

CODE OF ETHICS AND PROFESSIONAL RESPONSIBILITY FOR DELAWARE PARALEGALS

PREAMBLE

The Delaware Paralegal Association advocates that paralegals have an ethical and professional responsibility in the delivery of legal services in the State of Delaware in accordance with the Delaware Rules of Professional Conduct, this Code of Ethics (the “Code”) and other applicable law (collectively referred to as the “Rules”). A paralegal is also subject to his or her employer’s internal guidelines and procedures. A paralegal’s conduct should conform to these Rules, in professional service to clients, the paralegal’s employment and personal affairs. A paralegal should demonstrate respect for the legal system and for those who serve it, including attorneys, judges and public officials. It is also a paralegal’s duty to uphold the legal process. In all professional functions, a paralegal must be competent, prompt and diligent. A paralegal should strive to expand the paralegal role in the delivery of legal services and should strive to attain the highest level of education and skill.

Within the framework of the Code, many difficult issues of professional discretion can arise. A paralegal must resolve these issues through the immediate exercise of professional and moral judgment guided by the basic principles underlying this Code.

SCOPE

The Paralegal Code of Ethics and Professional Responsibility are rules of reason. Interpretation of the Code is for the purposes of assisting attorneys in legal representation. Some portions of the Code are imperatives, cast in the terms of “shall” or “shall not.” They define proper conduct for the paralegal profession in Delaware. Others, generally cast in the term “may,” are permissive and define areas under the Code in which the paralegal has professional discretion. Other parts of the Code define the nature of relationships between the paralegal and others.

For purposes of determining the paralegal’s role in relationship to an attorney’s authority and responsibility, principles of substantive law external to the Code determine whether a client-attorney-paralegal relationship exists.

The Code is designed to provide guidance to Delaware paralegals and those in the legal profession and attorneys. Violation of this Code should not give rise to a cause of action nor should it create any presumption that a legal duty has been breached. The Code is not designed to be a basis for civil liability.

CODE OF ETHICS AND PROFESSIONAL RESPONSIBILITY

CANON 1: A PARALEGAL SHALL ACHIEVE AND MAINTAIN A HIGH LEVEL OF COMPETENCE.

- 1.1: A paralegal shall achieve competency through education, training and work experience.
- 1.2: A paralegal shall participate in continuing legal education in order to keep informed of current legal, technical and general developments.
- 1.3: A paralegal shall perform all assignments promptly and efficiently.

CANON 2: A PARALEGAL SHALL MAINTAIN A HIGH LEVEL OF PERSONAL AND PROFESSIONAL INTEGRITY.

- 2.1: A paralegal shall make responsible efforts to assist an attorney in expediting matters consistent with the interests of the client. A paralegal shall also assist an attorney in accordance with the Rules when explaining a matter to a client.
- 2.2: A paralegal shall not engage in any ex-parte communications involving the courts or any other adjudicatory body in an attempt to exert undue influence or to obtain advantage for the benefit of only one party.
- 2.3: A paralegal shall not communicate, or cause another to communicate, with a party the paralegal knows to be represented by an attorney in a pending matter without the prior consent of the attorney representing such other party.
- 2.4: In communicating with a person who is not represented by counsel, a paralegal shall state the paralegal's adverse role. When the paralegal knows or reasonably should know that the person not represented by counsel misunderstands the paralegal's role in the matter, the paralegal shall make reasonable efforts to correct the misunderstanding.
- 2.5: A paralegal shall ensure that all timekeeping and billing records prepared by the paralegal are thorough, accurate, honest and complete.
- 2.6: A paralegal shall not knowingly engage in fraudulent billing practices. Such practices may include, but are not limited to, inflation of hours billed to a client or employer, misrepresentation of the nature of tasks performed and/or submission of fraudulent expense and disbursement documentation.

- 2.7: A paralegal shall be scrupulous, thorough and honest in the identification and maintenance of all funds, securities, and other assets of a client and shall provide accurate accounting as appropriate.
- 2.8: A paralegal shall advise the proper authority of non-confidential knowledge of any dishonest or fraudulent acts by any person pertaining to the handling of the funds, securities or other assets of a client. The authority to which the report is made shall depend on the nature and circumstances of the possible misconduct (e.g., ethics committees of law firms, corporations and/or paralegal associations, local or state bar associations, local prosecutors, administrative agencies, etc.).
- 2.9: A paralegal shall assist the attorney in keeping a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

CANON 3: A PARALEGAL SHALL MAINTAIN A HIGH STANDARD OF PROFESSIONAL CONDUCT.

