

INTRODUCTION TO
Paralegalism

PERSPECTIVES, PROBLEMS, AND SKILLS

EIGHTH EDITION



WILLIAM P. STATSKY

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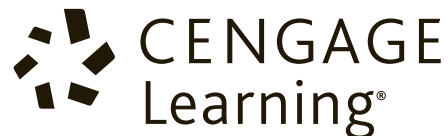
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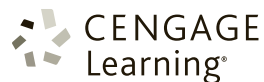
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WILLIAM P. STATSKY



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**Introduction to Paralegalism: Perspectives,
Problems, and Skills, Eighth Edition**
William P. Statsky

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WCN: 01-100-101

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Library of Congress Control Number: 2014957050

ISBN: 978-1-285-44905-0

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For Patricia Farrell Statsky,
whose wisdom, light, and love
have sustained more than she knows

BY THE SAME AUTHOR

For all publications by William Statsky, see statsky.blogspot.com

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PREFACE

Seven editions ago — in 1974 — many were asking the question “What’s a paralegal?” That day has long passed, although there is still a great deal of information that people need to have in order to appreciate the outstanding contribution paralegals have made in the delivery of legal services. This book seeks to provide that information and, at the same time, to introduce you to some of the fundamental skills needed to thrive in this still-developing career, a career whose members may one day outnumber attorneys in the traditional and untraditional law office.

It’s a fascinating time to study law. So many aspects of our lives revolve around the making, interpretation, and application of laws. As integral members of the attorney’s team, paralegals have a unique opportunity to view the legal system in operation as it wrestles with the legal issues of the day.

Back in the 1970s when the first edition of this book came out, Kathy Lowery, a Kansas City paralegal, was asked what impressed her most about the paralegal profession. She said that the two best things about the field were the two constants that were ever present: challenges and opportunities to “learn and grow.” Well said about the 1970s and equally true as we continue into the twenty-first century.

CHANGES IN THE EIGHTH EDITION

In addition to the updated material in the book on employment, salaries, roles, ethics, and regulation, a number of particular changes in the eighth edition should be mentioned:

- New categories of assignments have been added, including assignments in critical analysis, the job search, and the core skills of writing, research, ethics, computers, and collaboration. All of the assignments have been placed at the end of each chapter.
- The role of social media is discussed throughout the chapters beginning with the admonition to control one’s online reputation.

- Chapter 1 adds a discussion of the important difference between what paralegals need to understand the legal system and what they will need to perform specific tasks on the job.
- Chapter 2 adds extensive material on assertive networking and the use of LinkedIn, Twitter, and Facebook in the job search.
- The extensive coverage of private law firms and state government paralegal jobs has been moved from the end of Chapter 2 to the appendix material at the end of the book.
- Chapter 2 covers the major growth areas of law in the coming years.
- Chapter 2 includes a summary checklist of major job strategies, particularly in markets where competition for jobs is intense.
- Chapter 3 covers the dynamics of working in a multi-generational law office.
- Chapter 3 adds a section on the important and often overlooked skill of listening.
- Chapter 4 adds material on new proposals to end the justice gap, including expanded roles for the paralegal and other nonattorneys.
- Chapter 4 presents the major development of the Limited License Legal Technician in Washington and the favorable climate that exists in many states for recognizing document service providers (DSPs).
- Chapter 5 covers fraudulent “friending” and related ethical misconduct in the use of social media.
- Chapter 5 expands the categories of conflict of interest that paralegals need to understand.
- Chapter 6 adds material on the constitution (e.g., the Bill of Rights) as a foundation of our legal system.
- Chapter 7 has been reorganized to provide more comprehensive treatment of the basic components of legal analysis.
- Chapter 10 introduces predictive coding in the increasingly important arena of e-discovery of big data.

- Chapter 11 has been substantially reorganized in order to focus on the techniques of online legal research, particularly in the free databases.
- Chapter 12 confronts the dangers of copy-and-paste writing in an era when it is deceptively easy to rely on material that is available on the Internet.
- Chapter 12 also adds material on effective email writing.
- Chapter 13 catalogs the variety of social-media sites on the Internet and broadens the scope of security concerns that must be addressed.
- Chapter 13 introduces IoT: the Internet of things.
- Chapter 13 summarizes the major ethical issues covered in the book that result from computer use and misuse in the practice of law.
- The fifty-state survey of ethics in Appendix D expands the coverage of unauthorized practice of law (UPL).
- A new appendix (F) has been added on paralegal blogs.
- Appendix H covers major ways to locate different kinds of law offices as a guide in the job search.

ANCILLARY MATERIALS

Instructor Companion Site

The online Instructor Companion Site provides the following resources:

Instructor's Manual

An Instructor's Manual and Test Bank by the author of the text accompany this edition and have been greatly expanded to incorporate changes in the text and to provide comprehensive teaching support. They include the following:

- Class ideas, such as lecture ideas and suggestions for using selected assignments.
- A test bank of 645 questions, which includes a variety of questions in true/false, multiple-choice, and essay format. An answer key is also provided.

PowerPoint Presentations

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ACKNOWLEDGMENTS

It is difficult to name all the individuals who have provided guidance in the preparation of the eight editions of this book. Looking back over the years, a number of people have played important roles in my initiation and growth as a student of paralegal education. I owe a debt to Jean and Edgar Cahn, founders of the Legal Technician Program at Antioch School of Law, where I worked; Bill Fry, Director of the National Paralegal Institute and a valued colleague since our days together at Columbia

Law School, where he was my dean in one of the first paralegal training programs in the country, the Program for Legal Service Assistants; Dan Oran, who helped me plan the first edition; Michael Manna, Ed Schwartz, Bill Mulkeen, Juanita Hill, Willie Nolden, and Linda Saunders.

I wish to thank the following people at Cengage Learning: Paul Lamond, Product Manager; Melissa Riveglia, Senior Content Developer; Diane Chrysler, Senior Product Assistant; Betty Dickson, Senior Content Project Manager; and Scott Chrysler, Marketing Manager.

Finally, a word of thanks to the reviewers who made valuable suggestions for improving the text:

Libby Pace
California State University
Los Angeles, CA

Olga A. Possé
SUNY Buffalo / Millard Fillmore College
Buffalo, NY

Casey D. Thompson
Debbie Vinecour
SUNY Rockland CC
Suffern, NY

[The] expanded use of well-trained...“paralegals,” has been an important development. Today there are ... double the number of ... schools for training paralegals [as the number of schools for training attorneys]... .

The advent of the paralegal enables law offices to perform high quality legal services at a lower cost.

Possibly we have only scratched the surface of this development.

Warren E. Burger, Chief Justice of the United States Supreme Court, February 3, 1980

Paralegals are an absolutely essential component of quality legal services in the future.

James Fellers, President, American Bar Association, April 4, 1975

The court also commends the firm of Stull, Stull & Brody for the extensive use of paralegals rather than attorneys for various tasks, reducing the cost of litigation.

U.S. District Court Judge Helen Berregan, Feinberg v. Hibernia Corp., 966 F. Supp. 442, 448 (E.D. La., 1997)

Employment of paralegals and legal assistants is projected to grow 17 percent from 2012 to 2022, faster than the average for all occupations. Employers are trying to reduce costs and increase the availability and efficiency of legal services by hiring paralegals to perform tasks once done by lawyers. Paralegals are performing a wider variety of duties, making them more useful.

U.S. Department of Labor; Occupational Outlook Handbook (2010, 2014)

(www.bls.gov/ooh/legal/paralegals-and-legal-assistants.htm)

HOW TO STUDY LAW IN THE CLASSROOM AND ON THE JOB

OUTLINE

- Classroom Learning
- On-the-Job Learning: The Art of Being Supervised

OBJECTIVES

After completing this section, you should be able to

- Know why legal education is a lifelong pursuit.
- Distinguish between substantive and procedural law, and rules and skills.
- Understand the importance of a study plan.
- Do a self-assessment of your study habits.
- Do a self-assessment of grammar, spelling, and composition skills.
- Create a self-improvement plan on the basics of writing.
- Know the importance of definitions in the law.
- Increase your note-taking skills.
- Maximize your learning opportunities on the job.
- Use a checklist for major assignments.
- Turn instructions into checklists.
- Know the value of models, background research, new publication lists, feedback, continuing legal education, and evaluations.

CLASSROOM LEARNING

Education does not come naturally to many of us. It is a struggle. This is all the more true for someone entering a totally new realm of training such as legal education. Much of the material may seem foreign and difficult. There is a danger of becoming overwhelmed by the vast quantity of laws and legal material that confront you. How do you study law? How do you learn law? What is the proper perspective that a student of law should have about the educational process? These are our concerns in this introduction to the process of studying law. In short, our theme is training to be trained—the art of effective learning.

The first step is to begin with a proper frame of mind. Too many students have false expectations of what legal education can accomplish. This can interfere with effective studying.

1. Your Legal Education Has Two Phases. Phase I Begins Now and Ends When You Complete This Training Program. Phase II Begins When This Training Program Ends and Is Not Completed Until the Last Day of Your Employment as a Paralegal.

You have entered a career that will require you to be a perpetual student. The learning never ends. This is true not only because the boundary lines of law are vast, but also because the law is changing every day. No one knows all of the law. Phase I of your legal education is designed to provide you with the foundation that will enable you to become a good student in phase II.

2. Your Legal Education Has Two Dimensions: The Content of the Law (the Rules) and the Practical Techniques of Using That Content in a Law Office (the Skills).

Rules

There are two basic kinds of rules or laws:

- **Substantive Law:** The nonprocedural rules that define or govern rights and duties, e.g., the requirements for the sale of land and the elements of battery.
- **Procedural Law:** The rules that govern the mechanics of resolving a dispute in court or in an administrative agency, e.g., a rule on the time by which a party must respond to a complaint.

The law library contains millions of substantive and procedural laws written by courts (in volumes called *reporters*), by legislatures (in volumes called *statutory codes*), and by administrative agencies (in volumes called *administrative codes*). A great deal of the material in these volumes is also available on the Internet, as we will see. A substantial portion of your time in school will involve study of the substantive and procedural law of your state, and often of the federal government as well.

