

The Federal Government Pro Bono Program: Making it Easy for Federal Government Attorneys to Volunteer

by Laura F. Klein

Laura F. Klein is the manager of the Department of Justice Pro Bono Program and the chair of the Federal Government Pro Bono Program.

Federal government attorneys are fantastic pro bono volunteers. Not everyone knows, but our attorneys are actively engaged in their communities, providing legal assistance to low-income Americans who would otherwise lack access to justice. We volunteer at legal clinics, handle custody and eviction cases, draft wills, serve as guardians ad litem, obtain protective orders for victims of domestic violence, and more. We have to be mindful of certain limitations and restrictions based on our status as federal employees, but there is so much we can do. The Federal Government Pro Bono Program is available to help our attorneys navigate those issues and find appropriate and rewarding opportunities.

History

People who are unfamiliar with federal government attorneys doing pro bono work often assume that it is a new idea or that it is not permitted, but they are mistaken. The origins of the Federal Government Pro Bono Program date back to the 1970s, when the first organized efforts to encourage federal government attorneys to engage in pro bono activity emerged. Every administration since that time has steadily worked to remove real and perceived obstacles to federal government attorney involvement, including a 1996 executive order that directed federal agencies to encourage their attorneys to do pro bono legal work. That order, Exec. Order No. 12,988, designated the attorney general to coordinate the governmentwide compliance and became the official launch of the Federal Government Pro Bono Program. The program therefore started at the Department of Justice in Washington, D.C., but quickly expanded to many agencies and other cities. In 2009, the American Bar Association recognized the growth and impact of the program, honoring it with its Pro Bono Publico Award.

Today, approximately 50 federal agencies have internal pro bono programs with written pro bono policies and designated pro bono coordinators who serve as representatives on the program's steering

committee. While the program is still based in Washington, D.C., where federal government attorneys are an integral part of the legal services community, there are also branches of the program in Chicago, New York City, San Francisco, and Denver. Federal government attorneys in any part of the United States may seek assistance from the program, however. The program aims to involve as many federal government attorneys as possible.

The Do's and Don'ts

Although our attorneys can do many kinds of pro bono work, we cannot do everything. Pursuant to 18 U.S.C. 205, federal government attorneys cannot represent someone before any court or any federal agency on a matter in which the United States is a party or has a substantial interest. This rule eliminates many areas of pro bono work, such as immigration, public benefits (i.e., Medicare, Medicaid, Supplemental Security Income, or Social Security Disability Insurance), federal tax, and bankruptcy cases. Some agencies have additional regulations that further limit their attorneys. For example, a Department of Justice regulation prohibits engagement in any outside activity that involves criminal matters, whether federal, state, or local.

Even with these rules, however, there are still many appropriate opportunities for our attorneys. Our attorneys handle cases involving state and local law, such as family, housing, domestic violence, consumer and personal injury cases. We draft wills and advance directives, serve as mediators and guardians ad litem, and more. In matters not involving representation, we provide brief advice on these issues at legal clinics. Indeed, federal government attorneys are the largest sources of volunteers for the D.C. Bar Pro Bono Center's Advice & Referral Clinic in Washington, D.C., staffing the clinic every month for many years.

To be sure no conflicts exist, most agencies require their attorneys to get advance approval before they commit to providing pro bono legal advice. The process usually involves consultation with the agency

ethics office and is treated like any request to perform outside professional activity.

In addition to the limitations on the types of pro bono work we can do, federal attorneys also face limitations on how we can do it. When we volunteer, we act in our individual capacities, not our official capacities or as representatives of our agencies. The distinction has a significant impact on our pro bono work. Because it is personal work, we cannot use agency letterhead, business cards, or office space for meetings. We are not covered by malpractice insurance and are generally required to do the pro bono work on our own time, not during business hours. We cannot ask support staff under our supervision to assist on the pro bono matters.

