


# PRO BONO ETHICS FOR GOVERNMENT ATTORNEYS



*“Access to the legal system is an inherent right of citizenship, yet far too many New Yorkers are currently denied this right because they lack economic resources”*

- Chief Judge Judith Kaye<sup>1</sup>

<sup>1</sup>PRESS RELEASE, NEW YORK STATE UNIFIED COURT SYSTEM, JUDGE JUANITA BING NEWTON, APPOINTED DEPUTY CHIEF ADMINISTRATIVE JUDGE FOR JUSTICE INITIATIVES ( JUNE 29, 1999).



## ABA RESOLUTION 121A

ADOPTED BY THE HOUSE OF DELEGATES AUGUST 2006

“...urges federal, state, territorial and local government and military law offices...to encourage all government and military attorneys to provide pro bono service consistent with applicable law, regulations, and ethical requirements...”



## PRO BONO ETHICS OVERVIEW

- NY Rules of Professional Conduct
- NYSBA Ethics Opinions
- Case law Guidance

## **RELEVANT NY RULES OF PROFESSIONAL CONDUCT**

- 1.1** Competence
- 1.2** Scope of Representation and Allocation of Authority Between Client & Lawyer
- 1.3** Diligence
- 1.4** Communication
- 1.7** Conflicts of Interest
- 3.5** Maintaining and Preserving Impartiality of Tribunals
- 6.1** Voluntary Pro Bono Service
- 6.5** Participation in Limited Pro Bono Legal Services Programs
- 8.4** Misconduct



## **PRO BONO ETHICS FOR GOVERNMENT ATTORNEYS**

**Title 18 U.S.C. Section 205**

Federal Employees

**5 C.F.R. Part 2635**

Office of Government Ethics Regulations

**New York State Legislation**

**28 CFR 45.4 — Personal Use of Government Property**



## PRO BONO ETHICS FOR GOVERNMENT ATTORNEYS

NYSBA Ethics Opinion 794

NYSBA Ethics Opinion 1012

NYSBA Ethics Opinion 613

ABA Ethics Opinion 470

ABA Ethics Opinion 472



## BARRIERS TO PRO BONO FOR GOVERNMENT ATTORNEYS

- Conflicts of Interest Screening
- Malpractice Insurance
- Training
- Costs
- Logistics
- Use of Office Resources : Legal Research Database, Computer, Phone, etc.
- Unauthorized Practice of Law
- Scheduling Pro Bono Activity on Time Off



## MODEL PRO BONO POLICIES

NYSBA Model Pro Bono Policy and Procedures for Attorneys in State and Federal Government Agencies

- PCAJ's Model Policy for State & Federal
- Approved by the NYSBA House of Delegates last year.

NYSBA Model Pro Bono Policy for Attorney-Employees of Local Governments and Local Government Agencies

- Local and State Govt Model Policy for Local Employees
- Approved by the NYSBA Local and State Government Law Section



## BEST PRACTICES FOR GOVERNMENT ATTORNEYS DOING PRO BONO

- Choose an established and NYSBA approved Pro Bono Program
- Develop a Pro Bono Policy at your Agency
- Provide the Pro Bono Program with the Agency's Pro Bono Policy
- Utilize the Program's Training Materials & Internal Support
- Review the Program's Pro Bono Handbook, Policies, or Protocols
- Review and Edit Retainer Agreement for Compliance
- Seek out Unique Pro Bono Opportunities (Mentorship, Community Education, Development of Brochures, etc.)
- Draft MOU with Pro Bono Program to formalize relationship





## OPPORTUNITIES FOR GOVERNMENT ATTORNEYS

- Uncontested Divorce Review
- Wills & Advance Directives
- A&C Limited Scope Clinics
- Mentorship to Newly Admitted Pro Bono Attorneys
- Supervision of Law Student Volunteers
- Community Outreach
- CLE program planning & presentation
- Research and Memoranda for Legal Services
- Transactional Nonprofit Pro Bono Work
- Children's SSI Claims

## **REMEMBER TO:**

**Complete CLE Evaluations**

**Sign Out**

**Contact Nearest Legal Services Agency for  
Pro Bono Opportunities !**

