

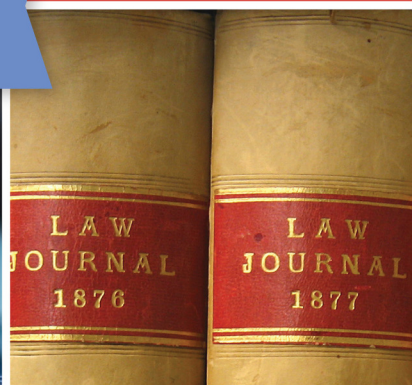


Roger LeRoy Miller • Mary Meininger

Paralegal Today

Sixth Edition

The Essentials



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Paralegal Today

The Legal Team at Work

THE ESSENTIALS

Sixth Edition

Roger LeRoy Miller
Mary Meinzingger

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Preface

The economic slowdown that has dominated headlines and Americans' lives in recent years heralds a new era in this country. It means all firms are attempting to reduce costs. Americans, as producers and consumers, have figured out new ways to live without spending as much as they used to. It follows that when people must seek the help of attorneys, they expect those attorneys to proceed in the most cost-effective way. Consequently, paralegals are being asked to do more work than ever before. It is not surprising that the paralegal occupation has been rapidly growing. We have tried to impart the excitement that surrounds the burgeoning paralegal profession throughout the pages of this textbook. This new edition was designed to be both accessible and motivational. Its many practical features and striking design encourage learning.

Paralegal Today: The Essentials, Sixth Edition, is filled with pedagogical aids that guarantee students will maintain their interest in this subject. We use real-world examples, plus numerous boxed features. Those of you who have used the text before already know that it has perhaps the most extensive supplements package ever offered.

All of the basic areas of paralegal studies are covered in *Paralegal Today: The Essentials*, including careers, ethics and professional responsibility, pretrial preparation, trial procedures, criminal law, legal interviewing and investigation, legal research and analysis, computer-assisted legal research, and legal writing. In addition, there are a number of features that we describe in this preface.

Two New Features

This edition of *Paralegal Today: The Essentials* breaks ground with two new features that you will find in every chapter.

- **Social Media Today**—Personal use of Facebook, Twitter, and other forms of social media has become common. Many people spend significant time on social media and rely on these tools as primary methods of communication. It has become increasingly apparent that whatever we post on social media reflects on us, whether positively or negatively. The wise user is aware that it is not just our friends who can see what we post; employers and others can scour the Internet for social media history to learn a lot about us. Because of the permanence of our digital footprint, we must think of the long-term consequences of people seeing what we disseminate. The same is true for professional organizations such as law firms. Increasingly, law firms and corporations seek to project a favorable image to the world through social media tools. Each chapter has tips about the prudent use of social media, and several chapters discuss the active use of social media in the practice of law.
- **Practice Focus**—The nature of the legal profession is evolving because of ever-improving technology and new forms of competition. In this feature, we see how law firms and paralegals are being affected by such change. Since change cannot be avoided, legal professionals who adapt to the new environment will be best prepared to keep up with the times.



When you are posting on Facebook, assume that your comments will be published in your local newspaper and read by the managing partner of your firm over breakfast.



PROFESSIONAL RESPONSIBILITY AND VIRTUAL PARALEGALS

One growing area for paralegals is "virtual paralegals." Unlike paralegals employed directly by law firms, virtual paralegals contract their services to attorneys, law firms, corporations, agencies, and others as independent contractors. Paralegals in virtual careers cite the increased flexibility in their schedules as a major benefit, as well as the ability to work from home. Lauren Hidden of the International Virtual Assistants Association believes virtual positions will increase as firms seek to reduce costs, saying, "The future is very bright" for virtual paralegals.

Like more traditional paralegals, virtual paralegals can only work under the direct supervision of a licensed attorney. The attorney's responsibility to supervise the virtual paralegal's work is no different from his or her responsibility to supervise a paralegal employed

by the same firm. What is different is that the virtual paralegal typically works with greater independence.

One important step you can take to address potential ethics issues while working as a virtual paralegal is to draft your own ethics policy, including procedures and processes to ensure that you do not violate state ethics rules for the state in which your supervising attorney is licensed. This requires paralegals working in different states to be able to assure an attorney elsewhere that they are familiar with the appropriate rules.

Draft such a policy conservatively, ensuring that you avoid any action that might put an attorney in violation of state ethics rules or even create the appearance of professional impropriety. Look carefully at the ABA's *Model Guidelines for the Utilization of Legal Assistant Services* for guidance in drafting a policy. Also, review specific guidelines from the bar association in any state in which you may provide services.

A Practical, Realistic Approach

There sometimes exists an enormous gulf between classroom learning and on-the-job realities. We have tried to bridge this gulf in *Paralegal Today: The Essentials*, Sixth Edition, by offering a text full of practical advice and “hands-on” activities. Exercises at the end of each chapter provide opportunities for your students to apply the concepts and skills discussed in the chapter. Many of the book’s other key features, which you will read about shortly, were designed to give students a glimpse of the types of situations and demands they may encounter on the job as professional paralegals. A special introduction to the student, which appears before Chapter 1, contains practical advice and tips on how to master the legal concepts and procedures presented in this text—advice and tips that your students can also apply later, on the job.

Paralegal Today: The Essentials, Sixth Edition, also realistically portrays paralegal working environments and on-the-job challenges. Each chapter, for example, describes challenges to a paralegal’s ethical obligations. These realistic situations give students a better understanding of how seemingly abstract ethical rules affect the tasks performed by attorneys and paralegals in the legal workplace.

Technology

We have attempted to make sure that *Paralegal Today: The Essentials*, Sixth Edition, is the most up-to-date text available in today’s marketplace. To that end, we have included in this edition materials and features indicating how the latest developments in technology are affecting the law, the legal workplace, and paralegal tasks. These features and materials will help your students learn how to take advantage of technology to enhance their quality and productivity as paralegals.

A Chapter on Online Legal Research

Chapter 7 is devoted to online legal research. It shows students how to do legal research and investigation using the legal databases provided by Westlaw® and Lexis®, as well as some less well-known and less costly online information sources.



TECHNOLOGY AND today's paralegal

MORE CAREER OPPORTUNITIES FOR TECH-SAVVY PARALEGALS

Paralegals possessing superior technological skills are in demand. Knowing the basics—document creation, spreadsheets, database management, and online legal research—is essential. Also knowing how to utilize social media such as LinkedIn, Facebook, and

Google+ is becoming increasingly important. Finally, the use of smartphones and tablets has become part of the life of many paralegals. Here we review some skills that paralegals should master to secure their future in the job market.

MASTER DOCUMENT-CREATION SKILLS

A Feature Focusing on Technology

The *Technology and Today's Paralegal* feature appears in each chapter. These updated features focus on how technology is affecting a specific aspect of paralegal work or on how paralegals can use technology to their benefit. For example, in Chapter 1 (Careers in Today's Paralegal Profession), the feature looks at the career opportunities available for tech-savvy paralegals. Titles of some other *Technology and Today's Paralegal* features include the following:

- Cases of First Impression and the Internet (Chapter 4).
- Who Bears the Costs of Electronic Discovery? (Chapter 9).
- Courtroom Technology (Chapter 11).

Margin Web Sites

All chapters include several instances of a margin feature titled *On the Web*. This feature suggests Web sites that students should know about and that provide further information on the topic being discussed in the text.

 **ON THE web**

The Federal Rules of Civil Procedure are available online at www.law.cornell.edu. Select "Federal Rules," which provides Federal Rules of Civil Procedure and other federal rules.

Chapter-Ending Internet Exercises

To help your students navigate the Web and find various types of information online, we have included at the end of each chapter one or more Internet exercises in a section titled *Using Internet Resources*. Each exercise directs the student to a specific Web site and asks a series of questions about the materials available at that site.

USING INTERNET RESOURCES

1. On the Internet, access LAW MATCH, an online résumé bank, at www.lawmatch.com. How do you use it? Would you post your résumé there? Why or why not? If you are currently looking for a position, try posting your résumé on that site.
2. Visit the Web site for *Paralegal Today* magazine at www.paralegaltoday.com. You will find many useful

The Organization of This Textbook

As paralegal instructors know, materials should be presented in such a way that students can build their skills and knowledge base block by block. This is difficult because, no matter where you begin, you will need to refer to some information that has not yet been presented to the student. For example, if you try to explain on the first or second day of class what paralegals do, you will necessarily have to mention terms that may be unfamiliar to the students, such as *deposition* or *substantive law* or *procedural law*. In this text, the authors have attempted, when possible, to organize the topics covered in such a way that the student is not mystified by terms and concepts not yet discussed.

Content Presentation

No one way of organizing the coverage of topics in a paralegal text will be suitable for every instructor, but we have attempted to accommodate your needs as much as possible by organizing the text into two basic parts.

- Part 1 (Chapters 1–5) focuses primarily on the paralegal profession—its origins and development, the wide array of paralegal careers, the requirements and procedures that students can expect to encounter in the legal workplace, and the threshold ethical responsibilities of the profession. Part 1 also discusses the structure of the American legal system—the sources of law and the courts.
- Part 2 (Chapters 6–12) looks in detail at legal procedures and paralegal skills. The student learns about the basic procedural requirements in civil and criminal litigation, as well as the skills involved in conducting interviews and investigations, legal research and analysis, and legal writing.

A Flexible Arrangement


We believe that this organization of the materials allows the greatest flexibility for instructors. Although to a certain extent each chapter in the text builds on information contained in previous chapters, the chapters and parts can also be used independently. In other words, instructors who wish to alter the presentation of topics to fit their course outlines, or who wish to use only selected chapters or parts, will find it relatively easy to do so.

Key Features

In addition to the *Technology and Today's Paralegal* feature and the new *Practice Focus* and *Social Media Today* features, which we have already discussed, every chapter in this text has the following features. Each feature is set apart and used both to instruct and to pique the interest of your paralegal students.

Developing Paralegal Skills

The *Developing Paralegal Skills* feature presents hypothetical examples of paralegals at work to help your students develop crucial paralegal skills. The feature includes checklists and practical tips. Some examples are the following:



DEVELOPING paralegal skills

THE DANGERS OF THE UNAUTHORIZED PRACTICE OF LAW

Every state restricts the "practice of law" to licensed attorneys. State bar associations take this restriction seriously, and they aggressively enforce unauthorized practice of law rules against anyone the bar suspects is infringing on attorneys' control of the practice of law.

Unfortunately, the definition of the "practice of law" is unclear, making it a trap for the unwary. The ABA defines it as "the rendition of services for others that call for the professional judgment of a lawyer." In essence, "practicing" law includes giving legal advice, preparing legal documents, and representing a client in court.

Of course, paralegals routinely do the first two of these. Each is perfectly legal as long as these activities are done under the supervision of a licensed attorney. For example, you will often have to relay legal advice from the attorney to the client. To protect yourself, you must make clear that the advice comes from the lawyer, not you. You can avoid unauthorized practice problems by:

- Being clear that everyone understands you are a paralegal in all communications and meetings by:
 1. Including your title when signing letters, e-mail, and other documents and on your business cards.
 2. Introducing yourself with your title in meetings.
 3. Disclosing your status when communicating with a court.
- Ensuring that activities that might be construed to be the "practice of law" are supervised by a licensed attorney by:
 1. Making sure that an attorney reviews and signs off on all legal documents you prepare.
 2. Explicitly stating that the attorney is the source of any legal advice when relaying advice to a client by stating, "I asked Attorney Smith about that and she said . . ."
- Informing yourself about your state's unauthorized practice rules by:
 1. Researching court decisions, regulations, and state bar opinions on the topic.
 2. Contacting your state paralegal associations and state bar for information and publications on the topic.

Taking care to follow such guidelines will protect the law firm you work for and will protect you, your career, and your firm's clients.

ETHICS WATCH

SOCIAL EVENTS AND CONFIDENTIALITY

Assume that you are at a party with some other paralegals. You tell a paralegal whom you know quite well of some startling news—that a client of your firm, a prominent city official, is being investigated for drug dealing. Although your friend promises to keep this information strictly confidential, she nonetheless tells her husband, who tells a coworker, who in turn tells a friend, and so on. Soon, the news has reached the press, and the resulting media coverage results in irreparable harm to the official's reputation in the community.

Revealing the juicy gossip breached your obligation to the client. If it can be proved that the harm is the direct result of your breach of the duty of confidentiality, the official could sue you and the attorney and the firm for whom you work for damages.

In this situation, you would have violated the *NFPA Model Code of Ethics and Professional Responsibility*, Section 1.5(f), which states: "A paralegal shall not engage in any indiscreet communications concerning clients." This behavior would also have violated the *ABA Model Guidelines for the Utilization of Paralegal Services*, Guideline 6: "A lawyer is responsible for taking reasonable measures to ensure that all client confidences are preserved by a paralegal." Finally, you would have violated the *NALA Code of Ethics and Professional Responsibility*, Canon 7: "A paralegal must protect the confidences of a client."

- Proofreading Legal Documents (Chapter 1).
- Adequate Supervision (Chapter 3).
- Checking the Accident Scene (Chapter 10).
- Locating Assets (Chapter 11).

Ethics Watch

The *Ethics Watch* feature typically takes a student into a hypothetical situation that clearly presents an ethical problem. All are tied to specific ethical principles of the NALA, NFPA, or ABA. When possible, students are told what they should and should not do in the particular situations discussed. In some instances, consultation with a supervising attorney is necessary. Some examples are the following:

- The Importance of Integrity (Chapter 1).
- Social Events and Confidentiality (Chapter 3).
- Letters and the Unauthorized Practice of Law (Chapter 8).
- Communicating with Jurors (Chapter 11).

