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## Ethics Tip: Consider the 5 C's

By Vicki Voisin, ACP

When you consider ethics issues, there are five areas you must pay attention to...and each begins with the letter 'C'.

For purposes of this article, I will refer to the ABA's Model Rules.

**1. Conflicts:** Model Rules 1.7-1.11 refer to conflicts of interest that attorneys may encounter. Here are some tips to avoid conflicts:

Have a system in place to check conflicts. This should include both former and current clients.

Who's the client? Be sure it is clear whom the firm is representing. Never use information you have gathered during the representation of a client to later sue that client.

Pay attention to new hires, both attorneys and support staff. If they have a conflict, the firm may avoid disqualification by obtaining waivers from opposing parties and by screening the employee from contact with the matter.

**2. Confidentiality:** Model Rule 1.6 refers to the duty to keep all information related to the representation of a client confidential.

Never discuss client matters with anyone outside the office. This includes billing information and factual situations...even if you don't mention the client's name.

Be careful when you're using electronics as well as emails and faxes also have an expectation of privacy but you should always have the client's permission (preferably in writing) before communicating this way

There are some exceptions to the confidentiality rule: to prevent the client from killing or seriously harming someone; to prevent the client from committing a crime; to bring or defend a claim against a client. In each of these situations, the attorney may disclose only information essential to the matter.

**3. Cash.** Model Rule 1.15 covers the duty to protect the client's property. Know your state's rules regarding this duty as it varies from state to state.

The client's funds cannot be commingled with the firm's funds.

The firm can't 'borrow' from the client's funds, even with the intention of repaying the money before anyone finds out.

The client's money may be transferred to the firm's business account only at such time as the fees are earned.

Every firm must maintain a separate trust account which is also referred as an IOLTA account. (IOLTA = Interest on Lawyer Trust Accounts)



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Please send information to Suzanne Sitter, NFPA Editorial Coordinator [editorial@paralegals.org](mailto:editorial@paralegals.org)

**Ethics Tips: Consider the 5 C's... (continued)**

Every firm must maintain a separate trust account which is also referred as an IOLTA account. (IOLTA = Interest on Lawyer Trust Accounts)

There are strict rules for reconciling the trust account and also for persons who are allowed to handle the account. Again, check your state's rules for more information.

**4. Competence.** Model Rule 1.1 refers to the duty of the attorney to possess the legal knowledge and expertise to handle the client's issues.

Have the resources and the time to handle the client's case, including properly trained staff and the necessary equipment; be sure to attend appropriate continuing education events.

**5. Communications.** Model Rule 1.4 covers the duty to adequately and appropriately communicate with clients.

Be sure clients understand that the attorney is not always available for immediate response and provide alternative personnel for the client to use to relay messages.

While the attorney may delegate much client contact to paralegals, the attorney is obligated to maintain a direct relationship with the client.

**One last rule: Model Rule 5.3 refers to the lawyer's duty with regard to nonlawyer assistants:**

... A lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer....

**Your challenge:** Familiarize yourself with the ABA's Model Rules of Professional Conduct, as well as the rules that have been adopted by your state.

Vicki Voisin, "The Paralegal Mentor", delivers simple strategies for paralegals and other professionals to create success and satisfaction by achieving goals and determining the direction they will take their careers. More information is available at [www.paralegalmentor.com](http://www.paralegalmentor.com)

Editor's note: This article has been abbreviated. You may read this article in its entirety at the above Website.

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