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Title:
Creating A Pro Bono Partnership To Close The School-To-Prison-Pipeline

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Access to education can have a lifelong, positive impact on the lives of youth. Learn about an innovative project that leverages resources through a pro bono partnership to expand education advocacy for youth at risk. Panelists will present how their multi-year pro bono partnership has dramatically increased the number of low-income youth who have received education advocacy to keep them in school and out of the school-to-prison-pipeline.
Creating a Pro Bono Partnership to Close the School-to-Prison-Pipeline

2018 ABA/NLADA Equal Justice Conference

MAY 11, 2018

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Morgan Lewis
Agenda

- The Problem
- The Partnership
- The Pro Bono Panel
  - Setting It Up
  - Launching the Panel
  - Case Management
  - Results
- Conclusion
School-to-Prison-Pipeline

Unmet education needs →
Difficulties in school →
Exclusion from school →
Dropping out →
Incarceration, homelessness, public assistance
The Problem

- Limited access to education
- Advocacy for low-income families
- No right to representation
- Limited availability of legal services
- Exclusion rates highest for low-income, non-white, kids w/disabilities
- “Zero tolerance” policies leading to school exclusion:
  - Disproportionately disabled, poor, African American & Hispanic;
  - Suspended students are 3x more likely to drop out which triples the likelihood of incarceration later in life.
- Where need is greatest, availability of representation is the lowest!
The EdLaw Project

- Created in 2000
- Legal Services Agency
- Connected to the Committee for Public Counsel Services (State Public Defender Agency)
  - Child Welfare
  - Juvenile Justice
- Direct Service Education Advocacy for Court-involved Children
- Support for statewide children’s bar
- Usually 3-4 Attorneys plus an intern
- Limited resources!
Our Challenge

From 2003-2012 the percentage of pro se parents in the due process appeals process doubled.

Lack of capacity forced us to turn away clients with meritorious claims.
The Solution

Creation of a Pro Bono Panel
The Partnership

- **EJW Fellowship Sponsored by Bingham McCutchen which Became Morgan Lewis**
- **Worked together to Launch and Grow a Successful Pro Bono Partnership**
Guiding Principles

- Lay out the time commitment
- Ongoing support critical for success
- “Market” the program
- Promote as a good fit for non-litigators with opportunities for paralegal staff
- Steady flow of cases desired
- Certain types of cases don’t fit, i.e., quick turnaround
- Relationship vs. transactional opportunity
To the Law Firm: Be a “True Partner”

- Think about how your firm can help the referring organization, not just individual clients
- Utilize your resources / join forces with other firms
  - Record the training and invite others to attend
- Recognize need to provide funds for evaluations/experts
- Be realistic about ebb and flow of cases
- Maintain a champion within the firm
Building a Profile of a Typical Case

- Type of advocacy
  - Case ripeness
  - Qualities of the education decision maker

- Hours required

- Duration of representation
Recruiting Materials

- **What’s in it for them?**
  - Disrupt cradle to prison pipeline
  - Fulfill ABA Pro Bono requirement
  - Case examples
  - One page recruitment overview

- Establishing an Emotional Response

- Laying Out Your Support Model
Launching The Panel

- Solicitation
- Training
- Building your database
- Document approval – retainers/releases
- Liability coverage
Solicitation

- Interest from information gathering meetings
- Other pre-existing relationships
- New partners
  - Firms with interest in assisting the target population
  - Sell the impact their representation will make
  - Promote development aspects of opportunity
  - For non-litigators & paralegals
- Interest generating meeting (PPT)
- Make it easy!
  - Create invite for firm
  - Provide all training materials in advance
Training

- Trainings limited to under two hours
  - Usually done over lunch
  - Also provided when needed, “just-in-time”

- Videotape the training

- Geographical diversity of participants is desirable
  - Sign-in sheet

- Participation in training is not commitment
  - Some interested attorneys attend just for information
Building Your Database

- Create list of trained pro bono volunteers
- Identify who is responsible for receiving solicitations
  - Direct outreach vs. through a gatekeeper?
- Caution for Gatekeeper approach
  - Time lag may limit cases
Document Preparation & Approval

- Advanced preparation of representation documents
  - Retainers/ Letters of Engagement
  - Limited Representation Agreements
  - Release of Information forms
  - Who is the client?
Liability Coverage

- A 2012 ABA survey indicated “lack of malpractice coverage” as barrier to pro bono participation

- Liability coverage may be included in existing coverage for certain partners

- Some solo-practitioners and inside counsel were added to our existing malpractice coverage
Managing a Case

- Identifying a Case
- Talking to Prospective Clients
- Soliciting an Attorney
- Setting Expectations
- The first meeting
- Attorney/client Support
- Panel Management
Identifying a Case

- Cases come in via Help Line/Intake Process
- Considerations:
  - Geography
  - Education decision maker qualities
  - Advocacy needed and emotional appeal
Talking to Prospective Clients

- Why your agency cannot take their case
- Describe potential pro bono representation
- Get permission from client to share their information
- Describe the pro bono process
Soliciting a Pro Bono Attorney

- **Initial Email**
  - Pull at their heart strings
  - Attention grabbing subject line
  - Location of case
  - Advocacy needed
  - Potential time commitment

- **Conflict Checks**
Setting Expectations

- Pro bono attorney as main point of contact
  - Lines may be blurred for family as a result of intake process & ongoing support
- Reinforce that relationship
- But.....remain helpful to family
The First Meeting

- **Procedural**
  - Client signs representation documents

- **Substantive**
  - Hear from client about what is going on
  - Get documents in parent possession
  - Inform client of next steps/goals
  - Set expectations

- **Aim to hold at office of the pro bono attorney**
  - Introduces formality
  - Insure parent engagement
  - Save pro bono attorney travel time
Supporting the Pro Bono Attorney

- Hands On or Hands Off?
- Template Documents
  - Letters
  - Motions
  - Due process appeals etc.
- Orient partner to working with low-income families
  - Discuss potential technology barriers
- Decision-maker issues
  - Disengagement
  - Different agendas
- Recordkeeping
When Problems Arise

- Address any issues right away!
- Non-profit attorney may be skittish
- Remind pro bono attorneys to be as responsive as they are with billable clients, but manage expectations
Panel Management – Stay Connected

- Continuous communication fosters ongoing connection
- Ongoing case solicitation emails
- Newsletters
- Inclusion in organization events
- Recognition events for attorneys at their firm/company
Panel Management – Continued Recruitment

- Important to continually promote project and recruit new volunteers
- Hold trainings at least every 12 to 18 months
- Build internal capacity/efficiency at firm
- Create working group for teams handling cases
Results

- Panel launched at end of 2015
- 3 trainings held (and videotaped) with over 30 attorneys
- 13 clients represented
- Many positive outcomes, including:
  - Autistic 7 yo boy in new placement
  - Multiple students with dyslexia now receiving language-based instruction, including compensatory summer programming
  - School push-out averted and student on track for graduation
Benefits of a Pro Bono Panel

- From the non-profit:
  - Ability to serve more clients and consider impact litigation
  - Access to additional financial support
  - Availability of meeting space and other intangibles

- From the firm:
  - Training & development of associates
  - Enhanced loyalty – opportunities to give back
  - Meet guidelines for pro bono work
Questions?

