

# AGENDA ITEM

JULY 54-166

Proposed Revisions to the  
Emeritus Attorney Pro Bono  
Participation Program Rules –  
Return of Public Comment

DATE: June 16, 2008

TO: Members of the Board of Governors  
Members of the Board Committee on Stakeholder Relations

FROM: Patricia Lee, Director  
Office of Legal Services, Access & Fairness Programs

Sharon Ngim, Program Developer  
Office of Legal Services, Access & Fairness Programs, and Staff Liaison to the  
Standing Committee on the Delivery of Legal Services

SUBJECT: Proposed Revisions to the Emeritus Attorney Pro Bono Participation Program  
Rules – Return of Public Comment

## **EXECUTIVE SUMMARY**

The Board of Governors established the Emeritus Attorney Pro Bono Participation Program Rules in June 1987 to encourage attorneys who otherwise would be retired from the active practice of law to do pro bono work. [Title 3, Division 2, Chapter 8 of the State Bar Rules and Regulations.] In May 2008, a request was made and approved for a 45-day public comment period on the proposed revisions to the rules that would allow more attorneys transitioning from the practice of law to participate. The comment period ends on June 30 and a summary of the comments received as of June 12 is attached. Any subsequent comments received will be provided at the July 11 Board of Governors meeting. Attached are the proposed recommendations for review and approval.

## **BACKGROUND:**

The Board of Governors adopted the Emeritus Attorney Pro Bono Participation Program (“EA Program”) Rules in June 1987. The rules originally were created to encourage retired attorneys who otherwise would become inactive to represent low-income individuals on a pro bono basis. The retired attorney would become active for the purpose of doing pro bono work with a qualified legal services provider or certified lawyer referral service and the State Bar would waive the active membership fee. Since 1987, an increasing number of younger attorneys have been leaving the profession on a temporary or permanent basis. They have sufficient legal experience to make a valuable pro bono

contribution but may not have been in practice for the minimum ten years required under the current rules. The proposed rule revisions would make the pro bono program available to these attorneys and not just those who meet current emeritus qualifications.

The proposal is consistent with the American Bar Association's Second Season of Service initiative and the national trend by states to broaden the traditional target audience of retired attorneys to otherwise qualified and experienced younger attorneys who are not in active practice but who are interested in pro bono work. This proposal also is supported by recent demographic information that indicates more young lawyers in California are leaving the practice of law within the first ten years. Modest changes to the current rules could significantly increase the number of pro bono attorneys resulting in much needed free civil legal services to California's poor.

The proposed rule changes to rename, update, and expand the Emeritus Attorney Program Rules would have minimal impact on the attorneys currently enrolled in the program. Attorneys or judges who retire from the active practice of law after the proposed rules changes become effective would need to apply to the program within the first two years after changing from active to inactive status.

The summary of key proposed changes are as follows:

1. Change title of program from Emeritus Attorney Pro Bono Participation Program to "Pro Bono Practice Program."
2. Replace "Emeritus Attorney" with "Pro Bono Practice" and delete references to "emeritus" and "retired."
3. Rule 3.327: Retain 3 years of practice of law or service as a judge in California, but reduce from ten to five the total number of years admitted to the practice of law in a United States jurisdiction and the number of years of no record of public discipline.
4. Rule 3.329: Add a recommended minimum number of hours of pro bono legal services to be performed by the pro bono practice attorney annually, 100 hours being the recommended minimum, though the attorney and the qualified legal services provider or certified lawyer referral service can agree on a different number of hours.
5. Rule 3.300: Add a provision that the qualified legal services provider or the certified lawyer referral service must provide adequate support and supervision.

## **RETURN FROM PUBLIC COMMENT**

The public comment period began May 16 and ends on June 30. A notice was posted on the State Bar's website and was distributed to the following: all attorneys currently enrolled in the Emeritus Attorney Program; IOLTA funded legal services programs; State Bar certified lawyer referral services; and local, specialty, minority and women's bar associations.