Featured Contributor

SECURING CLIENT INFORMATION IN THE DIGITAL AGE



Anita Whitby

BIOGRAPHICAL NOTE

Anita Whitby is a business law attorney and Park University faculty member. She has extensive experience as a course developer and teacher of legal studies and business law courses. Ms. Whitby is also a textbook reviewer for Cengage Learning and serves on the advisory board for the series known as *Annual Editions: Business Ethics*. Her current research interests include data privacy ethics, intellectual property, and immersive online learning.

The Digital Age has ushered in a array of electronic devices and technology to help streamline law offices. However, the use of such electronic devices and technology presents serious ethical issues. The following best practices will help paralegals avoid common pitfalls associated with the use of popular devices and technology.

E-MAIL ENCRYPTION

When the topic of e-mail security comes up, we often think about it in terms of Trojans attacking a computer network. However, it is the act of sending unsecured e-mail communication that is the main source of client

data breaches. Communicating with clients via e-mail may seem harmless, but it must be done with extra precaution. Whether you are using a laptop or smartphone, be sure to use encryption software for client communication. Encryption ensures that client information is protected. Because the communication cannot be "sniffed" without a "key," unintended communication is not in danger of being disclosed to a third party.

CLIENT WORKPLACE E-MAIL & CONFIDENTIALITY

What if a client prefers to communicate via e-mail? The American Bar Association recently issued an ethics opinion regarding the attorney's

Featured Contributor Articles

Each chapter contains a contributed article written by an educator or an expert in the field. These articles offer your students practical tips on some aspect of paralegal work relating to the topic covered in the chapter. Some examples are the following:

- "Learning Well and Finding Your Place," by Kristine M. Condon, who is the coordinator of a paralegal studies program in Illinois and an experienced paralegal (Chapter 1).
- "Why Mediation May Be the Best Legal Alternative," by P. Darrel Harrison, an attorney and mediator who is an instructor and program director for an ABA-approved paralegal program in San Diego (Chapter 5).
- "Ten Strategies for Effective Interviews and Investigations," by Jennifer J. Allen, a faculty member at Davidson (N.C.) Community College (Chapter 10).

In the Office

First introduced in the Fifth Edition, this feature offers a practical perspective about working in the law-office environment. The culture of law offices varies, but successful paralegals conduct themselves professionally and pay attention to details that make them invaluable. Examples of *In the Office* include:

- Stress Problems (Chapter 1)
- Watch Those Deadlines! (Chapter 5)
- Efficiency in Research (Chapter 6)
- Time Management (Chapter 8)

IN THE office

AM I CLEAR?

E-mail is a common form of communication, but it causes problems when not used properly. E-mails are the equivalent of letters or memos. When we write a letter or a memo, we usually read it more than once and think carefully about what we're saying. Too many times, we treat e-mails as if they were oral communications—that is, we write in a chatty and imprecise manner. Before sending any e-mail to a client, print it, read it, be sure it is addressed to the right party, and edit it. Remember that the matter you're discussing is important to the client, and your communication should be professional and clear. You should always follow office e-mail procedures carefully. If your firm uses social media for office communications, you should also use discretion when you create such communications. You are often judged on how carefully you communicate.

Going Green

Environmental issues are on the forefront today, and many firms and people want to do what they can to reduce their environmental "footprints." Therefore, in each chapter, we offer a brief "Going Green" feature. These are practical tips about resource conservation that can be undertaken while working as a legal professional.

Other Special Pedagogical Features

In the Sixth Edition, we have included a number of special pedagogical features, as discussed below.

Chapter Outlines

On every chapter-opening page, a *Chapter Outline* lists the first-level headings within the chapter. These outlines allow you and your students to tell at a glance what topics are covered in the chapters.

Chapter Objectives

In every chapter, just following the *Chapter Outline*, we list five or six chapter objectives. Your students will know immediately what is expected of them as they read each chapter.

Margin Web Sites

As already mentioned, *On the Web* features appear in the page margins throughout the text. This feature directs students to specific Web sites for further information on the topics being discussed.

Vocabulary and Margin Definitions

Legal terminology is often a major challenge for beginning paralegal students. We use an important pedagogical device—margin definitions—to help your students understand legal terms. Whenever an important term is introduced, it appears in colored type and is defined. In addition, the term is listed and defined in the margin of the page, alongside the paragraph in which the term appears (see the examples on the right).

At the end of each chapter, all terms that have appeared in colored type within the chapter are listed in alphabetical order in a section called *Key Terms and Concepts*. Your students can examine this list to make sure that they understand all of the important terms introduced in the chapter. For easy reference and review, each term in the list is followed by the number of the page on which it was defined.

All terms in colored type are also listed and defined in the *Glossary* at the end of the text. Spanish equivalents to many important legal terms in English are provided in a separate glossary in Appendix J.

Chapter Summaries

We have included a chapter summary in table form at the conclusion of each chapter in the Sixth Edition. Each summary conveys important concepts from the chapter. This visually appealing format facilitates the student's review of the chapter contents.

Exhibits and Forms

When appropriate, we present exhibits illustrating important forms or concepts relating to paralegal work. Many exhibits are filled in with hypothetical data. Exhibits and forms in *Paralegal Today: The Essentials*, Sixth Edition, include those listed below:

- A Sample Client Bill (Chapter 3).
- Exclusive and Concurrent Jurisdiction (Chapter 6).
- A Sample Demand Letter (Chapter 9).
- Memorandum in Support of a Motion to Suppress (Chapter 13).

reprimand

A disciplinary sanction in which an attorney is rebuked for misbehavior. Although a reprimand is the mildest sanction for attorney misconduct, it is serious and may significantly damage the attorney's reputation in the legal community.

suspension

A serious disciplinary sanction in which an attorney who has violated an ethical rule or a law is prohibited from practicing law in the state for a specified or an indefinite period of time.

Chapter Summary

Ethics and Professional Responsibility

THE REGULATION OF ATTORNEYS

Attorneys are regulated by licensing requirements and by the ethical rules of their state. The purpose of attorney regulation is to protect the public against incompetent legal professionals and unethical attorney behavior.

1. *Who are the regulators?*—Lawyers establish the majority of rules governing their profession through state bar associations and the American Bar Association (ABA), which has established model rules and guidelines relating to professional conduct. Other key participants in the regulation of attorneys are state supreme courts, state legislatures, and (occasionally) the United States Supreme Court.
2. *Licensing requirements*—Licensed attorneys generally must be graduates of a law school and have passed a state bar examination and an extensive personal background check.

3. *Ethical Codes and Rules*—Most states have adopted a version of either the 1969 *Model Code of Professional Responsibility* or the 1983 revision of the *Model Code*, called the *Model Rules of Professional Conduct*, both of which were published by the ABA. The *Model Rules* are often amended by the ABA to keep up-to-date with the realities of modern law practice. Most states have adopted laws based on the *Model Rules*.

4. *Sanctions for violations*—The *Model Code* and *Model Rules* spell out the ethical and professional duties governing attorneys and the practice of law. Attorneys who violate these duties may be subject to reprimand, suspension, or disbarment. Additionally, attorneys (and paralegals) face potential liability for malpractice or for violations of criminal statutes.

ATTORNEY ETHICS AND PARALEGAL PRACTICE

Some of the ethical rules governing attorney behavior pose difficult problems for paralegals, so paralegals should consult their state's ethical code to learn the specific rules for which they will be accountable. The following rules apply in most states.

1. *Duty of competence*—This duty is violated whenever a client suffers harm as a result of the attorney's (or paralegal's) incompetent action or inaction.
 - a. Breaching the duty of competence may lead to a lawsuit against the attorney (and perhaps against the paralegal) for negligence. This may arise from faulty research, missed deadlines, or mistakes in documents.

b. Attorneys must adequately supervise a paralegal's work to ensure that this duty is not breached.

2. *Confidentiality of information*—All information relating to a client's representation must be kept in confidence and not revealed to third parties who are not authorized to know the information.

a. Paralegals should be careful both on and off the job not to discuss client information with third parties. Breaches of confidentiality can include unauthorized persons overhearing telephone conversations or personal comments, or faxes being sent to parties not intended to see them.

Continued

Chapter-Ending Materials for Review and Study

Every chapter contains numerous chapter-ending pedagogical materials. These materials are designed to provide a wide variety of assignments for your students. The chapter-ending pedagogy begins with the *Key Terms and Concepts*, followed by the chapter summaries, which we have already mentioned. These are followed by the materials described below.

Questions for Review

Every chapter includes a number of relatively straightforward questions for review. These questions are designed to test the student's knowledge of the basic concepts discussed in the chapter.

Ethical Questions

Because of the importance of ethical issues in paralegal training, we have also included one or more ethical questions at the end of each chapter. Each question presents a hypothetical situation, which is followed by one or two questions about what the paralegal should do to solve the dilemma.

Practice Questions and Assignments

The hands-on approach to learning paralegal skills is emphasized in the practice questions and assignments. There are several of these questions and assignments at the end of each chapter. A particular situation is presented, and the student is asked to actually carry out an assignment.

Group Projects

Each chapter provides an assignment designed to promote teamwork, usually for groups of four students, with specific instructions for each student's tasks.

Using Internet Resources

As already mentioned, concluding the chapter-ending materials in each chapter is a section titled *Using Internet Resources*. The Internet exercises presented in these sections are designed to familiarize students with useful Web sites and with the extensive array of resources available online.

Appendices

To make this text a reference source for your students, we have included the appendices listed below.

- A NALA's *Code of Ethics and Professional Responsibility*
- B NALA's *Model Standards and Guidelines for Utilization of Paralegals*
- C NFPA's *Model Code of Ethics and Professional Responsibility and Guidelines for Enforcement*
- D NALS *Code of Ethics and Professional Responsibility*
- E Paralegal Associations
- F Information on NALA's CP Program
- G Information on NFPA's PCCE™ and PACE® Examinations
- H Information on NALS Certification
- I The Constitution of the United States
- J Spanish Equivalents for Important Legal Terms in English

For Users of the Fifth Edition

Those of you who have used the Fifth Edition of *Paralegal Today: The Essentials* will probably want to know some of the major changes that have been made for the Sixth Edition. Generally, all of the major elements in the Fifth Edition—including the text, exhibits, features, and end-of-chapter pedagogy—have been rewritten, revised, or updated as necessary to reflect new laws, procedures, and technological developments. To keep the book at a manageable size, coverage of less critical material has been reduced in favor of adding new developments and pedagogical features. *Today's Professional Paralegal* has been deleted in favor of the new feature *Practice Focus*, but no key material in the previous feature has been lost. The explosion in social media, both in personal use and increasingly in the workplace, is integrated into the book both by the multiple *Social Media Today* tips that are in every chapter as well as substantive discussions in various chapters about the use of social media such as Google+ and Facebook in law practice. We think that we have improved the text greatly, thanks to many suggestions from users of previous editions as well as from other paralegal educators and legal professionals.

Significant Revisions to Chapters

In the process of making the changes discussed above, we have also revised every chapter to enhance readability. To that end, we have deleted or summarized material not critical to the purpose of the text or the course. Here, we summarize some other major changes in each chapter.

- **Chapter 1** (Careers in Today's Paralegal Profession)—This chapter introduces the new *Practice Focus* feature (as well as the *Social Media Today* tips). The *Practice Focus* (Changing Technology and the Practice of Law.) explains the different missions that types of legal work address and discusses which legal services are most likely to promote long-term client loyalty. A new subsection in the text, “Using Social Media Properly,” discusses how the digital shadow created by social media impacts the market value of a legal professional.
- **Chapter 2** (The Inner Workings of the Law Office)—Text has been added regarding the storage of law files on “the cloud” and the security issues involved. Discussion of document retention, including e-mail retention, has been expanded. There is a new subsection in the chapter, “Communication by Social Media,” that covers the need for clear guidelines within firms for successful use of these tools.
- **Chapter 3** (Ethics and Professional Responsibility)—A new *Featured Contributor*, Anita Whitby, discusses “Securing Client Information in the Digital Age.” The *Practice Focus* added here concerns “Professional Responsibility and Virtual Paralegals,” as more practicing attorneys use virtual paralegals due to the flexibility and lower overhead costs. There is new discussion about paralegal registration, education, and certification.
- **Chapter 4** (Sources of American Law)—The coverage of statutory and common law has been revised, along with other text matter, as suggested by reviewers. The *Practice Focus* on “Practicing Administrative Law: Disability Claims” gives students exposure to the possibility of employment related to administrative law, either within an agency or through legal representation of clients.
- **Chapter 5** (The Court System and Alternative Dispute Resolution)—The *Technology and Today's Paralegal* feature has been revised to update discussion about “Courts in the Internet Age.” The *Practice Focus* feature then expands on the use of electronics in the courtroom. A new *Featured Contributor*, P. Darrel Harrison, explains “Why Mediation May Be the Best Legal Alternative.”
- **Chapter 6** (Legal Research and Analysis)—This chapter begins Part 2 of the text, Legal Procedures and Paralegal Skills. It was revised with the assistance of a legal research instructor at a law school to ensure timeliness and accuracy. New cases are used to illustrate details of citations and how to read the parts of cases. The use of new information strategies in outsourcing of legal research, such as by “crowd sourcing,” is discussed in the *Practice Focus*.

- **Chapter 7** (Online Legal Research)—Because of the rapid changes in online research and the familiarity of students today with online processes, this chapter has been greatly revised to recognize the central role paralegals play in research. Besides Lexis and Westlaw, lower-cost competitors are discussed, as are unpriced services, such as Google Scholar and certain legal blogs.
- **Chapter 8** (Legal Writing: Form and Substance)—The chapter has been edited for relevance with the assistance of a legal writing instructor and includes new material on avoiding confusion through clear legal writing. There is increased focus on the steps in the legal writing process starting at the beginning of an assignment.
- **Chapter 9** (Civil Litigation: Before the Trial)—New material on “Effective E-Discovery” is presented in the *Practice Focus*. Pretrial motions are given enhanced coverage, and the sequence in presentation of such material has been changed to reduce the likelihood of confusion by students.
- **Chapter 10** (Conducting Interviews and Investigations)—A new *Featured Contributor*, Jennifer Allen, details “Ten Strategies for Effective Interviews and Investigations.” There is also a new discussion of the use of digital shadows in the investigation of potential witnesses.
- **Chapter 11** (Trial Procedures)—Technology is advancing rapidly. The text explains how social media can be used in helping to enforce delinquent court judgments and in other areas of legal practice. As noted in the *Practice Focus*, more courts are allowing new technologies that are changing how trials proceed.
- **Chapter 12** (Criminal Law and Procedures)—The ways in which social media are used in crime detection are discussed in the text. This includes the steps needed to ensure that such information can meet the standards required of proper evidence. While some aspects of court procedure do not take advantage of new technologies, as explained in the *Practice Focus*, “CSI Comes to the Courtroom,” many new tools are being used in criminal procedures.

