

NATIONAL FEDERATION OF PARALEGAL ASSOCIATIONS, INC.

CODE OF ETHICS AND
PROFESSIONAL RESPONSIBILITY¹

PREAMBLE

The National Federation of Paralegal Associations, Inc. (“NFPA”) is a professional organization comprised of paralegal associations and individual paralegals throughout the United States and Canada. Members of NFPA have varying backgrounds, experiences, education, and job responsibilities that reflect the diversity of the paralegal profession.

NFPA promotes the growth, development, and recognition of the paralegal profession as an integral partner in the delivery of legal services.

In May 1993, NFPA adopted its Model Code of Ethics and Professional Responsibility (“Model Code”) to delineate the principles for ethics, professional responsibility, and conduct to which every paralegal should aspire.

Many paralegal associations throughout the United States have endorsed the concept and content of NFPA's Model Code through the adoption of their own ethical codes. In doing so, paralegals have confirmed the profession's commitment to increase the quality and efficiency of legal services, as well as recognized its responsibilities to the public, the legal community, and colleagues.

Paralegals have recognized, and will continue to recognize, that the profession must continue to evolve to enhance their roles in the delivery of legal services. With increased levels of responsibility comes the need to define and enforce mandatory rules of professional conduct. Enforcement of codes of paralegal conduct is a logical and necessary step to enhance and ensure the confidence of the legal community and the public in the integrity and professional responsibility of paralegals.

In April 1997, NFPA adopted the Model Disciplinary Rules (“Model Rules”) to make possible the enforcement of the Canons and Ethical Considerations contained in the NFPA Model Code. A concurrent determination was made that the Model Code of Ethics and Professional Responsibility, formerly aspirational in nature, should be recognized as setting forth the enforceable obligations of all paralegals. The NFPA Policy & Procedure Manual sets forth the procedures for addressing ethics complaints and is not replicated herein.

In May 2018, the NFPA Ethics Board recommended to the NFPA Board of Directors that the Model Code and Model Rules should be treated as a dynamic document subject to routine revision to reflect the evolution of the paralegal profession. The NFPA Board of Directors updated

¹ Rev 05-2022

NFPA Procedures (now known as NFPA Policies & Procedures) to reflect a biennial review and update of the NFPA Model Code of Ethics to be approved by the delegate assembly. The review should include compliance with the ABA Model Rules and Opinions, state bar opinions, and the state of the paralegal profession.

This Code of Ethics and Professional Responsibility was updated on June 18, 2022 by the NFPA Delegate Assembly, and minor updates were adopted on July 19, 2022 by the NFPA Board of Directors. The June 2022 update removed the word “Model” from the Code’s name, reflecting the integration of the Code of Ethics into the standards of conduct for NFPA members and credential holders, and the Guidelines for Enforcement were removed, as they were integrated into the NFPA Policy & Procedure Manual on December 15, 2020.

This revised Code of Ethics and Professional Responsibility offers a more relevant framework for professional discipline, either voluntarily or through formal regulatory programs. Every paralegal that reviews these guidelines is cautioned to consider the specific ethical considerations and case law that apply in the particular states and jurisdictions in which they operate.

Please contact the NFPA Ethics Board ethics@paralegals.org with questions, comments, or concerns.

RULES OF PROFESSIONAL CONDUCT AND ETHICAL CONSIDERATIONS

1.1 A PARALEGAL SHALL ACHIEVE AND MAINTAIN A HIGH LEVEL OF COMPETENCE.

Ethical Considerations

- EC-1.1(a)** A paralegal shall achieve professional competency through education (including continuing legal education), training, and work experience.
- EC-1.1(b)** A paralegal shall aspire to participate in a minimum of twelve (12) hours of continuing legal education every two (2) years, to include at least two (2) hours of ethics education, with the option to use diversity, equity, and inclusion education as one (1) Ethics credit hour, in order to remain current on developments in the law.
- EC-1.1(c)** A paralegal shall perform all assignments promptly and efficiently, to the supervising attorney's satisfaction.
- EC-1.1(d)** A paralegal shall remain abreast of the latest technology, including legal applications, electronic communication, and device and data security whether the paralegal is working in a traditional law office environment or remotely.
- EC-1.1(e)** A paralegal shall be culturally competent and understand implicit and explicit biases that could impact their work with diverse populations.

