The paralegal, or legal assistant, profession has seen explosive growth since the late 1960s. In recent years it has evolved into a profession that demands strong professional skills, a firm foundation in ethics, and increasingly higher degrees of knowledge including knowledge of technology applications. Opportunities and career choices for the paralegal have never been better. Possible employers are as diverse as the duties paralegals are asked to perform. Today’s paralegals need specialized skills in many areas. Formal programs of study and continuing education programs have developed to help individuals obtain needed skills. As with other professions, ethical rules and regulations have evolved to help paralegals avoid conflicts and possible malpractice. These topics will be discussed in Part I.
CHAPTER

1

The Paralegal Profession

DIGITAL RESOURCES

Chapter 1 Digital Resources at www.pearsonhighered.com/goldman

- Video Case Studies:
- When Friends Ask for Legal Advice
- Resume Writing Do’s and Don’ts
- Independent Paralegal
- Chapter Summary • Web Links • Court Opinions • Glossary • Comprehension Quizzes
- Technology Resources
The great can protect themselves, but the poor and humble require the arm and shield of the law.

*Andrew Jackson*

---

**Paralegals at Work**

On the Friday before Thanksgiving, Ariel sits in the bleachers watching her high school alma mater, Lincoln High, take on Newtown. Ariel’s brother, Ethan, is a linebacker on the football team and this is his last high school football game.

Ariel graduated from Lincoln in 1995 and went on to get her bachelor’s degree with a major in English and a minor in Languages. She spots Mr. Marshall, her high school guidance counselor, and goes over to greet him.

As their conversation continues, Ariel asks Mr. Marshall about the career advice he’s given to her brother. Ethan is thinking about a legal career but isn’t interested in criminal justice or law enforcement. He’s not sure about the time and dedication it takes to get through law school. Mr. Marshall gave Ethan information on local paralegal programs.

Ariel has been working as an editorial assistant for a small publisher of medical books. Although she always has plenty of work to do, she’s not challenged in her job. She wants to use the language and writing skills she’s developed, as well as have more autonomy and control over her work. Ariel asks Mr. Marshall whether a paralegal career makes sense for her.

Consider the issue involved in this scenario as you read the chapter.
INTRODUCTION TO THE PARALEGAL PROFESSION

Prior to the late 1960s, many of the functions of paralegals today were performed by those with titles such as legal secretary, lay assistant, and legal clerk or law clerk (the latter of which was reserved for the recent law school graduate who had not yet passed the bar exam). Members of the legal profession and the legal community increasingly see the paralegal as a member of the legal services delivery team. As paralegals’ educational level increases, so will the responsibility given to them. In many areas of law, the cost of legal services has increased. The use of paralegals in many cases permits the delivery of quality legal services at a reduced cost to the client.

Opportunities and career choices for the paralegal have never been better. Paralegals are employed in every area of the delivery of legal services. They interview clients, conduct factual investigations, do legal research, prepare legal documents, assist at the counsel table in trials, and even represent clients in some administrative hearings. They are employed in law firms of all sizes, federal, state, and local government, insurance companies, and corporations.

What Is a Paralegal?

A great deal of confusion has arisen as to what the professional in this field should be called or what the professionals should call themselves. The most popular terms, paralegal and legal assistant, have been used in most of the United States. These terms were used interchangeably by the American Bar Association (ABA), the National Federation of Paralegal Associations (NFPA), and the National Association of Legal Assistants (NALA). The confusion stems in part from the shift from the title of “secretary” to “administrative assistant” and, in some offices and educational institutions, “law office assistant.”

The exact definition of legal assistant has been the subject of discussions by national organizations including the ABA, NFPA, and NALA, as well as many state legislatures, supreme courts, and bar associations. The trend is toward the use of the term paralegal and away from using the term legal assistant. Originally called the Standing Committee on Legal Assistants, the American Bar Association changed its name to the Standing Committee on Paralegals, in recognition of this trend.

The American Bar Association’s 1997 version of the definition, which also has been adopted by the National Association of Legal Assistants, is:

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.

The National Federation of Paralegal Associations adopted a resolution in 2002 eliminating the term legal assistant from its definition of paralegal because that term now is being used to refer to positions outside the paralegal definition. Accordingly, NFPA defines a paralegal as follows:

A paralegal is a person qualified through education, training or work experience to perform substantive legal work that requires knowledge of legal concepts as 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 and who performs specifically delegated substantive legal work for which a lawyer is responsible.

What Do Paralegals Do?

The primary function of paralegals is to assist attorneys in preparing for hearings, trials, meetings, and real estate closings. In many cases paralegals do the preparatory work, helping to draft documents, assisting in the preparation of other documents and
Paralegals in Practice

PARALEGAL PROFILE

Vicki L. Karayan

During her 12-year paralegal career, Vicki L. Karayan has worked for both law firms and business corporations. She is currently employed in Camarillo, California, at WellPoint Inc., the nation’s second largest company in the health care industry. As an Advanced Certified Paralegal, her present position of Business Change Advisor focuses on compliance reporting and legal research for the company’s consumer marketing department.

I became inspired to pursue a paralegal career after going through a difficult, personal legal battle. After graduating with an Associate’s degree in Applied Science with a Legal Studies emphasis, I worked in a general practice firm. Later, I worked for a bankruptcy law firm where I eventually became the trainer/staff manager of seven offices. A family move led to a new job in a nationwide bankruptcy firm where I learned to track federal and state regulatory requirements.

In order to work closer to home, I took an Administrative Assistant position in the Medicaid Marketing department for a corporate health care company. What started as an entry level job grew into a whole new position, as I offered better ways to tackle the company’s market compliance reporting and legal research, and also helped improve office efficiency and staff training. Three promotions later, I believe I owe much of my career success to actively looking for opportunities to apply knowledge and skills learned from previous jobs and experiences, and from learning how to network with people, building strong working relationships based on ethical practices.

My advice is: try not to limit yourself to traditional paralegal job descriptions. Some of the best opportunities are found by looking “outside the box” and obtaining as many business and technology skills as possible. Finally, find what you love to do, and then network by making new business connections through individuals you already know and others you meet. These contacts can help your work go more smoothly and provide invaluable information in the future.

People tend to think of paralegals as working in a private law office directly under the supervision of attorneys. Actually, employers of the paralegal are just as diverse as the duties they are asked to perform. Many paralegals are employed by the federal government, as well as state and local governments including regulatory bodies. The paralegal’s activities might include analyzing legal material for internal use and collecting and analyzing data, as well as preparing information and explanatory material, for use by the general public.

More and more paralegals are coming to the profession from other professions. For example, they may come from nursing, bringing with them a specialized body of knowledge that they combine with the legal skills they learned in a paralegal program. With this expertise they frequently are hired to analyze case materials for trial attorneys, both plaintiff and defense, and also are employed as case analysts and as claims representatives for health insurance companies. Their knowledge of medicine, combined with their legal knowledge, gives them a unique ability to analyze specialized material.

Other specialties can take the same career path. Those with engineering and other Bachelor of Science degrees bring specialized expertise to the law, such as patent and intellectual property law. A paralegal with a criminal justice or a forensic science background, for example, may well be the ideal paralegal to work with criminal defense attorneys and prosecutors.

Prior to the recognition of a separate paralegal profession, individuals typically had acquired specialized knowledge of a narrow legal field through on-the-job training. Someone working with a lawyer—usually a secretary—learned the daily routine tasks and became knowledgeable about that specific area of law. Many of these individuals became resource sources of information, such as the documentation requirements for real estate settlements, the preparation and filing of estate and trust accountings, and the procedures for preparing and filing cases and appeals. These were the first paralegals. Today, many of the skills and procedures formerly acquired over an
PART I The Paralegal Profession

Advice from the Field

PEOPLE SKILLS CRITICAL TO PROFESSIONAL SUCCESS
Kathleen Call, Executive Director, Robert Half Legal

Kathleen Call is executive director of Robert Half Legal, a leading staffing service specializing in the placement of legal professionals ranging from project attorneys and paralegals to administrators, legal secretaries and other support staff. Robert Half Legal, which works with law firms and corporate legal departments, has offices throughout the United States and Canada.

When you think of which skills will be most important to your career advancement over the next five years, chances are “proficiency with technology” ranks high on your list. Knowledge of key software applications has become a critical success factor in the legal profession. However, to be considered for the best job opportunities in the future, you’ll not only need technical competency, but also solid interpersonal skills and problem-solving abilities.

Audio- and video-conferencing, email, corporate Intranets and, of course, the Internet have increased exponentially the amount—and speed—of day-to-day professional communication. The expanded use of technology will make it more important for legal professionals to be able to communicate effectively and articulately.

Another significant development driving the need for strong soft skills is the trend toward a more collaborative workplace. In a team-based office environment, diplomacy, flexibility, persuasiveness and management skills are critical. In a survey we commissioned among executives at the nation’s 1,000 largest companies, 79 percent of respondents said self-managed employee work teams will increase productivity for U.S. companies. These productivity gains will only be realized, however, if team members can work together effectively. As a result, firms are placing a premium on excellent interpersonal skills.

WHAT ARE PEOPLE SKILLS?
Since soft skills are intangible and therefore hard to quantify, how do you determine whether you have what it takes to succeed? Our firm has identified a composite of key interpersonal traits represented by the acronym “PEOPLE”:

- Problem-solving abilities (organization, judgment, logic, creativity, conflict resolution)
- Ethics (diplomacy, courtesy, honesty, professionalism)
- Open-mindedness (flexibility, open to new business ideas, positive outlook)
- Persuasiveness (excellent communication and listening skills)
- Leadership (accountability, management and motivational skills)
- Educational interests (continuous thirst for knowledge and skills development)

A deficiency in these skills can seriously limit your career prospects, whether you’re applying for a new job as a legal assistant or seeking to move upward as an attorney within your current firm. Just as workers who failed to enhance their technical skills were left behind by the digital revolution, those who dismiss the significance of PEOPLE skills can find themselves stagnating in dead-end jobs.

ASSESS YOUR STRENGTHS AND WEAKNESSES

While it’s relatively easy to measure the development of your proficiency with technology, it’s much more challenging to gauge your progress in enhancing your PEOPLE skills. Again, this is primarily because these qualities are more subjective in nature. Since there are no classes on “flexibility” or “positive outlook” at the typical college or university, how do you acquire and upgrade your interpersonal abilities?

The following steps will help you take an accurate inventory of your strengths and weaknesses:

- Honestly evaluate your aptitude in each of the PEOPLE skills. Which seem to come naturally?
- Is there room for improvement in any area?
- Ask trusted friends, family members and coworkers for their opinions. How would they rate your PEOPLE skills?

COMMIT TO LEARNING

It takes time and experience to fully develop interpersonal skills, so don’t expect to see improvement overnight. Here are some effective strategies to help you continue your progress:

- Develop a list of the characteristics you’d most like to develop in yourself. Then brainstorm specific activities that will boost your abilities in your selected areas. For example, if you’d like to refine your leadership skills, volunteer to work on cases that provide the opportunity to supervise others or manage a project from start to finish.
Observe those who demonstrate strong PEOPLE skills in the areas you'd like to improve. How do they apply their abilities in various situations? How are their responses different than what yours would be?