Supplemental Teaching/Learning Materials

Paralegal Today: The Essentials, Sixth Edition, is accompanied by what is likely the largest number of teaching and learning supplements available for any text of its kind. We understand that instructors face a difficult task in finding the time necessary to teach the materials that they wish to cover during each term. In conjunction with a number of our colleagues, we have developed supplementary teaching materials that we believe are the best obtainable today. Each component of the supplements package is described below.

Paralegal CourseMate

Paralegal Today: The Essentials, Sixth Edition, has a Paralegal CourseMate available.

Paralegal CourseMate includes:

- an interactive eBook, with highlighting, note-taking, and search capabilities
- interactive teaching and learning tools, including:
 - Quizzing
 - Case studies
 - Chapter objectives
 - Flashcards
 - Web links
 - Crossword puzzles
 - PowerPoint® presentations
 - Videos
 - Video questions
 - Additional questions
 - Engagement Tracker, a first-of-its-kind tool that monitors student engagement in the course
 - And more!

To learn more about this resource and to access free demo CourseMate resources, go to www.cengagebrain.com, and search by this book’s ISBN (9781133935629). To access CourseMate materials that you have purchased, go to login.cengagebrain.com, enter your access code, and create an account or log into your existing account.



Instructor’s Manual

The Instructor’s Manual has been greatly revised to incorporate changes in the text and to provide comprehensive teaching support. The Instructor’s Manual contains the following:

- A sample course syllabus.
- Detailed lecture outlines.
- Teaching suggestions.
- Answers to end-of-chapter and CourseMate questions.
- Testbank (doubled in size for this edition) and answer key.



Instructor Resources

Spend less time planning and more time teaching. With Delmar Cengage Learning’s Instructor Resources to Accompany *Paralegal Today: The Essentials*, preparing for class and evaluating students have never been easier!

This invaluable instructor CD-ROM allows you “anywhere, anytime” access to all of your resources.

- The **Instructor’s Manual** contains various resources for each chapter of the book.
- The **Computerized Testbank** in ExamView makes generating tests and quizzes a snap. With over 1,700 questions and different styles to choose from, you can create customized assessments for your students with the click of a button. Add your own unique questions and print rationales for easy class preparation.
- Customizable **PowerPoint® Presentations** focus on key points for each chapter. (PowerPoint® is a registered trademark of the Microsoft Corporation.)

To access additional course materials (including CourseMate), please go to login.cengage.com, then use your SSO (single sign-on) login to access the materials.



WebTUTOR™

The WebTUTOR™ supplement allows you, as the instructor, to take learning beyond the classroom. This online courseware is designed to complement the text and benefit students and instructors alike by helping to better manage your time, prepare for exams, organize your notes, and more. WebTUTOR™ allows you to extend your reach beyond the classroom.



WebPage




Come visit our Web site at www.paralegal.delmar.cengage.com, where you will find valuable information such as hot links and sample materials to download, as well as other Delmar Cengage Learning products.

Supplements At-a-Glance

SUPPLEMENT:	WHAT IT IS:	WHAT’S IN IT:
	Online interactive teaching and learning tools and an interactive eBook. Go to login.cengage.com to access.	Interactive teaching and learning tools, including: <ul style="list-style-type: none"> • Quizzing • Case studies • Chapter objectives • Flashcards • Web links • Crossword puzzles • PowerPoint® presentations

Continued

Supplements At-a-Glance—*continued*

SUPPLEMENT:	WHAT IT IS:	WHAT'S IN IT:
Paralegal CourseMate		<ul style="list-style-type: none"> • Videos • Video questions • Additional questions • Interactive eBook • Engagement Tracker
Online Instructor Companion Site 	Resources for the instructor accessible via Cengage Single Sign-On	<ul style="list-style-type: none"> • Instructor's manual with a course syllabus, lecture outlines, teaching suggestions, answers to end-of-chapter and CourseMate questions, and testbank and answer key • Computerized Testbank in ExamView, with many questions and styles to choose from to create customized assessments for your students • PowerPoint® presentations
Instructor Resources CD-ROM 	Resources for the instructor, available on CD-ROM	<ul style="list-style-type: none"> • Instructor's manual with a course syllabus, lecture outlines, teaching suggestions, answers to end-of-chapter and CourseMate questions, and test bank and answer key • Computerized Testbank in ExamView, with many questions and styles to choose from to create customized assessments for your students • PowerPoint® presentations
WebTutor™ 	<p>WebTUTOR™ supplemental courseware is the best way to use the Internet to turn everyone in your class into a front-row student. It complements Cengage Learning paralegal textbooks by providing interactive reinforcement that helps students grasp complex concepts.</p> <p>WebTUTOR™ allows you to know quickly what concepts your students are or aren't grasping.</p>	<ul style="list-style-type: none"> • Automatic and immediate feedback from quizzes and exams • Online exercises that reinforce what students have learned • Flashcards • Greater interaction and involvement through online discussion forums

Please note that the Internet resources are of a time-sensitive nature and URL addresses may often change or be deleted.

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Central Community College, NE

Jean A. Hellman
Loyola University, IL

Melinda Hess
College of Saint Mary, NE

Louise Hoover
Rockford Business College, IL

Marlene L. Hoover
El Camino College, CA

Susan J. Howery
Yavapai College, AZ

Jill Jasperson
Utah Valley State College, UT

Melissa M. Jones
Samford University, AL

Deborah Winfrey Keene
Lansing Community College, MI

Jennifer Allen Labosky
Davidson County Community College, NC

Dora J. Lew
California State University, East Bay, CA

Mary Hatfield Lowe
Westark Community College, AR

Gerald A. Loy
Broome Community College, NY

Paula Montlary
Florida Career College, FL

Linda Mort
Kellogg Community College, MI

Constance Ford Mungle
Oklahoma City University, OK

H. Margaret Nickerson
William Woods College, MO

Martha G. Nielson
University of California, San Diego, CA

Elizabeth L. Nobis
Lansing Community College, MI

Joy D. O'Donnell
Pima Community College, AZ

Anthony Piazza
David N. Myers College, OH

Francis D. Polk
Ocean County College, NJ

Ruth-Ellen Post
Rivier College, NH

Elizabeth Raulerson
Indian River Community College, FL

Kathleen Mercer Reed
University of Toledo, OH

Lynn Retzak
Lakeshore Technical Institute, WI

Evelyn L. Riyhani
University of California, Irvine, CA

Melanie A. P. Rowand
California State University, East Bay, CA

Vitonio F. San Juan
University of La Verne, CA

Susan F. Schulz
Southern Career Institute, FL

Sean Scott
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Westwood College Online, CO

John G. Thomas III
North Hampton County Community
College, PA

Derek Thomson
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Davidson County Community College, NC

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We know that we are not perfect. If you or your students have suggestions on how we can improve this book, write to us. That way, we can make *Paralegal Today: The Essentials* an even better book in the future. We promise to answer every single letter that we receive.

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To Adrian Summers,

Whose joy and enthusiasm
during our jam sessions have
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of life. Keep moving!

R. L. M.

To my paralegal students at Madonna University—
this book is for you.

MSM



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Skill Prep

A Paralegal Skills Module

What's Inside

After reading this skills module, you will be better prepared to . . .

- Make good choices
(*College Prep, p. xli*)
- Manage your time
(*Time Prep, p. xliii*)
- Be engaged in your studies
(*Study Prep, p. xlv*)
- Study for quizzes and exams
(*Test Prep, p. xlix*)
- Read your textbook efficiently
(*Read Prep, p. li*)
- Write quality papers
(*Write Prep, p. liii*)
- Make a presentation
(*Presentation Prep, p. lviii*)



Welcome!

With this course and this textbook, you've begun what we hope will be a stimulating and thought-provoking journey into the study of law. In this course, you will learn about the paralegal profession, the basic structure of the legal system, and substantive law, such as torts and criminal law. You'll also learn about procedural issues, such as civil litigation and criminal procedure. This book will help you develop paralegal skills, including legal research and writing, interviewing, and investigation. Building your base of knowledge will get you well on your way to a great future as a paralegal.

We have developed this skills module to help you get the most out of this course and textbook. Whether you are a recent high school graduate moving on to college or a

working professional continuing your education, what you want most when you study is **RESULTS**. You want to become familiar with the issues and ideas presented in this textbook so that you can talk about them during class and remember them as you prepare for exams and assignments. Natural talent alone will not ensure your success as a paralegal; you also must develop effective study skills and good work habits. This study skills module is designed to help you do just that. With tips on lifestyle decisions, time management, how to be more engaged when you study, how to get the most out of your textbook, how to prepare for quizzes and exams, how to write papers, and how to prepare and deliver a presentation, this guide will help you develop the skills you need to be the best learner you can be.

COLLEGE Prep

It takes several things to succeed in a college class—especially concentration and commitment to your studies. To do this, you need energy. When you are full of energy, time seems to pass quickly, and it is easier to get things done. As you know, when you don't have energy, time feels as if it is dragging, and even your favorite activities can feel like a burden. To have the energy you need to be a great college learner, it is important to make good lifestyle choices. You need to get enough sleep, eat well, take care of yourself, and maintain good relationships. An important part of being a successful student is paying attention to what goes on in your life so that you have all the ingredients you need to maintain your focus and energy.

Here are some suggestions to help you keep up your energy so that you can succeed in everything you do.

- Too often, we become so busy with other aspects of our lives that we neglect our health. It is crucial that you eat a balanced diet, exercise regularly, and get enough sleep. If you don't take care of your physi-



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cal well-being, other areas of your life will suffer. Research shows that people who are physically active learn better in school.

- Hearing is not the same thing as listening. Many people are not good listeners. People often hear what they want to hear. We all filter information through our own experiences and interests. When talking with friends, instructors, or family members, focus carefully on what they say, as you may learn something unexpected. A good paralegal listens well to attorneys' instructions and to clients as well.
- Be very careful about what you post on the Internet. A good rule of thumb is, "Don't post anything that you wouldn't want the world to know." Many employers search the Internet for information concerning potential employees, and one embarrassing photo, comment, or tweet can have long-term negative consequences. Law firms are particularly careful about hiring people with good character.
- Most people who succeed have a plan: they know what they want to accomplish and when. Do you have a life plan for after college? If not, you can start by making a list of your lifetime goals, even though they may change later on. You can also create a career plan that includes a list of skills you will need to succeed. Then, in addition to your classes, choose outside activities that will help you develop the skills that can lead to a good job.
- Whenever we do something new, whether in college or in other areas of life, we usually aren't very good at it. We can always benefit from feedback from those who are accomplished in that area, such as instructors or people working in a given field. Therefore, welcome feedback that is offered to you, and if it isn't given, ask for it.

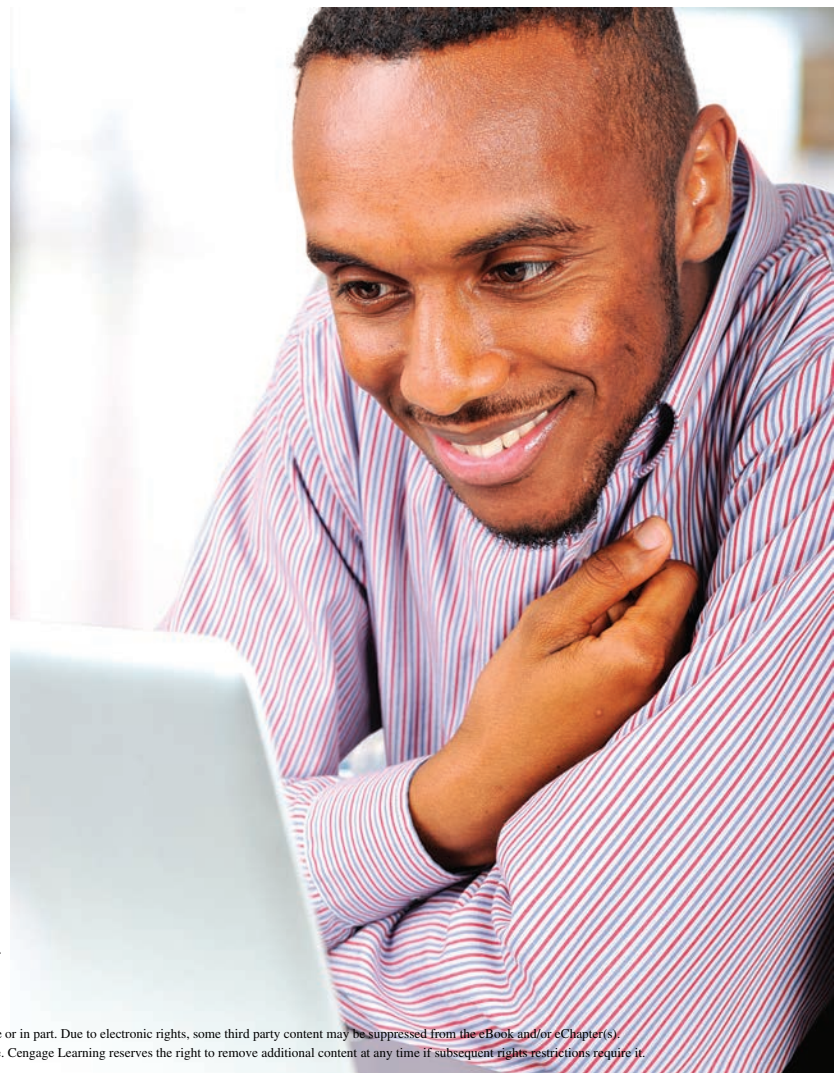
**Most people
who succeed
have a plan.**

If you don't take care of your physical well-being, other areas of your life will inevitably suffer.