Skills

By far the most important dimension of your legal education will be the skills of using rules. Without the skills, the content of rules is close to worthless. Examples of legal skills include

- How to analyze the facts of a client's case in order to identify legal issues (see Chapter 7)
- How to interview a client (see Chapter 8)
- How to investigate the facts of a case (see Chapter 9)
- How to draft a complaint, the document that initiates a lawsuit (see Chapter 10)
- How to digest or summarize data found in discovery documents (see Chapter 10)
- How to do a cite check or perform other legal research in traditional and online law libraries (see Chapter 11)
- How to write a search query for an online database (see Chapter 13)

The overriding skill that, to one degree or another, is the basis for all others is the skill of legal analysis (Chapter 7). Some make the mistake of concluding that legal analysis is the exclusive domain of the attorney. Without an understanding of at least the fundamentals of legal analysis, however, paralegals cannot understand the legal system and cannot intelligently carry out many of the more demanding tasks they are assigned.

3. You Must Force Yourself to Suspend What You Already Know About the Law in Order to Be Able to Absorb (a) That Which Is New and (b) That Which Conflicts with Your Prior Knowledge and Experience.

Place yourself in the position of training students to drive a car. Your students undoubtedly already know something about driving. They have watched others drive and maybe have even had a lesson or two from friends. It would be ideal, however, if you could begin your instruction from point zero. There is a very real danger that the students have picked up bad habits from others. This may interfere with their capacity to listen to what you are saying. The danger is that they will block out anything you say that does not conform to previously learned habits and knowledge. If the habits or knowledge are defective, your job as a trainer is more difficult.

The same is true in studying law. Everyone knows something about the law from taking government or civics courses as a teenager and from the various treatments of the law in the media. Some of you may have been involved in the law as a party or as a witness in court. Others may have worked, or currently work, in law offices. Will this prior knowledge and experience be a help or a hindrance to you in your future legal education? For some, it will be a help. For many of us, however, there is a danger of interference.

This is particularly so with respect to the portrayal of the law on TV and in the movies. Contrary to what some TV programs may lead you to believe, it is highly unlikely that a judge would say to a witness, “I wouldn’t believe you if your tongue came notarized.”¹ Furthermore, TV and movies sometimes give the impression that all attorneys are trial attorneys and that most cases are solved by dramatically tricking a hostile witness on the stand into finally telling the truth. Not so.

The practice of law is not an endless series of confessions and concessions that are pried loose from opponents. Every attorney does not spend all day engaged in the kind of case that makes front-page news. Recently a New Jersey paralegal left her job with a sole practitioner to take another paralegal position with a law firm that she thought was going to be like the one on the TV drama she faithfully watched every week. Three months later, she begged her old boss to take her back after discovering the huge gap between reality and the law office on that show.

Another potentially misleading portrayal of the law came in the O.J. Simpson criminal and civil trials, which captivated the nation in the late 1990s. Very few parties to litigation have teams of attorneys, investigators, and experts ready to do battle with each other as they did in the Simpson trials. The vast majority of legal disputes are never litigated in court. Most are either settled or simply dropped by one or both parties. Of the small number that are litigated, most involve no more than two opposing attorneys and several witnesses. In short, it is rare for the legal system to become the spectacle—some would say the circus—that the occasional high-profile case leads us to believe is common in the practice of law. While excitement and drama can be part of the legal system, they are not everyday occurrences. What is dominant is painstaking and meticulous hard work. This reality is almost never portrayed in the media.

Therefore, it is strongly recommended that you place yourself in the position of a stranger to the material you will be covering in your courses, regardless of your background and exposure to the field. Cautiously treat everything as a new experience. Temporarily suspend what you already know. Resist the urge to pat yourself on the back by saying, “I already knew that” or “I already know how to do that.” For many students, such statements lead to relaxation. They do not work as hard once they have convinced themselves that there is nothing new to learn. No problem exists, of course, if these students are right. The danger, however, is that they are wrong or that they are only partially right. We are not always the best judges of what we know and of what we can do. Do not become too comfortable. Adopt the following healthy attitude: “I’ve heard about that before or I’ve already done that, but maybe I can learn something new about it.” Every new instructor, every new supervisor, every new setting is an opportunity to add a dimension to your prior knowledge and experience. Be open to these opportunities. No two people practice law exactly the same way. Your own growth as a student and as a paralegal will depend in large part on your capacity to listen for, explore, and absorb this diversity.

4. Be Sure That You Know the Goals and Context of Every Assignment.

Throughout your education, you will be given a variety of assignments: class exercises, text readings, drafting tasks, field projects, research assignments, etc. You should ask yourself the following questions about each one:

- What are the goals of this assignment? What am I supposed to learn from it?
- How does this assignment fit into what I have already learned? What is the context of the assignment?

For assignments from your textbook, carefully examine the table of contents, chapter objectives, and the variety of headings in a chapter in order to grasp the broader picture into which an assignment fits. Ask questions if the purpose of an assignment and its relationship to paralegalism is not clear. Successfully completing an assignment depends in part on understanding its goals and how these goals relate to the overall context of the course and the career.

5. Design a Study Plan.

Make current lists of everything that you must do in each of your courses. Update the lists regularly. Divide every list into long-term projects (what is due next week or at the end of the semester) and short-term projects (what is due tomorrow). Have a plan for each day. Establish the following norm for yourself:

Every day you will make some progress on everything on your long-term and short-term lists.

Priority, of course, will be given to the short-term tasks. Yet some time, however small, will also be devoted to the long-term tasks. For example, on a day that you will be mainly working on the short-term projects, try to set aside 5 percent of your time for a long-term project by doing some background reading or by preparing a very rough first draft of an outline. Maybe all you can do on an assignment is read a paragraph or review what needs to be done on the assignment. It is critical that you establish momentum toward the accomplishment of all your tasks. This is done by never letting anything sit on the back burner. Set yourself the goal of making at least some progress on everything every day. Without this goal, momentum may be difficult to achieve and sustain.

Once you have decided what tasks you will cover on a given study day, the next question becomes the order in which will you cover them. There are a number of ways in which you can classify the things you must do. For example, you can classify them as

- easy tasks that will require a relatively short time to complete,
- complex tasks requiring more time, and
- tasks with time demands that will be unknown until you start them.

At the beginning of your study time, spend a few moments preparing an outline of the order in which you will cover the tasks that day and the approximate amount of time that you will set aside for each task. You may want to start with some of the easier tasks so that you can feel a sense of accomplishment relatively soon. Alternatively, you may want to devote early study time to the third kind of task listed above so that you can obtain a clearer idea of the scope and difficulty of such assignments. The important point is that you establish a schedule. It does not have to be written in stone. Quite the contrary. It is healthy to have enough flexibility to revise your day's schedule so that you can respond to unfolding realities as you study. Adaptation is not a sign of disorganization, but the total absence of an initial plan often is.

6. Add 50 Percent to the Time You Initially Think You Will Need to Study a Subject.

You are kidding yourself if you have not set aside a substantial amount of time to study law outside the classroom. The conscientious study of law takes time—lots of it. It is true that some students must work or take care of family responsibilities. You cannot devote time that you do not have. Yet the reality is that limited study time can lead to limited education.

Generally, people will find time for what they *want* to do. You may *wish* to do many things for which there will never be enough time. You will find the time, however, to do what you really want to do. Once you have decided that you want something badly enough, you will find the time to do it.

How much of each of your work hours is productive time? For most of us, the answer is about twenty minutes. The rest of the hour is spent worrying, relaxing, repeating ourselves, socializing, checking and posting to social media, etc. One answer to the problem of limited time availability is to increase the amount of productive time that you derive out of each work hour. You may not be able to add new hours to the clock, but you can add to your net productive time. How about moving up to thirty minutes an hour? Forty? You will be amazed at the time that you can “find” simply by making a conscious effort to remove some of the waste. When asked how a masterpiece was created, a great sculptor once responded: “You start with a block of marble and you cut away everything that is not art.” In your study habits, start with a small block of time and work to cut away everything that is not productive.

In addition, look for ways to fit study time into your other activities. Always carry something to study in the event that time becomes available. For example, photocopy, scan, or photograph a portion of a chapter in a class textbook and bring it with you whenever you can. It might be perfect for that

unexpectedly long wait at the dentist's office. Constantly be on the alert for ways to increase the time you have available or, more accurately, to increase the productive time that you can make available.

There are no absolute rules on how much time you will need to study law. It depends on the complexity of the subject matter you must master. It is probably accurate to say that most of us need to study more than we do—as a rule of thumb, about 50 percent more.

Resolving time management problems as a student will be good practice for you when you are confronted with similar (and more severe) time management problems as a working paralegal. Many law offices operate at a hectic pace. One of the hallmarks of a professional is a pronounced reverence for deadlines and the clock.

Soon you will be gaining a reputation among other students, instructors, supervisors, and employers. You should make a concerted effort to acquire a reputation for hard work, punctuality, and conscientiousness about the time you devote to your work. In large measure, success follows from such a reputation. It is as important, and sometimes more important, than raw ability or intelligence. Phrased another way, your legal skills are unlikely to put bread on the table if you are casual about the clock.

7. Create Your Own Study Area Free from Distractions.

It is essential that you find study areas that are quiet and free from distractions. Otherwise, concentration is obviously impossible. It may be that the worst places to study are at home or at the library unless you can find a corner that is cut off from noise and people who want to talk. If possible, study away from phones, TVs, iPods, and instant computer messaging. Do not make yourself available, except for emergencies. If you study in the corridor, at the first table at the entrance to the library, or at the kitchen table, you are inviting distraction. You need to be able to close yourself off for two to three hours at a time. It is important for you to interact with other people—but not while you are studying material that requires considerable concentration. You will be tempted to digress and to socialize. You are in the best position to know where these temptations are. You are also the most qualified person to know how to avoid the temptations.

Try this idea: never study with your smartphone within reach. Alternatively, shut the phone off when studying. If this is too radical, allow yourself no more than two minutes every hour to turn the phone on in order to find out if a true emergency demands your immediate attention.

