

Paralegal Today

Seventh Edition

The Legal Team at Work



Roger LeRoy Miller
Mary Meinzingler

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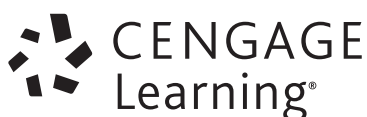
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THE LEGAL TEAM AT WORK

Roger LeRoy Miller
Mary Meinzinger



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Your publishing success is well
deserved. May you continue to
create best sellers for years to
come.

R.L.M.

To Katie,
Welcome to the study and practice of
law! You will make an excellent legal
professional.

To Boomer and Meghan,
Your love of learning has inspired
my teaching.
With much love to all three of you,
Mom

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Preface

The legal profession is changing. Software can now perform many functions that lawyers had to perform individually in the past. Law firms of all sizes now have access to stocks of complex legal forms, search tools, and writing aids that are necessary to put together legal documents peculiar to the needs of a given client. This requires members of a legal firm to be more computer savvy than ever.

Paralegal Today, Seventh Edition, covers the traditional topics needed in paralegal education, but emphasizes throughout the many online tools now available. We use real-world examples—dozens have been added—plus numerous boxed features to add to the learning content in an interesting manner. Those of you who have used the text before already know that it has perhaps the most extensive supplements package ever offered.

All of the basic areas of paralegal studies are covered in *Paralegal Today*, Seventh Edition: careers, ethics and professional responsibility, pretrial preparation, trial procedures, criminal law, legal interviewing and investigation, legal research and analysis, computer-assisted legal research, and legal writing. The book also provides in-depth coverage of substantive law, including bankruptcy, contracts, intellectual property, torts, product liability, real property, estates, business organizations, and family law. In addition, there are a number of features throughout the text that we describe in this preface.

A Practical, Focused Approach

This book has been streamlined in response to user comments. Some instructors believed the book had too many features that tended to distract from the core messages. The design has been simplified and the number of features reduced to keep the focus on the main messages in each chapter. The substantive content has not been reduced. Key information has been integrated into the text.

In *Paralegal Today*, Seventh Edition, in addition to the substantive content we cover in each chapter, we present practical advice for paralegals-to-be and “hands-on” activities. Exercises at the end of each chapter provide opportunities for your students to apply the concepts and skills discussed in the chapter. These learning tools have been significantly edited for this edition. Many of the book’s other key features, which you will read about shortly, were designed to give students a glimpse of the types of situations and demands they may encounter on the job as professional paralegals. A special introduction to the student, *Skill Prep*, which appears before Chapter 1, contains practical advice and tips on how to master the legal concepts and procedures presented in this text. The lessons there also apply later, on the job.

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

Technology

We have made sure that *Paralegal Today*, Seventh Edition, is the most up-to-date text available today. We have included features and materials in this edition that show how developments in technology are affecting the law, the legal workplace, and paralegal tasks. These features and materials will help your students learn how to take advantage of technology to enhance their quality and productivity as paralegals.

TECHNOLOGY AND TODAY'S PARALEGAL

ELECTRONIC COMMUNICATIONS AND CONFIDENTIALITY

Almost everyone has had the experience of sending an e-mail to the wrong recipient or accidentally using "reply to all" instead of "reply" and so broadcasting a personal message to a group. Similarly, law firm employees have sent inappropriate e-mails to partners and clients.

Careless communications can be more than simply embarrassing when they occur in a legal environment: confidential information could be disclosed and privilege lost. Such an incident can damage the sender's employment prospects, the interests of the client, and the reputation of the firm. This is a problem that goes beyond the workplace. Personal Web pages or social networking messages with inappropriate content may be seen by employers, opponents, or clients.

There are four major issues for paralegals to consider when using electronic communications or social media at work and at home:

1. Is a work-related communication truly confidential, or could an opposing party discover it during litigation?
2. Is a communication an appropriate use of the employer's property?
3. What sort of personal information is appropriate to share with the world through Facebook, Twitter, and other services?
4. Is the use of the social media forum consistent with the firm's policies?

CONFIDENTIALITY

Just labeling an e-mail or text message "confidential" does not mean that it will be treated as confidential. Simply adding nonprivileged material to a privileged communication will not protect the nonprivileged portion. Your firm should have a policy about when it is appropriate to send confi-

A Feature Focusing on Technology

The *Technology and Today's Paralegal* feature appears in each chapter. These updated features focus on how innovative programs and online sources affect a specific aspect of paralegal work. They also show how paralegals can use technology to their benefit for greater accuracy and productivity. Some of the titles of *Technology and Today's Paralegal* include the following:

- Electronic Communications and Confidentiality (Chapter 4).
- Who Bears the Costs of Electronic Discovery? (Chapter 10).
- Communicating through Graphics (Chapter 11).
- Identity Theft, Spam, and Related Legal Issues (Chapter 14).
- Online Resources Concerning Insurance Claims (Chapter 16).

Chapter-Ending Internet Exercises

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

The Organization of This Textbook

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

Content Presentation

We have attempted to accommodate the needs of paralegal instructors as much as possible by organizing the text into three basic parts.

- Part 1 (Chapters 1–6) focuses primarily on the paralegal profession—its origins and development, the wide array of paralegal careers, the requirements and procedures that students can expect to encounter in the legal workplace, and the threshold ethical responsibilities of the profession. Part 1 also discusses the structure of the American legal system—the sources of law and the courts.
- Part 2 (Chapters 7–13) looks in detail at legal procedures and paralegal skills. The student learns about the basic procedural requirements in civil and criminal litigation, as well as the skills involved in conducting interviews and investigations, legal research and analysis, and legal writing.

- Part 3 (Chapters 14–19) focuses on substantive law. The areas of law treated in this part of the text include torts, product liability, consumer law, contracts, intellectual property, insurance, real property, estates, family law, business organizations, employment, bankruptcy, and environmental law. Additionally, the chapters covering substantive law include many numbered, highlighted examples to provide real-world illustrations of the legal concepts being discussed.

A Flexible Arrangement

We believe that this organization of the materials allows the greatest flexibility for instructors. Although to a certain extent each chapter in the text builds on information contained in previous chapters, the chapters and parts can also be used independently. In other words, instructors who wish to change the sequence of topics to fit their course design preferences, or who do not want to use all the chapters, will find it relatively easy to do so.

Key Features

In addition to the *Technology and Today’s Paralegal* feature, every chapter in this text has learning features. Each feature is set apart and used both to instruct and to pique the interest of your paralegal students. As noted before, the number of different features has been reduced so as not to distract students from the core knowledge. The key features are described below.

Developing Paralegal Skills

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

- Interviewing a Client (Chapter 1).
- Creating a Trust Account (Chapter 3).
- File Workup (Chapter 10).
- Thinking Through a Fraud Investigation (Chapter 11).
- Preparing for Property-Settlement Negotiations (Chapter 17).

DEVELOPING PARALEGAL SKILLS

INTERVIEWING A CLIENT

Brenda Lundquist is a paralegal in a small firm. She has many responsibilities, including interviewing prospective divorce clients. Using a standard set of forms, Brenda meets with a prospective client and obtains information about the reasons for the divorce, finances and assets, and desired custody arrangements. This information is needed to assist the supervising attorney in determining whether to take the case. The information will also help Brenda in preparing the documents to be filed with the court should the attorney decide to represent the client. Brenda enjoys the work because she likes helping people, and often people who are getting divorced need both emotional and legal support.

CHECKLIST FOR CLIENT INTERVIEWS

- Plan the interview in advance.
- Print out forms and checklists to use during the interview.
- Introduce yourself as a paralegal or legal assistant.
- Explain the purpose of the interview to the client.
- Communicate your questions precisely.
- Listen carefully and be supportive, as necessary.
- Summarize the client’s major concerns.
- Give the client a “time line” for what will happen in the legal proceedings.

Ethics Watch

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

- Paralegal Expertise and Legal Advice (Chapter 1).
- Social Events and Confidentiality (Chapter 4).
- Using Secondary Sources (Chapter 7).
- Wills and Paralegal Supervision (Chapter 17).