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Morgan Lewis
Increasing Access to Special Education Advocacy
How to Build and Maintain a Thriving Pro Bono Panel

By: Michele Scavongelli, Esq. and Erin Hehn O’Sullivan, Esq. of The EdLaw Project

I. The Problem – access to education advocacy for low-income families

Indigent children, including court-involved children, are highly likely to be experiencing significant school failure. Unfortunately, without experienced advocacy, most of these children will never receive the educational services they need to succeed. This is both a human tragedy on an individual and family level and a fiscal disaster on a societal level. Each child who doesn’t graduate from high school, including those who become chronically court involved, ultimately costs taxpayers millions of dollars over a lifetime.¹

There is no right to representation in matters of special education or school discipline. While many states and municipalities have legal services agencies, which provide education advocacy as one of their services, the demand for these services far outstrips the need. Income guidelines for legal services firms often top out at somewhere between 125% and 200% of the Federal Poverty Guidelines adjusted for family size. Often children of these families face unique challenges that create or exacerbate underlying disabilities. Department of Education statistics show that low-income, children of color, and disabled children experience rates of school exclusion at rates many times greater than their peers². For example, students with disabilities are suspended out of school more than twice the rate of the general population, while African American students are suspended out of school at an even greater rate.³ Thus where the need is greatest, the availability of advocates and attorneys is the least.

Several factors unique to special education law have made the situation even more challenging for these families. Access to independent education evaluators is difficult, as many evaluators do not take state-mandated rates or universal health coverage. In addition to having no right to counsel at due process hearings, three Supreme Court decisions have severely limited parental due process rights and prevent children from receiving a free appropriate public education: Buckhannon Board & Care Home, Inc. v. W. Va. Dep't of Health & Human Res. (2000)⁴; Schaffer v. Weast (2005)⁵; and Arlington Central School District v. Murphy (2006)⁶. As a result of these cases, the burden of proof has shifted in most cases to parents and the ability to recover attorney and expert fees has been significantly reduced, which has led to a reduction in the

¹ James S. Catterall, The Societal Benefits and Costs of School Dropout Recovery, Education Research International, 2 (2011) (citing H. Levin et.al, The Costs and Benefits of an Excellent Education for All of America’s Children, Teacher’s College, Columbia University, 9-17 (2007), finding that that the average individual benefit from preventing or recovering school dropouts is $209,200 per student)
² For Massachusetts’ district specific statistics as well as state totals, please see, 2016-2017 Student Discipline Data Report – All offenses – All students, available at http://profiles.doe.mass.edu/statereport/ssdr.aspx.
³ Massachusetts Department of Elementary and Secondary Education 2016-17 Student Discipline Data Report, available at http://profiles.doe.mass.edu/ssdr/?orgcode=00000000&fycode=2017 (showing that in the 2016-2017 school year the suspension rate among the e general student population was 2.8%. However, students with disabilities were suspended out of school at a rate of 5.7% and African American students were suspended at a rate of 6.4%.)
⁵ 546 U.S. 49 (2005).
number of private attorneys who are able to take on the cases of children from low-income families.

In Massachusetts, the percentage of parents without attorneys participating in the due process appeals process doubled from 2003 to 2012.\(^7\) Districts, that have attorneys, win hearings at a rate that is almost six times higher than parents without attorneys.

As a legal services agency staffed by two full time staff attorneys and the occasional Skadden or Equal Justice Works (EJW) fellow with a mandate that includes statewide representation of court-involved students from families with incomes below 125% of the federal poverty level, we found that we were often in the position of having to turn away families with very meritorious claims. We would do our best to provide some advice over the phone and to find them alternative representation, but that was often exceedingly difficult.

Four years ago, we decided to address this problem by creating a panel of pro bono attorneys who work at either private law firms or are in-house counsel at large local corporations. Figuring out how to recruit, train and supervise these attorneys have been just some of the challenges we’ve faced. We reached out to the pro bono coordinators at many of the local large law firms for guidance on what firms were looking for in pro bono relationships. We had to spend a fair bit of time determining what the ideal profile of a case for referral should be. We developed a protocol for initial meetings with prospective firms or corporations and a full training program.

Four years and many lessons learned later and we have over one hundred attorneys on our panel who have represented over 60 families, including at due process hearings and settlement conferences. Some of our foundation’s biggest financial supporters have come from our pro bono firms, and we’ve been able to tap these relationships to tackle legal fights that go beyond the capacity of our small agency.

II. First steps

A. Solicit Advice and Partners

A 2012 study by the American Bar Association (“2012 ABA survey”) found that “approximately three-quarters of those who had performed pro bono service in the past year indicated that they do not seek out pro bono opportunities; the opportunities find them.”\(^8\)

1. Information Gathering Meetings

In order to determine whether firm attorneys would be interested in doing pro bono work in the field of education advocacy and to learn what was important to a firm when it engaged with a legal services organization for pro bono work, we held a series of meeting with individual firms, as well as convened a luncheon to which we invited the pro bono coordinators from a number of the large local firms. Additionally, one of the firms hosted a breakfast for us with in-house counsel from a number of their clients. They felt that the ability to bring a pro bono opportunity to their clients would help strengthen that relationship.


2. Appropriate Contacts

When deciding who to approach at a company or law firm, if you already have a relationship there, start with the person you have the relationship with regardless of the context of that relationship. They will be your champion in the firm and will connect you with the right people.

If you don’t have a particular contact, the best contacts at firms or local companies will vary, but in general they fell into one of three categories. First, most large law firms will have a person whose role is that of pro bono coordinator. This person, usually an attorney, is responsible for all of the pro bono activities at the firm, including establishing and promoting pro bono partnerships. We were very involved with one large law firm based on personal relationships, but when they created a formal pro bono coordinator position, that individual really increased our visibility in the firm and often reaches out to us to look for cases.

The second type of person, particularly in law firms who has been interested in promoting pro bono work such as ours, is the person in charge of training & development. They understand that taking on a pro bono case is a wonderful opportunity to develop skills in associates who would not typically have the opportunity to manage a case until many years into their careers.

Finally, many companies and firms that don’t have formal pro bono coordinators do have pro bono committees comprised of senior executives or partners in the firm. They serve on this committee and manage the pro bono activities of the firm alongside of their day-to-day work. They will have less time to devote to working with you, but they will be supportive of launching your pro bono initiative at their firm if they are convinced it is a good opportunity and you can make it easy for them.

3. What did we learn from these meetings?

Taking the time to talk to a lot of people at companies and firms before launching our pro bono panel was incredibly helpful in avoiding mistakes and generating interest.

First, we learned that firms wanted to understand the time commitment involved in a particular type of case. While education advocacy, other than straight discipline representation of regular education students, can last for months or even years, if the amount of time can be manageable, there was interest. We created a document that attempted to estimate the time involved depending on the type and complexity of the case (See Attachment A). Over time, attorneys who took cases with us were our best advocates in assuring potential panel members that while the cases could last a while, the intensity at any given time was manageable.