Select a mentor. The best candidate is someone in the legal field whom you admire. Ask your prospective mentor if he or she would advise you, particularly in those PEOPLE skills that you’ve determined require enhancement. Since it's difficult to see yourself objectively, a mentor’s ongoing support and feedback can be invaluable.

Enhance your listening skills. Concentrate on paying close attention to what others are saying. In general, avoid interrupting but ask for clarification when necessary. To prevent misunderstandings, paraphrase information in your own words when you are given complex instructions.

Become a better writer. Read books on effective writing so that you can develop a more concise style, or consider taking a journalism or business writing course. Proofread everything you write, especially e-mail. Because electronic messages are prepared and sent quickly, they can be inadvertently filled with typographical and grammatical errors. In addition, it's important to employ PEOPLE skills in your writing, explaining yourself diplomatically and courteously.

Refine your verbal communication. Know what you want to say before you speak, and use a tone and style appropriate to the audience. When leaving a voice-mail message, organize your thoughts in advance to avoid being vague or rambling. If you're presenting a report to an attorney or client, rehearse a few times so your delivery will be smooth and your message clear.

Become a volunteer. You can acquire stronger leadership and organizational skills through volunteer work. Whether it's becoming involved in a trade association or helping your favorite charity, the skills you develop can be used on the job in a variety of situations.

Seek growth opportunities outside the workplace. Hobbies and leisure-time activities are an enjoyable way to enrich your PEOPLE skills. By coaching your child's soccer team, for example, you'll develop motivational and managerial skills, and become better at dealing with diverse personalities. If you'd like to enhance your creativity, consider taking an art or music class.

---

extended time on the job are taught at institutions specializing in the education of paralegals or legal assistants, offering a certificate program, a two-year associate degree program, or a four-year bachelor's degree program.

In 1968 the American Bar Association formed a committee to investigate the use of lay assistants in the legal office. The result was the American Bar Association's forming the Standing Committee on Legal Assistants, later changed to Standing Committee on Paralegals. The ABA gave this committee jurisdiction over training and standards for the education of legal assistants. Within this jurisdiction the Standing Committee on Paralegals monitors trends in the field and recommends to the House of Delegates—the policymaking body of the American Bar Association—training programs that meet its standards for quality education.

**Professional Skills**

The skills needed by a paralegal are varied and depend, in some cases, on the nature of the legal specialty in which one works. Common to all paralegals are certain professional skills, also known as soft skills, including communication skills, initiative, resourcefulness, problem solving, commitment or “stick-to-itiveness,” team working, leadership, and self-motivation, among others.

Everyone has goals in life. You might be an accomplished jogger who longs to win the Boston Marathon, or a skilled writer who has visions of writing the great American novel. Achieving most goals requires some set of skills. If your goal is to be a successful paralegal, you will need certain basic skills. You may possess some of these already, and may need to acquire others. Some of the basic skills you already have are:
Part I: The Paralegal Profession

NATIONAL ASSOCIATION OF LEGAL ASSISTANTS
MODEL STANDARDS AND GUIDELINES FOR
UTILIZATION OF LEGAL ASSISTANTS PARALEGALS

Preamble

Proper utilization of the services of legal assistants contributes to the delivery of cost effective, high-quality legal services. Legal assistants and the legal profession should be assured that measures exist for identifying legal assistants and their role in assisting attorneys in the delivery of legal services. Therefore, the National Association of Legal Assistants, Inc., hereby adopts these Standards and Guidelines as an educational document for the benefit of legal assistants and the legal profession...

III Standards

A legal assistant should meet certain minimum qualifications. The following standards may be used to determine an individual's qualifications as a legal assistant:

1. Successful completion of the Certified Legal Assistant (CLA)/Certified Paralegal (CP) certifying examination of the National Association of Legal Assistants, Inc.;
2. Graduation from an ABA approved program of study for legal assistants;
3. Graduation from a course of study for legal assistants which is institutionally accredited but not ABA approved, and which requires not less than the equivalent of 60 semester hours of classroom study;
4. Graduation from a course of study for legal assistants, other than those set forth in (2) and (3) above, plus not less than six months of in-house training as a legal assistant;
5. A baccalaureate degree in any field, plus not less than six months in-house training as a legal assistant;
6. A minimum of three years of law-related experience under the supervision of an attorney, including at least six months of in-house training as a legal assistant; or
7. Two years of in-house training as a legal assistant.

For purposes of these Standards, “in-house training as a legal assistant” means attorney education of the employee concerning legal assistant duties and these Guidelines. In addition to review and analysis of assignments, the legal assistant should receive a reasonable amount of instruction directly related to the duties and obligations of the legal assistant.


CHECKLIST Strengths and Weaknesses

☐ My strengths:
☐ My weaknesses:
☐ How can I capitalize on my strengths?
☐ How can I overcome my weaknesses?
Resourcefulness

Resourcefulness is the ability to meet and handle a situation and find solutions to problems. It is one of the most valuable skills anyone can have—and one that is not easily taught. A resourceful person in the office is sometimes referred to as the “can-do” person on the team. This is the person who usually finds some creative way to accomplish what everyone else has given up on. Certainly, creativity is involved—solving the problem by thinking outside the box and not limiting the solution to tried-and-true methods.

The skill of organizing includes the ability to

■ categorize
■ prioritize
■ organize
■ utilize time efficiently

When everyone else says, “I can’t find this witness,” the resourceful person tries a new approach and finds the witness. When others use only the standard telephone directories, the resourceful person uses the cross-reference directory. When local telephone directories do not yield results, resourceful people use the national telephone directories on CD and the online Internet telephone directories.

In the legal workplace the person who gets noticed is the one who finds a way to get the job done in time for the hearing, meeting, or arbitration. This is the person who is willing to use unconventional ways to get the job finished, such as when the power goes out or the computer system crashes just before a deadline. Lawyers want resourceful people on their team and reward them to keep them on the team.

Commitment

Commitment means finishing what one starts out to do or complete. From our childhood we remember the story of the tortoise and the hare (rabbit), in which the tortoise wins the race by being “slow and steady.” The tortoise wins in part because of commitment—putting everything into the race and not stopping until the job is done. Many people start jobs and don’t finish them. Others start what seems to be an insurmountable task and—to their amazement and maybe ours—finish, and finish well. Taking on an assignment in a law office requires commitment. Team members are expected to finish the task, whether it is researching a case, writing a brief, filing a pleading, or organizing a file.

As a professional, you are expected to finish the tasks within the assigned timeframe. There is no excuse for not doing some tasks, such as filing the complaint with the court before the statute of limitations expires, or getting the brief to the court by the court-imposed deadline. Even a simple thing like getting to court on time requires commitment.

Not everyone has the necessary commitment or wants to take on the responsibility of meeting commitments. You have to decide whether you are willing to make the commitment. Others will be depending on you, and if you do not want to commit, admit it to yourself and to the others who are depending on you, and then choose some other activity or profession. Choosing a profession, whether it is the legal profession, the paralegal profession, the medical profession, or the accounting profession, requires a commitment to serve others. As a professional, you are making a commitment to your clients that you will provide the best professional advice, skill, and effort. They depend on this professionalism and the necessary commitment.

Analytical Skills

Analytical skills allow one to follow a step-by-step process to solve a problem. It could be finding a missing witness by looking in telephone books, or determining that the person is part of a group, such as a professional society or an organization that publishes a membership directory. Solving these types of problems requires analytical skills to figure out, for instance, what made a bottle explode, injuring a client. Determining the actual cause requires a step-by-step analysis of the potential reasons and the narrowing down of possible causes.
One of the basic skills that law students and paralegal students are taught is legal analysis, the ability to identify the facts and legal issues and contrast and compare them to the law and to other cases. This is a skill that develops with time. As you learn the elements of crimes, torts, and other areas of law, you will learn the individual parts of each. In contracts law, you will learn what conduct is a valid acceptance of a contract offer, and in tort law, what constitutes reasonable conduct under the circumstances.

**Interpersonal Skills**

Vital to paralegal success, as well as to success in other endeavors, is the ability to work with people. To categorize people, coworkers, colleagues, and employers might be unfair, but we all do it. We think—and sometimes say—things like, “He’s a pleasure to work with” or, “She has clients eating out of her hand.” Conversely, we might say things like, “She’s the most negative person I know,” or “He’s only out for himself.” These comments reflect the other person’s interpersonal skills (or lack thereof), the ability to work with and communicate with others.

How we relate to others can make the job easier or harder. These others include not just coworkers as members of the legal team but also clients, witnesses, and opposing parties. Obviously, everyone in the firm or on the team must have a level of trust and confidence in the others on the team. People who have a good working relationship accomplish more and enjoy doing it. By contrast, conflict and tension make the job harder and can cause people to take shortcuts and avoid contact, which can result in poor performance and potential malpractice.

Not everyone has the personality to deal with every type of situation and every type of personality—for example, dealing with clients. But everyone on the legal team has to develop the skills to work with people and recognize when they may have to handle certain aspects of a case or client. The skill is in recognizing when and how they can affect relationships and results. Some might call this “sensitivity”—to other people’s needs, desires, wants, likes, and dislikes.

Cultural differences are discussed later, but in the American culture, for example, people tend to be sensitive to odors—breath, body, environmental. We do not want to offend. Our use of language is another area of sensitivity. We try to avoid using words that we believe will offend the other person in a specific circumstance, such as telling off-color jokes in a religious setting in front of a person of the cloth.

The starting point in working with attorneys, paralegals, and support staff, clients and opposing counsel, court personnel and others, is to be sensitive to issues such as these. What offends you probably offends others. Being sensitive to how others react to your words, conduct, and actions can provide good clues as to what is acceptable and what is not.

In the past, how we related to others and how others perceived us was measured by direct face-to-face contact, telephone contact, and written communications. Today we have to add to those forms of communication the way we write emails and use electronic communications. These technological advances make our communications more immediate. Too many happy faces and frowning faces, such as :) or :( in an email could be interpreted as overfamiliarity. THE USE OF ALL CAPITAL LETTERS might be interpreted as shouting at the reader. Poor spelling and bad grammar in emails are likely to be seen as less than professional or pure sloppiness or carelessness. In the past, letters were dictated, typed, proofread, and then signed. Today we dash off an email without much thought—and sometimes it reflects just that. How our clients view our capabilities and skill now might be measured by that quick email response.

**Communication Skills**

Communication means expressing ideas effectively. The practice of law requires good communication, both oral and written. The lawyer and the paralegal who work together must be able to communicate assignments and information with clarity and,
frequently, brevity. Over time, communication will improve, as each person comes to understand what the other is really asking or saying.

Communication is made complex by subtleties, nuances, and expressions that may require interpretation or explanation. For example, older attorneys who are used to using traditional methods of research may ask the new paralegal (who has a deep understanding of computer research methods and little traditional book experience) to “check the pocket parts.” This means checking for the latest update or change to a statute or case law. Or asking a paralegal to “Shepardize” a case may have no meaning to one who has learned only the West system, in which the method for checking other cases is called KeyCiting, or the Loislaw system, which refers to this as GlobalCiting.

Communication can be a major problem in the fast-paced office when the litigation attorney sends a message from court in the middle of a case to the support paralegal at the office, by a two-way pager, after the other side has brought up an unexpected case in argument to the court. Nowadays, we rarely have the luxury of time to develop a common written and oral language base for communication among the paralegal, clients, opposing attorneys, and court personnel. Letters, pleadings, contracts, and other written documents must be clear and accurate. In many situations, only one document must carefully communicate the idea, request, or demand.

