

NEW YORK STATE BAR ADMISSION:
PRO BONO REQUIREMENT
FAQs (October 1, 2012 rev.)

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Purposes and Goals

On Law Day, May 1, 2012, Chief Judge Jonathan Lippman announced a new initiative aimed at providing additional legal resources to expand access to justice for low-income New Yorkers. After describing his success in securing additional funding for civil legal services providers in the state and acknowledging other efforts to ensure equal access to justice, the Chief Judge explained that more was needed and, beginning in 2013, prospective attorneys will be required to spend 50 hours performing pro bono work as a requirement for admission to practice law in New York State.

As emphasized by Chief Judge Lippman, it has become increasingly difficult to provide equal justice for all New York citizens:

"We are facing a crisis in New York and around the country. At a time when we are still adjusting to the realities of shrinking state coffers and reduced budgets, more and more people find themselves turning to the courts. The courts are the emergency rooms of our society -- the most intractable social problems find their way to our doors in great and increasing numbers. And more and more of the people who come into our courts each day are forced to do so without a lawyer."

Millions of litigants each year in New York State are navigating the complexities of the court system unassisted by an attorney:

"The new pro bono service requirement for admission to the New York bar serves to address the state's urgent access to justice gap, at the same time helping prospective attorneys build valuable skills and imbuing in them the ideal of working toward the greater good. It is so important that the next generation of lawyers in New York embraces the core values of our profession that so fundamentally include pro bono legal assistance."

Lawyers have a professional responsibility to promote greater access to justice. "As far back as judges and lawyers have existed, the pursuit of equal justice for all, rich and poor alike, has been the hallmark of our profession," the Chief Judge explained. Each attorney has an obligation to foster the values of justice, equality, and the rule of law, and it is imperative that law students gain a recognition of this obligation as part of their legal training.

The pro bono requirement for bar admission is intended to have several beneficial outcomes. In addition to easing the gap in legal assistance, another goal is to provide instructive and meaningful experiences to law students that will expose them to the pressing needs of the less fortunate. This will instill a deeper understanding of the problems confronted by those segments of society that have little access to legal resources and institutions. These pro bono experiences hopefully will encourage law students to continue with volunteer pro bono services after they are admitted, and help prospective lawyers acquire hands-on skills under the supervision of committed members of the legal profession. Attorneys who engage in pro bono legal services derive considerable personal satisfaction from their volunteer efforts, and this initiative hopes to inculcate those same intrinsic rewards in lawyers-in-training.

The proposed Pro Bono Requirement rule was formulated by the Advisory Committee on Pro Bono Bar Admission Requirements (http://www.nycourts.gov/press/pr2012_03.shtml), which took into account the views and comments of law schools in New York and throughout the country, bar associations, attorneys, law students, providers of legal services to low-income individuals and other interested parties. The Administrative Board of the New York Courts reviewed and approved the

Committee's recommendations, and the Court of Appeals adopted section 520.16 to Part 520 of the Rules of the Court of Appeals for the Admission of Attorneys and Counselors at Law, which sets forth the 50-hour requirement (see 22 NYCRR 520.16).

* * *

The following frequently asked questions (FAQs) address key inquiries about who must comply with the Pro Bono Requirement for admission to the bar in New York, what types of work qualify, when the qualifying pro bono work is to be performed, what documentation is necessary and when an applicant for admission must file the required documentation. These FAQs are intended to provide general guidance. In the event of any conflict between the information contained in these FAQs and the text of section 520.16, the latter controls.

NEW YORK'S PRO BONO REQUIREMENT FOR ADMISSION TO THE BAR

1. What is the Pro Bono Requirement?

Pursuant to 520.16 of the Rules of the Court of Appeals, applicants who successfully pass the bar examination in New York State must demonstrate that they have performed 50 hours of qualifying pro bono service before applying for admission to practice. The full text of Rule 520.16 is available at <http://www.nycourts.gov/ctapps>.

2. When does the Pro Bono Requirement take effect for law students attending an American Bar Association-approved law school?