ETHICS WATCH

PARALEGAL EXPERTISE AND LEGAL ADVICE

Paralegals often gain a great deal of knowledge in specific areas of law. If you specialize in environmental law, for example, you will become knowledgeable about environmental claims. In working with a client on a matter involving an environmental agency, you might be tempted to advise the client on which type of action would be most favorable to him or her. Never do so. Only attorneys may give legal advice, and paralegals who give legal advice risk penalties for the unauthorized practice of law. Whatever legal advice is given to the client must come directly from the attorney.

If you speak to a client, the advice must reflect exactly (or nearly exactly) what the attorney said with no modification and must be communicated to the client as directed by the attorney. After consulting with your supervising attorney, for example, you can say to the client that the attorney “advises that you do all that you can to settle the claim as soon as possible.”

The rule prohibiting the unauthorized practice of law is stated in Section 1.8 of the NFPA *Model Code of Ethics and Professional Responsibility*: “A paralegal shall comply with the applicable legal authority governing the unauthorized practice of law in the jurisdiction in which the paralegal practices.” It is also required by the NALA *Code of Ethics and Professional Responsibility* Canon 4: “A paralegal must use discretion and professional judgment commensurate with knowledge and experience but must not render independent legal judgment in place of an attorney.”

Featured Contributor Articles

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

FEATURED CONTRIBUTOR
 "TIPS TO JUMPSTART YOUR PARALEGAL CAREER"



Antoinette France-Harris, J.D.

BIOGRAPHICAL NOTE
 Antoinette France-Harris is a graduate of Harvard University (B.A. cum laude, 1992), Columbia University School of Social Work (M.S.W. 1994), and University of Pennsylvania Law School (J.D. 1997). From 1997 to 2002, she was a corporate and estate planning attorney in New York. In 2003, Mrs. Harris became a solo practitioner in Georgia, specializing in real estate, corporate, and estate planning matters. She also works on a pro bono basis to assist not-for-profit organizations to incorporate and obtain tax-exempt status. Mrs. Harris began her paralegal teaching career in 2010, when she accepted a full-time position as an instructor with Atlanta Technical College. She taught paralegal students for four years and became program chair. Since fall 2014, Mrs. Harris has been a member of the full-time faculty at Clayton State University.

This is a great time to become a paralegal! With the downturn in the economy, legal employers are turning increasingly to paralegals to meet growing client needs in a cost-effective manner. Opportunities exist in various legal specialties, including bankruptcy and environmental law, which have been deemed recently as hot areas of the law.

So, how does one get started? This article is designed to provide some useful strategies to launch a career in paralegals. The list is by no means exhaustive, but it will give the reader a starting point on this exciting journey.

“... the legal field is constantly evolving”

associate's degree. For broader appeal, job seekers might pursue a bachelor's degree. Others who already have a bachelor's in a different field might consider a post-baccalaureate certificate in paralegalism instead. Even paralegals who received on-the-job training report that obtaining a degree has opened doors to promotions and salary increases and makes it easier to transition from one employer to the next.

TIP 2: NEVER STOP LEARNING—CONTINUING LEGAL EDUCATION
 In this perpetually changing and increasingly technological

- “Tips to Jumpstart Your Paralegal Career,” by Antoinette France-Harris, who has had a variety of legal practice experience and teaches at Clayton State University (Chapter 2).
- “Why Mediation May Be the Best Legal Alternative,” by P. Darrel Harrison, an attorney and mediator who is an instructor and program director for an ABA-approved paralegal program in San Diego (Chapter 6).
- “Strategies for Protecting Intellectual Property: The Intellectual Property Audit,” by Deborah E. Bouchoux, a paralegal educator at Georgetown University and author of *Intellectual Property* and other educational books (Chapter 15).
- “A Changing, Challenging, and Caring Area of Legal Practice,” by Janis Walter, coordinator of paralegal education at the University of Cincinnati (Chapter 17).

IN THE OFFICE

USE TIME WISELY

Paralegals often work on many cases at the same time. To be responsive to job requirements and to meet the needs of clients, set aside time each day to review the demands on your time. Think about what must be done that day as well as what must be completed by certain dates to meet deadlines. Make a list of what you need to accomplish. The list might be built into your calendaring software. Each morning, reevaluate what you got done the day before. If work was not completed, think about why. When working on multiple cases, it is critical to understand what must be accomplished on each case so that one deadline does not “sneak up” on you while you are paying attention to another. Consider adopting a time-management system. There are computer programs and apps to help you stay organized. Find one that works for you.

In the Office

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

- Use Time Wisely (Chapter 1)
- Keep Your Priorities Clear and in Order (Chapter 3)
- Efficiency in Research (Chapter 7)
- Hacking Legal Files (Chapter 10)
- Productive Meetings (Chapter 18)

Other Special Pedagogical Features

As before, we have included a number of special pedagogical features, as discussed below.

Chapter Outlines

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

Chapter Objectives

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

Vocabulary and Margin Definitions

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

At the end of each chapter, all terms that have appeared in colored type within the chapter are listed in alphabetical order in a section called *Key Terms and Concepts*, along with the page number on which they appear. Your students can examine this list to make sure that they understand all of the important terms introduced in the chapter.

corporate law

Law that governs the formation, financing, merger and acquisition, and termination of corporations, as well as the rights and duties of those who own and run the corporation.

contract

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

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

Chapter Summaries

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

Exhibits and Forms

To help illustrate important forms or concepts relating to paralegal work many exhibits are filled in with hypothetical data. Exhibits and forms in *Paralegal Today*, Seventh Edition, include those listed below:

- A Sample Client Bill (Chapter 3).
- A Sample Settlement Agreement (Chapter 6).
- A Sample Demand Letter (Chapter 9).
- Memorandum in Support of a Motion to Suppress (Chapter 13).

Chapter Summary	The Inner Workings of the Law Office
THE ORGANIZATIONAL STRUCTURE OF LAW FIRMS	
<p>Law firms can be organized in the following ways:</p> <ol style="list-style-type: none"> 1. Sole proprietorship—In a sole proprietorship, one attorney owns the business and is entitled to all the firm's profits. That individual also bears the burden of any losses and is personally liable for the firm's debts. 2. Partnership—In a partnership, two or more lawyers jointly own the firm and share in the firm's profits and losses. Attorneys who are employed by the firm but who are not partners (such as associates and staff attorneys) do not share in the profits and losses of the firm. 3. Professional corporation—In a professional corporation (P.C.), two or more individuals jointly own the business as shareholders. The owner-shareholders of the corporation share the firm's profits and losses (as partners do) but are not personally liable for the firm's debts or obligations beyond the amount they invested in the P.C. 	
LAW OFFICE MANAGEMENT AND PERSONNEL	
<p>Each law firm has a unique system of management and lines of authority. Generally, the owners of the firm (partners, for example) oversee and manage all other employees. Law firm personnel include associate attor-</p>	<p>neys; law clerks; paralegals; administrative personnel, who are supervised by the legal administrator or the office manager; and support personnel, including receptionists, secretaries, file clerks, and others.</p>
EMPLOYMENT POLICIES	
<p>Employment policies relate to compensation and employee benefits, performance evaluations, employment termination, and other rules of the workplace, such as office hours. Frequently (particularly in larger firms), the policies of the firm are spelled out in an employment manual</p>	<p>or other writing. Paralegals must be sure to know their specific responsibilities. Most large firms have policies and procedures that apply to evaluation, promotion, and termination at the firm.</p>

Chapter-Ending Materials for Review and Study

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

Questions for Review

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

Ethics Questions

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

Practice Questions and Assignments

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

Group Projects

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

Internet Projects

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

Appendices

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

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

For Users of the Sixth Edition

Those of you who have used the Sixth Edition of *Paralegal Today* will want to know some of the major changes that have been made for the Seventh Edition. Generally, all major elements in the Sixth Edition—including the text, exhibits, features, and end-of-chapter pedagogy—have been rewritten, revised, or updated as necessary to reflect new laws, procedures, and technological developments. We also constantly revise for added clarity. To keep the book at a manageable size, the *Practice Focus* feature has been dropped, but some material from those features was incorporated into the text or into *Developing Paralegal Skills* features. As noted already, the explosion in social media means that we have integrated relevant issues into the text and various features, rather than have separate tips in *Social Media Today* as we did in the Sixth Edition. Similarly, *On the Web* tips have been deleted, as students are savvy about finding sources. We constantly work to improve the text and thank users of previous editions, as well as other paralegal educators, for advice.

