

Why Paralegals Should Understand the Ethical Responsibilities of Attorneys



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Paralegals

A paralegal is eligible after education or training. Adequate work experience while working with a licensed lawyer can also make a person qualified to be a paralegal. Although they can also be called legal assistants in some states, places like California have rules that distinguish between the two.

Paralegals can work for law firms, corporations, organizations, private or public offices and other entities that require a lawyer. They usually have responsibilities that involve assisting attorneys. Paralegals perform substantial legal tasks that are supervised by lawyers.

Certified Paralegal

Paralegals are not obliged to have a license in order to work in a company. However, certification improves their level of professional competency. Certification can be obtained by taking exams offered all across the country. Many people take the competency exam that the National Association of Paralegals provides. Those who pass are awarded the title of Certified Legal Assistant or Certified Paralegal. The NALA also gives exams for those who want an Advanced Specialty Certification.

Another association that gives out competency exams is the National Federation of Paralegal Associations. This association is responsible for the Paralegal Advanced Competency Exam, and it awards those who pass the designation of Registered Paralegal. There are also other competency exams that provide paralegals with certifications and designations.

Ethical Responsibilities of Attorneys

Paralegals should know about all of the legal and ethical responsibilities that attorneys have. They play a major role in the legal field in whatever responsibility a lawyer may give them. Understanding their attorney's ethical responsibilities and limitations helps paralegals go through their career without any problems or major legal issues. This also minimizes any legal liability that they may have from improper practices. There are many important reasons why paralegals are obliged to know what an attorney's job is all about.

1. Paralegals are Extensions of Lawyers

Paralegals should know that everything they do in the office in their assigned task is a direct extension of their supervising lawyer's actions. They are the ones who assist lawyers in researching and documenting cases. Paralegals are given

tasks that lawyers need in order to thoroughly study and win the case.

There are certain limitations to what paralegals can legally do. They are not allowed to perform tasks that are within their scope. A paralegal is violating the unauthorized practice law once he or she decides to go beyond what is allowed.

When an attorney assigns a paralegal to write a legal letter or research a case, the utmost professionalism must always be used. Lawyers are the ones who carefully assess what responsibilities should and should not be given to a paralegal. They evaluate the case and think of strategies that are essential to winning. On the other hand, the paralegal only assumes the responsibility that may arise from a given plan of action. This means that all actions that the paralegal performs must be connected to what the attorney wants and requires.

There are cases where paralegals fail to follow the lawyer's directions and orders. Other cases also involve paralegals who perform tasks that are outside their legal boundaries or responsibilities that their supervising attorney may not have assigned. These situations can have serious results that may lead to major problems. Paralegals should know that the ones who are most accountable are the lawyers as they are directly responsible for how the whole team

carries out the planned strategies.

How Paralegals Help Their Attorneys

Paralegals help attorneys in a number of ways. They take care of research and administrative responsibilities and tasks that need to be completed for the case. Paralegals can be beneficial if the right one is hired. These are among the many advantages that lawyers get from having a paralegal.

Reduced Costs

Paralegals can carry out tasks that can lift some of the burden off of their supervising lawyers. They can perform interviews and investigations about the case. Paralegals can also handle other time-consuming tasks that include documentation and organizing.

These responsibilities can be completed faster with lower costs with a paralegal's help. Additional attorneys can be expensive and impractical as paralegals can carry out their responsibilities with the same proficiency. The charges for paralegal help can also be separated from the lawyer's. This makes the total legal fees lower and more flexible.

Improved Contact with Clients

Lawyers do not have sufficient time to actively engage themselves in keeping in

contact with their clients. They also handle a lot of work that involves a lot of clients and may make their particular case seem unimportant. This is why a paralegal's help can be a great advantage.

The paralegal can handle direct contact and communication with clients. They can continue further interviews and investigations in order to gather more information that may help with the case. This will make clients feel more appreciated and important. Adequate data can also help in winning a case.

Pro Bono Activities

Law firms can also increase their ability to carry out pro bono activities with a paralegal's help. They can make use of their paralegals in performing tasks that can help complete their required pro bono hours. However, any task that a paralegal performs pro bono must still be done under a lawyer's supervision.

2. Reduce Legal Consequences

There are some states in the country that require paralegals to be licensed before they are allowed to work for legal firms or organizations. The areas that require such provide paralegals with more legal liability. However, there are some states that do not require paralegals to have their own license. This makes supervising lawyers more accountable for their

paralegal's actions.

Paralegals should know their supervising attorney's legal responsibilities in order to determine their own. They should be aware of what lawyers are allowed to do so that they can also identify their limits. This minimizes the legal consequences that their actions may have. The lawyer is not the only one who is responsible for what the team decides to do. Every other team member is as well. This is why they should know their supervising lawyer's legal and ethical responsibilities before they decide to perform the task given to them.