As of June 12, eight comments have been received (see Attachment A for the summary of comments). Four of the eight comments were submitted by IOLTA programs, one from

a county bar association, one from a court-based program, and two from attorneys currently enrolled in the Emeritus Attorney Program. The comments from the six entities are favorable and support in totality the recommended revisions that would allow more attorneys to participate. One of the two Emeritus Attorney expressed dismay that as a result of changing the program name he would not be able to identify himself as an “Emeritus Attorney.” The other Emeritus Attorney feels that the recommended 100 hours, though acknowledging that the number is voluntary and that the provider and attorney can make other arrangements, would deter attorneys from applying to the program.

The deadline for public comments occurs after agenda items must be submitted. Any additional comments received by the June 30 deadline will be summarized and reported to Stakeholders and the Board of Governors at the July 11 meeting.

**FISCAL AND PERSONNEL IMPACT:**

It is projected that enrollment in the updated and expanded program could potentially double from 83 attorneys to 166 attorneys, and the maximum value of the total amount of active membership fees to be waived would double. No additional staff resources are anticipated at this time.

**BOARD BOOK/ADMINISTRATIVE MANUAL IMPACT:**

The Board Book will not be impacted. The Administrative Manual topics affected by the proposed rule changes will be updated accordingly.

**RULE AMENDMENTS:**

The proposed changes to the current Emeritus Attorney Program Rules would replace the existing Title 3, Division 2, Chapter 8 of the Rules and Regulations of the State Bar.

**ALIGNMENT WITH STRATEGIC PLAN:**

The measurable desired outcome listed under Strategy 3.1 (Pro Bono Representation. Encourage increased numbers of practitioners and amounts of time contributed through pro bono representation provided by individual private and public attorneys) would be changed from “The number of Emeritus attorneys involved in pro bono activities increases.” to “The number of attorneys enrolled in the Pro Bono Practice Program increases.”

**RECOMMENDATIONS:**

See Attachment B for a complete list of recommendations for the proposed revisions to rename, update and expand the current Emeritus Attorney Program Rules. See Attachment C for the proposed changes incorporated into the current rules.

**PROPOSED IMPLEMENTATION:**

In order to implement the revisions to the current Emeritus Attorney Pro Bono Program by the 2009 State Bar billing cycle, from July 2008 through January 2009,

State Bar staff and the Standing Committee on the Delivery of Legal Services will promote and publicize the revised program rules, including but not limited to:

- an article on the State Bar Web site, in the Cal Bar Journal, other State Bar communication outlets, and the Legal Aid Association of California newsletter;
- individualized notices to all qualified legal services providers, certified lawyer referral services and local, specialty, minority and women's bar associations and all attorneys enrolled in the current Emeritus Attorney Program;
- Program Development staff will share information with existing and potential qualified legal services programs and certified lawyer referral services about ways to incorporate attorneys in transition and inactive attorneys in the delivery of legal services;
- Program Development staff will also coordinate with appropriate State Bar staff to notify attorneys about the Pro Bono Practice Program when they change from active to inactive status, and explore the feasibility of including information about the program in the annual member fee statement to all attorneys.

**PROPOSED BOARD COMMITTEE RESOLUTION:**

Should the Board Committee on Stakeholder Relations concur, the following resolution would be in order:

**RESOLVED**, that the Board Committee on Stakeholder Relations recommends that the Board of Governors approve the revisions to the Emeritus Attorney Pro Bono Program Rules in the form attached (Attachment D), and it is

**FURTHER RESOLVED**, that staff is authorized to make non-substantive changes to the document in preparation for printing and distribution.

**PROPOSED BOARD RESOLUTION:**

Should the Board of Governors concur with the Board Committee on Stakeholder Relations, the following resolution would be in order:

**RESOLVED**, upon recommendation of the Board Committee on Stakeholder Relations, the Board of Governors approves the revisions to the Emeritus Attorney Pro Bono Program Rules in the form attached (Attachment D), and it is

**FURTHER RESOLVED**, that staff is authorized to make non-substantive changes to the document in preparation for printing and distribution.