Second, we learned that ongoing support for the pro bono attorneys was crucial. These firms had been burned by organizations, which would train them, hand over cases and provide little additional support. Our model is support-heavy, especially with attorneys taking on their first case. This may limit the number of pro bono cases we can take on, although that hasn’t turned out to be the case, but it has led to high marks from everyone involved in this work. When we approach a new firm and they ask for references from existing firms who are part of our pro bono panel, we are able to provide these happily knowing they will be great. Our support model is strong also because we feel a sense of responsibility to the families who call us and want to make sure that they are getting high-quality representation. Often we’ve worked with these families for months in an advisory capacity over the phone prior to their case becoming ripe for a pro bono attorney.

We also learned that it would be important to “market” the program to these firms’ attorneys in
order to generate interest. In all cases, we are not the only pro bono partner working with the firm, so we need to make our opportunity attractive enough so that they will want to give up their time to attend our initial training and then take a case.

We were questioned as to whether our work would only be appropriate for attorneys with litigation experience. We explained that negotiation skills are one of the most important skills that an attorney working in this field could possess and that this work does not require a litigation background. Firms are always looking for opportunities for attorneys working in non-litigation specialties, so our opportunity was also attractive for the breadth of individual who could sign up.

Firms and companies were also looking for opportunities for their paralegal staff. We have been able to accommodate this need by teaming paralegals and attorneys, with the paralegal taking the lead on many activities and only bringing in the attorney if there was a need to file for due process.

Finally, we heard that it was important that we be able to provide a steady flow of opportunities so that we became an integral part of the pro bono work of the firm.

In initial discussions some firms advocated for cases that were short in duration, more transactional. We thought that school discipline cases in which the student was not a special education student might be ideal. This ended up not working for two important reasons. First, the time frame to jump in and begin representation is extremely short. These students are facing a discipline hearing and need an attorney to be on board within a few days. We have learned that the process of soliciting an attorney, going through the conflict check at their firm, and then scheduling the first meeting, can take a few weeks, and that kind of lag does not work for this type of case. Also, we don’t actually see many of these types of cases so we wouldn’t have many cases to present to the panel. As described below, we now train new panel members on special education issues with a brief nod to discipline law as it applies to special education students should a disciplinary situation come up in the course of their representation of the student.

Finally, we have learned that there are two types of pro bono work going on in firms and corporations. One is a more transactional style such as “lawyer of the day” at a housing court, participating in a one-day immigration clinic, manning a legal services advice hotline, etc. The other type is a more personal, longer-lasting case-based approach. This is the type of opportunity we offer. One corporation approached us to fill this niche as some of their attorneys wanted more of an in-depth experience with clients. It is important to understand where what you offer for fits so that it can be best positioned to the firm and potential volunteers.

**B. Building the profile of a typical case**

1. **Type of advocacy**
   a. **Qualities of the education decision maker**

   It is important to have a clear vision of the types of cases will refer to your panel. We have two areas that we assess before sending out a pro bono request. The first area we assess is whether the case is compelling and interesting to someone who does not have a background in this complex legal field. As mentioned above, we have found success using special education cases where there is a clear placement or services dispute. Making sure there is a clear point of contention helps in providing direction for advocacy and educating the pro bono attorneys about
the principles of a free and appropriate public education ("FAPE") and least restrictive environment ("LRE"). Again, we do not send out straight discipline matters to our pro bono panel due to the quick moving nature of these cases.

It is also important that you evaluate the education decision maker’s ability to be responsive and engaged. It will make a case much more difficult and frustrating to a pro bono attorney if you have a family that does not respond to calls or emails, or has difficulty accepting advice. In our work, we are used to having to play the role of both attorney and social worker, but this is not something that most pro bono volunteers are comfortable with. There are exceptions, attorneys who want to work with the family in a variety of ways, but the vast majority wants to be able to use their legal skills to help the student.

Note that in addition to evaluating the education decision-maker for responsiveness, we also tend to steer away from parents or guardians who seem to have some mental health issues. We have had a couple of pro bono matters go off the rails as a result of mental health issues with the parent. So there are occasions in which a case may be appropriate, but we don’t feel comfortable connecting a pro bono attorney to a particular parent. We can usually spot these situations during the intake process. While these are cases we would take, with our pro bono panel, we are trying to create a balance between getting help for more families, while at the same time making sure that the attorneys who volunteer have a good experience and we preserve and strengthen our relationship with the firms and corporations that these attorneys work for.

b. Case ripeness

The second major area we assess is ripeness. In most cases we want to make sure that the family has tried all means of advocacy within their own control and that the case is at the point where an attorney is needed. For example, we try to make sure that the family has the necessary outside evaluations so that the pro bono attorney is set up to jump into the case right away and advocate. If the family is just at the starting point of their journey, we will work with the family in an advisory capacity to help them get an independent evaluation, or to help narrow down the dispute before involving a pro bono attorney. It is also important to make sure that there is a dispute and that the family has a clear vision of what they want. For example, if the family has not yet met with the district and voiced their concerns, we will advise that such a meeting is necessary because their concerns could be alleviated without the need for counsel. We want to make sure that there is a clear legal path for the pro bono attorney as opposed to an advocacy and parent support role.

2. Hours required

When we train attorneys, we are up front about what we are requiring of them. As mentioned above we created a chart that outlines the various activities attorneys may participate in from the initial intake to a due process hearing. This chart gives a range of time a case may take from start to finish and outlines how long each activity could take. Again, we have attached this chart as Attachment A. The 2012 ABA survey found that, out of the 2,876 attorneys who participated, they spent an average of 32.7 hours each on their most recent pro bono case.9

3. Duration of representation

Attachment A also outlines the length of time a case could take. As special education

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9 *Id.* at 19.
practitioners know, our cases could take up to a year or more. Pro bono attorneys need to know this timeframe before committing to a family. We have found that being up front and transparent helps set expectations and reduces the risk of an attorney dropping out or losing interest in the middle of a case. We also encourage attorneys to work on cases with another attorney or a paralegal. Not only does this lighten the load, as the cases progress, there will inevitably be times when one person is away or swamped with work. Having another person familiar with the case allows for easy coverage. We have had situations where attorneys left their firm and the partner on the case took it over or if the person was solo, the firm arranged for the transfer of the case. In one situation, an attorney left her firm and took her case with her to her new firm. In another situation, the attorney who was representing one of two autistic brothers, started representing the other brother too when issues on his schooling arose. Having a good relationship with the key contacts at the firm makes these types of situations easy to manage through.

C. Recruiting Materials

1. What’s in it for them?

Rule 6.1 of the ABA model rules of Professional Conduct state that an “Every lawyer has a professional responsibility to provide legal services to those unable to pay,” and that attorneys should give at least 50 hours of pro bono work a year.\(^\text{10}\) When we are trying to recruit attorneys to perform those hours with us, we want to pull at their heartstrings. We want them to choose to work with us over the other pro bono opportunities that may be out there.

When we are doing an initial pitch or training at a firm, we set the stage for what our clients are dealing with such as poverty, discrimination and trauma. The March 2013 report by the American Bar Association “Supporting Justice III: A Report on the Pro Bono Work of America’s Lawyers” similarly found that educating lawyers about the unique challenges those living in poverty face will help engage them in more pro bono work.\(^\text{11}\) We outline the school-to-prison pipeline and how their involvement could prevent some young people from entering it. Pro bono attorneys need to understand how they are part of a bigger problem and solution that goes beyond one client and one school. Often, many of the attorneys we work with do not know about the extent of the school-to-prison pipeline or how inadequate special education services can set up a child to fail as an adult. Many of our volunteers are actually shocked by the actions of the school districts involved in their cases. Providing them with case examples as well as statistics is often eye opening and provides a compelling reason to get involved. We have created a one-page overview of what we do and how it can help the attorney develop professional skills. This one-page overview is included as Attachment B.

