

## Definition

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Definition of Legal Assistant - Legal assistants (also known as paralegals) are a distinguishable group of persons who assist attorneys in the delivery of legal services. Through formal education, training and experience, legal assistants have knowledge and expertise regarding the legal system and substantive and procedural law which will qualify them to do work of a legal nature under the direct supervision of a licensed attorney.
- AAfPE Definition  
Paralegals perform substantive and procedural legal work as authorized by law, which work, in the absence of the paralegal, would be performed by an attorney. Paralegals have knowledge of the law gained through education, or education and work experience, which qualifies them to perform legal work. Paralegals adhere to recognized ethical standards and rules of professional responsibility.
- ABA Definition  
A legal assistant or paralegal is a person, qualified by education, training or work experience who is employed or retained by a lawyer, law office, corporation, governmental agency or other entity and who performs specifically delegated substantive legal work for which a lawyer is responsible.
- NALA Definition  
Legal assistants, also known as paralegals, are a distinguishable group of persons who assist attorneys in the delivery of legal services. Through formal education, training and experience, legal assistants have knowledge and expertise regarding the legal system and substantive and procedural law which qualify them to do work of a legal nature under the supervision of an attorney.
- NFPA Definition  
A Paralegal is a person, qualified through education, training or work experience to perform substantive legal work that requires knowledge of legal concepts and is customarily, but not exclusively, performed by a lawyer. This person may be retained or employed by a lawyer, law office, governmental agency or other entity or may be authorized by administrative, statutory or court authority to perform this work. Substantive shall mean work requiring recognition, evaluation, organization, analysis, and communication of relevant facts and legal concepts.

## Duties/Utilization/Responsibilities

- Reference to utilization guidelines and pending revisions.
- Formal Ethics Opinion 61 (October 23, 1982)  
The proper use of assistants who are not licensed lawyers significantly increases the ability of lawyers to provide quality professional services to the public at reasonable cost. A lawyer cannot, however, delegate his ethical proscriptions by claiming that the violation was that of an employee. Thus, in order to assure compliance with the Code of Professional Responsibility, the following ethical guidelines are applicable to the lawyer's use of non-licensed assistants:

1. A lawyer shall ascertain the assistant's abilities, limitations and training, and must limit the assistant's duties and responsibilities to those that can be competently performed in view of those abilities, limitations and training.
2. A lawyer shall educate and train assistants with respect to the ethical standards which apply to the lawyer.
3. A lawyer is responsible for monitoring and supervising the conduct of assistants to prevent the violation of the ethical standards which apply to the lawyer, and the lawyer is responsible for assuring that assistants do not do anything which the lawyer could not do.
4. A lawyer shall continually monitor and supervise the work of assistants in order to assure that the services rendered by the assistant are performed competently and in a professional manner.
5. A lawyer is responsible for assuring that the assistant does not engage in the unauthorized practice of law.
6. A lawyer shall assume responsibility for the improper conduct of assistants and must take appropriate action to prevent recurrence of improper behavior or activities.
7. Assistants who deal directly with lawyer's clients must be identified to those clients as non-lawyers, and the lawyer is responsible for obtaining the understanding of the clients with respect to the role of and the limitations which apply to those assistants.

➤ Formal Ethics Opinion 79 (February 18, 1989)

The use of paralegals, law clerks or other legal assistants (who are not licensed attorneys) employed by a licensed attorney to appear at depositions, hearings or administrative proceedings to represent the attorney's client constitutes a violation of DR 3-101(A) and 6-101 of the Code of Professional Responsibility where the duty thus entrusted to such legal assistants would constitute the unauthorized practice of law. Where the use of such lay assistants does not constitute the practice of law, or where such use is expressly authorized under Colorado Supreme Court Rule or decision, the attorney must, nonetheless, train, supervise and control such assistants to assure competent representation of clients as required by DR 6-101. (See the guidelines formulated by the Ethics Committee in Formal Opinion No. 61, adopted on October 23, 1982.)

➤ Formal Ethics Opinion 84 ( February 26, 1990)

A law firm may provide nonlawyer employees with business cards and list such employees' names on its letterhead, provided such business cards and letterhead listings clearly reveal the employee is not a lawyer and the information on such business cards and letterheads is not otherwise false, fraudulent, misleading or deceptive. A law firm providing business cards to nonlawyer employees or placing nonlawyers' names on its letterhead is responsible for the use to which nonlawyer employees put such business cards or letterhead.

- The responsibility for compliance with approved standards of professional conduct rests primarily upon the attorney; however, a paralegal should understand what may and may not be done.

- The burden rests upon the employing attorney to educate the paralegal with respect to the duties which may be assigned to the paralegal, and to supervise the manner in which the paralegal carries out those duties. However, the paralegal is not relieved from independent obligations to refrain from illegal conduct.
- A lawyer may permit a paralegal to assist in all aspects of the lawyer's representation of a client, provided that:
  1. The status of the paralegal is disclosed at the outset of any professional relationship with a client, other attorneys, courts or administrative agencies or members of the general public;
  2. The lawyer supervises the paralegal's performance of the duties assigned;
  3. The lawyer remains responsible for the actions of the paralegal to the same extent as if such representation had been furnished entirely by the lawyer and such actions were those of the lawyer,
  4. The services performed by the paralegal do not require the exercise of unsupervised legal judgment; and
  5. The lawyer instructs the paralegal concerning standards of client confidentiality.

## **Educational**

- ABA approved v. non-ABA approved paralegal programs
- Credentialing – regulation v. certification v. licensure

Currently there is no form of credentialing required in Colorado.

1. AAPI – American Alliance Certified Paralegal
2. NALA – Certified Legal Assistant/Certified Paralegal, with advanced certification available.
3. NALS – Professional Paralegal
4. NFPA – Registered Paralegal, currently no advanced credentialing, but has been contemplated.