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Lisa A. Kloppenberg

Santa Clara University School of Law, lkloppenberg@scu.edu

Lori E. Shaw

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PRO BONO: ASSESSING AIMS AND ACHIEVEMENT

Lisa A. Kloppenberg and Lori E. Shaw***

“In many affairs it’s a healthy thing now and then to hang a question mark on the things you have long taken for granted.”¹

~Bertrand Russell

I. INTRODUCTION

LEAVING behind a vibrant, effective pro bono program is a cherished legacy for any dean. Not only can such a program better the lives of our own students, but it also can harness their powerful minds, willing hearts, and many hands to serve the needs of our communities now and for years to come. If students hear about the importance of pro bono work and have easy access to pro bono opportunities during law school, they are more likely to get involved in public service after law school. As a result, the community and school benefit from their efforts, and the students gain experience that may affect the course of their legal careers and their lives.

In 2006, the University of Dayton School of Law launched the Pro Bono Commitment to Community Program, aimed at providing our students with greater opportunities and an incentive to engage in public service while in law school.² The concept of servant leadership is at the very core of our Marianist

* Dean and Professor of Law, University of Dayton School of Law.

** Assistant Dean for Student Affairs and Professor of Lawyering Skills, University of Dayton School of Law.

1. EVAN ESAR, 20,000 QUIPS AND QUOTES 241 (1995) (quoting Bertrand Russell).

2. See University of Dayton School of Law, Pro Bono Commitment to Community Awards, <http://law.udayton.edu/NR/exeres/847FFD10-7CC5-42DA-A1E9-520DEB60035C.ht> (last visited Jan. 16, 2009) (“[Dayton Law] honors students who make outstanding contributions in the areas of community service and pro bono work with a special ‘Pro Bono Commitment to Community Award.’”).

All students at the University of Dayton may sign a community pledge in which they promise to complete at least fifty hours of pro bono work or community service during their time at Dayton Law, ten of which “may come in the form of general community service work for organizations such as Habitat for Humanity, Hospice, etc.” *Id.*

Students may receive credit for pro bono efforts through a list of pre-approved programs, including programs like the Volunteer Student Law Project and the Volunteer Income Tax Assistance Program. *Id.* An adjunct pro bono coordinator, who reports to the Assistant Dean for Student Affairs, actively seeks new placements, oversees the program, and promotes it among students, faculty, and members of the local community. *Id.*

Charism, the spirit of the Catholic order that founded the University of Dayton.³ We seek to educate for peace, service, and justice, and to instill in our graduates a strong belief in the importance of mission and community in their lives. In sum, we want them to leave us with a passion for service that will last a lifetime.

We are far from alone in this desire. In recent years, American law schools have established myriad pro bono programs, large and small, mandatory and voluntary, staff run and student run.⁴ The number continues to grow.⁵ Indeed, Standard 302(b)(2) of the American Bar Association's Standards for Approval of Law Schools mandates that law schools "offer substantial opportunities for student participation in pro bono activities."⁶

Dayton Law's Pro Bono Commitment to Community Program is not the oldest, the biggest, or the best pro bono program available ... yet. But it is vibrant, it is growing, and we believe that it is changing our students' lives and

New placements may be, and often are, proposed by students. *Id.* For example, in 2007, students created a new Alternative Spring Break program aimed at helping the victims of Hurricane Katrina. University of Dayton School of Law, Alternative Spring Break, <http://law.udayton.edu/NR/exeres/C0505D4B-E36C-4446-9BF8-B77603B3829F.htm>. (last visited Jan. 16, 2009). All new placements must be approved by a faculty pro bono committee, which is also responsible for establishing program criteria. University of Dayton School of Law, Pro Bono Commitment to Community Award, *supra*, note 2.

Students are required to submit a time log signed by their supervisor and to complete an evaluation of the placement. Students who successfully complete this program receive a notation on their transcripts and are entitled to wear a special purple pro bono honors cord at graduation. *Id.*

3. See Marianists at the University of Dayton, <http://marianist.udayton.edu/index.htm> (last visited Jan. 16, 2009).

4. See AALS PRO BONO PROJECT, A HANDBOOK ON LAW SCHOOL PRO BONO PROGRAMS 8 (2001), available at <http://www.aals.org/probono/probono.pdf>.