## Attachment A

### SUMMARY OF PUBLIC COMMENTS AS OF JUNE 12, 2008

#### Proposed Revisions to Title 3, Division 2, Chapter 8 of the State Bar Rules and Regulations: Emeritus Attorney Pro Bono Program Rules

Name and Title of Respondent	Affiliation	Comments
Tiela Chalmers, Executive Director	Volunteer Legal Services Program, Bar Association of San Francisco	I love the new rules.... One comment, we won't always know when the emeritus stops practicing with us so the 30 day rule [Rule 3.330 (D)] is unrealistic. We give folks cases, they go off and do them, we won't always know if they've finished, or if they have finished we won't always know if they intent to take another case. We can certainly tell you if they tell us they're quitting.
Lana French, Pro Bono Coordinator	Central California Legal Services, Tulare/Kings Office	This is a good change to make.
Linda Gonzales, Interim Executive Director	Law Center for Families, Oakland	These are excellent changes. Had these changes been made two years ago, I would have been able to participate in such a pro bono program. Good Luck.
Irene Morales, Executive Director	Inland Counties Legal Services, Riverside	The revisions are a good idea—would allow legal services programs to recruit attorneys who have substantial but not necessarily 10 years experience.
Alan Marblestone, Emeritus Attorney	Legal Aid Society of San Diego	<p>Since becoming an Emeritus attorney I have been very proud to be identified by that name. Judges and most attorneys are familiar with that designation. I'm conceited enough to announce in Court that I am a Emeritus Attorney as it imparts a certain amount of class to me personally.</p> <p>The new proposed new change does not allow me to designate what type attorney I am other than one in general practice. I won't feel I am special any longer.</p> <p>This change sounds like it was drafted by a typical bureaucrat and for what purpose, one doesn't know.</p> <p>Please leave the name of the program as it is or at least allow us to still refer to ourselves as Emeritus Attorneys.</p>
Tina Rasnow, Coordinator	Ventura County Superior Court Self-Help Legal Access Center	This looks good. I, though, would have been perfectly happy to be called an emeritus attorney next year, as I am looking with pride at joining their ranks. I agree that by changing the name it will open up the program to more younger attorneys on leave from the full practice of law.
Ann Wassam, Executive Director	Alameda County Bar Association	At its June 3, 2008 meeting, the ACBA Board of Directors approved all revisions presented, particularly the reduction in years of practice from ten to five to allow greater numbers of attorneys to participate, and the recommendation of a minimum annual commitment of 100 hours from program participants.

**SUMMARY OF PUBLIC COMMENTS AS OF JUNE 12, 2008**

**Proposed Revisions to Title 3, Division 2, Chapter 8 of the State Bar Rules and Regulations: Emeritus Attorney Pro Bono Program Rules**

<b>Name and Title of Respondent</b>	<b>Affiliation</b>	<b>Comments</b>
Constance Hosemann, Emeritus Attorney	Alameda County Bar Association Volunteer Legal Services Corporation	<p>The recommendation that a pro bono attorney contribute 100 hours per year of work is badly misguided because:</p> <ol style="list-style-type: none"><li>1. It far exceeds the amount expected of volunteers in the volunteer world. A more reasonable amount would be between 40 and 50 hours per year. There is nothing to prevent the volunteer from giving more time, if the volunteer wishes to so.</li><li>2. I am a re-entry woman. I worked for decades as a volunteer before becoming an attorney, and now that I am retired I am volunteering again. When I retired the first time (when our children arrived) I volunteered as a docent at the Oakland Museum among other organizations. When I interviewed to be a docent I was reminded that I would be expected to give 40 hours of my time (after I paid to take a college accredited class for 1 ½ year.) I asked if that 40 hours was per month, and the response was "Oh no, per year. Forty hours a year is a lot of time for a volunteer to give." It did not seem much to me then, because I had been working forty plus hours a weeks in a full time job. I realize 100 hours per year to a practicing attorney is not a lot of time when 60 hours a week or more is standard. But those of us who are not on that kind of a schedule, look at it very differently. For instance, even if I volunteered for both guardianship clinics in my county each month, I would not come close to meeting the requirement.</li><li>3. I realize the requirement is voluntary and the qualified provider can make other arrangements, but I doubt, if I would have even considered the program if I had been told I was expected to give 100 hrs a year. The state bar needs to realize there is a big difference between full time or part time work and volunteer time. The fact that there are only 83 Emeritus Attorneys in the entire state should tell you something about what is currently required. I feel certain from decades of volunteer work, that increasing the time recommended to 100 hours is the wrong direction to go.</li></ol> <p>For your information, the Oakland Museum has one of the highest retention rates for volunteers of any organization in the entire country.</p>

