 adopted June 23, 1993, eff. Oct. 1, 1993; amended Sept. 24, 1998, effective Oct. 1, 1998.

Rule 4-6.2. Accepting appointments

A lawyer shall not seek to avoid appointment by a tribunal to represent a person except for good cause, such as when:

- (a) representing the client is likely to result in violation of the Rules of Professional Conduct or of the law;
- (b) representing the client is likely to result in an unreasonable financial burden on the lawyer;
or
- (c) the client or the cause is so repugnant to the lawyer as to be likely to impair the client-lawyer relationship or the lawyer's ability to represent the client.

Amended July 23, 1992, effective Jan. 1, 1993 (605 So.2d 252); June 23, 1993, eff. Oct. 1, 1993 (630 So.2d 501).

Rule 4-6.3. Membership in legal services organization

A lawyer may serve as a director, officer, or member of a legal services organization, apart from the law firm in which the lawyer practices, notwithstanding that the organization serves persons having interests adverse to the client of the lawyer. The lawyer shall not knowingly participate in a decision or action of the organization:

(a) if participating in the decision would be incompatible with the lawyer's obligations to a client under rule 4-1.7; or

(b) where the decision could have a material adverse effect on the representation of a client of the organization whose interests are adverse to a client of the lawyer.

Amended July 23, 1992, effective Jan. 1, 1993 (605 So.2d 252).

Rule 4-6.4. Law reform activities affecting client interests

A lawyer may serve as a director, officer, or member of an organization involved in reform of the law or its administration notwithstanding that the reform may affect the interests of a client of the lawyer. When the lawyer knows that the interests of a client may be materially affected by a decision in which the lawyer participates, the lawyer shall disclose that fact but need not identify the client.

Rule 4-6.5. Voluntary pro bono plan

(a) Purpose. The purpose of the voluntary pro bono attorney plan is to increase the availability of legal service to the poor. The following operating plan has as its goal the improvement of the availability of legal services to the poor and the expansion of present pro bono legal service programs. The following operating plan shall be implemented to accomplish this purpose and goal.

(b) Standing Committee on Pro Bono Legal Service. The president-elect of The Florida Bar shall appoint a standing committee on pro bono legal service to the poor.

(1) The standing committee shall be composed of:

a. 5 members of the board of governors of The Florida Bar, 1 of whom shall be the chair or a member of the Access to the Legal System Committee of the Board of Governors;

b. 5 past or current directors of The Florida Bar Foundation;

c. 1 trial judge and 1 appellate judge;

d. 2 representatives of civil legal assistance providers;

e. 2 representatives from local and statewide voluntary bar associations;

f. 2 public members, 1 of whom shall be a representative of the poor;

g. the president or designee of the Board of Directors of Florida Legal Services, Inc.; and

h. 1 representative of the out-of-state practitioners' division of The Florida Bar.

(2) Responsibilities of the Standing Committee. The standing committee shall:

a. receive reports from circuit committees submitted on standardized forms developed by the standing committee;

b. review and evaluate circuit court pro bono plans;

c. beginning in the first year in which individual attorney pro bono reports are due, submit an annual report as to the activities and results of the pro bono plan to the board of governors of The Florida Bar, The Florida Bar Foundation, and to the Supreme Court of Florida;

d. present to the board of governors of The Florida Bar and to the Supreme Court of Florida any suggested changes or modifications to the pro bono rules.

(c) Circuit Pro Bono Committees. There shall be 1 circuit pro bono committee in each of the judicial circuits of Florida. In each judicial circuit the chief judge of the circuit, or the chief judge's designee, shall appoint and convene the initial circuit pro bono committee and the committee shall appoint its chair.

(1) Composition of Circuit Court Pro Bono Committee. Each circuit pro bono committee shall be composed of:

a. the chief judge of the circuit or the chief judge's designee;

b. to the extent feasible, 1 or more representatives from each voluntary bar association, including each federal bar association, recognized by The Florida Bar and 1 representative from each pro bono and legal assistance provider in the circuit, which representatives shall be nominated by the association or provider; and

c. at least 1 public member and at least 1 client-eligible member, which members shall be nominated by the other members of the circuit pro bono committee.

Governance and terms of service shall be determined by each circuit pro bono committee. Replacement and succession members shall be appointed by the chief judge of the circuit or the chief judge's designee, upon nomination by the association, the provider organization or the circuit pro bono committee, as the case may be, as deemed appropriate or necessary to ensure an active circuit pro bono committee in each circuit.

(2) Responsibilities of Circuit Pro Bono Committee. The circuit pro bono committee shall:

a. prepare in written form a circuit pro bono plan after evaluating the needs of the circuit and making a determination of present available pro bono services;

b. implement the plan and monitor its results;

c. submit an annual report to The Florida Bar standing committee;

d. to the extent possible, current legal assistance and pro bono programs in each circuit shall be utilized to implement and operate circuit pro bono plans and provide the necessary coordination and administrative support for the circuit pro bono committee;

e. to encourage more lawyers to participate in pro bono activities, each circuit pro bono plan should provide various support and educational services for participating pro bono attorneys, which, to the extent possible, should include:

1. providing intake, screening, and referral of prospective clients;

2. matching cases with individual attorney expertise, including the establishment of specialized panels;

3. providing resources for litigation and out-of-pocket expenses for pro bono cases;

4. providing legal education and training for pro bono attorneys in specialized areas of law useful in providing pro bono legal service;

5. providing the availability of consultation with attorneys who have expertise in areas of law with respect to which a volunteer lawyer is providing pro bono legal service;

6. providing malpractice insurance for volunteer pro bono lawyers with respect to their pro bono legal service;

7. establishing procedures to ensure adequate monitoring and follow-up for assigned cases and to measure client satisfaction; and

8. recognition of pro bono legal service by lawyers.

(d) The following are suggested pro bono service opportunities that should be included in each circuit plan:

(1) representation of clients through case referral;

(2) interviewing of prospective clients;

(3) participation in pro se clinics and other clinics in which lawyers provide advice and counsel;

(4) acting as co-counsel on cases or matters with legal assistance providers and other pro bono lawyers;

(5) providing consultation services to legal assistance providers for case reviews and evaluations;

(6) participation in policy advocacy;

(7) providing training to the staff of legal assistance providers and other volunteer pro bono attorneys;

(8) making presentations to groups of poor persons regarding their rights and obligations under the law;

(9) providing legal research;

(10) providing guardian ad litem services;

(11) providing assistance in the formation and operation of legal entities for groups of poor persons; and

(12) serving as a mediator or arbitrator at no fee to the client-eligible party.

Adopted June 23, 1993, eff. Oct. 1, 1993 (630 So.2d 501).