- Do you want to become a better writer? Your college probably has a writing center with resources to help you with your writing assignments. If not, you should be able to find a tutor who will help you figure out what you are trying to communicate and how to put it effectively on paper. Clear writing is a critical skill for paralegals.
- Filing systems are an easy way to keep track of your money. First, label file folders for different categories related to your personal finances, such as paycheck stubs, bank statements, and receipts from purchases. If you find you need another category, just set up a new folder. Paralegals must have excellent file systems. Do it in your own life and it will come naturally on the job.
- Do you want to become a better public speaker? Consider using your campus's audiovisual resources to sharpen this essential skill. Record yourself giving a presentation and then critique your performance. Invite a few friends to give their reaction, too. Join a school organization such as a debate or drama club to gain confidence in front of a live audience. Being comfortable talking to strangers is a much-needed skill for most paralegals.
- Be thankful for the people who care about you. Your family and good friends are a precious resource. When you have prob-

lems, don't try to solve them by yourself. Don't focus on disappointments. Talk to the people in your life who want you to succeed and be happy, and listen to their advice.

- No doubt you have seen people jump to conclusions that were not correct. Critical thinking is a crucial skill for paralegals, and, as with any other skill, you will get better at it with practice. Whether you are considering a friend's argument, a test question, a major purchase, or a personal problem, carefully weigh the evidence, balance strengths and weaknesses, and make a reasoned decision.
- Rather than worrying about approval from others, seek approval from the person who matters the most—yourself. Your conscience will tell you when you are doing the right thing. Don't let worries about what others think run—or ruin—your life.



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TIME Prep

Doing well in college-level courses involves a lot of work. You have to go to class, read the textbook, pay attention to lectures, take notes, complete homework assignments, write papers, and take exams. On top of that, there are other things in your life that call for your time and attention. You have to take care of your home, run daily errands, take care of family, spend time with friends, work a full- or part-time job, and find time to unwind. With all that you're involved in, knowing how to manage your time is critical if you want to succeed as a learner.

The key to managing your time is knowing how much time you have and using it well. At the beginning of every term, you should evaluate how you use your time. How much time do you spend working? Caring for your home and family? Watching TV or movies? Studying? Keep a record of what you do hour by hour for a full week. Once you see where all your time goes, you can decide which activities you might change in order to manage your time more effectively. If you think you are busy in college, wait until you are a practicing paralegal! Then time management will be even more critical.

Here are some other helpful tips on how to make the most of your time.

- Plan your study schedule in advance. At the beginning of each week, allocate time for each subject that you need to study. If it helps, put your schedule on a calendar computer program for efficient daily planning. Learning to schedule tasks you need to complete and recording upcoming deadlines will serve you well when you are a paralegal.

Concentrate on doing one thing at a time.

- Don't be late for classes, meetings, or other appointments. If you find that you have trouble being on time, adjust your planning to arrive ten minutes early to all engagements. That way, even if you are "late" you will still be on time. It is critical to learn to be prompt for clients and court matters.
- To reduce the time spent looking for information on the Internet, start with a clear idea of your research task. Use a trusted search engine and focus only on the subject at hand. Do not allow yourself to be sidetracked by other activities such as checking e-mail or social networking.
- Set aside a little time each day to assess whether you are on track to meet the requirements in all your classes, whether that involves studying for a test, writing a paper, or completing a group project. Don't let deadlines "sneak up" on you. A calendar program or app can help you keep track of target dates and can even give you friendly reminders.
- Nothing wastes more time—or is more aggravating—than having to redo schoolwork that was somehow lost on your computer. Back up all of your important files periodically. You can copy them onto an external hard drive or a USB flash drive.
- Concentrate on doing one thing at a time. Multitasking is a trap we often fall into that leads to doing several things quickly but poorly. When you are studying, don't carry on a text conversation with a friend or have one eye on the Internet.
- Set goals for yourself, not only with schoolwork but also with responsibilities in other areas of your life. If you tell yourself, "I will have this task done by Monday at noon and that other task finished before dinner on Wednesday," you will find it much easier to balance the many demands on your time.
- Regularly checking e-mail and text messages not only interrupts the task at hand, but is also an easy excuse for not working. Set aside specific times of the day to check and answer e-mail, and, when necessary, make sure that your cell phone is off or

To manage your time well, you need to know where it is going.

out of reach. A reply text can wait until you complete your work.

- Sometimes, a task is so large that it seems impossible, making it more tempting to put off. When given a large assignment, break it into a series of small assignments. Then, make a list of the assignments, and as you finish each one, give yourself the satisfaction of crossing it off your list.
- Many of us have a particular time of day when we are most alert, whether early morning, afternoon, or night. Plan to do schoolwork during your most efficient time, and set aside other times of the day for activities that do not require serious concentration.
- Slow down! Some people think they are getting more work done by rushing, but that often leads to poor decisions, mistakes, and errors of judgment, all of which

waste time. Work well, not quickly, and you will save time.

- In marketing, *to bundle* means to combine several products. In time management, it means combining two activities to free up some time. For example, if you need to exercise and want to socialize, bundle the two activities by doing activities with your friends. Take along some schoolwork when you head to the laundromat—you can get a lot done while you’re waiting for the spin cycle. Or, you can record class lectures (ask the professor for permission) so that you can review class material while you’re running errands.
- Develop a habit of setting time limits for tasks, both in and out of school. You will find that with a time limit in mind, you will waste less time and work more efficiently, a prized skill among paralegals.
- Most e-mail systems have free calendar features that allow you to send e-mail reminders to yourself concerning assignments, tests, and other important dates.
- A Chinese adage goes, “The longest journey starts with a single step.” If you are having trouble getting started on a project or assignment, identify the first task that needs to be done. Then do it! This helps avoid time-wasting procrastination.

Bundling, or combining two activities, will help you save time.

STUDY Prep

What does it take to be a successful student? Success does not depend on how naturally smart you are. Successful students and paralegals aren't born, they're made. What this means is that even if you don't consider yourself naturally "book smart," you can do well in this course by developing study skills that will help you understand, remember, and apply key concepts in school and on the job.

There are five things you can do to develop good study habits:

- Be engaged
- Ask questions
- Take notes
- Make an outline
- Mark your text

Be Engaged

If you've ever heard elevator music, you know what easy listening is like—it stays in the background. You don't pay attention to it and you probably forget it after a few minutes. That is *not* what you should be doing in class. You have to be engaged. Being *engaged* means listening to discover (and remember) something. In other words, listening is more than just hearing. Not only do you have to hear what the professor is saying in class, you have to pay attention to it. And as you listen with attention, you will hear what your instructor believes is important. One way to make sure that you are listening attentively is to take notes. Doing so will help you focus on the professor's words and will help you identify the most important parts of the lecture.

**We study best
when we are free
from distractions.**

Ask Questions

If you are really engaged in a course, you will ask a question or two whenever you do not understand something. You can also ask a question to get your instructor to share her or his opinion on a subject. However you do it, true engagement requires you to be a participant in your class. The more you participate, the more you will learn (and the more your instructor will know who you are!).

Take Notes

Note taking has a value in and of itself, just as outlining does. The physical act of writing makes you a more efficient learner, since you must think about what you are writing. In addition, your notes provide a guide to what your instructor thinks is important. That means you will have a better idea of what to study before the next exam if you have a set of notes that you took during class. Paralegals usually take notes while listening to work instructions, doing research, or talking to clients or witnesses. It is a skill that increases the quality and accuracy of results.

Make an Outline

As you read through each chapter of this textbook, you might make an outline—a simple method for organizing information. You can create an outline as part of your reading or at the end of your reading. Or you can make an outline when you reread a section before moving on to the next one. The act of physically writing an outline helps us retain the material, thereby giving us a better chance of earning a higher grade. Even if you make an outline that is no more than the headings in this text, you will be studying more efficiently than you would be otherwise.

To make an effective outline, you have to be selective. Outlines that contain all the information in the text are not very useful. Your objectives in outlining are, first, to identify the main concepts and, then, to add details that support those main concepts.

Your outline should consist of several levels written in a standard format. The most important concepts are assigned Roman numerals;

Legal “Shorthand”

Members of the legal profession usually use abbreviations and symbols as part of a shorthand system to allow for greater efficiency when taking notes. Rather than writing out common legal terms, here are some of the shorthand abbreviations and symbols often used:

Δ or D	defendant
π or P	plaintiff
≈	similar to
≠	not equal to, not the same as
[therefore
a/k/a	also known as
atty	attorney
b/c or b/cz	because
b/p	burden of proof
cert	<i>certiorari</i>
dely	delivery
dep	deposition
disc	discovery
JML	judgment as a matter of law
JNOV	judgment <i>non obstante veredicto</i> (notwithstanding the verdict)
JOP	judgment on the pleadings
juris or jx	jurisdiction
K	contract
mtg	mortgage
n/a	not applicable
neg	negligence
PL	paralegal
Q	as a consequence, consequently
re	regarding
§ or sec	section
s/b	should be
S/F	Statute of Frauds
S/L	statute of limitations

You can expand on this list by creating and using other symbols or abbreviations. Once you develop a workable shorthand system, routinely use it in the classroom and then carry it over to your job. Most organizations you will work for will also use symbols and abbreviations, which you can add to your shorthand system.

the second most important, capital letters; the third most important, numbers; and the fourth most important, lowercase letters. Here is a quick example from part of Chapter 11:

I. Trial Procedures

- A. Preparing for Trial
- B. Contacting and Preparing Witnesses
 - 1. Contacting Witnesses and Issuing Subpoenas
 - 2. Preparing Witnesses for Trial
 - a. Tell Witnesses What to Expect
 - b. Role Playing
 - c. Numerous Details
- C. Exhibits and Displays
- D. The Trial Notebook

Mark Your Text

Because you own your textbook for this course, you can greatly improve your learning by marking your text. By doing so, you will identify the most important concepts of each chapter, reinforce your knowledge as you mark, and at the same time make a handy study guide for reviewing material at a later time.

Different Ways of Marking

The most common form of marking is to underline important points. The second most common method is to use a felt-tipped highlighter, or marker, in yellow or some other transparent color. Marking also includes circling, numbering, using arrows, jotting brief notes, or any other method that allows you to remember things when you go back to skim the pages in your textbook prior to an exam.

Why Marking Is Important

Marking is important for the same reason that outlining is—it helps you to organize the information in the text. It allows you to become an active participant in the mastery of the material. Researchers have shown that the physical act of marking, just

like the physical acts of note taking and outlining, helps you better retain the material. The clearer the material is organized in your mind, the more you'll remember. Studies indicate that active readers (those who engage with the text by outlining or marking) typically do better on exams. One reason this may be true is that outlining and/or marking require sharper concentration, and greater concentration facilitates greater recall.

Two Points to Remember When Marking

Read one section at a time before you do any extensive marking. You can't mark a section until you know what is important, and you can't know what is important until you read the whole section. Don't mark too extensively. Just as an outline cannot contain everything that is in a text (or, with respect to note taking, in a lecture), marking the whole book isn't useful. If you do mark the whole book, when you go back to review the material, your markings will not help you remember what was important.

The key to marking is *selective* activity. Mark each page in a way that allows you to see the most important points at a glance. You can follow up your marking by adding information to your subject outline.

With these skills in hand, you will be well on your way to becoming a great student. Here are a few more hints that will help you develop effective study skills.

- Put a check mark next to material that you do not understand. After you have completed an entire chapter, take a break. Then, work on better comprehension of the checkmarked material.
- As a rule, do schoolwork as soon as possible when you get home after class. The longer you wait, the more likely you will be distracted by television, video games, phone calls from friends, or social networking.
- Many students are tempted to take class notes on a laptop computer. This is a bad idea for two reasons. First, it is hard to copy diagrams or take other “artistic” notes on a computer. Second, it is easy to get

distracted by checking e-mail or surfing the Web. (Notice, too, how many people look over the shoulders of other students who are surfing the Web rather than paying attention.)

- We study best when we are free from distractions such as the Internet, phones, and our friends. That's why your school library is often the best place to work. Set aside several hours a week of “library time” to study where you can concentrate in peace and quiet. When you are working as a paralegal, being able to devote quiet attention to material is a key skill.
- Reward yourself for studying! From time to time, allow yourself a short break so you can surf the Internet, go for a jog, take a nap, or do something else that you enjoy. These interludes will refresh your mind and enable you to study longer and more efficiently.
- When you are given a writing assignment, make sure you allow yourself enough time to revise and polish your final draft. Good writing takes time—you likely will need to revise a paper several times before it's ready to be handed in.
- A neat study space is important. Staying neat forces you to stay organized. When your desk is covered with piles of papers, notes, and textbooks, things are being lost even though you may not realize it. The only work items that should be on your desk are those that you are working on that day.
- Often, studying involves pure memorization. To help with this task, create flash (or note) cards. On one side of the card, write the question or term. On the other side, write the answer or definition. Then, use the cards to test yourself on the material.
- Mnemonic (*ne-mon-ik*) devices are tricks that increase our ability to memorize. A well-known mnemonic device is the phrase ROY G BIV, which helps people remember the colors of the rainbow—red, orange, yellow, green, blue, indigo, violet. You can create your own mnemonics for whatever

you need to memorize. The more fun you have coming up with mnemonics for yourself, the more useful they will be.

- Take notes twice. First, take notes in class. Then, when you get back home, rewrite your notes. The rewrite will act as a study session by forcing you to think about the material. Invariably, it will lead to questions that are crucial to the study process.
- By turning headings or subheadings in all of your textbooks into questions—and

then answering them—you will increase your understanding of the material.

