



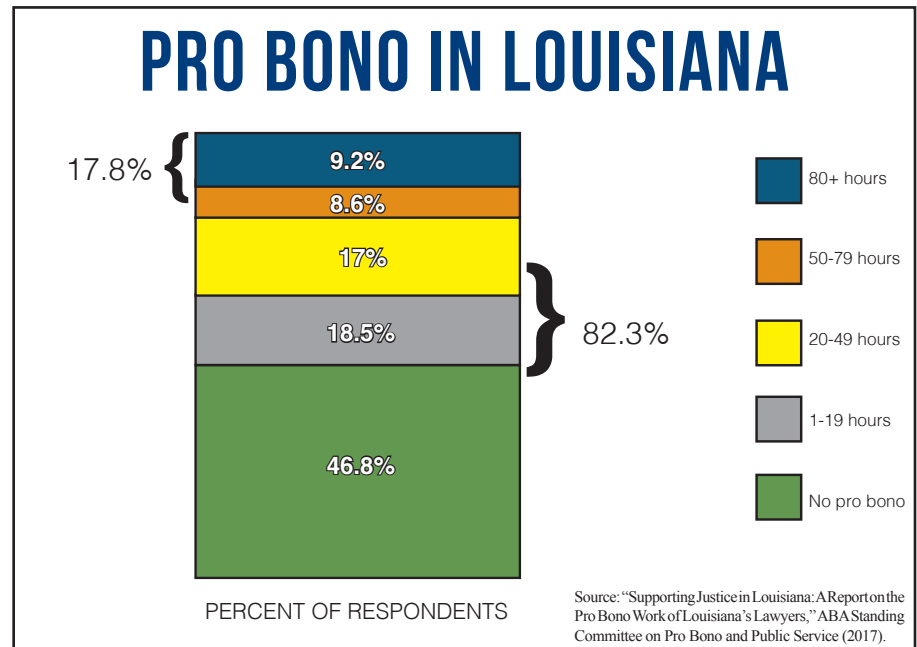
By Patrick A. Talley, Jr.

Neurodiversity & Access To Justice

In this issue of the *Louisiana Bar Journal*, you will find several articles addressing disability and accessibility issues that affect our legal system and practices daily. As you read, I urge you to keep in mind the stark fact that, today, one in five children is diagnosed with some degree of autism, which is a disability in the context of neurodiversity, whether that be in the classroom or the courtroom. Additionally, the same major challenges related to disability arise regardless of whether a person has autism or another disability, such as visual impairment, hearing loss or intellectual disability.

An ongoing concern which we must address is the ability of the children and youth who fall on this autism spectrum to access the courts and justice system. Neurodivergent individuals — those who think differently and do not respond in a typical manner — are often vulnerable to bullying, harassment, and discipline without due process. More specifically, neurodivergent youth are often unfairly treated, potentially resulting in significant educational and social consequences. They may face exclusion, restraint and seclusion from authority figures who perceive their behaviors as disruptive.

Furthermore, when a child's fundamental right to an education is violated, such as being denied the special education benefits to which the child is legally entitled, the impact can be profound and far-reaching. This type of violation not only hinders the child's academic progress but also affects his/her social development, self-esteem and future opportunities. In essence, the denial of the right to education is not just an issue of access; it is a violation of a child's rights that can have lasting consequences on overall development and quality of life.



Thus, addressing these violations is crucial to fostering an inclusive and equitable educational system.

Many programs currently exist in Louisiana to help youth in the legal system. For example, the Louisiana Bar Foundation helps administer and/or fund the following programs:

► **Children's Legal Services grant program**, which helps to provide legal assistance to needy children in areas of law which affect their safety, well-being and future development;

► **My Community Cares**, which is a community-driven, neighborhood-based approach to strengthening families and preventing child abuse and neglect in the state of Louisiana; and

► **Child in Need of Care (CINC) program**, which provides free legal representation to children in foster care in partnership

with the legal services corporations, the Louisiana Department of Child and Family Services and the Louisiana Supreme Court.

While these programs are vital to the community, more can be done to help youth with disabilities and neurodivergent youth.

One way to help neurodivergent youth in the legal system is by developing specialized courts to address the needs of youth involved in dependency cases, particularly those who have experienced abuse or neglect, like the Dependency, Abuse and Neglect Youth (DAAY) court system in Nevada. This court aims to provide a more supportive and focused approach to help these young people navigate the legal system while promoting their well-being and stability. The DAAY court prioritizes the cases of neurodivergent youth and allows them to proceed differently than any other cases on the dockets of the courts, thus ensuring that

they do not get neglected.

In addition to these education issues, additional challenges arise as individuals with disabilities age and become a part of the workplace. These challenges can include misunderstandings related to communication styles, differing social cues, and unique work habits that may not align with conventional workplace norms. As a result, conflicts may arise, impacting both the employees with disabilities and their colleagues. Workplace conflicts involving neurodiverse employees require careful consideration and tailored approaches to resolution. Traditional conflict resolution methods may not be effective or appropriate, as they might overlook the specific needs and perspectives of individuals with disabilities and neurodivergent individuals. Effective resolution processes, like mediation, are essential for fostering productive environments and safe spaces for neurodiverse employees.

When individuals face challenges, such as being denied access to education, experiencing expulsion, or encountering conflicts in the workplace, they often find themselves in situations laden with legal

implications. Unfortunately, many may not recognize that these circumstances involve specific rights and protections under the law, leading to feelings of helplessness and confusion about how to proceed. What do they do if they are unable to afford a lawyer or even find a lawyer? What do they do if they cannot access court to address their grievances? This situation creates a ripple effect that exacerbates existing inequalities and barriers within the legal system.

The responsibility to address these access to justice barriers for individuals with disabilities, including the neurodiverse population in our state, falls to us, the members of the Louisiana State Bar Association. We must ensure that all citizens in Louisiana have an opportunity to seek justice and have their grievances addressed in the courts, particularly when these issues involve our children's education and workplace issues that face the neurodivergent population in our state. One small way to increase access to justice is by increasing pro bono services in Louisiana.

Rule 6.1 of the Louisiana Rules of Professional Conduct states that every lawyer

should strive to provide legal services to those unable to pay and it sets up an aspirational goal of every attorney providing 50 hours of pro bono work per year. However, based on the reporting that we receive from our lawyers, many Louisiana lawyers do no pro bono work at all.

As President of the LSBA, I am committed to addressing this issue in the coming year. I have asked the Senior Lawyers Division to lead initiatives aimed at increasing lawyer participation in pro bono work. The LSBA will also launch the 25-in-25 Program, which is an effort to encourage all lawyers in Louisiana to strive for the goal of at least 25 hours of pro bono service next year. This program has the potential to make a significant impact on access to justice issues, particularly for the neurodiverse community.

Together, we can make sure that access to justice for all, including those with neurodiverse needs, becomes a reality — not just an aspiration.

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