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Federal *Pro Bono* Program Volunteer Guide

This guide answers Frequently Asked Questions regarding Federal Pro Bono Work and provides pre-approved suggestions for Pro Bono Organizations in the North Texas area. (Updated 10/30/18 to include information on how out-of-state attorneys can do pro bono work in Texas as part of the NOVA Program.)

Table of Contents

A. Definitions and Limitations.....	2
1. What types of services may I provide?	2
2. What types of <i>pro bono</i> and volunteer services are prohibited?	2
3. May I provide services to political organizations?	2
4. May I represent someone in an action against the United States?	2
5. May I assist persons seeking government benefits?	3
6. May I prepare income tax returns?	3
7. May I assist family and friends?	3
B. Use of Position and Agency Resources.....	3
1. May I use my official position in connection with my <i>pro bono</i> and volunteer services?	3
2. May I use office letterhead or my business cards?	3
3. May I use agency resources such as phone, e-mail, internet, or other government property in connection with my <i>pro bono</i> services?.....	3
4. May I ask my secretary to assist me?.....	4
5. May I use Westlaw and other electronic computer databases?.....	4
6. May I participate in <i>pro bono</i> and/or volunteer services on government time?.....	4
7. May I be given administrative leave?	4
C. Conflicts of Interest.....	4
1. With whom should I speak about any possible conflicts of interest?	4
2. What constitutes a conflict of interest?	4
3. Must I get approval to provide <i>pro bono</i> or volunteer services?	5
D. Miscellaneous.....	5
1. What about malpractice coverage?	5
2. May I participate if I am not a member of the Texas Bar?	5
3. Are there activities I can do that do not involve client representation?	6
4. What if I have never done any <i>pro bono</i> work before?.....	6
5. Is there a committee that helps government agencies develop <i>pro bono</i> policies and programs?	6
6. How can I get my agency involved?	6
7. What if I have further questions?	6

II. <i>Pro Bono</i> Organizations in North Texas	7
Dallas Volunteer Attorney Program	7
Legal Aid of Northwest Texas	8
Texas Lawyers for Texas Veterans (Tarrant County Chapter)	9
Tarrant County Volunteer Attorney Services	10

I. Frequently Asked Questions

A. Definitions and Limitations

1. What types of services may I provide?

We define *pro bono* legal work and volunteer services as many different types of activities performed for no compensation. Examples include services to disadvantaged persons, assistance to charitable, religious, civic, community, governmental, health, and educational organizations, services seeking to protect civil rights, civil liberties or public rights, and activities seeking to improve the law or legal system.

2. What types of *pro bono* and volunteer services are prohibited?

The Federal Government prohibits any service that would conflict with your official duties. *See* 5 C.F.R. § 2635.802. For example, federal employees, in most cases, are prohibited from representing parties before the federal government. *See* 18 U.S.C. § 205. Also, each agency has its own regulatory standards of conduct that its employees must follow. Department of Justice attorneys may not provide services that involve criminal or habeas corpus matters, whether federal, state, or local, for example. *See* 5 C.F.R. § 3801.106.

3. May I provide services to political organizations?

Yes, within the limitations set by the Hatch Act (*see* 5 U.S.C. § 7234) and those set by your agency's policy concerning political activities by high-level and political appointees. Note that the Office of Personnel Management has stated that it would be inappropriate to grant administrative leave to employees engaged in partisan political activities. Also, because partisan political activity is subject to more restrictive rules than other non-official activity, no partisan political activity may take place on government time or by using government property. *See* 5 C.F.R. Part 734.

4. May I represent someone in an action against the United States?

It bears repeating this point—no! Specifically, 18 U.S.C. § 205 prohibits you from representing another person before any court or agency of the United States, in a matter in which the United States is a party or has a direct and substantial interest. There are limited exceptions for representing your immediate family (spouse, child, and parents), fellow employees in personnel administration proceedings, and certain employee organizations in limited circumstances.

5. May I assist persons seeking government benefits?

Yes, albeit in limited ways. You may provide non-representational assistance, such as filling out forms for a person seeking government benefits. However, you should be mindful that you may not contact a federal agency, with the intent to influence, on behalf of another person except those persons permitted by 18 U.S.C. § 205(e). You may not represent a third party before any government agency.

6. May I prepare income tax returns?

Yes. However, you are prohibited from representing a person before the IRS in connection with a tax return.

