

Updated Attachment A – Following Close of Public Comment

JULY 54-166

BACKGROUND AND SUMMARY OF PUBLIC COMMENTS

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

The original intent of the Emeritus Attorney Pro Bono Participation Program (“EA Program”) Rules was 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. Currently there are eighty-three Emeritus Attorneys located at twenty-six different programs providing a range of direct legal services to low-income Californians.

The proposal to rename, update and expand the existing program rules is consistent with national efforts to broaden the traditional target audience of retired attorneys to otherwise qualified and experienced younger attorneys who are not actively practicing law but who are interested in pro bono work. The 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 senior and younger pro bono attorneys resulting in much needed free civil legal services to California’s poor.

During the public comment period from May 16 through June 30, 2008, there were a total of 18 comments submitted (four from current Emeritus Attorneys, twelve from IOLTA programs, one from a bar association and one from a self-help court based center). The overwhelming majority of the comments support the proposed revisions. However, one of the four Emeritus Attorneys, and four of the twelve IOLTA programs expressed concerns with the voluntary recommended minimum 100 hours of pro bono service, indicating that the recommended 100 hours were too high and might deter individuals from participating in the program. In addition, one of the four Emeritus Attorneys and one of the twelve IOLTA programs want to retain a reference to retired and/or senior attorneys to acknowledge the unique contributions that can be made by older attorneys, and one Emeritus Attorney wants to continue to be referred as an “Emeritus Attorney.”

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PUBLIC COMMENTS (Revised as of July 2, 2008)
Proposed Revisions to Title 3, Division 2, Chapter 8 of the State Bar Rules and Regulations: Emeritus Attorney Pro Bono Program Rules

No.	Date Received	Name, Title and Affiliation of Respondent	Comments	Staff Comments
1.	May 16, 2008	Lana French Pro Bono Coordinator Central California Legal Services, Tulare/Kings Office, Visalia	This is a good change to make.	
2.	May 16, 2008	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.	
3.	May 18, 2008	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.	
4.	May 19, 2008	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.	
5.	May 23, 2008	Constance Hosemann Emeritus Attorney Alameda County Bar Association Volunteer Legal Services Corporation	The recommendation that a pro bono attorney contribute 100 hours per year of work is badly misguided because: 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. 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	The current proposal allows providers and attorneys to agree on any number of hours. 100 hours is recommended but NOT required.

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5.	May 23, 2008	Constance Hosemann (Continued)	<p>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.</p> <p>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.</p> <p>For your information, the Oakland Museum has one of the highest retention rates for volunteers of any organization in the entire country.</p>	
6.	May 28, 2008	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 an 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>	Of the four Emeritus Attorneys who responded, this is the only comment in favor of retaining the Emeritus Attorney designation. Please contrast with comments from James Giblin on page 6.

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7.	June 4, 2008	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.	
8.	June 5, 2008	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 intend to take another case. We can certainly tell you if they tell us they're quitting.	The intention of the 30-day rule is for the provider to notify the State Bar when an attorney no longer intends to participate in the State Bar's Pro Bono Practice Program.
Please Note Comments Below are Additional Comments Received After June 12, 2008				
9.	June 16, 2008	Verna Kagan Program Manager Volunteer Lawyers Services Program	(This is an excerpt.) Our award winning team of ten Emeritus Attorneys are a separate group from the pro bono attorneys. They each donate two to four hours a week. Their duties are to interview and advise applicants requesting pro bono services. They evaluate the matters before them both for financial eligibility and the merits of their case. Finding both to be in order, they then call on active members who have volunteered to represent clients in one or two matters per year. Occasionally, one of the team members will make an appearance in a matter or affect some resolution of a matter in house. As manager of the team, it certainly enhances our effectiveness every time we can expand our list of pro bono attorneys. Your effort to include attorneys who are on temporary leave from the active practice of law or who are in transition to another profession is commendable.	