1.2 A PARALEGAL SHALL MAINTAIN A HIGH LEVEL OF PERSONAL AND PROFESSIONAL INTEGRITY.

Ethical Considerations

- EC-1.2(a)** A paralegal shall not engage in any ex-parte communications involving the courts or any other adjudicatory body in an attempt to exert undue influence or to obtain advantage or the benefit of only one party.
- EC-1.2(b)** A paralegal shall not communicate, or cause another to communicate, with a party the paralegal knows to be represented by a lawyer in a pending matter without the prior consent of the lawyer representing such other party.
- EC-1.2(c)** A paralegal shall ensure that all timekeeping and billing records prepared by the paralegal are thorough, accurate, honest, and complete.
- EC-1.2(d)** A paralegal shall not knowingly engage in fraudulent billing practices. Such practices may include but are not limited to inflation of hours billed to a client or employer; misrepresentation of the nature of tasks performed; and/or submission of fraudulent expense and disbursement documentation.

- EC-1.2(e)** A paralegal shall be scrupulous, thorough, and honest in the identification and maintenance of all funds, securities, and other assets of a client and shall provide accurate accounting as appropriate.
- EC-1.2(f)** A paralegal may not split or share legal fees with a lawyer or law practice nor receive payment for the referral of legal business. A paralegal may be compensated based on the quantity, quality, and value of the work provided, however the paralegal's compensation may not be contingent, by advance agreement, upon the outcome of a particular case or class of cases.²
- EC-1.2(g)** A paralegal may consult with the NFPA Ethics Board regarding non-confidential knowledge of any dishonest or fraudulent acts by any person pertaining to the handling of the funds, securities, or other assets of a client as defined by the Model Code of Ethics and/or ethical rules and/or the rules and/or laws governing the jurisdiction in which the paralegal provides services.

1.3 A PARALEGAL SHALL MAINTAIN A HIGH STANDARD OF PROFESSIONAL CONDUCT.

Ethical Considerations

- EC-1.3(a)** A paralegal shall refrain from engaging in any conduct that offends the dignity and decorum of proceedings before a court, tribunal, or other adjudicatory body and shall be respectful of all rules and procedures whether the paralegal is working in a traditional law office environment or working remotely.
- EC-1.3(b)** A paralegal shall avoid impropriety and the appearance of impropriety and shall not engage in any conduct that would adversely affect the paralegal's fitness to practice. Such conduct may include, but is not limited to violence, dishonesty, unethical conduct, discriminatory practices, interference with the administration of justice, and/or abuse of a professional position or public office.
- EC-1.3(c)** Should a paralegal's fitness to practice be compromised by physical or mental illness, causing that paralegal to commit an act that is in direct violation of the Code/Rules and/or the rules and/or laws governing the jurisdiction in which the paralegal provides services, that paralegal may be protected from sanction upon review of the nature and circumstances of that illness.

² Based upon *ABA Model Guidelines for the Utilization of Paralegal Services*, Guideline 9.

- EC-1.3(d)** A paralegal shall advise the proper authority of non-confidential knowledge of any action of another legal professional that clearly demonstrates fraud, deceit, dishonesty, or misrepresentation. The authority to whom the report is made shall depend on the nature and circumstances of the possible misconduct, (e.g., supervising attorney, ethics counsel or committees of law firms, corporations and/or paralegal associations, local or state bar associations, local prosecutors, administrative agencies, etc.). Failure to report such knowledge is in itself misconduct and shall be treated as such under these rules.
- EC-1.3(e)** A paralegal may consult with the NFPA Ethics Board if asked or directed to assist any individual with the commission of an act that is in direct violation of the Code of Ethics and/or ethical rules and/or the rules and/or laws governing the jurisdiction in which the paralegal provides services.
- EC-1.3(f)** If a paralegal possesses knowledge of future criminal activity relating to a client, that knowledge must be reported to the paralegal's supervising attorney immediately.

1.4 A PARALEGAL SHALL SERVE THE PUBLIC INTEREST BY CONTRIBUTING TO THE IMPROVEMENT OF THE LEGAL SYSTEM AND DELIVERY OF QUALITY LEGAL SERVICES, INCLUDING PRO BONO PUBLICO SERVICES AND COMMUNITY SERVICE.

