

1 **16-601. Voluntary pro bono publico service.**

2 The legal profession has a responsibility to provide legal services to those unable to pay.

3 In fulfilling this responsibility, a lawyer should aspire to:

4 A. provide legal services without fee or expectation of fee to:

5 (1) persons of limited means; or

6 (2) charitable, religious, civic, community, governmental and educational  
7 organizations in matters that are designed primarily to address the needs of persons of limited  
8 means; or

9 B. provide legal services at:

10 (1) a substantially reduced fee to persons of limited means; or

11 (2) no fee or a substantially reduced fee to individuals, groups or organizations  
12 seeking to secure or protect civil rights, civil liberties or public rights, or charitable, religious,  
13 civic, community, governmental and educational organizations in matters in furtherance of their  
14 organizational purposes, where the payment of standard legal fees would significantly deplete the  
15 organization's economic resources or would be otherwise inappropriate; or

16 C. participate in activities for improving the law, the legal system or the legal  
17 profession; or

18 D. contribute financial support to organizations that provide legal services to persons  
19 of limited means or promote improvement of the law, the legal system or the legal profession.

20 [As amended, effective January 1, 1997; as amended by Supreme Court Order No. 08-8300-005,  
21 effective March 15, 2008.]

22 **Committee commentary.** —

**RULES OF PROFESSIONAL CONDUCT**  
**RULE 16-601**

**Supreme Court Approved**  
**August 23, 2024**

1 Every lawyer, regardless of professional prominence or professional work load, should  
2 aspire to provide legal services to those unable to pay, and personal involvement in the problems  
3 of the disadvantaged can be one of the most rewarding experiences in the life of a lawyer. The  
4 New Mexico Supreme Court has adopted Rule 24-108 NMRA, which sets forth minimum pro  
5 bono goals and reporting requirements. Government lawyers should participate in pro bono  
6 services or activities, as long as the participation does not violate any restriction that prohibits them  
7 from engaging in the outside practice of law. Court attorneys are permitted to provide pro bono  
8 legal services if the services are consistent with any rules or policies set forth by the Supreme  
9 Court and do not violate any restriction prohibiting them from engaging in the outside practice of  
10 law. Full-time justices, judges, hearing officers, and special commissioners are prohibited from  
11 providing pro bono legal services. See Rule 21-310 NMRA; Rule 21-004(C) NMRA.

12 Subparagraphs [~~(1) and (2) of Paragraph A~~] (A)(1) and (A)(2) of this rule recognize the  
13 critical need for legal services that exists among persons of limited means by providing that a  
14 substantial majority of the legal services rendered annually to the disadvantaged be furnished  
15 without fee or expectation of fee. Such services consist of the full range of legal activities,  
16 including individual and class representation, the provision of legal advice, legislative lobbying,  
17 administrative [~~rule making~~] rulemaking, and the provision of free training or mentoring to those  
18 who represent persons of limited means. [~~The variety of these activities should facilitate~~  
19 ~~participation by government lawyers, even when restrictions exist on their engaging in the outside~~  
20 ~~practice of law.~~]

21 Eligible persons are those who qualify for participation in programs funded by the Legal  
22 Services Corporation and those whose incomes and financial resources are slightly above the  
23 guidelines utilized by such programs but who, nevertheless, cannot afford counsel. Legal services

1 can be rendered to individuals or to organizations, such as<sup>[7]</sup> homeless shelters, battered women’s  
2 centers and food pantries that serve those of limited means. The term “governmental  
3 organizations” includes, but is not limited to, public protection programs and sections of  
4 governmental or public sector agencies.

5 Because service should be provided without fee or expectation of fee, the intent of the  
6 lawyer to render free legal services is essential for the work performed to fall within the meaning  
7 of Subparagraphs ~~[(1) and (2) of Paragraph A]~~ (A)(1) and (A)(2). Accordingly, services rendered  
8 cannot be considered pro bono if an anticipated fee is uncollected, but the award of statutory  
9 attorneys’ fees in a case originally accepted as pro bono would not disqualify such services.  
10 Lawyers who do receive fees in such cases are encouraged to contribute an appropriate portion of  
11 such fees to organizations or projects that benefit persons of limited means.

12 The aspirational standard of ~~[Rule 16-601 NMRA of the Rules of Professional Conduct]~~  
13 this rule can be met in a variety of other ways as set forth in Paragraphs B, C, and D of the rule.

14 Subparagraph ~~[(1) of Paragraph B]~~ (B)(1) covers instances in which the lawyer agrees to  
15 and receives a modest fee for furnishing legal services to persons of limited means. Participation  
16 in judicare programs and acceptance of court appointments in which the fee is substantially below  
17 a lawyer’s usual rate are examples.

18 Subparagraph ~~[(2) of Paragraph B]~~ (B)(2) includes the provision of certain types of legal  
19 services to those whose incomes and financial resources place them above limited means. It also  
20 permits the pro bono lawyer to accept a substantially reduced fee for services. Examples of the  
21 types of issues that may be addressed under this subparagraph include First Amendment claims,  
22 Title VII claims, and environmental protection claims. Additionally, a wide range of organizations  
23 may be represented, including social service, medical research, cultural, and religious groups.

1 Paragraph C recognizes the value of lawyers engaging in activities that improve the law,  
2 the legal system, or the legal profession. Serving on bar association committees, serving on boards  
3 of pro bono or legal services programs, taking part in Law Day activities, acting as a continuing  
4 legal education instructor, a mediator, or an arbitrator, and engaging in legislative lobbying to  
5 improve the law, the legal system, or the profession are [a] examples of the many activities that  
6 fall within this paragraph.

7 There may be times when it is not feasible for a lawyer to engage in pro bono services. At  
8 such times, a lawyer may discharge the pro bono responsibility by providing financial support to  
9 organizations within the contemplation of [~~Rule 16-601 NMRA of the Rules of Professional~~  
10 ~~Conduct~~] this rule. Such financial support should be reasonably equivalent to the value of the hours  
11 of service that would have otherwise been provided. In addition, at times, it may be more feasible  
12 to satisfy the pro bono responsibility collectively, as by a firm's aggregate pro bono activities.

13 Because the efforts of individual lawyers are not enough to meet the need for free legal  
14 services that exists among persons of limited means, the government and the profession have  
15 instituted additional programs to provide those services. Every lawyer should financially support  
16 such programs, in addition to either providing direct pro bono services or making financial  
17 contributions when pro bono service is not feasible.

18 Law firms should act reasonably to enable and encourage all lawyers in the firm to provide  
19 the pro bono legal services called for by [~~Rule 16-601 NMRA of the Rules of Professional~~  
20 ~~Conduct~~] this rule.

21 The responsibility set forth in [~~Rule 16-601 NMRA of the Rules of Professional Conduct~~]  
22 this rule is not intended to be enforced through disciplinary process.

**RULES OF PROFESSIONAL CONDUCT**  
**RULE 16-601**

**Supreme Court Approved**  
**August 23, 2024**

- 1 [Adopted by Supreme Court Order No. 08-8300-005, effective March 15, 2008; as amended by
- 2 Supreme Court Order No. S-1-RCR-2024-00073, effective August 23, 2024.]