- 3.1: A paralegal shall refrain from engaging in any conduct that offends the dignity and decorum of proceedings before a court or other adjudicatory body, shall be respectful of all rules and procedures and shall show civility towards members of the legal community and the general public.
- 3.2: A paralegal shall avoid impropriety and the appearance of impropriety and shall not engage in any conduct that would adversely affect his or her fitness to practice. Such conduct may include, but is not limited to violence, dishonesty, and interference with the administration of justice and/or abuse of a professional position or public office.
- 3.3: A paralegal shall advise the proper authority of non-confidential knowledge of any action of another legal professional that clearly demonstrates fraud, deceit, dishonesty or misrepresentation. The authority to which the report is made shall depend on the nature and circumstances of the possible misconduct, (e.g., ethics committees of law firms, corporations and/or paralegal associations, local or state bar associations, local prosecutors, administrative agencies, etc.).
- 3.4: A paralegal shall not knowingly assist any individual with the commission of an act that is inconsistent with the underlying principles set forth in the Rules and/or the rules and/or laws governing any other jurisdiction.
- 3.5: If a paralegal possesses knowledge of future criminal activity, that knowledge must be reported to the appropriate authority immediately.

CANON 4: A PARALEGAL SHALL NOT ENGAGE IN THE UNAUTHORIZED PRACTICE OF LAW.

4.1: A paralegal shall comply with the applicable legal authority governing the unauthorized practice of law in the State of Delaware and any other jurisdiction in which the paralegal practices.

CANON 5: A PARALEGAL SHALL PRESERVE ALL CONFIDENTIAL INFORMATION PROVIDED BY A CLIENT OR ACQUIRED FROM OTHER SOURCES BEFORE, DURING AND AFTER THE COURSE OF A PROFESSIONAL RELATIONSHIP.

5.1: A paralegal shall be aware of and abide by all legal authority governing confidential information in the State of Delaware and any other jurisdiction in which the paralegals practices.

5.2: A paralegal shall not use confidential information to the disadvantage of a client nor divulge any aspect of the representation of a client to any third party.

5.3: A paralegal shall not use confidential information to the advantage of the paralegal or of a third person.

5.4: A paralegal may reveal or use confidential information only after consultation with the attorney, after full disclosure and with the client's written consent or when required by law or court order or when necessary to prevent the client from committing an act that could result in death or serious bodily harm.

5.5: A paralegal shall keep those individuals responsible for the legal representation of the client fully informed of any confidential information the paralegal may have pertaining to that client.

5.6: After consultation with the paralegal's supervising attorney, a paralegal may reveal such information to the extent the paralegal reasonably believes necessary to establish a claim or defense on behalf of the paralegal in a controversy between the paralegal and a client of the paralegal's employer, to establish a defense to a criminal charge or civil claim against the paralegal based upon conduct in which the client was involved or to respond to allegations in any proceeding concerning the paralegal's assistance in the representation of the client.

CANON 6: A PARALEGAL SHALL AVOID CONFLICTS OF INTEREST AND SHALL DISCLOSE ANY POSSIBLE CONFLICT TO THE EMPLOYER OR THE CLIENT AS WELL AS TO PROSPECTIVE EMPLOYERS OR CLIENTS.