2. Telling your story – establishing an emotional response

This part requires moving beyond statistics to real life examples. It is easy to get bogged down in all the numbers. It is harder to forget the real life stories of our clients. We use real examples and outcomes in our training and recruitment materials. Often, people assume that because Massachusetts is considered a leader in nation for education that everything works well here. Using real examples shows that is not the case with our clients and that there is still a lot of work


\(^{11}\)Supporting Justice III, supra note 8, at vii.
3. Laying out your support model

You should put a lot of thought into how you are going to support your panel. Are you going to pass the case off and let the pro bono attorney run with it while providing advice when asked, or are you going to be a close partner in the case? We provide a lot of support to our pro bono attorneys. We make ourselves available to go to every client intake meeting and team meeting, particularly if this is an attorney’s first case. (Fortunately, many of our attorneys have gone on to take multiple cases.) They are the primary attorney who does the work, but we provide close guidance, sample documents, and feedback.

We have received a lot of positive feedback about our level of support and involvement. Since we are so involved, it means that we cannot take every possible case that comes in the door, but that is why we have created the criteria described above in Section B. This model of intense support and oversight allows us to provide the same quality representation we provide ourselves, but over more cases. It also provides a positive experience that has resulted in many of our pro bono attorneys taking on more cases once their first one is finished. That benefits us because we do not need to provide as much education and support to attorneys who have already done one case with us.

III. Launching the Panel

We have built the panel by adding one firm at a time. This has allowed us to start slowly and continue to expand over time. This section will describe the process of engaging a particular firm or corporation.

A. Solicitation

As a result of the information gathering sessions we did at the beginning of this effort, we had already created a lot of interest in a number of local law firms, all of whom we had strong relationships with. If you are trying to engage a firm or company that you don’t have a pre-existing relationship with, find a way to get a favorable introduction to the appropriate decision maker on pro bono activities. When meeting with this person talk about the work, provide materials like those shown in Attachments A-C, and do your best to sell the advantages of this kind of work and working with your organization in specific.

Assuming that the firm is interested and on board, the next thing you need to do is to work with them to plan an introductory training and help them solicit attendees from among their attorneys. We provide the following language for an email that can be sent out soliciting interest:

Pro Bono Opportunity to represent low-income youth who are struggling in school

[Firm/Company name] is looking into establishing a pro bono partnership with The EdLaw Project and we need your participation. We are seeking attorneys who are looking for the opportunity assist low-income children with disabilities who are struggling to get the support they need in school. Their families need attorneys to represent their children’s special education rights. The Ed Law Program advocates for low-income families and children in matters of school discipline and special education. On date from time, Michele Scavongelli, an attorney at The EdLaw Project will offer training on special education advocacy. Your attendance is not a commitment to participate. Also, you do not need to have litigation experience to be a great advocate in this venue. Negotiation skills and an ability to work with families and children are most important. Also, this project is unique in that if you take a case, The EdLaw Project
will partner you with one of their attorneys who will support you every step of the way. We invite you to attend, learn, and consider if this is an effort you can lend your talent to either now or in the future. You will also learn a lot about a student’s rights at school that maybe helpful for your own family!

The firm’s contact will work with you to identify a date and time, provide a room to hold the training in at their offices, print out materials, etc.

B. Training

We limit our training to 2 hours and typically do it over lunch. This tends to ensure maximum attendance since you are feeding the attendees! We are able to touch on all areas of special education advocacy and Attachment D includes a list of the topics covered and time allotted to each. Several firms have videotaped the training so that attorneys who couldn’t attend, or join the firm later on, can get the training. In some instances, we have done “just-in-time” training for interested attorneys who want to take a case.

We have a sign-in sheet and try to get a sense of the geographic location of the attendees. We take cases from across the state, so it is helpful if our panel members live outside of Boston. We indicate to people at the outset that attendance at the training is not a commitment to join the panel, and we ask at the end of the training who would like to be a member and get notifications when we have a case. We definitely have had folks come to the training who have personal situations involving special education and were just looking for some information.

C. Building your database

After the training you will want to start building your email list of trained pro bono attorney volunteers. Different firms handle the communication loop differently. Most firms are fine with the email list containing the email addresses of all of the attorneys from their firm who have been trained and agreed to accept cases. That way, when you solicit for a case, the solicitation email will go out to each attorney directly without delay. Other firms identify one or two gatekeepers to receive the solicitation email and then they send the request on to the other attorneys at the firm. Both approaches work fine and of course, we let the firm decide what would work best for them. The only downside to the gatekeeper approach is that often a case is taken before the gatekeeper can send the request on. When that happens we will sometimes offer the firm that lost out the opportunity to be contacted first when the next case comes in.

D. Get the documents approved – retainers and releases

After you’ve held the training and have your database for case solicitation set up, another thing you want to take care of in advance is getting the case paperwork set up at the firm. The pro bono attorney will need a retainer (or as some refer to it, an engagement letter) and a release. We work with our firm contact to help them develop these documents. Often we start with our documents and they modify to fit their needs and approach. Make sure that the release not only covers the firm personnel, but also personnel at your organization.

E. Liability coverage

The 2012 ABA survey found that a lack of malpractice coverage was one of the top three reasons why attorneys did not take pro bono cases.12 Many attorneys are also unaware that the pro bono program is able to provide them with malpractice insurance for their pro bono cases.13 We have

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12 Id. at 26.
13 Id. at 34.
a wide range of attorneys on our panel from solo practitioners to attorneys at big firms that have well-established pro bono structures. Some of the attorneys have coverage through their firms, while other attorneys such as solo practitioners will need coverage. Note that attorneys working for corporations will also need coverage as they are only covered to represent one client – the company. After some investigation, we found that were able to add these attorneys onto our existing coverage without extra cost. It will be important for you to look into your coverage and whether you can add attorneys before you set up your panel.

IV. Managing a case

A. Choosing a case to refer to the pro bono panel

1. Geography

As is likely similar in other states, many of our pro bono firm partners are located in major cities. In Massachusetts, that means that many of our pro bono attorneys live and work in or near Boston. As a result, it could be difficult to get an attorney to take a case that requires travel beyond the metro area. If we have a very compelling case outside of this area, we will work hard to support that family ourselves, or have a conversation with the family about whether they are willing to travel Boston for the intake and other client meetings. If that is the case, we can minimize travel for the pro bono attorney and increase the chances we can get a volunteer for the case. After four years, we do have a good number of pro bono cases located over an hour north, west, and south of Boston.

