

**Ethics Board Opinion**  
**07-01**

**CAVEAT:** THE FOLLOWING OPINION OF THE ETHICS BOARD OF THE NATIONAL FEDERATION OF PARALEGAL ASSOCIATIONS, INC. (NFPA) IS ADVISORY ONLY AND SHOULD NOT BE CONSTRUED AS BINDING ON ANY REVIEWING AUTHORITY AND MUST BE INTERPRETED IN CONJUNCTION WITH THE APPLICABLE STATE'S SUPREME COURT RULES AND OPINIONS GOVERNING THE PROFESSIONAL CONDUCT OF MEMBERS OF THE LEGAL COMMUNITY. IT CARRIES ONLY SUCH WEIGHT AS AN APPROPRIATE REVIEWING AUTHORITY MAY CHOSE TO GIVE IT.

**FACTS:** A paralegal has asked whether or not volunteering to draft bylaws or being asked to draft bylaws for a "Neighborhood Association" would be an ethical violation. The neighborhood association is a volunteer association and homeowners are free to participate or not.

**OPINION:** It is the opinion of the Ethics Board that drafting bylaws or any other legal documents for an organization or volunteer association is not allowable if the paralegal is acting on his/her own and not under the supervision of an attorney. This would be a violation of NFPA's Model Disciplinary rules and Ethical Considerations 1.3(b) and 1.8.

**DISCUSSION:** Bylaws are legal documents whether they are drawn up for a voluntary association or a Fortune 500 Company. Bylaws help define the legal parameters of the organization. A Minnesota court made the following comment in reference to a corporation: "bylaws are the laws adopted by the corporation for the regulation of its actions and the rights and duties of its members.... It is well established that the directors are bound to follow the bylaws. Brennan v. Minneapolis Soc. for Blind, Inc., 282 N.W.2d 515, 523 (Minn., 1979). The same is probably true of the bylaws of a voluntary association. There are instances where organizations have had complaints filed against them because of the wording of their bylaws. Internal disputes can also arise from the operation of bylaws. These actions no doubt put their legal standing in jeopardy.

EC-1.3(b) states in part that "a paralegal shall avoid impropriety and the appearance of impropriety and shall not engage in any conduct that would adversely affect his/her fitness to practice." 1.8 simply states that a paralegal shall not engage in the unauthorized practice of law. A paralegal drafting bylaws for an organization without supervision of an attorney would be practicing law. It is sometimes difficult for a paralegal to differentiate between what is allowable and what is not.

In the situation presented, there would appear to be little risk of a dispute arising from the actions of a volunteer organization. Regardless of the circumstances, however, a paralegal walks a fine line whenever he or she is asked to use their professional training and knowledge for private concern. Each of us have faced situations where we have been

asked for an opinion on a legal matter and it is difficult to not answer, especially when you know the answer. However, as professionals we have an obligation to live by the rules that have been created to avoid improper behavior.

Of course, members of an organization do not need an attorney to draft their bylaws or other governing documents. Drafting their own bylaws would be the equivalent of drafting their own contracts. The problem arises when someone who is not a member of the organization undertakes to draft them.

By making a request to the National Federation of Paralegal Associations (NFPA) for an opinion and/or recommendation concerning proper conduct for a member of the legal profession as it pertains to ethical conduct, obligations, utilization and/or discipline of paralegals, the inquirer and his/her employers, employees, agents, and representatives stipulate that they have read the caveat above, and agree to indemnify, hold harmless, and defend the NFPA, its Officers, Directors, Coordinators, Ethics Board and Managing Director from any claims arising from any act or omission of NFPA except those occasioned by NFPA's willful or deliberate acts.