8. Conduct a Self-Assessment of Your Prior Study Habits and Establish a Program to Reform the Weaknesses.

If you were to describe the way you study, would you be proud of the description? Here is a partial list of some of the main weaknesses of attitude or practice that students have about studying:

- They have done well in the past with only minimal study effort. Why change now?
- Others in the class do not appear to be studying very much. Why be different?
- They learn best by listening in class. Hence, instead of studying on their own, they wait until someone explains the material in person.
- They simply do not like to study; there are more important things to do in life.
- They can't concentrate.
- They study with lots of distractions, e.g., phones, radios, TVs, computers, iPods. Multitasking is more fun than unitasking.
- They get bored easily. "I can't stay motivated for long."
- They do not understand what they are supposed to study.
- They skim read.
- They do not stop to look up strange words or phrases.
- They study only at exam time—then cram for exams.
- They do not study at a consistent pace. They spend an hour (or less) here and there and have no organized, regular study times.
- They do not like to memorize.
- They do not take notes on what they are reading.

What other interferences with effective studying can you think of? Or, more important, which of the above items apply to you? How do you plead? In law, it is frequently said that you cannot solve a problem until you obtain the facts. What are the facts in the case of your study habits? Make your personal list of attitude problems, study patterns, and environmental interferences. Place these items in some order. Next, establish a plan for yourself. Which item on the list are you going to try to correct tonight? What will the plan be for this week? For next week? For the coming month? What specific steps will you take to try to change some bad habits? If one corrective method does not work, try

another. If the fifth does not work, try a sixth. Discuss techniques of improvement with other students and with instructors. Run this search in Google, Bing, or Yahoo: effective study habits. Be a sponge for self-improvement ideas. Prove to yourself that change is possible.

9. Engage in Active Studying.

Even without distractions, the mind often wanders away from what should be the focus of what we are studying. Daydreaming during study time is not uncommon. If this occurs, do some active studying by forcing yourself to do something other than (or in addition to) reading. For example,

- Write out definitions of key terms.
- Create your own chart or graph that contains pieces or components of a topic you are studying.
- Create mnemonics to help you remember important concepts. (On mnemonics, see Section 16 below.)

10. Conduct a Self-Assessment on Grammar, Spelling, and Composition. Then Design a Program to Reform Weaknesses.

The legal profession lives by the written word. Talking is important for some activities, but writing is crucial in almost every area of law. You cannot function in this environment without a grasp of the basics of grammar, spelling, and composition. A major complaint of employers today is that workers consistently violate these basics. The problem is serious. Here are seven steps that will help solve it:

Step One

Take responsibility for your training in grammar, spelling, and composition. Do not wait for someone to teach (or reteach) you the basics. Do not wait until someone points out your weaknesses. Make a personal commitment to train yourself. If English courses are available to you, great. A weekly class, however, may not be enough.

Step Two

Raise your consciousness about the writing around you. When you are reading a newspaper, for example, try to be conscious of semicolons and paragraph structure in what you are reading. At least occasionally ask yourself why a certain punctuation mark was used by a writer. You are surrounded by writing. You read this writing for content. Begin a conscious effort to focus on the structure of the writing as well. This dual level of observation exists in other aspects of our lives. When people come out of the theater, for example, they often comment about how impressive the acting was. In addition to following the story or content of the play or movie, they were aware of its form and structure. These same levels of consciousness (content and form) should be developed for everything you read.

Step Three

Commit yourself to spending ten minutes a day, five or six days a week, on improving your grammar skills. For a total of about an hour a week, drill yourself on the fundamentals of our language. In Google, Bing, or Yahoo, run this search: *English grammar*. Do some surfing to find grammar sites that give basic rules and practice drills that allow you to test yourself on what you know. Avoid sites that charge fees or that are simply selling books. Here are some examples of sites you might find useful:

- www.edufind.com/english/grammar
- andromeda.rutgers.edu/~jlynch/Writing/c.html
- englishplus.com/grammar
- www.tnellen.com/cybereng/32.html

Sites such as these may provide links to comparable sites. Try several. Ask fellow students what sites they have found helpful.

How do you know what areas of grammar you should study? In Google, Bing, or Yahoo, run this search: *grammar self-test*. Find free tests. Take more than one. Make a list of areas where you need improvement. Start eliminating weaknesses one at a time.

One way to test your progress is to try the exercises on different sites. Suppose, for example, you are on a site that discusses the use of commas in *that* clauses and *which* clauses. After you finish the *that/which* exercises at this site, go to another grammar site and find its section on *that/which*. Read the examples and do the exercises at this site. Are you reinforcing what you learned at the first site, or are the examples and exercises at the second site making you realize that you need more work

understanding this area of grammar? Using more than one site in this way will help you assess how well you are grasping the material.

Step Four

Improve your spelling. Use a dictionary often. Begin making a list of words that you are spelling incorrectly. Work on these words. Ask other students, relatives, or friends to test you on them by reading the words to you one by one. Spell the words aloud or on paper. You can drill yourself into spelling perfection, or close to it, by this method. When you have the slightest doubt about the spelling of a word, check the dictionary. Add difficult words to your list. Again, the more often you take this approach now, the less often you will need to use the dictionary later.

Use the Internet as a resource. In Google, Bing, or Yahoo, run this search: spelling rules. You will be led to sites that will provide guidance.

Many word processors (e.g., Microsoft Word) have spell checkers that not only identify words you may have misspelled but also provide suggested corrections. Does this new technology mean that your spelling problems have been solved forever? Hardly. Spell checkers can catch many spelling blunders, but they can be very misleading. First of all, they cannot tell you how to spell many proper names, such as the surnames of individuals (unless you add these names to the base of words being checked). An even more serious problem is that spell checkers do not alert you to improper word choices. Every word in the following sentence, for example, is incorrect, but a spell checker would tell you that the sentence has no spelling problems:

“Its to later too by diner.”

Here is what should have been written:

“It’s too late to buy dinner.”

Because the first sentence has no misspellings, you are led—that is, misled—to believe that you have written a flawless sentence.

Step Five

Enroll in English and writing courses. Find out if drop-in help labs or remedial centers are available to you. Check offerings at local schools, such as adult education programs in the public schools or at colleges. Call your local public library and ask what resources are available in the community.

Step Six

Find out which law courses in your curriculum require the most writing from students. If possible, take these courses, no matter how painful you find writing to be. In fact, the more painful it is, the more you need to place yourself in an environment where writing is demanded of you on a regular basis.

Step Seven

Simplify your writing. Cut down the length of your sentences. Often a long-winded sentence can be effectively rewritten into two shorter sentences. How can you tell if your sentences are too long? There are, of course, no absolute rules that will answer this question. Yet there is a general consensus that sentences on legal topics tend to be too long.

Several writing scholars have devised readability formulas that allow you to measure the readability of your writing in terms of how difficult it is to read. Among the most popular are the Gunning Fog Index, the Flesch Reading Ease Score, and the Flesch-Kincaid Grade Level Score. You can find them described on many Internet sites such as the following:

- en.wikipedia.org/wiki/Gunning-Fog_Index
- en.wikipedia.org/wiki/Flesch-Kincaid_Readability_Test
- www.nightscribe.com/Education/eschew_obfuscation.htm

Try a readability formula on your own writing. It will take only a few minutes to apply. Find out if the word processor you use (e.g., Word or WordPerfect) has a formula built into the program that is ready to use every time you write something.

Readability formulas are no more than rough guides. Use them to help raise your consciousness about your writing. As you review sentences you have written, you should be asking yourself self-editing questions such as “Would I have been clearer if I had made that sentence shorter?” The conscientious use of readability formulas will help you ask and answer such questions.

For an online manual on writing, including material on readability, see *A Plain English Handbook*, published by the Securities and Exchange Commission (www.sec.gov/pdf/handbook.pdf). Although this manual focuses on financial document filings, it contains many useful guidelines for any kind of writing.

To recap, prepare a self-assessment of weaknesses and set a schedule for improvement. Set aside a small amount of time each day to work on writing weaknesses. Be consistent about this time. Do not wait for the weekend or for next semester when you will have more time. The reality is that you will probably never have substantially more time than you have now. The problem is not so much the absence of time as it is an unwillingness to dig into the task. Progress will be slow and you will be on your own. Hence there is a danger that you will find “good” reasons (excuses) to do something else.

11. Consider Forming a Student Study Group, but Be Cautious.

Students sometimes find it useful to form study groups. A healthy exchange with your colleagues can be very productive. One difficulty is finding students with whom you are compatible. Trial and error may be the only way to identify such students. A more serious concern is trying to define the purpose of the study group. It should not be used as a substitute for your own individual study. Course review, however, is an appropriate group task. Divide a course into parts, with each member of the group having responsibility for reviewing his or her assigned part with the rest of the group.

12. Use Your Legal Research Skills to Help You Understand Components of a Course That Are Giving You Difficulty.

The law library is more than the place to go to find law that governs the facts of a client’s case. A great deal of the material in traditional and online law libraries consist of explanations, summaries, and overviews of the same law that you will be covering in your courses. See Exhibit 11-11 in Chapter 11 on doing relatively quick background research on any legal topic. Such research will be invaluable (especially the “dash searches” described in Exhibit 11-11) as outside reading to help resolve conceptual and practical difficulties you are having in class.

13. Organize Your Learning Through Definitions or Definitional Questions.

Among the most sophisticated questions an attorney or paralegal can ask are these:

- What does that word or phrase mean?
- Should it be defined broadly or narrowly?

To a very large extent, the practice of law is a probing for definitions of key words or phrases in the context of facts that have arisen.

- Can a five-year-old be liable for negligence? (What is negligence?)
- Can the government tax a church-run bingo game? (What is the free exercise of religion?)
- Can attorneys in a law firm go on strike and obtain the protection of the National Labor Relations Act? (What is a covered employee under the labor statute?)
- Can one spouse rape another? (What is the definition of rape?)
- Can a citizen slander the president of the United States? (What is a defamatory statement?) Etc.

In every course that you take, you will come across numerous technical words and phrases in class and in your readings. Begin compiling a list of the major words and phrases for each class. When in doubt about whether to include something on your list, resolve the doubt by including it.

Then pursue definitions. Find definitions in class lectures, your textbook, a legal dictionary, or a legal encyclopedia. (For legal dictionaries on the Internet, type “legal dictionary” in Google, Bing, or Yahoo.) See also the online dictionary links in Exhibit 11-11 in Chapter 11.

For some words, you may have difficulty obtaining definitions. Do not give up your pursuit. Keep searching. Keep probing. Keep questioning. For some words, there may be more than one definition. Others may require definitions of the definitions.