Specific Revisions to Chapters

In the process of making the changes discussed above, we have revised every chapter to enhance readability. As noted, in every chapter there is new pedagogy at the end of the text for in-class assignments, homework, or self-study. Here, we summarize some other changes to the text.

- **Chapter 1:** New *Featured Contributor*, Bill McSorley, giving students guidance on beginning the path to being a paralegal. New discussion of interpersonal skills.
- **Chapter 2:** Expanded discussion on the use of social media in a career—the benefits and the pitfalls—and discussion of how sophisticated use of social media is an asset to law firms. New *Featured Contributor*, Antoinette France-Harris, gives tips on developing a career as a paralegal.

- **Chapter 3:** Revised *Technology and Today's Paralegal*: Proper and Effective E-Mail Communications. Discussion of PLLC as an organizational form and an expanded discussion of the importance of protecting firm files through both hard copy and servers.
- **Chapter 4:** More practical examples of ethics situations added; problems caused by improper use of social media are addressed in the text and in *Featured Contributor*, which also expands on the importance of encryption.
- **Chapter 5:** Revised *Technology and Today's Paralegal*: Cases of First Impression and Police Videos, discussing a recent case on admissibility of police videos in evidence, and a new *Featured Contributor*: John DeLeo on “Sources of Law.” A number of new examples of legal principles have been added to assist student understanding.
- **Chapter 6:** Revised *Technology and Today's Paralegal*, Courts in the Internet Age, focuses on the use of e-filing in courts. More examples added to help student comprehension of court issues.
- **Chapter 7:** New *Featured Contributor*: Judith Mathers Maloney, “Is the Glass Half Full?” New sample court case developed; discussion of legal research improved owing to review by law research librarian.
- **Chapter 8:** The discussion of online legal research is greatly revised—WestlawNext has replaced Westlaw Classic, and Lexis Advantage now dominates. Bloomberg Law is noted as an up-and-coming competitor. Google Scholar has emerged as a low-cost way to search many legal documents. The coverage of the costs and benefits of the multiple online services is up to date. We benefitted greatly from assistance from another law school research librarian in helping this important discussion be timely.
- **Chapter 9:** Expanded discussion of a range of tools available to assist legal writers and a discussion of software tools that assist in checking accuracy of legal writing.
- **Chapter 10:** New coverage of how firms should organize, maintain, and protect electronic records to protect the firm against over-exposure in case of litigation. Includes discussion of proper destruction of records.
- **Chapter 11:** New *Developing Paralegal Skills: Thinking Through a Fraud Investigation*, discussing practical aspects of investigations and the depth of analysis that may be required.
- **Chapter 12:** New *Developing Paralegal Skills* feature on developments in technology for trial preparation. New *Technology and Today's Paralegal* feature on advances in technology in document retention, jury review, and some new apps that assist in research and organization.
- **Chapter 13:** New *Developing Paralegal Skills: Keep Up with Evolving Discovery Technology*, discussing developments in discovery technology in criminal investigations. Revised *Technology and Today's Paralegal*: Evolving Security and Forensic Tools.
- **Chapter 14:** New *Featured Contributor*, Kenneth O'Neil Salyer, “In-Depth Research and Attention to Detail” discussing the need for competent, careful research in complex legal matters.
- **Chapter 15:** More practical examples added to help explain the meaning of various aspects of contract law. New *Developing Paralegal Skills*: New Strategies in Intellectual Property. Topic of trade dress added to discussion of trademark law.
- **Chapter 16:** New coverage of the added complexities often present in doing title searches for commercial property titles, including the possibility of chemical contamination by a previous owner or user of the property.

- **Chapter 17:** New *Featured Contributor*: Janis Walter, “A Changing, Challenging, and Caring Area of Legal Practice” on the practice of family law and new *Developing Paralegal Skills: Helping Clients with Estate Planning*.
- **Chapter 18:** New material about doing online formation of a corporation or other business entity. Coverage of how to search for owners of beneficial interests and discussion of personal security issues to consider that arise from exposure of such interests.
- **Chapter 19:** New material added on how to conduct research in two areas: uncovering hidden assets of a debtor in bankruptcy and tracking recent changes in environmental regulations. New *Developing Paralegal Skills: Tools Needed to Assist Bankruptcy Clients*. At the end of the text, *Featured Contributor* Kristine Condon tells students about looking ahead to a career as a paralegal.

Supplemental Teaching/Learning Materials

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

Instructor Companion Site

The online Instructor Companion Site provides the following resources:

Instructor’s Manual

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

- A sample course syllabus.
- Detailed lecture outlines.
- Teaching suggestions.
- Answers to end-of-chapter and MindTap questions.
- Testbank and answer key.

PowerPoint Presentations

Customizable Microsoft PowerPoint® Presentations focus on key points for each chapter. (Microsoft PowerPoint® is a registered trademark of the Microsoft Corporation.)

Cengage Learning Testing Powered by Cognero is a flexible, online system that allows you to:

- author, edit, and manage test bank content from multiple Cengage Learning solutions
- create multiple test versions in an instant
- deliver tests from your LMS, your classroom, or wherever you want.

Start right away!

Cengage Learning Testing Powered by Cognero works on any operating system or browser.

- No special installs or downloads are needed.
- Create tests from school, home, the coffee shop—anywhere with Internet access.

What will you find?

- *Simplicity at every step.* A desktop-inspired interface features drop-down menus and familiar, intuitive tools that take you through content creation and management with ease.
- *Full-featured test generator.* Create ideal assessments with your choice of 15 question types (including true/false, multiple choice, opinion scale/Likert, and essay). Multi-language support, an equation editor, and unlimited metadata help ensure your tests are complete and compliant.
- *Cross-compatible capability.* Import and export content into other systems.

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

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

Acknowledgments for Previous Editions

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

Roger LeRoy Miller
Mary Meininger

Skill Prep

A Paralegal Skills Module



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What's Inside

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

- *Make good choices*
(College Prep, p. xxxvii)
- *Manage your time*
(Time Prep, p. xxxviii)
- *Be engaged in your studies*
(Study Prep, p. xl)
- *Study for quizzes and exams*
(Test Prep, p. xliii)
- *Read your textbook efficiently*
(Read Prep, p. xlv)
- *Write quality papers*
(Write Prep, p. xlvi)
- *Make a presentation*
(Presentation Prep, p. l)

Welcome

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

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

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

College Prep

It takes several things to succeed in a college class—especially concentration and commitment to your studies. To do this, you need energy. When you are full of energy, time seems to pass quickly, and it is easier to get things done. As you know, when you don't have energy, time feels as if it is dragging, and even your favorite activities can feel like a burden. To have the energy you need to be a great college learner, it is important to make good lifestyle choices.

Here are some suggestions to help you succeed as a student and prepare for your future career.

- Too often, we become so busy with other aspects of our lives that we neglect our health. It is crucial that you eat a balanced diet, exercise regularly, and get enough sleep. If you don't take care of your physical well-being, other areas of your life will suffer. Research shows that people who are physically active learn better in school.
- Most people who succeed have a plan: they know what they want to accomplish and when. Do you have a life plan for after college? If not, you can start by making a list of your lifetime goals, even though they may change later on. You can also create a career plan that includes a list of skills you will need to succeed. Then, in addition to your classes, choose outside activities that will help you develop the skills that can lead to a good job.
- Whenever we do something new, whether in college or in other areas of life, we usually aren't very good at it. We can always benefit from feedback from those who are accomplished in that area,



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such as instructors or people working in a given field. Therefore, welcome feedback that is offered to you, and if it isn't given, ask for it.

