

The background of the cover is a photograph of the Supreme Court building in Washington, D.C. The image shows the grand portico with its Corinthian columns and the pediment above. The inscription "EQUAL JUSTICE UNDER LAW" is visible on the frieze. A statue of Lady Justice is seated on a pedestal in the foreground. The sky is clear and blue.

5th EDITION

The PARALEGAL
PROFESSIONAL

THE ESSENTIALS

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FIFTH EDITION

The Paralegal Professional

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Welcome to the fifth edition of *The Paralegal Professional*. In the time that has passed since the publication of the first edition, the paralegal profession has undergone a dramatic growth in its importance in the delivery of legal services. Today, the paralegal is viewed as an important member of the legal services delivery team and has the well-deserved status of a professional in the field of law. To be a member of the paralegal profession today requires developing not only conceptual knowledge, but also professional and analytical skills and a firm understanding of the ethical issues and obligations of the paralegal profession in an increasingly challenging work environment. Our goal in the fifth edition is to provide paralegal students and professionals with the foundation on which to grow and excel in this field today and in the future.

In preparing this edition, we interviewed and consulted with members of the legal profession with whom paralegals work, including hiring attorneys and human resource directors; current users of the previous editions of the text; full and adjunct instructors in paralegal studies; and numerous students across the country. Our goals are presenting a text that will enable each student to achieve his or her potential and providing a source of information for use in the workplace. The feedback of everyone we interviewed resulted in several important changes and additions to the text that help bring paralegal practice alive and illuminate the roles and tasks paralegals are asked to assume in today's legal working environment.

The fifth edition is divided into four sections that provide a logical grouping of topics and flexibility as to coverage of the most commonly practiced, substantive areas of law.

Part I: The Paralegal Profession focuses on introducing students to the paralegal profession, career opportunities, the paralegal workplace, ethics, regulation, and the use of technology on the job.

Part II: Introduction to Law provides an overview of law and the American legal system and in succession introduces students to the three areas of procedure: civil, criminal, and administrative. This treatment helps students understand, early in the course, the differences among these three legal arenas.

Part III: Paralegal Skills focuses on introducing students to interviewing, investigation, traditional and online legal research, and writing and critical thinking in the legal field.

Part IV: Legal Subjects provides an overview of the most common individual legal areas of practice. New sections in each of these chapters inform students of employment opportunities related to the field of practice.

An Essentials version of this text is also available that contains just the first three parts of this comprehensive version. It is titled *The Paralegal Professional: The Essentials 5th edition*.

We are particularly excited about the additional Video Case Studies and exercises created as part of the **Virtual Law Office Experience** in the new **MyLegalStudiesLab**

program. These Video Case Studies provide the student with a workplace context for assignments and make it easy to bring the world of the practicing paralegal into the classroom. Videos cover topics such as résumé writing and interviewing for a job, working in a law firm, the courtroom players and their roles, and paralegals performing various procedures and duties. Many of the segments present scenarios dealing with common ethical situations that paralegals will encounter on the job, making it easy to integrate ethics education throughout the course. Portfolio assignments requiring written documents are provided to allow students to demonstrate their mastery of the chapter learning objectives.

Our book has been carefully and thoroughly designed to meet the requirements set forth by the American Bar Association (ABA) and the American Association for Paralegal Education (AAFPE) regarding coverage of paralegal topics, ethical issues, professional skill development, and the other educational requirements of an introductory paralegal education course.

Thomas Goldman
Henry Cheeseman

DEDICATIONS

Dedicated to Sylvia and Henry, the next generation, they are our future and the promise of a brighter future.

Thomas F. Goldman

“There are two things in life for which we are never truly prepared: twins.”
(Josh Billings, 1818–1885)

This book is dedicated to Ziva and Xavier, our new twins.

Henry R. Cheeseman

ABOUT THE AUTHORS



Thomas F. Goldman, JD, is Professor Emeritus of Bucks County Community College, where he was a professor of Law and Management and Director of the Center for Legal Studies and the Paralegal Studies Program. He was a member of the Paralegal Studies Advisory Board and mentor at Thomas Edison State College, where he developed an Advanced Litigation Support and Technology Certificate Program in the School of Professional Studies, and implemented the online paralegal studies program for the *New York Times* knowledge network.

He is an author of textbooks in paralegal studies and technology, including *Technology in the Law Office*, *Accounting and Taxation for Paralegals*, *Civil Litigation: Process and Procedures*, *Litigation Practice: E-Discovery and Technology*, *Abacus Law: A Hands-On Tutorial and Guide*, *Real Estate Fundamentals*, and *SmartDraw Tutorial and Guide*.

An accounting and economics graduate of Boston University and a graduate of Temple University School of Law, Professor Goldman has an active international law, technology law, and litigation practice. He has worked extensively with paralegals and received the award of the Legal Support Staff Guild. He was elected the Legal Secretaries Association Boss of the Year for his contribution to cooperative education of encouraging the use of paralegals and legal assistants in law offices. He also received the Bucks County Community College Alumni Association Professional Achievement Award. He has been an educational consultant on technology to educational institutions and major corporations and is a frequent speaker and lecturer on educational, legal, and technology issues.



Henry R. Cheeseman is Professor Emeritus of the Marshall School of Business of the University of Southern California (USC), Los Angeles, California, where he was a professor of business law and Director of the Legal Studies in Business Program. Professor Cheeseman taught business law, legal environment, corporate law, securities regulation, cyberlaw, and ethics courses in both the Master of Business Administration (MBA) and undergraduate programs of the Marshall School of Business of the University of Southern California. He received the Golden Apple Teaching Award on many occasions by being voted by the students as the best professor at the Marshall School of Business. He has also served at the Center for Excellence in teaching at the university.