These restrictions can be difficult, but the Federal Government Pro Bono Program works to help volunteers minimize their impact. First, we screen organizations and only publicize and promote those that offer conflict-free opportunities, malpractice insurance to volunteers, mentoring in local law and procedure, and other resources. Second, we have created a Support Staff Resource Pool, which gives interested paralegals, notaries, and nonlawyers with translation skills the opportunity to get involved. Interested staff contact the program and offer their services. When an attorney volunteer needs help, the program will match him or her with a staff volunteer, thus avoiding any improper requests from a supervisor to a subordinate. Third, many agencies have adopted policies that allow volunteers to use administrative leave for pro bono activity that cannot be accomplished outside of business hours. The policies are limited, but they allow attorneys to enhance their legal skills and training through pro bono work while doing a professional service to the community.

How the Program Works

The Federal Government Pro Bono Program seeks to facilitate pro bono work for federal government attorneys at every stage of the volunteer experience. We screen the organizations and publicize those that offer appropriate opportunities. We hold events to inform federal government attorneys about volunteering, such as panel presentations, substantive trainings, information sessions, and scheduled volunteer opportunities. For example, the program recently held a training with Illinois Legal Aid Online in Chicago to train two dozen of our attorneys to participate in the Legal Answers online pro bono opportunity. Earlier this year in Denver, the program hosted a Pro Bono Fair, bringing together legal services organizations and potential volunteers. Five times each year, the program connects attorneys with pro bono family law and housing cases by scheduling case referrals through the D.C. Bar Pro Bono Center's Advocacy & Justice Clinic in Washington, D.C. By helping attorneys make an easy connection with appropriate opportunities, the program takes a lot of the uncertainty out of the process for our attorneys.

Once an attorney takes on a pro bono matter, the program remains available for support. The program assists attorneys with obtaining agency approval for the matter. We assist with navigating bar rules, if necessary. If an attorney needs paralegal or translation assistance, we can provide it through the Support Staff Resource Pool. Whatever the issue, we are there to help the attorney resolve it. Offering this support makes pro bono work less daunting and ensures that our attorneys have a positive and rewarding experience.

To get started, attorneys should contact their agency pro bono representative (for a list of agency contacts, go to www.probono.net/governmentprobono). That person can connect the attorney with

available opportunities, a copy of their agency's pro bono policy, and the network of resources the program provides. It is really that simple!

The Rewards of Pro Bono Work

Federal government attorneys have helped so many people tackle legal battles that impact their families and lives. In one recent case, a Department of Justice attorney and a Federal Emergency Management Agency attorney helped a mother regain custody of her child. The relationship between the parents was highly contentious and their client faced allegations of unfitness. Overcoming these obstacles was difficult, but in the end, their client received joint custody. The whole family communicates better as a result of the agreement the parents were able to reach with the care and involvement of these attorneys. In another recent case, a Federal Communications Commission attorney and an Environmental Protection Agency attorney helped an elderly man get an unwanted guest to leave his apartment. Their client was so afraid of this person, who he had allowed to stay in his home for a brief period of time, that he had started staying with friends to avoid the man. He was afraid he might lose his lease as well. The attorneys represented him in court and were able to craft a settlement agreement that required the unwanted guest to leave, allowing their client to get his apartment back. In both cases, the attorneys said that they got as much out of the case as their clients did. The learning experience and the satisfaction of helping someone were memorable and rewarding, professionally and personally.

Federal government attorneys can play an important role in reducing the justice gap for low-income Americans by volunteering their legal skills through pro bono work. The Federal Government Pro Bono Program is here to help our attorneys get involved and have a rewarding and successful experience. Any agency or federal office interested in developing a pro bono policy or program should contact Laura Klein, Department of Justice Pro Bono Program manager and Federal Government Pro Bono Program chair, at Laura.F.Klein@usdoj.gov for assistance. ☺

Editorial Policy

The Federal Lawyer is the magazine of the Federal Bar Association. It serves the needs of the association and its members, as well as those of the legal profession as a whole and the public.

The Federal Lawyer is edited by members of its Editorial Board, who are all members of the Federal Bar Association. Editorial and publication decisions are based on the board's judgment.

The views expressed in *The Federal Lawyer* are those of the authors and do not necessarily reflect the views of the association or of the Editorial Board. Articles and letters to the editor in response are welcome.