

VOLUNTEER LAWYERS PROJECT OF ONONDAGA COUNTY, INC.

VOLUNTEER MANUAL

VLP Mission Statement

The mission of the Volunteer Lawyers Project of Onondaga County, Inc. (VLP) is to expand access to justice by identifying and meeting the unmet civil legal services needs of low income people in Onondaga County through increasing the pro bono participation of the legal community.

VLP pursues this mission by enlisting the help of lawyers throughout Onondaga County who are willing to volunteer their time on a pro bono basis. Volunteer attorneys assist clients who meet VLP's eligibility standards and who have been screened and interviewed by VLP staff members on discreet legal issues.

Client Eligibility Standards

VLP provides representation to clients whose financial resources fall within the project's eligibility guidelines. The general standard for income eligibility is gross family income (including income of all resident family members) equal to or less than 200% of the federal poverty index.

VLP does not accept fee-generating cases, either contingent fee matters or matters where a statutory fee is available, such as workers compensation or certain Social Security Disability cases. VLP will provide a copy of the agency's complete income eligibility guidelines to any attorney upon request.

VLP Screening & Case Preparation

For all drop-in clinics, clients are screened for financial eligibility at the time that they arrive to the clinic by either a volunteer law student or the volunteer attorney. If the client is financially eligible and the case falls within one of the categories within which VLP practices, the client is then provided with limited-representation service on the spot. This representation terminates at the end of the clinic. All clients sign a limited representation agreement at the beginning of the clinic.

With cases that are placed for full representation, VLP conducts a thorough interview with the client. All cases are then reviewed with a VLP staff attorney who provides direction to the paralegal in legal research, factual investigation, or additional case development *as* may be necessary. A staff lawyer ultimately decides whether the case is one that VLP will handle. This decision is based on a number of factors, including case merit, the amount of time that will be required relative to what the client seeks to achieve, and the urgency of the legal problem.

VLP staff performs a preliminary analysis of a case before referring it to a volunteer attorney. For example, when court documents have already been filed, VLP gathers these documents before sending the case on to the volunteer. When possible, VLP will provide relevant model pleadings and memoranda or material from practice manuals or other reference sources that VLP maintains.

VLP Retainer Agreement

For cases involving ongoing legal representation, VLP's retainer agreement communicates to clients that the VLP and the volunteer attorney can only provide limited representation in the specific legal matter for which the Client has requested assistance. The retainer also provides that the volunteer attorney has no obligation to take a case on appeal if the initial representation is unsuccessful. All volunteer attorneys accepting cases from VLP are strongly encouraged to execute this retainer with the client during their first meeting. The retainer is attached to the end of this manual. An example of one of our intake forms including a limited scope acknowledgement is also attached.

Referral Procedure

In almost all instances, VLP will refer a case to a volunteer lawyer only when the volunteer attorney has stated a preference to assist in that type of matter. VLP will generally not call an attorney actively handling a pro bono case with a second referral unless the attorney has requested further cases. A volunteer may decline a referral if it is an inconvenient time to take a case, if the matter appears too complex, or for any other reason.

When a lawyer accepts a case, the client and the lawyer each receive a referral letter from VLP. The client letter instructs the client to contact the lawyer directly for an appointment. The lawyer letter includes the name and address of the client as well as a referral memo summarizing the key facts of the case *and* any other materials, research or information gathered by VLP.

Services Available to Volunteers

A. Malpractice Insurance

All work performed by volunteer attorneys on cases screened by VLP is covered by VLP's malpractice insurance.

B. Mentoring and Technical Assistance

VLP has resources available to attorneys who are handling cases outside of their regular areas of practice. Experienced volunteer attorneys and in some cases attorneys from local legal services agencies are available to consult with volunteers when they have questions. Mentoring services range from telephone consultation on law and strategy to review of pleadings and even co-counseling on specific cases.

C. Written Material

VLP has materials from past CLE trainings on substantive law that are available to any volunteer attorney. If an attorney needs additional materials, VLP will work to help the attorney obtain any materials necessary.

D. Training

VLP offers regular seminars throughout the year in substantive areas in which VLP's clients need legal assistance. These seminars are offered at no cost to volunteers. VLP partners with OCBA, who is an accredited provider of New York mandatory continuing legal education, so most trainings offer MCLE credit.