- Multitasking while studying is generally a bad idea. You may think that you can review your notes and watch television at the same time, but your ability to study will almost certainly suffer. It's OK to give yourself Internet or TV breaks from schoolwork, but do not combine the two.



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TEST Prep

You have worked hard reading your textbook, paying close attention in class, and taking good notes. Now it's test time, when that hard work pays off. To do well on an exam, of course, it is important that you learn the concepts in each chapter as thoroughly as possible; however, there are additional strategies for taking exams. You should know which reading materials and lectures will be covered. You should also know in advance what type of exam you are going to take—essay or objective or both. (Objective exams usually include true/false, fill-in-the-blank, matching, and multiple-choice questions.) Finally, you should know how much time will be allowed for the exam. By taking these steps, you will reduce any anxiety you feel as you begin the exam, and you'll be better prepared to work through the entire exam.

Follow Directions

Students are often in a hurry to start an exam, so they don't bother to read the instructions. The instructions can be critical, however. In a multiple-choice exam, for example, if there is no indication that there is a penalty for guessing, then you should never leave a question unanswered. Even if only a few minutes are left at the end of an exam, you should guess on the questions about which you are uncertain.

Additionally, you need to know the weight given to each section of an exam. In a typical multiple-choice exam, all questions have equal weight. In other types of exams, particularly those with essay questions, different parts of the exam carry different weights. You should use these weights to apportion your time accordingly. If the essay portion of an exam accounts for 20 percent of the total points on the exam, you should not spend 60 percent of your time on the essay.

Finally, you need to make sure you are marking the answers correctly. Some exams require a No. 2 pencil to fill in the dots on a machine-graded answer sheet. Other exams require underlining

or circling. In short, you have to read and follow the instructions carefully.

Objective Exams

An objective exam consists of multiple-choice, true-false, fill-in-the-blank, or matching questions that have only one correct answer. Students usually commit one of two errors when they read objective-exam questions: (1) they read things into the questions that do not exist, or (2) they skip over words or phrases. Most test questions include key words such as:

- all
- always
- never
- only

If you miss any of these key words, you may answer the question wrong even if you know the information. Consider the following example:

True or False? All cases in which one person kills another person are considered murder.

In this instance, you may be tempted to answer "True," but the correct answer is "False," because the charge of murder is only brought in cases in which one person *intentionally* killed another. In cases in which a person unintentionally killed another, the charge is manslaughter.

Whenever the answer to an objective question is not obvious, start with the process of elimination. Throw out the answers that are clearly incorrect. Typically, the easiest way to eliminate incorrect answers is to look for those that are meaningless, illogical, or inconsistent. Often, test authors put in choices that make perfect sense

Grades aren't a matter of life and death, and worrying about them can have a negative effect on your performance.

and are indeed true, but they are not the answer to the question under study.

If you follow the above tips, you will be well on your way to becoming an efficient, results-oriented student. Here are a few more suggestions that will help you get there.

- Instructors usually lecture on subjects they think are important, so those same subjects are also likely to be on the exam. This is another reason to take extensive notes in class.
- Review your lecture notes immediately after each class, when the material is still fresh in your mind. Then, review each subject once a week, giving yourself an hour to go back over what you have learned. Reviews make tests easier because you will feel comfortable with the material.
- At times, you will find yourself studying for several exams at once. When this happens, make a list of each study topic and the amount of time needed to prepare for that topic. Then, create a study schedule to reduce stress and give yourself the best chance for success.
- When preparing for an exam, you might want to get a small group together (two or three other students) for a study session. Discussing a topic out loud can improve your understanding of that topic and will help you remember the key points that often come up on exams.
- Some professors make old exams available, either by posting them online or putting them on file in the library. Old tests can give you an idea of the kinds of questions the professor likes to ask. You can also use them to take practice exams.
- Cramming just before the exam is a dangerous proposition. Cramming tires the brain unnecessarily and adds to stress, which can severely hamper your testing performance. If you've studied wisely, have confidence that you will recall the information when you need it.
- Be prepared. Make a list of everything you will need for the exam, such as pens or pencils, a watch, and a calculator. Arrive at the

Cramming just before the exam is a dangerous proposition.

exam early to avoid having to rush, which will only add to your stress. Good preparation helps you focus on the task at hand.

- Be sure to eat before taking a test. Having some food in your stomach will give you the energy you need to concentrate. Don't go overboard, however. Too much food or heavy foods will make you sleepy during the exam.
- When you first receive your exam, look it over quickly to make sure that you have all the pages. If you are uncertain, ask your professor or exam proctor. This initial scan may uncover other problems as well, such as illegible print or unclear instructions.
- If the test requires you to read a passage and then answer questions about that passage, read the questions first. This way, you will know what to look for as you read.
- With essay questions, look for key words such as "compare," "contrast," and "explain." These will guide your answer. If you have time, make a quick outline. Most importantly, get to the point without wasting your time (or your professor's) with statements such as "There are many possible reasons for"
- When you finish a test early, your first instinct may be to hand it in and get out of the classroom as quickly as possible. It is always a good idea, however, to review your answers. You may find a mistake or an area where some extra writing will improve your grade.
- Grades aren't a matter of life and death, and worrying too much about a single exam can have a negative effect on your performance. Keep exams in perspective. If you do poorly on one test, it's not the end of the world. Rather, it should motivate you to do better on the next one.

READ *Prep*

This textbook is the foundation for your introduction to paralegal studies. It contains key concepts and terms that are important to understanding law and the practice of law. This knowledge will be important not only for you to succeed in this course but for your future paralegal career. For this reason, it is essential that you develop good reading skills so that you can get the most out of this textbook and other class materials.

All students know how to read, but reading for a college-level course goes beyond being able to recognize words on a page. Students must read to learn. Read a chapter with the goal of understanding its key points and how it relates to other chapters. In other words, you have to be able to explain what you read. To do this, you need good reading habits and skills, which are necessary for success as a paralegal.

Reading for Learning Requires Focus

Reading (and learning from) a textbook is not like reading a newspaper, magazine, or novel. The point of reading for learning isn't to get through the material as fast as you can or to skip parts to get to the stuff you think is most interesting. A textbook is a source of deep information about a subject. The goal of reading a textbook is to learn as much of that information as you can. This kind of reading requires concentration. When you read to learn, you have to make an effort to focus on the book and tune out other distractions so that you can comprehend and remember the information you have read.

How to read this book:

1. Preview
2. Read in detail
3. Review

Reading for Learning Takes Time

When reading your textbook, you need to go slow. The most important part of reading for learning is not how many pages you get through or how fast you get through them. Instead, the goal is to learn the key concepts that are presented in each chapter. To do that, you need to read slowly, carefully, and with great attention. It will be the same on the job—careful reading is essential in legal work.

Reading for Learning Takes Repetition

Even the most well-read scholar will tell you that it's difficult to learn from a textbook just by reading through it once. To read for learning, you have to read assigned material a number of times. This doesn't mean, though, that you just sit and read the same section three or four times. Instead, you should follow a preview-read-review process. Here's a good guide to follow:

The First Time

The first time you read a section of the book, you should preview it. During the preview, pay attention to how the chapter is formatted. Look over the title of the chapter, the section headings, and highlighted or bolded words. This will give you a good preview of the important ideas in the chapter. You should also pay close attention to any graphs, illustrations, or figures that are used in the chapter, since these provide a visual illustration of important concepts. You should also give special attention to the first and last sentence of each paragraph. First sentences usually introduce the main point of the paragraph, while last sentences usually sum up what was presented in the paragraph.

The goal of previewing is to identify the main idea of the section. Of course, you may not be able to come up with a detailed answer yet, but that's not the point of previewing. Instead, the point is to develop some general ideas about what the section is about so that when you do read it in full, you know what to look for.

The Second Time

After the preview, you'll want to read through the passage in detail. During this phase, it is important to read with a few questions in mind: What is the main point of this paragraph? What does the author want me to learn from this? How does this relate to what I read before? Keeping these questions in mind will help you be an attentive reader who is actively focusing on the main ideas of the passage.

After you have completed a detailed read of the chapter, take a break so that you can rest your mind (and your eyes). When you resume studying, you should write up a summary or paraphrase of what you just read. You don't need to produce a detailed, lengthy summary of the whole chapter. Instead, try to come up with a brief paraphrase that covers the most important ideas of the chapter. This paraphrase will help you remember the main points of the chapter, allow you to check the accuracy of your reading, and provide a good guide for later review.

The Third Time (and Beyond)

After you've finished a detailed reading of the chapter, you should take the time to review the chapter (at least once, but maybe even two, three, or more times). During this step, you should review each paragraph and the notes you made, asking this question: "What was this paragraph about?" At this point, you'll want to answer the question in some detail, drawing on what you learned during your first two readings.

Reading with others is also a great way to review the chapter. After completing the reading individually, group members should meet and take turns sharing what they learned from their reading. Explaining the material to others will reinforce and clarify what you already know. It also provides an opportunity to learn from others.

Gaining another perspective on a passage will increase your knowledge, since different people will key in on different things during a reading.

Whether you're reading your textbook for the first time or reviewing it for the final exam, here are a couple of tips that will help you be an attentive and attuned reader.

1. Set Aside Time and Space

To read effectively, you need to be focused and attentive, and that won't happen if your phone is buzzing with text messages every two minutes, if the TV is on in the background, or if you're surrounded by friends or family. Similarly, you won't be able to focus on your book if you're trying to read in a room that is too hot or too cold, or sitting in an uncomfortable chair. So when you read, find a quiet, comfortable place that is free from distractions where you can focus on one thing—learning from the book.

2. Take Frequent Breaks

Reading your textbook shouldn't be a test of endurance. Rest your eyes and your mind by taking a short break every twenty to thirty minutes. The concentration you need to read attentively requires lots of energy, and you won't have enough energy if you don't take frequent breaks. Studies indicate that hard concentration can rarely go beyond thirty minutes, as our minds need small rest breaks.

3. Keep Reading

Effective reading is like playing sports or a musical instrument—practice makes perfect. The more time that you spend reading, the better you will be at learning from your textbook. Your vocabulary will grow, and you'll have an easier time learning and remembering information in all your courses.

WRITE *Prep*

A key part of succeeding as a student is learning how to write well. Whether writing papers, presentations, essays, or even e-mails to your instructor, you have to be able to put your thoughts into words and do so with force, clarity, and precision. In this section, we outline a three-phase process that you can use to write virtually anything.

1. Getting ready to write
2. Writing a first draft
3. Revising your draft

Phase 1: Getting Ready to Write

First, make a list. Divide the ultimate goal—a finished paper—into smaller steps that you can tackle right away. Estimate how long it will take to complete each step. Start with the date your paper is due and work backwards to the present. For example, if the due date is December 1 and you have about three months to write the paper, give yourself a cushion and schedule November 20 as your target completion date. Plan what you want to get done by November 1, and then list what you want to get done by October 1.

How to Pick a Topic

To generate ideas for a topic, any of the following approaches work well:

- **BRAINSTORM WITH A GROUP.** There is no need to create in isolation. You can harness the energy and the natural creative power of a group to help you.
- **SPEAK IT.** To get ideas flowing, start talking. Admit your confusion or lack of clear ideas. Then just speak. By putting your thoughts into words, you'll start thinking more clearly.
- **USE FREE WRITING.** Free writing, a technique championed by writing teacher Peter Elbow, is also very effective when trying

to come up with a topic. There's only one rule in free writing: Write without stopping. Set a time limit—say, ten minutes—and keep your fingers dancing across the keyboard the whole time. Ignore the urge to stop and rewrite. There is no need to worry about spelling, punctuation, or grammar during this process.

Refine Your Idea

After you've come up with some initial ideas, it's time to refine them:

- **SELECT A TOPIC AND WORKING TITLE.** Using your instructor's guidelines for the paper or speech, write down a list of topics that interest you. Write down all of the ideas you think of in two minutes. Then choose one topic. The most common pitfall is selecting a topic that is too broad. "Trial Procedure" is not a useful topic for your paper. Instead, consider something narrow that can be accomplished with some detail, such as "Motions for Judgment Notwithstanding the Verdict."
- **WRITE A THESIS STATEMENT.** Clarify what you want to say by summarizing it in one concise sentence. This sentence, called a *thesis statement*, refines your working title. A thesis is the main point of the paper; it is a declaration of some sort. You might write a thesis statement such as "Motions for judgment notwithstanding the verdict (JNOV) have a low success rate but are an essential tool in obtaining a favorable outcome for a client."

Set Goals

Effective writing flows from a purpose. Think about how you'd like your reader or listener to respond after considering your ideas.

- If you want to persuade someone to your point of view, make your writing clear and logical. Support your assertions with evidence.
- If your purpose is to move the reader into action, explain exactly what steps to take and offer solid benefits for doing so.

To clarify your purpose, state it in one sentence—for example, "The purpose of this paper is to

discuss and analyze how motions for JNOV are constructed and presented at trial.”

Begin Research

In the initial stage, the objective of your research is not to uncover specific facts about your topic. That comes later. First, you want to gain an overview of the subject. You must first learn enough about such motions and how they are used to be able to explain them to others.

Make an Outline

An outline is a kind of map. When you follow a map, you avoid getting lost. Likewise, an outline keeps you from wandering off topic. To create your outline, follow these steps:

1. Review your thesis statement and identify the three to five main points you need to address in your paper to support your thesis that such motions are worth filing.
2. Next, look closely at those three to five major points or categories and think about what minor points or subcategories you want to cover in your paper. Your major points are your big ideas; your minor points are the details you need to fill in under each of those ideas.
3. Ask for feedback. Have your instructor or a classmate review your outline and offer suggestions for improvement. Did you choose the right categories and subcategories? Do you need more detail anywhere? Does the flow from idea to idea make sense?