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10.	June 16, 2008	Rachel Kronick Rothbart Director of Legal Services Harriett Buhai Center for Family Law, Los Angeles	(This is an excerpt.) <ul style="list-style-type: none"> ● Generally, we support the 15 of the 16 recommendations as listed in Attachment A entitled, “Recommendations and Comments, Title 3, Division 2, Chapter 8 of the State Bar Rules.” The recommendations/changes seem to be practical and not burdensome. ● With respect to Recommendation 10 in which Rule 3.329 would be amended to read “agree with the qualified legal services provider to provide a minimum number of hours of pro bono legal services annually, 100 hours being the recommended minimum.” As the comment, the rules regarding the Emeritus Attorney Program are silent as to the recommended minimum amount of hours an emeritus attorney must provide for a program. Although we understand that the amount of hours is only a recommended amount and that the provider and the attorney can agree on a different amount of hours, we are concerned that stating a recommended amount of hours in the rules, general literature about the Program or publicity regarding the Program might dissuade a prospective or current member of this Program. If the impetus behind the changes to the Program is to attract more participants, then changing the rule to include a recommended amount is not going to necessarily draw more participants. In fact, the opposite may occur. We would suggest that references to a recommended amount in the proposed changes be deleted. 	The current proposal allows providers and attorneys to agree on any number of hours. 100 hours is recommended but NOT required.
11.	June 16, 2008	Nancy Murphy Pro Bono Manager Legal Aid of Marin, San Rafael	(This is an excerpt.) Changes look fine except #5. I do not agree with a minimum number of hours, especially so high as 100. In my experience, the attorneys who have worked with us through the Emeritus Program have not had that kind of time availability...I would estimate an average of 20-30 hours in one year. I do feel stating a number could be somewhat of a deterrent. However, there is a carrot in the equation for the emeritus attorneys. I think I would tend to use a 25 hour minimum for retired attorneys. I also feel the State Bar should require full time attorneys to perform a minimum of 50 hours of pro bono each year.	The current proposal allows providers and attorneys to agree on any number of hours. 100 hours is recommended but NOT required.

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12.	June 18, 2008	Russell Roeca President-Elect Bar Association of San Francisco and Vice Chair, Volunteer Legal Services Program	(This is an excerpt.) I am writing to offer our enthusiastic endorsement of and support for the proposed changes to the Emeritus Attorney Program. We are very interested in reaching out to more attorneys who are not currently practicing law, for whatever reason. We have a grant proposal out to fund a multi-year outreach project to retired and retiring attorneys. We are very much in support of these proposed changes. They offer us the opportunity to reach out to a group of attorneys currently unavailable for most pro bono projects. Your proposed changes represent a leap forward on this issue.	
13.	June 26, 2008	Gabrielle Lessard Legal Director Insight Center for Community Economic Development, Oakland	<ul style="list-style-type: none"> ● We are pleased to see the Emeritus Attorney Program reach out to younger lawyers by reducing the years of practice required and by changing the name of the Program. The proposed rules' clarification of program requirements is also helpful. However, we have a few concerns. ● Proposed Rule 3.329(A) requires a Pro Bono Practice Attorney to provide legal services exclusively in that capacity, and not to engage in other activities that require active status. This requirement discourages participation by potential Pro Bono Practice Attorneys who want to provide limited legal assistance to family members. It should be amended to permit some amount of uncompensated legal practice outside of the program. In addition, Sections (B), (F) and (H) of proposed Rule 3.329 refer to a single legal services program. The rules should clarify that a Pro Bono Practice Attorney can work with more than one legal services program. ● We object to the proposed changes Sections (F) and (G) of Rule 3.330. Proposed Section F's requirement that legal services programs agree to provide a minimum number of pro bono hours is arbitrary and burdensome. Legal services programs cannot always anticipate their clients' needs. Many people who are retired or taking time out of the workforce travel frequently and cannot commit to a regular volunteer schedule. Legal services programs and Pro Bono Practice Attorneys should be free to work out their own arrangements. ● Proposed section G is unclear. It appears to require legal services programs to apply for Pro Bono Practice Attorneys, but Recommendation 16 of the Recommendations and Comments refers to the attorney's application for Pro Bono Practice Attorney status. In any event, legal services programs undergo a rigorous application process to be selected for Trust Fund Program funding. No additional application process should be required for their participation in the Pro Bono Practice Attorney program. 	<p>There is no proposed substantive change to Rule 3.329 (A). The original purpose of the program is for attorneys to increase legal services to low-income clients by providing pro bono legal services exclusively with a qualified legal services provider.</p> <p>Nothing in the rules prohibit an attorney from participating in more than one qualified legal services provider or certified lawyer referral service.</p> <p>The current proposal allows providers and attorneys to agree on any number of hours. 100 hours is recommended but NOT required.</p> <p>The purpose of Rule 3.330 (G) is for the provider to approve the annual application for each pro bono practice attorney. Under the current rules, programs are not required to submit an application.</p>