E. Trouble Shooting

If any difficulty or unusual occurrence arises during the course of pro bono representation, VLP staff stands ready to assist the volunteer in any way possible. If, for example, the volunteer needs assistance with further investigation on the case, service of process, obtaining additional services for the client or other matters, VLP will assist whenever possible with those matters.

F. Costs

Clients are expected to cover all costs associated with litigating their cases. The CPLR permits clients of legal services or pro bono programs to acquire poor person status without the necessity of an application to court. Pursuant to the statute, VLP will prepare a form certifying that a client has been determined to be eligible for free legal services. With this certification, the Onondaga County Clerk will issue an index number and RJI for no fee. It may also be possible to get free service of process with the certification. Please call the VLP office for information on that procedure.

G. Policy on Attorney's Fees

VLP screens all cases carefully and sends cases that appear to be fee-generating to the Lawyer Referral Service of the Onondaga County Bar Association. Periodically, however, attorney's fees may be available in a case accepted on a pro bono basis. This situation arises when the Lawyer Referral Service is unable to match the client with a lawyer willing to take the case on a contingency basis or where circumstances develop during the course of the case that generate fees. It is the policy of VLP that if fees are available in a case, the attorney may take those fees. This includes fees available from the opposing party (e.g., attorney's fee awarded in a matrimonial case or a Section 1988 fee in a federal court case), Equal Access to Justice awards or an award coming from the client's recovery (e.g., from a lump sum in an SSD case).

PRO BONO OPPORTUNITIES

A broad range of pro bono opportunities are available through VLP. The VLP assists clients in a wide variety of substantive areas, in a number of different judicial and administrative forums and with non-litigation as well as litigation matters. In addition to direct one-on-one representation of clients, VLP offers clinics through which volunteers can provide advice and immediate brief assistance to low income clients in the community at in-court clinics.

Our clinics include (further descriptions of each clinic are provided below):

- Eviction Defense
- Pro Se Divorce
- Family Court
- Surrogate's Court
- Talk to a Lawyer
- Say Yes to Education
- Veterans
- Q Law (LGBTQ issues)
- Immigration
- Not for Profit

EVICTION DEFENSE CLINIC

Time: 9:00 a.m. – 11:00 a.m.
Frequency: Every morning
Location: Syracuse City Court

Time: 2:00 p.m. – 4:00 p.m.
Frequency: Twice a month
Location: East Syracuse Justice Court

Volunteer attorneys provide on-the-spot defense to tenants who are facing eviction and/or non-payment of rent cases. Representation is limited to that one morning. In Onondaga County as a whole 34.2% of the population rent, with likely half living below the poverty line. In Syracuse, 59.3% of the population rent their housing, and likely half of these people live below the poverty line. The existing legal services providers are not able to meet even a small percentage of the need. These tenants need advice and a lawyer to negotiate with their landlords and represent them in court proceedings.

Syracuse City Court: VLP provides an intake person every morning at court to screens clients. Volunteer attorney represent tenants on the spot. Number of clients served is limited by how whether there is one or two attorneys present and how many cases the attorney is comfortable with handling.

East Syracuse Justice Court: The Court sends VLP all petitions in advance. All tenants facing eviction who financially qualify are represented.

PRO SE DIVORCE CLINIC

Time: 3:00 p.m. – 6:00 p.m.
Frequency: 2nd to Last Thursday of each month.
Location: VLP Offices

Legal Aid Society of Mid New York (LASMNY) and VLP operate a pro se divorce clinic out of the OCBA offices. The clinic serves low-income Onondaga County residents seeking an uncontested divorce. To participate in this clinic, a Client must waive their rights to equitable distribution, have custody and support orders in place if there are minor children, and know where their spouse is located for service. Clients are admitted on a rolling basis and settlement agreements are not permitted. LASMNY and VLP both conduct initial intake and information gathering and VLP law student interns prepare all necessary divorce paperwork. Clients are scheduled to meet one-on-one with volunteer attorneys to review and execute paperwork. Clients are provided ongoing support by VLP regarding service and filing of remaining paperwork.