Of course, you cannot master a course simply by knowing the definitions of all the key words and phrases covered in the course. Yet these words and phrases are the vocabulary of the course and are the foundation and point of reference for learning the other aspects of the course. Begin with vocabulary.

Consider starting a system of three-by-five or two-by-three cards or sheets of paper to help you learn the definitions. On one side, place a single word or phrase. On the other side, write the definition with a brief page reference or citation to the source of the definition. Using the cards or sheets, test yourself periodically. If you are in a study group, ask other members to test you. Ask a relative to test you. Establish a plan of ongoing review.

14. Studying Ambiguity—Coping with Unanswered Questions.

Legal studies can be frustrating because there is so much uncertainty in the law. Legions of unanswered questions exist. Definitive answers to legal questions are not always easy to find, no matter how good your research techniques are. Every new fact situation presents the potential for a new law. Every law seems to have an exception. Furthermore, advocates frequently argue for exceptions to the exceptions. As indicated, when terms are defined, the definitions often need definitions.

The study of law is in large measure an examination of ambiguity that is identified, dissected, and argued. Search for as much clarity as you can, but do not be surprised if the conclusion of your search brings further questions. A time-honored answer to many legal questions is, “It depends!” Become familiar with the following frequently used equation:

If “fact X” is present, then the conclusion is “A,” but if “fact Y is present,” then the conclusion is “B,”
but if “fact Z” is....

The practice of law may sometimes appear to be an endless puzzle. Again, look for precision and clarity, but do not expect the puzzles to disappear.

15. Develop the Skill of Note Taking.

Note taking is an important skill for getting the most out of your formal education. In addition, effective note taking is often a precondition to many law-office tasks.

Take notes on what you are reading for class preparation and for research assignments. Never rely exclusively on your memory. After reading hundreds of pages (or more) in textbooks and online, you will not be able to remember what you have read at the end of the semester, or even at the end of the day. Copy what you think are the essential portions of the materials you are reading. Include definitions of important words and phrases as indicated in Guideline 13 above.

In addition to (and not as a substitute for) taking written notes on your readings, mark up the text if you own it. Use felt pens of different colors. Underline and highlight what appears to be important. Circle key words. Don’t read passively. Read with your eyes and hands!

To be sure, note taking will add time to your studying. Yet you will discover that it was time well spent, particularly when you begin reviewing for an exam or writing a memorandum.

In class, you must develop the art of taking notes while simultaneously listening to what is being said. On the job, you will have to do this frequently, such as when

- Receiving instructions from a supervisor
- Talking with someone on the phone
- Doing a follow-up interview of a client
- Interviewing a witness during field investigation

If your supervisor asks you to attend a deposition or a trial, you may need to take detailed notes on the testimony of a particular witness. (A deposition, as you will learn in Chapter 10, is a method of discovery by which parties and their prospective witnesses are questioned outside the courtroom before trial.) A good place to begin learning how to write and listen at the same time is during your classes.

Most students take poor class notes. This is due to a number of reasons:

- They write slowly.
- They don’t like to take notes; it’s hard work.
- They don’t know if what is being said is important enough to be noted until after it is said—when it is too late because the instructor has gone on to something else.
- They don’t think it’s necessary to take notes on a discussion that the instructor is having with another student.
- They don’t think it’s necessary to take notes on a topic that’s covered in the textbook.
- They take notes only when they see other students taking notes.
- Some instructors ramble.

A student who uses these reasons for not taking comprehensive notes in class will eventually be using similar excuses on the job when precise note taking is required for a case. This is unfortunate. You must overcome whatever resistance you have acquired to the admittedly difficult task of note taking. Otherwise, you will pay the price in your schoolwork and on the job.

Develop your own shorthand system of abbreviations for note taking. Here are some commonly used abbreviations in the law. (Some of the terms have more than one abbreviation; pick the one that works best for you.)

a	action	d	danger/dangerous	jur	jurisdiction	rr	railroad
aa	administrative agency	dba	doing business as	juv	juvenile	rsb	reasonable
a/c	appellate court	d/e	direct examination	K	contract	s	sum
aff	affirmed	dept	department	l	liable, liability	S	statute
aka	also known as	df	defendant	ll	landlord	\$	suppose
ans	answer	dist	district	lit	litigation	s/b	should be
app	appeal	dmg	damages	max	maximum	sn/b	should not be
appnt	appellant	dob	date of birth	mfr	manufacturer	sc	supreme court
appee	appellee	dod	date of death	mfg	manufacturing	s/f	statute of frauds
ar	administrative regulation	dos	date of separation	min	minimum	s/j	summary judgment
a/r	assumption of risk	ee	employee	mkt	market	sl	strict liability
assn	association	eg	example	>	more than; greater than	s/l	statute of limitations
atty	attorney	egs	examples	<	less than; smaller than	ss	state statute
b	business	eq	equity	mun	municipal	std	standard
b/c	because	eqbl	equitable	n/a	not applicable	sub	substantial
b/k	breach of contract	er	employer	N	negligence	subj	subject
b/p	burden of proof	est	estimate	natl	national	t	tort
bfp	bona fide purchaser	ev	evidence	negl	negligence	t/c	trial court
©	consideration	f	fact	nj	injury	tee	trustee
¢	complaint	4cb	foreseeable	#	number	tp	third party
ca	court of appeals	fed	federal	O	owner	vs	against; versus
c/a	cause of action	fs	federal statute	op	opinion	w	wife
c/c	counterclaim	gvt	government	p/c	proximate cause	w/	with
cc	child custody	h	husband	p/f	prima facie	wd	wrongful death
c/e	cross-examination	hdc	holder in due course	pg	page	w/i	within
cert	certiorari	indl	individual	pl	plaintiff	w/o	without
c/l	common law	indp	independent	pv	privilege	x	cross
con l	constitutional law	info	information	@	reasonable	x/e	cross-examination
cr	criminal	ins	insurance	re	real estate	?	question
crc	criminal court	intl	international	reg	regulation	+	plus
cs	child support	IT	intentional tort	rep	representative	\	therefore
ct	court	j	judge, justice	rev	reverse	Δ	defendant
cv	civil	jj	judges, justices	revd	reversed	¶	plaintiff
cz	cause	jt	judgment				

If you can't hear the instructor, move closer or ask the instructor to speak up. Ask the instructor to repeat something you missed. Consider taping the class so that you can continue note taking while listening to the tape.

If you are participating in class by talking with the instructor, it will obviously be difficult for you to take notes at the same time. After class, take a few moments to jot down some notes on what occurred during the discussion. Then ask someone else who was in class to review these notes for accuracy and completeness.

Sometimes you will have to begin taking notes at the moment the person starts talking rather than wait until the end of what he or she is saying. Try different approaches to increasing the completeness of your notes.

Don't fill up entire sheets of paper with notes. Keep at least a three-inch right-hand margin that is blank while you take notes. Later, fill in this empty space with notes on things you missed in the lecture or that you better understood as the class progressed. Read the notes of fellow students. When their notes contain material you missed, copy it into the right-margin space.

Sometimes so much is happening and being said during a class that it is difficult to take notes. Things can sometimes get a bit chaotic. When this happens, at least write down what appear to be key nouns or verbs that the instructor uses. Leave additional space around these words so that you can come back later and fill in details and context that you may have missed initially.

Pay particular attention to definitions and lists. Every time the instructor defines something, be sure your notes record the definition exactly. Sometimes instructors will redefine the same term with slight modifications. Take notes on the modifications because they will often help clarify what is being discussed. Also, be conscientious about lists. An instructor might begin a topic by saying that "there are three elements" to a particular rule, or that "we will be examining four major categories of examples of the kinds of cases that can arise." When you hear that a list is coming by such language, have your pen at the ready. Lists of this kind are very important in the law.

16. Studying Rules: The Role of Memory.

Memory plays a significant role in the law. Applicants for the bar, for example, are not allowed to take notes into the exam room. An advocate in court or at an administrative hearing may be able to refer to notes, but the notes are of little value if the advocate does not have a solid grasp of the case. Most of the courses you will be taking have a memory component. This is true even for open-book exams. You will not have time to go through all the course material while responding to the questions.

Students often make two mistakes on the role of memory:

- They think that memorizing is beneath their dignity.
- They think that because they understand something, they know it sufficiently to be able to give it back in an examination.

Of course, you should not be memorizing what you do not understand. Rote memorization is close to worthless. This is not so for important material that you comprehend. Yet simply understanding something does not necessarily mean that you have a sufficient grasp of it for later use.

Many systems for memorizing material can be effective:

- Reading it over and over
- Copying and recopying important parts of it
- Having other students ask you questions about it
- Making summaries or outlines of it
- Tape-recording yourself reading difficult material from a textbook and playing the tape back while driving or doing house chores
- Creating your own mnemonics

Mnemonics are simply aids to memory that you create or adopt. The most common mnemonics consist of a series of letters that represent items on a list. For example, suppose you are studying section § 100, an important larceny statute in criminal law, which requires proof of the following three elements:

- Intent to steal
- Personal property
- Resulting financial harm

To help you remember these elements, you could assign the letter “I” to the first element, “P” to the second, and “R” to the third. You can then scramble these letters to make the word RIP:

Resulting financial harm [R]
Intent to steal [I]
Personal property [P]

The word RIP can now be used to help you remember the elements of § 100. Easy-to-remember words (e.g., RIP) or nonwords (e.g., GGET or ANAR) can be useful mnemonics. You are in control of the letters to be assigned to items on the list. Your goal is to come up with something that will help you recall the list; therefore, only criterion is to come up with something memorable!

If you do not have a photographic mind, you must resort to such techniques. Try different systems. Ask other students for tips on how they memorize material. For more ideas, run this search in Google, Bing, or Yahoo: *student improve memory*.

You will have to find out from your instructor what material you will be expected to know for the course. You can also check with other students who have had this instructor in the past. It may not always be easy to find out how much an instructor expects you to know from memory. Instructors have been known to surprise students on examinations!

17. Studying Skills—the Necessity of Feedback.

Memory is most important when you are studying the basic principles of substantive and procedural law. Memory plays a less significant role in learning the skills of interviewing, investigation, legal analysis, drafting, coordinating, digesting, and advocacy. These skills have their own vocabulary that you must know, but it is your judgmental rather than your memory faculties that are key to becoming competent in such skills.