5. Robert Granfield, *Institutionalizing Public Service in Law School: Results on the Impact of Mandatory Pro Bono Programs*, 54 BUFF. L. REV. 1355, 1356 (2007). See generally COMM'N ON PRO BONO & PUB. SERV. OPPORTUNITIES IN LAW SCHOOLS, ASS'N OF AM. LAW SCHOOLS, LEARNING TO SERVE (1999) (presenting findings of an extensive survey regarding pro bono programs in 110 law schools throughout the United States), available at <http://www.aals.org/probono/report.html>.

6. AM. BAR ASS'N, 2008-2009 STANDARDS FOR APPROVAL OF LAW SCHOOLS: PROGRAM OF LEGAL EDUCATION Standard 302(b)(2) (2008), available at <http://www.abanet.org/legaled/standards/20082009StandardsWebContent/Chapter%203.pdf>. Interpretation 302-10 further explains:

Each law school is encouraged to be creative in developing substantial opportunities for student participation in pro bono activities. Pro bono opportunities should at a minimum involve the rendering of meaningful law-related service to persons of limited means or to organizations that serve such persons; however, volunteer programs that involve meaningful services that are not law-related also may be included within the law school's overall program. Law-related pro bono opportunities need not be structured to accomplish any of the professional skills training required by Standard 302(a)(4). While most existing law school pro bono programs include only activities for which students do not receive academic credit, Standard 302(b)(2) does not preclude the inclusion of credit-granting activities within a law school's overall program of pro bono opportunities so long as law-related non-credit bearing initiatives are also part of that program.

Id. interpr. 302-10.

enhancing the culture of the Dayton Law community.⁷ As proud as we are of our existing program, we are conscious that much work remains. The Carnegie Foundation's seminal 2007 report *Educating Lawyers: Preparation for the Profession of Law* calls on legal educators to create programs that better integrate "the elements of legal professionalism—conceptual knowledge, skill, and moral discernment."⁸ In particular, the report exhorts law schools to more effectively help students develop practical lawyering skills⁹ and form professional identities and purpose,¹⁰ goals that Dayton Law seeks to meet.

Dayton Law's *Lawyer as Problem Solver* curriculum seeks to integrate the apprenticeships of head, heart, and hands by providing students with a solid base of traditional doctrinal courses.¹¹ The curriculum couples these courses with required externships, capstones, and other experiential learning opportunities.¹²

7. In 2008, twenty-one graduates (seventeen percent of the graduating class) received Pro Bono Commitment to Community Awards. University of Dayton School of Law, Awards and Rankings, http://www.udayton.edu/Reputation/Awards_and_Rankings/ (last visited Jan. 16, 2009). The award winners—eight of whom were part of the School's first summer-start class, which graduated in two calendar years—contributed 2864 hours to the community. As of May 2008, the total hours completed by all participants in the Pro Bono Commitment to Community Program stood at 4512. Students have volunteered all over the country, but have made their most significant impact in the Dayton area.

8. WILLIAM M. SULLIVAN ET AL., *EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW* 12 (2007).

9. See *id.* at 88 ("Making part of the standard legal curriculum students' preparation for the transition to practice is likely to make law school a better support for the legal profession as a whole by providing more breadth and balance in students' education. Educational experiences oriented toward preparation for practice can provide students with a much-needed bridge between the formal skills of legal analysis and the more fluid expertise needed in much professional work.").

10. See *id.* at 14 ("[I]n a time when many raise questions about the legitimacy of the legal profession in both general and specific terms, professionalism needs to become more explicit and better diffused throughout legal preparation.").

11. Lisa A. Kloppenberg, "Lawyer as Problem Solver:" *Curricular Innovation at Dayton*, 38 U. TOL. L. REV. 547, 547 (2007).