Ethical Considerations

- EC-1.4(a)** A paralegal shall be sensitive to the legal needs of the public and shall promote the development and implementation of programs that address those needs.
- EC-1.4(b)** A paralegal shall support efforts to improve the legal system and access thereto and shall assist in making substantive changes.
- EC-1.4(c)** A paralegal shall support and participate in the delivery of Pro Bono Publico services directed toward implementing and improving access to justice, the law, the legal system, or the paralegal and legal professions.
- EC-1.4(d)** A paralegal should aspire annually to contribute fifty (50) hours of Pro Bono Publico services and/or Community Service, as defined by this Code, on an annual basis. Pro Bono Publico and Community Service may be provided through charitable, religious, civic, community, governmental, and educational organizations.

1.5 A PARALEGAL SHALL PRESERVE ALL CONFIDENTIAL INFORMATION PROVIDED BY THE CLIENT OR ACQUIRED FROM OTHER SOURCES BEFORE, DURING, AND AFTER THE COURSE OF THE PROFESSIONAL RELATIONSHIP.

Ethical Considerations

- EC-1.5(a)** A paralegal shall be aware of and abide by all legal authority governing confidential information in all applicable jurisdictions.
- EC-1.5(b)** A paralegal shall not use confidential information to the disadvantage of the client.
- EC-1.5(c)** A paralegal shall not benefit from the use of confidential information or use confidential information to the advantage of a third party or entity.
- EC-1.5(d)** Prior to revelation of any confidential information, a paralegal should consult with and seek approval from their supervising attorney, if applicable. A paralegal may reveal confidential information only after full disclosure and with the client's written consent; or, when required by law or court order; or, when necessary to prevent the client from committing an act where there is reasonable belief that the act could result in death or serious bodily harm.
- EC-1.5(e)** A paralegal shall keep those individuals responsible for the client's legal representation fully informed of any confidential information the paralegal may have pertaining to that client.
- EC-1.5(f)** A paralegal may only reveal confidential information with the authorization of the supervising attorney.
- EC-1.5(g)** A paralegal who works remotely shall take precautions to prevent cybersecurity breaches and shall secure their physical workspace to prevent third-party access to confidential information.

1.6 A PARALEGAL SHALL AVOID CONFLICTS OF INTEREST AND SHALL DISCLOSE ANY POSSIBLE CONFLICT TO THE EMPLOYER OR CLIENT, AS WELL AS TO THE PROSPECTIVE EMPLOYERS OR CLIENTS.

Ethical Considerations

- EC-1.6(a)** A paralegal shall act within the bounds of the law, solely for the benefit of the client, and shall be free of compromising influences and loyalties. Neither the paralegal's personal or business interests, nor those of other clients or third persons, should compromise the paralegal's professional judgment and loyalty to the client.
- EC-1.6(b)** A paralegal should immediately disclose any potential conflict of interest to

their supervising attorney.

- EC-1.6(c)** A paralegal shall avoid conflicts of interest that may arise from previous assignments, projects, or employment, whether for a present or past employer or client.
- EC-1.6(d)** A paralegal shall avoid conflicts of interest that may arise from family relationships and from personal and business interests.
- EC-1.6(e)** In order to be able to determine whether an actual or potential conflict of interest exists, a paralegal shall create and maintain an effective database that identifies clients, matters, and parties with which the paralegal has worked, if permitted by the employer, attorney-client, or organization.
- EC-1.6(f)** A paralegal shall reveal sufficient non-confidential information about a client or former client to reasonably ascertain if an actual or potential conflict of interest exists.
- EC-1.6(g)** A paralegal shall not participate in or conduct work on any matter where a conflict of interest has been identified.
- EC-1.6(h)** In matters where a conflict of interest has been identified and the client has provided written consent to continued representation, a paralegal shall fully comply with the implementation and maintenance of an Ethical Wall.

1.7 A PARALEGAL'S TITLE SHALL BE FULLY DISCLOSED.

Ethical Considerations

- EC-1.7(a)** A paralegal's title shall clearly indicate the individual's status and shall be disclosed in all business and professional communications, both physical and digital, to avoid misunderstandings and misconceptions about the paralegal's role and responsibilities.
- EC-1.7(b)** A paralegal's title shall be included if the paralegal's name appears on business cards, letterhead, email, websites, brochures, directories, and advertisements.
- EC-1.7(c)** A paralegal shall not use letterhead, business cards or other promotional materials to create a fraudulent impression of the paralegal's status or ability to provide services in any jurisdiction in which the paralegal provides services.