2. Education Decision Maker qualities

This was also discussed above in Section II.B.1. Managing and participating in a pro bono panel is a mutually beneficial endeavor. We are able to help more students, the pro bono attorneys are able to gain experience, and we strengthen our relationship with many of our more significant supporters. We want to make sure that the pro bono attorneys have a good experience so that they continue to serve on the panel and will recruit other people to do so as well. If they are working with a parent who is extremely difficult for any number of reasons, it will be less likely that they continue on the panel for future cases. We keep this in mind when determining whether to refer a case to our panel. We try to screen whether the decision maker will be cooperative, responsive and engaged in the case and to make sure that they do not have any significant mental health issues that will make it difficult to represent their child. To screen for this, we will have several conversations with the decision maker and request that they send us documents before making the pro bono referral. Reviewing the documents also helps us determine whether the case is ripe for legal representation.

3. Advocacy needed and emotional appeal

Since we are asking for volunteers to work on these cases, we want to make sure there is a clear path for legal advocacy and that there is an emotional appeal in a case. There are two things to consider: the why and the what. Why would someone want to work on this case? What will a new placement or services do for this child? What will you do to make this happen? Are there team meetings coming up, or mediation, or is the case ready for a due process hearing? We try to make sure there is a compelling why and what so that when we write our request to the panel we can generate a lot of volunteers. We cannot take several paragraphs to explain the case; we need to be able to grab a volunteer in a headline and short descriptive paragraph.
B. What to say to prospective clients

If, after our screening and intake process, we think a case is appropriate for a pro bono referral, we will explain how our panel works to the prospective client. (Note that we have explained to them why our charter does not allow us to take their case directly – i.e., we only represent court-involved youth.) We ask their permission to solicit help from our panel and if they agree, we let them know that we will let them know when we find someone to take the case. We get their permission to share their information with the pro bono attorney who volunteers to take the case for conflict check and then background purposes. We then explain that the next step will be to set up a meeting between EdLaw, the pro bono attorney, and the client. This process often takes a couple of weeks, so we are upfront about this timeline to the client.

C. Soliciting a pro bono attorney

1. Initial email

As we discuss above, we want to be able to pull at the heartstrings and have an emotional appeal when we send out a case request to our panel. We make sure there is a short headline that will pull in the attorneys to read more. Then we follow up with a very brief paragraph outlining the case and what kind of advocacy it needs. We make sure to put the location in our headline. Sample email solicitations are contained in Attachment E.

2. Conflict checks

We conduct a conflict check in our office before we make the pro bono referral to make sure we don’t have any conflicts since we will be involved in the case. Although we are not officially representing the client, due to the level of our involvement and amount of personal information we see, it is necessary. The pro bono attorneys then must complete a conflict check in their office before we can officially assign them to the case. For the purposes of their conflict check we provide the student’s name, date of birth, school district name, and parent(s) or guardian(s) names. As a result, we do not let the client know we found a pro bono attorney until the conflict check is conducted and cleared.

D. Setting expectations

At the beginning of the case it is important to be clear with the family that the pro bono attorney is their main point of contact. Since we go through an intake process and often an advisory period with the family, at the beginning, many times their instinct is to reach out to us first even though they have a pro bono attorney. It is important to set the expectations with both the family and the pro bono attorney about who is the first line of contact. Since we offer an intensive support model, we are often included email communications and involved in conversations with opposing counsel. If the family contacts us directly, we will often remind them that the pro bono attorney is taking the lead, but will still talk to them and then relay the information to the pro bono attorney. Our goal is to have the client working with the pro bono attorney, and the pro bono attorney consulting with us as needed.

E. The first meeting

The first meeting is both a substantive meeting and a procedural one. The pro bono attorneys will have the client sign the appropriate releases and a retainer (see above section III.D.) This is also a good time to go over the goals and next steps with both the pro bono attorney and the client. Typically, we have already had several conversations with the pro bono attorney prior to this
meeting to discuss the case, go over the basics of special education law, and answer any of their questions. This meeting is also a good time to discuss who is taking the lead and set expectations for moving forward. We usually schedule these meetings at the pro bono attorney’s office. If that is not possible due to transportation or scheduling issues, we schedule them in a neutral location. We will often secure conference room space at a nearby public defender office, as we are associated with the state public defender agency. This gives the meeting a little more of a formal feel than meeting in the client’s home. We also choose to not schedule the first meeting at the client’s home because we want to make sure that the client is engaged. It also may save the pro bono attorney travel time.

F. Supporting the Attorney/Staying in Touch with the Case

In its 2013 Report, the ABA gives several suggestions about how increase the success of pro bono programs. Some of these suggestions include increased education for lawyers about the need for pro bono services and increased mentoring and co-counseling opportunities.\textsuperscript{14} We have found these principles important in the success of our pro bono panel.

1. Different Philosophies – Hands On or Hands Off?

Only 15 percent of lawyers surveyed in the 2012 ABA survey reported receiving regular check-ins from their mentoring agency.\textsuperscript{15} More alarming, 39 percent reported receiving no support.\textsuperscript{16} As we previously discussed, we have a very involved and supportive approach with our pro bono panel. We make sure that our pro bono attorneys always feel that they have someone to talk to, consult with questions, include in meetings and to support them in any way with their case. We want them to feel confident as they work on behalf of their new client. As a result, we are typically involved in strategic decisions, team meetings, and any due process or mediation calls, meetings or filings.

There is a lot of teaching that goes into pro bono cases and our attorneys employ a variety of teaching strategies whether it is learning by example, or providing guidance in the background. We always make sure the pro bono attorney does the first draft of any letter or filing, although we may often provide samples to work from. We often set up calls to discuss strategy and talking points before meetings. We will also discuss who will take the lead during a particular meeting or call. Over time, the attorneys we work with find that as their knowledge of the law and procedure grows their confidence in taking the lead increases.

2. Template documents—letters, motions, due process appeals, etc.

The 2012 ABA survey also found that about 21 percent of legal services agencies provided sample documents and forms and that 15 percent provided sample pleadings.\textsuperscript{17} We have a database of template documents that we can provide to our attorneys. These include such documents as: record requests, releases, client letters, requests for IEEs, requests for initial eligibility testing, sample due process requests, sample discovery requests, opening and closing statements, and sample FOIA requests. It takes some time to create this database and redact your documents, but that work is all on the front end. Once you have this created, you can easily provide samples to the pro bono attorneys.

\textsuperscript{14} Id. at 33.
\textsuperscript{15} Id. at 13.
\textsuperscript{16} Id.
\textsuperscript{17} Id.
For example, after the first meeting we tell all of our pro bono attorneys that the first thing to do is to write to the school district requesting the student’s entire record. We provide them with a template to make this request and train them on who to send it to and what other information they may want to include in the request.

3. Some lessons learned

One thing became clear to us early in the process of setting up the panel which was that the pro bono attorneys were generally not used to working with low-income clients. We’ve learned to explain to these attorneys simple things such as email is less effective than a text or a call. Also, if scheduling a meeting, Outlook requests are likely not going to work. These attorneys are very caring, but are not familiar with the relatively low-tech world that our clients live in. They also have little knowledge about the various safety nets that are out there including universal healthcare and services from state agencies. Don’t assume that they know what the alphabet soup of agencies and programs you work with mean.

Despite your best efforts to select appropriate cases and to adequately train and vet volunteers, there can be issues. In the four years during which we’ve had a panel, we’ve had only few problems and we would like to think that we’ve learned from them. The most common issue we’ve had is when a parent who seemed fully engaged and interested and in need of help just seemed to disappear once an attorney was assigned. This has happened both before and after the first meeting. We work with the attorney to see if we can get the parent to re-engage and if that doesn’t happen support them in the process of closing the case.