SURROGATE’S COURT CLINIC

Time: 11:00 a.m. – 1:00 p.m.
Frequency: 2nd and 4th Wednesdays of each month.
Location: Onondaga County Surrogates Court

On the 2nd and 4th Wednesdays of every month from 11am – 1pm the VLP operates a clinic at the Onondaga County Surrogate’s Court. Clients with incomes under 200% of the federal poverty guidelines are eligible for the clinic. Volunteer attorneys who practice in trusts, estates and elder law

provide assistance with pro se filings for safe deposit boxes, small estates, and 17-A guardianships, as well as consultations regarding any other trusts, estates and elder law issues.

Intakes for this clinic are conducted in advance and individual meetings with the clients are scheduled.

FAMILY COURT CLINIC

Time: 12:00 p.m. – 3:00 p.m.

Frequency: Every Wednesday

Location: Room 116, Onondaga County Courthouse

Every Wednesdays from 12pm – 3pm VLP operates a clinic at the Onondaga County Family Court. Clients with incomes under 200% of the federal poverty guidelines are eligible for the clinic. Volunteer attorneys provide assistance with pro se petitions for child custody, visitation and support.

TALK TO A LAWYER PROGRAMS (TTAL)

Volunteer attorneys provide legal advice, information and referrals to drop-in clients on-site at community partners. Attorneys use their own experience and the VLP's Reference Table to provide advice, information and referrals to clients regarding any civil legal services matter. At higher volume sites, law students assist with intake when available.

TTAL – GENERAL COMMUNITY

Time: 5:30 p.m. – 7:30 p.m.

Frequency: Every Monday

Location: **Brown Memorial Church**, 228 Davis Street (at S. Geddes St.), Syracuse

Time: 5:30 p.m. – 7:30 p.m.

Frequency: Every Tuesday

Location: **St. Matthew's Church**, 229 W. Yates St., East Syracuse

Time: 6:00 p.m. – 8:00 p.m.

Frequency: Every Thursday

Location: **Westcott Community Center**, 826 Euclid Ave. (at Westcott Ave.), Syracuse

SAY YES SCHOOL-BASED CLINICS

Time: 2:00 p.m. – 4:00 p.m.

Frequency: Tuesdays during the school year

Location: **McKinley-Brighton Elementary School**, 141 West Newell Street, Syracuse

Time: 3:00 p.m. – 5:00 p.m.

Frequency: Thursdays during the school year

Location: **Dr. King Magnet School**, 416 East Raynor Avenue, Syracuse

AMAUS MEDICAL CLINIC

Time: 12:00 p.m. – 1:00 p.m.

Frequency: Every Wednesday

Location: 421 Warren Street, Syracuse (back entrance off East Onondaga Street)

In addition to the usual TTAL programming, volunteer attorneys assist clients with Power of Attorney, Living Wills, and Health Care Directives.

TTAL – TEL-LAW

Similar to the general community clinics, volunteer attorneys provide legal advice, information and referrals to call-in clients. Attorneys use their own experience and the VLP's Reference Table to provide advice, information and referrals to clients regarding any civil legal services matter.

Time: 1:00 p.m. – 4:00 p.m.

Frequency: 2nd Wednesday of each month

Location: VLP offices.

Tel-Law SAY YES TO EDUCATION (Families with children enrolled in Syracuse City School District)

Time: 3:30 p.m. – 5:00 p.m.

Frequency: 1st and 3rd Wednesdays of each month

Location: SYTE telephone is forwarded to the attorney. This program is currently staffed by Hiscock & Barclay attorneys.

Special outreach and programming is focused on families of Syracuse City School District as part of the Say Yes to Education Legal program. Attorneys use their own experience and the VLP's Reference Table to provide advice, information and referrals to clients regarding any civil legal services matter. Attorneys return calls as accept incoming calls.

VETERANS CLINIC

Time: 6:00 p.m. – 7:30 p.m.

Frequency: 1st Wednesday of each month

Location: The Vet's Center, 109 Pine Street, Syracuse

Veterans and active military service members who return from service face a wide range of challenges reintegrating to civilian society, including facing broken homes, unemployment, difficulty seeking benefits, etc. In Onondaga County, we have a concentration of Veterans above the state average (7% of the population versus the 5% average statewide), many of whom cannot afford to hire an attorney but need legal advice, information, and representation.

Volunteer attorneys who have served in the military provide advice, referrals and brief service to other veterans. When possible, VLP works to find pro bono or low-cost legal assistance for clients in need.