- Do you want to become a better writer? Your college probably has a writing center with resources to help you with your writing assignments. If not, you should be able to find a tutor who will help you figure out what you are trying to communicate and how to put it effectively on paper. Clear writing is a critical skill for paralegals.
- Do you want to become a better public speaker? Consider using your campus's audiovisual resources to sharpen this essential skill. Record yourself giving a presentation and then critique your performance. Invite a few friends to give their reaction, too. Join a school organization such as a debate or drama club to gain confidence in front of a live audience. Being comfortable talking to strangers is a much-needed skill for most paralegals.
- Learn to be a good listener. Hearing is not the same thing as listening, and many people are not good listeners. People often hear what they want to hear. We all filter information through our own experiences and interests. When talking with friends, instructors, or family members, focus carefully on what they say, as you may learn something unexpected. To be a good paralegal, you will need to listen well to attorneys' instructions and to clients, too.
- Be very careful about what you post on the Internet. A good rule of thumb is, "Don't post anything that you wouldn't want the world to know." Many employers search the Internet for information concerning potential employees, and one embarrassing photo, comment, or tweet can have long-term negative consequences. Law firms are particularly careful about hiring people with good character.
- Practice good recordkeeping skills. Filing systems are an easy way to keep track of your money. First, label file folders for different categories related to your personal finances, such as paycheck stubs,

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

bank statements, and receipts from purchases. If you find you need another category, just set up a new folder. Paralegals must have excellent file systems. Do it in your own life now and it will come naturally on the job.

- Be thankful for the people who care about you. Your family and good friends are a precious resource. When you have problems, don't try to solve them by yourself. Don't focus on disappointments. Talk to the people in your life who want you to succeed and be happy, and listen to their advice.
- No doubt you have seen people jump to conclusions that were not correct. Critical thinking is a crucial skill for paralegals, and, as with any other skill, you will get better at it with practice. Whether you are considering a friend's argument, a test question, a major purchase, or a personal

problem, carefully weigh the evidence, balance strengths and weaknesses, and make a reasoned decision.

- Rather than worrying about approval from others, seek approval from the person who matters the most—yourself. Your conscience will tell you when you are doing the right thing. Don't let worries about what others think run—or ruin—your life.

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

Time Prep

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

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

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

- Plan your study schedule in advance. At the beginning of each week, allocate time for each subject that you need to study. If it helps, put your schedule on a calendar computer program or on your smartphone for efficient daily planning. Learning
- to schedule tasks you need to complete and recording upcoming deadlines will serve you well when you are a paralegal.
- Don't be late for classes, meetings, or other appointments. If you find that you have trouble being on time, adjust your planning to arrive ten minutes early to all engagements. That way, even if you are "late" you will still be on time. It is critical to learn to be prompt for clients and court matters.
- To reduce the time spent looking for information on the Internet, start with a clear idea of your research task. Use a trusted search engine and focus only on the subject at hand. Do not allow yourself to be sidetracked by other activities such as checking e-mail or social networking.
- Set aside a little time each day to assess whether you are on track to meet the requirements in all your classes, whether that involves studying for a test, writing a paper, or completing a group project. Don't let deadlines "sneak up" on you. A calendar program or app can help you keep track of target dates and can even give you friendly reminders.
- Nothing wastes more time—or is more aggravating—than having to redo schoolwork that was somehow lost on your computer. Back up all of your important files periodically. You can copy them onto an external hard drive or a USB flash drive.

- Concentrate on doing one thing at a time. Multitasking is a trap we often fall into that leads to doing several things quickly but poorly. When you are studying, don't carry on a text conversation with a friend or have one eye on the Internet.
- Set goals for yourself, not only with schoolwork but also with responsibilities in other areas of your life. If you tell yourself, "I will have this task done by Monday at noon and that other task finished before dinner on Wednesday," you will find it much easier to balance the many demands on your time.
- Regularly checking e-mail and text messages not only interrupts the task at hand, but is also an easy excuse for not working. Set aside specific times of the day to check and answer e-mail, and, when necessary, make sure that your cell phone is off or out of reach. A reply text can wait until you complete your work.
- Sometimes, a task is so large that it seems impossible, making it more tempting to put off. When given a large assignment, break it into a series of small assignments. Then, make a list of the assignments, and as you finish each one, give yourself the satisfaction of crossing it off your list.
- Many of us have a particular time of day when we are most alert, whether early morning, afternoon, or night. Plan to do schoolwork during your most efficient time, and set aside other times of the day for activities that do not require serious concentration.
- Slow down! Some people think they are getting more work done by rushing, but that often leads to poor decisions, mistakes, and errors of judgment, all of which waste time. Work well, not quickly, and you will save time.
- In marketing, to *bundle* means to combine several products. In time management, it means combining two activities to free up some time. For example, if you need to exercise and want to socialize, bundle the two activities by doing activities with your friends. Take along some schoolwork when you head to the laundromat—you can get a lot done while you're waiting for the spin cycle. Or, you can record class lectures (ask the professor for permission) so that you can review class material while you're running errands.
- Develop a habit of setting time limits for tasks, both in and out of school. You will find that with a time limit in mind, you will waste less time and work more efficiently, a prized skill among paralegals.
- A Chinese adage goes, "The longest journey starts with a single step." If you are having trouble getting started on a project or assignment, identify the first task that needs to be done. Then do it! This helps avoid time-wasting procrastination.



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Study Prep

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

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

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

Be Engaged

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

Ask Questions

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

Take Notes

Note taking has a value in and of itself, just as outlining does. The physical act of writing makes you a more efficient learner, since you must think about what you are writing. In addition, your notes provide a guide to what your instructor thinks is important. That means you will have a better idea of what to study before the

next exam if you have a set of notes that you took during class. Paralegals usually take notes while listening to work instructions, doing research, or talking to clients or witnesses. It is a skill that increases the quality and accuracy of results.

Make an Outline

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

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

Your outline should consist of several levels written in a standard format. The most important concepts are assigned Roman numerals; the second most important, capital letters; the third most important, numbers; and the fourth most important, lowercase letters. Here is a quick example from part of Chapter 12:

I. Trial Procedures

- A. Preparing for trial
- B. Contacting and preparing witnesses
 1. Contacting witnesses and issuing subpoenas
 2. Preparing witnesses for trial
 - a. Tell witnesses what to expect
 - b. Role playing
 - c. Numerous details
- C. Exhibits and displays
- D. The trial notebook

Legal “Shorthand”

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

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

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

Mark Your Text

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

Different Ways of Marking

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

Why Marking Is Important

Marking is important for the same reason that outlining is—it helps you to organize the information in the text. It allows you to become an active participant in the mastery of the material. Researchers have shown that the physical act of marking, just like the physical acts of note taking and outlining, helps you better retain the material. The clearer the material is organized in your mind, the more you’ll remember. Studies indicate that active readers (those who engage with the text by outlining or marking) typically do better on exams. One reason this may be true is that outlining and/or marking require sharper concentration, and greater concentration facilitates greater recall.

Two Points to Remember When Marking

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

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

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

- Put a check mark next to material that you do not understand. After you have completed an entire chapter, take a break. Then, work on better comprehension of the checkmarked material.
- As a rule, do schoolwork as soon as possible after class. The longer you wait, the more likely you will be distracted by television, video games, phone calls from friends, or social networking.
- Many students are tempted to take class notes on a laptop computer. This is a bad idea for two reasons. First, it is hard to copy diagrams or take other “artistic” notes on a computer. Second, it is easy to get distracted by checking e-mail or surfing the Web. (Notice, too, how many people look over the shoulders of other students who are surfing the Web rather than paying attention.)
- We study best when we are free from distractions such as the Internet, phones, and our friends. That’s why your school library is often the best place to work. Set aside several hours a week of “library time” to study where you can concentrate in peace and quiet. When you are working as a paralegal, being able to devote quiet attention to material is a key skill.
- Reward yourself for studying! From time to time, allow yourself a short break so you can surf the Internet, go for a jog, take a nap, or do something else that you enjoy. These interludes will refresh your mind and enable you to study longer and more efficiently.
- A neat study space is important. Staying neat forces you to stay organized. When your desk is covered with piles of papers, notes, and textbooks, things are being lost even though you may not realize it. The only work items that should be on your desk are those that you are working on that day.
- Often, studying involves pure memorization. To help with this task, create flash (or note) cards. On one side of the card, write the question or term. On the other side, write the answer or definition. Then, use the cards to test yourself on the material.
- Mnemonic (*ne-mon-ik*) devices are tricks that increase our ability to memorize. A well-known mnemonic device is the phrase ROY G BIV, which helps people remember the colors of the rainbow—red, orange, yellow, green, blue, indigo, violet. You can create your own mnemonics for whatever you need to memorize. The more fun you have coming up with mnemonics for yourself, the more useful they will be.
- Take notes twice. First, take notes in class. Then, when you get back home, rewrite your notes. The rewrite will act as a study session by forcing you to think about the material. Invariably, it will lead to questions that are crucial to the study process.
- By turning headings or subheadings in all of your textbooks into questions—and then answering them—you will increase your understanding of the material.
- Multitasking while studying is generally a bad idea. You may think that you can review your notes and watch television at the same time, but your ability to study will almost certainly suffer. It’s OK to give yourself Internet or TV breaks from schoolwork, but do not combine the two.