Oral communication also must be clear and precise. The old adage still holds true: First impressions matter. If a first discussion in person or by telephone is filled with slang and poor grammar, the impression may affect the client’s or court’s view of the firm’s professionalism, ability, and legal skills. It can influence the client’s decision to stay with the firm or not, the judge’s granting the request, or the court clerk’s giving you the help you need.

**Career Planning**

Career planning should include educational planning and a plan for perfecting professional skills. A sound educational plan builds on a sound foundation, at the base of which are general education courses that will assist in any occupational choice and are acceptable in meeting basic core requirements either for an associate’s degree or a bachelor’s degree. Occupation-related courses such as paralegal specialty courses should be selected with an eye toward transferability and suitability in a higher-level educational pursuit.

This is not to say that all courses must be transferable from school to school or from associate-degree program to bachelor’s- or master’s-degree program. Something can be learned from every course you take, including the realization that you do not wish to pursue this area of study further. Think of the people you know who have pursued a career only to discover later that they are not interested in this line of work. One of your early educational goals should be to explore areas of your actual or potential interest. Many students even find a career goal after taking one of the dreaded required courses.

Therefore, you should be prepared to explore new areas of specialty and new technology. It is clearer today than ever that successful paralegals have a good foundation in computer skills. Further, you will have to maintain and build upon these skills as ever more sophisticated online service and resources continue.

**CHECKLIST My Career Roadmap**

- **Skills I need to acquire:**
- **Skills I need to strengthen:**
- **Courses I should take:**
- **Extracurricular activities for the resume:**
- **Interim work experience I should seek:**
- **Volunteer activities:**
- **Short-term career goals:**
- **Long-term career goals:**

**Web Exploration**

Check the available resources for paralegal students at the different national paralegal organizations:

- **National Federation of Paralegal Associations**
  http://www.paralegals.org
- **National Association of Legal Assistants**
  http://www.nala.org
- **Association of Legal Administrators**
  http://www.alanet.org
- **International Paralegal Management Association**
  http://www.paralegalmanagement.org/ipma/
- **NALS...the Association for Legal Professionals**
  http://www.nals.org
Paralegal Education in the United States

According to the Department of Labor, occupations requiring a postsecondary vocational award or an academic degree accounted for 25 percent of all jobs in 1998, 29 percent of all jobs in 2000, and will account for 42 percent of total job growth from 2000 to 2010.

The best trained, most skilled individual clearly will be the one to get the job. The challenge in obtaining your first job is to demonstrate that you are the best person for the job. Consider the prospective employer comparing the resumes of a number of paralegal job applicants. One paralegal has a high school diploma and a paralegal certificate. Another applicant has an associate degree or even a bachelor's degree in paralegal studies. Which would you hire?

An estimated 1000 paralegal education programs are available in the United States. These programs are offered in on-site, online, and hybrid format combining online and on-site instruction. Some of these programs have obtained ABA approval of their paralegal education program. Many of the institutions offering these programs are members of the American Association for Paralegal Education (AAfPE), which, as a condition of institutional membership, requires substantial compliance with the ABA guidelines for approval of a paralegal program.

What are the qualifications that permit one to call oneself a paralegal or a legal assistant, and to be billed as a paralegal? The answer is not easy to come by. Just as the practice of law falls to the individual states for regulation, so does regulation of the paralegal profession. Presently regulations lack uniformity, either by statute or by court rules. Without a state law such as the California Statute shown in Exhibit 1.2 on page 23 or a court rule, perhaps the most consistent and universal recognition of minimum qualifications are those established by the educational guidelines of the American Bar Association’s Standing Committee on Paralegals and the American Association for Paralegal Education (AAfPE), a national association of legal educators. The minimum educational requirements for certification of the educational institutions’ program of study have become the de facto standard of the minimum qualifications to call one a paralegal or legal assistant.

The ABA Standing Committee Guidelines require that instruction be at the post-secondary level and contain at least 60 semester hours including general educational and legal specialty courses. Of these 60 hours, at least 18 must be general education courses and at least 18 must be legal specialty courses.

For purposes of the Guidelines, a “legal specialty course” is interpreted in Guideline G-303(c)d as a course (1) in a specific area of law, procedure, or legal process, (2) which has been developed for legal assistants and emphasizes legal assistant skills, forms, documents, procedures, and legal principles and theories, and (3) which is pertinent to the legal assistants’ performance of a job.

The American Bar Association and the American Association for Paralegal Education are voluntary programs. As stated by the ABA,

Seeking approval from the American Bar Association is a voluntary process initiated by the institution offering the program. Therefore, the lack of approval does not necessarily mean a paralegal program is not of good quality and reputable.

The majority of programs may have chosen not to undergo the cost or process for approval by the ABA or for membership in the AAfPE, or offer a majority of courses in online or hybrid format that do not meet the ABA guidelines, which limit the number of such courses that may be offered as part of the program of study.

Types of Educational Programs

The goal of the educational experience is to get a job and be able to perform at a professional level. The demands on paralegals today require them to have higher-level skills and ability than in the past. Whereas basic typing, office, and business communications skills might have been acceptable for a starting position in a law firm
twenty years ago, these are not the skills demanded for those looking for a paralegal position today.

More and more employers today also are asking for transcripts showing the courses taken and the minimum number of hours of study as spelled out in the ABA guidelines, even for graduates of educational institutions that have not obtained ABA certification of their programs. The reality is that many attorneys do not know the educational requirements to obtain a paralegal degree or certificate. And in many cases they do not know the elements of the ABA, NFPA, or NALA definitions of paralegal or legal assistant.

Paralegal/legal assistant educational programs generally fall into two categories: (a) those offering a certificate, and (b) those offering a degree, either an associate’s degree or a bachelor’s degree. These programs of study may be offered by a two-year community college or junior college or a four-year college or university. A number of business and private (proprietary) schools also offer paralegal/legal assistant programs of study.

Students’ educational and professional backgrounds will determine, in many cases, which of the programs to select. Those with bachelor’s and higher academic degrees may need only the legal specialty courses. Those who come from a specialty background, such as nursing or one heavy in science courses, may want to broaden their education by taking courses of a general nature in addition to the legal specialty courses.

Certificate Programs

Most educational institutions with paralegal/legal assistant programs, both public and private, offer a certificate. The certificate recognizes completion of a program of study that requires less than is required to receive a degree. Some certificates award college credits; some do not. For students who already possess a baccalaureate degree, obtaining additional college credits probably isn’t an issue. For students without an undergraduate degree, programs that do not offer college credit still can be valuable but should be considered carefully. At the very least, the actual time spent in the classroom should be equivalent to the minimums of college credit courses.

Students’ concerns should be for what is acceptable in the community in which they intend to work. Those planning to transfer should consider the acceptability of the course for transferring credit to another credit-granting institution. Even if they have no immediate intent to continue in school, they would be wise to plan ahead and not lose the hours and credits they have earned, in the event they later decide to transfer or go on to obtain a degree.

Many professional paralegal organizations are reporting that a bachelor’s degree is becoming more necessary to enter the paralegal field and some programs. The U.S. Attorney’s Office, for example, is requiring at least a four-year degree to consider individuals for a paralegal position.
**Associate Degree Programs**

Many community colleges and junior colleges offer an associate degree in science (AS degree) or in arts (AA degree) or applied arts (AAS degree) in paralegal or legal assistant studies. For many students the two-year community college or junior college programs offer a community-based transition into higher education. For others it is a way of getting back into higher education while working at a full-time job or after being in another occupation.

Support services for returning students or students who need additional help are often available. Many of these schools offer English courses for those for whom English is a second language and those returning to school who need a refresher course or help with study skills after years away from school. This also tends to be a cost-effective educational environment for trying different areas of study before finding an area of concentration.

**Baccalaureate Programs**

Some of the earliest paralegal programs were built on a model in which a bachelor's degree was the prerequisite for entering the paralegal program of study. A number of programs now offer a bachelor's degree in paralegal studies. One national organization—the International Paralegal Management Association (IPMA)—has recommended the bachelor's degree as the minimum qualification to enter the profession. The increase in professional recognition of paralegals has resulted in their gaining more responsibility, as well as a growing demand for the skills required to perform the assigned tasks. As the standing of the paralegal on the legal team rises, so will the demand for those with a broad-based educational background to serve in those positions. Four-year programs of study are attempting to meet that demand by merging traditional four-year study core requirements and legal specialty courses.

Consider the family law attorney or paralegal. In the frequently highly charged emotional environment of custody and divorce, knowledge of family and child psychology is essential. For those in an intellectual-property practice, an understanding of science and engineering is a basic requirement. The four-year timeframe allows more flexibility to explore and build skills and knowledge, as well as to meet the increasing demand for more education for paralegals.

**Graduate Programs**

A few colleges and universities now offer graduate degrees in legal studies. Others offer advanced degrees in related areas such as legal administration.

**Specialty Certificates**

Specialty certificates, such as the paralegal certificate or the legal nurse consultant certificate, offer an excellent entry point into a paralegal career. Specialty certificates combined with degrees in other fields of study, such as nursing, journalism, and computer science, are like a capstone program preparing a person for entry into a new career. One of the greatest demands has been for those with a background in nursing combined with a paralegal education. A growing number of colleges are offering a certificate in Legal Nurse Consulting.

**Paralegal Certification**

The National Federation of Paralegal Associations (NFPA) administers an exam to test the competency level of experienced paralegals known as **Paralegal Advanced Competency Exam (PACE)**, which requires that:

... the paralegal cannot have been convicted of a felony nor be under suspension, termination, or revocation of a certificate, registration, or license by any entity.
• An associates degree in paralegal studies obtained from an institutionally accredited and/or ABA approved paralegal education program; and six (6) years substantive paralegal experience; OR
• A bachelor’s degree in any course of study obtained from an institutionally accredited school and three (3) years of substantive paralegal experience; OR
• A bachelor’s degree and completion of a paralegal program with an institutionally accredited school; said paralegal program may be embodied in a bachelor’s degree; and two (2) years substantive paralegal experience; OR
• four (4) years substantive paralegal experience on or before December 31, 2000.

Those who successfully pass the exam may use the designation “PACE-Registered Paralegal, or RP.” Continued use of the designation requires 12 additional hours of continuing legal or specialty education every 2 years, with at least one hour of legal ethics.

Since 1976, the National Association of Legal Assistants has conferred the Certified Legal Assistant (CLA) designation on those who pass its national certification program’s two-day comprehensive examination. In 2004, NALA registered the certification mark CP with the U.S. Patent and Trademark Office for those who prefer the term Certified Paralegal. To be eligible to take the exam requires the following.

1. Graduation from a legal assistant program that is:
   ■ approved by the American Bar Association; or
   ■ an associate degree program; or
   ■ a post-baccalaureate certificate program in legal assistant studies; or
   ■ a bachelor’s degree program in legal assistant studies; or
   ■ a legal assistant program which consists of a minimum of 60 semester hours (900 clock hours or 90 quarter hours) of which at least 15 semester hours (225 clock hours or 22.5 quarter hours) are substantive legal courses.