Consistent with Chief Judge Lippman's announcement that, beginning in 2013, law students may begin engaging in pro bono work under this initiative, as defined in this rule, law students need to calculate the tentative date of their application for admission in order to determine whether they must satisfy the 50-hour Pro Bono Requirement, as more fully explained below.

a. Based on successful passage of the bar examination, any applicant who seeks admission to practice in New York after January 1, 2015 must satisfy the 50-hour requirement. By way of example, any student commencing legal studies at an ABA-approved law school in the Fall of 2012, or any time after that date, will be required to satisfy the Pro Bono Requirement before admission to the New York bar. The requirement need not be fulfilled before a law student applies to take the New York bar examination; rather, the 50 hours must be completed before filing an application for admission.

b. If you were enrolled at an ABA-approved law school in 2011 and you expect to be admitted to practice in New York after January 1, 2015, you will need to complete 50 hours of qualifying pro bono work before you apply for admission to the New York bar. In other words, if you are in your second year of law school and plan to graduate in May 2014, take the New York bar examination in July 2014 and apply for admission sometime in the autumn of that year, you will most likely be admitted after January 1, 2015. Therefore, you will need to show that you have satisfied the 50-hour rule when you apply for admission.

c. Law school graduates who pass the bar examination and are admitted to the New York bar before January 1, 2015 are not subject to the pro bono requirement. If you are graduating from law school in the spring of 2013 and you take and pass the July 2013 New York bar examination, you will not need to satisfy the Pro Bono Requirement, provided that you achieve admission to practice in calendar year 2014. If for any reason your admission occurs after January 1, 2015, you will need to comply with the Pro Bono Requirement.

3. When does the Pro Bono Requirement take effect for those who qualify to take the bar examination pursuant to Court of Appeals Rule 520.6 based on a qualifying foreign law degree or a foreign first degree in law together with a qualifying LL.M degree from an American Bar Association-approved law school in the United States?

Applicants who qualify for the bar examination under Rule 520.6 are required to satisfy the Pro Bono Requirement if they plan to be admitted to practice law in New York State after January 1, 2015. You may complete your 50 hours of qualifying work in another state or country. If you are an LL.M. candidate, you may complete your 50 hours of pro bono work either during or after your LL.M. course of study. You may elect to determine if you have passed the New York bar examination before you engage in qualifying pro bono work, but you must complete the requirements before applying for admission.

4. When does the Pro Bono Requirement take effect for those who qualify to take the bar examination pursuant to Court of Appeals Rule 520.5 based on graduation from a law school not approved by the American Bar Association?

Applicants who qualify for the bar examination under Rule 520.5 are required to satisfy the Pro Bono Requirement if they plan to be admitted to practice law in New York State after January 1, 2015.

5. When does the Pro Bono Requirement take effect for those who qualify to take the bar examination pursuant to Court of Appeals Rule 520.4 based on successful completion of one year at an American Bar Association-approved law school and a clerkship at a New York law office?

Applicants who qualify for the bar examination under Rule 520.4 are required to satisfy the Pro Bono Requirement if they plan to be admitted to practice law in New York State after January 1, 2015.

6. Who is required to fulfill the Pro Bono Requirement?

a. With the exception of persons covered by FAQ 6(b) below, all individuals who are admitted to the New York bar after January 1, 2015 must demonstrate that they have completed 50 hours of qualifying pro bono work. If you are planning to take the New York bar examination in July 2014, and your admission occurs after January 1, 2015, you will need to satisfy the Pro Bono Requirement.

b. The Pro Bono Requirement does not apply to attorneys who seek admission to the New York bar on motion pursuant to Rule 520.10 or those who are admitted pro hac vice pursuant to Rule 520.11.

7. When can I begin to fulfill the requirement?

You may begin your pro bono work at any time after you commence your legal education as long as the work does not violate any of your law school's regulations or policies about student employment or volunteer activities.