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14.	June 29, 2008	<p>James Giblin Emeritus Attorney Contra Costa Senior Legal Services</p>	<p>1. <u>Change of Title to Pro Bono Practice Program</u>. I think this is a good suggestion. Although I have been retired from full time practice for over five years, I appreciate that not all volunteer attorneys may like to be associated the current "Emeritus" title. The term "Emeritus" seems to me to convey that the attorneys who volunteer under the program must be older or, possibly, are "over the hill" when in fact they may be ideally qualified to provide sound legal advice to seniors.</p> <p>2. <u>Replace "Emeritus Attorney" with "Pro Bono Practice" and delete references to emeritus and retired</u>. I fully agree with this proposal for reasons given above. The term Pro Bono Practice also is consistent with the services we provide...those found in an actual law practice, but done on a pro bono basis.</p> <p>3. <u>Eligibility Requirement with Respect to Discipline</u>. Having no record of public discipline should be a requirement. Private discipline should perhaps at least be a consideration for admission to the pro bono program.</p> <p>4. <u>The recommended minimum of 100 hours per year</u> sounds reasonable and it is only a recommendation. In fact, I think the State Bar should require a minimum number of hours per year (at least 100 hours per year is about right) for those pro bono attorneys seeking a waiver of bar dues.</p> <p>5. I agree that <u>the qualified legal services provider must provide adequate support and supervision</u>, especially to make sure attorneys claiming pro bono status are in fact provided meaningful service to the public and provide some documentation of the time spent providing that service.</p> <p>I fully support the State Bar's efforts in the Emeritus Attorney program and hope the above comments on proposed changes are helpful. I also hope the Bar will <u>continue to waive annual dues</u> for those of us that provide substantial pro bono time helping those who, in most cases, would not seek legal assistance due to high costs or poverty. As a practical matter the Bar does not lose much in annual dues because of our relative small number and because if dues were not waived we might not participate in the program and would, in at least some cases, revert to lower paying inactive status. On a related matter, having a <u>free admission to the Annual Bar Meeting classes</u> and, where possible, <u>free MCLE classes</u>, also assures that we stay up to date in the advice we provide. Accordingly, I hope they will continue.</p>	<p>Business and Professions Code Section 6086.1 makes all disciplinary proceedings in the State Bar Court public.</p> <p>The waiver of annual membership fees is clearly stated in Rule 3.326 and no changes are proposed.</p> <p>Free registration for the Annual Meeting and MCLE events sponsored by the Office of Legal Services, Access & Fairness Programs are still available.</p>

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15.	June 30, 2008	<p>David Mandel Supervising Attorney California Senior Legal Hotline/Sacramento Senior Legal Services</p>	<p><u>Recommendation 1:</u> I support the idea of having a program name that will appeal to younger attorneys. We have had some wonderful volunteers who spent considerable time with us while their main occupation at the time was being at home with young children. The volunteer work enabled them to keep a foot in practice and stay current in some areas of law while having the flexibility needed during that phase of life. For some it became a great transition back to paid work. We've also had others to whom this might appeal -- attorneys whose careers have gone in other directions for which they don't need to be licensed but who want to keep connected with the legal world. And it makes sense to lower the number of years in practice necessary for such people to qualify (that's actually in recommendation 5).</p> <p>At the same time, however, there is a high value in maintaining the "emeritus" name as a way to attract, encourage and honor specifically older attorneys who would consider coming out of retirement or are transitioning into it. At a time when the ABA and others are really trying to find ways to tap this huge reservoir of pro bono talent, it would be a shame to delete it from the California program.</p> <p>An obvious solution would be to maintain both programs under separate names and perhaps with somewhat different requirements. They're similar enough, I think, that they could be administered jointly without creating very much additional work for the State Bar.</p> <p><u>Recommendation 2:</u> I hope "is eligible" is defined sufficiently. I know that some senior legal providers are so small that they find it not worth the time and effort to apply for IOLTA funds, and I would hope it's clear they're eligible to host pro bono attorneys under the program.</p> <p><u>Recommendation 5:</u> Reducing the prior practice requirement from 10 years to five is fine. The current emeritus program also requires that participants have been active for, I think, three of the previous eight years (or something like that). I would also favor loosening that requirement. It has prevented some very good people from being able to register with the program.</p> <p><u>Recommendations 10 and 15:</u> I would go further and require an applicant to commit to a minimum number of hours, as opposed to a recommendation. Not that there should be a penalty for failure to comply -- things happen, and I can't see enforcing it retroactively. But it would underline that the intent is a serious commitment, and someone who ends up not meeting the minimum could perhaps be required to file an explanation of what happened.</p>	<p>Staff suggests adding commentary to the revised rules that references the history of the Emeritus Attorney Pro Bono Program and that the revised rules are not intended to discourage senior or retired attorneys to participate in the Pro Bono Practice Program but to update and expand the program.</p> <p>Maintaining two programs is both unnecessary and impractical.</p> <p>The proposal is to reinstate the definition of "qualified legal services provider" as one that receives or is eligible to receive funds from the Legal Services Trust Fund Program. Staff will publicize the revised program rules widely and will include in the outreach entities that are potentially eligible to encourage additional sites for attorneys to volunteer.</p> <p>The State Bar has consistently supported voluntary pro bono. See the Pro Bono Resolution on page 13.</p>