12. *Id.* at 548. The curriculum, first offered for students entering in fall 2005, contains the following central elements:

1. A solid base of core required courses intended to build a strong foundation in a wide variety of fundamental legal concepts;
2. Subject-matter tracks or concentrations that allow students to explore an area of interest and challenge them to build on the skills and knowledge obtained in their earlier survey courses;
3. Skills integration throughout the curriculum, including a required externship, small-enrollment capstone or clinical course, and introductory dispute-resolution course for every student in addition to traditional skills offerings;
4. One-unit, intensive intra-session courses to broaden students' horizons, offering a variety of topics and perspectives; and
5. An accelerated option allowing students to complete the same rigorous academic requirements in five or six semesters, with a summer or fall start (students who begin in May can complete their degree within two calendar years, with one summer off for a clerkship).

Id. at 550-51.

We believe that our strong pro bono program reinforces and expands the curriculum's lessons.

As excited as we are about our existing program, no law school can afford complacency. We must continue to assess both our desired learning outcomes and our program choices. Pro bono programs cannot be exempt from assessment. Whether your pro bono program is decades old or has yet to be created, we ask you to join Dayton Law in taking a moment to assess your goals for your program and your students and how you will marshal the resources necessary to meet those goals. The following questions provide a good starting place for any assessment, and the remainder of this article will expand each of these questions:

- Is our pro bono program producing the outcomes we seek?
- Should our pro bono program be mandatory or voluntary?
- What should qualify as pro bono service?
- How many hours of pro bono service should we expect of our students?
- Are our key stakeholders invested in the success of our pro bono program?

II. IS OUR PRO BONO PROGRAM PRODUCING THE OUTCOMES WE SEEK?

Our starting point must be the following inquiry: "What do we seek to achieve with our pro bono program?" Few would dispute that law school pro bono programs provide increased access to justice for the poor and marginalized, which is clearly a worthy goal. But we must also consider the educational value of such programs to our students. Law schools are entering an era in which they will be expected to clearly articulate their desired learning outcomes, regularly measure those outcomes, and take action when the measured outcomes are less than satisfactory.¹³ Our responsibility is to make the best use of our limited

Lawyer as Problem Solver builds on a tradition of experiential learning at Dayton. For example, Dayton Law is proud of its outstanding and nationally respected Legal Profession program, which teaches legal research, critical thinking, and writing skills. *Id.* at 548. The primary features of *Lawyer as Problem Solver* are designed, in part, to address the gulf between practicing lawyers and legal education. We seek "to prepare our students better for practice, without sacrificing a strong, broad foundation in analytical thinking and doctrinal coverage." *Id.* This is not an easy tension to navigate. Employers often praise Dayton graduates for their solid skills training, ethical judgment, and ability to hit the ground running. Through strategic-planning efforts, we drew on these reported strengths to structure revisions to our program of legal education. We learned about the immediate pressures on associates to be profit centers for firms and the lack of mentoring available for many new attorneys. *Id.* While some employers and bar organizations provide "bridge the gap" training and mentoring, the profession is increasingly seeking skills training from law schools. *Id.*

Dayton's new curriculum also builds on the University's Catholic and Marianist tradition of educating "the whole person." *Id.* at 549. This approach encourages "hands-on" learning because students often learn best when their minds and hearts are engaged. For law students at Dayton, a "whole-person" approach entails externships for every law student, clinical and capstone opportunities, a robust Pro Bono Commitment to Community Program, and reflection on the role of the lawyer in his or her community. *Id.*

13. See generally CATHERINE L. CARPENTER ET AL., AM. BAR ASS'N SEC. OF LEGAL EDUC. AND ADMISSIONS TO BAR, REPORT OF THE OUTCOME MEASURES COMMITTEE 1 (2008), available at

resources and our students' limited time. Further, every law school with a pro bono program should be able to articulate the educational goals and desired learning outcomes of that program.

ABA requirements aside, consider why the pro bono program exists. What value will it add to a law degree for participating students? Is the program intended to instill certain values? Is it intended to enhance knowledge? Is it intended to improve skills? How should graduates who participated in the program differ from those who did not? Has the faculty weighed in on these outcomes? Is there faculty support? Have the desired outcomes been made known to students and other stakeholders?

As discussed above, Dayton Law's primary goal in creating the Pro Bono Commitment to Community Program was to promote increased public service among our graduates. The program also dovetails perfectly with our *Lawyer as Problem Solver* curriculum, which has a strong emphasis on experiential learning.

Pro bono programs can serve multiple purposes.