We had a couple of cases in which the parent had a different agenda than what they stated when they called us or was basically mentally unstable and paranoid and would not follow the suggestions that the attorneys were providing. Again, in both cases, we supported the attorney in withdrawing. Throughout all of these mishaps we maintained our good relationship with the firm and their attorneys.

Finally, we have had one or two instances in which the attorney did not follow through. In those cases, we carefully stepped in to arrange for someone else to take over the case.

4. Recordkeeping

As with the cases we take directly, we maintain a database to keep track of our pro bono cases. We note the name of the student, birthdate, location, school district, type of case, attorney’s name and contact information, support attorney from our organization, case opening and closing dates, and case outcome. Please note that we create a record for each case, not just each student. A given student may generate more than one case.

G. Panel management

1. Staying connected

Panel attorneys continue to feel connected to our organization through the continuous communication they have with the support attorney from our organization. This is a benefit of our hands-on model.

Next, all of the attorneys on the panel, whether or not they are already working on a case, see the ongoing solicitations for new cases. We believe that this continues to remind them of the work we are doing and the need that is out there.
Also, we produce short newsletters on topics of interest in special education or school discipline law that we send out to the members of our panel. In these newsletters we may highlight a case success or two. We also can use them to advertise any upcoming organization events.

We invite all of our pro bono attorneys to our annual fundraising event and we recognize those who have taken cases at the event.

Finally, we will occasionally, with the support of the firm’s pro bono coordinator, hold recognition events at the firm for the attorneys from that firm who have taken cases.

2. **Continued recruitment**

Attorneys are a mobile group and we occasionally lose members of our panel by attrition. We are able to keep the panel vibrant by adding both new firms and attorneys at existing firms. We add new firms through the outreach approach described earlier in this white paper. We started with relationships with one firm and in-house counsel at one corporation and at this point are working with seven firms and in-house counsel at two corporations.

Within our existing relationships, our main contact, if they have been happy with the experience for their firm, will work with us to conduct periodic trainings every 12-18 months so that we can reach new attorneys who have joined the firm. Often our initiative is highlighted during their Pro Bono Week celebrations.

V. **Other benefits of a pro bono panel**

1. **Financial support**

We have been able to receive additional financial support from many of the firms and corporations who participate in our pro bono panel. The first-hand experience their attorneys have with our organization, our clients, and the problems these clients face, provides these firms with a deeper understanding of the importance of our work. Additionally, many of these firms will fund quality IEEs for the clients they are representing as they understand the importance of a good expert to their case.

2. **Impact litigation**

We are a very small organization of two staff attorneys, one director and an occasional fellow. We do not have the resources to engage in impact litigation on our own both from a time and financial point. Large firms have such resources and have experience in impact litigation. We know that as a result of our pro bono relationship we have the opportunity to ask them for this kind of assistance should the need arise.

3. **Meeting space, etc.**

Beyond allowing us a place to meet with clients in their pro bono cases, many firms have been extremely generous in granting us space to conduct trainings and other meetings. It allows us to have more people than if we had to use our own office, and the space is typically much nicer than what we have readily available.

VI. **Conclusion**

The majority of attorneys in the 2012 ABA survey felt that pro bono work was rewarding, but
many still worried about taking cases outside their area of expertise.\textsuperscript{18} While our partnership model is more time-intensive than if we had a strictly delegation model, we believe that this allows us to provide the best quality of representation to our clients and the best experience to our pro bono attorneys. As a result of the work we have done over the past four years to build and grow this panel, we have deepened our relationships with many law firm and corporate partners and we are able to serve any more clients than we had been before.\textsuperscript{19}

\begin{flushleft}
\textsuperscript{18} Id. at 20.
\textsuperscript{19} For additional resources and state studies including ones from Nebraska, Tennessee, Michigan, Montana, Maryland, Ohio and Florida, please see the ABA’s website on Pro Bono Research and Statistics available at https://www.americanbar.org/groups/probono_public_service/research_pro_bono.html.
\end{flushleft}
## Attachment A
### Approximate hours for pro bono representation

<table>
<thead>
<tr>
<th>Case description</th>
<th>Activities</th>
<th>Range of Hours</th>
<th>Elapsed Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pure discipline representation; regular ed student; no appeal</td>
<td>1, 2, 3, 4, 5, 6</td>
<td>8 to 16.5 hours</td>
<td>2 – 4 weeks</td>
</tr>
<tr>
<td>Discipline rep with appeal to superintendent; reg ed student</td>
<td>1 through 7</td>
<td>11 – 21.5 hours</td>
<td>3 – 6 weeks</td>
</tr>
<tr>
<td>Discipline rep of SPED student (includes MDR); no appeal</td>
<td>1 - 6; 10</td>
<td>10 – 18.5 hours</td>
<td>2 – 4 weeks</td>
</tr>
<tr>
<td>Discipline rep of regular ed student &amp; initiate SPED evals</td>
<td>1-6; 11-12</td>
<td>12 – 23.5 hours</td>
<td>2 months – 5 months</td>
</tr>
<tr>
<td>Special Education – no discipline</td>
<td>1-3, 11-13, 15</td>
<td>20 – 50 hours – really depends on what is needed</td>
<td>1 month to over one year</td>
</tr>
</tbody>
</table>

### Activity

<table>
<thead>
<tr>
<th>Activity</th>
<th>Description</th>
<th>Range of Hours (excluding travel time*)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Discipline Advocacy Activities</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Setting up and conducting initial client meeting</td>
<td>Intake has been done; Contact parent/guardian to arrange time to meet with client and parent/guardian. At meeting go over release, retainer and discuss case and next steps. Gather any info they have.</td>
</tr>
<tr>
<td>2</td>
<td>Requesting and obtaining client records</td>
<td>Preparing written request (template available) to school or schools. Mail/fax/scan and email. Looking up appropriate contacts, etc. follow up nagging</td>
</tr>
<tr>
<td>3</td>
<td>Record review</td>
<td>Organize records, perhaps create a summary and time line. Time depends on age of student and whether or not they are SPED</td>
</tr>
<tr>
<td>4</td>
<td>Preparing for principal level hearing</td>
<td>Research code of conduct/student handbook; prepare case notes and possible arguments by reviewing records and law</td>
</tr>
<tr>
<td>5</td>
<td>Meeting with client and parent prior to hearing</td>
<td>Discuss how hearing will go; their testimony; possible questions; advice on how to dress and present oneself.</td>
</tr>
<tr>
<td>6</td>
<td>Principal Hearing</td>
<td>Present client’s case; listen to school’s case; direct and cross witnesses; opening and closing and possible post-hearing “off-the-record” negotiation; debrief with client</td>
</tr>
<tr>
<td>7</td>
<td>Superintendent Appeal</td>
<td>If unsuccessful at principal level, appeal to superintendent. Submit</td>
</tr>
<tr>
<td></td>
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</tr>
<tr>
<td><strong>Attachment A</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>formal request for appeal; Request recording of hearing; review law and prepare case notes; discuss appeal with client.</td>
<td></td>
</tr>
<tr>
<td><strong>8</strong></td>
<td>FERPA record amendment request</td>
<td>Prepare request to amend records based on the fact that they are misleading or not representative of your client. Submit to school and have discussion.</td>
</tr>
<tr>
<td><strong>9</strong></td>
<td>Appeal of superintendent hearing</td>
<td>This involves motion to superior court – time to draft motions, file, argue</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Special Education Activities</strong></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>10</strong></td>
<td>Manifestation Determination Review</td>
<td>If student on an IEP is disciplined for more than 10 days. Prepare notes for hearing; review SPED records; craft argument; attend hearing (usually precedes principal-level hearing)</td>
</tr>
<tr>
<td><strong>11</strong></td>
<td>Assist family in requesting evaluations to determine IEP eligibility</td>
<td>You may do discipline rep for client and in the process discover this client should be on an IEP. Help family submit request for their child to be evaluated</td>
</tr>
<tr>
<td><strong>12</strong></td>
<td>Represent family at IEP eligibility hearing</td>
<td>This involves reviewing the evaluations the school does as they come back and then advocating at IEP Team meeting</td>
</tr>
<tr>
<td><strong>13</strong></td>
<td>Arranging for independent evaluation</td>
<td>This may be necessary if eligibility is denied and in cases where the family is seeking a different placement or service</td>
</tr>
<tr>
<td><strong>14</strong></td>
<td>Appeal MDR to BSEA</td>
<td>If lose at MDR – not found to be a manifestation – can appeal to Bureau of Special Education Appeals</td>
</tr>
<tr>
<td><strong>15</strong></td>
<td>Work with family on school services or placement issues</td>
<td>This is complex and time is hard to estimate. Could involve multiple IEP meetings as well as BSEA process</td>
</tr>
</tbody>
</table>