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16.	June 30, 2008	Jeffrey Kupers and Kay Kohler, Emeritus Attorneys Legal Assistance for Seniors, Oakland	<ul style="list-style-type: none"> • We are in our third year with this program, volunteering at Legal Assistance for Seniors in Oakland. Although our decision to volunteer our time after retirement was not dependent on the existence of this State Bar program, we nonetheless have appreciated and have found helpful the benefits that have been provided. We expect there are others for whom the benefits may enable or at least encourage their participation. • Pro bono activities by members of the State Bar are of value at any age and at any stage of one’s legal career, and we certainly have no objection to an effort to expand participation. What does concern us is that senior, retired attorneys as a group are a unique and available resource that we believe should be specifically targeted in the wording of the rules, in advertising and outreach, and in public recognition, for this important volunteer program. In addition to the legal work they can perform, their contribution is made all the more meaningful by the training and mentoring they can provide to the usually younger and less experienced attorneys in non-profit programs, and the contacts they can contribute through the personal relationships they have developed over the years with members of the bench and bar, governmental and private agencies, and potential sources of funding and other support. • Yes, expand the program, open it to all members of the Bar in retirement or otherwise on leave from the practice of law. But we recommend that in the redrafting of the rules, and in the way the program is presented to California lawyers, it would be wise to keep in the forefront a clearly-stated focus on encouraging and enabling senior retired attorneys to be of use. We do not believe that a targeted appeal to that segment of the Bar in any way diminishes the invitation to all others who are eligible to participate on an equal basis. • As an additional note, in your overall review of this program, we encourage you to pursue additional avenues for recruiting more attorneys to enroll. The references in the “California Bar Journal,” and the article in the Summer 2007 issue of “San Francisco Attorney,” are examples of the publicity that is needed. There are many attorneys who would be eligible for this program who are not currently involved. We recommend that additional outreach approaches be developed, to make more certain that all attorneys become aware of this excellent opportunity to be of service. 	<p>Staff suggests adding commentary to the revised rules that references the history of the Emeritus Attorney Pro Bono Program and that the revised rules are not intended do discourage senior or retired attorneys to participate in the Pro Bono Practice Program but to update and expand the program.</p> <p>Staff will incorporate these suggestions into outreach and publicity efforts.</p>

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17.	June 30, 2008	<p>William Wise Supervising Attorney Senior Citizens Legal Advocacy Program, Legal Aid Society of Orange County</p>	<ul style="list-style-type: none"> ● I currently supervise 6 (six) attorneys who participate in the Emeritus Attorney Program. A number of these attorneys have volunteered with us for many years and are of great assistance in extending our resources, allowing us to provide a higher lever of assistance to a greater number of Orange County seniors. However, with over 400,000 seniors living in Orange County, we still fall far short of meeting the legal needs of the seniors in our service area, particularly those who are of a racial or ethnic minority or who have limited incomes and resources. I support the proposed changes as they appear likely to increase in a responsible manner the number of attorneys who provide greatly needed assistance to programs receiving funding from the Legal Services Trust Fund. ● Consistent with the goal of increasing the number of attorneys participating in this program, I support the change in the number of years admitted to practice from 10 to 5 years. This change, together with the added provision that Programs provide adequate support and supervision, should serve to expand the Pro Bono Program with little risk of increasing potential harm to the public and the profession. ● I also support setting the recommended minimum number of hours at 100 hours per year, while giving the pro bono attorneys and State Bar funded programs the flexibility to agree on a different number of hours. The Emeritus Attorneys that work with our program have been very dedicated to their work and have volunteered with us for many years. While I believe our attorneys would easily meet the 100 hour requirement, there have been times where attorneys have needed to take time off to address health issues for either themselves or a spouse. Allowing programs and attorneys to agree on a different number of minimum hours will help avoid problems where unforeseen circumstances arise and will promote keeping the attorney involved with the program in future years. ● I also want to note that many of the attorneys likely to participate in the Pro Bono Program may not currently be active members of the Bar either because they have retired or they are working in fields in which they do not need to be currently licensed. Some may participate in this program that would otherwise not have chosen to become active members. As a result, it is likely that while enrollment in the updated and expanded program could significantly increase, the cost from waiving active membership fees for new pro bono attorneys would be less than the number of new attorneys enrolling in the Pro Bono Practice Program. 	