[T]he rationale for public service programs in law school does not rest solely on their capacity to promote subsequent volunteer service. Pro bono placements have independent educational value. Like other forms of experiential learning, participation in public service helps bridge the gap between theory and practice and enriches understanding of how law relates to life. For law students, as well as lawyers, pro bono work can provide valuable training in interviewing, negotiating, drafting, problem solving, and working with persons from diverse racial, ethnic, and socioeconomic backgrounds. Such work may also offer practical benefits such as career information, contacts, and job references. Aid to clients of limited means exposes both students and faculty to the urgency of unmet needs and to the capacities and constraints of law in addressing social problems. Such exposure also can increase awareness of ethical issues and the human costs of professional inattention or incompetence. Finally, pro bono work is often a way to help students sustain the commitments to social justice that led them to a legal career in the first instance. Positive experiences may, in turn, encourage more individuals to press potential employers for information about their policies toward such work. Too many students who report interest in public service now lack this information.¹⁴

Identifying desired outcomes is only the first step. A far more difficult task is measuring these outcomes. How do we know that our programs are working?

<http://www.abanet.org/legaled/committees/subcomm/Outcome%20Measures%20Final%20Report.pdf> (recommending that the ABA reframe the current accreditation standards to focus more on outcomes); ROY STUCKEY ET AL., BEST PRACTICES FOR LEGAL EDUCATION 235-74 (2007) (discussing how a law school should assess student learning and institutional effectiveness).

14. Deborah L. Rhode, *Pro Bono in Principle and in Practice*, 53 J. LEGAL EDUC. 413, 439 (2003). Pro bono programs can also benefit law schools themselves by creating goodwill within the local community and among alumni. COMM'N ON PRO BONO & PUB. SERV. OPPORTUNITIES IN LAW SCHS., *supra* note 5.

Are we relying on facts or assumptions? Who within the law school is charged with measurement?

A question that remains unanswered is whether law school pro bono programs have the desired effect of increasing pro bono service after graduation.¹⁵ Two recent empirical studies cast doubt on the widely held assumption that students who engage in pro bono activities while in law school are more likely to do so when in practice.¹⁶ Whether these studies are accurate for your school depends on a number of factors. Do they reflect your school's definition of "pro bono activities?" Do they reflect the results of your school's program? The time has come to move beyond guesswork and give serious thought to how we should measure the desired outcomes. We will not be able to find answers overnight, but the time to start looking is now.

Finally, if our programs fail to achieve their desired outcomes, we need to reflect on how they might be modified to do so. For instance, if a program fails to inspire students to engage in pro bono activities after graduation, could strengthening the link between classroom instruction and the program create a different result?¹⁷ What role, if any, does economics play? Would an increase in public-interest stipends or loan-forgiveness programs or both make a difference? Who within your school should be charged with making action recommendations? How will you close the loop and use the results to make changes?

III. SHOULD OUR PRO BONO PROGRAM BE MANDATORY OR VOLUNTARY?

Law schools are not immune from the great debate in our profession as to whether pro bono service should be mandatory.¹⁸ A number of law schools

15. Granfield, *supra* note 5, at 1372.

16. *Id.* at 1411 ("The results of this study suggest that while most of the attorneys who participated in mandatory pro bono programs see many values associated with having the opportunity to perform pro bono in law school, participation in these programs did not lead to a significant increase in pro bono involvement when compared with attorneys from the same schools who were not required to do pro bono. Nor were there significant differences in the types of pro bono work currently taken by these respondents."); Rhode, *supra* note 14, at 457 ("[R]egression analysis revealed no significant correlation between law school policies and subsequent pro bono work. Although, as noted earlier, students in other surveys generally believe that law school pro bono experiences have increased the likelihood of continued contributions, this study fails to confirm that belief.").

17. See Granfield, *supra* note 5, at 1412. See also SULLIVAN ET AL., *supra* note 8, at 138-39 (noting that evidence exists that the ability of a pro bono experience to influence future public service seems strongly influenced by "how supportive the school's overall culture is of such experience and how well integrated it is into the students' developing understanding of what it is to be a lawyer").