Professor Cheeseman has earned six degrees, including a bachelor's degree in finance from Marquette University, both a master's in business administration (MBA) and a master's in business taxation (MBT) from the University of Southern California, a juris doctor (JD) degree from the University of California at Los Angeles (UCLA) School of Law, a master's degree with an emphasis on law and economics from the University of Chicago, and a master's in law (LLM) degree in financial institutions law from Boston University.

Professor Cheeseman is an award-winning author of several business law textbooks published by Pearson Education, including the definitive and highly regarded *Business Law*. Other business law and legal environment textbooks authored by Professor Cheeseman and published by Pearson Education include *Contemporary Business Law*, *Legal Environment of Business*, and *Introduction to Law*. In addition to being a coauthor with Professor Thomas Goldman of the fifth editions of *The Paralegal Professional* and *The Paralegal Professional The Essentials*, he is also coauthor of *Contract Law for Paralegals* and *Business Organizations for Paralegals*, all published by Pearson Education.

BUILD A SOLID FOUNDATION FOR YOUR PARALEGAL CAREER!



▶ Written by an award-winning team, *The Paralegal Professional 5e* builds the foundation in substantive and procedural legal knowledge and real-world skills that you will need throughout your course of study. The book emphasizes the following:

DEVELOP CRITICAL THINKING AND PROCEDURAL SKILLS!

End-of-chapter material in this edition focuses on developing critical thinking and hands-on skills including the following exercises and assignments:

- Web research exercises
- Critical thinking and writing questions
- Video Case Studies
- Ethics analysis and discussion questions
- Collaborative skill-building exercises
- Legal analysis and writing cases
- Paralegal portfolio building exercises
- Cases for briefing
- Working with the Language of the Court
- Virtual Law Office Experience Assignments

LEARN ABOUT TECHNOLOGY APPLICATIONS IN THE LAW OFFICE

To be effective on the job, you will need to become comfortable using computers and common legal office software. A revised and updated Chapter 4, Technology and the Paralegal, introduces you to the types of application programs and their uses commonly found in law offices today.

UNDERSTAND HOW TO HANDLE ETHICAL SITUATIONS IN THE WORKPLACE

The Paralegal Professional 5e text and package are designed to build a strong foundational understanding of ethical principles for paralegals in the introductory course. Resources include Chapter 2, Ethics and Professional Responsibility; new Ethical Perspective boxes integrated throughout the textbook; and an expanded set of ethics-related video segments from the Paralegal Professional Classroom Video Series Segments.

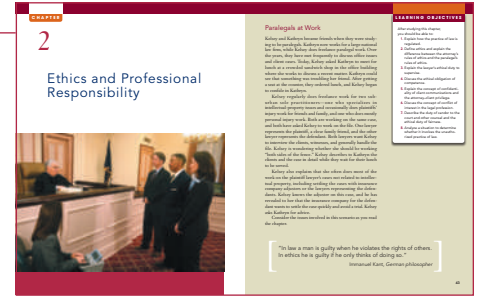
NEW FOR THE FIFTH EDITION

- *The Paralegal Professional* text has been re-edited to ensure consistency in coverage, use of terminology, and improved readability.
- Three new “Developing Your Collaborative Skills” cases have been added that are designed to be read and used for student group discussions, either in class or as assignments outside of class.
- Six new “Legal Analysis Writing Cases” are included as end-of-chapter assignments. These cases are designed to allow students to analyze cases and reach reasoned decisions based on applying relevant law to the facts of the case.
- There are three new “Working with the Language of the Court Cases.” These cases, which are entirely in the original language of the courts, are designed for individual student writing assignments using the IRAC method.
- Information on current and future opportunities in the paralegal profession, including existing and proposed state certification requirements, has been updated in Chapter 1, The Paralegal Profession.
- Changes in the practice of e-filing and the ethical issues resulting from these changes and new cases have been added to the chapter and end of chapter Working with the Language of the Law assignments. This is discussed in Chapter 2, Ethics and Professional Responsibility.
- Chapter 3, The Paralegal Workplace was substantially rewritten to improve the flow of topics and the forms have been updated.
- Chapter 4, Technology and the Paralegal has been rewritten to include new material and coverage of contemporary use of technology in the law office and by the paralegal.
- The U.S. Supreme Court's *Obergefell v. Hodges* decision regarding same-sex marriage is presented in Chapter 5 in the language of the Supreme Court. This case may be used for in class discussion or as an individual writing assignment.
- The role of the paralegal in the litigation process has been revised in Chapter 7 Civil Litigation to include a new case within the chapter and for end of chapter *Working with the Language of the Law* assignments and description of that of the civil litigation paralegal, corporate paralegal, and litigation support paralegal reflect contemporary practice.
- Chapter 10 Interviewing and Investigation skills has been expanded to include two new cases in the chapter end of chapter Working with the Language of the Law assignments
- Chapter 11, Legal Writing and Critical Legal Thinking chart comparing *ALWD* 5th Edition and *Bluebook* 19 is updated.
- Changes in electronic legal research engines and search options are covered in Chapter 12, Legal Research.
- Case law and applications have been updated in all of the substantive law chapters.

KEY FEATURES OF THE TEXTBOOK

PARALEGALS AT WORK CHAPTER OPENER

These opening scenarios offer a hypothetical fact situation that a professional paralegal might encounter on the job. They are designed to stimulate a student's interest in the material to be covered in the chapter.



ETHICAL PERSPECTIVE BOXES

These boxes concern hypothetical fact situations and ethical dilemmas that paralegals might face in their professional careers.

ETHICAL PERSPECTIVE

Arkansas Rules of Professional Conduct

RULE 1.7. CONFLICT OF INTEREST: CURRENT CLIENTS

- (a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:
 - (1) the representation of one client will be directly adverse to another client; or
 - (2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.
- (b) Notwithstanding the existence of a concurrent conflict of interest under

SIDEBAR BOXES

These boxes provide additional information and commentary on chapter topics.