Do In-Depth Research

Three-by-five-inch index cards are an old-fashioned but invaluable tool for in-depth research. Simply write down one idea or piece of information per card. This makes it easy to organize—and reorganize—your ideas and information. Organizing research cards as you create them saves time. Use rubber bands to keep *source cards* (cards that include the bibliographical information for a source) separate from *information cards* (cards that include nuggets of information from a source) and to maintain general categories.

When creating your cards, be sure to:

- Copy all of the information correctly.
- Always include the source and page number on information cards.
- Be neat and organized. Write legibly, using the same format for all of your cards.

In addition to source cards and information cards, generate *idea cards*. If you have a thought while you are researching, write it down on a card. Label these cards clearly as containing your own ideas.

Phase 2: Writing a First Draft

To create your draft, gather your index cards and confirm that they are arranged to follow your outline. Then write about the ideas in your notes. It's that simple. Look at your cards and start writing. Write in paragraphs, with one idea per paragraph. As you complete this task, keep the following suggestions in mind:

- **REMEMBER THAT THE FIRST DRAFT IS NOT FOR KEEPS.** You can worry about quality later; your goal at this point is simply to generate lots of words and lots of ideas.
- **WRITE FREELY.** Many writers prefer to get their first draft down quickly and would advise you to keep writing, much as in free writing. Of course, you may pause to glance at your cards and outline. The idea is to avoid stopping to edit your work.
- **BE YOURSELF.** Let go of the urge to sound “official” or “scholarly,” and avoid using unnecessary big words or phrases. Instead, write in a natural voice. Address your thoughts not to the teacher but to an intelligent student or someone you care about. Visualize this person, and choose the three or four most important things you'd say to her about the topic.
- **MAKE WRITING A HABIT.** Don't wait for inspiration to strike. Make a habit of writing at a certain time each day.
- **GET PHYSICAL.** While working on the first draft, take breaks. Go for a walk. Speak or sing your ideas out loud. From time to time, practice relaxation techniques and breathe deeply.

- **HIDE IT IN YOUR DRAWER FOR A WHILE.** Schedule time for rewrites before you begin, and schedule at least one day between revisions so that you can let the material sit. The brain needs that much time to disengage itself from the project.

Phase 3: Revising Your Draft

During this phase, keep in mind the saying, “Write in haste; revise at leisure.” When you are working on your first draft, the goal is to produce ideas and write them down. During the revision phase, however, you need to slow down and take a close look at your work. One guideline is to allow 50 percent of writing time for planning, researching, and writing the first draft. Then use the remaining 50 percent for revising.

There are a number of especially good ways to revise your paper:

1. Read it out loud.

The combination of voice and ears forces us to pay attention to the details. Is the thesis statement clear and supported by enough evidence? Does the introduction tell your reader what’s coming? Do you end with a strong conclusion that expands on what’s in your introduction rather than just restating it?

2. Have a friend look over your paper.

This is never a substitute for your own review, but a friend can often see mistakes you miss. Remember, when other people criticize or review your work, they are not attacking you. They’re just commenting on your paper. With a little practice, you will learn to welcome feedback because it is one of the fastest ways to approach the revision process.

3. Cut.

Look for excess baggage. Avoid at all costs and at all times the really, really terrible mistake of using way too many unnecessary words, a mistake that some student writers often make when they sit down to write papers for the various courses in which they participate at the fine institutions of higher learning that they are fortunate enough to attend. (Example: The previous sentence could be edited to “Avoid unnecessary words.”) Also, look for places where two (or more sentences) could be rewritten

as one. Resist the temptation to think that by cutting text you are losing something. You are actually gaining—a clearer, more polished product. For maximum efficiency, make the larger cuts first—sections, chapters, pages. Then go for the smaller cuts—paragraphs, sentences, phrases, words.

4. Paste.

In deleting both larger and smaller passages in your first draft, you’ve probably removed some of the original transitions and connecting ideas. The next task is to rearrange what’s left of your paper or speech so that it flows logically. Look for consistency within paragraphs and for transitions from paragraph to paragraph and section to section.

5. Fix.

Now it’s time to look at individual words and phrases. Define any terms that the reader might not know, putting them in plain English whenever you can. In general, focus on nouns and verbs. Using too many adjectives and adverbs weakens your message and adds unnecessary bulk to your writing. Write about the details, and be specific. Also, check your writing to ensure that you are:

- Using the active voice. Write “*The research team began the project*” rather than (passively) “*A project was initiated.*”
- Writing concisely. Instead of “*After making a timely arrival and perspicaciously observing the unfolding events, I emerged totally and gloriously victorious,*” be concise with “*I came, I saw, I conquered.*”
- Communicating clearly. Instead of “*The speaker made effective use of the television medium, asking in no uncertain terms that we change our belief systems,*” you can write specifically, “*The reformed criminal stared straight into the television camera and shouted, ‘Take a good look at what you’re doing! Will it get you what you really want?’*”

6. Prepare.

In a sense, any paper is a sales effort. If you hand in a paper that is wearing wrinkled jeans, its hair tangled and unwashed and its shoes untied, your instructor is less likely to buy it. To avoid this situation, format your paper following accepted standards for margin widths, endnotes, title pages, and other details. Ask your instructor for specific

instructions on how to cite the sources used in writing your paper. You can find useful guidelines in the *MLA Handbook for Writers of Research Papers*, a book from the Modern Language Association. If you cut and paste material from a Web page directly into your paper, be sure to place that material in quotation marks and cite the source. Before referencing an e-mail message, verify the sender's identity. Remember that anyone sending e-mail can pretend to be someone else. Use quality paper for the final version of your paper. For an even more professional appearance, bind your paper with a plastic or paper cover.

7. Proofread.

As you ease down the home stretch, read your revised paper one more time. This time, go for the big picture and look for the following using this proofreading checklist:

- A clear thesis statement.
- Sentences that introduce your topic, guide the reader through the major sections of your paper, and summarize your conclusions.
- Details—such as quotations, examples, and statistics—that support your conclusions.
- Lean sentences that have been purged of needless words.
- Plenty of action verbs and concrete, specific nouns.
- Finally, look over your paper with an eye for spelling and grammar mistakes. Use contractions sparingly if at all. Use your word processor's spell-check, by all means, but do not rely on it completely as it will not catch everything.

When you are through proofreading, take a minute to savor the result. You've just witnessed something of a miracle—the mind organizing diverse ideas into a creative work of art! That's the *aha!* in writing.

Academic Integrity: Avoiding Plagiarism

Using another person's words, images, or other original creations without giving proper credit

is called *plagiarism*. Plagiarism amounts to taking someone else's work and presenting it as your own—the equivalent of cheating on a test. The consequences of plagiarism can range from a failing grade to expulsion from school. Plagiarism can be unintentional, as some students don't understand the research process. Sometimes they leave writing until the last minute and don't take the time to organize their sources of information. Also, some people are raised in cultures where identity is based on group membership rather than individual achievement. These students may find it hard to understand how creative work can be owned by an individual.

To avoid plagiarism, ask an instructor where you can find your school's written policy on this issue. Don't assume that you can resubmit a paper you wrote for another class for a current class; many schools will regard this as plagiarism even though you wrote the paper. The basic guidelines for preventing plagiarism are to cite a source for each phrase, sequence of ideas, or visual image created by another person. While ideas cannot be copyrighted, the specific way that an idea is *expressed* can be. You also need to list a source for any idea that is closely identified with a particular person. The goal is to clearly distinguish your own work from the work of others. There are several ways to ensure that you do this consistently:

- **IDENTIFY DIRECT QUOTES.** If you use a direct quote from another writer or speaker, put that person's words in quotation marks. If you do research online, you might find yourself copying sentences or paragraphs from a Web page and pasting them directly into your notes. This is the same as taking direct quotes from your source. To avoid plagiarism, identify such passages in an obvious way.
- **PARAPHRASE CAREFULLY.** Paraphrasing means restating the original passage in your own words, usually making it shorter and simpler. Students who copy a passage word for word and then just rearrange or delete a few phrases are running a serious risk of plagiarism. Remember to cite a source for paraphrases, just as you do



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for direct quotes. When you use the same sequence of ideas as one of your sources—even if you have not paraphrased or directly quoted—cite that source.

- **NOTE DETAILS ABOUT EACH SOURCE.** For books, details about each source include the author, title, publisher, publication date, location of publisher, and page number. For articles from print sources, record the article title and the name of the magazine or journal as well. If you found the article in an academic or technical journal, also record the volume and number of the publication. A librarian can help identify these details. If your source is a Web page, record as many identifying details as you can find—author, title, sponsoring organization, URL, publication date, and

revision date. In addition, list the date that you accessed the page. Be careful when using Web resources, as not all Web sites are considered legitimate sources. Wikipedia, for instance, may not be regarded as a legitimate source for certain information; the National Institute of Justice’s Web site, however, is acceptable.

- **CITE YOUR SOURCES AS ENDNOTES OR FOOTNOTES TO YOUR PAPER.** Ask your instructor for examples of the citation format to use. You do not need to credit wording that is wholly your own, nor do you need to credit general ideas, such as the suggestion that people use a to-do list to plan their time. But if you borrow someone else’s words or images to explain an idea, do give credit.

PRESENTATION *Prep*

In addition to reading and writing, your success as a student will depend on how well you can communicate what you have learned. Most often, you'll do so in the form of presentations. Many people are intimidated by the idea of public speaking, but it really is just like any other skill—the more often you do it, the better you will get. Developing a presentation is similar to writing a paper. Begin by writing out your topic, purpose, and thesis statement. Then carefully analyze your audience by using the strategies listed below.

If your topic is new to listeners . . .

- Explain why your topic matters to them.
- Relate the topic to something that they already know and care about.
- Define any terms that they might not know.

If listeners already know about your topic . . .

- Acknowledge this fact at the beginning of your speech.
- Find a narrow aspect of the topic that may be new to listeners.
- Offer a new perspective on the topic, or connect it to an unfamiliar topic.

If listeners disagree with your thesis . . .

- Tactfully admit your differences of opinion.
- Reinforce points on which you and your audience agree.
- Build credibility by explaining your qualifications to speak on your topic.
- Quote experts who agree with your thesis—people whom your audience is likely to admire.
- Explain to your audience that their current viewpoint has costs for them and that a slight adjustment in their thinking will bring significant benefits.

If listeners might be uninterested in your topic . . .

- Explain how listening to your speech can help them gain something that matters deeply to them.

- Explain ways to apply your ideas in daily life.

Remember that audiences generally have one question in mind: “*So what?*” They want to know that your presentation relates to their needs and desires. To convince people that you have something worthwhile to say, think of your main topic or point. Then see if you can complete this sentence: “I’m telling you this because”

Organize Your Presentation

Consider the length of your presentation. Plan on delivering about one hundred words per minute. Aim for a lean presentation—enough words to make your point but not so many as to make your audience restless. Leave your listeners wanting more. When you speak, be brief and then be seated. Presentations are usually organized in three main parts: the introduction, the main body, and the conclusion.

1. The introduction.

Rambling presentations with no clear point or organization put audiences to sleep. Solve this problem by making sure your introduction conveys the point of your presentation. The following introduction, for example, reveals the thesis and indicates exactly what’s coming. It conveys that the speech will have three distinct parts, each in logical order:

Prison overcrowding is a serious problem in many states. I intend to describe prison conditions around the country, the challenges these conditions create, and how various states are addressing the issue.

Some members of an audience will begin to drift during any speech, but most people pay attention for at least the first few seconds.

Highlight your main points in the beginning sentences of your speech. People might tell you to open your introduction with a joke, but humor is tricky. You run the risk of falling flat or offending somebody. Save jokes until you have plenty of

experience and know your audiences well. Also avoid long, flowery introductions in which you tell people how much you like them and how thrilled you are to address them. If you lay it on too thick, your audience won't believe you. Get down to business, which is what the audience wants. Draft your introduction, and then come back to it after you have written the rest of your presentation. In the process of creating the main body and conclusion, your thoughts about the purpose and main points of your speech might change.

2. The main body.

The main body of your speech accounts for 70 to 90 percent of your presentation. In the main body, you develop your ideas in much the same way that you develop a written paper. Transitions are especially important in presentations. Give your audience a signal when you change points. Do so by using meaningful pauses, verbal emphasis, and transitional phrases: "On the other hand, until the public realizes what is happening to children in these countries . . ." or "The second reason police officers use *Miranda* cards is . . ." In long presentations, recap from time to time. Also, make it a point to preview what's to come. Hold your audience's attention by using facts, descriptions, expert opinions, and statistics.

3. The conclusion.

At the end of the presentation, summarize your points and draw your conclusion. You started with a bang; now finish with drama. The first and last parts of a presentation are the most important. Make it clear to your audience when you have reached the end. Avoid endings such as, "This is the end of my presentation. Are there any questions?" A simple standby is "So, in conclusion, I want to reiterate three points: First . . ." When you are finished, stop speaking. Although this sounds quite obvious, a good presentation is often ruined by a speaker who doesn't know when, or how, to wrap things up.

Support Your Presentation with Notes and Visuals

To create speaking notes, you can type out your presentation in full and transfer key words or main points onto a few three-by-five-inch index

Speeches are usually organized in three main parts: the introduction, the main body, and the conclusion.

- Use fewer visuals rather than more. For a fifteen-minute presentation, a total of five to ten slides is usually enough.
- Limit the amount of text on each visual. Stick to key words presented in short sentences or phrases and in bulleted or numbered lists.
- Use a consistent set of plain fonts. Make them large enough for all audience members to see.
- Stick with a simple, coherent color scheme. Use light-colored text on a dark background or dark text on a light background.

cards. Number the cards so that if you drop them, you can quickly put them in order again. As you finish the information on each card, move it to the back of the pile. Write information clearly and in letters large enough to be seen from a distance. The disadvantage of the index card system is that it involves card shuffling, so some speakers prefer to use outlined notes.

