

MEMORANDUM

DATE: June 12, 2025
TO: M-NCPPC Commissioners
FROM: Office of the General Counsel
SUBJECT: Office of the General Counsel Pro Bono Representation Policy

Many Maryland residents are unable to afford a lawyer and, as a result of not having access to counsel, suffer dire consequences such as losing their homes, health benefits, children, and access to justice in general. Given the growing un-met need for legal services to people of limited means, the OGC proposes the adoption of a pro bono representation policy to encourage attorneys in the OGC to actively engage in representing pro bono clients.

Maryland Attorneys' Rules of Professional Conduct, Rule 19-306.1(a), provides that "an attorney has a professional responsibility to render pro bono publico legal service." Pro bono service, according to Rule 19-306.1, is legal work done without fee or expectation of fee, or at a substantially reduced fee, for people of limited means. Rule 19-306.1(b) further provides that full-time practicing attorneys should aspire to render at least 50 hours of service pro bono legal services each year.

Several government offices in Maryland have adopted pro bono policies, including the Office of the Attorney General, the Office of the Public Defender, the Baltimore City Solicitor's Office and the Baltimore County Office of Law. The OGC would like to adopt a policy as well because there are benefits not only for the communities that we serve, but also for the Commission and the OGC. Communities of limited means in Montgomery and Prince George's Counties that do not have regular access to legal services would benefit from free legal assistance for legal matters. The Commission benefits by enhanced community engagement in Montgomery and Prince George's Counties. OGC attorneys additionally benefit by fulfilling their professional responsibility to provide pro bono legal service, improving and honing their skills, as well as developing new skills.

For the foregoing reasons, the OGC respectfully requests that the Commission adopt a pro bono representation policy, delegate authority to the General Counsel to adopt a procedure, and approve pro bono representations in accordance with the adopted procedure.

Proposed Language for Pro Bono Representation Policy and Procedure

Maryland Attorneys' Rules of Professional Conduct, Rule 19-306.1(a), provides that "an attorney has a professional responsibility to render pro bono publico legal service." Pro bono service, according to Rule 19-306.1, is legal work done without fee or expectation of fee, or at a substantially reduced fee, for people of limited means. Rule 19-306.1(b) further provides that full-time practicing attorneys should aspire to render at least 50 hours of service pro bono publico each year.

Participation in pro bono service is voluntary and in addition to the official duties of the attorney in meeting the core responsibilities of the OGC.

OGC attorneys are encouraged to volunteer to provide pro bono legal assistance to pre-screened clients in addition to their official duties. The Deputy General Counsel will serve as the OGC's Pro Bono Coordinator. The Pro Bono Coordinator is responsible for overseeing the pro bono work of attorneys in the Office and will act as a liaison between the referral agency and the pro bono attorney. The Pro Bono Coordinator will supervise conflicts screening within the OGC and serve as a resource for attorneys rendering legal service to pro bono clients.

The Referral Process. The Pro Bono Coordinator accepts clients from pro bono referral agencies that are funded by the Maryland Legal Services Corporation (MLSC). In the alternative, attorneys can request cases from pro bono referral agencies that are funded by the MLSC.

Case Screening. The Pro Bono Coordinator may review and approve clients pre-screened for financial eligibility from MLSC agencies. The Pro Bono Coordinator then screens the case for legal issues that may have policy implications or conflicts for the Commission.

Conflicts Review. The Pro Bono Coordinator screens for conflicts by running conflicts checks through the OGC's case management system as well as emailing OGC attorneys regarding each case being considered for pro bono services. If no conflict is identified, a case is assigned to an attorney who has volunteered to participate in the Pro Bono Program. Where a conflict is identified that cannot be readily and ethically resolved by the Pro Bono Coordinator, the case is returned to the pro bono referral agency.

Case Assignment and Completion. Once a case is successfully screened and assigned, the volunteer attorney assigned to a case retains the case throughout their tenure in the OGC. Each attorney has the continuing professional responsibility to identify conflicts and to ensure there is no conflict of interest at the time the case is received or later. If a conflict should arise later, the matter is referred back to the Pro Bono Coordinator to resolve the issue, or if the conflict cannot be readily and ethically resolved, to return the case to the pro bono referral agency. The attorney/client relationship continues even after the attorney leaves OGC. Once a case is completed, the attorney notifies the Pro Bono Coordinator that the case is closed, provides the number of pro bono hours spent on the case, and submits a case disposition form to be sent to the pro bono referral agency by the Pro Bono Coordinator.

Attorney Time. Attorneys are encouraged to provide pro bono legal representation outside normal working hours, not in lieu of Office time. This does not mean that lawyers may not do pro bono work during normal working hours. Attorneys are still obliged to work the required hours each week. Attorneys will be allotted 10 hours of administrative leave per year to pro bono legal service. Attorneys may use no more than two hours of administrative leave for pro bono work during the workday. Attorneys must use other forms of leave, such as annual leave, if they exceed the allotted administrative leave hours for pro bono legal services.

Attorney Capacity. Attorneys have a professional obligation to make clear to third parties, particularly clients, that the attorney is not acting in any official capacity and that legal representation is not by the OGC but is pro bono service rendered by the individual attorney.

Equipment and Resources. OGC attorneys may use Commission equipment and resources (including, but not limited to, Westlaw, copiers, computers, paper, etc.) in a reasonable manner so long as the time and resources used for pro bono work is secondary to the time and resources needed to perform the core responsibilities of the OGC. Support staff may provide reasonable time and assistance to pro bono attorneys with the caveat that Office work has priority.

Expenses. Filing fees, out of pocket expenses, transcripts, parking, and the costs of litigation are not reimbursed by the OGC or Commission. Requests for payment of such expenses may be made to the pro bono referral agency or to the litigation fund managed by the Pro Bono Resource Center when such costs are not waived by petition to the Court.

Training. It is the responsibility of the pro bono attorney to obtain any training necessary to assure competent representation of the pro bono client through the pro bono referral agency or other training programs.

Professional Liability Insurance. All attorneys representing clients referred by MLSC funded programs are automatically provided professional liability insurance. No attorney may provide pro bono service of any kind without professional liability insurance.

Permitted Areas of Law. Pro bono legal work may be provided in civil matters, including the areas listed: (1) Wills and Estate Planning, (2) Records Expungement, (3) Veterans Benefits, (4) Landlord and Tenant, (5) Guardianships, (6) Child custody, support, adoption, (7) Child in need of Assistance and other child representation cases, (8) Domestic Violence Protective Orders, (9) Social Security, (10) Tax. This list is not exclusive and may be changed at the discretion of the General Counsel or the Pro Bono Coordinator. Criminal cases are specifically excluded. OGC attorneys may also participate in programs such as pro bono counsel sessions (ex. “Ask a Lawyer”), clinics and workshops for self-represented litigants, and community education programs. Additionally, OGC attorneys may serve as faculty in training for pro bono attorneys, mentoring pro bono attorneys, and participating in recruiting and other outreach efforts for pro bono programs.

Effective Date. This Pro Bono Representation Policy is adopted by the M-NCPPC Office of the General Counsel on _____ and is effective immediately.