WISCONSIN RULES OF PROFESSIONAL CONDUCT FOR ATTORNEYS

Contrast and compare the Wisconsin Rules of Professional Conduct for Attorneys, at <http://www.legis.wisconsin.gov/rsb/scr/5200.pdf>, with the American Bar Association

SIDEBAR

PARALEGALS IN PRACTICE BOXES

In the fifth edition, we include profiles of paralegals practicing in a variety of practices. Their commentary provides students with insight into the world of practicing paralegals.

Paralegals in Practice

PARALEGAL PROFILE

Vicki Voisin



Vicki Voisin, an Advanced Certified Paralegal, is nationally recognized as an author and speaker on ethical issues related to the paralegal profession. She is the creator and presenter of Ethical Basics, a program designed to raise awareness of ethical concerns by legal professionals and corporate employees. She also publishes an e-magazine titled Strategies for Paralegals Seeking Excellence (www.paralegalmentor.com). Vicki is a past president of the National Association of Legal Assistants (NALA) and currently serves on NALA's Advanced Certification Board. She has over 20 years of paralegal experience and is currently employed by Running, Wise & Ford in Charlevoix, Michigan.

issues, the ability to communicate clearly with clients, excellent organizational skills, and attentiveness to detail and accuracy.

I also believe that technology plays an important role in the legal profession. Although technology allows attorneys and paralegals to work faster, it does not necessarily guarantee that all of the work results are accurate. Paralegals should be aware of the potential ethical hazards that technology can introduce, especially in the areas of confidentiality and conflicts of interest. For example, unless done properly, redaction (editing) on electronically filed documents can be uncorrected, resulting in the disclosure of confidential and/or privileged information to third parties.

All paralegals should be aware of their ethical obligations and those of an attorney. My advice is to familiarize yourself with the American Bar Association's Model Rules of Professional Conduct, as well as its Guidelines for the Utilization of Paralegal Services. Then become acquainted with the related Model Rules and Guidelines for your particular state, if available. Also, join professional associations to keep abreast of

ADVICE FROM THE FIELD ARTICLES

These articles feature professional advice straight from the experts on interviewing skills, developing your portfolio, professional development, handling clients, and more.

Advice from the Field

TECHNOLOGY IS A TOOL, NOT A CASE STRATEGY IN THE COURTROOM

Michael E. Cobo

The latest legal technology products such as animations and courtroom presentation systems can be very alluring to lawyers. After learning about these products, you may be anxious to use them. But you should keep in mind that technology products are only tools to implement a solution and are not solutions in themselves. The key issue is: What is your case strategy and what do you need to present?

An expensive, ill-planned use of technology

do other exhibits that need to be larger and hold more visual or textual information. Strategically, some exhibits need to be used in conjunction with others or need to be in the view of the jury more often than not.

ASSESS YOURSELF

Before you spend a dime to develop the visual strategy, create a presentation or invest in any technology, make a critical self-assessment. Will you be comfortable

IN THE WORDS OF THE COURT BOXES

Excerpts from key court cases are presented to familiarize students with important legal decisions.

IN THE WORDS OF THE COURT ...

TRAMMELL V. UNITED STATES, 445 U.S. 40 (1980)
BURGER C. J.

The privileges between priest and penitent, attorney and client, and physician and patient limit protection to private communication. These privileges are rooted in the imperative need for confidence and trust. The priest-penitent privilege recognizes

VIRTUAL LAW OFFICE EXPERIENCE FOR THE PARALEGAL PROFESSIONAL 5E

COURSECONNECT ONLINE COURSE WITH THE VIRTUAL LAW OFFICE EXPERIENCE FOR TECHNOLOGY IN THE LAW OFFICE

CourseConnect offers complete online courses that run on common school LMS platforms such as Blackboard, Angel, Canvas, D2L, Sakai, and others. Courses contain interactive lessons covering core topics with assignments and discussion board suggestions using a methodology designed to increase student retention and success in any classroom environment.

Courses and topics are crafted by experts from each discipline and contain a variety of interactive multimedia elements, all levels of cognitive assessments, assignments, discussion questions, MP3 downloadable lectures and detailed instructor resource guides. CourseConnect with the Virtual Law Office Experience is your total online and blended learning solution designed to provide students with the tools they need to confirm their mastery of legal concepts and applications, and then apply their knowledge and skills in a workplace context.

For the instructor CourseConnect courses are accompanied by a complete set of instructor materials, including sample syllabi, lesson plans, and assignments with time-on-task estimates for all activities to assist with accreditation applications.

VIRTUAL LAW OFFICE EXPERIENCE IN COURSECONNECT

Housed within the Media Index in the course are the complete Virtual Law Office Experience modules. Students watch realistic video scenarios, work with case files and documents, and use the technology tools found in the law office to do the work a paralegal will be asked to do in practice. Throughout the course, students build a portfolio of work that demonstrates that they have the training and experience employers are looking for.

- Students engage in a workplace experience as a law office intern.

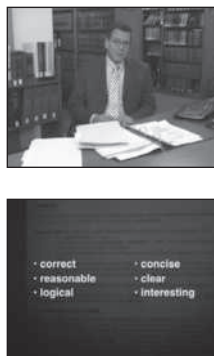
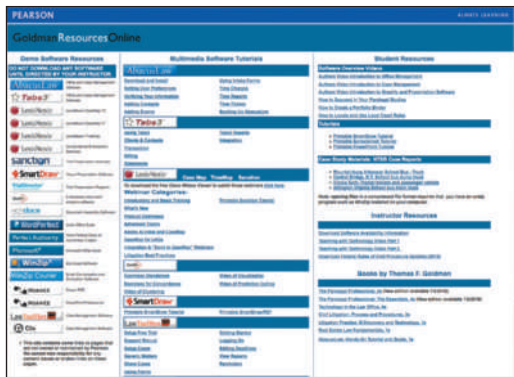


- Students can see technology being used in the law office and develop an understanding of how best to deploy technology in practice.

- Students build a comprehensive portfolio of workplace products to show potential employers.