2. A bachelor’s degree in any field plus one year’s experience as a legal assistant. Successful completion of at least 15 semester hours (or 22.5 quarter hours or 225 clock hours) of substantive legal assistant courses will be considered equivalent to one year’s experience as a legal assistant.

3. A high school diploma or equivalent plus seven (7) year’s experience as a legal assistant under the supervision of a member of the Bar, plus evidence of a minimum of twenty (20) hours of continuing legal education credit to have been completed within a two (2) year period prior to the examination date.

To maintain use of the CLA designation, evidence must be submitted of completion of 50 hours of continuing legal assistant education every five years. For those who have achieved the initial designation, NALA also offers specialist credentials for those practicing in a specific area of law, such as bankruptcy, intellectual property, civil litigation, probate, and estate planning. Successful completion of these examinations permits the additional designation CLAS, Certified Legal Assistant–Specialty.

NALA offers members and nonmembers the opportunity to sit for three unique certifications dedicated to the legal services profession—ALS, PLS, and PP. The exams are of varying levels and are developed by professionals in the industry.

1. **ALS**—the basic certification for legal professionals exam—covers:
   Part 1: Written Communications
   Part 2: Office Procedures and Legal Knowledge
   Part 3: Ethics, Human Relations, and Judgment

2. **PLS**—the advanced certification for legal professionals exam—covers:
   Part 1: Written Communications
   Part 2: Office Procedures and Technology
   Part 3: Ethics and Judgment
   Part 4: Legal Knowledge and Skills
3. **PP** (Professional Paralegal)—professionals performing paralegal duties. Examination eligibility requires five years’ experience performing paralegal/legal assistant duties (a candidate may receive a partial waiver of one year if he or she has a postsecondary degree, other certification, or a paralegal certificate; a candidate with a paralegal degree may receive a two-year partial waiver). The exam covers:
- Part 1: Written Communications
- Part 2: Legal Knowledge and Skills
- Part 3: Ethics and Judgment Skills
- Part 4: Substantive Law

A comparison of the various exams—NALS, NALA, and NFPA—is presented in Exhibit 1.1

**Minimum Education**

The **International Paralegal Management Association (IPMA)** is an organization for paralegal management professionals. In its position paper on paralegal education it states that “nearly 80% of IPMA member organizations require the bachelor’s degree when hiring, and many require specific paralegal education and/or give credit for professional certifications.”

Legal assistants have assumed many responsibilities formerly handled by lawyers. Working with complex legal issues requires that a legal assistant possess clear writing, researching, and critical thinking abilities.

**Making a Personal Assessment and Setting Goals**

If you are reading this book, you probably have made at least a tentative career goal to enter the paralegal profession, with the ultimate goal of obtaining a job. It should not be “just a job” but, rather, a job that will give you satisfaction and one that you will get up and go to with anticipation, not dread. The paralegal field offers many and varied specialties. An early goal should be to take courses that will introduce you to the specialty you would enjoy most. Maybe you already are well versed in something that will lead to a specialty, such as nursing, one of the sciences, or law enforcement.

One of the first steps is to assess your own skills. What are your other educational skills? What are your personality traits? Do you like working under deadlines or working with certain groups of people, such as elderly people or those with disabilities?

As you will find out, the paralegal profession offers opportunities in many areas of legal specialty and in many types of working environments. Understanding your interests, skills, and desired working conditions and job locations will help you select the best educational path toward achieving your professional goals.

**Selecting a Specialty**

It is never too early to set career goals; although you will find that your final career path will take many bends and turns as you start your first job and learn about the various areas of practice that are available to you. Your ultimate specialty or employer might result from your educational background, such as journalism or medicine, or an area of special interest such as environmental issues, or possibly just a preference to work with certain types of clients such as the elderly or infirm.

And it is never too late to make a career adjustment. Many successful individuals begin a career later in life. Colonel Sanders started Kentucky Fried Chicken late in life. Schools are full of nontraditional students seeking a career change. In the paralegal field we are seeing more and more nurses who, having worked in the medical field for years, are making a career change to the legal field.

Your decision should be based on a self-evaluation of your likes and dislikes, interests, passions, and any physical or geographic limitations. If you hate to fly, you probably will not want a job that requires travel. If you are not comfortable with
## Exhibit 1.1 Legal certification comparison chart

Compares the certification exams offered by: NALS . . . the association for legal professionals
National Association for Legal Assistants (NALA), National Federation of Paralegal Associations, Inc. (NFPA)

<table>
<thead>
<tr>
<th>Organization Established</th>
<th>Certification Established</th>
<th>Membership</th>
<th>Eligibility to Test Education and/or Employment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Professional Paralegal (PP)—NALS</td>
<td>1929, incorporated in 1949</td>
<td>5,000 individual members</td>
<td>A paralegal must meet one of the following alternate requirements: 1. Graduation from a paralegal program that is: (a) Approved by the American Bar Association; or (b) An associate degree program; or (c) A post-baccalaureate certificate program in legal assistant studies; or (d) A bachelor's degree program in legal assistant studies; or (e) A legal assistant program which consists of a minimum of 60 semester hours (900 clock hours or 90 quarter hours) of which at least 15 semester hours (225 clock hours or 22.5 quarter hours) are substantive legal courses.</td>
</tr>
<tr>
<td>PLS . . . the advanced certification for legal professionals (PLS)—NALA</td>
<td>1929, incorporated in 1949</td>
<td>5,000 individual members</td>
<td>• An associate degree in paralegal studies obtained from an institutionally accredited and/or ABA approved paralegal program; and six (6) years of substantive paralegal experience; or, • A bachelor's degree in any course of study obtained from an institutionally accredited school; and three (3) years of substantive paralegal experience; or, • A bachelor's degree and completion of a paralegal program from an institutionally accredited school,</td>
</tr>
<tr>
<td>Certified Legal Assistant (CLA)—or Paralegal (CP)—NALA</td>
<td>1975</td>
<td>18,000 individual members</td>
<td></td>
</tr>
<tr>
<td>Paralegal (RP)—Paralegal Advanced Competency Exam (PACE) Registered</td>
<td>1974</td>
<td>11,000 individual members and 50 member associations</td>
<td></td>
</tr>
</tbody>
</table>

Number Certified

<table>
<thead>
<tr>
<th>Organization Established</th>
<th>Certification Established</th>
<th>Membership</th>
<th>Eligibility to Test Education and/or Employment</th>
</tr>
</thead>
<tbody>
<tr>
<td>NALS</td>
<td>2004</td>
<td>Regular Member = $135.00 per year (includes state and local dues)</td>
<td>A paralegal must meet one of the following alternate requirements: 1. Graduation from a paralegal program that is: (a) Approved by the American Bar Association; or (b) An associate degree program; or (c) A post-baccalaureate certificate program in legal assistant studies; or (d) A bachelor's degree program in legal assistant studies; or (e) A legal assistant program which consists of a minimum of 60 semester hours (900 clock hours or 90 quarter hours) of which at least 15 semester hours (225 clock hours or 22.5 quarter hours) are substantive legal courses.</td>
</tr>
<tr>
<td>National Federation of Paralegal Associations, Inc. (NFPA)</td>
<td>1960</td>
<td>International Member = $135.00 per year</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1976</td>
<td>Retired Member = $45.00 per year</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1996</td>
<td>National Associate Member = $45.00 per year (educators, judges and attorneys)</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>National Student Member = $19.00 per year (must be a full-time student)</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Lifetime Member = $750.00 (one time fee) (annual billing for state and local dues)</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>5,000 individual members</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>18,000 individual members</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Active Membership Annual Dues: $125</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Associate Membership Annual Dues: $100</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Student Membership Annual Dues: $50</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Sustaining Membership Annual Dues: $70</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>11,000 individual members and 50 member associations</td>
<td></td>
</tr>
</tbody>
</table>
### Exhibit 1.1 Legal certification comparison chart (continued)

<table>
<thead>
<tr>
<th>Professional Paralegal (PP)—NALS</th>
<th>PLS . . . the advanced certification for legal professionals (PLS)—NALS</th>
<th>Certified Legal Assistant (CLA)—or Paralegal (CP)—NALA</th>
<th>Paralegal (RP)—Paralegal Advanced Competency Exam (PACE) Registered</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Communications</strong></td>
<td><strong>Communications</strong></td>
<td><strong>Communications</strong></td>
<td>said paralegal program may be imbedded in a bachelor’s degree; and two (2) years of substantive paralegal experience; OR,</td>
</tr>
<tr>
<td>• Word usage and vocabulary</td>
<td>• Grammar/punctuation</td>
<td>• Nonverbal communications</td>
<td>• Four (4) years substantive paralegal experience on or before December 31, 2000; and,</td>
</tr>
<tr>
<td>• Writing skills</td>
<td>• Writing skills</td>
<td>• General communications related to interviewing and client communications</td>
<td>• The paralegal cannot have been convicted of a felony nor be under suspension, termination or revocation of a certificate, registration or license by any entity.</td>
</tr>
<tr>
<td>• Nonverbal communications</td>
<td>• Nonverbal communications</td>
<td>• General communications related to interoffice office situations</td>
<td></td>
</tr>
<tr>
<td>• General communications related to interviewing and client communications</td>
<td>• General communications related to interoffice office situations</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• General communications related to interviewing and client communications</td>
<td>• General communications related to interoffice office situations</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Ethical responsibilities centering on performance of delegated work including confidentiality, unauthorized practice of law, legal advice, conflict of interest, billing and client communications</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Client/public contact including identification as a non-lawyer, advertising and initial client contact</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Professional integrity/competence including knowledge of legal assistant codes of ethics</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Relationships with co-workers and support staff</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Attorney codes/discipline</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Domain I—Administration of Client Legal Matters:</strong> Conflict checks; develop, organize and maintain client files; develop and maintain calendar/tickler systems; develop and maintain databases; coordinate client services.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Domain II—Development of Client Legal Matters:</strong> Client interviews; analyze information; collaborate with counsel; prepare, file, and serve legal documents and exhibits; prepare clients and witnesses for legal proceedings.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Domain III—Factual/Legal Research:</strong> Obtain factual and legal information; investigate and compile facts; inspect, evaluate, and analyze evidence; ascertain and analyze legal authority.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Domain IV—Factual/Legal Writing:</strong> Communicate with client/counsel; draft legal analytical documents.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Domain V—Office Administration:</strong> Personnel management; acquire technology; coordinate and utilize vendor</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Examination Topics**

| Part 1—Written Communications: Grammar and word usage, spelling, punctuation, number usage, capitalization, composition, and expression |
| Part 2—Legal Knowledge and Skills: Legal research, citations, legal terminology, the court system and ADR, and the legal skills of interviewing clients and witnesses, planning and conducting investigations, and docketing |
| Part 3—Ethics and Judgment: Ethical situations involving contact with clients, the public, coworkers, and subordinates; other ethical considerations for the legal profession; decisionmaking and analytical ability; and ability to recognize priorities |
| Part 4—All areas of substantive law, including |

This section contains a writing exercise.

*The Elements of Style, Strunk & White,* has been adopted by the NALA Certifying Board as the authority for the Communications section.