8. When do my required hours of qualifying pro bono work need to be completed?

Your qualifying pro bono work must be completed before you submit your Application for Admission to the appropriate Appellate Division of the New York Supreme Court. In the First Department, your application may be filed after you have received your bar examination results and your certification of bar passage has been issued. In the Second, Third and Fourth Departments, your application may be filed after you have taken the bar examination, regardless whether your examination results have been announced. Be advised that the application and any further materials required by the Appellate Division and its Committee on Character and Fitness must be filed within three years from the

date that you are notified by the New York State Board of Law Examiners that you have passed the bar examination (see 22 NYCRR 520.12). The three-year period will not be extended if an applicant has delayed satisfying the Pro Bono Requirement. After three years your bar examination score will be deemed stale, and you must retake the bar examination.

9. Where can my pro bono work be performed?

Your 50 hours of pro bono work may be performed anywhere that is convenient for you, so long as the work complies with all other aspects of the Pro Bono Requirement. You may satisfy all or some of the 50 hours in another state or a foreign country, provided the nature and supervision of your service complies with the pro bono requirements.

10. Since I am a student not yet admitted to the bar, what types of work may I perform in furtherance of the objectives of the Pro Bono Requirement?

a. First, your work tasks must be law-related. The work must involve the use of legal skills or law-related activities that are appropriate for lawyers-in-training not yet admitted to practice -- you must avoid the unauthorized practice of law. With adequate training and supervision, some examples of eligible activities include: helping a low-income person complete court forms; assisting an attorney with trial preparation; helping litigants prepare for court appearances; engaging in witness interviewing and investigation; participating in a community legal education project; drafting court or transactional documents; or engaging in legal research. You may also perform law-related assignments or make court appearances that are authorized under student practice orders issued by the Appellate Division of the New York Supreme Court for the specific program in which you are performing pro bono work.

Keep in mind that the purpose of the Pro Bono Requirement is to enhance the provision of legal resources available to persons who would otherwise not be able to access or afford legal assistance. Toward this objective, you should seek pro bono work with programs or entities that aim to improve access to justice, are engaged in the representation of low-income or disadvantaged individuals or provide government services in furtherance of these objectives.

- b. Second, your work must be performed under the supervision of:
- i. a member of the law school faculty, including adjunct faculty, or an instructor employed by a law school;
 - ii. an attorney admitted to practice and in good standing with the bar in the jurisdiction in which the work is performed, or;
 - iii. in the case of a clerkship or externship in a court system, by a judge or an attorney employed by the court system.

Your supervisor will need to certify the hours that you spent on pro bono work when you complete your Form Affidavit of Compliance with the Pro Bono Requirement as part of your admission application to the Appellate Division of the New York Supreme Court.

11. What types of projects will meet this requirement?

In general, qualifying pro bono work should be performed in the service of low-income or disadvantaged individuals who cannot afford counsel and whose unmet legal needs prevent their access to justice; involves the use of legal skills for an organization that qualifies as tax-exempt under Internal Revenue Code §501(c)(3); or involves the use of legal skills for the court system or federal, state or local government agencies or legislative bodies.

The following are examples of the type of work that will qualify:

- a. Law-school sponsored clinics that provide legal assistance to those who cannot afford representation, such as clinics that:
 - i. assist individuals or families in matters involving the essentials of life -- housing, access to health care or educational services or the receipt of social services or other government assistance;
 - ii. represent the victims of domestic violence or elder abuse;
 - iii. represent persons with mental illness or disabilities;
 - iv. assist low-income persons with the preparation of tax returns;
 - v. represent incarcerated persons or pursue prisoner rights litigation;
 - vi. advocate for victims of alleged human rights violations or the protection of civil liberties; or
 - vii. litigate on behalf of classes of individuals who could not otherwise afford representation.

- b. Externships or internship placements with a
 - i. not-for-profit provider of legal services for the poor and low-income individuals;
 - ii. law firm, only if the work is performed for a pro bono matter being handled by that firm and the pro bono client is not paying a fee;
 - iii. not-for-profit organization, only if the work is related to a legal matter for which no fee is being paid;
 - iv. judge or a court system;
 - v. Legal Aid, a civil or criminal legal services organization that serves low-income clients, a Public Defender, a Conflict Defender, a U.S. Attorney, a District Attorney or a State Attorney General; or
 - vi. federal, state or local government agency or a legislative body.