They are developed primarily by practice drills or exercises. The learning comes from the feedback that you obtain while engaged in the skill exercises. What are the ways to obtain feedback?

- Evaluations on assignments and exams
- Role-playing exercises that are critiqued in class
- Comparisons between your work (particularly writing projects) and models that are provided by the instructor or that you find on your own in the library
- Critiques that you receive from students in study groups

Be constantly looking for feedback. Do not wait to be called on. Do not wait to see what feedback is planned for you at the end of the course. Take the initiative.

- Seek conferences or email contact with your instructors.
- Find out who is available to read your writing or to observe your performance in any of the other skills.
- Set up your own role-playing sessions with your fellow students.
- Seek critiques of your rewrites even if rewriting was not required.
- Look for opportunities to critique other students on the various skills.
- Ask other students to let you read their graded examinations so that you can compare their papers with your own.
- Create your own hypotheticals for analysis in study groups. (A hypothetical is simply a set of facts invented for the purpose of discussion and analysis.)
- Do additional reading on the skills.

In short, become actively involved in your own skill development.

18. The Value of Speed-Reading Courses in the Study of Law.

In the study of law, a great deal of reading is required. Should you, therefore, take a speed-reading course? No, unless the course helps you slow down the speed of your reading! This advice may be quite distasteful to advocates (and salespersons) of speed-reading courses. The reality, however, is that statutes, regulations, and court opinions cannot be speed-read. They must be carefully picked apart and read word for word, almost as if you were translating from one language into another.

If you are troubled by how long it takes you to read, do not despair. Keep reading. Keep rereading. The pace of your reading will pick up as you gain experience. Never strive, however, to be able to fly through the material. Strive for comprehensiveness. Strive for understanding. For most of us, this will come through the slow process of note taking and rereading. It is sometimes argued that comprehension is increased through speed. Be wary of this argument. Reading legal material calls for careful thinking about what you read—and taking notes on these thoughts. There may be no harm in rapidly reading something for the first time. At your second, third, and fourth reading, however, speed is rarely helpful.

ON-THE-JOB LEARNING: THE ART OF BEING SUPERVISED

A great deal of learning will occur when you are on the job. Some of it may come through formal in-house office training and by the study of office procedure manuals. Most of the learning, however, will come in day-to-day interaction with your supervisors as you are given assignments. The learning comes through being supervised. Here are some guidelines to assist you in this important dimension of your legal education.

1. Don't Play "Emperor's Clothes" with the Instructions That You Receive.

Recall the story of the emperor's clothes. He walked around without clothes, but everybody kept saying what a beautiful wardrobe he had. As new people arrived, they saw that he had no clothes, but they heard everyone talking as if he were fully dressed. The new people did not want to appear unintelligent, so they, too, began admiring the emperor's wardrobe. When paralegals are receiving instructions on an assignment, they play "emperor's clothes" when they pretend that they understand all the instructions but in fact do not. They do not want to appear to be uninformed. They do not want to give the impression that they are unsure of themselves. For obvious reasons, this is a serious mistake.

Whenever you are given an assignment in a new area—that is, an assignment on something that you have not done before—there should be a great deal that you do not understand. This is particularly true during your first few months on the job, when just about everything is new! Do not pretend to be something you are not. Constantly ask questions about new things. Do not be reluctant to ask for explanations. Do not assume that the instructions will become clear to you after you start the assignment. Ask for help at the outset. It will not be a sign of weakness. Quite the contrary. People

who take steps to make sure that they fully understand all the instructions they receive will soon gain a reputation for responsibility and conscientiousness.

2. Repeat the Instructions to Your Supervisor Before You Leave the Room.

Once your supervisor has told you what he or she wants you to do, do not leave the room in silence or with the general observation “I’ll get on that right away.” Repeat the instructions back to the supervisor as you understand them. Make sure that you and your supervisor are on the same wavelength by summarizing what you think you were told to do. This will be an excellent opportunity for the supervisor to determine what you did or did not understand and to provide clarifications where needed.

Supervisors will not always be sure of what they want. By trying to obtain clarity on the instructions, you are providing them with the opportunity to think through what they want done. In the middle of the session with you, the supervisor may change his or her mind on what is to be done.

3. Write Down Your Instructions.

Paralegal Jamie Collins has frequently supervised and trained other paralegals and clerical staff. “I cannot tell you,” says Jamie, “how many people I have trained that would come back to ask me a question, and never write down a thing, only to return to my office a few moments or hours later or the next day with the exact same question, and no clue how to answer it.”²

Never go to your supervisor without pen and paper. Preferably, keep an instructions notebook, diary, or journal in which you record the following information:

- Notes on what you are asked to do
- Whether the tasks in the assignment are billable (i.e., whether a particular client will be asked to pay fees for the performance of those tasks)
- The date you received the assignment
- The date by which the supervisor expects you to complete all or part of the assignment; if an exact due date is not provided, an estimate of the amount of time the task should take (sometimes referred to as a *time budget*)
- The date you actually complete the assignment
- Comments made by supervisors or others on what you submit (if no one makes comments, take the initiative and ask for feedback)

The notes will serve as your memory bank. Whenever any questions arise about what you were supposed to do, you have something concrete to refer to.

Exhibit A contains an assignment checklist on which you can record this kind of data for every major assignment you receive.

Exhibit A

Checklist for Major Assignments

- Name of supervisor for the assignment:

- What you have been asked to do:

- Identification of the client or matter for which the task is being done:

- Specific areas or tasks you have been told not to cover, if any:

- Format supervisor expects, e.g., computer text, outline only, rough draft, final copy ready for supervisor’s signature:

- Date you are given the assignment:

- Expected due date:

- Time budget (the amount of time the task should take):

(continued)

Exhibit A

Checklist for Major Assignments (Continued)

- Is the task billable to a client? If so, to what account? Is there a limit on the number of hours to spend on the assignment?

- Location of samples or models in the office to check as possible guides:

- Possible resource people in the office you may want to contact for help:

- Practice guide, formbook, or manual in the library that might provide background or general guidance:

- Dates you contacted supervisor or others for help before due date:

- Date you completed the assignment:

- Positive, negative, or neutral comments from supervisor or others on the quality of your work on the assignment:

- Things you would do differently the next time you do an assignment of this kind:

4. Ask for a Due Date and a Statement of Priorities.

You need to know when an assignment is due. What's the time budget? Ask for a due date even if the supervisor tells you to "get to it when you can." This phrase may mean "relatively soon" or "before the end of the month" to your supervisor, but not to you. If the supervisor says he or she does not know when it should be done, ask for an approximate due date. Tell the supervisor you want to place the assignment on your calendar so that it can be completed in a timely manner along with all your other assignments. Ask what priority the assignment has. Where does it fit in with your other assignments? If you have more than enough to fill the day, you need to know what takes priority. If you do not ask for a priority listing, the supervisor may assume you are under no time pressures. If you have assignments from different supervisors, gently suggest that the supervisors confer and let you know what the priorities are.

5. If the Instructions Appear to Be Complicated, Ask Your Supervisor to Identify the Sequence of Tasks Involved.

As you receive instructions, you may sometimes feel overwhelmed by all that is being asked of you. Many supervisors do not give instructions in clear, logical patterns. They may talk in a rambling, stream-of-consciousness fashion. When confronted with this situation, simply say:

OK, but can you break that down for me a little more so that I know what you want me to do first? It would help if I approach it one step at a time. Where do you want me to start?

6. As Often as Possible, Write Your Instructions and What You Do in the Form of Checklists.

A methodical mind is one that views a project in "doable" steps and that tackles one step at a time. You need to have a methodical mind in order to function in a busy law office. One of the best ways to develop such a mind is to think in terms of checklists. Attorneys love checklists. A great deal of the practice material published by bar associations, for example, consists of page after page of detailed checklists of things to do and/or to consider when completing a project for a client. Attorneys want to be thorough. An unwritten "rule" of law practice seems to be that you cannot be thorough without a checklist.

A checklist is simply a chronological sequencing of tasks that must be done in order to complete an assignment. Convert the instructions from your supervisor into checklists. In the process of actually carrying out instructions, you go through many steps—all of which could become part of a detailed

checklist. The steps you went through to complete the task become a checklist of things to do in order to complete such a task in the future. To be sure, it can be time-consuming to draft checklists. Keep in mind, however, that

- The checklists will be a benefit to you in organizing your own time and in assuring completeness.
- The checklists can be invaluable for other employees who are given similar assignments in the future.
- Your supervisors will probably be very impressed by your initiative and organizational ability.

You will not be able to draft checklists for everything that you do. Perhaps you will not be able to write more than one checklist a week. Perhaps you will have to use some of your own time to write checklists. Whatever time you devote will be profitably spent so long as you are serious about writing and using the checklists. They may have to be rewritten or modified later. This should not deter you from the task. Most things that are worth doing require testing and reassessment.

Here is how one veteran paralegal describes the process:

When you are doing a multistep task (thinking out each step as you move through it)...create a checklist that will help you do it faster next time. [Also] create a notebook to store it in so that when the job comes around again you can find it! This is trickier to do on a busy day than you may think, but well worth doing. Think of these checklists as expanding your professional options. In time, they may become resources for training you give to newer paralegals.³

Many how-to manuals found in law offices were created out of the checklists that workers compiled on tasks they frequently performed.

7. Find Out What Practice Guides and Checklists Already Exist in Your Office.

If practice guides and checklists on the topic of your assignment already exist in your office, you should find and use them. (Also check in computer databases where the office may store frequently used forms and instructions.) Unfortunately, the how-to-do-it information may be buried in the heads of the attorneys, paralegals, and secretaries in the office. No one may have taken the time to write it all down. If this is not so, find out where it is written down and try to adapt what you find to the assignment on which you are working.

8. Ask for a Model.

One of the best ways to make sure you know what a supervisor wants is to ask whether he or she knows of any models that you could use as a guide for what you are being asked to do. Such models may be found in closed-case files, manuals, formbooks, and practice texts. They may also be available on the Internet.

Caution is needed whenever using models. Every new legal problem is potentially unique. What will work in one case may not work in another. A model is a guide, a starting point and nothing more. Changes in the model will often be needed in order to adapt it to the particular facts of your assignment. Whenever you find a possible model your supervisor has not seen, bring it to his or her attention and ask whether it can be adapted and used. (See also Exhibit 10-5 in Chapter 10 on how to avoid abusing standard forms.)

