



American Bar Association

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Policies - Pro & Con on Pro Bono Reporting

ABA Model Rule 6.1 Table of State Ethics Rules Standards for Pro Bono Programs Emeritus Attorney Rules Pro Bono Reporting CLE Credit for Doing Pro Bono

Resources on Reporting Policies

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Arguments For and Against Pro Bono Reporting

1. MANDATORY PRO BONO REPORTING

In Favor of Mandatory Pro Bono Reporting

- ✎ Simple mechanism for attempting to increase delivery of legal services to poor (e.g. actual increase in Florida) and level of service to community
- ✎ Effective mechanism for collecting reliable, accurate, consistent data to evaluate delivery of pro bono legal services to the poor
- ✎ Provides data essential for design of successful programs
- ✎ Can increase monetary contributions
- ✎ Creates positive peer pressure
- ✎ Promotes increased access to justice/courts
- ✎ Allows judiciary opportunity to safeguard constitution and individuals' rights to challenge government conduct
- ✎ Promotes involvement in pro bono
- ✎ Promises high rates of reporting
- ✎ Data can send message to non-legal community about their responsibility to fund legal services for poor
- ✎ Enables recognition of contributing lawyers
- ✎ Can be inexpensive
- ✎ Facilitates engendering confidence in the bar
- ✎ Can make demographics collectible

- ⚡ Data can be used to enhance image of lawyers
- ⚡ Encourages fulfillment of professional responsibility
- ⚡ Can raise consciousness about professional responsibility
- ⚡ Can raise awareness of need for free or reduced fee legal services
- ⚡ Can raise awareness of opportunities for pro bono involvement
- ⚡ Can obviate mandatory pro bono service controversy

Against Mandatory Pro Bono Reporting

- ⚡ Violates constitutional right to privacy because publicizes private acts of charity and divulges names of recipients
- ⚡ Violates of right to be free from involuntary servitude
- ⚡ A step toward mandatory pro bono
- ⚡ Invites political opposition
- ⚡ Difficult to find support
- ⚡ Unnecessary
- ⚡ Counterproductive to goal of increasing delivery of direct legal services to the poor
- ⚡ Administrative costs involved in collecting and processing information, as well as in taking disciplinary action or imposing sanctions
- ⚡ Negative peer pressure
- ⚡ Onerous responsibility for attorneys
- ⚡ Public and press can use information to criticize the bar
- ⚡ For legislature, not judiciary to decide (not judiciary = role to encourage charitable activities)
- ⚡ Does not serve public interest
- ⚡ Difficult to determine what type of discipline is appropriate
- ⚡ Unnecessary
- ⚡ True motive: to persuade or shame lawyers into doing pro bono work
- ⚡ Judicial aspirants could be affected by information provided in past

years

- ⌘ Burdens state with need to devise collection methods and penalties for noncompliance with the rule
- ⌘ Financial burden on state
- ⌘ Pro bono can become a negative rather than positive concept if bar members express opposition

2. VOLUNTARY PRO BONO REPORTING

In Favor of Voluntary Pro Bono Reporting

- ⌘ Not a burden on attorneys because optional
- ⌘ No threat to constitutional rights
- ⌘ No need to focus energies on discipline
- ⌘ Easy to implement
- ⌘ Can collect data
- ⌘ Data can send message to non-legal community about their responsibility to fund legal services for poor
- ⌘ Enables recognition of contributing lawyers
- ⌘ Can be inexpensive
- ⌘ Facilitates engendering confidence in the bar
- ⌘ Can make demographics collectible
- ⌘ Data can be used to enhance image of lawyers
- ⌘ Can raise consciousness about professional responsibility
- ⌘ Can raise awareness of need for free or reduced fee legal services
- ⌘ Can raise awareness of opportunities for pro bono involvement
- ⌘ Can increase monetary contributions

Against Voluntary Pro Bono Reporting

- ⌘ Promotes low response rate
- ⌘ Collects insufficient data to draw statistically valid conclusions
- ⌘ If separate forms, may get lost or discarded

- ⚡ Trying to track activity may be burdensome due to low response rate
- ⚡ Some activities not recognized or promoted (e.g. legal services rendered in rural communities or non-legal community service activities)
- ⚡ If form not on dues statement, complete analysis of collected data impossible because inclusion of personal information optional
- ⚡ Ineffective
- ⚡ May not encourage or promote fulfillment of professional responsibility to provide access to justice
- ⚡ May not raise consciousness about pro bono or professional responsibility

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