



June 16, 2014

Legal Services Corporation

Re: Comment on proposed revision to PAI regulation.

To Whom it May Concern:

Legal Services NYC (LSNYC) writes to support most of the proposed changes to the PAI regulation—in particular, the inclusion of law students, non-admitted law graduates, and other professionals. These volunteers offer tremendous value to LSNYC and to our clients. This change also harmonizes PAI regulations with the pro bono standards of other funders and the pro bono community at large. LSNYC is very pleased to see that pro bono work by these volunteers will be encouraged and fully recognized by LSC, as it should be.

LSNYC has serious concerns, however, about the proposed change to the existing §1614.3(b) (1)—to exclude from PAI pro bono work done on behalf of an organization, rather than a client. Unlike the modification to include law students and other volunteers, this proposed change estranges LSC regulations from the pro bono community's definition of donated legal work.

For example, the American Bar Association defines pro bono to include:

legal services without fee or expectation of fee to . . . groups or organizations seeking to secure or protect civil rights, civil liberties or public rights, or charitable, religious, civic, community, governmental and educational organizations **in matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization's economic resources** or would be otherwise inappropriate

ABA Rule 6.1 Voluntary Pro Bono Publico Service (emphasis added).

Similarly, the Pro Bono Institute defines pro bono, in part, as:

(iii) the provision of legal assistance to charitable, religious, civic, community, governmental or educational organizations **in matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization's economic resources** or would be otherwise

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inappropriate.

PBI Principle 7 (emphasis added).

And the New York State Court of Appeals defines pro bono for the purposes of bar admission as work that “assists in the provision of legal services without charge for (i) persons of limited means; [or for] (ii) **not-for-profit organizations**. . .” 22 NYCRR § 520.16 (emphasis added).

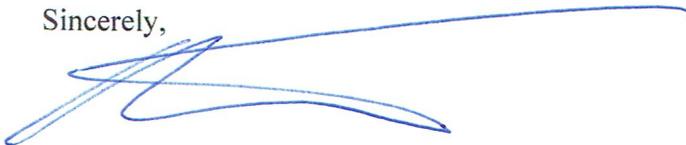
These near-universal definitions of pro bono that include work on behalf of organizations for the poor exist for good reason: non-profits derive tremendous value from pro bono work that helps them function as organizations. Certainly, LSNYC would be hobbled without donated work from private attorneys to provide real estate guidance (leasehold terms, purchase and sale of real property, etc.) and to respond to frivolous law suits, among other things. LSNYC tracks the value of that time, and it is an extremely substantial amount.

The alternative would mean LSNYC spending that substantial amount on attorneys for the organization, rather than on direct services for clients. Or, worse, it would result in skimping on the resources that are available to effectively run the organization. For larger organizations like LSNYC, the assistance of transactional attorneys is particularly important: our contracts, our negotiations, and our risk management are each complicated and time-consuming. Our staff spend a great deal of time working on these matters with pro bono attorneys—although that time is small when compared to the immense value offered by these volunteers. LSNYC should be able to count that as PAI time.

Another downside to this proposed change is that it ignores the contributions of many transactional attorneys—non-litigators who might not otherwise find an avenue of pro bono assistance to the poor that is in keeping with their skill-set. Under-utilization of transactional attorneys is a chronic problem in the pro bono community. This proposed change only exacerbates that issue, by suggesting that the vital pro bono assistance by these attorneys—assistance without which organizations that serve the poor simply would not be able to function—does not count, and therefore does not matter.

LSNYC recognizes and applauds the vital direct services offered by so many volunteer attorneys, students, and others on behalf of our clients. But we are no less appreciative of the indirect services to those clients offered by attorneys who offer pro bono work on behalf of our organization. We respectfully request that this proposed change be abandoned, and that the PAI regulations not deviate from the well-reasoned standards of the pro bono community.

Sincerely,



Adam J. Heintz
Director of Pro Bono Services