7. May I assist family and friends?

Yes, provided the services you provide fall within the definition of *pro bono* or volunteer services and you don't receive compensation. There are some limited exceptions to this rule that may permit employees to represent family and friends in non-*pro bono* matters as long as the United States is not a party and the matter is not criminal in nature. You should contact your Deputy Designated Agency Ethics Official (DDAEO) if you would like to represent a family member or friend and the representation does not fall within the definition of *pro bono* or volunteer services.

B. Use of Position and Agency Resources

1. May I use my official position in connection with my *pro bono* and volunteer services?

No. You may not indicate or represent in any way that you are acting on behalf of your agency, or in your official capacity, when providing *pro bono* or volunteer services.

2. May I use office letterhead or my business cards?

No. You may not use office letterhead, business cards, fax cover sheets, or otherwise identify yourself as a federal government employee in any communication, correspondence, or pleading.

3. May I use agency resources such as phone, e-mail, internet, or other government property in connection with my *pro bono* services?

Each agency has its own policy on the use of its resources and property. Some agencies will allow for the personal use of government equipment and facilities, provided there is only a negligible cost to the government (such as in the use of electricity, ink, small amounts of paper, and ordinary wear and tear). Contact your supervisor or ethics officer to find out about your agency's policy.

4. May I ask my secretary to assist me?

No. *Pro bono* and volunteer services are not official duties and may not be assigned to or required of support staff.

5. May I use Westlaw and other electronic computer databases?

Each agency has its own policy on this issue. Contact your supervisor or agency ethics officer to find out about your agency's policy.

6. May I participate in *pro bono* and/or volunteer services on government time?

You should seek *pro bono* and volunteer opportunities that can be done outside working hours. However, sometimes activities may occur during the work day. You may be granted annual leave, leave without pay, or may be permitted to make up any time you are away from the office. Certain agencies allow use of a limited amount of administrative leave (see below). Contact your supervisor or agency ethics officer to find out about your agency's policy.

7. May I be given administrative leave?

Some agencies have policies that allow for administrative leave or excused absence for *pro bono* activity, such as the Department of Labor, the Department of Energy, the Department of Housing and Urban Development, the Department of Justice, the Federal Trade Commission, the National Labor Relations Board, and a few others. Additionally, OPM has issued general guidance on the availability of administrative leave for volunteer activities. In limited circumstances, it may be appropriate to excuse an employee from duty for brief periods of time without pay or leave loss. Excused absences should be limited to those situations in which employees' services meet one or more of the following criteria: direct relation to the agency's mission; official sponsorship or sanction by the agency; enhancing the professional development or skills of employees in their current positions. See OPM Guidance at <http://www.opm.gov/oca/leave/html/Volunteer2.asp>.

C. Conflicts of Interest

1. With whom should I speak about any possible conflicts of interest?

Speak with your Deputy Designated Agency Ethics Official (DDAEO).

2. What constitutes a conflict of interest?

Conflicts of interest include activities that:

1. Violate any federal statute, rule, or regulation, including for example, 18 U.S.C. § 201 *et seq.* and the Standards of Conduct at 5 C.F.R. § 2635;
2. Interfere with the proper and effective performance of your official duties, including time availability;

3. Cause a reasonable person to question the integrity of your agency's programs or operations;
4. Require your recusal from significant aspects of your official duties;
5. Create an appearance that your official duties are being performed in a biased or less than impartial manner; or
6. Create an appearance of official sanction or endorsement.

3. Must I get approval to provide *pro bono* or volunteer services?

Each agency has its own policy regarding its employees' outside activities. Employees seeking to engage in any *pro bono* legal work or volunteer services must follow their agencies' procedures for outside activities. You should consult with your ethics officer regarding approval requirements.

D. Miscellaneous

1. What about malpractice coverage?

The federal government does not provide you malpractice coverage. Generally, volunteer programs organized by the local bar or more established referral programs provide malpractice coverage. All the organizations participating in the Federal *Pro Bono* Program provide coverage for their volunteers. Nonetheless, make sure you ask the organization through which you will be providing *pro bono* services whether it will provide malpractice coverage for you.

2. May I participate if I am not a member of the Texas Bar?

Yes! The Texas Supreme Court Amended to Article XIII of the State Bar Rules in May 2018 to create the New Opportunities Volunteer Attorney (NOVA) Pro Bono Program (Misc. Docket No. 17-9161). The program allows attorneys who are licensed in other states to practice *pro bono* work with an approved organization. Attorneys must be in good standing and have completed at least three hours of CLE each year. Approved organizations include the Dallas Volunteer Attorney Program and Legal Aid of Northwest Texas, both organizations listed in this *Guide*.

