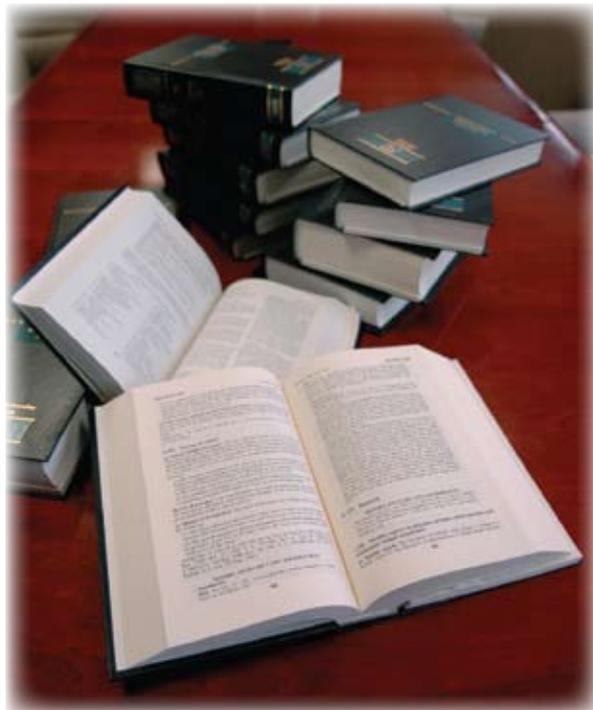




Where to Find **FREE** **LEGAL** **Assistance**

Use these practical tips to get legal help at no charge.



By Allyn M. O'Connor

Few nonprofit managers have the time or expertise to keep up with their organization's legal needs. Yet most nonprofit budgets aren't sufficient to pay for top-flight legal counsel. That's where pro bono assistance comes in.

Whatever your organization's needs, there's a lawyer somewhere willing to help you pro bono, without payment. You may not even be aware of all the legal advice your organization needs. Here are some of the things a volunteer lawyer can do for you:

- **Draft**, review, and update your governance documents, including bylaws and articles of incorporation.
- **Maintain** your tax-exempt status and keep your filings current.
- **Negotiate** leases, agreements to purchase property, and contracts for goods and services.
- **Minimize** your organization's exposure to risk.
- **Fight** lawsuits against your organization.
- **Report** your fundraising activities to the proper regulatory authorities.
- **Obtain** trademarks and copyrights, and protect your rights to your organization's intellectual property, such as publications,

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images, logos, and information appearing on Web pages.

- **Train** your board and staff members on legal matters of importance to your organization.
- **Provide** strategic advice, and help with long-term planning.
- **Create** written policies and handbooks.
- **Make sure** you're following laws pertaining to your employees and doing all you can to avoid employee lawsuits.
- **Keep up to date** on risk management techniques, insurance coverage, title records, and the like.
- **Conduct** a legal audit (reviewing documents, policies, and contracts), and provide recommendations.
- **Explain** developments in the law that may affect your organization.

Where to Find Pro Bono Legal Services

Pro bono services for nonprofit organizations can be found almost anywhere. Here are some good sources of free legal help:

1. A transactional pro bono program is an organized program in which volunteer lawyers assist nonprofits with business-related legal matters. Contrast this with a general pro bono program that matches volunteer lawyers with clients needing assistance with family law matters, such as divorce or custody, for instance. A transactional pro bono program is usually privately funded. This means the program hasn't accepted federal or other public funds that restrict the types of clients it assists. Transactional program staff members will evaluate your immediate legal needs, your finances, and other information about your organization. Then they'll match you with someone from a panel of pro bono lawyers that they recruit and maintain.

2. A variation on the transactional program is the staffed program. Unlike a transactional program, a staffed program is funded with federal or other public funds that may place restrictions on the types of clients it assists. Also, rather than matching you from an outside panel of lawyers, a staffed program includes one or more attorneys on staff, who will provide legal services directly to your organization.

3. A third source of free legal assistance is a law school clinic.

The number of law schools offering free legal services to nonprofits is increasing each day. Such clinics are staffed by students in their second or third year of legal studies. All work is supervised by a licensed lawyer. Law school clinics look for nonprofits whose needs are consistent with their mission. One of their main goals is to provide training opportunities for law students.

4. Outside of an organized program or clinic, free legal assistance is available on a less formal basis. You may seek a referral through a state or local bar association or approach a lawyer or law firm directly.

Why would law firms be motivated to give away free legal services? They have many reasons, including these:

- Many larger firms have signed on to the “Law Firm Pro Bono Challenge,” a standard developed by members of the Pro Bono Institute (www.probonoinst.org). Law firms that sign on to this challenge agree to devote 3 to 5% of billable hours (or 60 to 100 hours per lawyer) annually to pro bono work.

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- Legal industry publications rank law firms based on their pro bono activities. These rankings are published in *The American Lawyer* magazine, which is widely circulated in the legal community. Law firms compete among themselves for top spots in these rankings.

- Large law firms use pro bono as a tool to attract and retain talented young lawyers. New lawyers look at a firm’s pro bono policies and opportunities for pro bono work when considering employment offers.

Why would law firms and lawyers be motivated to give away free legal services? They have many reasons.

- Firms consider whether a pro bono project will offer training opportunities — that is, whether a new associate will be able to work on matters that provide instruction on basic legal transactions. Firms also consider whether the pro bono job may offer more experienced associates the opportunity to work on a novel or innovative matter.

- The opportunity to do pro bono work leads to greater job satisfaction for lawyers — and higher retention rates at firms offering pro bono opportunities.