Additionally, VLP teams up with the Syracuse University Law School's Veteran's Student group to provide VALOR Day, a veteran's resource day, where attorneys provide legal advice, information and referrals to Veterans and in some cases active military personnel.

Q-LAW

Time & Frequency: Calls accepted on a rolling basis.

Frequency: Rolling basis

Location: Intake is conducted via telephone to Crystal 430-1711 or Sally 579-2576

Volunteer attorneys provide free legal assistance to low-income individuals regarding LGBTQ legal questions including name change, second-parent adoption, harassment, and employment discrimination. Potential clients contact a volunteer attorney or VLP for an intake. The volunteer attorney screens for relevant legal issues and places the case with a pro bono attorney for full representation.

IMMIGRATION CLINIC

Time: Saturday, 10:00 a.m. – 2:00 p.m.

Frequency: 3 times per year

Location: Catholic Charities Refugee Resettlement Program, 529 S. Salina St., Syracuse, NY

Volunteer attorneys who practice immigration law provide in-depth consultations to clients with immigration questions. The community partner organization helps to publicize the event and do intake for the event. VLP organizes the attorneys and schedules the appointments. Law students assist on the site with completing comprehensive intakes. Clients are provided extensive consultations (up to an hour). VLP follows up with clients when necessary to provide referrals to legal services providers for ongoing representation if possible.

NOT-FOR-PROFIT ADVOCACY

Time & Frequency: Rolling basis

Location: Intake conducted through VLP Offices.

The organization seeking to incorporate must have assets or revenue of less than \$60,000, work to provide benefits to low income people and not be a religious organization. Volunteer attorneys assist not for profits with incorporation and obtaining tax-exempt charity status with the state and federal government, and provide general legal advice regarding bylaws and board responsibilities. VLP performs intake and ensures that the not for profit meets these baseline requirements. The case is then sent to a screening committee (consisting of several attorneys and a United Way representative) who determines whether the case will be accepted and what kind of assistance should be provided. The case is then assigned to a volunteer attorney for assistance.

VOLUNTEER LAWYERS PROJECT
PRO BONO REPRESENTATION
RETAINER AGREEMENT

I (client) _____ would like the Volunteer Lawyers Project (VLP) to represent me in the following proceedings or with the following problem: _____

I understand that the following rights and duties apply:

Rights of Client

I understand that it is my right to:

1. Receive legal services free of charge, except as described in the "Duties" section below. However, if there are costs of representation or fees charged by the court, I agree to pay them unless waived by the court.
2. Decide what I want from the case and to agree to any settlement.
3. Decide at any time that I do not wish VLP to continue to represent me, subject to court approval if necessary.
4. Complain about the manner or quality of legal assistance that has been rendered. A copy of the VLP complaint procedure will be made available to me upon request.

Duties of Client

I understand that I must:

1. Tell VLP and my volunteer attorney all facts about my case honestly and as completely as possible.
2. Tell VLP and my volunteer attorney of any change of address or phone number.
3. Tell VLP of any change in my financial resources.
4. Cooperate with my attorney in preparation and presentation of my case. This includes arriving on time at any scheduled appointments, hearings or trials, getting any documents or papers relating to my legal problem and giving them to my attorney and responding promptly to all phone calls and letters from my attorney.
5. I understand that if my case is accepted by VLP and referred to a volunteer attorney, the lawyer will not ask me for a fee. However, I understand and agree that if I receive money (including, but not limited to a court award, settlement, judgment or lump sum payment) as a result of the lawyer's representation of me, the lawyer may keep a reasonable fee.

Rights of VLP and Volunteer Attorney

VLP has the right to:

1. Choose the attorney or paralegal to work on my case.
2. Ask a court to award attorney fees and statutory costs and for VLP to keep them, except for the costs that have been paid by me; to seek attorney fees and such costs as part of a settlement, provided the fee settlement does not prejudice my legal interests.
3. Stop being my attorney if my income or assets become more than the maximum guidelines used by VLP or if VLP or my attorney can't find me after trying the address and phone number I have given them; or if I fail to cooperate in VLP's representation of me; or my case appears to VLP to be frivolous. If any of these happen, VLP will make sure that it follows the Code of Professional Responsibility and will ask permission of the court to withdraw as my attorney, if that is required.