**Ethics**

- Ethical responsibilities centering on performance of delegated work including confidentiality, unauthorized practice of law, legal advice, conflict of interest, billing and client communications
- Client/public contact including identification as a non-lawyer, advertising and initial client contact
- Professional integrity/competence including knowledge of legal assistant codes of ethics
- Relationships with co-workers and support staff
- Attorney codes/discipline
Exhibit 1.1 Legal certification comparison chart (continued)

<table>
<thead>
<tr>
<th>Professional Paralegal (PP)—NALS</th>
<th>PLS . . . the advanced certification for legal professionals (PLS)—NALS</th>
<th>Certified Legal Assistant (CLA)—or Paralegal (CP)—NALA</th>
<th>Paralegal (RP)—Paralegal Advanced Competency Exam (PACE) Registered</th>
</tr>
</thead>
<tbody>
<tr>
<td>administrative; business organizations and contracts; civil procedure and litigation; criminal; family; real property; torts; wills, trusts, and estates; admiralty and maritime; antitrust; bankruptcy; environmental; federal civil rights and employment discrimination; immigration; intellectual property; labor; oil and gas; pension and profit sharing; taxation; water; workers’ compensation</td>
<td>Part 4—Legal Knowledge and Skills: Legal Knowledge: citations, legal research, and the ability to prepare legal documents based on oral instructions and materials; all areas of substantive law</td>
<td>• Knowledge of the American Bar Association’s Rules of Professional Conduct and the NALA Code of Ethics and Professional Responsibility is required by this examination.</td>
<td>services; create and maintain library and legal resources; develop and maintain billing system.</td>
</tr>
</tbody>
</table>

Legal Research

• Sources of law including primary authority, secondary authority; understanding how law is recorded
• Research skills including citing the law; shepardizing, updating decisions; procedural rules of citations
• Analysis of research problem including identification of relevant facts and legal issues

A Uniform System of Citation, Harvard Law Review Association, has been adopted by the NALA Certifying Board as the authority for the Legal Research section.

Judgment and Analytical Ability

• Comprehension of data—identifying and understanding a problem
• Application of knowledge—ability to link facts or legal issues from other cases to the problem at hand, recognizing similarities and differences by analogy
• Evaluating and categorizing data
• Organizing data and findings in a written document

This section contains an essay question which requires analysis of a research request, finding applicable law, and writing a responsive memo.

Examinees will be graded on the ability to:

• Identify which facts are relevant and state them concisely and accurately;
• Identify the threshold or main issue and any secondary issue(s);
• Identify the relevant legal authority and apply it to the facts; and
• Draw persuasive logical conclusions.

Substantive Law

The substantive law section of the examination is composed of five sub sections. The first section, Substantive Law-General covers concepts of the American legal system. All examinees are required to take this section.
### Exhibit 1.1  
**Legal certification comparison chart**  
*(continued)*

<table>
<thead>
<tr>
<th>Professional Paralegal (PP)—NALS</th>
<th>PLS . . . the advanced certification for legal professionals (PLS)—NALS</th>
<th>Certified Legal Assistant (CLA)—or Paralegal (CP)—NALA</th>
<th>Paralegal (RP)—Paralegal Advanced Competency Exam (PACE) Registered</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subjects covered within this section include:</td>
<td></td>
<td>The other four sub-sections are selected by the applicants from a list of nine substantive areas of the law. These tests cover general knowledge of the following practice areas:</td>
<td></td>
</tr>
<tr>
<td>• Court system including their structure and jurisdiction</td>
<td></td>
<td>• Administrative Law</td>
<td></td>
</tr>
<tr>
<td>• Branches of government, agencies, and concepts such as separation of powers</td>
<td></td>
<td>• Bankruptcy</td>
<td></td>
</tr>
<tr>
<td>• Legal concepts and principles including sources of law, judicial decision making, appellate process</td>
<td></td>
<td>• Business Organizations</td>
<td></td>
</tr>
<tr>
<td>• Sources and classifications of law including the constitution, statutes, common law, civil law, statutory law, and equity law</td>
<td></td>
<td>• Civil Litigation</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Contracts</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Criminal Law and Procedure</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Estate Planning and Probate</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Family Law</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Real Estate</td>
<td></td>
</tr>
<tr>
<td>The skills required by these tests involve recall of facts and principles that form the basis of the specialty area. Examinees must also demonstrate an understanding of the structure of the law and procedures to be followed in each specialty area.</td>
<td>The fee for the CLA/CP examination is $250 for NALA members and $275 for nonmembers</td>
<td><strong>Cost</strong></td>
<td><strong>CLE Required</strong></td>
</tr>
<tr>
<td>© 2008, National Association of Legal Assistants 1516 S. Boston, #200, Tulsa, OK 74119 <a href="mailto:nalanet@nala.org">nalanet@nala.org</a></td>
<td></td>
<td>$200 (retake $50/section)</td>
<td>50 hours (five hours legal ethics)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$250 (retake $60/section)</td>
<td>12 hours continuing legal education including at least one hour in ethics every two (2) years.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>PLS Members Part 4: $150 (retake $50)</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>PLS Nonmember Part 4: $200 (retake $60)</td>
<td></td>
</tr>
</tbody>
</table>

Legal Certification Comparison Chart prepared by Kathleen L. McRae, PLS, RP and Lyn M. Hurlbutt, PP, PLS, CLA, RP, CPS. NALS is dedicated to enhancing the competencies and contributions of members in the legal services profession. NALS Resource Center, 314 East Third Street, Suite 210, Tulsa, OK 74120 918.582.5188, 918.582.5907 (fax) © NALS, Inc. Reprinted with permission. All rights reserved.
Assessing Your Background

As the law has become more specialized, so has the demand for paralegals with more than just paralegal skills. Law firms specializing in an area such as medical malpractice frequently look for paralegals who also have a medical background such as nursing. Firms with large, complex litigation cases often look for someone with computer database skills who can manage the files. Paralegals with journalism experience and training frequently are sought out for their interviewing and writing skills.

Your personal background can be an asset when added to your paralegal certificate or degree. As you begin your professional training, take stock of your entire educational background, special skills, and talents, as well as personal areas of interest.

Doing a self-assessment early in your studies offers you an opportunity to recognize your strengths and develop them and to acknowledge weaknesses that you need to work on to permit your personal and professional growth.

Assessing Your Skills

You may well have a number of personal skills that will benefit you in the future as a paralegal. You might have great interpersonal skills, communicate well orally and in writing, and be a highly motivated person—all qualities of a good paralegal.

Individuals with language skills are particularly in demand in international law, as well as in working with clients who lack English-language skills. The paralegal who understands a second language and the cultural nuances of the client's background can be invaluable.

Assessing Your Interests

What are your personal interests? Are you an active outdoors person in your free time, for whom working on environmental issues would be of high interest and satisfaction? Do you find yourself drawn to volunteering or working in your free time with shut-ins and elderly people?

Selecting Your Electives

Becoming aware of your interests and background knowledge enables you to select the elective course that can qualify you for work in a specialty field of law. Taking electives is a good way to explore an area in which you think you might be interested, without committing to more than one semester or a few credits of study. Many students find new interests and a potential career direction after taking courses in areas they had not considered previously. For example, you may have been reading in newspapers and magazines, and following on television, stories about the high-technology industries and wondered how your career goal as a paralegal might fit into this growth area.

One of the fastest growing fields is that of intellectual property law. In an age of dot coms, computers, and a growing global marketplace, protection of intellectual property has become a critical concern for individuals and companies alike. Taking a
Regulating the Practice of Law

To protect the public, certain professions, such as law, require state licensure as a method of regulating who can practice. For the lawyer, the rules that must be followed to continue practice are found in the individual states’ code or canon of ethics for lawyers, such as the Model Rules of Professional Conduct of the American Bar Association as adopted by many states’ highest courts, serious violation of which can result in the loss of the license or right to practice law.

Paralegals, with a few exceptions, have no state license requirement to enter the profession, and no unified code of ethics. State regulations and ethics opinions are neither uniform nor mandatory. At worst, a paralegal runs the risk of a charge of unauthorized practice of law under the state criminal code, which will be discussed in more detail in Chapter 2, and at best the violation of a professional organization’s ethics code results in a loss of membership in the organization.

Regulating the Paralegal Profession

Regulation and licensing of the paralegal profession has been one of the hottest topics in the legal and paralegal communities. Each state, through its respective legislature and court, regulates and licenses the practice of law. The original Unauthorized Practice of Law (UPL) issues were simply those of the licensing of attorneys and laws preventing the unauthorized practice of law. With the development of the paralegal profession has come a new set of concerns and controversy surrounding what constitutes the unauthorized practice of law, who should be permitted to render legal services, and under what conditions.

The conflict is between the paralegal profession and the bar organizations, such as the American Bar Association, which does not see the need for the additional time, effort, and cost for certification of paralegals. The ABA position is broadly based on the argument that the public is protected by the attorney’s obligation to supervise the paralegal and responsibility to the public.

For the most part, the paralegal profession has sought some level of regulation, certification, or licensure. Somewhere in the middle are increasing numbers of employers of paralegals who want some level of assurance that those they hire who claim to be paralegals are qualified for those positions. As the responsibilities undertaken by paralegals have increased, so have the educational requirements. Within the profession has come a concern that those who hold themselves out as paralegals are truly qualified to perform the work they have undertaken. This is no different from the organized bar monitoring the activities of those holding themselves out as being lawyers.

State Licensing

Some states and others have attempted to set up licensing systems or defining who may use the title paralegal. A case in point is the proposal rejected in 1999 by the New Jersey Supreme Court to license traditional paralegals, which had been developed after five years of study by that court’s committee on paralegal education and regulation. If it had been approved, this proposal would have made New Jersey the first state to license traditional paralegals. Another state’s approach is that of North Carolina’s plan shown below.

- California leads the nation in setting stringent educational requirements that may become a model for other states. In 2000 California amended its Business and Professional Code requiring minimum educational standards for paralegals. See Exhibit 1.2.
After a number of efforts, a Hawaii State Bar Association task force on paralegal certification developed a compromise voluntary certification proposal for consideration by the Hawaii Supreme Court, which recognized the opposition from some segments of the bar.

To some observers it is obvious that the organized bar is fearful in many cases of the incursion of the paralegal profession into the practice of law. For some, the issue is loss of income. Others are concerned for the delivery of quality legal services by all those who hold themselves out as being members of the legal profession.

Florida and Ohio are among the states that have addressed the issue of certification of paralegals.

**Florida Registered Paralegal**

A Florida Registered Paralegal is a person with education, training, or work experience, who works under the direction and supervision of a member of The Florida Bar and who performs specifically delegated substantive legal work for which a member of The Florida Bar is responsible and who has met the requirements of registration as set forth in Chapter 20 of the Rules Regulating The Florida Bar. A Florida Registered Paralegal is not a member of The Florida Bar and may not give legal advice or practice law. Florida Registered Paralegal and FRP are trademarks of The Florida Bar.

Source: [www.floridabar.org](http://www.floridabar.org)

**Ohio State Bar Association Certified Paralegal**

The Ohio State Bar Association offers a voluntary credentialing program for paralegals. Individuals meeting the OSBA definition of “paralegal,” meeting the eligibility requirements and passing a written examination will be designated as an “OSBA Certified Paralegal.” This credential, along with a logo provided for the purpose may be used by the paralegal to the extent permitted by the Supreme Court of Ohio’s Rules for the Government of the Bar and Rules of Professional Conduct.