9. Do Some Independent Legal Research on the Instructions You Are Given.

Often you will be told what to do without being given more than a cursory explanation of why it needs to be done that way. Most instructions for legal tasks are based upon the requirements of the law. A complaint, for example, is served on an opposing party in a designated way because the law has imposed rules on how such service is to be made. You may be asked to serve a complaint in a certain way without being told what section of the state code (or of your court rules) requires it to be served in that way. It would be highly impractical to read all the law that is the foundation for an assigned task. It is not necessary to do so and you would not have time to do so.

What you can occasionally do, however, is focus on selected instructions for an assignment and do some background legal research to gain a greater appreciation for why the instructions were necessary. (See the checklist on doing background legal research in Exhibit 11-11 in Chapter 11.) You will probably have to do such legal research on your own time unless the assignment you are given includes doing some legal research. Research can be time-consuming, but you will find it enormously educational. It can place a totally new perspective on the assignment and, indeed, on your entire job.

10. Get on Routing and Mailing Lists for New Legal Material.

A law office frequently buys publications for its law library that are relevant to its practice. The publications can include legal treatises and legal periodicals. Before these publications are shelved in the library, they are often routed to the attorneys in the office so that they can become acquainted with current legal writing that will be available in the library. Each attorney usually keeps the publication for a few hours or a few days for review before passing it on to the next person on the mailing list. If the actual publication is not passed around in this manner, those on the mailing list might receive brief summaries of recent publications or photocopies of their tables of contents. Another option in some offices is the use of email to inform attorneys of new publications.

Ask to be included on these routing or mailing lists. The publications are often excellent self-education opportunities, particularly the articles in legal periodicals.

You can also subscribe to free Internet alerts on your area of practice. Findlaw (www.findlaw.com) allows you to subscribe to free newsletters that give summaries of recent cases in designated areas of law (newsletters.findlaw.com). For example, one of the areas covered by the newsletters is family law. If your office practices in this area, you should consider subscribing.

11. Ask Secretaries and Other Paralegals for Help.

Secretaries and paralegals who have worked in the office for a long time can be very helpful to you if you approach them properly. Everybody wants to feel important. Everybody wants to be respected. When someone asks for something in a way that gives the impression he or she is entitled to what is being sought, difficulties usually result. Think of how you would like to be approached if you were in the position of the secretary or paralegal. What behavior or attitude of another employee would irritate you? What would make you want to go out of your way to cooperate with and assist a new employee who needs your help? Your answers (and sensitivity) to questions such as these will go a long way toward enabling you to draw on the experience of others in the office.

12. Obtain Feedback on an Assignment Before the Date It Is Due.

Unless the assignment you are given is a very simple one, do not wait until the date it is due to communicate with your supervisor. If you are having trouble with the assignment, you will want to check with your supervisor as soon as possible and as often as necessary. It would be a mistake, however, to contact the supervisor only when trouble arises. Of course, you want to avoid wasting anyone's time, including your own. You should limit your contacts with a busy supervisor to essential matters. You could take the following approach with your supervisor:

Everything seems to be going fine on the project you gave me. I expect to have it in to you on time. I'm wondering, however, if you could give me a few moments of your time. I want to bring you up to date on where I am so that you can let me know if I am on the right track.

Perhaps this contact could take place on the phone or during a brief office visit. Suppose that you have gone astray on the assignment without knowing it? It is obviously better to discover this before the date the assignment is due. The more communication you have with your supervisor, the more likely it is that you will catch such errors before a great deal of time is wasted.

13. Ask to Participate in Office and Community Training Programs.

Sometimes a law office conducts training sessions for its attorneys. Ask if you can be included. Bar associations and paralegal associations often conduct sessions on legal topics relevant to your work. They are part of what is called *continuing legal education* (CLE). Seek permission to attend some of these sessions if they are held during work hours. If they are conducted after hours, invest some of your own time to attend. Also check into what is available on the Internet. Online CLE has become increasingly popular because you can take courses at any time and in any location where you have access to the Internet. To find out what is available, type "continuing legal education" (or "CLE") in the search boxes of national and local paralegal associations and of bar associations in your area (see Appendix B). Your employer may be willing to pay all or a part of the cost of such courses. Even if you must pay the cost, it will be a worthwhile long-term investment.

14. Ask to Be Evaluated Regularly.

When you first interview for a paralegal position, inquire about the policy of the office on evaluations. Are they conducted on a regular basis? Are they done in writing? Will you know in advance the specific criteria that will be used to evaluate your performance? If you are hired in an office that does

not have a formal evaluation structure or procedure, take the initiative to let supervisors know that you consider evaluations to be important to your professional development. It may take a while for you to feel confident enough to make this known, but the importance of doing so cannot be overestimated.

For a number of reasons, many offices do not have formal evaluations:

- Evaluations can be time-consuming.
- Evaluators are reluctant to say anything negative, especially in writing.
- Most of us do not like to be evaluated: it's threatening to our ego.

Go out of your way to let your supervisor know that you want to be evaluated and that you can handle criticism. If you are defensive when you are criticized, you will find that the evaluations of your performance will go on behind your back! Such a work environment is obviously unhealthy. Consider this approach that a paralegal might take with a supervisor:

I want to know what you think of my work. I want to know where you think I need improvement. That's the only way I'm going to learn. I also want to know when I'm doing things correctly, but I'm mainly interested in your suggestions on what I can do to increase my skills.

If you take this approach and mean it, the chances are good that you will receive constructive criticism and gain a reputation for professionalism.

15. Proceed One Step at a Time.

Perhaps the most important advice you can receive in studying law in school and on the job is to concentrate on what is immediately before you. Proceed one step at a time. What are your responsibilities in the next fifteen minutes? Block everything else out. Make the *now* as productive as you can. Your biggest enemy is worry about the future: worry about the exams ahead of you, worry about your family, worry about the state of the world, worry about finding employment, etc. Leave tomorrow alone! Worrying about it will only interfere with your ability to make the most of what you must do now. Your development in the law will come slowly, in stages. Map out these stages in very small time blocks—beginning with the time that is immediately ahead of you. If you must worry, limit your concern to how to make the next fifteen minutes shine.

SUMMARY

Legal education is a lifelong endeavor; a competent paralegal never stops learning about the law and the skills of applying it. A number of important guidelines will help you become a good student in the classroom and on the job. Do not let the media blur your understanding of what the practice of law is actually like. To avoid studying in a vacuum, know the goals of an assignment. Organize your day around a study plan. Assess your study habits, such as how you handle distractions or how you commit things to memory. Then promise yourself that you will do something about your weaknesses.

Increase your proficiency in the basics of writing. How many of the rules about the comma can you identify? Do you know when to use *that* rather than *which* in your sentences? How many of your paragraphs have topic sentences? Are there zero spelling errors on every page of your writing? You have entered a field where the written word is paramount. You must take personal responsibility for the improvement of your grammar, spelling, and composition skills. Use the law library

to help you understand difficult areas of the law. But don't expect absolute clarity all the time. Seek out evaluations of your work. Become a skillful note taker. Get into the habit of looking for definitions.

These suggestions also apply once you are on the job. Don't pretend you understand what you don't. Repeat instructions back to your supervisor before you begin an assignment. Ask for due dates. Ask for priorities if you are given several things to do. Write down your instructions in your own notebook or journal. Become an avid user of checklists, including those you create on your own. Find out if an assignment has been done by others in the past. If so, seek their help. Try to find a model and adapt it as needed. Be prepared to do some independent research. Ask if you can be on internal office mailing lists for new publications. Find out what's available on the Internet to keep current in your area of the law. Participate in training programs at the law office and in the legal community. Ask to be evaluated regularly. Seek feedback before an assignment is due.

REVIEW QUESTIONS

1. Why must a student of law be a perpetual student?
2. Distinguish between substantive and procedural law.
3. What are the two dimensions of your legal education?
4. How do you design a study plan?
5. How can you increase your available productive time?
6. What are some of the major interferences with effective studying?
7. What are some of the techniques of active studying?
8. What steps can you take on your own to increase your proficiency in grammar, spelling, and composition?
9. What danger do you need to be aware of when using computer spell checkers?
10. What are readability formulas and how can they assist you?
11. How can study groups help you?
12. How can legal research help you handle difficult aspects of any course?
13. What is meant by expecting ambiguity in the law?
14. Why is note taking important in the study and practice of law?
15. What are some of the steps you can take to increase your powers of retention?
16. Where and how can you obtain feedback on your schoolwork?
17. What is meant by playing “emperor’s clothes” with the assignments you receive on the job?
18. What are the major techniques of receiving instructions from your supervisor on assignments?
19. Why is it important to obtain a specific due date and a statement of priorities for assignments?
20. How can you translate instructions into checklists?
21. How can you obtain help on an office assignment from practice guides, manuals, models, independent legal research, secretaries, and other paralegals?
22. How can you obtain feedback on an assignment from a busy supervisor?
23. Why are performance evaluations sometimes ineffective, and what can you do to obtain meaningful ones on the job?

HELPFUL WEBSITES

Study Techniques

- www.how-to-study.com
- www.adprima.com/studyout.htm

Note Taking

- www.sas.calpoly.edu/asc/ssl/notetaking.systems.html
- www.csbsju.edu/academicadvising/help/lec-note.htm
- www.dartmouth.edu/~acskills/success/notes.html
- www.academictips.org/acad/literature/notetaking.html

Online Flashcards for Paralegals

- www.flashcardexchange.com (type “paralegal” in the search box)

Taking Tests

- www.testtakingtips.com/test
- www.studygs.net/tsstakl.htm

Google, Bing, or Yahoo Searches

(On these search engines, run the following searches.)

- grammar help
- study skills
- how to study
- memory skills
- note taking
- test taking
- supervision skills
- “being supervised”
- memory skills
- study groups
- on the job learning

ENDNOTES

¹ Lynda Richardson, *From the Bench, Judgment and Sass*, New York Times, March 27, 2001, at p. A25.

² Jamie Collins, *What It Takes to Survive in a Law Office ... and Live to Tell*

the Tale, KNOW, The Magazine for Paralegals (The Paralegal Society, September 7, 2012) (theparalegalsociety.wordpress.com).