Within the Virtual Law Office Experience, students can access a wealth of resources to complete assignments, including:

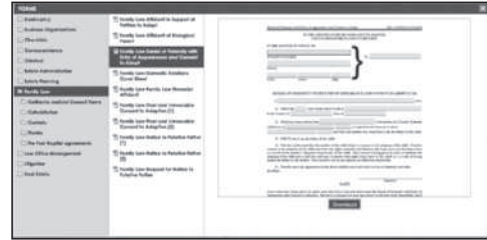
- Ask the Law Librarian Instructional Videos answer students' research and writing questions.

- Ask Technical Support links to the Technology Resources Website for technology and legal software support.

AbacusLaw Tutorials,
LexisNexis CaseMap Tutorials,
SmartDraw Tutorials
Sanction Tutorials,
Microsoft Office Tutorials

- *Forms File* contains hundreds of examples of commonly used legal documents for the major legal specialties.



- *Case Materials* contain all of the case information and documents needed to complete assignments.

AUTOMOBILE INCIDENT REPORT			
REPORTING OFFICER'S OFFICE	COLUMBIAN TOWNSHIP	REPORTABLE	NON-REPORTABLE
DATE OF ACCIDENT	09/14/2011	PUBLIC INTERSECTION	REPORTS FOR PAGE 02 (VEHICLE DAMAGE ONLY)
LOCATION OF ACCIDENT	14 th and Market Streets		
VEHICLE 1 INFORMATION			
Year/Make/Model	2008	2008	Year/State
VEHICLE 2 INFORMATION			
Year/Make/Model	2007	2007	Year/State
VEHICLE 3 INFORMATION			
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Year/Make/Model			

Davis Hilary, a minor, by his Parent and guardian, Katy Hilary Plaintiff

v.

Bobby Jones, Ronald Ciermons, Lower Council School Defendants

NOTICE

Defendants intend to serve (20) days from the date to the subpoena. If no

Date: September 14, 2011

John Morris Attorney for Defendants

No.: 24-1432

No.: 24-1432

Attorney ID No. 124987

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO RULE 4009.22

TO:

Downstate Medical Associates

Within twenty (20) days after service of this subpoena, you are ordered by the court to produce the following documents or things:

All medical records and billings for the treatment of Davis Hilary, a minor.

Date: September 14, 2011

John Morris Attorney for Defendants



Contact your local representative to preview this and other paralegal courses.

TWO CHOICES IN COURSECONNECT COURSES

- Introduction to Paralegal Studies* (covers the first three parts of the textbook)
- Introduction to Paralegal Studies and the Law* (covers all four parts of the textbook)

For more information regarding which course and platform application are right for your school, please contact your representative or call 800-635-1579.

INTEGRATE ETHICS INSTRUCTION

INTO THE INTRODUCTORY COURSE!

Many paralegal programs struggle with the question of how to integrate dedicated ethics instruction into a paralegal curriculum already packed with coursework. *The Paralegal Professional 5e* text and package are designed to build a strong foundational understanding of ethical principles for paralegals in the introductory course. Resources include:

Chapter 2: Ethics and Professional Responsibility

The fundamental ethics issues and principles are presented in Chapter 2.

Ethical Perspective Boxes Integrated Throughout the Textbook

These boxes present hypothetical fact situations and ethical dilemmas that highlight situations paralegals might face in their professional careers.

Paralegal Practice and Ethics-Related Video Case Study Segments

These videos are located at the book website at www.pearsonhighered.com/careersresources. Many of the segments present situations involving paralegal ethics and illustrate common UPL, Confidentiality, Conflict of Interest, Billing, and Zealous Representation issues.

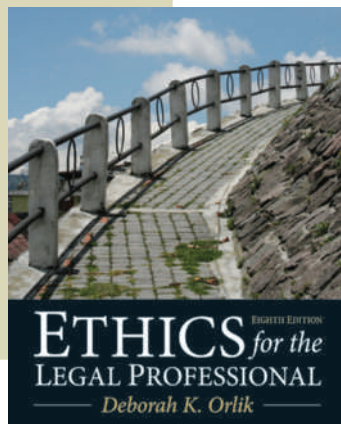


Need More Coverage of Ethics in a Handy Supplemental Guide?

ETHICS FOR THE PARALEGAL PROFESSIONAL

by Deborah Orlik

If more depth in dealing with ethical issues is desired, this handy guide can be packaged with the textbook at low cost. (ISBN: 0-13-310929-1)



INSTRUCTOR'S MANUAL WITH TOOLKIT FOR NEW INSTRUCTORS

To access supplementary materials online, instructors need to request an instructor access code. Go to www.pearsonhighered.com/irc, where you can register for an instructor access code. Within 48 hours after registering, you will receive a confirming email, including an instructor access code. Once you have received your code, go to the site and log on for full instructions on downloading the materials you wish to use.

Instructor's Manual with Test Bank. Includes content outlines for classroom discussion, teaching suggestions, and answers to selected end-of-chapter questions from the text. This also contains a Word document version of the test bank.

- Teaching Suggestions
- Students: How the textbook and Instructor's Manual will help you
- Preparing for Class
- Your First Day of Class
- Model Course Syllabi and Outline
 - One-Semester Course
 - Two-Quarter Course
- Use of Computer Technology
- Content Comparison: Miller, *Paralegal Today 6e*
- **Each chapter includes:**
 - Teacher to Teacher Notes
 - Pre-Chapter Warm-up
 - Learning Objectives
 - Paralegals at Work
 - Chapter Outline
- **Answers to: (includes the questions and the answers)**
 - Working the Web
 - Critical Thinking and Writing Questions
 - Ethical Analysis and Discussion Questions

- Developing Your Collaboration Skills
- Video Case Studies
- Paralegal Portfolio Exercises

TESTGEN TEST GENERATOR

TestGen. This computerized test generation system gives you maximum flexibility in creating and administering tests on paper, electronically, or online. It provides state-of-the-art features for viewing and editing test bank questions, dragging a selected question into a test you are creating, and printing sleek, formatted tests in a variety of layouts. Select test items from test banks included with TestGen for quick test creation, or write your own questions from scratch. TestGen's random generator provides the option to display different text or calculated number values each time questions are used.