- Ideal for client meetings to have them come to you
Pro Bono Opportunity
Education Advocacy for Low-Income Families & Children

The Need

- “Zero tolerance” policies leading to school exclusion:
  - 2/3rds are special education students; 60% are poor;
  - Disproportionately African American & Hispanic;
  - Suspended students are 3x more likely to drop out
- 70% of students of color in the 4th grade not proficient in reading.
- Of 8th grade children who are eligible for school lunch
  - 25% are at grade level for reading
  - 28% are at grade level for math
- Average individual benefit from preventing or recovering school dropouts is $209,200 per student.

Activities

- Interviewing client and parent/guardian
- Requesting records from school
- Representation at school disciplinary hearings and appeals, if needed.
- Appeal process, if necessary, with Superintendent and in Superior Court
- Guiding parent in beginning IEP eligibility process
- Attendance at IEP meetings
- Negotiations with school attorneys and personnel
- Assisting parent in obtaining independent evaluations
- Utilizing Bureau of Special Education Appeals (BSEA) procedures including mediation and filing for due process
- FERPA record amendment

Representation Overview

- Represent youth who are facing long-term suspension or expulsion and representing youth whose needs for special education eligibility, services or placement are unmet.
- Basic training in Massachusetts and federal law (including case law) regarding school discipline and special education will be provided. (approx. 2 hours)
- First case will be handled by shadowing by EdLaw attorney
- Referrals to the EdLaw Help Line will be referred to pro bono attorneys.
- EdLaw attorney available to provide hands-on assistance and/or advice and guidance for all cases, as appropriate.

Professional Development Experience

- Knowledge of education advocacy including state and federal discipline, special education, and student records law
- Direct client contact – interviewing, strategizing for solutions, connecting with the client and his or her family
- Negotiating skills
- Listening skills
- Building a case
- Opportunity to advocate at administrative hearings
- Direct and cross examination in a non-courtroom situation
- Preparing a compelling close
- Pursuing an appeal
- Advocacy at an administrative hearing level
What is the Problem????

Insurance companies know.........
Kids’ brains are not fully developed!

Why do most 16-year-olds drive like they’re missing a part of their brain?

Because they are.

Leading to.....

Unmet education needs →
Difficulties in school →
Exclusion from school →
Dropping out →
Incarceration, homelessness, public assistance
The Need

- 13% of MA children are poor, yet 59% of excluded students in MA are poor.
- Of 8th grade children eligible for school lunch in MA:
  - 25% are at grade level for reading
  - 28% are at grade level for math
- 70% of students of color in the 4th grade are not proficient in reading.
- 2009-10 MA school year, 34,291 students were excluded for at least one day.
- Children as young as age ten are permanently excluded.

The Need (cont’d.)

- “Zero tolerance” policies leading to school exclusion:
  - 67% are special education students; 60% are poor;
  - Disproportionately African American & Hispanic;
  - Suspended students are 3x more likely to drop out which triples the likelihood of incarceration later in life.
- 40% of cases in Springfield Juvenile court were school-based arrests.
- Average individual benefit from preventing or recovering school dropouts is $209,200 per student.
The Solution

- Keep kids in school.
- Provide education advocacy to students facing disciplinary action and/or who have unmet special education needs.
  - No “Gideon” right to education representation
- The EdLaw Project provides this service, but only four attorneys.
- We leverage our resources by training thousands of attorneys throughout Massachusetts who represent kids.
The EdLaw Project

- Created in 2000
- Began as a partnership between the Children’s Law Center of Massachusetts and the Youth Advocacy Project in Roxbury
-Handled over 1,000 education cases in Boston
-2011 – restructured to become statewide
-Now a partnership between CLCM and CPCS – supporting both YAD and CAFL, staff and private attorneys
  - We are completely non-profit; no state funding
  - Funded solely by grants and donations

Why a lawyer?

- Special education and school discipline laws require an attorney to understand
  - A lot at stake!!!
- Very broad discretion given to schools
- Intimidating process to navigate
- Balances the power dynamic
- Gives the family a voice
EdLaw’s Pro Bono Panel

- Started about 1 ½ years ago
- Attorneys (and paralegals) from firms and companies alike
  - Goodwin Procter, Liberty Mutual, Nutter McClennan, Holland & Knight, Morgan Lewis
- Training & support provided
- Many, many success stories
- Helps families we can’t
- More attorneys needed

Having a Lawyer Makes a Difference...

- 13 year-old Special Ed student excluded for impulsivity with his science experiment
- 12 year old referred to juvenile court for behavior that was a result of bipolar disorder
- 6 year-old autistic student with no functional communication skills going to specialized school
- Senior reading at third grade level, now getting remedial help so she can attend college.
Pro Bono Opportunity for In-House Counsel

Empowering legal advocacy for children and families in matters of special education affecting low-income children involved or at risk of involvement in the Massachusetts juvenile justice and child welfare systems.

We need your help.....

Representation Overview

- Represent low-income youth with unmet special education needs
- Training in Massachusetts and federal law
- Referrals from EdLaw Help Line
- EdLaw attorney advice and counsel
- EdLaw attorney & special education issues
Activities

- Interviewing client and parent/guardian
- Requesting records from school
- Preparing for IEP meetings
- Advocating at meeting
- Bringing in experts
- BSEA hearing process if necessary
- Other related activities

What is in it for you?

- Professional Development:
  - Education Advocacy knowledge
  - Interviewing, negotiation, listening, advocacy skills
- Satisfaction of managing your own client’s case
- Working with young people
- Insight into different communities and cultures
- Making a difference
- Employee engagement and company appreciation
- Seminar for employees on education rights
How do we get involved?