³ Deborah Bogen, *Paralegal Success* 79 (2000).

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

The Paralegal in the Legal System

- 1 Introduction to the Paralegal Career
- 2 Paralegal Employment
- 3 On-the-Job Realities: The Assertive Paralegal
- 4 The Regulation of Paralegals
- 5 Attorney Ethics and Paralegal Ethics
- 6 Introduction to the Legal System

INTRODUCTION TO THE PARALEGAL CAREER

CHAPTER OUTLINE

- Launching Your Career
- Do You Know What Time It Is?
- The Scope of Your Legal Education
- Major Players
- Job Titles
- Definitions of a Paralegal
- Paralegal Fees
- Career Ladders in Large Law Offices
- Paralegal Salaries
- Factors Influencing the Growth of Paralegalism
- “Oh, You’re Studying Law?”
- Your Online Reputation
- Conclusion

CHAPTER OBJECTIVES

After completing this chapter, you should be able to:

- Understand the extent of legal disputes in the country.
- Describe the importance of precision in the practice of law.
- List the major organizations in paralegalism and the roles that they play.
- Know the major classifications of paralegal titles.
- Know the definition of a paralegal.
- Outline the major categories of fees.
- Understand the importance of *Missouri v. Jenkins*.
- Identify the major employers that have career ladders for paralegals.
- Identify the factors that determine a paralegal’s salary.
- Understand the factors that have contributed to the development and growth of paralegalism.

LAUNCHING YOUR CAREER

Welcome to the field! You probably fall into one or more of the following categories:

- You have never worked in a law office.
- You are or once were employed in a law office and now want to upgrade your skills.
- You want to explore the variety of careers in law for which a paralegal education can be a point of entry.

As you begin your legal education, you may have a large number of questions:

- What is a paralegal?
- Where do paralegals work?
- What are the functions of a paralegal?
- How do I obtain a job?
- How do attorneys and paralegals work together as a team?
- What is the difference between a paralegal and the clerical staff of a law office?
- How do new paralegals adjust to the realities of a law practice?

- How is the paralegal field regulated? Who does the regulating and for what purposes?
- What are the ethical guidelines that govern paralegal conduct?
- What career options are available once a paralegal has obtained experience?

It is an exciting time to be working in the law. So many aspects of our everyday lives have legal dimensions. The law plays a dominant role in a spectrum of issues that range from the status of the unborn to the termination of life-support systems. More than 107 million cases are filed every year in state and federal courts.¹ One study concludes that 52 percent of Americans have a legal problem. One out of three will need the advice of an attorney in the next twelve months.² In a large survey of U.S. corporations, 87 percent reported that one or more lawsuits were commenced against them in the past 12 months.³ The news media are preoccupied with laws that have been broken, laws that no longer make sense, and laws that ought to be passed to create a more just society. Caught up in the whirlwind of these debates is the attorney and the attorney's team, a prominent member of which is the paralegal.

A prominent paralegal was once asked why she became a paralegal. "Deep down," she said, "a good number of us entered the profession because legal proceedings touch everyone on a very personal basis several times during a lifetime, so it is a profession that everyone can relate to. As a paralegal, you . . . also gain the satisfaction of knowing you were able to help solve a problem for a client."^{3a}

There are other satisfactions as well. Once you have completed your paralegal education and gained experience on the job, you can explore a variety of career options within traditional paralegal employment settings. In addition:

- An experienced corporate paralegal in a law firm might leave the firm to take a higher-paying position as a securities analyst for a corporation.
- An experienced estates paralegal at a law firm might leave for a more lucrative position as a trust administrator at a bank.

An extensive list of these law-related jobs is given in Exhibit 2-24 at the end of Chapter 2.

Perhaps the most dramatic example of a paralegal position being used as a stepping-stone for other jobs is the large number of former paralegals who have used their legal training and experience to run for political office, particularly at the city and county levels of government. Peggy Marino, for example, used her paralegal background to help her win a seat on the Board of Education in New Jersey. Peggy now serves on the financial and negotiations committees of that Board. She credits her paralegal experience "as having prepared her for those roles."⁴ Similarly, when paralegal Deborah Boe was appointed to the Minnesota Board of Medical Practice, she said that she has "read enough legal documents to know how to read between the lines" and "make my way through the issues" that will come before the Board.⁵ Representative Mary Squires of the Georgia Legislature feels the same way. She was a paralegal before she ran for office. Because of a paralegal's preparation and organization skills, she felt equipped for the rigorous life of a legislator.⁶ After serving in the House, Mary was elected to the state Senate and is currently a candidate for state insurance commissioner. Of course, not all experienced paralegals go into politics, but the experience of these paralegals demonstrates the value and versatility of legal education.

DO YOU KNOW WHAT TIME IT IS?

Perhaps you're wondering what working in the law will be like. One of the hallmarks of legal work is its diversity. In five years, if you meet a fellow classmate and compare notes on what your workdays are like as paralegals, you'll see similarities, but you will probably be startled by the differences.

One way to gauge what working in a law office might be like is to answer a particular question. Stop what you are doing for a moment and answer this question:

Do you know what time it is?

Depending on when you are reading this book, you will probably look at your watch or the clock on the cell phone and answer 9:45 A.M., 1:30 P.M., 3:32 P.M., 11:28 P.M., etc. There could be hundreds of possible answers. But if you answered in this manner, you've made your first mistake in the study and practice of law. Look at the question again. Read it slowly. You were *not* asked, *What time is it?* You were asked, *Do you know* what time it is? There are *only* two possible answers to this question: *yes* or *no*.

Welcome to the law! One of the singular characteristics of the field you are about to enter is its *precision* and *attention to detail*. Vast amounts of time can be wasted by answering the wrong question.⁷ In fact, attorneys will tell you that one of the most important skills in the law is the ability to identify and focus on the question—the issue—that must be resolved.

Developing this sensitivity begins with the skill of *listening*—listening very carefully. It also involves *thinking before responding*, noting distinctions, noting what is said and what is not said, being aware of differences in emphasis, and being aware that slight differences in the facts can lead to dramatically different conclusions. Even relatively minor variations in punctuation can sometimes have legal consequences. Compare, for example, the following two statements and note the dramatic difference in meaning that results from the placement of commas:

Johnson said the officer hid the evidence.

Johnson, said the officer, hid the evidence.

In 2008, chief justice of the United States, John Roberts, administered the presidential oath of office by having Barack Obama:

“solemnly swear” that “I will execute the office of President of the United States faithfully.”

But the Constitution states that the adverb “faithfully” should go *before* the verb that it modifies:

“solemnly swear” that “I will faithfully execute the office of President of the United States.”

After the inauguration ceremony, the chief justice returned and administered the oath again, this time “by the book.”

The hallmark of a professional is precision in language and the ability to identify what is different or unique about a particular person or situation. In this sense, highly competent paralegals are true professionals.

Another major characteristic of law is its focus on definitions and intentions. Attorneys are preoccupied with questions such as “What definition did the legislature intend?” and “What does that clause mean?” For example, if a will says, “I give \$30,000 to my three children, Bill, Grace, and Sam,” does each child receive \$30,000 or is this amount to be split among the three children so that each receives \$10,000? The answer depends on the intent of the deceased when the will was written. On September 11, 2001, when two airplanes struck the two towers of the World Trade Center sixteen minutes apart, was the landlord of the towers entitled to one insurance payment of \$3.5 billion or two payments totaling \$7 billion? The answer turned on the definition of the word *occurrence* in the insurance contracts. Was there one attack, one “occurrence,” or two? (After extensive litigation, the landlord was not successful in convincing the courts that there were two occurrences under all of the insurance contracts involved in the case.) Another dramatic example of controversy generated by a definition occurred during a famous grand jury hearing that was videotaped and later played on national television. The witness giving testimony under oath was a graduate of the Yale Law School and a former constitutional law professor. In testimony that captivated the nation, he said that his answer to a particular question (involving sexual relations with an intern) would depend on what the “definition of ‘is’ is” in the question. The attorney giving this testimony was President Bill Clinton.

In a recent discussion on LinkedIn, the social network for professionals, paralegals were asked about the career they have chosen. Here are some of the responses:

- “I’m constantly intellectually stimulated” and have “made amazing friends.”
- “I’ve been with the same firm for 17 years (longer than any of my romantic relationships!) and still have days when my heart beats faster and am excited about something I am doing, usually digging up hard-to-find information, helping a client get much-needed benefits, learning new technology, or writing substantive content. Each day brings something new.”
- “If you let it be known that you are looking for a challenge, you will certainly find it in this career field!”

Not every case in a law office makes the headlines, and not every paralegal is satisfied with all aspects of his or her job. Yet the potential is there for a paralegal career to provide substantial fulfillment and a broad range of opportunities. In short, you have a great deal ahead of you in the study of law; it’s going to be a fascinating adventure.

THE SCOPE OF YOUR LEGAL EDUCATION

Legal education is a very broad area of study. You will be covering a great deal of material in your courses. Will you use all of this material on the job? Not necessarily. Yet the material must be covered in order to comprehend the legal system and the world of attorneys. For example, you will learn about appellate briefs and sophisticated legal research even though many paralegals never draft such briefs nor perform such research. Yet you need to have a basic understanding of such tasks in order to communicate with attorneys and to perform assignments related to these tasks. In short, understanding the role of a paralegal requires an understanding of and exposure to a wide range of paralegal *and attorney* skills as you begin the journey of comprehending the practice of law and the legal system as a whole.

Areas that are essential to the performance of specific paralegal tasks include:

- the functions of courts, legislatures, and administrative agencies
- the rules of professional responsibility (ethics) governing attorneys and paralegals
- the rules of grammar and clear communication
- the ability to state facts accurately and comprehensively
- the basics of computer hardware and software on your desk and “in the cloud”
- the ability to adapt to the different standards of different attorneys in an environment where time pressures can be intense

Without a grasp of these essentials, a paralegal career can flounder. Hence we will spend a good deal of time on them. Yet we will also cover the big picture, which includes tasks that many attorneys never assign paralegals to perform. This broader perspective is needed to develop into a well-rounded paralegal and to be ready for the great diversity that awaits you within the legal community.