## **Attachment B**

### **Recommendations for Proposed Revisions to Title 3, Division 2, Chapter 8 of the State Bar Rules and Regulations**

#### **Recommendation 1**

Change title of Chapter 8 from Emeritus Attorneys to “Pro Bono Practice Attorneys”; globally replace “Emeritus Attorney” or “emeritus” with “Pro Bono Practice” and delete “retired” and “retirement”.

Note: Renaming the program is necessary to adequately reflect the rule changes. The words “emeritus” and “retired” are associated with age and/or retirement status due to age. Removing them will help broaden the pool of applicants to include younger attorneys taking an early or mid-career break from the active practice of law and attorneys transitioning to alternative careers.

#### **Recommendation 2**

Rule 3.325, Definitions (C): delete “certified by the State Bar as meeting the statutory criteria for” and replace with “receives or is eligible to receive funds from the Legal Services Trust Fund Program as . . .”

Note: The proposed replacement language appeared in the original version of the Emeritus Attorney Program Rules and should be retained as the language is the most recognized definition of “qualified legal services providers” both within and outside the State Bar.

#### **Recommendation 3**

Rule 3.325, Definitions (D): add “panel or” between “pro bono” and “clinic.”

The word “panel” is the correct terminology when referencing lawyer referral services.

#### **Recommendation 4**

Rule 3.327, Eligibility requirements (A): delete “retirement” and replace with “application to the Pro Bono Practice Program.”

Note: All of the eligibility requirements would be effective from the time the attorney files an application to enroll in the program.

#### **Recommendation 5**

Rule 3.327, Eligibility requirements (B) and (D): Reduce the number of years admitted to the practice of law in a United States jurisdiction and no record of public discipline from ten to five.

Note: On the basis of their experience with the Emeritus Program, the Standing Committee on the Delivery of Legal Services and the Program Development staff of the Office of Legal Services, Access & Fairness Programs believe that being admitted to the practice of law for five years in any jurisdiction (with three of those years as a judge or practicing attorney in California) plus no record of public discipline during the five years are sufficient requirements for an attorney to provide valuable pro bono contributions and to overcome any concerns about protecting the public and the profession.

### **Recommendation 6**

Rule 3.327, Eligibility requirements (E): add “annually” after “application.”

Note: Adding the word “annually” clarifies that enrollment in the program is not renewed automatically.

### **Recommendation 7**

Rule 3.328, Waiver of an eligibility requirement: delete “for any reason” and add “or for other good cause” at the end of the rule.

Note: Waiving an eligibility requirement for good cause is consistent with State Bar policy.

### **Recommendation 8**

Rule 3.329, Responsibilities of a pro bono practice attorney (B): delete “project, qualified legal support center, or the no-fee panel or pro bono clinic of a . . . ” and replace with “provider or a . . . ”

Note: This change is consistent with the definition of “qualified legal services provider” at Rule 3.325 Definitions (C).

### **Recommendation 9**

Rule 3.329, Responsibilities of a pro bono practice attorney (D): delete “these rules and relevant law” and replace with “State Bar Rules on Minimum Continuing Legal Education and all other rules and laws applicable to active State Bar members.”

Note: It is important to state in the rules that program participants must comply with MCLE requirements as many assume they are exempt from MCLE.