18. See, e.g., Rhode, *supra* note 14, at 440 ("In a widely circulated statement opposing Harvard Law School's pro bono obligation, Charles Fried voiced the moral objection to coerced charity, which he equated with 'compulsory chapel.' In his view, 'public service is an important part of a lawyer's professional life but we have no right to compel our students to conform to our idea of law.... Volunteerism under the lash is 'voluntary' only in the Orwellian sense that it is unpaid. This is the volunteerism of the Cuban cane fields.'").

require pro bono service as a requirement for graduation,¹⁹ but many more focus their efforts on voluntary pro bono programs. Is it time to rethink your school's approach to pro bono? Each approach has distinct advantages and disadvantages. Why did your school choose the approach that it did? Are the assumptions made in selecting that approach supported by any empirical data? Are the reasons for selecting that approach still valid?

Mandatory pro bono service provides valuable legal resources to the community and provides every student with the opportunity to experience the benefits of serving others. It centers on the concept of service as a duty. A mandatory pro bono experience may capture the heart of a student who otherwise would never have considered engaging in pro bono service. Unfortunately, a mandatory pro bono experience may also breed resentment in some students. A person who does not serve willingly often sees only the negative in an experience, which may actually discourage future service.

Voluntary pro bono programs center on the concept of service as a privilege. The students who participate experience the joy of giving. Because they feel good about themselves and their choices, they are inspired to continue to give their time and talents. Most are not looking to accomplish the bare minimum.²⁰ Conversely, voluntary pro bono fails to capture some students who truly would benefit from the experience. On some levels, it may be viewed as "preaching to the choir"; it largely serves those who would likely engage in pro bono service after graduation anyway.

Each of us must consider which approach is most consistent with our school's mission and with the unique needs and desires of our student population. Any number of factors may come into play. Mandatory service might be a central component of one school's faith system or social-justice mission.²¹ On the other hand, mandatory programs require significant resources that many schools may not possess. A school with large numbers of economically disadvantaged students who find part-time employment to be a financial necessity may hesitate to impose additional time burdens on those students.

IV. WHAT SHOULD QUALIFY AS PRO BONO SERVICE?

Although law schools' support for the concept of "pro bono service" is all but unanimous, schools disagree as to exactly what should qualify as pro bono service. The choice of definition is particularly important to voluntary pro bono

19. See Tom Lininger, *From Park Place to Community Chest: Rethinking Lawyers' Monopoly*, 101 NW. U. L. REV. 1343, 1352-53 (2007) (reviewing DEBORAH L. RHODE, *PRO BONO IN PRINCIPLE AND IN PRACTICE: PUBLIC SERVICE AND THE PROFESSIONS* (2005)) ("[A]pproximately one-fifth of American law schools now require some pro bono service as a condition for graduation."). See also Richard F. Storrow & Patti Gearhart Turner, *Where Equal Justice Begins: Mandatory Pro Bono in American Legal Education*, 72 UMKC L. REV. 493, 506-07 (2003) (discussing the mandatory pro bono program at Texas Wesleyan University).

20. For example, many Dayton Law graduates ultimately contribute two, three, or four times the number of hours required to obtain a Pro Bono Commitment to Community Award.

21. See, e.g., Jessica Davis, *Social Justice and Legal Education: Mandatory Pro Bono Legal Services*, 1 CHARLESTON L. REV. 85, 93-95 (2006).

programs.²² As the definition of “pro bono service” narrows, the more restricted the potential student base becomes. As we contemplate how to enhance our

22. The Preamble to the ABA Model Rules of Professional Conduct, paragraph 6, states:

As a public citizen, a lawyer should seek improvement of the law, access to the legal system, the administration of justice and the quality of service rendered by the legal profession. As a member of a learned profession, a lawyer should cultivate knowledge of the law beyond its use for clients, employ that knowledge in reform of the law, and work to strengthen legal education. In addition, a lawyer should further the public’s understanding of and confidence in the rule of law and the justice system because legal institutions in a constitutional democracy depend on popular participation and support to maintain their authority. A lawyer should be mindful of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance. Therefore, all lawyers should devote professional time, resources, and civic influence to ensure equal access to our system of justice for all those who, because of economic or social barriers, cannot afford or secure adequate legal counsel. A lawyer should aid the legal profession in pursuing these objectives and should help the bar regulate itself in the public interest.