- c. Law school sponsored projects or programs that serve the poor or disadvantaged, provided the work is law-related and supervised in compliance with the Pro Bono Requirement.

- d. Law-related work for a not-for-profit organization qualifying as tax exempt under Internal Revenue Code § 501(c)(3) and
 - i. providing free civil legal services for low-income individuals;
 - ii. providing criminal legal services for the indigent; or
 - iii. serving the poor or disadvantaged or otherwise promoting access to justice.

- e. Law-related work in connection with a pro bono matter undertaken by a member of a law school faculty, including adjunct faculty, or an instructor employed by a law school.

12. If I perform pro bono work in a country other than the United States, are there additional requirements?

Yes. If your pro bono work is performed, in whole or in part, outside the United States, you will be required to explain in detail the nature and circumstances of your work as part of your application for admission.

13. Do all the hours that I spend working at a qualifying law school clinic count? If I receive academic credit for my participation in the clinic, does that disqualify my work?

All hours spent working at the qualifying law school clinic will qualify, but the hours you spent on instructional training should not exceed the time that you actually spend using legal skills. Also, travel or commuting time does not count. Your receipt of academic credit does not disqualify the work.

14. If I receive a stipend or grant from my law school or a third party in connection with a law-school sponsored internship or externship, does that disqualify my work?

No. Your receipt of a stipend or grant does not disqualify the work.

15. Does legal research for a law professor qualify?

Only legal research in connection with a professor's pro bono legal services will qualify. Legal research related to scholarship, a law journal article or other publication does not qualify.

16. Will participation in a student-directed pro bono project count?

No. Student-directed pro bono projects that are not supervised as discussed in FAQ 10 do not qualify.

17. Will work on a pro bono project that is not sponsored by my law school qualify?

You may work on an otherwise qualifying project that is not sponsored by your law school so long as the other conditions of the Pro Bono Requirement are met.

18. Will volunteer work on a political campaign, the collection or review of signatures on petitions, work as a poll inspector for elections or work on election litigation qualify? Will assisting with litigation involving an election or a candidate's qualification for nomination, election or office qualify?

No. Work of a partisan political nature does not qualify.

19. If I am hired for a summer position or for a part-time position during the academic year at a law firm, a legal services provider or a government agency and I am paid a salary, will my work on pro bono matters qualify?

Yes, if such work would otherwise comply with the definition of qualifying pro bono work. However, you cannot receive a bonus, additional compensation or other reward from your employer because you performed pro bono work.

20. May I count qualifying work performed in a full-time salaried position with a law firm, government agency or legal services provider following law school graduation?

Work performed during full-time legal employment prior to admission to the bar will satisfy the 50-hour requirement if such activities otherwise comply with the definition of qualifying pro bono work. For instance, if you commence employment at a law firm after taking the bar examination and you are assigned to work with an attorney at the firm who is handling a pro bono case, your work on that pro bono litigation will qualify, provided that the client is not paying for the legal services.

21. Does community service qualify?

No, unless your work is law-related and involves the use of legal skills. For example, assisting in the provision of legal services to a homeless shelter would qualify, but assisting at a fund-raising event, serving food or doing repairs at the shelter would not qualify. As a further illustration, if you volunteer to help Habitat for Humanity build a home, that work would not qualify. On the other hand, if under the supervision of an attorney, you assist in preparing the documents necessary to obtain a building permit or zoning variance for the construction of the home, that work would count. Volunteering for community service projects is commendable, but the purpose of the Pro Bono Requirement is to provide law-related assistance so general community service projects will not qualify.

22. Does participation as a mentor in a mock trial program for high school or college students qualify?
Does organizing a moot court competition at my law school qualify?

No. Although such activities are beneficial, they do not serve the intent and purpose of the Pro Bono Requirement.

23. May I work on more than one project to achieve my 50 hours?

Yes, but it is recommended that you complete the 50 hours in one program so that you gain more consistent experience and the program receives the benefit of your devoting more hours.