EC-1.7(d) A paralegal shall not provide services under the pretense of any record, degree, diploma, or certificate that has been illegally or fraudulently obtained or issued or which is misrepresentative in any way.

EC-1.7(e) A paralegal shall not participate in the creation, issuance, or dissemination of fraudulent records, degrees, diplomas, or certificates.

1.8 A PARALEGAL SHALL NOT ENGAGE IN THE UNAUTHORIZED PRACTICE OF LAW.

Ethical Considerations

EC-1.8(a) For the purpose of this Rule, the unauthorized practice of law shall be defined as: giving legal advice, accepting cases, setting fees, planning strategy, making legal decisions, taking depositions, and appearing in court.

EC-1.8(b) A paralegal shall comply with the applicable legal authority governing the unauthorized practice of law in all jurisdictions in which the paralegal provides services.

EC-1.8(c) If the paralegal is legitimately participating in a program that allows for expanded scope and/or limited, direct provision of legal services, the paralegal shall follow all rules and regulations to remain in compliance with the program.

DEFINITIONS

“**Agency Representative**” refers to a paralegal who is authorized by statute or agency rule to represent clients in agency proceedings, for example the Social Security Administration.

“**Attorney-Client**” designation used by Freelance / Contract / Virtual Paralegals to describe attorneys that engage their services to work on behalf of the attorney’s client(s).

“**Attorney-Client Privilege**” covers information given by the client for the purpose of securing legal advice and may only be invoked to exclude confidential communications between lawyers and clients from evidence at trial and other judicial proceedings.

“**Client**” is a party that engages the services of an attorney or law firm for legal representation.

“**Competency**” means the demonstration of diligence, education, skill, and preparation reasonably necessary for the performance of paralegal services.

“**Community Service**” volunteer activities provided through charitable, religious, civic, community, governmental, and educational organizations that have the effect of providing a valuable service or benefit to a local community, but do not meet the definition of Pro Bono Publico.

“**Confidential Information**” means information relating to a client, whatever its source, which is not public knowledge nor available to the public.

“**Non-Confidential Information**” generally includes the name of the client and the identity of the matter for which the paralegal provides/provided services.

“**Conflict Check**” the process by which attorneys ensure their representation of one client is not adverse to another client, such verifications are generally run for all new matters and new hires.

“**Conflict of Interest**” means a situation in which a person has a duty to more than one person or organization but cannot do justice to the actual or potentially adverse interests of both parties.

“**Continuing Legal Education (CLE)**” refers to continuing professional development, consisting of professional education for attorneys and paralegals; often a requirement to maintain credentials/licensure.

“**Disclose**” means the communication of information reasonably sufficient to permit identification of the significance of the matter in question.

“**Ethical Wall**” means the screening method implemented to protect a client from a conflict of interest. An Ethical Wall generally includes, but is not limited to, the following elements: (1) prohibiting the paralegal from having any connection with the matter; (2) banning discussions with or the transfer of documents to or from the paralegal that relate to the matter; (3) restricting access

to matter related files; and (4) educating all members of the firm, corporation, or entity as to the separation of the paralegal (both organizationally and potentially, physically) from the matter.³

“Ex parte” means actions or communications conducted at the instance and for the benefit of one party only, and without notice to, or contestation by, any person adversely interested.

“Freelance / Contract / Virtual Paralegal” is a paralegal who works as an independent contractor with supervision by and/or accountability to a lawyer. Freelance/contract/virtual paralegals are self-employed and function as independent contractors who are retained by attorneys from various sectors (both public and private) on a case-by-case basis.

“Independent Paralegal” is a paralegal who provides services to consumers with regard to a process in which the law is involved and for whose work no lawyer is accountable. Services include document preparation (also referred to as scrivener services), representation when permitted by court rule or statutory authority, and providing information about the legal system and pro se procedures within various courts. Note: certain states restrict the use of this designation. (*See also*: Agency Representative, Special Advocate)

“Limited License Legal Technician (LLLT)” / “Limited License Legal Provider (LLLP) “ / “Legal Paraprofessional (LP)” a paralegal or non-attorney with specific education and experience who is licensed to provide legal services in limited practice areas ONLY in specific states.