4. Handle only the specific problem identified on this retainer agreement and no other legal problem I may have.
5. Represent only me, and no one else involved in this legal matter.
6. If I lose and want to appeal, VLP does not have to represent me on an appeal. VLP will decide whether to represent me on an appeal and look at the chance of a successful appeal and the time an appeal will take.
7. After talking to me and reviewing my case, my volunteer attorney may decide that she/he cannot represent me. If this happens, the attorney will explain the reason for this decision. It is the right of the volunteer attorney to accept or reject a case.
8. It is also the right of the volunteer attorney to ask me to sign another agreement which describes specifically what the lawyer is willing to do on my behalf.

Duties of VLP

VLP agrees to:

1. Represent me to the best of its ability and abide by all professional standards of competence and integrity. However, VLP cannot guarantee the ultimate success of its representation.
2. Keep me informed in a timely manner of the legal developments in my case.
3. Identify my legal options and explain the potential risk and consequences of each, explain the limits of what can be done for me and what I can do to reduce the harmful effects of my situation.
4. Use its best efforts to find a volunteer attorney to handle my case. However, in some circumstances, VLP will close my file if it determines that it is not able to refer my case to volunteer counsel.

I have read and understand all of the terms of this retainer. I consent to the referral of my case by the Volunteer Lawyers Project.

Date

Client Signature

I, _____, Esq., hereby consent to represent the above client on a pro bono basis pursuant to the policies of the Volunteer Lawyers Project.

Dated: _____

Attorney Signature

**CONFIDENTIAL INTAKE FORM – FREE LEGAL CLINIC
VOLUNTEER LAWYERS PROJECT & SAY YES TO EDUCATION**

Today's Date: _____

First Name _____ Last Name: _____

Address: _____

Telephone No. _____ Date of Birth: _____

Email: _____

Opposing Parties (name everyone who is part of the problem AND the names of any attorneys)

Short description of legal problem (attach notes if needed): _____

The Volunteer Lawyers Project collaborates with Say Yes to Education – Syracuse. Additional legal and social services may be available to you if you are the parent or guardian of a child in Syracuse Schools.

Are you the parent or guardian of a child in the Syracuse City School District? YES or NO

Which schools do they attend? _____

How many people are in your household?

_____ children (0 – 17 years old) _____ adults (18 – 59 years old) _____ older adults (60+)

You may be eligible for income-based legal services. Please indicate your total household income:

Public Assistance/SSI/ Food Stamps \$ _____ per _____ SSDI or Disability \$ _____ per _____

Subsidized housing \$ _____ per _____ Employment wages of \$ _____ per _____

Are you or someone in your household a veteran or in active military service? YES or NO

There are special programs that provide legal assistance for particular health and safety issues. Would you like assistance with legal problems related to the following issues: Cancer, Disability, Domestic Violence, HIV/AIDS, Traumatic Brain injury, or Mental Health. YES or NO

I understand and agree to the following:

I understand that I am meeting with a volunteer attorney recruited by the Volunteer Lawyers Project (VLP) and services will be limited to the consultation, assistance at today's clinic and will terminate upon the completion of this clinic. Neither the Volunteer Lawyers Project nor the volunteer attorney is agreeing to represent me in any ongoing capacity, and I will be provided only with information and advice based upon the information that I provide during the initial screening and meeting with the volunteer attorney.

Everything I discuss today with the Volunteer Lawyers Project staff and volunteers will be kept confidential to the full extent permitted by the law and required by lawyers' ethical rules. There is no cost for this clinic.

Client

VLP Volunteer

**VOLUNTEER ATTORNEY INTAKE FORM – FREE LEGAL CLINIC
VOLUNTEER LAWYERS PROJECT & SAY YES TO EDUCATION**

Client’s Name: _____

Clinic Location: _____

Volunteer Name: _____

Brief Description of Client’s Legal Issue(s) and Referrals Made: _____

Follow-up Information:

- Client does not need further follow-up. Client was fully served or referred to further assistance. Please close file.
- Client will receive pro bono assistance from my law office.
- Client requires further assistance that I am unable to provide and I could not identify a referral to another provider who could mean this client’s needs. Please describe further pro bono assistance required:

Please scan and email the completed form to vlp@onbar.org