MODEL RULES OF PROF’L CONDUCT pmbl. ¶ 6 (2004). Dayton Law has adopted this standard as the basis for approval for the Pro Bono Commitment to Community Awards. University of Dayton School of Law students who satisfy this professional obligation by completing a minimum of fifty hours of law-related service to the community while a student at the University of Dayton School of Law (ten of which may be non-legal community service) are eligible to receive the School of Law’s Pro Bono Commitment to Community Award. University of Dayton School of Law, Pro Bono Commitment to Community Award, *supra* note 2.

Dayton Law sets out the following criteria for law-related service pro bono assignments. For an assignment to be considered “law related” it must satisfy the following criteria:

The functions performed must involve legal research and writing, client interviewing, case investigation, trial preparation, policy analysis, certified court practice, or at the discretion of the Pro Bono Commitment to Community, involve some other function requiring the exercise of legal skills.

Areas of practice may include, but are not limited to, criminal prosecution and defense; environmental issues; health access and mental health; community economic development; consumer protection; child abuse and neglect; child support; migrant law; land loss; education; employment; civil rights and liberties; death penalty; family law; domestic violence; international law; immigration law; tax preparation; poverty law and legal aid; nonprofit governance and formation; and social security and other government benefits. New topics and projects may be added by the Committee at the request of a professor, student, or organization.

Additionally, for a law-related assignment to be considered “pro bono,” it must satisfy the following criteria:

The student may not receive course credit or compensation. Compensation does not include scholarships and grants based on service. Applicants receiving partial stipends must submit documentation relating to the amount of the stipend and to the scope of service provided for Committee review.

The supervising lawyer must work for a governmental entity, public interest or community-based organization, non-governmental organization (NGO), or nonprofit organization. In the alternative, the supervising attorney may be a private practitioner volunteering his/her services without compensation.

schools' pro bono efforts, we cannot ignore the trade-offs inherent in our choice of definition.

A key consideration is whether pro bono service should be restricted to legal service of some type. For example, while some law schools limit recognition of pro bono activities to law-related pursuits, Gonzaga University School of Law's Public Service Requirement may be satisfied by traditional pro bono legal work or by "volunteer charitable and community work."²³

At Dayton Law, we allow students to satisfy a portion of their Pro Bono Commitment to Community pledge through non-law-related community service. We see our students work side by side with alumni in soup kitchens and take a leading role in teaching peer mediation to students in Dayton's public schools. We believe our students learn from these experiences that becoming an attorney does not require a loss of self, nor does it excuse one from providing for the most basic needs of one's neighbor.

Still, solid arguments exist for adopting a more traditional approach to pro bono service. Doing so can provide amazing experiential learning opportunities. The more students have contact with those in need of legal services, the more they may appreciate that need and their own role in satisfying it.

When pro bono service is limited to legal service of some type, a second question arises. Should we define "pro bono service" as service that directly benefits the poor and traditionally unrepresented or should we extend the definition to include services rendered to governmental entities, public interest or community-based organizations, non-governmental organizations (NGOs), and other nonprofits, including charities and religious organizations? Again, law schools are split on this issue.²⁴

Dayton Law also allows students to receive credit for general community service assignments. For an assignment to be considered "community service," it must satisfy the following criteria:

The service must be performed for an organization involved in social causes, such as homelessness, housing, domestic violence, education and youth, animal rights, arts, health, and other charitable endeavors approved by the Committee.

Additionally, for a general community service assignment to be considered "pro bono," it must satisfy the following criterion:

The student may not receive course credit or compensation. Compensation does not include scholarships and grants based on service. Applicants receiving partial stipends must submit documentation relating to the amount of the stipend and to the scope of service provided for Committee review.

To receive credit for either a general or law-related activity, the student must complete a Pro Bono Pledge Program Student Time Log and Student Report and Evaluation form.

23. Public Service Requirement: Gonzaga School of Law, <http://www.law.gonzaga.edu/academic+program/Registrar/Public-Service-Requirements/default.asp> (last visited Jan. 16, 2009).