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18.	June 30, 2008	Victoria Jacobs Managing Attorney Voluntary Legal Services Program of Northern California, Sacramento	<p>It has been our experience that the MCLE requirement alone is sufficient to deter many of the retired or otherwise inactive attorneys from participating in the Emeritus Attorney Pro Bono Program. If indeed the recommended minimum number of hours suggested to be donated by these attorneys is stated as 100 hours per year, we believe that this will be another deterrent to those that might consider participating. While the proposed rules state that the minimum is to be negotiated between the qualified program and the attorney, I think that this statement of a desired number of hours at 100 will create concern on the part of these lawyers that they will be expected to participate in approximately 100 hours of pro bono work. Frankly, that's a lot of time.</p> <p>In our experience as the only local pro bono program in Sacramento, we have very few volunteers (active with the state bar) who volunteer the 50 hours recommended by the State Bar for pro bono work. I don't think 100 hours is a realistic expectation for nearly anyone, even retired attorneys. I wish it were.</p>	<p>The current proposal allows providers and attorneys to agree on any number of hours. 100 hours is recommended but NOT required.</p> <p>The 50 hour reference is to the current State Bar Pro Bono Resolution—see page 13.</p>

Attachment A

Pro Bono Resolution

(Adopted by the Board of Governors of the State Bar of California
at its December 9, 1989 Meeting and amended at its June 22, 2002 Meeting)

RESOLVED that the Board hereby adopts the following resolution and urges local bar associations to adopt similar resolutions:

WHEREAS, there is an increasingly dire need for pro bono legal services for the needy and disadvantaged; and

WHEREAS, the federal, state and local governments are not providing sufficient funds for the delivery of legal services to the poor and disadvantaged; and

WHEREAS, lawyers should ensure that all members of the public have equal redress to the courts for resolution of their disputes and access to lawyers when legal services are necessary; and

WHEREAS, the Chief Justice of the California Supreme Court, the Judicial Council of California and Judicial Officers throughout California have consistently emphasized the pro bono responsibility of lawyers and its importance to the fair and efficient administration of justice; and

WHEREAS, California Business and Professions Code Section 6068(h) establishes that it is the duty of a lawyer "Never to reject, for any consideration personal to himself or herself, the cause of the defenseless or the oppressed"; now, therefore, it is

RESOLVED that the Board of Governors of the State Bar of California:

- (1) Urges all attorneys to devote a reasonable amount of time, at least 50 hours per year, to provide or enable the direct delivery of legal services, without expectation of compensation other than reimbursement of expenses, to indigent individuals, or to not-for-profit organizations with a primary purpose of providing services to the poor or on behalf of the poor or disadvantaged, not-for-profit organizations with a purpose of improving the law and the legal system, or increasing access to justice;
- (2) Urges all law firms and governmental and corporate employers to promote and support the involvement of associates and partners in pro bono and other public service activities by counting all or a reasonable portion of their time spent on these activities, at least 50 hours per year, toward their billable hour requirements, or by otherwise giving actual work credit for these activities;
- (3) Urges all law schools to promote and encourage the participation of law students in pro bono activities, including requiring any law firm wishing to recruit on campus to provide a written statement of its policy, if any, concerning the involvement of its attorneys in public service and pro bono activities; and
- (4) Urges all attorneys and law firms to contribute financial support to not-for-profit organizations that provide free legal services to the poor, especially those attorneys who are precluded from directly rendering pro bono services.