Paralegal Extent of Responsibilities

Paralegals should understand their limitations when it comes to their legal tasks. They should know what things they can do in order to protect themselves legally. Paralegals also have particular responsibilities that are distinct from lawyers. However, attorneys should supervise and approve any tasks that these paralegals perform. These are the things that paralegals should and should not do.

Paralegal Responsibilities

Research and Investigation

Paralegals usually perform legal research about the case and the client. They are

required to conduct factual investigations on the involved parties. These legal paraprofessionals can perform legal research as long as they have an attorney's approval and supervision.

It is a violation of legal codes for a paralegal to perform activities without getting the lawyer's approval. Any problem that may arise will leave both the lawyer and the paralegal liable. Even though the lawyer is not knowledgeable of the act, he or she is still legally bound and responsible. This is because any action that the paralegal takes in their line of work is a direct extension of their supervising attorney.

Filing and Documentation

Although paralegals are not solely hired to fix files and documents, they may also perform such tasks if a lawyer needs them to. Paralegals usually prepare the necessary documents required for legal transactions. They are the ones who review the client files and make sure they are ready. These paraprofessionals are also the ones who manage legal files and properly organize them for current and future use.

Other Responsibilities

Paralegals may also be asked to interview

the client before they are able to meet with the lawyer. They usually conduct initial evaluation and have the case ready for the attorney to review.

Paraprofessionals also draft pleadings and discovery notices and have a lawyer sign them. They may also assist during court trials and closings.

Unauthorized Practice of Law

Client Representation

Paralegals are not allowed to represent their clients in court. This is a licensed lawyer's responsibility. Paraprofessionals may only conduct interviews and investigations about the client and the case. They may not defend clients as lawyers do.

Take Client Depositions

Only licensed lawyers are allowed to take client depositions. This oral witness testimony will be used for court trials and require the supervision of an attorney if the judge is not present. Paralegals who take depositions from their clients without a lawyer present are violating their ethical code of conduct and are subject to legal action.

Attach Signature on Pleadings

Paralegals are allowed to draft pleadings and have them ready for the lawyer to sign. However, they are not allowed to attach their own signature. A paralegal who does so is violating the code.

Legal Advice

Lawyers are the only ones who are legally allowed to give their clients legal advice. Paralegals are prohibited from providing any advice to their client that may affect the case. They are allowed to interview the client but not give out their own legal thoughts and opinions.

Other Limitations

Paralegals are prohibited from charging a lawyer's fees to their clients. Paralegal fees are often substantially less than attorney's fees.

3. Legal Protection

Paralegals should know their attorney's legal responsibilities and limitations. They should use this in order to protect their own interests. Paralegals are assigned tasks that can be subject to meticulous evaluation. They should first determine if the assignment given to them is not violating any law or ethical code.

Governing Bodies that Impose Ethical Limitations on Legal Professionals

Attorneys are governed by regulating bodies that determine the limit and scope of their legal actions. They are expected to perform tasks that these sectors allow. This is why paralegals should also understand what these governing bodies are and their control over the attorney's limit of responsibility.

Federal and State Courts

The U.S. judicial system is composed of two federal and state courts. These two are the governing bodies that are responsible for hearing legal cases. They are separate from each other but are still interrelated. Understanding the two kinds of judiciaries and their respective scope in the country's legal system can help paralegals in determining their attorney's ethical responsibilities.

Federal Court

Federal courts include the U.S. Circuit Courts of Appeals, the U.S. District Courts and the U.S. Supreme Court. The U.S. Court of International Trade and the U.S. Court of Claims are additional special courts. The U.S. Court of Military Appeals, the U.S. Court of Veterans'

Appeals, bankruptcy courts, the U.S. Tax Court and magistrate courts are also federal courts. Legislative federal courts include the U.S. Court of Veterans' Appeals, the U.S. Court of Military Appeals and the U.S. Tax Court. In practice, most paralegals will be dealing with local courts in particular states.

State Court

Every state in the country also has their own particular court and legal system. Some may have certain prohibitions and rules that do not apply to other states. These are governed by their local and supreme state courts. Some courts may also have intermediate appellate courts.

Most state courts are composed of two trial courts. The first kind is the trial court of limited jurisdiction and the second type is the trial courts of general jurisdiction. These differ in the kind of cases that are heard. The trial courts of limited jurisdiction mostly deal with particular cases that are filed in the area near the courthouse. Most cases are heard with a judge and without a jury. These include the probate courts, traffic courts, municipal courts, juvenile courts, family courts and small claims court.

Each state and the District of Columbia have a highest court that promulgate the rules and regulations that govern how the lawyers legally practice their profession.

These courts also impose a lawyer's code of conduct and are responsible for passing punishment if a lawyer violates it. State statutes also govern the legal roles and limitations that lawyers have in their particular areas.

American Bar Association

The American Bar Association is a national organization of lawyers in the country. This association has a model that governs the professional and legal conducts of attorneys. Almost all states except California have based their code of ethics on the ABA's model. This model code of ethics contains Canons, Disciplinary Rules and Ethical Considerations.