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Test Prep

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

Follow Directions

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

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

Finally, you need to make sure you are marking the answers correctly. Some exams require a No. 2 pencil to fill in the dots on a machine-graded answer sheet. Other exams require underlining or circling. In short, you have to read and follow the instructions carefully.

Objective Exams

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

skip over words or phrases. Most test questions include key words such as:

- all
- always
- never
- only

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

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

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

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

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

- Instructors usually lecture on subjects they think are important, so those same subjects are also likely to be on the exam. This is another reason to take extensive notes in class.
- Review your lecture notes immediately after each class, when the material is still fresh in your mind. Then, review each subject once a week, giving yourself an hour to go back over what you have learned. Reviews make tests easier because you will feel comfortable with the material.

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

- At times, you will find yourself studying for several exams at once. When this happens, make a list of each study topic and the amount of time needed to prepare for that topic. Then, create a study schedule to reduce stress and give yourself the best chance for success.
- When preparing for an exam, you might want to get a small group together (two or three other students) for a study session. Discussing a topic out loud can improve your understanding of that topic and will help you remember the key points that often come up on exams.
- Some professors make old exams available, either by posting them online or putting them on file in the library. Old tests can give you an idea of the kinds of questions the professor likes to ask. You can also use them to take practice exams.
- Cramming just before the exam is a dangerous proposition. Cramming tires the brain unnecessarily and adds to stress, which can severely hamper your testing performance. If you've studied wisely, have confidence that you will recall the information when you need it.
- Be prepared. Make a list of everything you will need for the exam, such as pens or pencils, a watch, and a calculator. Arrive at the exam early to avoid having to rush, which will only add to your stress. Good preparation helps you focus on the task at hand.
- Be sure to eat before taking a test. Having some food in your stomach will give you the energy you need to concentrate. Don't go overboard, however. Too much food or heavy foods will make you sleepy during the exam.

Cramming just before the exam is a dangerous proposition.

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

Read Prep

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

All students know how to read, but reading for a college-level course goes beyond being able to recognize words on a page. Students must read to learn. Read a chapter with the goal of understanding its key points and how it relates to other chapters. In other words, you have

to be able to explain what you read. To do this, you need good reading habits and skills, which are necessary for success as a paralegal.

Reading for Learning Requires Focus

Reading (and learning from) a textbook is not like reading a newspaper, magazine, or novel. The point of reading for learning isn't to get through the material as fast as you can or to skip parts to get to the stuff you think is most interesting. A textbook is a source of deep information

How to read this book:

1. Preview
2. Read in detail
3. Review

about a subject. The goal of reading a textbook is to learn as much of that information as you can. This kind of reading requires concentration. When you read to learn, you have to make an effort to focus on the book and tune out other distractions so that you can comprehend and remember the information you have read.

Reading for Learning Takes Time

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

Reading for Learning Takes Repetition

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

The First Time

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

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

The Second Time

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

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

The Third Time (and Beyond)

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

Reading with others is also a great way to review the chapter. After completing the reading individually, group members should meet and take turns sharing what they learned from their reading. Explaining the material to others will reinforce and clarify what you already know. It also provides an opportunity to learn from others. Gaining another perspective on a passage will increase your knowledge, since different people will key in on different things during a reading.

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

1. Set Aside Time and Space

To read effectively, you need to be focused and attentive, and that won't happen if your phone is buzzing with text messages every two minutes, if the TV is on in the

background, or if you're surrounded by friends or family. Similarly, you won't be able to focus on your book if you're trying to read in a room that is too hot or too cold, or sitting in an uncomfortable chair. So when you read, find a quiet, comfortable place that is free from distractions where you can focus on one thing—learning from the book.

2. Take Frequent Breaks

Reading your textbook shouldn't be a test of endurance. Rest your eyes and your mind by taking a short break every twenty to thirty minutes. The concentration you need to

read attentively requires lots of energy, and you won't have enough energy if you don't take frequent breaks. Studies indicate that hard concentration can rarely go beyond thirty minutes, as our minds need small rest breaks.

3. Keep Reading

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

Write Prep

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

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

Phase 1: Getting Ready to Write

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

How to Pick a Topic

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

- **BRAINSTORM WITH A GROUP.** There is no need to create in isolation. You can harness the energy and the natural creative power of a group to help you.

- **SPEAK IT.** To get ideas flowing, start talking. Admit your confusion or lack of clear ideas. Then just speak. By putting your thoughts into words, you'll start thinking more clearly.
- **USE FREE WRITING.** Free writing, a technique championed by writing teacher Peter Elbow, is also very effective when trying to come up with a topic. There's only one rule in free writing: Write without stopping. Set a time limit—say, ten minutes—and keep your fingers dancing across the keyboard the whole time. Ignore the urge to stop and rewrite. There is no need to worry about spelling, punctuation, or grammar during this process.

Refine Your Idea

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

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

as “Motions for judgment notwithstanding the verdict (JNOV) have a low success rate but are an essential tool in obtaining a favorable outcome for a client.”

Set Goals

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

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

To clarify your purpose, state it in one sentence—for example, “The purpose of this paper is to discuss and analyze how motions for JNOV are constructed and presented at trial.”

Begin Research

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

Make an Outline

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

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

Do In-Depth Research

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

When creating your cards, be sure to:

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

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

Phase 2: Writing a First Draft

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

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

- **GET PHYSICAL.** While working on the first draft, take breaks. Go for a walk. Speak or sing your ideas out loud. From time to time, practice relaxation techniques and breathe deeply.
- **HIDE THE DRAFT IN YOUR DRAWER FOR A WHILE.** Schedule time for rewrites before you begin, and schedule at least one day between revisions so that you can let the material sit. The brain needs that much time to disengage itself from the project.

Phase 3: Revising Your Draft

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

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

1. Read it out loud.

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

2. Have a friend look over your paper.

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

3. Cut.

Look for excess baggage. Avoid at all costs and at all times the really, really terrible mistake of using way too many unnecessary words, a mistake that some student writers often make when they sit down to write papers for the various courses in which they participate at the fine institutions of higher learning that they are fortunate enough to attend. (Example: The previous sentence could be edited to “Avoid unnecessary words.”) Also, look for places where two (or more) sentences could be rewritten as one. Resist the temptation to think that by cutting text you are losing something. You are actually gaining a clearer, more polished product. For maximum efficiency, make

the larger cuts first—sections, chapters, pages. Then go for the smaller cuts—paragraphs, sentences, phrases, words.

4. Paste.

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

5. Fix.

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

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

6. Prepare.

In a sense, any paper is a sales effort. If you hand in a paper that is wearing wrinkled jeans, its hair tangled and unwashed and its shoes untied, your instructor is less likely to buy it. To avoid this situation, format your paper following accepted standards for margin widths, endnotes, title pages, and other details. Ask your instructor for specific instructions on how to cite the sources used in writing your paper. You can find useful guidelines in the *MLA Handbook for Writers of Research Papers*, a book from the Modern Language Association. If you cut and paste material from a Web page directly into your paper, be sure to place that material in quotation marks and cite the source. Before referencing an e-mail message, verify the sender’s identity. Remember that anyone sending e-mail can pretend to be someone else. Use quality paper for the final version of your paper. For an even more professional appearance, bind your paper with a plastic or paper cover.