MAJOR PLAYERS

During this course, we will meet many organizations. Here is an overview of some of the major players (not necessarily listed in order of influence):

- National Federation of Paralegal Associations (NFPA)
- National Association of Legal Assistants (NALA)
- NALS, The Association for Legal Professionals (NALS)
- American Bar Association Standing Committee on Paralegals (SCOP)
- Your state bar association (see Appendix B)
- Your local paralegal association (see Appendix B)

These organizations are covered in some detail throughout the remaining chapters of the book, but a brief word about each will be helpful at this point.

All six organizations extensively promote (and most offer) **continuing legal education (CLE)**, which is training in the law (usually short term) that a person receives after completing his or her formal legal training or after becoming employed.

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NATIONAL FEDERATION OF PARALEGAL ASSOCIATIONS (NFPA)

(www.paralegals.org)

The NFPA is an association of more than fifty state and local paralegal associations throughout the country. (See Appendix B.) Individual paralegals can also be members, but most are connected to NFPA through their local paralegal association. More than 10,000 paralegals are part of the NFPA network. NFPA offers voluntary **certification** for entry-level paralegals (PCCE: the Paralegal CORE Competency Exam). By entry-level, we mean that the certification credential can be earned without having paralegal job experience. (In the job market, entry-level also refers to a starting position for someone with little or no experience.) NFPA has another voluntary certification program for paralegals with experience (PACE: the Paralegal Advanced Competency Exam). We discuss these credentials in Chapter 4.

certification The process by which a nongovernmental organization grants recognition to a person who has met the qualifications set by that organization.

NATIONAL ASSOCIATION OF LEGAL ASSISTANTS (NALA)

(www.nala.org)

NALA is primarily an association of individual paralegals, although eighty-one state and local paralegal associations are affiliated with NALA. (See Appendix B.) More than 18,000 paralegals in the country are represented by NALA. It offers voluntary certification for entry-level paralegals (CLA, Certified Legal Assistant/Certified Paralegal) and for paralegals with experience (APC, Advanced Paralegal Certification). See Chapter 4.

NALS, THE ASSOCIATION FOR LEGAL PROFESSIONALS

(www.nals.org)

The oldest national association in the country is NALS, the Association for Legal Professionals. (See Appendix B.) The association consists of more than 4,000 paralegals and legal secretaries in 100+ chapters throughout the country. NALS offers a voluntary certification examination (PP, Professional Paralegal). See Chapter 4. The National Association of Legal Assistants (NALA) was initially formed as a breakaway association from NALS. Both associations are still headquartered in Tulsa, Oklahoma. (At one time, NALS stood for National Association of Legal Secretaries; the organization kept the abbreviation but changed its meaning.)

See Exhibit 1-1 concerning convention activity of NFPA, NALA, and NALS.

Exhibit 1-1

Annual Conventions: NFPA, NALA, and NALS



Annual convention of the National Federation of Paralegal Associations (NFPA).



Annual convention of the National Association of Legal Assistants (NALA).



Continuing legal education (CLE) session of NALS, the Association for Legal Professionals.

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AMERICAN BAR ASSOCIATION STANDING COMMITTEE ON PARALEGALS (SCOP)

(www.americanbar.org/groups/paralegals.html)

The American Bar Association (ABA) is a voluntary association of attorneys; no attorney must be a member. Yet it is a powerful organization because of its resources, its prestige, and the large number of attorneys who have joined. The ABA has a Standing Committee on Paralegals (SCOP) that has had a significant impact on the growth of the field. The role of the ABA has included the publication of research on paralegals, the establishment of a voluntary program of approving paralegal schools, and the creation of an associate membership category for paralegals.

STATE BAR ASSOCIATION OF YOUR STATE

(see Appendix B)

Most state bar associations have been active regarding the role of paralegals in the practice of law. Many of the associations have issued (1) guidelines on the proper use of paralegals by attorneys and (2) ethical opinions that apply the state's ethics code to an attorney's use of paralegals. We examine such guidelines and opinions in Chapter 5 and in Appendix D. Some state bar associations have followed the lead of the ABA and allow paralegals to become associate or affiliate members.

YOUR LOCAL PARALEGAL ASSOCIATION

(see Appendix B)

Paralegal associations fall into at least fourteen categories, some of which overlap:

1. Nationwide (e.g., NFPA, NALA, NALS)
2. Statewide (e.g., Illinois Paralegal Association)
3. Regionwide encompassing more than one state (e.g., Rocky Mountain Paralegal Association)
4. Regionwide within a state (e.g., South Florida Paralegal Association)
5. Countywide (e.g., Santa Clara County Paralegal Association)
6. Citywide (e.g., New York City Paralegal Association)
7. Practice specific (e.g., Houston Corporate Paralegal Association)
8. Division of a bar association (e.g., Paralegal Division of the State Bar of Texas)
9. Association of associations (e.g., Empire State Alliance of Paralegal Associations)
10. Schoolwide (e.g., Fresno City College Paralegal Association)
11. Manager-focused (e.g., International Practice Management Association)
12. Association whose membership is limited to paralegals (e.g., Orange County Paralegal Association)
13. Association whose membership consists of paralegals, legal secretaries, and other nonattorneys (e.g., NALS)
14. Foreign (e.g., Canadian Paralegal Association)

Most paralegals in the country have joined a state, regional, county, city, or bar-affiliated paralegal association. (They are collectively referred to in this book as *local paralegal associations*.) Through CLE and **networking**, a great many paralegals have found major career support and inspiration by active participation in their local paralegal association. If any of them have a student membership rate, you should consider joining now, while you are in this course.

networking Establishing contacts and sharing information with people (a) who might become personal or professional resources for you and (b) for whom you might become a personal or professional resource.

OTHER IMPORTANT ORGANIZATIONS

Although NFPA, NALA, NALS, SCOP, your state bar association, and your local paralegal association will dominate our discussion of paralegalism, we will also be referring to other important groups, such as the following:

- International Practice Management Association (IPMA): an association of paralegal supervisors in large law offices (www.paralegalmanagement.org)
- American Association for Paralegal Education (AAfPE): an association of paralegal schools (www.aafpe.org)
- Association of Legal Administrators (ALA): an association of individuals (mostly nonattorneys) who help administer or manage law offices (www.alanet.org)
- American Alliance of Paralegals, Inc. (AAPi): a national association of paralegals that offers certification without an examination (www.aapipara.org)

JOB TITLES

PARALEGAL AND LEGAL ASSISTANT

For convenience, this book uses the title *paralegal*. At one time, another common title was *legal assistant*. For years most people agreed that these titles were synonymous, just as the titles *attorney* and *lawyer* are synonymous. Yet the titles *paralegal* and *legal assistant* have been the source of confusion and debate. For example, in some state governments, legal-assistant

positions are attorney positions. In the federal government, most legal secretaries are called legal assistants. More significantly, many private law offices have changed the title of their legal secretaries to *legal assistants* without changing the requirements for their position or the duties they perform. Those who favor this title change say that it reflects the broader role that many secretaries perform. Cynics, however, argue that the change is due to the fact that courts can give attorneys separate fees for the work of their legal assistants but not for that of their secretaries. We will be examining such fees later in this chapter.

The shift in title from *secretary* to *legal assistant* has not been universal; there are still individuals called legal secretaries in offices throughout the country. Yet the number of legal secretaries now called legal assistants is substantial, and this has led many to conclude that the legal assistant and paralegal titles are no longer synonymous. There is an emerging preference for the *paralegal* title. For example, many local associations have voted to change their name from legal-assistant association to paralegal association. One of the largest paralegal organizations in the country, the Legal Assistant Division of the State Bar of Texas, changed its name to the Paralegal Division of the State Bar of Texas. As indicated, an important committee of the American Bar Association is the Standing Committee on Paralegals. Its former name was the Standing Committee on Legal Assistants.

The National Association of Legal Assistants (NALA), however, is adamant that “the terms legal assistant and paralegal are used interchangeably.” This is also the view of the International Practice Management Association (IPMA), yet even IPMA has gone through a name change—it was once known as the Legal Assistant Management Association. NALA itself has acknowledged this trend. As we will see in Chapter 4, if you take and pass NALA’s certification exam, you have a choice of being called a certified legal assistant (CLA) or a certified paralegal (CP). The former title has been available since the 1970s; the latter was added as an option in 2004 and is now preferred by those who pass the exam. It is true that some laws (discussed in Chapter 4) treat paralegals and legal assistants as synonyms. Yet the momentum continues on many fronts to separate the positions of legal assistant and paralegal and to prefer the latter.

To summarize:

- At one time, everyone considered paralegal and legal assistant to be interchangeable titles; they were synonymous.
- *Paralegal* became the preferred title after many attorneys allowed their secretaries to be called *legal assistants*.
- Some laws and some organizations, however, still maintain that the titles are interchangeable.

OTHER TITLES

This is not to say that *paralegal* and *legal assistant* are the only titles in the field. Far from it. Many other titles are in use. Several reasons account for this diversity.

First, there are no national standards regulating the paralegal field. Every state is free to regulate or to refuse to regulate a particular occupation. Second, most states have not imposed the kind of regulation on paralegals that would lead to greater consistency on titles within a particular state. For example, most states have not imposed minimum educational requirements or licensing. Hence, few restrictions exist on who can call themselves paralegals, legal assistants, or related titles. Although there are some major exceptions in states such as California, Florida, South Dakota, and Maine that limit who can use specific titles (discussed in Chapter 4), for the most part there are no such restrictions.

To begin sorting through the maze, we examine two broad categories of workers: those who are employees of attorneys (often called **traditional paralegals**) and those who are **independent contractors**. In general, independent contractors are self-employed persons who operate their own business and contract to do work for others. In general, those who hire the services of independent contractors do not control many of the administrative *details* of how the services are performed. The *objectives* or end products of the services, however, are controlled by those who hire them.

We will be examining two kinds of independent contractors in the legal field: those who sell their services to attorneys (a relatively small group) and those who sell their services to the public without attorney supervision (a larger and more controversial group). Within these two categories, you will find considerable diversity (and overlap) in the titles that are used.

traditional paralegals A paralegal who is an employee of an attorney.

independent contractors A self-employed person who operates his or her own business and contracts to perform tasks for others. In general, the latter do not control many of the administrative details of how the work is performed.