- Many ways for you and your company to help
  - Learn more by joining us at our annual event – May 5th from 5:30 to 7:30 pm at the Children’s Museum

- Contact Michele Scavongelli to learn more
  - T: 617.910.5845
  - F: 978.268.5145
  - E: mscavongelli@publiccounsel.net

- Visit our website at: www.edlawproject.org

Questions?

Thank You!
Attachment D

Sample Agenda for Pro Bono Training

Legal Authority……………………………………………………..12:30 – 12:40 pm
Evaluations……………………………………………………..12:40 – 12:50 pm
Team meetings……………………………………………………12:50 – 1:00 pm
Eligibility…………………………………………………………1:00 – 1:15 pm
The IEP…………………………………………………………1:15 – 1:20 pm
Services…………………………………………………………1:20 – 1:30 pm
Placement…………………………………………………………1:30 – 1:40 pm
Responding………………………………………………………1:40 – 1:50 pm
504 Plans…………………………………………………………1:50 – 1:55 pm
Independent Evaluations……………………………………1:55 – 2:05 pm
Due Process Options…………………………………………2:05 – 2:15 pm
Discipline of a Special Education Student………………2:15 – 2:30 pm
Attachment E

Sample Pro Bono Solicitation Emails

14 year-old eighth-grade student from Cityville still reading at first grade level

This student is currently in a life skills classroom and is not getting the type of reading services he needs to make progress. He has been in this same classroom for the past four years and has made very little progress in all areas of the curriculum. His reading skills continue to remain at the first grade level. Instead of teaching the student how to read, the staff instead is reading all the materials to him. The student has no extended school year services to prevent regression over the summer and has very minimal supports to address his past trauma and current social-emotional difficulties. The student’s frustration with learning has continued to build and he now exhibits behaviors to try to avoid tasks that are difficult. The student has a developmental delay, and the family has set up several evaluations in the next few weeks to see if the student also has an undiagnosed reading disability. The school district conducted a neuropsychological evaluation this fall that found that, although the student has low cognitive scores, many of the scores varied. This raised further questions about an undiagnosed learning disability. The student currently has a team of providers that work with him and his family on therapy and care coordination. All providers are extremely frustrated at the student’s lack of progress over the past few years and need help pushing the school district to provide appropriate services.

Seeking special education advocacy for 13-year-old Anytown student with significant cognitive delays

The student is 13 years old and attends a substantially separate public school classroom in Stoneham. He has significant developmental delays in all areas and is non-verbal. Recently, he has shown an increase in challenging behaviors, which seems to be related to his frustration at his inability to express his wants and needs. His mother obtained a private neuropsychological evaluation that found the student has made very little progress in school and needs more intensive interventions. In particular, the evaluator noted that the student should have at least some form of reliable communication at this point, such as making a sign or using assistive technology, but he is unable to do so. The evaluator expressed serious concerns that the school has been continuing to provide the same program over the years even though the student has not shown progress. The evaluator recommended a change to a day school program with intensive wrap-around services at home, to focus intensively on his communication, life skills, and social skills. His mother brought this evaluation to the school, but the school is continuing to recommend the same type of classroom for him. EdLaw seeks a pro bono attorney who can help the mother obtain a classroom observation of his current program and then advocate for a change in placement to a more intensive program.

11-year-old twins with learning disabilities and emotional challenges seek education advocacy

The clients are 11-year-old twins, both male, and both struggling with significant
language-based learning disabilities. They are reading far below grade level and are both in the same substantially separate class in a public school on the North Shore. Their mother obtained private neuropsychological evaluations for her sons. The evaluations found that both of them need intensive help with reading and decoding skills. In addition, both boys are suffering from emotional challenges linked to their difficulties with reading. They have low self-esteem, don’t want to go to school, and are becoming increasingly anxious and avoidant of academic tasks. The school has provided them with almost identical IEPs and goals, reflecting a lack of individualized attention to their needs. While their profiles have some similarities, there are also some important differences reflected in the outside evaluations. We seek one pro bono attorney to work with both students to bring the outside evaluations to the school and ensure that their recommendations are implemented. In addition, the pro bono attorney should explore whether to obtain an independent observation or other additional outside testing to determine whether the students require a different placement.

**High school senior in BigCity seeking advocacy around transition planning and services**

The student is 17 years old and just began his senior year at a charter school in the BigCity area. Testing shows that he has very strong cognitive abilities, but he struggles with significant executive functioning difficulties, and his academic performance has not reflected his cognitive potential. He has an IEP for general education with supports, and his mother has been advocating for a long time with the school to try to get him more services. She obtained an outside neuropsychological evaluation and transition assessment, which found that the student does not currently have the skills for college and independent living after high school. The evaluators recommended intensive services by staff who specialize in developing executive functioning skills. His mother is concerned that the school has not done adequate transition planning and that their staff are not equipped to implement the detailed recommendations from the outside evaluations. The family seeks consultation and direct services from outside specialists to work on the student’s executive functioning skills and transition planning.

**18-year-old Pleasantville female in 12th grade reading at fourth grade level needing evaluation, services and planning**

The student is a high school senior in Pleasantville. Based on recent testing, she is only reading at a fourth grade level. After her mother pushed for extra help for years, the school for the first time this year offered resource room support for reading once a day. However, the student is placed in a room with a group of ninth grade students and one teacher where she does reading activities on a tablet, so it is not providing her with the specialized intervention that she needs. Her mother is seeking pro bono assistance in obtaining an independent evaluation to better understand the student’s difficulties with reading and then advocating for appropriate services and supports and an appropriate post-high school transition plan.
12 yo boy in Hometown regressing as a result of an inappropriate placement

We are seeking an attorney to help advocate for a 12 year-old boy in seventh grade in the Hometown School District. Grandmother, who is his guardian, is concerned because he has been placed in a substantially separate classroom for his ADHD with children much below his cognitive abilities and thus has made no academic progress. She also feels that his social skills and interactions have also declined due to his placement and he has been bullied. Grandmother plans on getting a neuropsychological evaluation this summer, at the suggestion of his out-of-school therapist. Grandmother thinks that it has been at least three years since the school has evaluated him. Grandma is seeking a new school placement where he she hopes he can catch up because she feels he is 3-4 years behind in school.

17 year-old 11th-grade autistic student in Everytown needs help receiving appropriate transition services

This student has been in a substantially separate program in a public school. He is turning 18 next year and his mother and clinical team are concerned that sufficient transition planning and services are not in place. He has until age 22 to receive the services and preparation for post-secondary life that he needs. His family is requesting an attorney to navigate this process with them, including getting proper evaluations completed and advocating for necessary services and potentially placement.

15 year-old 9th-grade Anytown student being bullied and lacking necessary IEP support services

This student originally was on an IEP for reading, but last year it was modified to add a focus on social-emotional issues. She was hospitalized for a short period of time last spring. She and her mother don’t want to see her struggle like that again, but her mother is concerned that she is not getting the support she needs at high school and the school is not protecting her from some ongoing bullying and harassment. Her mother would like an attorney to represent her daughter at an upcoming IEP meeting and to advocate for necessary evaluations and services.