POWERPOINT LECTURE PRESENTATION PACKAGE

PowerPoint Presentations. Our presentations offer clear, straightforward outlines and notes to use for class lectures or study materials. Photos, illustrations, charts, and tables from the book are included in the presentations when applicable.

ALTERNATE VERSIONS

eBooks This text is also available in multiple eBook formats. These are an exciting new choice for students looking to save money. As an alternative to purchasing the printed textbook, students can purchase an electronic version of the same content. With an eTextbook, students can search the text, make notes online, print out reading assignments that incorporate lecture notes, and bookmark important passages for later review. For more information, visit your favorite online eBook reseller or visit www.mypersonstore.com.

ACKNOWLEDGMENTS

A round of applause to those whose insights contributed to the learning aspects of the fifth edition. Special thanks to:

Michael Fitch, for his guidance and encouragement early in the development of the project.

Kathryn Myers, for her generosity and kindness in allowing the use of material on portfolios and for the guidance she unknowingly gave by her example of enthusiasm, dedication, and hard work in support of paralegal education.

Lilian Harris, for her constant encouragement and help in developing materials on family law and the needs of tireless paralegal program directors and faculty to teach students the real-world approach.

Richard Opie, for sharing his ideas and materials.

Joy Smucker, for her encouragement in developing soft skills materials.

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The Paralegal Profession

Since the late 1960s, the paralegal profession has grown significantly in importance in the delivery of legal services. It has evolved into a profession that demands strong personal skills, a firm foundation in ethics, increasingly higher levels of legal knowledge, and competence in the use of technology. Career opportunities and career choices for the paralegal have never been better. Potential employers are as diverse as the duties paralegals are asked to perform. Today's paralegals need specialized skills in many areas. Formal programs of study and continuing education programs have developed to help individuals obtain and maintain the necessary skills. As with other professions, ethical rules and regulations have evolved to help paralegals avoid conflicts and possible malpractice. These topics will be discussed in Part I.

Chapter 1

The Paralegal Profession

Chapter 2

Ethics and Professional Responsibility

Chapter 3

The Paralegal Workplace

Chapter 4

Technology and the Paralegal

1

The Paralegal Profession



Paralegals at Work

On the Friday before Thanksgiving, Ariel sits in the bleachers watching her high school alma mater, Lincoln High, take on Lower Merion High. Ariel's brother, Ethan, is a senior on the football team, and this is his last high school football game.

Ariel graduated from Lincoln in 2012 and went on to get her bachelor's degree with a major in English and a minor in Languages. She spots Mr. Marshall, her high school guidance counselor, and goes over to greet him.

After briefly catching up, Ariel asks Mr. Marshall about the career advice he's given to her brother. Ethan is thinking about a legal career but isn't interested in criminal justice or law enforcement. He's also not sure about the time and dedication it takes to get through law school. Mr. Marshall tells her that he gave Ethan information on local paralegal programs.

Ariel has been working as an editorial assistant for a small publisher of online books. Although she always has plenty of work to do, she's not challenged in her job. She wants to use the technology, language, and writing skills she's developed, as well as have more autonomy and control over her work. Ariel asks Mr. Marshall whether a paralegal career makes sense for her.

Consider these issues as you read the chapter.

After studying this chapter, you should be able to:

1. Describe the role of the paralegal in the delivery of legal services.
2. Explain the importance of personal skills in career success.
3. Discuss the job opportunities for the paralegal.
4. Describe the educational paths to the paralegal profession.
5. Describe the different approaches to the certification and regulation of the paralegal profession.

“The great can protect themselves, but the poor and humble require the arm and shield of the law.”

Andrew Jackson

INTRODUCTION TO THE PARALEGAL PROFESSION

Prior to the late 1960s, many of the functions of today's paralegals were performed by legal staff members with titles such as "legal secretary" and "lay assistant." Much of the work was also performed by law clerks—recent law school graduates who had not yet passed the bar exam. Now, members of the legal community are accustomed to working with paralegals as members of the legal team. As the educational level of paralegals increases, so will the responsibility given to them. In many areas of law, the cost of legal services has increased, and the use of paralegals in many cases permits the delivery of quality legal services at a reduced cost to the client.

Career opportunities for the paralegal have never been better. Paralegals are employed in every area of legal services. They interview clients, conduct factual investigations, do legal research, prepare legal documents, assist at the counsel table in trials, and even represent clients in some administrative hearings. As the use of computer technology has become more commonplace in law offices and courts, paralegals with the necessary skills and training are being used in litigation support and handling electronic discovery issues. They are employed in governments, corporations, and law firms of all sizes.

LEARNING OBJECTIVE 1

Describe the role of the paralegal in the delivery of legal services.

Paralegal (legal assistant)

A person qualified by education, training, or work experience who is employed or retained by a lawyer, law office, corporation, governmental agency, or other entity and who performs specifically delegated substantive legal work for which a lawyer is responsible; the equivalent term is legal assistant.

American Bar Association (ABA)

The largest professional legal organization in the United States.

National Federation of Paralegal Associations (NFPA)

A professional organization of state and local paralegal associations, founded in 1974.

National Association of Legal Assistants (NALA)

A professional organization for legal assistants that provides continuing education and professional certification for paralegals, incorporated in 1975.

What Is a Paralegal?

A great deal of confusion has arisen as to what the professional in this field should be called or what the professionals should call themselves. The terms **paralegal** and **legal assistant** have been used most frequently in the United States. They are used interchangeably by the **American Bar Association (ABA)**, the **National Federation of Paralegal Associations (NFPA)**, and the **National Association of Legal Assistants (NALA)**. The confusion stems in part from the shift away from the titles of "secretary" or "administrative assistant" or, in some organizations, "law office assistant."