“Law Firm Environment” refers to non-law firm or law office positions in which paralegals perform substantive tasks under attorney supervision, such as corporate law departments, the courts, administrative agencies.

“Legal Assistant” term often used interchangeably with paralegal; it sometimes refers to individuals whose work output includes some administrative and secretarial tasks to assist an attorney, with some tasks overlapping with that of a paralegal, or to refer to a person who performs paralegal work without formal paralegal education.

“Legal Document Preparer (LDP)” / “Legal Document Assistant (LDA)” an experienced professional who is authorized by the state to prepare legal documents for a client, but only at the direction of the client. LDPs and LDAs often have the same educational background as paralegals and are REQUIRED by law to be registered and bonded in the county in which they have their principal place of business.

“Non-Traditional Paralegal” a paralegal who works with supervision by and/or accountability to a lawyer outside of a law firm environment. (*See also*: Agency Representative, Freelance / Contract / Virtual Paralegal, Independent Paralegal, Limited License Legal Technician (LLLT) / Limited License Legal Provider (LLLP) / Legal Paraprofessional (LP), Special Advocate)

³ For more information regarding the Ethical Wall, see the NFPA publication entitled “The Ethical Wall - Its Application to Paralegals.”

“Paralegal” is defined as a person qualified through education, training, or work experience to perform substantive legal work that requires knowledge of legal concepts and procedures 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.

“Practice of Law” is the application of legal principles and judgment with regard to the circumstances or objectives of a person that require the knowledge and skill of a person trained in the law.

“Pro Bono Publico” also **“Pro Bono”** means providing or assisting to provide quality legal services in order to enhance access to justice for persons of limited means; charitable, religious, civic, community, governmental and educational organizations in matters that are designed primarily to address the legal needs of persons with limited means; or individuals, groups or organizations seeking to secure or protect civil rights, civil liberties, or public rights. Pro Bono Publico services must be provided under the supervision of an attorney, unless otherwise authorized by rule, regulation, or law.

“Proper Authority” means the local paralegal association, the local or state bar association, Committee(s) of the local paralegal or bar association(s), local prosecutor, administrative agency, or other tribunal empowered to investigate or act upon an instance of alleged misconduct.

“Remote Working” also called distance working, telework, teleworking, working from home, mobile work, remote job, and work from anywhere is an employment arrangement in which employees do not commute to a principal place of work; generally, refers to W2 positions.

“Revocation” means the rescission of the license, certificate, designation, certification, or other authority to practice of an individual paralegal or paralegal entity found in violation of those Canons and Ethical Considerations of any and all applicable codes and/or rules of conduct.

“Rogue Paralegal” refers to non-attorneys that call themselves paralegals and provide services directly to the public in violation of state unauthorized practice of law (“UPL”) regulations.

“Special Advocate” is a paralegal who is authorized to participate in court proceedings involving specified classes of parties or cases. The special advocate may be referred to as a “court appointed special advocate” (CASA).

“Special Designation Paralegals” is a catch all phrase for paralegals/non-attorneys licensed in specific states to provide limited services to the public without attorney supervision. (*See also:* Limited License Legal Technician (LLLT) / Limited License Legal Provider (LLLP) / Legal Paraprofessional (LP))

“Traditional Paralegal”: refers to paralegals who work with supervision by and/or accountability to a lawyer in a law firm environment.

“Unauthorized Practice of Law” or “UPL” is the practice of law by someone who does not hold a current law license and generally includes giving legal advice, accepting cases, setting fees, planning strategy, making legal decisions, taking depositions, and appearing in court.^{4, 5}

“Virtual Work” similar to remote working but usually refers to 1099/contract positions like those held by Freelance/Contract/Virtual Paralegals.

⁴ Unless appropriately credentialed in a state that regulates non-attorney service providers, and only to the extent that those services are permitted. Exception for special designation paralegals – refer to specific guidelines.

⁵ When in doubt, seek expert guidance from the NFPA Ethics Board, ABA/state bar ethics divisions, ethics opinions, or talk to a recognized subject matter expert.