OSBA Paralegal Certification provides a valuable credential for paralegals in Ohio through the use of objective standards which measure the training, knowledge, experience and skill of paralegals. It requires a commitment to excellence and will assist lawyers and law firms in identifying the highly qualified paralegal professionals.

Source: [http://www.ohiobar.org/pub/?articleid=785](http://www.ohiobar.org/pub/?articleid=785)

For the paralegal, it is a question of status as well as job opportunities. With the establishment of minimum standards for holding oneself out as a paralegal comes a
status that members of a profession are entitled to enjoy. For those who have worked hard to develop the necessary paralegal skills by way of education and experience, it eliminates unqualified individuals from taking jobs that should be performed by qualified individuals. The stated goals of the different groups are not that far apart: delivery of quality legal services at affordable prices with a reasonable standard of living for the legal profession and the paralegal profession.

The traditional role of the attorney in advising and representing clients is limited to those who are admitted to practice as lawyers under the applicable state law. Some exemptions do exist that allow nonlawyers to perform certain services under state law, such as document preparation under California law.

Federal Practice

Under federal regulations, nonlawyers may represent parties before the Social Security Administration, the Patent Office, and other agencies. A conflict may arise between the federal law and state law that limit the activity. For example, Florida sought unsuccessfully to enjoin a practitioner authorized to practice before the Patent Office, alleging UPL (Sperry v. Florida, 373 U.S. 379 (1963)).

Under federal regulation, a paralegal can, without supervision, represent individuals before the Social Security Administration, including appearing before Administrative Law Judges on behalf of clients. Paralegals may appear as representatives of claimants for disability claims; Medicare parts A, B, and C; and cases of overpayment and underpayment.
As representative of a claimant, the paralegal in practice before the Social Security Administration may obtain information, submit evidence, and make statements and arguments. The difference between the paralegal and the attorney is only in the matter of direct versus indirect payment for services. The Social Security Administration pays the attorney directly, whereas the paralegal must bill the client for services rendered. Within the Social Security Administration, paralegals are employed as decision writers and case technicians.

**Opportunities for Paralegals**

The U.S. Department of Labor has included the paralegal profession among the fastest growing occupations with employment projected to grow 22 percent between 2006 and 2016, much faster than the average for all occupations. This encompasses additional growth of the occupation as well as the need for individuals to replace existing employees. The Labor Department estimates might be increased further by the de facto requirement found in the court opinions that more paralegals be used to perform services instead of attorneys performing the services.

**Projections data from the National Employment Matrix**

<table>
<thead>
<tr>
<th>Occupational title</th>
<th>SOC Code</th>
<th>Employment, 2006</th>
<th>Projected employment, 2016</th>
<th>Number</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Paralegals and legal assistants</td>
<td>23–2011</td>
<td>238,000</td>
<td>291,000</td>
<td>53,000</td>
<td>22</td>
</tr>
</tbody>
</table>


Paralegals held about 238,000 jobs in 2006, according to the Bureau of Labor Statistics, U.S. Department of Labor, *Occupational Outlook Handbook, 2008–09 Edition*. In May 2006, full-time wage-and-salary paralegals and legal assistants had median annual earnings, including bonuses, of $43,040. The middle 50 percent earned between $33,920 and $54,690. The top 10 percent earned more than $67,540, and the bottom 10 percent earned less than $27,450. Median annual earnings in the industries employing the largest numbers of paralegals were:

- Federal government: $56,080
- Management of companies and enterprises: $52,220
- Local government: $42,170
- Legal services: $41,460
- State government: $38,020


In a 1998 survey by the American Bar Association:

- Almost two-thirds of the lawyers who responded, 65.5 percent, employ legal assistants at their firms; 60.2 percent of respondents actively work with paralegals.
- The general responsibilities most often assigned to paralegals are maintaining client files, drafting correspondence, and performing factual research.
Legal assistants are more likely to be employed by large firms than small firms. Lawyers in smaller firms delegate a wider array of responsibilities to legal assistants than do lawyers in bigger firms. Lawyers with business/corporate, probate/estate planning, and litigation practices make more extensive use of paralegals than do lawyers in other practice areas.

The ABA survey demonstrates that clients who choose to work with larger firms are much more likely to have a portion of their work completed by paralegals than those who choose a lawyer from a small firm. Almost all (99 percent) of the lawyers practicing in firms with more than 100 lawyers reported that their firms use legal assistants. By contrast, only 34.8 percent of those working at firms of three or fewer lawyers employ paralegals. Of the lawyers who indicated that their firms do not employ paralegals, 56.8 percent reported that the size of their firm would not support legal assistants, and 44.1 percent said that their secretaries assume tasks that otherwise would be assigned to legal assistants.

Compensation for paralegals is as varied as the working environments and regional locations. As with most jobs and professions, salaries tend to be higher in large metropolitan areas and lower in small and rural areas. Large firms tend to pay more, and small firms tend to pay less. At times, these variations in compensation can be justified by the costs of working in certain locations, such as higher taxation and the cost of commuting.

The Future

The future of the paralegal profession may be determined by clients who are unwilling or unable to pay what they see as inflated fees for lawyers. The future also could be dictated by the courts, which, looking at the fairness of charging higher rates for attorneys’ tasks that could properly be delegated to a paralegal would result in a lower charge to the client. Two of the future concerns involving paralegals and billings are the following:

1. The cases in which secretarial or clerical tasks are charged to the client as paralegal fees. These tasks are considered overhead (part of the cost of running the office) and should be performed at no additional cost to the client. This is one of the areas in which the definition of paralegal has come into play in the courts. Courts are allowing charges for paralegal fees but not for secretarial fees.

2. The fairness of charging higher rates for attorneys’ performing tasks that could properly be delegated to a paralegal, thereby resulting in a lower charge to the client.

For instance, summarizing depositions traditionally has been a task delegated to paralegals. Assume that the paralegal takes two hours to complete the task and the paralegal’s time is billed to the client at $75 per hour (don’t get excited—that doesn’t necessarily have any bearing on what you may be paid); the client would be charged $150. For a lawyer to do the same work, if billed out at $175 per hour, the client would be charged $350. Unless there is good reason for the lawyer to do the work, the decision not to delegate the work to a paralegal seems unfair to the client. A number of court decisions are beginning to draw upon these fundamental questions of the fairness and propriety of attorney billings for their services. As other federal and state courts weigh in on this line of decisions, law firms may have to hire more paralegals.

Getting Started

As you start your legal studies and paralegal career, consider the suggestions and advice in the following Advice from the Field by a leading paralegal educator.
A portfolio is a purposeful collection of student work that is accumulated over time. The material reveals the extent of student learning, achievement, and development. The “portfolio system” is intended to specify knowledge and competence in areas considered necessary to successfully work as a paralegal/legal assistant while leaving the selection of means of documentation of competency to the individual student. Documentation of knowledge and skill acquisition can take a variety of forms including, but not limited to,

- letters of support
- diaries
- videotapes and audiotapes of work
- pleadings
- memoranda
- course projects
- registration receipts from continuing education and other conferences attended
- proof of membership in professional organizations
- subscriptions to legal publications

Typically, much of the material can be compiled from projects and activities required within courses.

**PROCEDURE**

The portfolio shall contain documentation of knowledge and skill acquisition based on the Core Competencies established by the American Association for Paralegal Education. Those core competencies are divided into two areas—skill development and acquisition of knowledge. Within those areas are competencies based on:

**SKILL DEVELOPMENT**

- critical thinking skills
- organizational skills
- general communication skills
- interpersonal skills
- legal research skills
- legal writing skills
- computer skills
- interviewing and investigation skills

**CONTENT**

To be a successful paralegal/legal assistant, the student must possess a common core of legal knowledge as well as acquire vital critical thinking, organizational, communication, and interpersonal skills. Courses in a student’s program should provide the student with
the means to develop the competencies, which have been divided into the following sections:

Area 1 Understanding the Profession and Its Ethical Obligations
Area 2 Research
Area 3 Legal Writing
Area 4 Basic Skills
Area 5 Acquisition of Legal Knowledge
Area 6 Professional Commitment Beyond Coursework
Area 7 Evaluation of Professional Growth/Evaluation of Program

Appendix

GUIDELINES FOR SELECTING ENTRIES

When selecting entries, students should bear in mind that each piece is part of a much larger whole and that, together, the artifacts and rationale make a powerful statement about individual professional development. Asking the following questions may help with decision making.

1. What do I want my portfolio to show about me as a paralegal? What are my attributes as a paralegal?
2. What do I want my portfolio to demonstrate about me as a learner? How and what have I learned?
3. What directions for my future growth and development does my self-evaluation suggest? How can I show them in my portfolio?
4. What points have been made by others about me as a paralegal and learner? How can I show them in my portfolio?
5. What effect does my professionalism have upon my peers? How can I show this in my portfolio?
6. What overall impression do I want my portfolio to give a reviewer about me as a learner and as a paralegal?

When decision-making about what to include becomes a challenge, it may be helpful to look at each artifact and ask yourself, “What would including this item add that has not already been said or shown?” Remember that portfolios create representative records of your professional development; they are not intended to be comprehensive.

VALUES AND ATTITUDES

Values and attitudes determine the choices we make in our lives. They cross the boundaries of subject-matter areas. Thus, in this final section of your portfolio, you are asked to look at your own values and attitudes and then write a one- to three-page paper in which you reflect upon your own values. Identify one or more values that are important to you. Explain how they influence your choices as a person, parent, future paralegal, voter, and/or citizen of the global community. Include specific examples.

The following questions may help you choose a topic for your essay: What does it mean to be honest? fair? tolerant? open to new ideas and experiences? respect evidence? Which is more important—decreasing the production of greenhouse gases or preserving jobs? The right to choose how many children we want or controlling world population growth? Freedom to produce pornographic art or the right of children to be sheltered from such experiences? Spending more time with your children or getting a second job so you can buy things you want?

There are no easy answers to these questions. Have fun thinking about your own values. Remember to include specific examples from your own life!

TRANSCRIPTS

Include copies of unofficial transcripts from all colleges and universities that you have attended.

Degree evaluation
Graduation evaluation
Awards or recognitions

Include a copy of your degree evaluation, if you received one.
Include a copy of your graduation evaluation.
Include copies of awards or recognitions you have received.

PROFESSIONAL PORTFOLIO

Modify this inclusive portfolio into a professional portfolio. This professional portfolio will be representative, not comprehensive. Each artifact chosen for inclusion should represent at least one significant aspect of you and/or your accomplishments that can be translated into employability. Use these guidelines to prepare your professional portfolio:

1. Prepare your portfolio as a showcase of your best work—your highest achievements. This will involve selecting from artifacts in your portfolio and adding new ones.
2. Do not send your portfolio when you apply for a job. Rather, include in your cover letter a statement concerning your portfolio. For example: “Throughout my paralegal studies program at College, I developed a professional portfolio that clearly and concisely exhibits my attributes as a paralegal. I would be pleased to share this portfolio with you during an interview.”
3. If granted an interview, take your portfolio with you. Be prepared to present the highlights. Practice presenting it effectively. In some instances, you might be asked to present it at the beginning of the interview, and in other instances you might
use it as a source of evidence or enhancement of a point you make in the interview. Interviewing practices vary widely from employer to employer. Portfolios are most likely to be reviewed in situations where the employer is familiar with the abilities of a paralegal.