### **Recommendation 10**

Rule 3.329, Responsibilities of a pro bono practice attorney : add “(F) agree with the qualified legal services provider or certified lawyer referral service to provide a minimum number of hours of pro bono legal services annually, 100 hours being the recommended minimum; and.”

Note: The current Emeritus Attorney Program Rules are silent regarding a recommended minimum number of pro bono hours to contribute per year. As pro bono resolutions adopted by the Board of Governors in December 1989 and revised in June 2002 urge all attorneys to provide at least 50 hours of pro bono legal services each year, it would be consistent to recommend a minimum number of pro bono hours. 100 hours represents a little less than two hours of pro bono service per week per year, and the committee believes this number is reasonable and attainable. Please note that the recommended number of 100 hours is voluntary and not mandatory, and that the qualified legal services provider or certified lawyer referral services and the pro bono practice attorney can agree on a different number of hours.

### **Recommendation 11**

Rule 3.329, Responsibilities of a pro bono practice attorney: add “(G) submit application annually; and.”

Note: This language is consistent with Rule 3.327 Eligibility requirements (E).

### **Recommendation 12**

Rule 3.329, Responsibilities of a pro bono practice attorney : add “(H) disclose any disciplinary charges to the qualified legal services provider or certified lawyer referral service as part of the attorney’s continuing duty.”

Note: This language is consistent with State Bar policy.

### **Recommendation 13**

Rule 3.330, Responsibilities of a qualified legal services provider or certified lawyer referral service: Replace “qualified” with “certified” in the rule title and first sentence.

Note: “Certified” is the correct terminology when referencing lawyer referral services.

### **Recommendation 14**

Rule 3.330, Responsibilities of a qualified legal services provider or certified lawyer referral service: add “(E) provide adequate support and supervision to each pro bono practice attorney. . .”

Note: Adding this responsibility for support and supervision helps ensure quality assurance and is not unduly burdensome.

### **Recommendation 15**

Rule 3.330, Responsibilities of a qualified legal services provider or certified lawyer referral service: add “(F) agree with the pro bono practice attorney to provide a minimum number of hours of pro bono legal services annually, 100 hours being the recommended minimum; and.”

Note: This change is consistent with text proposed above for Rule 3.329 Responsibilities of a pro bono practice attorney (F).

**Recommendation 16**

Rule 3.330, Responsibilities of a qualified legal services provider or certified lawyer referral service: add “(G) submit application annually for each pro bono practice attorney.”

Note: This change is consistent with text proposed above for Rule 3.327 Eligibility requirements (E).

## Attachment C

### Proposed Revisions to Title 3, Division 2, Chapter 8 (redlined version)

#### TITLE 3. PROGRAMS AND SERVICES

#### **Division 2. Attorney Members**

#### CHAPTER 8. ~~EMERITUS~~ **PRO BONO PRACTICE** ATTORNEYS

##### Rule 3.325 Definitions

- (A) The “~~Emeritus Attorney~~ **Pro Bono Practice** Program” is a program for active members of the State Bar who would otherwise be ~~retired or~~ inactive to provide free legal services exclusively for a qualified legal services provider or for the no-fee panel or pro bono clinic of a certified lawyer referral service.
- (B) An “~~emeritus~~ **pro bono practice** attorney” is an active member of the State Bar who would otherwise be ~~retired or~~ inactive but who provides free legal services exclusively for the ~~Emeritus~~ **Pro Bono Practice** Attorney Program and engages in no other activities that require active status.
- (C) A “qualified legal services provider” is ~~certified by the State Bar as meeting the statutory criteria for~~ **receives or is eligible to receive funds from the Legal Services Trust Fund Program as** either
- (1) a “qualified legal services project,” which provides legal services in civil matters without charge to indigent persons;<sup>1</sup> or
  - (2) a “qualified legal services support center,” which provides legal training, legal technical assistance, or advocacy support without charge to qualified legal services projects.<sup>2</sup>
- (D) A “certified lawyer referral service” is, for the purposes of the ~~Emeritus~~ **Pro Bono Practice** Attorney Program, the no-fee panel or pro bono **panel or** clinic of a lawyer referral service certified by the State Bar as meeting statutory criteria.<sup>3</sup>

##### Rule 3.326 Waiver of annual membership fees

The State Bar waives annual active membership fees for members who act exclusively as ~~emeritus~~ **pro bono practice** attorneys for an entire calendar year. Members who are ~~emeritus~~ **pro bono practice** attorneys for less than a calendar year must pay annual membership fees.