The exact definition of *legal assistant* has been the subject of discussions by national organizations including the ABA, NFPA, and NALA, as well as many state legislatures, supreme courts, and bar associations. The trend is toward the use of the term *paralegal* and away from the term *legal assistant*. In recognition of this trend, the American Bar Association changed the name of its Standing Committee on Legal Assistants to the Standing Committee on Paralegals.

In 1968, the American Bar Association (ABA) formed the Standing Committee on Legal Assistants (later changed to the Standing Committee on Paralegals). The purpose of this committee was originally to investigate the use of lay assistants in the law office. The ABA gave this committee jurisdiction over standards for the education and training of legal assistants. The committee monitors trends in the field and recommends to the House of Delegates (the policymaking body of the ABA) training programs that meet its standards for quality education.

The American Bar Association's 1997 definition of a paralegal or legal assistant, which has also been adopted by the National Association of Legal Assistants (NALA), is:

A legal assistant or paralegal is a person qualified by education, training, or work experience who is employed or retained by a lawyer, law office, corporation, governmental agency or other entity and who performs specifically delegated substantive legal work for which a lawyer is responsible.

The comment to the definition by the National Association of Legal Assistants (NALA) further clarifies the definition:

This definition emphasizes the knowledge and expertise of paralegals in substantive and procedural law obtained through education and work experience. It further defines the legal assistant or paralegal as a professional working under the supervision of an attorney as distinguished from a non-lawyer who delivers services directly to the public without any intervention or review of work product by an attorney. Such unsupervised services, unless authorized by court or agency rules, constitute the unauthorized practice of law.

Source: <http://www.nala.org/model.aspx#definition>

Web Exploration



Check the current definition approved by the American Bar Association at www.abanet.org.

Paralegals *in* Practice

PARALEGAL PROFILE

Vicki L. Karayan



During her 12-year paralegal career, Vicki L. Karayan has worked for both law firms and business corporations. She is currently employed at WellPoint, Inc., in Camarillo, California, the nation's second-largest company in the healthcare industry. As an Advanced Certified Paralegal, her present position of Business Change Advisor focuses on compliance reporting and legal research for the company's consumer marketing department.

I became inspired to pursue a paralegal career after going through a difficult, personal legal battle. After graduating with an associate's degree in Applied Science with a Legal Studies emphasis, I worked in a general practice firm. Later, I worked for a bankruptcy law firm where I eventually became the trainer/staff manager of seven offices. A family move led to

a new job in a nationwide bankruptcy firm where I learned to track federal and state regulatory requirements.

In order to work closer to home, I took an Administrative Assistant position in the Medicaid Marketing department for a corporate healthcare company. What started as an entry-level job grew into a whole new position, as I offered better ways to tackle the company's market compliance reporting and legal research, and also helped improve office efficiency and staff training. Three promotions later, I believe I owe much of my career success to actively looking for opportunities to apply knowledge and skills learned from previous jobs and experiences, and from learning how to network with people, building strong working relationships based on ethical practices.

My advice is: try not to limit yourself to traditional paralegal job descriptions. Some of the best opportunities are found by looking "outside the box" and obtaining as many business and technology skills as possible. Finally, find what you love to do, and then network by making new business connections through individuals you already know and others you meet. These contacts can help your work go more smoothly and provide invaluable information in the future.

What Do Paralegals Do?

The primary function of paralegals is to assist attorneys in every aspect of the delivery of legal services, including preparing for hearings, trials, meetings, and real estate closings. In many cases, paralegals do the preparatory work, assisting in the creation of documents and forms, coordinating procedures and other activities, and in many offices maintaining the financial records of the firm.

People tend to think of paralegals as only working in private law offices directly under the supervision of attorneys. Actually, employers of paralegals are just as diverse as the duties paralegals are asked to perform. Many paralegals are employed by state, federal, and local governments, including their regulatory bodies. The paralegal's activities might include analyzing legal material for internal use, collecting and analyzing data, as well as preparing information and explanatory material for use by the general public.

More and more paralegals are coming to the paralegal profession from other professions. For example, they may come from nursing, bringing with them specialized knowledge that they can combine with the legal skills learned in a paralegal program. Their knowledge of medicine, combined with their legal knowledge, gives them a unique ability to analyze specialized material. For example, they are frequently hired to analyze medical materials for trial attorneys, both plaintiff and defense, or are employed as case analysts and claims representatives for health insurance companies. Those with other specialties can take a similar path. For example, those with engineering and other science degrees can find jobs in specialized areas of the law, such as patents and intellectual property. A paralegal with a criminal justice or a forensic science background, for example, may be uniquely qualified to work with criminal defense attorneys and prosecutors.

Prior to the recognition of paralegals as a separate profession, individuals typically acquired specialized knowledge of a narrow legal field through on-the-job training. Someone working with a lawyer—usually a secretary—learned the daily routine



Web Exploration

Review the Model Standards and Guidelines of the National Association of Legal Assistants at <http://www.nala.org/model.aspx>.

Advice *from the Field*

PEOPLE SKILLS CRITICAL TO PROFESSIONAL SUCCESS

Kathleen Call, Executive Director, Robert Half Legal

Kathleen Call is Executive Director of Robert Half Legal, a leading staffing service specializing in the placement of legal professionals, ranging from project attorneys and paralegals to administrators, legal secretaries, and other support staff. Robert Half Legal, which works with law firms and corporate legal departments, has offices throughout the United States and Canada.

When you think of which skills will be most important to your career advancement over the next five years, chances are “proficiency with technology” ranks high on your list. Knowledge of key software applications has become a critical success factor in the legal profession. However, to be considered for the best job opportunities in the future, you’ll not only need technical competency, but also solid interpersonal skills and problem-solving abilities.