24. See Kara Abramson, "Art for a Better Life." *A New Image of American Legal Education*, 2006 B.Y.U. EDUC. & L.J. 227, 291 ("While Tulane University, the first school to institute a mandatory pro bono requirement in 1987, requires students to do pro bono work on behalf of the poor, other schools, such as Harvard, allow a broad range of non-profit activity to count as pro bono work.").

The broader definition arguably benefits the middle class more than those most in need of legal services.²⁵ Students are often attracted to that with which they are already familiar, and may bring a greater passion to that work. Does adoption of a broader definition address the fundamental issue of equal access to justice? Does it ill-serve students by failing to provide them with client experiences with the poor and underrepresented?

Many educators balk at the idea of dictating to students the form that their service should take.²⁶ A student who is pursuing a career in environmental law may be better equipped to serve an environmental nonprofit than Legal Aid. He or she may more effectively help the poor by keeping a landfill from being built in their neighborhood than by struggling to help with a landlord-tenant issue.

Is it the role of the law school to determine which causes are worthy?²⁷ The conversations surrounding this issue can be difficult and polarizing. There is some risk of alienating alumni, potential employers, and potential donors by rejecting their favorite cause. A school's constituents and existing programs, such as clinics and legal-aid affiliations, may have powerful connections and expertise to leverage for pro bono expansion.

As a Catholic and Marianist school, Dayton Law actively seeks placements that serve the poor and encourages students to select those placements, but we do not limit our students to such placements. We believe that allowing students to follow their own passions may be the key to setting them on the path to lifelong service, so we encourage them to look into their own hearts to determine where to give their time. By requiring approval for what counts as pro bono service, faculty and administration retain the ability to assess the quality of placements and assure fairness in the honors program.

Finally, what should qualify as "pro bono"? For example, should students who volunteer their services full-time for a summer or other extended period receive credit for pro bono service? Some law schools believe that students undertaking this type of unpaid clerkship receive compensation in the form of an enhanced resume and should not be doubly rewarded. But if that is the case, where should we draw the line between true service and resume building?

25. Deborah L. Rhode, *Cultures of Commitment: Pro Bono for Lawyers and Law Students*, 67 *FORDHAM L. REV.* 2415, 2423 (1999).

26. See, e.g., Howard Lesnick, *Why Pro Bono in Law Schools*, 13 *LAW & INEQ.* 25, 31 (1994).

Many of us hope and prefer that students choose to work in poverty-related work, just as the ABA now suggests. And most of them do. But I think it would be wrong to require it. It is one thing to say to students that part of your professional responsibility is to be of service, and another thing for the School to specify how you serve. If you want to serve by being a public defender or a legal services lawyer, that is great. If you want to serve by working for the National Rifle Association, the Washington Legal Foundation, the Tobacco Institute, or even the University of Pennsylvania (which, let us not forget, is a nonprofit organization), that is all right too.

Id.

27. Even attempting to do so creates the risk of alienating not only students, but alumni and potential employers.

Should students receiving a stipend for living expenses while doing public service be credited? Again, some schools question whether this type of “compensation” disqualifies service from being treated as pro bono.

IV. HOW MANY HOURS OF SERVICE SHOULD WE EXPECT OF OUR STUDENTS?

Most pro bono programs require students to engage in anywhere from twenty to seventy-five hours of service.²⁸ A periodic evaluation of the demands on our students is only prudent. We need to ask whether our pro bono program’s demands are both real and realistic.

The required hours should be sufficiently high to allow students who satisfy the pro bono requirement to feel a genuine sense of accomplishment. In creating a program, it is easy to underestimate the number of hours available to students. At Dayton Law, we have been pleased by the number of students receiving both academic and pro bono honors. Their gold academic and purple pro bono honors cords serve as a visible symbol to their classmates that public service and professional excellence are not mutually exclusive commitments.

We have been tempted to increase the number of hours required for pro bono honors from its current level of fifty, but we have not done so for two reasons. First, we truly do not want to limit the pro bono award to only a handful of students. Public service should not be viewed as an exclusive club. We would be thrilled to see every single student adorned with a purple cord on graduation day.