For more information about the Nova Program and a Volunteer Application, visit https://www.texasbar.com/AM/Template.cfm?Section=Legal_Access_Division&Template=/CM/HTMLDisplay.cfm&ContentID=42304

You may also attempt to appear in court *pro hac vice*. Information regarding that can be found here: <https://ble.texas.gov/non-resident-attorney-fee-info>. Information regarding applying to be a member of the Texas Bar without retaking the Bar Exam can be found here: <https://ble.texas.gov/admission-without-examination>. Lastly, ask each *pro bono* organization whether there are opportunities available that do not require you to be Barred in Texas.

3. Are there activities I can do that do not involve client representation?

Absolutely! Federal government attorneys regularly staff clinics. At these clinics, attorneys provide brief advice and refer walk-in clients but do not take on the cases. You can also do law-related education in schools, present know-your-rights seminars, and more.

4. What if I have never done any *pro bono* work before?

It's never too late to start doing *pro bono* work. You can start by attending a training. Many legal services organizations host training throughout the year on substantive areas of law that are designed for *pro bono* attorneys and legal staff who are new to the subject area. At times, these organizations assign mentors to help with your work. Many attorneys start by co-counseling their first *pro bono* case. And, you don't have to start by taking a case—you can work at a clinic, volunteer at an intake site, or do a range of other activities.

5. Is there a committee that helps government agencies develop *pro bono* policies and programs?

Yes. The Federal Government established the *Pro Bono* Program to assist federal agencies in developing *pro bono* policies and programs. The Program organizes events to encourage more government attorneys to participate in *pro bono* work. It's chaired by the Department of Justice *Pro Bono* Program Manager and includes representatives from large agencies, like the Department of Education, and smaller agencies, like the Office of Government Ethics.

6. How can I get my agency involved?

Each agency has its own committee representative. To find out who your representative is, contact the Department of Justice's *Pro Bono* Program Manager, Laura Klein, at Laura.F.Klein@usdoj.gov or (202) 353-7529.

7. What if I have further questions?

If you have further questions, please reach out to me, John M. Bradley, Trial Attorney for the Department of Labor, Dallas Regional Solicitor's Office, at (972) 850-3138 or bradley.john.m@dol.gov. And if I cannot answer your question, I'll point you in the right direction.

II. *Pro Bono* Organizations in North Texas

Dallas Volunteer Attorney Program

1515 Main Street, Dallas, Texas 75201

<http://dallasvolunteerattorneyprogram.org/>

Contact Chris Reed-Brown at reed-brownc@lanwt.org or 214-243-2243

The Dallas Volunteer Attorney Program (DVAP) is an organization dedicated to increasing and enhancing pro bono legal services to the poor in Dallas through the recruitment, training, and support of volunteer attorneys. DVAP is a joint program of the Dallas Bar Association and Legal Aid of NorthWest Texas created in 1997 when both organizations merged their previously separate pro bono programs to create one cohesive effort.

Opportunities Offered: DVAP volunteers provide advice and full representation in a variety of cases, including family, housing, landlord-tenant, real property, consumer, wills, expunctions and non-disclosures, probate, and more. Attorney volunteers are needed to do the following: Provide legal advice to people in need; Accept legal cases for full representation; Mentor other attorneys on their pro bono cases; Volunteer at the DVAP office; Make juvenile law presentations to at-risk youth and their parents; Assist applicants with completing paperwork at clinics, and more.

In addition, DVAP offers weekly, bi-weekly, and monthly clinics in several Dallas neighborhoods. Almost every day of the week, there's a new clinic at which you may volunteer. What's more, the clinics start at 5 p.m. to allow for work outside normal business hours. The schedule and addresses can be found here: <http://dallasvolunteerattorneyprogram.org/get-help/>

Malpractice insurance: Yes, DVAP provides malpractice insurance.

Training: Training is available for all opportunities in a variety of forms.

Supervision/Mentoring: New volunteer attorneys are provided support and mentoring at all levels.