Audio- and video-conferencing, email, corporate intranets and, of course, the Internet have increased exponentially the amount—and speed—of day-to-day professional communication. The expanded use of technology will make it more important for legal professionals to be able to communicate effectively and articulately.

Another significant development driving the need for strong soft skills is the trend toward a more collaborative workplace. In a team-based office environment, diplomacy, flexibility, persuasiveness and management skills are critical. In a survey we commissioned among executives at the nation’s 1,000 largest companies, 79 percent of respondents said self-managed employee work teams will increase productivity for U.S. companies. These productivity gains will only be realized, however, if team members can work together effectively. As a result, firms are placing a premium on excellent interpersonal skills.

WHAT ARE PEOPLE SKILLS?

Since soft skills are intangible and therefore hard to quantify, how do you determine whether you have what it takes to succeed? Our firm has identified a composite of key interpersonal traits represented by the acronym “PEOPLE”:

Problem-solving abilities (organization, judgment, logic, creativity, conflict resolution)

Ethics (diplomacy, courtesy, honesty, professionalism)

Open-mindedness (flexibility, open to new business ideas, positive outlook)

Persuasiveness (excellent communication and listening skills)

Leadership (accountability, management and motivational skills)

Educational interests (continuous thirst for knowledge and skills development)

A deficiency in these skills can seriously limit your career prospects, whether you’re applying for a new job as a legal assistant or seeking to move upward as an attorney within your current firm. Just as workers who failed to enhance their technical skills were left behind by the digital revolution, those who dismiss the significance of PEOPLE skills can find themselves stagnating in dead-end jobs.

ASSESS YOUR STRENGTHS AND WEAKNESSES

While it’s relatively easy to measure the development of your proficiency with technology, it’s much more challenging to gauge your progress in enhancing your PEOPLE skills. Again, this is primarily because these qualities are more subjective in nature. Since there are no classes on “flexibility” or “positive outlook” at the typical college or university, how do you acquire and upgrade your interpersonal abilities?

The following steps will help you take an accurate inventory of your strengths and weaknesses:

Honestly evaluate your aptitude in each of the PEOPLE skills. Which seem to come naturally? Is there room for improvement in any area?

Ask trusted friends, family members and coworkers for their opinions. How would they rate your PEOPLE skills?

COMMIT TO LEARNING

It takes time and experience to fully develop interpersonal skills, so don’t expect to see improvement overnight. Here are some effective strategies to help you continue your progress:

Develop a list of the characteristics you’d most like to develop in yourself. Then brainstorm specific activities that will boost your abilities in your selected areas. For example, if you’d like to refine your leadership skills, volunteer to work on cases that provide the opportunity to supervise others or manage a project from start to finish.

Observe those who demonstrate strong PEOPLE skills in the areas you’d like to improve. How do they apply their abilities in various situations? How are their responses different than what yours would be?

Select a mentor. The best candidate is someone in the legal field whom you admire. Ask your prospective mentor if he or she would advise you, particularly in those PEOPLE skills that you've determined require enhancement. Since it's difficult to see yourself objectively, a mentor's ongoing support and feedback can be invaluable.

Enhance your listening skills. Concentrate on paying close attention to what others are saying. In general, avoid interrupting but ask for clarification when necessary. To prevent misunderstandings, paraphrase information in your own words when you are given complex instructions.

Become a better writer. Read books on effective writing so that you can develop a more concise style, or consider taking a journalism or business writing course. Proofread everything you write, especially email. Because electronic messages are prepared and sent quickly, they can be inadvertently filled with typographical and grammatical errors. In addition, it's important to employ PEOPLE skills in your writing, explaining yourself diplomatically and courteously.

Refine your verbal communication. Know what you want to say before you speak, and use a tone and style appropriate to the audience. When leaving a voice-mail message, organize your thoughts in advance to avoid being vague or rambling. If you're presenting a report to an attorney or client, rehearse a few times so your delivery will be smooth and your message clear.

Become a volunteer. You can acquire stronger leadership and organizational skills through volunteer work. Whether it's becoming involved in a trade association or helping your favorite charity, the skills you develop can be used on the job in a variety of situations.

Seek growth opportunities outside the workplace. Hobbies and leisure-time activities are an enjoyable way to enrich your PEOPLE skills. By coaching your child's soccer team, for example, you'll develop motivational and managerial skills, and become better at dealing with diverse personalities. If you'd like to enhance your creativity, consider taking an art or music class.

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tasks and became knowledgeable about that lawyer's specific area of law. Many of these individuals became important sources of information, such as what documents are required for a real estate closing, the steps in preparing and filing estate and trust accountings, or the procedures in preparing and filing pleadings. These were the first paralegals. Today, many of the skills and procedures formerly acquired on the job are taught at institutions specializing in the education of paralegals or legal assistants. These programs may offer a certificate, a two-year associate's degree, a four-year bachelor's degree, or a master's degree.

Professional Skills

The skills needed by a paralegal are varied and often depend on the nature of the legal specialty in which one works. Common to all paralegals are certain skills (also known as "soft skills") such as communication, initiative, resourcefulness, problem solving, perseverance, teamwork, leadership, and self-motivation.

Everyone has goals in life. An experienced runner may strive to finish a marathon, or a skilled writer may have a vision of writing a great novel. Achieving a specific goal requires a certain set of skills. If the goal is to be a successful paralegal, certain basic skills are needed. You may already have some of the necessary basic skills, such as

- the ability to read English (unless someone is reading this book to you);
- the ability to communicate at some level in writing or speaking; and
- initiative (you demonstrated this by signing up for this course or picking up this book to learn about the paralegal profession).

In addition, you may have other basic skills, such as

- facility with computers and the Internet;
- the ability to speak a second or third language; and
- a background in medicine, engineering, business, or some other academic or occupational area.

LEARNING OBJECTIVE 2

Explain the importance of personal skills in career success.