24. Does time spent on administrative tasks incidental to the work, such as photocopying or transportation, qualify?

Time spent on administrative duties that are incidental to your pro bono work will qualify, but should be minimal compared to your law-related tasks. Travel or commuting time does not qualify.

25. If my law school has a mandatory pro bono requirement for graduation, can the hours that I work to meet the school's requirement also be used toward the Pro Bono Requirement?

Yes, if the work otherwise complies with the requirements of the pro bono rule (see 22 NYCRR 520.16).

26. How do I demonstrate compliance with the Pro Bono Requirement?

As part of your Application for Admission, you will be required to complete an Form Affidavit of Compliance with the Pro Bono Requirement wherein you will explain your pro bono work. You will be required to identify when and where the work was performed, provide a description of your work or project and identify your supervisor. The form will also contain a certification to be completed by your supervising attorney, judge or legal officer attesting to the hours you worked. You will also be required to attest under penalty of perjury to the truth of the information that you have supplied in the Form Affidavit of Compliance.

27. If I work at more than one program, do I need to complete more than one form affidavit?

Yes, a separate Form Affidavit of Compliance will be required for each law firm, service provider, clinic, government agency or program where you acquired your pro bono hours.

28. Where do I obtain the necessary form(s)?

The Affidavit of Compliance is available at

<http://www.nycourts.gov/attorneys/probono/baradmissionreqs.shtml>

and at the websites of the four Appellate Divisions:

<http://www.nycourts.gov/courts/appellatedivisions.shtml>.

29. May I complete my form at the time I conclude a pro bono project, even if it is before I am applying for admission?

Yes. It is your responsibility to secure and maintain the necessary documentation that you will need for your Form Affidavit of Compliance. You may complete the Form Affidavit prior to your application for admission, but you will need to keep the form(s) until submission of your application packet. Do not rely on your pro bono supervisor or the program where you worked to retain all your necessary information.

30. When do I file the Form Affidavit of Compliance?

Since compliance must be demonstrated as part of your application for admission, you will file the Form Affidavit of Compliance with your admission packet at the appropriate Appellate Division of the New York Supreme Court. The current Multi-Department Admission Packet can be viewed at the website of the New York State Board of Law Examiners:

<http://www.nybarexam.org/Admission/Admission.htm>.

Note that the application and any further materials required by the Appellate Division and its Committee on Character and Fitness must be filed within three years from the date that you are notified by the New York State Board of Law Examiners that you have passed the New York bar examination.

31. What kind of records should I keep and for how long?

You should retain a record of the necessary information related to your qualifying pro bono work until you submit your application packet to the Appellate Division. If you and your supervisor filled out a Form Affidavit of Compliance at some earlier point, it's your responsibility to retain the form for inclusion in your application of admission packet. Also, be prepared to discuss your pro bono work at your Character and Fitness interview.

32. Will special hardship waivers be granted relieving persons from having to comply with the Pro Bono Requirement? Do I need to satisfy the Pro Bono Requirement if I'm enrolled in an evening course of law study and I have a full-time day job? Do I need to satisfy the Pro Bono Requirement if I am completing an LL.M. degree in order to qualify to take the New York bar examination?

Only applicants with exceptional circumstances will be considered for a hardship waiver under Court of Appeals Rule 520.14. Part-time law studies, full-time employment, status as an LL.M. student, family obligations or other responsibilities, out-of-state or foreign residence and other commonly experienced situations will not qualify for a hardship waiver. You will be expected to complete the 50-hour requirement either during your course of legal education or after you have taken the bar examination and before admission. Your admission will be delayed if you have not complied with the

requirements so it is strongly recommended that you do not unnecessarily postpone completing the required pro bono hours.

33. If I have a question not addressed in these FAQs, where can I seek assistance?

You may visit <http://www.nycourts.gov/attorneys/probono/baradmissionreqs.shtml> for further information and updates.

If you have additional questions, the best way to communicate them is by email to ProBonoRule@nycourts.gov. Include your telephone contact information in the event that a personal conversation is necessary. A toll-free number is also available: 1- 855-227-5482.