Second, we recognize that our students are first and foremost students. As great a learning experience as pro bono service can be, it should not interfere with students’ work in the classroom. We also do not wish to penalize those students who need to work to survive. We want students to learn that it is possible to achieve a balance in life that includes time for their obligations and commitments as well as for those in need.

Offering special awards to those students whose service exceeds all expectations is one potential compromise. Each year at Dayton, we honor a graduate who has enriched the law school community with his or her efforts to promote community service and social justice. The Brother Raymond Fitz Student Leader for Justice Award is given to a student who has followed in the footsteps of the University of Dayton’s former president by actively seeking ways to better the world. Our students also honor one of their own each year at the Barristers Ball by presenting the Judge Michael R. Merz Community Involvement Award. The first time the students gave an award to another student, they chose a first-year student who had made an exemplary commitment.

28. See AALS PRO BONO PROJECT, *supra* note 4, at 8.

V. ARE OUR KEY STAKEHOLDERS INVESTED IN THE SUCCESS OF OUR PRO BONO PROGRAM?

The support of administration, students, faculty, staff, alumni, and friends is critical to the success of a pro bono program. How does each of these groups view your school's pro bono program? Are students energized and engaged? Do they feel that they have a voice in the program? Dayton Law's most successful pro bono initiatives, including its Volunteer Student Law Project²⁹ and Alternative Spring Break Project,³⁰ are student driven.

When our students have an idea for a project, we work hard to support them within the framework of our resources and constraints. We brainstorm with them; connect them with faculty, alumni, and others who are willing to provide oversight; help with the myriad organizational and administrative details; and, when needed, connect them with donors who may be willing to provide financial resources. Students are an incredible source for creative ideas.

Is the dean's office doing all that it can to help? Has it developed a well-structured program? Is it regularly assessing the program? Is it raising the funds needed to staff the program? Is it actively pursuing funding opportunities, such as federal work-study monies, for its students? Is it spreading the word about the program to alumni, donors, friends, and community members? Where does the faculty fit into the picture? Do faculty members have a voice in decision making? At Dayton Law, our Catholic/Marianist Pro Bono Committee is charged both with approving pro bono criteria and placements and looking for opportunities for students and faculty to work together on projects.

Do we encourage our faculty to lead by example by recognizing their pro bono efforts when we make retention, promotion, tenure, and salary decisions? Do we supply malpractice insurance for their pro bono efforts? Do we support their efforts to create courses with a social-justice component? For example, Dayton Law faculty members have created well-received intrasession courses on issues such as Law and the Homeless and Human Trafficking. Do our students understand that pro bono service is valued by the faculty? Do we publicize our faculty's own pro bono efforts to the students? Does our faculty discuss the value of pro bono service with students in and out of the classroom?

Are alumni and friends aware of the program? Are they given meaningful opportunities to participate? At Dayton Law, our alumni are invaluable resources. Two recent graduates have served in the position of Adjunct Pro Bono Coordinator, taking a lead role in administering the Pro Bono Commitment to Community Program. Other alumni have provided placements. Others have

29. University of Dayton School of Law, Volunteer Student Law Project, <http://law.udayton.edu/NR/exeres/10F6B119-D10E-421D-A43D-50A6DB4BD74D.htm> (last visited Jan. 16, 2009). The Volunteer Student Law Project works with the Dayton Bar Association's Greater Dayton Volunteer Law Project to help provide legal assistance to low income individuals. Student volunteers are partnered with local attorneys to assist in cases involving a wide variety of issues, including custody, bankruptcy, and consumer disputes. *See id.*

30. Since 2007, over fifty Dayton Law Students have devoted their spring break to working through the Student Hurricane Network to serve the needs of Hurricane Katrina victims in New Orleans.

worked side by side with students at a local homeless shelter. Building connections between student and alumni leaders while doing pro bono work together can be very powerful and lead to inspiring new opportunities for service.

This list of questions is far from exhaustive, but we hope it inspires you to begin the assessment process. Deans have many areas for assessment and much work on their plates, but making time to establish or strengthen a pro bono program is one of the more rewarding tasks a law school administrator can undertake. If we teach our students to use their gifts to serve those most in need, we will play an important role in creating the next generation of servant leaders and highlight for all our students a critical aspect of the lawyer's role in bettering our society.