You can also create supporting visuals. Presentations often include visuals such as PowerPoint slides or handwritten flip charts. These visuals can reinforce your main points and help your audience understand how your presentation is organized. They also serve to trigger your memory about what you should say to flesh out the bullet points in your visuals. Use visuals to *complement* rather than *replace* speech. If you use too many visuals or if they are too complex, your audience might focus on them and forget about you.

Overcome Fear of Public Speaking

Surveys indicate that the fear of public speaking is the number one fear for many people. For those who harbor this fear, being overlooked by an audience in favor of visuals may be exactly what they hope for! Ideally, though, while many of us may not be able to eliminate fear of public speaking

entirely, we can take steps to reduce and manage it. The following tips will help you conquer any fear you might feel at the thought of public speaking.

PREPARE THOROUGHLY Research your topic thoroughly. Knowing your topic inside and out can create a baseline of confidence. To make a strong start, memorize the first four sentences that you plan to deliver, and practice them many times. Delivering them flawlessly when you're in front of an audience can build your confidence for the rest of your speech.

ACCEPT YOUR PHYSICAL SENSATIONS You have probably experienced the physical sensations that are commonly associated with stage fright: dry mouth, a pounding heart, sweaty hands, muscle jitters, shortness of breath, and a shaky voice. One immediate way to deal with such sensations is simply to notice them. Tell yourself, "Yes, my hands are clammy. Yes, my stomach is upset. Also, my face feels numb." Trying to deny or ignore such facts can increase your fear. In contrast, when you fully accept sensations, they start to lose power. While speakers often feel nervous, they do not look that nervous. Members of the audience are there to listen and are sympathetic.

FOCUS ON CONTENT, NOT DELIVERY If you view presentations simply as an extension of a one-to-one conversation, you will realize that the goal is not to perform but to communicate your ideas to an audience just as you would explain them to a friend. This can reduce your fear of speaking. Instead of thinking about yourself, focus on your message. Your audience is more interested in what you have to say than in how you say it. Forget about giving a "speech." Just give people valuable ideas and information that they can use.

Practice Your Presentation

The key to successful public speaking is practice.

- **USE YOUR "SPEAKER'S VOICE."** When you practice, do so in a loud voice. Your voice sounds different when you talk loudly, and this fact can be unnerving. Get used to it early on. People do not like to strain to hear what you have to say.

- **PRACTICE IN THE ROOM IN WHICH YOU WILL DELIVER YOUR PRESENTATION.** Ideally, you will be able to practice your presentation in the room in which it will be given. If that is not possible, at least visit the site ahead of time so you are comfortable with your surroundings. Also make sure that the materials you will need for your presentation, including any audiovisual equipment, will be available when you need them and that you know how to use them.
- **MAKE A RECORDING.** Many schools have video recording equipment available for student use. Use it while you practice and then view the finished recording to evaluate your presentation. Pay special attention to your body language—how you stand, your eye contact, and how you use your hands.
- **LISTEN FOR REPEATED WORDS AND PHRASES.** Examples of unwanted filler words include *you know*, *kind of*, and *really*, plus *uh*, *umm*, and *ah*. To get rid of them, try to notice them every time they pop up in your daily speech.
- **KEEP PRACTICING.** Avoid speaking word for word, as if you were reading a script. When you know your material well, you can deliver it in a natural way. Practice your presentation until you could deliver it in your sleep, then run through it a few more times. You do not want to hide behind a computer monitor or stare at your script while you read it. You know the material, so you only need visual triggers on PowerPoint slides or note cards.

Deliver Your Presentation

Before you begin, get the audience's attention. If people are still filing into the room or adjusting their seats, they're not ready to listen. Wait for the audience to settle into their seats before you begin.

For a great presentation, keep these tips in mind:

DRESS FOR THE OCCASION The clothing you choose to wear on the day of your presentation delivers

Talking about Practice

When practicing your presentation, you'll need to do more than just read through it silently. While it's good to use practice sessions to memorize the contents of your speech, these sessions are also important times to work on how you use your voice and body as you speak. To make your practice time efficient and beneficial, follow the two-step process shown below and repeat it two or three (or more) times until you're ready to deliver a professional, polished presentation.

1. Practice

- If possible, practice your presentation in the room where you will be actually giving it. If this is not possible, make your practice setting as similar to the actual setting as possible.
- Record your practice so that you can analyze it later.
- Working from your outline or notes, go through the entire presentation without stopping. If you make mistakes, try to fix them as you go along.

2. Review

Watch the recording of your first practice and ask yourself:

- Did I leave out important ideas?
- Did I focus too much on one point and not enough on others?
- Did I talk too fast or too slowly?
- Did I speak clearly?
- Was my body language distracting or helpful?
- Did I maintain good eye contact?

After watching the recording, write down three or four specific changes that you will make to improve your presentation.

a message that's as loud as your words. Consider how your audience will be dressed, and then choose a wardrobe based on the impression you want to make. It shows respect for the audience to be dressed professionally.

PROJECT YOUR VOICE When you speak, do it loudly enough to be heard. Avoid leaning over your notes or a computer monitor.

MAINTAIN EYE CONTACT When you look at people, they become less frightening. Remember, too, that it is easier for the audience to listen to someone when that person is looking at them. Find a few friendly faces around the room, and imagine that you are talking to each of these people individually.

NOTICE YOUR NONVERBAL COMMUNICATION, YOUR BODY LANGUAGE Be aware of what your body is telling your audience. Contrived or staged gestures will look dishonest. Hands in pockets, twisting your hair, chewing gum, or leaning against a wall will detract from your speech and make you appear less polished.

WATCH THE TIME You can increase the impact of your words by keeping track of the time during your presentation. It's better to end early than to run late.

PAUSE WHEN APPROPRIATE Beginners sometimes feel they have to fill every moment with the sound of their voice. Release that expectation. Give your listeners a chance to make notes and absorb what you say.

HAVE FUN Chances are that if you lighten up and enjoy your presentation, so will your listeners.

Reflect on Your Presentation

Review and reflect on your performance. Did you finish on time? Did you cover all of the points you intended to cover? Was the audience attentive? Did you handle any nervousness effectively? Welcome evaluation from others. Most of us find it difficult to hear criticism about our speaking. Be aware of resisting such criticism, and then let go of your resistance. Listening to feedback will increase your skill.



Part **1**

The Paralegal Profession

CHAPTER 1

Careers in Today's Paralegal Profession

CHAPTER 2

The Inner Workings of the Law Office

CHAPTER 3

Ethics and Professional Responsibility

CHAPTER 4

Sources of American Law

CHAPTER 5

The Court System and Alternative Dispute Resolution



Chapter

1

Careers in Today's Paralegal Profession

Chapter Outline

Introduction

What Is a Paralegal?

What Do Paralegals Do?

Paralegal Education

Paralegal Skills and Attributes

Where Paralegals Work

Paralegal Compensation

Planning Your Career

Locating Potential Employers

Marketing Your Skills

Enhancing Your Career

After completing this chapter, you will know:

- What a paralegal is and the kinds of tasks paralegals perform.
- Professional paralegal associations and the role of certification.
- The education and training available to paralegals.
- Key skills and attributes of the professional paralegal.
- What types of firms and organizations hire paralegals.
- How much paralegals can expect to earn.
- How to present yourself to prospective employers.
- How to prepare a career plan and pursue it.

Introduction

If you are considering a career as a paralegal, be prepared to be part of an exciting and growing profession. Over time, law firms have been giving greater responsibilities to paralegals. The opportunities for paralegals to work outside of law firms (in corporations or government agencies, for example) are also expanding. As the profession has grown, the average paralegal salary has increased. According to one 2012 survey, experienced paralegals earned average compensation of \$73,200.¹

How do you know if you want to become part of this dynamic profession? The first step in finding out is to become familiar with what a paralegal is, what kinds of work paralegals do, and what education and skills are needed. You will learn about where paralegals work, how much they earn, and how they got their jobs. As you read through the chapters in this book, remember that this is only an introduction to the profession and the starting point of your education. You should supplement what you learn in the classroom by talking and networking with paralegals in various professional environments. After all, in today's competitive job market, whom you know can sometimes be as important as what you know in getting the job you desire.

What Is a Paralegal?

In this book, we use the terms *paralegal* and *legal assistant*, as is often done in the legal community, although the term paralegal is becoming dominant. Some people or groups may prefer one label to the other, but such disagreement does not mean that the labels describe different job duties. Indeed, some persons who are trained professional paralegals may be called something else entirely at their workplace, such as legal technician.

Definition of Paralegal

After years of disagreement, two of the major organizations involved reached a consensus on the definition of paralegal. The **American Bar Association (ABA)**, which is a national association for attorneys, and the **National Association of Legal Assistants (NALA)**, which is the largest national organization of paralegals, jointly agree to the following definition:

*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.*²

The **National Federation of Paralegal Associations (NFPA)**, which is the second largest paralegal association, prefers the term *paralegal*.³ Members of NFPA were concerned by the fact that many attorneys refer to their secretaries as legal assistants and wanted to distinguish the role of paralegals as professionals. The NFPA gives the following definition for *paralegal*:

*A Paralegal is a person, qualified through education, training or work experience to perform substantive legal work that requires knowledge of legal concepts and is customarily, but not exclusively, performed by a lawyer. This person may be retained or employed by a lawyer, law office, governmental agency or other entity or may be authorized by administrative, statutory or court authority to perform this work. Substantive shall mean work requiring recognition, evaluation, organization, analysis, and communication of relevant facts and legal concepts.*⁴

American Bar Association (ABA)

A voluntary national association of attorneys. The ABA plays an active role in developing educational and ethical standards for attorneys and in pursuing improvements in the administration of justice.

National Association of Legal Assistants (NALA)

One of the two largest national paralegal associations in the United States; formed in 1975. NALA is actively involved in paralegal professional development.

paralegal or 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.

National Federation of Paralegal Associations (NFPA)

One of the two largest national paralegal associations in the United States; formed in 1974. NFPA is actively involved in paralegal professional development.

American Association for Paralegal Education (AAfPE)

A national organization of paralegal educators; the AAfPE was established in 1981 to promote high standards for paralegal education.

**social
MEDIA TODAY**

Social media technologies excel at keeping your list of contacts up to date. This will help your career in many ways, so spend time regularly ensuring your contact list is current.

Another major organization, the **American Association for Paralegal Education (AAfPE)**, provides the following definition:

Paralegals perform substantive and procedural legal work as authorized by law, which work, in the absence of the paralegal, would be performed by an attorney. Paralegals have knowledge of the law gained through education, or education and work experience, which qualifies them to perform legal work. Paralegals adhere to recognized ethical standards and rules of professional responsibility.⁵

Expanding Roles

Regardless of which term is used, paralegals or legal assistants today perform many functions that traditionally were performed by attorneys. The paralegal's work falls somewhere between that of an attorney and that of a legal secretary. Paralegals perform substantive legal work that they are trained to perform through education, experience, or (usually) both.

What Do Paralegals Do?

Paralegals assist attorneys in many ways. The following is a sampling of some of the tasks that legal assistants typically perform in a law office. Keep in mind that today's paralegals work in many nontraditional settings, including corporations, government agencies, courts, insurance companies, real estate firms, and almost any other entity that uses legal services. Throughout this book, you will read about the specific tasks that paralegals perform in different settings.

A Sampling of Paralegal Tasks

Typically, legal assistants perform the following duties:

- *Conduct client interviews and maintain contact with clients*—provided that the client is aware of the status and function of the legal assistant and the legal assistant does not give legal advice.
- *Locate and interview witnesses*—to gather relevant facts and information about a lawsuit, for example.
- *Conduct legal investigations*—to obtain, organize, and evaluate information from sources such as police reports, medical records, photographs, court documents, experts' reports, technical manuals, and product specifications.
- *Calendar and track important deadlines*—such as the date by which a certain document must be filed with the court or the date by which the attorney must respond to a settlement offer.
- *Organize and maintain client files*—to keep the documents in each client's file accessible.
- *Conduct legal research*—to identify, analyze, and summarize the appropriate laws, court decisions, or regulations that apply to a client's case.
- *Draft legal documents*—such as legal correspondence, interoffice memoranda, **contracts**, **wills**, mortgages, and documents to be filed with the court.
- *File legal documents with courts*—such as complaints, answers to complaints, and motions.
- *Summarize witness testimony*—such as when depositions (sworn testimony) are taken of individuals out of court or when the parties have given written statements.

**ON THE web**

For more information on the *paralegal and legal assistant* profession, go to the following Web sites:

ABA: www.abanet.org

NALA: www.nala.org

NFPA: www.paralegals.org

AAfPE: www.aafpe.org

contract

An agreement (based on a promise or an exchange of promises) that can be enforced in court.

will

A document directing how and to whom the maker's property and obligations are to be transferred on his or her death.

- Coordinate *litigation proceedings*—communicate with opposing counsel, court personnel, and other government officials; prepare necessary documents for trial; and schedule witnesses.
- Attend *legal proceedings*—such as trials, depositions, real estate closings, executions of wills, and court or administrative hearings.
- Use *computers and technology*—to perform many of the above tasks.

No matter what task is being performed, paralegals have an obligation to meet high ethical standards. You will see the *Ethics Watch* feature in every chapter in the textbook, and ethical obligations will be reviewed in detail in Chapter 3.

Paralegals' Duties Vary

The specific tasks that paralegals perform vary dramatically depending on the size of the office, the kind of law that the firm practices, and the amount of experience or expertise the paralegal has. If you work in a one-attorney office, for example, you may also perform certain secretarial functions. Your tasks include conducting legal research and investigating the facts, photocopying documents, keying data into the computer, and answering the telephone while the secretary is out to lunch.

If you work in a larger law firm, you usually have more support staff (secretaries, file clerks, and others) to whom you can delegate tasks. Your work may also be more specialized, so you work on only certain types of cases. If you work in a law firm's real estate department, for example, you may deal only with legal matters relating to that area of law.