7. Proofread.

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

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

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

Academic Integrity: Avoiding Plagiarism

Using another person’s words, images, or other original creations without giving proper credit is called *plagiarism*. Plagiarism amounts to taking someone else’s work and presenting it as your own—the equivalent of cheating on a test. The consequences of plagiarism can range from a failing grade to expulsion from school. Plagiarism can be unintentional, as some students don’t understand the research process. Sometimes they leave writing until the last minute and don’t take the time to organize their sources of information. Also, some people are raised in cultures where identity is based on group membership rather than individual achievement. These students may find it hard to understand how creative work can be owned by an individual.

To avoid plagiarism, ask an instructor where you can find your school’s written policy on this issue. Don’t assume that you can resubmit a paper you wrote for another class for a current class; many schools will regard this as plagiarism even though you wrote the paper. The basic guidelines for preventing plagiarism are to cite a source for each phrase, sequence of ideas, or visual image created by another person. While ideas cannot

be copyrighted, the specific way that an idea is *expressed* can be. You also need to list a source for any idea that is closely identified with a particular person. The goal is to clearly distinguish your own work from the work of others. There are several ways to ensure that you do this consistently:

- **IDENTIFY DIRECT QUOTES.** If you use a direct quote from another writer or speaker, put that person’s words in quotation marks. If you do research online, you might find yourself copying sentences or paragraphs from a Web page and pasting them directly into your notes. This is the same as taking direct quotes from your source. To avoid plagiarism, identify such passages in an obvious way.
- **PARAPHRASE CAREFULLY.** Paraphrasing means restating the original passage in your own words, usually making it shorter and simpler. Students who copy a passage word for word and then just rearrange or delete a few phrases are running a serious risk of plagiarism. Remember to cite a source for paraphrases, just as you do for direct quotes. When you use the same sequence of ideas as one of your sources—even if you have not paraphrased or directly quoted—cite that source.
- **NOTE DETAILS ABOUT EACH SOURCE.** For books, details about each source include the author, title, publisher, publication date, location of publisher, and page number. For articles from print sources, record the article title and the name of the magazine or journal as well. If you found the article in an academic or technical journal, also record the volume and number of the publication. A librarian can help identify these details. If your source is a Web page, record as many identifying details as you can find—author, title, sponsoring organization, URL, publication date, and revision date. In addition, list the date that you accessed the page. Be careful when using Web resources, as not all websites are considered legitimate sources. Wikipedia, for instance, may not be regarded as a legitimate source for certain information; the National Institute of Justice’s website, however, is acceptable.
- **CITE YOUR SOURCES AS ENDNOTES OR FOOTNOTES TO YOUR PAPER.** Ask your instructor for examples of the citation format to use. You do not need to credit wording that is wholly your own, nor do you need to credit general ideas, such as the suggestion that people use a to-do list to plan their time. But if you borrow someone else’s words or images to explain an idea, do give credit.

Presentation Prep

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

If your topic is new to listeners . . .

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

If listeners already know about your topic . . .

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

If listeners disagree with your thesis . . .

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

If listeners might be uninterested in your topic . . .

- Explain how listening to your speech can help them gain something that matters deeply to them.
- Explain ways to apply your ideas in daily life.

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

Organize Your Presentation

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

1. The introduction.

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

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

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

Highlight your main points in the beginning sentences of your speech. People might tell you to open your introduction with a joke, but humor is tricky. You run the risk of falling flat or offending somebody. Save jokes until you have plenty of experience and know your audiences well. Also avoid long, flowery introductions in which you tell people how much you like them and how thrilled you are to address them. If you lay it on too thick, your audience won’t believe you. Get down to business, which is what the audience wants. Draft your introduction, and then come back to it after you have written the rest of your presentation. In the process of creating the main body and conclusion, your thoughts about the purpose and main points of your speech might change.

2. The main body.

The main body of your speech accounts for 70 to 90 percent of your presentation. In the main body, you develop your ideas in much the same way that you develop a written paper. Transitions are especially important in presentations. Give your audience a signal when you change points. Do so by using meaningful pauses, verbal emphasis, and transitional phrases: “On the other

hand, until the public realizes what is happening to children in these countries . . .” or “The second reason police officers use *Miranda* cards is . . .” In long presentations, recap from time to time. Also, make it a point to preview what’s to come. Hold your audience’s attention by using facts, descriptions, expert opinions, and statistics.

3. The conclusion.

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

Support Your Presentation with Notes and Visuals

To create speaking notes, you can type out your presentation in full and transfer key words or main points onto a few three-by-five-inch index cards. Number the cards so that if you drop them, you can quickly put them in order again. As you finish the information on each card, move it to the back of the pile. Write information clearly and in letters large enough to be seen from a distance. The disadvantage of the index card system is that it involves card shuffling, so some speakers prefer to use outlined notes.

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

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

Overcome Fear of Public Speaking

Surveys indicate that the fear of public speaking is the number one fear for many people. For those who harbor this fear, being overlooked by an audience in favor of visuals may be exactly what they hope for! Ideally, though, while many of us may not be able to eliminate fear of public speaking entirely, we can take steps to reduce and manage it. The following tips will help you conquer any fear you might feel at the thought of public speaking.

- **PREPARE THOROUGHLY.** Research your topic thoroughly. Knowing your topic inside and out can create a baseline of confidence. To make a strong start, memorize the first four sentences that you plan to deliver, and practice them many times. Delivering them flawlessly when you’re in front of an audience can build your confidence for the rest of your speech.
- **ACCEPT YOUR PHYSICAL SENSATIONS.** You have probably experienced the physical sensations that are commonly associated with stage fright: dry mouth, a pounding heart, sweaty hands, muscle jitters, shortness of breath, and a shaky voice. One immediate way to deal with such sensations is simply to notice them. Tell yourself, “Yes, my hands are clammy. Yes, my stomach is upset. Also, my face feels numb.” Trying to deny or ignore such facts can increase your fear. In contrast, when you fully accept sensations, they start to lose power. While speakers often feel nervous, they do not look that nervous. Members of the audience are there to listen and are sympathetic.
- **FOCUS ON CONTENT, NOT DELIVERY.** If you view presentations simply as an extension of a one-to-one conversation, you will realize that the goal is not to perform but to communicate your ideas to an audience just as you would explain them to a friend. This can reduce your fear of speaking. Instead of thinking about yourself, focus on your message. Your audience is more interested in what you have to say than in how you say it. Forget about giving a “speech.” Just give people valuable ideas and information that they can use.

Practice Your Presentation

The key to successful public speaking is practice. While it’s good to use practice sessions to memorize the contents of your speech, these sessions are also important times to work on how you use your voice and body as you speak. To make your practice time efficient and beneficial, follow tips below and run through your speech two or three

(or more) times until you're ready to deliver a professional, polished presentation.

- **PRACTICE IN THE ROOM IN WHICH YOU WILL DELIVER YOUR PRESENTATION.** Ideally, you will be able to practice your presentation where it will be given. If that is not possible, at least visit the site ahead of time so you are comfortable with your surroundings. Also make sure that the materials you need for your presentation, including any audiovisual equipment, will be available when you need them and that you know how to use them.
- **USE YOUR "SPEAKER'S VOICE."** When you practice, do so in a loud voice. Your voice sounds different when you talk loudly, and this fact can be unnerving. Get used to it early on. People do not like to strain to hear what you have to say.
- **MAKE A RECORDING.** Many schools have video recording equipment available for student use. Use it while you practice and then view the finished recording to evaluate your presentation. Did your speech cover your main points in a clear, logical fashion? Did you speak at an appropriate rate, neither too fast nor too slow? Pay special attention to your body language—your posture, your eye contact, and how you used your hands.
- **LISTEN FOR REPEATED WORDS AND PHRASES.** Examples of unwanted filler words include *you know*, *kind of*, and *really*, plus *uh*, *umm*, and *ah*. To get rid of them, try to notice them every time they pop up in your daily speech.
- **KEEP PRACTICING.** Avoid speaking word for word, as if you were reading a script. When you know your material well, you can deliver it in a natural way. Practice your presentation until you could deliver it in your sleep, then run through it a few more times. You do not want to hide behind a computer monitor or stare at your script while you read it. You know the material, so you only need visual triggers on PowerPoint slides or note cards.