Some other skills are less obvious, such as resourcefulness, perseverance, analytical skills, and interpersonal skills, including cultural sensitivity. These will be explored in greater depth as they are applied to the paralegal profession. We cannot all run a marathon or write a novel, but we can all acquire most of the basic skills by making an effort to improve ourselves and attain the knowledge base to achieve most, if not all, of our goals.

Through hard work and commitment, many people achieve much more than they believed they were capable of. If one is willing to work hard enough, most personal and professional goals can be attained. A good starting point in achieving goals is to understand one's strengths and weaknesses, capitalize on the strengths, and work on overcoming the weaknesses. Exhibit 1.1 shows the top required skills and level of importance for paralegals and legal assistants listed by the American Job Center partner O*Net online.

Resourcefulness

Resourcefulness is the ability to meet and handle situations by finding solutions to problems. It is one of the most valuable skills anyone can have—and one that is not easily taught. A resourceful person in the office is sometimes referred to as the “can-do” person. This is the person who usually finds a creative way to accomplish something everyone else has given up on. Creativity is used to solve the problem by “thinking outside the box” and not limiting the solution to tried-and-true methods. When everyone else says “I can’t find this witness,” the resourceful person tries a new approach and finds the witness. When others use only an Internet search engine, the resourceful person uses social media websites to locate the witness.

In the legal workplace, the person who gets noticed is the one who finds a way to get the job done in time for the hearing, meeting, or arbitration. He or she is willing to use unconventional means to get the job finished when the power goes out or the computer crashes just before a deadline. Lawyers need resourceful people and reward them to keep them on the team.

Exhibit 1.1 Skills for paralegals and legal assistants

Skills Save Table (XL, S/C, SV)

Importance	Skill
75	Reading Comprehension — Understanding written sentences and paragraphs in work related documents.
69	Active Listening — Giving full attention to what other people are saying, taking time to understand the points being made, asking questions as appropriate, and not interrupting at inappropriate times.
68	Speaking — Talking to others to convey information effectively.
66	Writing — Communicating effectively in writing as appropriate for the needs of the audience.
56	Critical Thinking — Using logic and reasoning to identify the strengths and weaknesses of alternative solutions, conclusions or approaches to problems.
53	Time Management — Managing one's own time and the time of others.
50	Active Learning — Understanding the implications of new information for both current and future problem-solving and decision-making.
50	Coordination — Adjusting actions in relation to others' actions.
50	Judgment and Decision Making — Considering the relative costs and benefits of potential actions to choose the most appropriate one.
50	Monitoring — Monitoring/Assessing performance of yourself, other individuals, or organizations to make improvements or take corrective action.
50	Service Orientation — Actively looking for ways to help people.

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Source: National Center for O*NET Development. 23-2011.00. O*NET OnLine. Retrieved December 8, 2014, from <http://www.onetonline.org/link/summary/23-2011.00>

Commitment

Commitment means finishing what one starts. In the old story of the tortoise (turtle) and the hare (rabbit), the tortoise wins the race by being “slow and steady.” He wins because of his commitment—putting everything into the race and not stopping until the job is done. Many people start jobs and don’t finish them. Others start what seems to be an insurmountable task and—to everyone’s amazement—finish, and finish well. Taking on an assignment in a law office requires commitment. Team members are expected to finish the task, whether it is researching a case, writing a brief, filing a pleading, or organizing a file.

As a professional, you are expected to finish tasks within the assigned time frame. There is no excuse for not completing certain tasks, such as filing a complaint with the court before the **statute of limitations** expires or getting the brief to the court by the court-imposed deadline. Even a simple thing like getting to work on time requires commitment.

Not everyone has the commitment necessary to be an effective professional. You have to decide whether you are willing to make the commitment. Others will be depending on you, and if you do not want to commit, admit it to yourself and to the others who are depending on you, and then choose some other activity or profession. Choosing a profession, whether it is the legal profession, the paralegal profession, the medical profession, or the accounting profession, requires a commitment to serve others. As a paralegal professional, you are making a commitment to your clients that you will provide the best professional advice, skill, and effort, and they will depend on your professionalism.

Analytical Skills

Analytical skills involve using a step-by-step process to solve a problem. For example, analytical skills may be used to find a missing witness by analyzing the person’s background. The analysis may reveal that the person is part of a group, such as a professional society, that publishes a membership directory. Or analytical skills may be used to find out what made a bottle explode, injuring a client. Determining the actual cause requires a step-by-step analysis of the potential reasons and then narrowing down the possible causes.

One of the basic skills that both law students and paralegal students are taught is legal analysis, or the ability to identify the key facts and legal issues of a case and compare and contrast them to the law and to other cases. This is a skill that develops with time. As you study the law and learn about specific crimes, torts, and other areas of law, you will learn the individual elements of each. You will then be able to determine whether these elements exist in actual cases. For example, in contract law, you will learn what conduct is a valid acceptance of a contract offer, and in tort law, what constitutes reasonable conduct under the circumstances.

Interpersonal Skills

The ability to communicate and work with others is vital to success as a paralegal, as well as to success in other endeavors. To categorize people, coworkers, colleagues, and employers might be unfair, but we all do it. We think—and sometimes say—things like “He’s a pleasure to work with” or “She has clients eating out of her hand.” Conversely, we might say things like “She’s the most negative person I know” or “He’s only out for himself.” These comments reflect the other person’s interpersonal skills (or the lack of), the ability to communicate and work with others.

How we relate to others can make the job easier or harder. This includes not just other members of the legal team but also clients, witnesses, and opposing parties. Obviously, everyone on the team must have a certain level of trust and confidence in the others on the team. People who have a good working relationship accomplish more and enjoy doing it. By contrast, conflict and tension make the job harder and

CREATING AN IMPRESSION

To create a positive impression, try to:

- have a positive attitude
- be diplomatic
- be flexible
- establish a good rapport with others
- be a team player
- be resourceful
- be adaptable
- be thorough