Although paralegal duties vary, the tasks that paralegals report spending the most time performing are drafting legal documents, handling client relations, and conducting legal research.

Paralegal Education

The first paralegals were competent legal secretaries who learned through on-the-job training how to perform more complex legal tasks given to them by the attorneys for whom they worked. No formal paralegal education programs existed until the late 1960s. Once attorneys realized that using paralegals was cost-effective and benefited both the client and the firm (as you will read in Chapter 2), paralegal education programs expanded.

According to the ABA's Standing Committee on Paralegals, there are now more than a thousand paralegal training programs operating in the United States. A great deal of variety exists in the quality of the education provided. Of course, your formal education is only part of becoming a successful legal professional as the *Featured Contributor* discusses on page 6.

Educational Options

The role of formal paralegal education has become increasingly important in the growth and development of the paralegal profession. Many colleges, universities, and business and private schools now offer programs. Generally, paralegal education programs fall into one of five categories:

- Two-year community college programs, leading to an associate of arts degree or a paralegal certificate. Such programs usually require the completion of about 60 semester hours and include some general education requirements.

litigation

The process of working a lawsuit through the court system.



social MEDIA TODAY

Choose your social technology tools with an eye to which programs your coworkers and clients use. If everyone at your firm uses Twitter, you should be too. If they are on LinkedIn, you should be too.

Featured Contributor

LEARNING WELL AND FINDING YOUR PLACE



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Kristine M. Condon

BIOGRAPHICAL NOTE

Kristine M. Condon is the Program Coordinator of the ABA-approved Paralegal/Legal Assistant Studies Program at Kankakee Community College, a program she established in 2001. She began her legal career as a deputy clerk to the Illinois Supreme Court as it established the first “paperless” office in the Illinois court system. She was the computer training director for a top-ten Chicago-based law firm and a senior trainer for the American Medical Association.

Ms. Condon is also a member of the Campaign for Legal Services Committee of Prairie State Legal Services, a provider of low-cost civil legal services to the poor and the elderly in Kankakee County, and has published in *The Paralegal Educator*, the magazine of AAFPE.

“The justice wants to see you in his chambers.”

I couldn’t imagine what I had done wrong, yet I must have done something to be summoned. It was my first job out of paralegal school, in the plum job of my legal career as a deputy clerk with my state’s highest court. Daily contact with three of the Court’s seven members, including the chief justice, was part of my routine. I thought I had been a model employee. Was my paralegal career over before it really started?

I made my way down the hall to the chambers of a justice who was the longest-serving member of the Court. He had served as the dean of a Chicago-area law school. As the county’s top prosecutor, he had secured the conviction of one of the nation’s most notorious mass murderers. Yet his kind appearance and gentle demeanor belied his storied career. He greeted me warmly and asked me to sit.

- Four-year bachelor’s degree programs with a major or minor in paralegal studies. A bachelor’s degree in paralegal studies usually requires about 120 semester hours, with 50 to 60 of these hours spent on general education courses. A person may select a minor field that enhances her or his desirability in the job market. Conversely, a student who majors in another field—for example, nursing—and obtains a minor in paralegal studies will also be very marketable to potential employers.
- Certificate programs offered by private institutions, usually three to eighteen months in length. Typically, these programs require a high school diploma or the equivalent for admission.
- Postgraduate certificate programs, usually three to twelve months in length, resulting in the award of a paralegal certificate. These programs require applicants to have already earned a bachelor’s degree in order to be admitted; some also require applicants to have achieved a certain grade point average.
- Master’s degree programs, usually two years in length, which are offered by several universities. These programs prepare students to work as paralegals,

"Are you familiar with these?" He gestured to a library bookcase filled with volumes of court opinions authored by his predecessors. I was. He made his way to a specific volume and thumbed to a well-worn page. He said, "This volume contains the opinion in Abraham Lincoln's first case before our Court."¹

He continued: "Kris, Lincoln didn't have the tools we have today to argue before this Court, including paralegals. On some days, your job may be even more difficult as a paralegal than it would be as a lawyer, because we're asking you to anticipate everything we might possibly need. But Lincoln found his place in our profession by learning well as he studied the law. We want you to know that we're confident you learned well during your own schooling. You'll find your place here."

That was it. A conversation of a few minutes changed how and what I did for my career with the Court then and in the paralegal classroom now. How do *you* demonstrate to your employer that you learned well and have found your place as a paralegal? Here's what I learned.

- **Come prepared.** Try to anticipate what your supervisor might need from your research and determine the time commitment involved.
- **Expect the unexpected.** Anticipate the amount of time needed for a project and add 10% to provide for the unexpected.
- **Be ethical without exception.** Your friends may think cases are fodder for lunch conversation. Don't ever give in to the temptation. Nonlawyers are subject to the same ethical guidelines as the attorneys for whom they work.

1. *Scammon v. Cline*, 3 Ill. 456, 2 Scam. 456, 1840 WL 2967 (1840).

- **Know where and how to find the answers.** I never told a justice or an attorney, "I don't know." If they asked, I'd say, "I don't know at the moment, but I know how to find it." And then I did.
- **Be mindful of cost.** My mistakes and expenses were paid for by a client: the taxpayer. In the case of online research, I often began my basic work in print and shifted to online when I had a solid lead to research.
- **Use a variety of sources.** In the Web 2.0 era, it is malpractice not to check a complete list of online sources, legal and non-legal. The amount of digital content on the Internet is massive; it's your job as the paralegal to search for the relevant sources.
- **Check, check, and double-check.** Use notification tools, such as KeyCite Alert and Shepard's Online, to make sure your authority stays current from the time you draft until the time you submit.
- **Stay current with trends in a field.** Some students think reviewing weekly legal publications is a waste of time, until an interviewer asks them whether they've read the latest bar journal article on that topic.
- **Pay attention to the details of mechanics and citation.** Legal writing requires a high degree of precision—beyond good grammar, spelling, and punctuation. Court rules are court rules. Know them inside and out, especially as they apply to formatting, citing, and preparing legal documents.

Probably the most important lesson my justice imparted to me that day early in my career was that I needed to understand the past to anticipate the future. After all, even Lincoln could not have anticipated the explosive growth of the legal profession and the increasingly important role paralegals play in shaping it. Take advantage of every opportunity to learn well in your paralegal education—and you, too, will find your place.

paralegal supervisors, or law office administrators. Some programs offer specific concentrations—for example, dispute resolution or **intellectual property**. To be admitted to a master's degree program, a student must have a bachelor's degree.

Because those seeking to become paralegals have diverse educational backgrounds, capabilities, and work experience, no one program is best for everyone. Deciding which program is most appropriate depends on personal needs and preferences.

Curriculum—A Blend of Substantive and Procedural Law

A legal assistant's education includes the study of both substantive law and procedural law. **Substantive law** includes all laws that define, describe, regulate, and create legal rights and obligations. For example, a law prohibiting employment discrimination on the basis of age falls into the category of substantive law. **Procedural law** establishes the methods of enforcing the rights established by substantive law. Questions about what documents need to be filed to begin a lawsuit, when the documents should be filed, which court will hear the case, and which witnesses will

intellectual property

Property that results from intellectual, creative processes. Copyrights, patents, and trademarks are examples of intellectual property.

substantive law

Law that defines the rights and duties of individuals with respect to each other's conduct and property.

procedural law

Rules that define the manner in which the rights and duties of individuals are enforced.

be called are all procedural law questions. In brief, substantive law defines our legal rights and obligations; procedural law specifies which methods, or procedures, must be employed to enforce those rights and obligations.

The Role of the AAFPE and ABA in Paralegal Education

The American Association for Paralegal Education (AAFPE) was formed by educators in 1981 to promote high standards for paralegal education. The AAFPE and the ABA are the two major organizations responsible for developing the standards and curriculum for paralegal education programs across the nation. California was the first state to require a paralegal to meet certain minimum educational requirements. Although most states do not have such requirements, many employers either require or prefer job candidates with a certain level of education. Some employers select only graduates from established programs. A searchable database of schools offering paralegal programs is available at the AAFPE Web site, www.aafpe.org, in the “Find a School” menu.

In 1974, the ABA established a set of educational standards for paralegal training programs. Since then, the ABA guidelines have been revised to keep pace with changes in the profession. Paralegal schools are not required to be approved by the ABA. Rather, ABA approval is a voluntary process that gives extra credibility to the schools that successfully apply for it. Programs that meet the ABA’s quality standards and that are approved by the ABA are referred to as **ABA-approved programs**. Of the paralegal education programs in existence, approximately 275 have received ABA approval.

ABA-approved program

A legal or paralegal educational program that satisfies the standards for paralegal training set forth by the American Bar Association.

certification

Formal recognition by a private group or a state agency that a person has satisfied the group’s standards of ability, knowledge, and competence; ordinarily accomplished through the taking of an examination.



ON THE web

Learn more about the APC program at the NALA Web site at www.nala.org. From the “Certification” menu, select “Advanced Paralegal Certification.” For information on NFPA’s PACE program, go to www.paralegals.org. From the menu, select “PACE/RP.”

Certified Legal Assistant (CLA) or Certified Paralegal (CP)

A legal assistant whose legal competency has been certified by the National Association of Legal Assistants (NALA) following an examination that tests the legal assistant’s knowledge and skills.

Advanced Paralegal Certification (APC)

A credential awarded by the National Association of Legal Assistants to a Certified Paralegal (CP) or Certified Legal Assistant (CLA) whose competency in a legal specialty has been certified based on an examination of the paralegal’s knowledge and skills in the specialty area.

Certification

Certification refers to formal recognition by a professional group or state agency that a person has met the standards of ability specified by that group. Generally, this means passing an examination given by the organization and meeting certain requirements with respect to education and/or experience. Note that the term *certification*, as used here, does not refer to receiving a paralegal certificate. You may obtain a paralegal certificate after completing school, but you will not be considered a *certified paralegal* unless you complete the NALA, NFPA, NALS, AAPI, or state certification process. These certification programs are discussed in the following paragraphs. No state *requires* paralegals to be certified. Although most employers also do not require certification, earning a voluntary certificate from a professional society or the state can offer a competitive advantage in the labor market and lead to a higher salary.

NALA and NFPA Certification

Paralegals who meet the background qualifications set by NALA are eligible to take a two-day, comprehensive examination to become a **Certified Legal Assistant (CLA)** or, for those who prefer to use the term *paralegal*, a **Certified Paralegal (CP)**. NALA also sponsors the **Advanced Paralegal Certification (APC)** program (before 2006, this was called the Certified Legal Assistant Specialty, or CLAS). The APC program provides a series of Internet-based courses composed of text lessons, slides, exercises, and interactive tests. NALA offers APC certification to those who are already CLAs or CPs and want to demonstrate special competence in a particular field of law. Appendix F provides more detailed information on NALA certification and requirements.

Paralegals who have at least two years of work experience and who have met specific educational requirements can take the Paralegal Advanced Competency Exam (PACE) through NFPA. The PACE is broken down into two tests, one on general issues and ethics and one on specialty areas. Those who pass the examination

use the designation **Registered Paralegal (RP)**. Further information on the PACE program is provided in Appendix G of this book.

Certification by Other Paralegal Organizations

NALS (the association for legal professionals) offers three different certifications:

- Paralegals who have completed an accredited curriculum course or who have one year of work experience may take the basic certification exam (ALS) for legal professionals.
- Paralegals who have three years of work experience or who have earned a prior certification may take the advanced certification exam (PLS) for legal professionals.
- Paralegals who have five years of work experience may take an examination to obtain Professional Paralegal (PP) certification, which was developed by paralegals.

The American Alliance of Paralegals, Inc. (AAPI), also provides a Paralegal Certification Program for paralegals who possess at least five years of work experience and have met specific educational requirements.

State Certification

Several states, including California, Florida, Louisiana, North Carolina, Ohio, and Texas, have implemented voluntary, state-specific certification programs. Details for state programs can be found on the Internet; for example, for Texas, see www.tbbs.org. Some **state bar associations** have information on certification as well. For example, for Ohio, see www.ohioabar.org. Other states are considering implementing such programs. Generally, paralegal organizations (such as NALA) are in favor of *voluntary* certification and oppose *mandatory* (legally required) certification or state licensing (as you will read in Chapter 3).

Continuing Legal Education

Paralegals, like attorneys, often supplement their formal education by attending **continuing legal education (CLE) programs**. CLE courses, which are offered by state bar associations, commercial providers, law schools, and paralegal associations, are usually seminars and workshops that focus on specific topics or areas of law. Such programs are a good way to learn more about a specialized area of law or keep up to date on the latest developments in the law and in technology. Many employers encourage their paralegals to take CLE courses and often pay some or all of the costs involved.

Additionally, some paralegal organizations require their members to complete a certain number of CLE hours per year as a condition of membership. Both NALA and NFPA require certified paralegals to take CLE courses annually to maintain their certification status. The NFPA requires certified paralegals to complete twelve hours of continuing education every two years. California requires a minimum number of CLE hours from *all* persons who work as paralegals. Paralegals in California are required to complete four CLE hours in legal ethics every three years and four CLE hours in substantive law every two years.⁶

Paralegal Skills and Attributes

As noted earlier, paralegals now perform many tasks that lawyers customarily performed. Thus, the demands on paralegals to be professional and efficient have increased. To be successful, a paralegal must not only possess specific legal

Registered Paralegal (RP)

A paralegal whose competency has been certified by the National Federation of Paralegal Associations (NFPA) after successful completion of the Paralegal Advanced Competency Exam (PACE).

state bar association

An association of attorneys within a state. In most states, an attorney must be a member of the state bar association to practice law in the state.

continuing legal education (CLE) programs

Courses through which attorneys and other legal professionals extend their education beyond school.

ON THE web

NALA provides an online campus for continuing legal education (CLE) at www.nala.org. From the menu, select "Continuing Education." For information on NFPA's online CLE offerings, go to www.paralegals.org. From the menu, select "CLE."