4. If the interviewer(s) is particularly interested and would like to examine your portfolio more closely, offer to leave it if at all possible. You should make explicit arrangements for collecting it and, of course, follow through as planned. It could be that your portfolio will create the impression that tips the scales in your favor.

5. Remember—it is likely that some people in a position to hire are not familiar with professional portfolios as you know them. Take time to concisely explain that developing your portfolio has been a process of reflection and evaluation that has helped you to know yourself as a paralegal and to establish a foundation for career-long professional development. To some extent, presenting your portfolio will inform the interviewer about both you and the portfolio concept and process.

6. Keep your portfolio up to date. As you continue to gain experience and to grow professionally, alter it to reflect your development. It is not only your first job application that may be enhanced by a well prepared and presented portfolio but developing your portfolio is an excellent foundation for meeting any expectation of continuing legal education.

CONCLUSION

It is my hope and intention that by your creating this portfolio, you have an opportunity to reflect upon your education and to emphasize to yourself and others that you are capable and qualified to perform as a paralegal. It is time to believe in you. Good luck!

Reproduced with permission of Kathryn Myers.

Concept Review and Reinforcement

LEGAL TERMINOLOGY

| ALS (Accredited Legal Secretary) 15 | International Paralegal Management Association (IPMA) 16 |
| American Association for Paralegal Education (AAfPE) 12 | Legal assistant 4 |
| American Bar Association (ABA) 4 | National Association of Legal Assistants (NALA) 4 |
| Associate's degree 13 | National Association of Legal Secretaries (NALS) 16 |
| Bachelor's degree 13 | National Federation of Paralegal Associations (NFPA) 4 |
| Certificate 13 | Paralegal 4 |
| Certified Legal Assistant (CLA) 15 | Paralegal Advanced Competency Exam (PACE) 14 |
| | PLS (Professional Legal Secretary) 15 |
| | PP (Professional Paralegal) 16 |
| | Proprietary school 13 |
| | Unauthorized Practice of Law (UPL) 22 |

SUMMARY OF KEY CONCEPTS

What Is a Paralegal?

Definition

A paralegal, or legal assistant, 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 who performs specifically delegated substantive legal work for which a lawyer is responsible.”

What Do Paralegals Do?

Functions of Paralegals

The primary function of paralegals is to assist attorneys in preparing for hearings, trials, meetings, and closings.
### Professional Skills

<table>
<thead>
<tr>
<th>Definition</th>
<th>Professional skills are also called soft skills. These include communication skills, initiative, resourcefulness, problem solving, commitment, team work, leadership, and self-motivation.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Resourcefulness</td>
<td>The ability to meet and handle a situation and find solutions to problems.</td>
</tr>
<tr>
<td>Commitment</td>
<td>The ability to complete what one starts out to do.</td>
</tr>
<tr>
<td>Analytical Skills</td>
<td>Analytical skills allow one to follow a step-by-step process to solve a problem.</td>
</tr>
<tr>
<td>Interpersonal Skills</td>
<td>The ability to work with people.</td>
</tr>
<tr>
<td>Communication Skills</td>
<td>Communication means expressing ideas effectively—both oral and written.</td>
</tr>
</tbody>
</table>

### Career Planning

<table>
<thead>
<tr>
<th>Career Planning</th>
<th>Career planning includes educational planning and a plan for perfecting professional skills.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Paralegal Education in the United States</td>
<td>An estimated 1,000 paralegal education programs are available in the United States. These programs are offered in onsite, online, and hybrid format combining online and on site instruction. Some of these programs have obtained ABA.</td>
</tr>
<tr>
<td>Qualifications of a Paralegal</td>
<td>Qualifications were established by the educational guidelines of the American Bar Association's Standing Committee on Paralegals and American Association for Paralegal Education.</td>
</tr>
</tbody>
</table>
| Types of Educational Programs | 1. Certificate programs  
2. Associate degree programs  
3. Baccalaureate programs  
4. Graduate programs  
5. Specialty certificates |
| Paralegal Certification | PACE (Paralegal Advance Competency Exam) of the National Federation of Paralegal Associations  
CLA (Certified Legal Assistant) of the National Association of Legal Assistants  
ALS (the basic certification for legal professionals of NALS)  
PLS (the advanced certification for legal professionals of NALS)  
PP (Professional Paralegal certification of NALS) |
| Making a Personal Assessment and Setting Goals | 1. What are your other educational skills?  
2. What are your personality traits?  
3. Do you like working under deadlines?  
4. Do you like working with certain groups of people?  
5. What are your personal interests?  
6. Recognize your strengths  
7. Acknowledge weaknesses |
| Selecting a Specialty | Your decision should be based on a self-evaluation of your likes and dislikes, interests, passions, and any physical or geographic limitations. |
| Assessing Your Background | Doing a self-assessment early in your studies offers you an opportunity to recognize your strengths and develop them and to acknowledge weaknesses that you need to address in order to permit your personal and professional growth. |
Regulating the Practice of Law

Reasons for Regulating the Practice of Law
The practice of law is regulated by state government and court rule to protect the public from incompetent and unscrupulous practitioners.

Regulating the Paralegal Profession
The traditional role of the attorney in advising and representing clients is limited to those who are admitted to practice as lawyers under the applicable state law. Some exemptions do exist that allow nonlawyers to perform certain services under state law.

State Licensing
Some states have enacted legislation establishing licensure to perform certain paralegal functions to address the issues of the unauthorized practice of law.

Federal Practice
Under federal regulations, nonlawyers may represent parties before the Social Security Administration, the Patent Office, and other agencies.

Opportunities for Paralegals

Compensation Issues for the Paralegal
In 2006, paralegals held about 238,000 jobs in the United States, with median annual earnings of $43,040. The U.S. Department of Labor projects that this profession will continue to be among the fastest growing through the year 2016.

The Future
Career Planning
As courts require the use of paralegals to reduce legal costs, law firms may have to hire more paralegals and delegate work to them in fairness to clients and propriety in billing practice.

WORKING THE WEB

1. Download a copy of the latest edition of the ABA Standing Committee on Paralegals Update Newsletter at www.abanet.org/legalservices/paralegals/home.html
2. What advice does the ABA Standing Committee on Paralegals offer in its publication on Getting Started As a Pro Bono Legal Assistant? www.abanet.org/legalservices/paralegals/publications.html
3. The Occupational Outlook Handbook is updated regularly. Download a copy of the current version on Paralegals and Legal Assistants and compare the salary ranges with those in this text. Have they changed? www.bls.gov/oco/ocos114.htm
4. One of the significant issues for paralegals over the past years has been whether paralegals are classified as exempt or nonexempt according to the U.S. Department of Labor regulations. Download a copy of the current Overview for Executive, Administrative, Professional, Computer, & Outside Sales Employees, and highlight the information that applies to paralegals. www.dol.gov/esa/regs/compliance/whd/fairpay/main.htm
5. Print out a copy of the Mission Statement or Homepage of each of the major national paralegal associations.
a. International Paralegal Management Association www.paralegalmanagement.org
b. NALS...the Association for Legal Professionals http://www.nals.org
c. National Federation of Paralegal Associations www.paralegals.org
d. National Association of Legal Assistants www.nala.org
e. Association of Legal Administrators www.alanet.org
6. Compare your skills with the list of knowledge or competencies required of principal legal administrators at http://www.alanet.org/education/knowledgelist.html.
CRITICAL THINKING & WRITING QUESTIONS

1. How does the American Bar Association define the term “paralegal”?
2. What are the minimum qualifications that a paralegal should meet?
3. What is the role of the paralegal in the legal system?
4. Why should those planning to become paralegals or legal assistants get a well-grounded education and develop the necessary skills?
5. How can one satisfy the court that he or she is qualified as a paralegal and not as a legal secretary?
6. What is the advantage to the paralegal in obtaining the PACE or CLA designation?
7. What educational plan makes the most sense for you? Why?
8. How can a paralegal demonstrate the qualifications for employment as a paralegal?
9. Why would an employer, such as the U.S. Attorney’s office, require a four-year degree for those seeking a paralegal position?
10. Complete the checklist “Career Planning” and assess your personal skills and professional goals. Based on your answers, how well prepared are you for a career as a paralegal? What skills need development?
11. How does assessing your interests and skills help in choosing a career path?
12. What skills are required to be a paralegal and why are they important?
13. Complete the “Strengths & Weaknesses” checklist in this chapter.
14. Why are good English writing and speaking skills important for the paralegal?
15. Complete the “My Career Roadmap” checklist in this chapter.
16. How can you use the “Strengths & Weaknesses” checklist in preparing your personal career roadmap?
17. What advantages might a person have in entering the paralegal profession later in life?
18. What actions have you observed in other people that demonstrated their resourcefulness? Have others ever told you that you are resourceful?
19. How can you demonstrate the characteristic of commitment?
20. Start to network by setting up a meeting with a working paralegal and preparing a list of questions to ask at that meeting.

Building Paralegal Skills

VIDEO CASE STUDIES

When Friends Ask for Legal Advice

Dante, a paralegal is approached by a friend for legal advice about his apartment lease. His landlord is refusing to allow him to have a dog in his apartment.

After viewing the video case study at www.pearsonhighered.com/goldman answer the following:
1. Would a paralegal working in a real estate office be able to give advice as an incidental activity?
2. Is advising the person that you are a paralegal enough to avoid UPL?
3. What is the law in your state on UPL?

Resume Writing Do’s and Don’ts

Two law office human resource directors review some of the resumes they have received and discuss the errors people often make in submitting job applications.

After viewing the video case study at www.pearsonhighered.com/goldman answer the following:
1. Why is a good resume and cover letter so important in getting a paralegal position?
2. What are some of the skills human resource directors look for in new hires?
3. Make a list of skills you need to acquire and courses you should take in pursuing your paralegal studies.

Independent Paralegal

Don Swanson, President of Five Star Legal, an independent paralegal discusses the pros and cons of being an independent paralegal.

After viewing the video case study at www.pearsonhighered.com/goldman answer the following:
1. What are the advantages and disadvantages of working as an independent paralegal?
2. Are there any regulatory issues in your jurisdiction on working as an independent paralegal?
ETHICS ANALYSIS & DISCUSSION QUESTIONS

1. Does your state by statute, regulation, code, ethics rule, or court rule define “Paralegal” or “Legal Assistant”? If it does, what is that definition and where is it so defined? If not, should it formally define the term?
2. Does your state have a statute or court rule on the regulation of the paralegal or legal assistant practice? What are the requirements to practice as a paralegal or legal assistant? Does the law define the practice in some other terminology?
3. Does your state have minimum educational requirements for paralegals? Should there be a set of minimum qualifications?
4. Does having a set of minimum educational requirements eliminate the need for a set of ethical guidelines?

DEVELOPING YOUR COLLABORATION SKILLS

Working on your own or with a group of other students assigned by your instructor, review the scenario at the beginning of the chapter discussing the employment options and educational issues involved.