- 6.1: A paralegal shall act within the bounds of the law, solely for the benefit of the client and shall be free of compromising influences and loyalties. Neither the paralegal's personal or business interest, nor those of other clients or third persons, should compromise the paralegal's professional judgment and loyalty to the client.
- 6.2: A paralegal shall avoid conflicts of interest that may arise from previous assignments or appointments, whether for a present or past employer or client, or as a public officer or employee.
- 6.3: A paralegal shall avoid conflicts of interest that may arise from family relationships and from personal interests. A paralegal shall not enter into a business transaction with a client or knowingly acquire an ownership, possessory, security or other pecuniary interest adverse to a client unless, with the attorney's knowledge and consent:
- (a) the transaction and terms on which the paralegal acquires the interest are fair and reasonable to the client and are fully disclosed and transmitted in writing to the client in a manner which can be reasonably understood by the client;
 - (b) the client is given a reasonable opportunity to seek the advice of independent counsel in the transaction; and
 - (c) the client consents in writing thereto.
- 6.4: In order to be able to determine whether an actual or potential conflict of interest exists, a paralegal shall maintain a record that identifies clients, matters and parties with which the paralegal has worked.
- 6.5: A paralegal shall reveal sufficient non-confidential information about a client or former client to reasonably ascertain if an actual or potential conflict of interest exists.
- 6.6: A paralegal shall not participate in or conduct work on any matter where a conflict of interest has been identified.
- 6.7: When a paralegal is employed or retained by a firm, the firm may not knowingly represent a person in the same or a substantially related matter:

- (a) in which that paralegal has previously assisted in the representation of the client, except as otherwise provided in Rule 6.8.
- (b) in which a firm with which the paralegal was previously employed or retained by represented the client, whose interests are materially adverse to that person and about whom the paralegal has acquired confidential information that is material to the matter, except as otherwise provided in Rule 6.8.

6.8: In matters where a conflict of interest has been identified and the client consents to continued representation, a paralegal shall comply fully with the implementation and maintenance of an Ethical Wall. An Ethical Wall is the screening method implemented in order to protect a client from a conflict of interest. An Ethical Wall generally includes, but is not limited to, the following elements: (1) prohibits the paralegal from having any connection with the matter; (2) bans discussions with or the transfer of documents to or from the paralegal; (3) restricts access to files; and (4) educates all members of the firm, corporation or entity as to the separation of the paralegal (both organizationally and physically) from the pending matter.

6.9: Prior to the time the attorney concludes his or her representation of a client, a paralegal shall not make or negotiate an agreement giving the paralegal literary or media rights to a portrayal or account based in substantial part on information relating to the representation.

CANON 7: A PARALEGAL'S TITLE SHALL BE FULLY DISCLOSED.

7.1: A paralegal authorized by local, state, or federal administrative, statutory, or court authority to represent a client in a proceeding shall disclose that the paralegal's appearance is in a representative capacity and shall conform to the provisions of the Rules.

7.2: A paralegal's title shall clearly indicate the paralegal's status and shall be disclosed in all business and professional communications to avoid misunderstandings and misconceptions about the paralegal's role and responsibilities.

7.3: A paralegal's title shall be included if the paralegal's name appears on business cards, letterhead, brochures, directories, advertisements and electronic communications.

7.4: A paralegal shall not use letterhead, business cards or other promotional materials for personal use or to create a fraudulent impression of his or her status or ability to practice law in the jurisdiction in which the paralegal practices.

7.5: A paralegal shall not practice under color of any record, diploma or certificate that has been illegally or fraudulently obtained or issued or which is misrepresentative in any way.

7.6: A paralegal shall not participate in the creation, issuance or dissemination of fraudulent records, diplomas or certificates.

CANON 8: A PARALEGAL IS ENCOURAGED TO SERVE THE PUBLIC INTEREST BY CONTRIBUTING TO THE IMPROVEMENT OF THE LEGAL SYSTEM AND DELIVERY OF QUALITY LEGAL SERVICES INCLUDING PRO BONO SERVICES.

8.1: A paralegal is encouraged to be sensitive to the legal needs of the public and promote the development and implementation of programs that address those needs.

8.2: A paralegal is encouraged to support efforts to improve the legal system and access thereto and assist in making changes.

8.3: A paralegal is encouraged to support and participate in the delivery of pro bono services directed toward implementing and improving access to justice, the law, the legal system and the paralegal and legal professions.

8.4: A paralegal is encouraged to aspire annually to contribute pro bono services under the supervision of an attorney or as authorized by administrative, statutory or court authority to:

- (a) persons of limited means; or
- (b) charitable, religious, civic, community, governmental and educational organizations in matters that are designed primarily to address the legal needs of persons with limited means; or
- (c) individuals, groups or organizations seeking to secure or protect civil rights, civil liberties or public rights.