Code of Conduct

Members of legal teams are required to follow their code of conduct. This states different rules and limitations that each member has. It also provides particular sanctions or disciplinary actions that can be imposed if the code is violated.

General Rules for Lawyers

Lawyers must first be licensed in order to work in the legal field. This is the primary requirement that they must possess according to their code of ethics. Attorneys from other states are allowed to

perform limited tasks in some areas. The supreme court of each state has a major role in the legal process. However, some states may have additional entries to the ABA's model on conduct.

Responsibility of Paralegals

There are also ethical rules that govern a paralegal's responsibilities. The ABA's model of conduct does not require paralegals to acquire a license in order for them to work legally. However, there are a few states that give out exams to paralegals so that they can have more responsibilities and an increased possibility of obtaining higher positions in the firm. There are also some states that require them to have a formal education or adequate experience before they can be considered paralegals.

The ABA's model requires paralegals to act out tasks as an extension of licensed lawyers. They are obliged to work in a manner that is also acceptable to the attorney's code of conduct. ABA also requires paralegals to follow and go through the Guidelines for Legal Assistant Training.

Other Voluntary Paralegal Organizations

Aside from the American Bar Association that provides the model of conduct for lawyers, there are also other voluntary organizations for paralegals. These associations also impose additional rules that paralegals should follow.

The National Association of Legal Assistants made the Model Standards and Guidelines for the Utilization of Legal Assistants. This organization also provides the Code of Ethics and Professional Responsibility or the NALA Code. Another association is the National Federation of Paralegal Associations that provides the Model Code of Ethics and Professional Responsibility and Guidelines of Enforcement.

4. Unauthorized Practice of Law

Lawyers and paralegals are required to follow the ABA's model regarding their limitations of practice. However, different states may also have particular rulings on the unauthorized practice of law. These states have their own limitations in order to prohibit unqualified people from practicing as licensed professionals.

Paralegals are also covered under the unauthorized practice of law section in the model of conduct. This limits them from performing tasks that are outside their legal responsibilities. This protects both lawyers and paralegals from legal consequences that may arise from violating the code. The section focuses on three major issues that paralegals may encounter in the legal field.

How Paralegals Should Be Represented to Clients and the Court

Paralegals should know how to properly represent themselves to their clients. This helps them in avoiding violations of ethical codes. It can also produce a healthy and professional relationship between the client, attorney and the paralegal. These are steps that can aid attorneys and paraprofessionals in introducing themselves and their legal limitations to their clients and the court.

- Paralegals should be clearly introduced with their name and title in front of clients and the court.
- Attorneys are required to inform their clients about the paralegal's scope of responsibility.
- Paralegals should have their title stated on their business cards and letterheads.
- Attorneys should properly instruct their paralegals on how they present themselves.

5. Avoid Legal Sanctions

The most important reason why paralegals should know their attorney's ethical responsibilities is to avoid legal sanctions. Although paralegals are not as legally liable as their supervising lawyers, any misconduct can affect their career and future employment. It can decrease their probability of being hired at other law firms or companies if they have permanently scarred their professional competency.

Even though legal sanctions are only applicable to licensed lawyers, paralegals should also be aware of their actions' consequences. There are particular sanctions that may be given to attorneys depending on the extent of their action. These can be imposed by state or federal laws and by other voluntary associations such as the ABA.

Reprimand or Reproval

A reprimand or reproval is the lightest sanction that can be given to an attorney. This serves as an initial warning that states the lawyer's violation. It permanently shows on the lawyer's records at the state bar or the court. The reprimand can be done publicly or in private. The first kind shows in the lawyer's public records while private reprimands are confidential. This can

be given to attorneys through official letters. It can then be used as a basis for legal sanctions for future violations.

Suspension or Probation

A suspension can be given to attorneys who violate the ethical code. This is a more severe sanction than a reprimand. A suspension prohibits the lawyer to practice as a legal professional for a particular period of time. The attorney can be allowed to function once the suspension has been lifted.

However, there are some cases that involve probation after the suspension. This requires the lawyer to complete tasks like taking an ethics examination, making restitution for client injuries or undergoing counseling. The attorney who is under probation can function as a legal practitioner but is expected to behave with the utmost professionalism. Some cases may also have the lawyer undergo another suspension if further violations are committed while on probation.

Disbarment

Disbarment is the most severe sanction that can be given to an attorney. This revoke's the lawyer's license and prohibits him or her from functioning as a licensed professional. Disbarment is usually imposed on lawyers who violate major ethical codes. This sanction can also be given to lawyers who have long-term records of unethical conduct.

Even though disbarment is generally a permanent sanction, there are some cases that allow disbarred lawyers to practice their profession again. Some authorities may permit readmission of disbarred attorneys if they are able to present improvements and complete rehabilitation. However, this can involve a meticulous and long process.

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