- Law firms view pro bono work as an opportunity for associates and partners to become more directly involved in their own communities. Taking on a pro bono matter from a local nonprofit helps build contacts with other organizations in the community. It may also indirectly lead to new business opportunities in the future.

- Law firms appreciate the publicity and other benefits pro bono work may bring. Grateful clients often bring the hard work of pro bono lawyers to light by publicizing these positive experiences. Clients frequently recommend pro bono lawyers and law firms to receive award recognition from local and state bar associations and the American Bar Association.

Lawyers as individuals are also highly motivated to provide free legal services for both personal and professional reasons, such as the following:

- Some lawyers feel a professional obligation to assist those who can’t afford legal help. Others gain a sense of personal satisfaction by providing free legal services, one they don’t always get with their paying clients.

- Many lawyers are subject to disciplinary rules that suggest the

contribution of a certain number of hours of free legal services each year. According to the “Model Rules of Professional Conduct” provided by the American Bar Association (www.abanet.org), lawyers should give at least 50 pro bono hours annually. Some states have additional pro bono goals for lawyers. Pro bono work gives lawyers the chance to proudly report the number of hours they contribute each year.

- A pro bono project can give a lawyer the chance to work on a new type of matter or take on more responsibility.

- For lawyers in medium to large law firms, providing free legal services may satisfy the law firm’s pro bono hour requirement. Increasingly, large and mid-sized firms are adopting formal pro bono policies that support the pro bono activities of the firms’ lawyers.

- Lawyers are interested in building relationships and developing new business. Handling matters for a pro bono client may lead to other, interesting pro bono or paying work.

How to Make Your Case for Free Legal Help

If you use one of the sources described above, you’ll usually have no problem being placed with a volunteer law firm. It’s possible, however, that your organization or its legal needs won’t fit squarely within the criteria used by a program, clinic, or law firm. If that’s the case, you may need to actively market your organization as a pro bono client. Here are selling points to make:

- **Describe your organization’s mission.** If possible, point out the human-service and poverty-alleviation aspects of your mission, and explain how your organization addresses the needs of underserved populations.

- **Outline your budget.** Note that your organization lacks funds for legal services and that paying for such services would deplete the part of your budget dedicated to executing your mission.

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To Learn More

To find a pro bono program that works for you, check out the Business Law Pro Bono Project on the American Bar Association's Center for Pro Bono Web site at <http://www.abanet.org/legalservices/probono/businesslaw/home.html>, where you'll find a nationwide directory of transactional pro bono programs and law school clinics. For more information, contact the author by telephone at 312-988-6398 or oconnora@staff.abanet.org. For more advice on legal matters, see these articles at www.snpo.org:

- **The Most Likely Lawsuits—and How to Protect Yourself** (Vol. 19, No. 1)
- **The Need for Anti-Bias Policies** (Vol. 22, No. 5)
- **Is Your Organization Lawsuit-Proof?** (Vol. 20, No. 1)
- **Don't Be Sued for Negligent Hiring** (Vol. 21, No. 3)
- **How to Avoid Age-Discrimination Lawsuits** (Vol. 15, No. 6)
- **To Write or Not to Write: Do You Need a Personnel Handbook?** (Vol. 11, No. 3)
- **Your Duty to Investigate Workplace Complaints** (Vol. 19, No. 3)
- **Beware! File with Care or Face Criminal Prosecution** (Vol. 13, No. 6)
- **Protect Yourself Against Employee Lawsuits** (Vol. 15, No. 2)
- **Four Myths about Attorney-Client Privilege** (Vol. 25, No. 6)

Volunteer lawyers can help train your board and staff members on legal matters of importance to your organization.

- **Summarize your organization's history** and future plans. If you've been in existence for awhile, stress what you've accomplished and how reliable you are. Note other parties who've had positive experiences working with you. If you're a new organization, explain your vision.

- **Enumerate the qualifications** and experience of your board and staff members.

- **Spell out the nature of the legal assistance you're seeking.** If you need help with a routine matter, emphasize the learning opportunity for newer lawyers. If you want assistance with an unusual legal issue, note the chance for a more experienced lawyer to work on something interesting and challenging.

- **Explain your long-term legal needs.** Let the firm know whether you'll be a source of future pro bono work for them.

- **Discuss your experience with the legal community.** Make it clear that you understand the scope and limits of the lawyer-client relationship.

When All Else Fails

Most nonprofit organizations will be able to find free legal assistance through a transactional pro bono program, a staffed program, or a nearby law school clinic. Some nonprofits have established relationships with law firms and lawyers who provide free legal assistance outside of any organized program.

If none of these sources work for you immediately, don't give up. Keep trying, and in the meantime be sure you don't forgo legal assistance on important matters. Find qualified counsel, and use the above arguments to see if the fee can be reduced. In most cases, you'll be able to work out a satisfactory arrangement. If the firm or lawyer has experience working with nonprofit clients (and you should seek out someone who does), they'll understand your budget constraints and be motivated to help you achieve your organization's mission. ■

Allyn M. O'Connor is assistant staff counsel in the American Bar Association's Center for Pro Bono. She works on the Business Law Pro Bono Project, a project designed to promote the pro bono activities of business lawyers, to increase the number of transactional pro bono programs, and to support and assist existing transactional pro bono programs. She can be reached at the American Bar Association Center for Pro Bono, 321 N. Clark Street, Chicago, Illinois 60610-4714, 312-988-6398, oconnora@staff.abanet.org.

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