##### Rule 3.327 Eligibility requirements

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<sup>1</sup> Business & Professions Code §§ 6213 – 6214.5.

<sup>2</sup> Business and Professions Code §§ 6213 and 6215.

<sup>3</sup> Business & Professions Code § 6155.

To serve as an emeritus **pro bono practice** attorney, a member must

- (A) be in good standing with no disciplinary charges pending at the time of retirement **application to the Pro Bono Practice Program**;
- (B) at the time of application have been admitted to the practice of law in a United States jurisdiction for at least ~~ten~~ **five** years preceding the application;
- (C) have practiced law or served as a judge in California for at least three of those years;
- (D) have no record of public discipline during the ~~ten~~ **five** years;
- (E) submit an application **annually** for the Emeritus Attorney **Pro Bono Practice** Program; and
- (F) be certified by the State Bar as an emeritus **pro bono practice** attorney.

#### Rule 3.328 Waiver of an eligibility requirement

The Secretary may waive an emeritus **pro bono practice** attorney requirement for any reason, such as the extent to which a member otherwise meets the requirements, the need for legal services in a particular place, or a member's experience in providing pro bono legal services **or for other good cause**.

#### Rule 3.329 Responsibilities of an emeritus **pro bono practice** attorney

An emeritus **pro bono practice** attorney must

- (A) provide legal services exclusively as an Emeritus **Pro Bono Practice** Attorney and not otherwise engage in activities that require active status;
- (B) provide legal services for a qualified legal services **provider or a project, qualified legal support center, or the no-fee panel or pro bono clinic** of a qualified lawyer referral service;
- (C) accept no compensation for legal services, except for reimbursement of expenses incurred while rendering services under these rules;
- (D) comply with **State Bar Rules on Minimum Continuing Legal Education and all other rules and laws applicable to active State Bar members**; ~~these rules and relevant law~~
- (E) notify the State Bar within thirty days of withdrawing from the program;
- (F) **agree with the qualified legal services provider or certified lawyer referral service to provide a minimum number of hours of pro bono**

- legal services annually, 100 hours being the recommended minimum;**
- (G) **submit an application annually; and**
- (H) **disclose any disciplinary charges to the qualified legal services provider or certified lawyer referral service as part of the attorney's continuing duty.**

Rule 3.330 Responsibilities of a qualified legal services provider or qualified **certified** lawyer referral service

A qualified legal services provider or qualified **certified** lawyer referral service that uses the services of an emeritus **pro bono practice** attorney must

- (A) notify the State Bar that a member has applied to serve as an emeritus attorney for the provider or service;
- (B) indicate whether the application will be accepted if the State Bar certifies the member as an emeritus **pro bono practice** attorney;
- (C) provide no compensation to the emeritus **pro bono practice** attorney, except for reimbursement of expenses; and
- (D) notify the State Bar within thirty days of ceasing to use the services of the emeritus **pro bono practice** attorney;
- (E) provide adequate support and supervision to each pro bono practice attorney; and**
- (F) agree with the pro bono practice attorney to provide a minimum number of hours of pro bono legal services annually, 100 hours being the recommended minimum; and**
- (G) submit application annually for each pro bono practice attorney.