1. Discuss why or why not Ethan and Ariel should consider a paralegal career. What are the advantages or disadvantages? What strengths or skills do Ethan and Ariel bring to this type of career choice?
2. Working individually or in a group, complete the following:
   a. Summarize, in writing, your career advice to Ethan and/or Ariel.
   b. Share your advice with other students or groups. Does your group have any additional advice or recommendations?
   c. Take on the role of Ethan and/or Ariel. Might they have any other questions for Mr. Marshall about the paralegal profession? Make a list of additional questions. Where might Ethan and Ariel get additional information about the paralegal profession?
3. Select a spokesperson that can summarize and present your recommendations in class.

PARALEGAL PORTFOLIO EXERCISE

Using a three-ring binder with the following tabbed sections listed, start to create a hardcopy portfolio of your work and accomplishments in this course. Please also include any work you are doing in other courses that best represents your growing “skill set.” Prepare binder tabs with the following headings listed and insert into your three-ring binder:

A. Understanding the Profession and Its Ethical Obligations
B. Research
C. Legal Writing
D. Basic Skills
E. Acquisition of Legal Knowledge
F. Professional Commitment Beyond Coursework
G. Evaluation of Professional Growth/Evaluation of Program
H. Appendix

LEGAL ANALYSIS & WRITING CASES


The Unauthorized Practice of Law and the Paralegal

A paralegal asked the court if he could conduct unsupervised “wills and trusts” seminars for the public, “emphasizing” living trusts during the course of his presentation and answering estate-planning questions from the audience. He proposed a fee-splitting arrangement with his attorney–employer.

The South Carolina Supreme Court ruled: “The activities of a paralegal do not constitute the practice of law as long as they are limited to work of a preparatory nature, such as legal research, investigation, or the composition of legal documents, which enables licensed attorney–employer to carry a given matter to a conclusion through his own examination, approval, or additional effort.

. . . The paralegal plays a supporting role to the supervising attorney. Here the roles are reversed. The attorney would support the paralegal. Petitioner would play the lead role, with no meaningful attorney supervision and the attorney’s presence and involvement only surfaces on the back end. Meaningful attorney supervision must be present throughout the process. The line between what is and what
PART I The Paralegal Profession

is not permissible conduct by a non-attorney is sometimes unclear as a potential trap for the unsuspecting client. . . . It is well settled the paralegal may not give legal advice, consult, offer legal explanations, or make legal recommendations.”

Questions
1. Why is the practice of law limited to licensed attorneys?
2. What tasks may a paralegal perform?
3. What tasks may a paralegal not perform?
4. Why is the answering of legal questions about the need for a will or a trust the unauthorized practice of law (UPL)?
5. Why is a fee-splitting arrangement between a lawyer and a paralegal prohibited?

Note: If in South Carolina, include the parallel citation: 341 S.C. 22. The Lexis citation for this case is 2000 S.C. LEXIS 125.

Sperry v. Florida 373 U.S. 379 (1963)

Petitioner, not a lawyer and not admitted to practice in Florida as a lawyer, was nevertheless authorized to practice before the U.S. Patent Office pursuant to federal statute (35 U.S.C. Sec. 31). The Florida Bar sued to prevent him from representing patent applicants, preparing and prosecuting the patent claims and advising them in the State of Florida.

The Supreme Court, in holding that the Petitioner was permitted to perform tasks incidental to prosecuting of patent claims, said, “. . . by virtue of the Supremacy Clause, Florida may not deny to those failing to meet its own qualifications the right to perform the functions within the scope of the federal authority.” The Court further stated, “. . . since patent practitioners are authorized to practice before the Patent Office, the State maintains control over the practice of law within its borders except to the limited extent for the accomplishment of the federal objective.”

Questions
1. Does this decision allow anyone to practice before any federal agency without being licensed?
2. What are the prerequisites for nonlawyers to act on behalf of others before federal agencies?
3. What steps would a paralegal have to take to prosecute patent claims?


Supreme Court of the United States

Read the following case excerpts. Information on preparing a briefing is provided in Appendix A: How to Brief a Case. In your brief, prepare a written answer to each of the following questions.

1. What is the difference between “market rates” for paralegals and cost to the attorney for paralegal service?
2. Does billing for paralegal services at market rates unfairly benefit the law firm?
3. According to this court, how is a reasonable attorney’s fee calculated?
4. How does the public benefit from allowing paralegals to be billed at market rates?
5. Does this court believe that a reasonable attorney’s fee should include paralegal fees?

Brennan, J., delivered the opinion of the Court.

This is the attorney’s fee aftermath of major school desegregation litigation in Kansas City, Missouri. We [are hearing this case to decide] should the fee award compensate the work of paralegals and law clerks by applying the market rate for their work?

This litigation began in 1977 as a suit by the Kansas City Missouri School District (KCMSD), the school board, and the children of two school board members, against the State of Missouri and other defendants. The plaintiffs alleged that the State, surrounding school districts, and various federal agencies had caused and perpetuated a system of racial segregation in the schools of the Kansas City metropolitan area. . . . After lengthy proceedings, including a trial that lasted 7½ months during 1983 and 1984, the District Court found the State of Missouri and KCMSD liable. . . . It ordered various intradistrict remedies, to be paid for by the State and KCMSD, including $260 million in capital improvements and a magnet-school plan costing over $200 million.
The plaintiff class has been represented, since 1979, by Kansas City lawyer Arthur Benson and, since 1982, by the NAACP Legal Defense and Educational Fund, Inc. (LDF). Benson and the LDF requested attorney's fees under the Civil Rights Attorney's Fees Awards Act of 1976, 42 U.S.C. § 1988. Benson and his associates had devoted 10,875 attorney hours to the litigation, as well as 8,108 hours of paralegal and law clerk time. For the LDF, the corresponding figures were 10,854 hours for attorneys and 15,517 hours for paralegals and law clerks. Their fee applications deleted from these totals 3,628 attorney hours and 7,046 paralegal hours allocable to unsuccessful claims against the suburban school districts. With additions for postjudgment monitoring and for preparation of the fee application, the District Court awarded Benson a total of approximately $1.7 million and the LDF $2.3 million.

Both Benson and the LDF employed numerous paralegals, law clerks (generally law students working part-time), and recent law graduates in this litigation. The court awarded fees for their work based on Kansas City market rates for those categories. As in the case of the attorneys, it used current rather than historic market rates in order to compensate for the delay in payment. It therefore awarded fees based on hourly rates of $35 for law clerks, $40 for paralegals, and $50 for recent law graduates. [. . .]

III

Missouri’s second contention is that the District Court erred in compensating the work of law clerks and paralegals (hereinafter collectively “paralegals”) at the market rates for their services, rather than at their cost to the attorney. While Missouri agrees that compensation for the cost of these personnel should be included in the fee award, it suggests that an hourly rate of $15—which it argued below corresponded to their salaries, benefits, and overhead—would be appropriate, rather than the market rates of $35 to $50. According to Missouri, § 1988 does not authorize billing paralegals’ hours at market rates, and doing so produces a “windfall” for the attorney.

We begin with the statutory language, which provides simply for “a reasonable attorney’s fee as part of the costs.” Clearly, a “reasonable attorney’s fee” cannot have been meant to compensate only work performed personally by members of the bar. Rather, the term must refer to a reasonable fee for the work product of an attorney.

Thus, the fee must take into account the work not only of attorneys but also of secretaries, messengers, librarians, janitors, and others whose labor contributes to the work product for which an attorney bills her client; and it also must take account of other expenses and profit. The parties have suggested no reason why the work of paralegals should not be similarly compensated, nor can we think of any. We thus take as our starting point the self-evident proposition that the “reasonable attorney’s fee” provided for by statute should compensate the work of paralegals, as well as that of attorneys.

The more difficult question is how the work of paralegals is to be valued in calculating the overall attorney’s fee.

The statute specifies a “reasonable” fee for the attorney’s work product. In determining how other elements of the attorney’s fee are to be calculated, we have consistently looked to the marketplace as our guide to what is “reasonable.” In Blum v. Stenson, 465 U.S. 886 (1984), for example, we rejected an argument that attorney’s fees for nonprofit legal service organizations should be based on cost. We said: “The statute and legislative history establish that ‘reasonable fees’ under § 1988 are to be calculated according to the prevailing market rates in the relevant community. . . .” A reasonable attorney’s fee under § 1988 is one calculated on the basis of rates and practices prevailing in the relevant market, i.e., “in line with those [rates] prevailing in the community for similar services by lawyers of reasonably comparable skill, experience, and reputation,” and one that grants the successful civil rights plaintiff a “fully compensatory fee,” comparable to what “is traditional with attorneys compensated by a fee-paying client.”

If an attorney’s fee awarded under § 1988 is to yield the same level of compensation that would be available from the market, the “increasingly widespread custom of separately billing for the services of paralegals and law students who serve as clerks,” all else being equal, the hourly fee charged by an attorney whose rates include paralegal work in her hourly fee, or who bills separately for the work of paralegals at cost, will be higher than the hourly fee charged by an attorney competing in the same market who bills separately for the work of paralegals at “market rates.” In other words, the prevailing “market rate” for attorney time is not independent of the manner in which paralegal time is accounted for. Thus, if the prevailing practice in a given community were to bill paralegal time separately at market rates, fees awarded the attorney at market rates for attorney time would not be fully compensatory if the court refused to compensate hours billed by paralegals or did so only at “cost.” Similarly, the fee awarded would be too high if the court accepted separate billing for paralegal hours in a market where that was not the custom.

(continued)
We reject the argument that compensation for paralegals at rates above “cost” would yield a “windfall” for the prevailing attorney. Neither petitioners nor anyone else, to our knowledge, has ever suggested that the hourly rate applied to the work of an associate attorney in a law firm creates a windfall for the firm’s partners or is otherwise improper under § 1988, merely because it exceeds the cost of the attorney’s services. If the fees are consistent with market rates and practices, the “windfall” argument has no more force with regard to paralegals than it does for associates. And it would hardly accord with Congress’ intent to provide a “fully compensatory fee” if the prevailing plaintiff’s attorney in a civil rights lawsuit were not permitted to bill separately for paralegals, while the defense attorney in the same litigation was able to take advantage of the prevailing practice and obtain market rates for such work. Yet that is precisely the result sought in this case by the State of Missouri, which appears to have paid its own outside counsel for the work of paralegals at the hourly rate of $35.

Nothing in § 1988 requires that the work of paralegals invariably be billed separately. If it is the practice in the relevant market not to do so, or to bill the work of paralegals only at cost, that is all that § 1988 requires. Where, however, the prevailing practice is to bill paralegal work at market rates, treating civil rights lawyers’ fee requests in the same way is not only permitted by § 1988, but also makes economic sense. By encouraging the use of lower cost paralegals rather than attorneys wherever possible, permitting market-rate billing of paralegal hours “encourages cost-effective delivery of legal services and, by reducing the spiraling cost of civil rights litigation, furthers the policies underlying civil rights statutes.”

Such separate billing appears to be the practice in most communities today. In the present case, Missouri concedes that “the local market typically bills separately for paralegal services,” and the District Court found that the requested hourly rates of $35 for law clerks, $40 for paralegals, and $50 for recent law graduates were the prevailing rates for such services in the Kansas City area. Under these circumstances, the court’s decision to award separate compensation at these rates was fully in accord with § 1988.

IV

The courts correctly granted a fee enhancement to compensate for delay in payment and approved compensation of paralegals and law clerks at market rates. The judgment of the Court of Appeals is therefore Affirmed.