

Voluntary Pro Bono Reporting FAQs

On February 27, 2018, the Supreme Court of Virginia approved a new provision requesting that each active VSB member report their pro bono hours and/or financial contribution in support of pro bono legal services on their annual dues statement. The Virginia State Bar has put together a series of questions and answers about the new provision and what it means for you.

When does the new rule go into effect?

December 1, 2018

When will I see it on my annual dues statement?

The July 2019 dues statement for the 2020 bar year will be the first to incorporate voluntary pro bono reporting.

If I plan to report on my annual dues statement, when should I begin tracking my pro bono contributions?

Attorneys can report contributions made during the 12 months prior to the annual dues statement. As a practical matter, attorneys should start tracking their hours and financial support starting on July 1 of the year prior to the annual dues statement on which they plan to report. They should continue tracking through June 30 of the current year's dues statement. For example, attorneys who wish to report on their July 2019 dues statement should start tracking on July 1, 2018, and keep tracking through June 30, 2019.

What membership classes are subject to voluntary pro bono reporting?

The rule requests that active members voluntarily supply information regarding pro bono service and financial contributions.

Does the rule allow me to opt out if I don't wish to report my pro bono hours and/or financial contribution?

Yes. The new rule sets forth voluntary, not mandatory, pro bono reporting. Active members who wish to opt out of reporting should select option 4: No Report.

Does the new rule mean that I must perform pro bono service?

No. The new voluntary pro bono reporting rule is meant to complement the aspirational goals of Rule 6.1 of the Virginia Rules of Professional Conduct. This new rule is an opportunity for active Virginia bar members to report their contributions to pro bono and as a mechanism to assess the justice gap and respond with programming to help close it.

What types of pro bono service hours can I include in my report?

Legal services for which you should track and report your hours include the following four categories taken from Rule 6.1(a) and its comments:

1. Providing low bono or pro bono legal assistance to someone who lacks the financial resources to hire a lawyer (**poverty law**). Examples in this category include but are not limited to providing advice or representation to low-income clients through legal aid and the independent pro bono programs in the Free and Low Cost Legal Resources in Virginia pamphlet, or through partnership programs like the Triage Project, or answering client questions on Virginia.freelegalanswers.com.

2. Providing nominal fee or free legal assistance to assert or protect the rights of individuals in which society has an interest (**civil rights law**). Examples in this category include but are not limited to providing advice or representation to veterans, ACLU clients, and people with disabilities.

3. Providing pro bono or sliding scale legal services to religious, charitable or civic groups (**public interest law**). Examples in this category include but are not limited to providing advice or representation to non-profit organizations through the Greater Richmond Bar Foundation's Pro Bono Clearinghouse or the Fairfax Law Foundation.

4. Engaging in **volunteer activities** to increase the availability of pro bono. Examples in this category include but are not limited to training and mentoring lawyers who have volunteered to take legal aid referrals, helping recruit lawyers for pro bono referral programs, developing informational materials that provide legal information to the public or promote pro bono programs, joining the VSB Special Committee on Access to Legal Services or other boards, committees or bodies that increase access to pro bono services on the state or local level.

Can I report hours that I have discounted or written off in retrospect because the client couldn't or didn't pay my fees? What about hours related to losses associated with contingency fee cases?

No. Comment 6 to Rule 6.1 requires that the free or nominal fee nature of

the legal work must be established in advance of the representation for it to be considered pro bono under the rule — i.e., no writing off fee losses and no contingency fees.

What types of financial contributions can I include in my report?

Active bar members should report direct financial support of programs that provide legal representation to low-income persons or their interests. Examples in this category include donations and other direct financial contributions to legal aid and non-profit legal services providers, such as the portion of event ticket purchases allocated directly to legal aid and other non-profit organizations that provide legal services to the poor.

Voluntary Pro Bono Reporting as Complement to Virginia Rule of Professional Conduct 6.1

Effective December 1, 2018, the Rules of the Supreme Court of Virginia, Part 6, Section IV, will include a new provision, Paragraph 22, that requests each active VSB member report their pro bono hours and/or financial contribution in support of pro bono legal services on their annual dues statement. The requirement complements the aspirational goal of Virginia Rule of Professional Conduct 6.1 that each lawyer should render at least two percent of professional time annually to pro bono legal services. Read more at <http://bit.ly/pbreprt>.



Wear the Pin That Says You're a Super Lawyer.

**Answer 15 questions or more on Virginia.freelegalanswers.org
and we'll send you a pin to wear with pride.**

Virginia.freelegalanswers.org — A national ABA-sponsored program bringing legal answers to people who cannot afford an attorney.

Questions? Contact Crista Gantz at cgantz@vsb.org or (804) 775-0522.

Do Pro Bono. Do Good.