Deliver Your Presentation

When the time comes to deliver your presentation, your practice will help you to feel confident and self-assured. It's important to dress appropriately for the occasion, because the clothing you choose to wear delivers a message

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

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

For a great presentation, keep these tips and reminders from your practice sessions in mind:

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

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

NOTICE YOUR NONVERBAL COMMUNICATION AND YOUR BODY LANGUAGE. Be aware of what your body is telling your audience. Contrived or staged gestures will look dishonest. Hands in pockets, twisting your hair, chewing gum, or shifting your weight from one foot to the other will detract from your speech and make you appear less polished.

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

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

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

Reflect on Your Presentation

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



PART

1

The Paralegal Profession

CHAPTER 1

Today's Professional Paralegal

CHAPTER 2

Career Opportunities

CHAPTER 3

The Inner Workings of
the Law Office

CHAPTER 4

Ethics and Professional
Responsibility

CHAPTER 5

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CHAPTER 6

The Court System and
Alternative Dispute Resolution

CHAPTER 1

Today's Professional Paralegal



CHAPTER OUTLINE

Introduction

What Is a Paralegal?

What Do Paralegals Do?

Paralegal Education

Paralegal Skills and Attributes

The Future of the Profession

CHAPTER OBJECTIVES

After completing this chapter, you will know:

- What a paralegal is.
- The major tasks paralegals perform.
- The names of professional associations of paralegals.
- The education and training available to paralegals.
- Whether paralegals must be certified or licensed.
- Key skills and attributes of the professional paralegal.

Introduction

The career of a paralegal can be exciting, challenging, and rewarding. Law firms have been giving greater responsibilities to paralegals. The opportunities for paralegals to work outside of law firms (such as in corporations or government agencies) are also expanding. As the profession has grown, the average paralegal salary has increased. According to a recent survey, experienced paralegals earned average compensation of \$73,400.¹

How do you know if you want to become part of this dynamic profession? The first step in finding out is to become familiar with what a paralegal is, the kinds of work paralegals do, and what education and skills are needed. These topics are covered in this chapter. In Chapter 2, you will learn about where paralegals work, how much they earn, and how they got their jobs. As you read through this book, remember that this is only an introduction to the profession and the starting point of your education. You should supplement what you learn in the classroom by networking with paralegals in professional environments. In today's competitive job market, whom you know can sometimes be as important as what you know in getting the job you desire.

What Is a Paralegal?

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

Definition of Paralegal

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

A **legal assistant**, or **paralegal**, is a person qualified by education, training, or work experience who is employed or retained by a lawyer, law office, corporation, governmental agency or other entity and who performs specifically delegated substantive legal work, for which a lawyer is responsible.²

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

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

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

Paralegals perform substantive and procedural legal work as authorized by law, which work, in the absence of the paralegal, would be performed by an attorney.

American Bar Association (ABA)

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

National Association of Legal Assistants (NALA)

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

paralegal or legal assistant

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

National Federation of Paralegal Associations (NFPA)

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

American Association for Paralegal Education (AAfPE)

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

Paralegals have knowledge of the law gained through education, or education and work experience, which qualifies them to perform legal work. Paralegals adhere to recognized ethical standards and rules of professional responsibility.⁵

Expanding Roles

Regardless of which term is used, paralegals or legal assistants today perform many functions that traditionally were performed by attorneys. That is why the United States Department of Labor predicts growth in the paralegal profession will continue to be above average. Paralegals perform substantive legal work that they are trained to perform through education, experience, or (usually) both.

What Do Paralegals Do?

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

A Sampling of Paralegal Tasks

Typically, legal assistants perform the following duties:

- *Conduct client interviews and maintain contact with clients*—provided that the client is aware of the status and function of the paralegal, who does not give legal advice (see the *Ethics Watch* feature on the facing page).
- *Locate and interview witnesses*—to gather relevant facts and information about a lawsuit, for example.
- *Conduct legal investigations*—to obtain, organize, and evaluate information from sources such as police reports, medical records, photographs, court documents, experts' reports, technical manuals, and product specifications.
- *Calendar and track important deadlines*—such as the date by which a certain document must be filed with the court or the date by which the attorney must respond to a settlement offer.
- *Organize and maintain client files*—to keep the documents in each client's file accessible.
- *Conduct legal research*—to identify, analyze, and summarize the appropriate laws, court decisions, or regulations that apply to a client's case.
- *Draft legal documents*—such as legal correspondence, interoffice memoranda, contracts, wills, mortgages, and documents to be filed with the court.
- *File legal documents with courts*—such as complaints, answers, and motions.
- *Summarize witness testimony*—such as when depositions (sworn testimony) are taken of individuals out of court or when the parties have given written statements.
- *Coordinate litigation proceedings*—communicate with opposing counsel, court personnel, and other government officials; prepare necessary documents for trial; and schedule witnesses.
- *Attend legal proceedings*—such as trials, depositions, executions of wills, and court or administrative hearings.
- *Use computers and technology*—to perform many of the above tasks and help expand the social media presence of a firm.

No matter what task is being performed, paralegals have an obligation to meet high ethical standards. You will see the *Ethics Watch* feature in every chapter in the textbook and ethical obligations will be reviewed in detail in Chapter 4.

Paralegals' Duties Vary

The specific tasks that paralegals perform vary depending on the size of the office, the kind of law that the firm practices, and the expertise the paralegal has. If you work in a one-attorney office, for example, you will also perform certain secretarial functions. Tasks include conducting legal research and investigating the facts, copying documents, keying data into the computer, and answering the phone as needed.

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

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

ETHICS WATCH

PARALEGAL EXPERTISE AND LEGAL ADVICE

Paralegals often gain a great deal of knowledge in specific areas of law. If you specialize in environmental law, for example, you will become knowledgeable about environmental claims. In working with a client on a matter involving an environmental agency, you might be tempted to advise the client on which type of action would be most favorable to him or her. Never do so. Only attorneys may give legal advice, and paralegals who give legal advice risk penalties for the unauthorized practice of law. Whatever legal advice is given to the client must come directly from the attorney.

If you speak to a client, the advice must reflect exactly (or nearly exactly) what the attorney said with no modification and must be communicated to the client as directed by the attorney. After consulting with your supervising attorney, for example, you can say to the client that the attorney "advises that you do all that you can to settle the claim as soon as possible."

The rule prohibiting the unauthorized practice of law is stated in Section 1.8 of the *NFPA Model Code of Ethics and Professional Responsibility*: "A paralegal shall comply with the applicable legal authority governing the unauthorized practice of law in the jurisdiction in which the paralegal practices." It is also required by the *NALA Code of Ethics and Professional Responsibility Canon 4*: "A paralegal must use discretion and professional judgment commensurate with knowledge and experience but must not render independent legal judgment in place of an attorney."

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FEATURED CONTRIBUTOR

START TODAY

William McSorley

BIOGRAPHICAL NOTE

Bill received his undergraduate degree in journalism from the University of South Carolina, followed by his law degree in 1983. He served as editor-in-chief of *The Paralegal Survival Guide: Facts and Forms*, a publication by the South Carolina Bar Continuing Legal Education Division.

Bill spends the great majority of his time serving as a faculty member and paralegal program director at Midlands Tech in Columbia, SC, where he has taught paralegal students for more than 25 years and has served as director since 2002. He is a member of the American Bar Association, South Carolina Bar Association, and Richland County Bar Association. He also served as a member of the American Bar Association Approval Commission and continues to provide support to the commission as a specially designated site team chair.

Bill is currently on a task force with paralegals, paralegal educators, and members of the South Carolina Bar and Judiciary, studying the potential for paralegal certification in South Carolina.

For those seeking a new career in the legal field, the challenges are many. We are often frozen by uncertainty, and as a result, fail to move forward. So start moving. Start today!