Legal Aid of Northwest Texas

600 East Weatherford Street Fort Worth, Texas 76102

Offices Throughout North Texas—Find Locations at <https://internet.lanwt.org/home>

Contact Sam Prince, Director of Development at princes@lanwt.org or 817.339.5334

Legal Aid of NorthWest Texas (LANWT) offers free civil legal assistance to low-income Texans who wouldn't otherwise be able to secure such legal representation. Originally incorporated in 1951 as Fort Worth Legal Foundation, LANWT is a nonprofit legal aid organization based in Fort Worth, Texas. One of three LSC-funded legal aid programs in Texas (along with Texas RioGrande Legal Aid and Lone Star Legal Aid), LANWT is the fifth-largest legal aid program in the United States. LANWT serve low-income residents in 114 counties in North and West Texas with 15 branch offices located in Abilene, Amarillo, Brownwood, Dallas, Denton, Fort Worth, Lubbock, McKinney, Midland, Odessa, Plainview, San Angelo, Waxahachie, Weatherford, and Wichita Falls.

Opportunities Offered: LANWT is able to represent clients in any type of civil matter with a focus on: Support for Families; Preserving the Home; Maintaining Economic Stability; Safety, Stability, and Health; Individuals with Special Needs, and; Problems Affecting Groups of Individuals. You can help by volunteering at one of LANWT's many legal clinics by interviewing prospective clients, taking cases for representation, or providing legal advice and counsel. LANWT provides opportunities in offices all over the North Texas area.

LANWT asks that attorneys interested in offering legal services sign up through their website here: <https://internet.lanwt.org/givehelp/volunteering>. Volunteers will contact you and provide you with information on opportunities available that fit your schedule.

Malpractice insurance: Yes, LANWT provides malpractice insurance.

Training: LANWT offers training in all areas.

Supervision/Mentoring: New volunteer attorneys are provided support and mentoring at all levels.

Texas Lawyers for Texas Veterans (Tarrant County Chapter)

Trinity River Campus Corner of Belknap and N. Taylor Fort Worth, TX 76102

<http://txltxv.org/>

Contact Pro Bono Programs Director at (817) 338-4092 or through the website

Texas Lawyers for Texas Veterans-Tarrant County Chapter (TLTV) is a community service committee under the Tarrant County Bar Foundation, a nonprofit organization with a 501c(3) status. TLTV encourages and recruits Tarrant County attorneys to provide legal services for veterans and spouses of deceased veterans with legal issues in Tarrant County.

Opportunities Offered: Volunteers needed to give legal counsel and advice at legal clinics to veterans and the surviving spouses of deceased veterans, without regard to financial eligibility. Seven Clinics a year are held at the VA Outpatient Clinic in Fort Worth (2nd Floor Conference Room). Three clinics a year are held at the TCC-South Campus (Student Center).

Special note: TLTV provides consultation and legal counseling in family law, consumer/finance law, probate law, estate planning, bankruptcy law, landlord/tenant law, and other legal matters. The program does not provide assistance regarding veterans' benefits. This is a crucial distinction, as federal attorneys may not volunteer for matters regarding veterans' benefits. Such activities would place federal attorneys at odds with the federal government. TLTV is one of the few organizations that allows federal attorneys to work with veterans on other activities, thus supporting our hard-working veterans and avoiding potential conflicts. Please take advantage of this rare opportunity.

Clinics take place on the third Friday of every month, so contact TLTV before that time to volunteer.

Malpractice insurance: Yes, TLTV provides malpractice insurance.

Training: TLTV offers training in all areas.

Supervision/Mentoring: New volunteer attorneys are provided support and mentoring at all levels.

Tarrant County Volunteer Attorney Services

Trinity River Campus Corner of Belknap and N. Taylor Fort Worth, TX 76102

<http://www.tvasdoingourpart.com/Default.aspx>

Contact Aleed Rivera at 817.546.4460 or aleed@tarrantbar.org

The Tarrant County Bar Foundation established Tarrant County Volunteer Attorney Services (TVAS) in January 2012 in order to connect attorneys with individuals who cannot otherwise afford representation; to encourage participation from the legal community in pro bono legal services, and; to create a program that recognizes individual attorneys, law firms, and corporations for their commitment to pro bono legal services. TVAS held its first event in October 2012, and, currently, TVAS holds quarterly events in which volunteer attorneys provide representation in uncontested divorces and estate planning to low-income individuals residing in Tarrant County.

Opportunities Offered: Volunteers can participate in legal clinics for uncontested divorces, adoptions, wills and estate planning, education advocacy, and general legal advice.

Upcoming clinics can be found here: <http://www.tvasdoingourpart.com/EventSchedule.aspx>

Malpractice insurance: Yes, TVAS provides malpractice insurance.

Training: TLTV offers training in all areas.

Supervision/Mentoring: New volunteer attorneys are provided support and mentoring at all levels.