## Attachment D

### Proposed Revisions to Title 3, Division 2, Chapter 8

#### TITLE 3. PROGRAMS AND SERVICES

##### Division 2. Attorney Members

##### CHAPTER 8. PRO BONO PRACTICE ATTORNEYS

##### Rule 3.325 Definitions

- (A) The “Pro Bono Practice Program” is a program for active members of the State Bar who would otherwise be inactive to provide free legal services exclusively for a qualified legal services provider or for the no-fee panel or pro bono clinic of a certified lawyer referral service.
- (B) A “pro bono practice attorney” is an active member of the State Bar who would otherwise be inactive but who provides free legal services exclusively for the Pro Bono Practice Program and engages in no other activities that require active status.
- (C) A “qualified legal services provider” is receives or is eligible to receive funds from the Legal Services Trust Fund Program as either
  - (1) a “qualified legal services project,” which provides legal services in civil matters without charge to indigent persons;<sup>4</sup> or
  - (2) a “qualified legal services support center,” which provides legal training, legal technical assistance, or advocacy support without charge to qualified legal services projects.<sup>5</sup>
- (D) A “certified lawyer referral service” is, for the purposes of the Pro Bono Practice Program, the no-fee panel or pro bono panel or clinic of a lawyer referral service certified by the State Bar as meeting statutory criteria.<sup>6</sup>

##### Rule 3.326 Waiver of annual membership fees

The State Bar waives annual active membership fees for members who act exclusively as pro bono practice attorneys for an entire calendar year. Members who are pro bono practice attorneys for less than a calendar year must pay annual membership fees.

##### Rule 3.327 Eligibility requirements

To serve as a pro bono practice attorney, a member must

- (A) be in good standing with no disciplinary charges pending at the time of

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<sup>4</sup> Business & Professions Code §§ 6213 – 6214.5.

<sup>5</sup> Business and Professions Code §§ 6213 and 6215.

<sup>6</sup> Business & Professions Code § 6155.

application to the Pro Bono Practice Program;

- (B) at the time of application have been admitted to the practice of law in a United States jurisdiction for at least five years preceding the application;
- (C) have practiced law or served as a judge in California for at least three of those years;
- (D) have no record of public discipline during the five years;
- (E) submit an application annually for the Pro Bono Practice Program; and
- (F) be certified by the State Bar as a pro bono practice attorney.

#### Rule 3.328 Waiver of an eligibility requirement

The Secretary may waive a pro bono practice attorney requirement, such as the extent to which a member otherwise meets the requirements, the need for legal services in a particular place, or a member's experience in providing pro bono legal services or for other good cause.

#### Rule 3.329 Responsibilities of a pro bono practice attorney

A pro bono practice attorney must

- (A) provide legal services exclusively as a Pro Bono Practice Attorney and not otherwise engage in activities that require active status;
- (B) provide legal services for a qualified legal services provider or a qualified lawyer referral service;
- (C) accept no compensation for legal services, except for reimbursement of expenses incurred while rendering services under these rules;
- (D) comply with State Bar Rules on Minimum Continuing Legal Education and all other rules and laws applicable to active State Bar members;
- (E) notify the State Bar within thirty days of withdrawing from the program;
- (F) agree with the qualified legal services provider or certified lawyer referral service to provide a minimum number of hours of pro bono legal services annually, 100 hours being the recommended minimum;
- (G) submit an application annually; and
- (H) disclose any disciplinary charges to the qualified legal services provider or certified lawyer referral service as part of the attorney's continuing duty.

Rule 3.330 Responsibilities of a qualified legal services provider or certified lawyer referral service

A qualified legal services provider or certified lawyer referral service that uses the services of a pro bono practice attorney must

- (A) notify the State Bar that a member has applied to serve as an emeritus attorney for the provider or service;
- (B) indicate whether the application will be accepted if the State Bar certifies the member as a pro bono practice attorney;
- (C) provide no compensation to the pro bono practice attorney, except for reimbursement of expenses;
- (D) notify the State Bar within thirty days of ceasing to use the services of the pro bono practice attorney;
- (E) provide adequate support and supervision to each pro bono practice attorney; and
- (F) agree with the pro bono practice attorney to provide a minimum number of hours of pro bono legal services annually, 100 hours being the recommended minimum; and
- (G) submit application annually for each pro bono practice attorney.