Map out a strategy for yourself. Everyone has his or her own timetable and it's always subject to change, but let's put something down as an initial blueprint. Here is just a sample of a strategy for a full-time student in a two-year paralegal program.

“
Map out a strategy
for yourself.”

BEFORE YOU BEGIN: Educate yourself on this career path and do a self-assessment. What are the key skills and qualities needed in this profession? Where are the jobs? Ask yourself, “What are my strengths and weaknesses?” How can I improve on my weaknesses and align my skills with those needed for the profession? If you are not good at doing a self-assessment, ask somebody who will give you an honest answer.

Paralegals and Technology

Many paralegals have become the technology experts at law firms. Because lawyers are busy with the practice of law, paralegals are often in the best position to know the firm's working needs. Increasingly, legal assistants take a leading role in reviewing and recommending specialized legal software programs and online databases.

Needless to say, computer skills, technical knowledge, and, increasingly, the ability to use social media productively, are highly valued. Paralegals use software packages for internal case management to organize client files, manage calendars, share research, record reference materials, and track the hours to be billed to clients. Attorneys and paralegals use time and billing software to manage expenses, generate bills, calculate accounts receivable, and produce financial reports. Legal databases available on the Internet allow paralegals to perform sophisticated legal research at their desks. When cases that involve many documents must be prepared for trial, litigation support software can help retrieve, categorize, and index the various materials for presentation. These technologies are discussed in appropriate chapters throughout this book.

What do employers want in a new hire? They want somebody with strong communication skills, a working understanding of the law, a sense of integrity and professionalism, some technological skills, and a positive attitude. Is this you today? Can this be you by the time you graduate? How do you develop these skills?

SEMESTER ONE: Get good grades, get to know your program director and instructors, start making a list of contacts, and get working on a quality résumé. Full-time and adjunct faculty members often are the best place to start networking.

They have strong ties to the legal community, appreciate students who do quality work, and are the source of many job placements. Think about developing a draft of a résumé and continue to add to this as you go along. Have it in just an outline form for now.

SEMESTER TWO: Join a local paralegal organization. Try to attend their regular meetings and make some contacts in this organization. The local paralegal organizations can be the best way to find out about job opportunities, learn about the profession, and expand your personal and professional network. I am always impressed by the kindness our local association shows toward student members. Working paralegals remember what it was like to be a student, and they are extremely supportive.

SEMESTER THREE: Work on securing an internship or doing volunteer work at a law office or other legal environment. If your school has a mandatory internship, now is the time to do it. Work on producing a professional résumé. It may be the only opportunity to separate you from a large stack of “applicants” seeking a job, so make yourself stand out from the crowd. My personal preference (though many disagree) is to include references as part of your résumé. In many areas, the legal and business communities are closely knit and having a “known reference”

who can vouch for your good character could be what gets you the interview.

Check out your college's career services resources and discuss your résumé, interviewing skills, and placement opportunities with them. Reach out to your contacts for assistance in securing a position somewhere. Even if your school doesn't require an internship, getting some experience is key, even if you have to volunteer. One of my favorite stories involves a student who finished his volunteer internship, did good work, and asked if he could continue to volunteer since he was learning so much. They couldn't say “no” to free, quality help, so they let him stay on and after a couple of months they created a full-time job for him.

SEMESTER FOUR: Make the final push to get that job you've worked so hard to obtain! At this point, you have a good-looking résumé, you have done a few mock (or real) interviews, and you have worked your network to help identify some potential job opportunities.

Recognizing the importance of strong interpersonal skills, you are getting better every day at being polite and friendly, using proper grammar, and learning to hold your tongue rather than saying something you'll regret later!

You have also developed your technology and research skills and are comfortable with the Microsoft Office Suite or comparable products. You are familiar with the basics of calendaring, billing, and database management. Even if these skills aren't taught in your program, there's nothing stopping you from looking at all the free resources online. If a job comes down to you and another applicant, you want to make sure the “technology advantage” is on your side.

Your graduation may seem ages from now, but I promise it will be here before you know it. So make a plan, try to stick to it, and start today!

“

... getting some experience is key ...”

Paralegal Education

The first paralegals were legal secretaries who learned through on-the-job training how to perform more complex legal tasks given to them by attorneys. No formal paralegal education programs existed until the late 1960s. Once attorneys realized that using paralegals was cost-effective and benefited both the client and the firm (as you will read in Chapter 3), paralegal education programs began to expand.

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

Educational Options

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

- Two-year community college programs, leading to an associate of arts degree or a paralegal certificate. Programs often require the completion of about 60 semester hours and include some general education requirements.
- Four-year bachelor's degree programs with a major or minor in paralegal studies. A bachelor's degree in paralegal studies usually requires about 120 semester hours, with 50 to 60 of these hours spent on general education courses. A person may be able to select a minor field that enhances desirability in the job market. Conversely, a student who majors in another field—for example, nursing—and obtains a minor in paralegal studies will be very marketable to employers.
- Certificate programs offered by private institutions, usually three to eighteen months in length. Typically, these programs require a high school diploma or the equivalent for admission.
- Postgraduate certificate programs, usually three to twelve months in length, resulting in the award of a paralegal certificate. These programs require applicants to have already earned a bachelor's degree in order to be admitted; some also require applicants to have achieved a certain grade-point average.
- Master's degree programs are offered by several universities, including an increasing number of online programs. These prepare students to work as paralegals, paralegal supervisors, or law office administrators. Some programs offer specific concentrations—for example, dispute resolution or intellectual property.

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

Paralegal Curriculum—Substantive and Procedural Law

A paralegal's education includes the study of both substantive law and procedural law. **Substantive law** includes laws that define, describe, regulate, and create legal rights and obligations. For example, a law prohibiting employment discrimination on the basis of age falls into the category of substantive law. **Procedural law** establishes the methods of enforcing the rights established by substantive law. Questions about what documents need to be filed to begin a lawsuit, when the documents should be filed, which court will hear the case, and which witnesses will be called are all procedural law questions. You will review aspects of both areas in this course and explore in more detail in later courses.

The Role of the AAFPE and ABA in Paralegal Education

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

In 1974, the ABA established educational standards for paralegal training programs. The ABA guidelines have been revised over time to keep pace with changes in the profession. Paralegal schools are not required to be approved by the ABA. Rather, ABA approval is a voluntary process that gives extra credibility to the schools that successfully apply for it. Programs that meet the ABA's quality standards and that are approved by the ABA are referred to as **ABA-approved programs**. Of the paralegal education programs in existence, about 260 have ABA approval.

substantive law

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

procedural law

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

ABA-approved program

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

Certification

Certification refers to formal recognition by a professional group or state agency that a person has met the standards of ability specified by the organization. Generally, this means passing an examination and meeting certain requirements with respect to education and/or experience. The term *certification*, as used here, does not refer to receiving a paralegal certificate. You may obtain a paralegal certificate after completing school, but you will not be considered a *certified paralegal* unless you complete the NALA, NFPA, NALS, AAPI, or state certification process. These certification programs are discussed next. No state requires paralegals to be certified. Although most employers do not require certification, earning a certificate from a professional society or the state can make one more competitive in the labor market and lead to a higher salary (see Chapter 2).

NALA and NFPA Certification

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

Paralegals who have at least two years of work experience and who have met specific educational requirements can take the Paralegal Advanced Competency Exam (PACE) through NFPA. The PACE is broken down into two tests, one covering general issues and ethics and one on specialty areas. Those who pass the examination use the designation **Registered Paralegal (RP)**. Further information on the PACE program is provided in Appendix G of this book.

Certification by Other Paralegal Organizations

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

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

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

State Certification

Some states, including California, Florida, Louisiana, North Carolina, and Ohio have implemented voluntary, state certification programs. Details for state programs can be found online. Some state bar associations have information on certification as well. Other states are considering implementing such programs. Generally, paralegal organizations (such as NALA) are in favor of *voluntary* certification and oppose *mandatory* (legally required) certification or state licensing (as you will read in Chapter 4).

certification

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

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

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

Advanced Paralegal Certification (APC)

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

Registered Paralegal (RP)

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