Legal/Ethics Sample

*Top Five Paralegal Ethical Dilemmas*

In all professions and institutions, you will discover protocols that define morality. Each profession has its directives, forbidden, admirable, and culpable behavior. When we become a part of a certain culture, any culture, the level of our responsibility grows. Our behavior—and also the people which are a part of—have an effect positively or adversely on your profession and society as a whole. Ethics are of primary importance to each and every man or woman, and that reaches across the board throughout your career and how you present yourself in your profession. Each decision, each action requires ethics. Irrespective of whether you are communicating with clients, employees, or assigning duties, the subject of ethics is constantly present.

**Ethics in a Changing World**

In today’s society and, more importantly, in the professional world, we notice a great deal these days in regards to the deterioration of integrity in the areas of law, business, and politics; for instance, corruption, cheating, favoritism, and so forth. Consequently, it has become a public relations nightmare for individuals and corporations. In the areas of where legal matters are concerned, if people do not trust a lawyer or paralegal, it’s a matter of time prior to that business coming to an end. And, maintaining ethical standards may be one of the delicate parts of a paralegal’s job. Paralegals, lawyers, and educators agree that it’s also one of the most crucial. Fundamentally, it is not hard to understand that there are long-term positive aspects associated with enacting and valuing the ethics of your profession as a paralegal. Everyday we see and read about corporate missteps that are an impetus for companies coming to grips with ethics in the workplace.

Therefore, regardless of whether you are employed, as a paralegal in a law office or an independent paralegal, there are ethical considerations all paralegals must adhere to. To ensure the highest levels of professionalism and conduct, a paralegal needs to have a core foundation in the history of legal ethics, including the history of ethics rules, and the guidelines for the utilization of paralegal services. The significance of comprehending the attorney’s ethical obligation will be of great importance to the paralegal—these established rules are the basis for a paralegal career; accordingly, paralegals need to vehemently review the issues of attorney supervision, the unauthorized practice of law, maintaining confidentiality, conflicts of interest, and attorneys reviewing their work. It should be the paralegal’s highest priority to always perform their duties impartially and with confidentiality. Holding yourself responsible for maintaining the ethics of a paralegal profession is a key factor in becoming a successful professional paralegal.

A paralegal faces complex ethics issues, working independently, in law firms, governmental agencies, and corporations; they face issues with the unauthorized practice of law, conflicts of
interest, and confidentiality. The responsibilities and professional responsibility of paralegals are influenced by diverse ethical considerations and rules. Because paralegals face the same ethical issues that attorneys encounter, paralegals should have an understanding of the appropriate, professional, and ethical requirements of attorneys. According to the National Association of Paralegals and Legal Assistants (NALA), “a paralegal must adhere strictly to the accepted standards of legal ethics and to the general principles of proper conduct.”

Those Five Pesky Ethical Dilemmas

Unauthorized Practice—As a paralegal becomes more familiar and knowledgeable of the law, they are able to answer many common questions a client may ask. Of course it is tempting to answer those questions when such a situation presents itself; however, that could be construed as giving legal advice. A paralegal should refrain from responding. The proper course of action is to simply refer the client to the attorney; nevertheless, that probably is easier said than done. When that scenario presents itself, the paralegal should act as a “medium” and relay the client’s questions to the attorney and then give a response to the client. Intellectually, a paralegal could be fit to answer, but legally they are not.

Maintaining Confidentiality—One of the most important ethical responsibilities of the paralegal is maintaining the confidentiality of the client. Compromising this confidentiality is taking away from the clients rights. Moreover, it may affect the case if the opposing side were to obtain information that would help their argument. And remember that any ethical dilemmas that are violated as a paralegal can leave you jobless because everything you do is supposed to be under attorney supervision. If this makes the attorney look bad, it will tarnish your reputation as a paralegal.

Supervising Attorney Reviewing the Paralegal’s Work—Everything that a paralegal does is considered to be under attorney supervision; if it is not under their supervision then it is not considered paralegal work. Even if a lawyer trusts you enough to let some things by, make sure they check it. Doing this just ensures that they are aware that if anything goes wrong, they are the ones who “green lighted” the matter, leaving you in the clear.

Role of Technology—In a technology-driven society, technology is creating new ethical issues for paralegals and attorneys—it is affecting all areas of law. With the increasing use of social media, blogs, e-mail, voice mail, et cetera, have caused numerous problems with clients. Attorneys and paralegals alike are racing to catch up with technology and the Internet—just as the agencies (SSA, WC, etc.) and the government is. Furthermore, legal jurisdiction is being blurred because of the long arm of the internet. Even giving legal advice or exchanging information via e-mail becomes a thorny issue because you cannot be sure of whom you are speaking to. This area is becoming increasingly complex.

Conflicts of Interest—Checking for conflicts of interests are also important. If any are found you should bring it to the attorney’s attention right away. Down the line if unchecked, an opposing side could bring up conflict of interest and win the case on that aspect alone. It cannot be stressed enough that if you make your supervising attorney look bad it will come back to bite you in the end.
It is essential that paralegals understand and follow attorneys’ professional rules, because, as agents of attorneys, paralegals are bound by those rules and can subject the attorney to liability for their violation, said Anne L. Lang, who teaches administrative law at Monroe Community College and is an independent paralegal in Rochester, NY.

The one place where a paralegal should feel most secure, the law office, will be the place that paralegals will encounter many of the ethical perils of their profession.

Ryan J. Vlasak an attorney and partner in Bracamontes and Vlasak in San Francisco, CA elaborates on this ethical dilemma, “for example, if a paralegal contacts an opposing party who is represented by counsel, the responsible attorney could be sanctioned for violation of the professional rule prohibiting attorneys from contacting represented parties directly. That attorney may be subject to state bar discipline for the paralegal’s actions. This is one simple example of how important it is for paralegals to know and abide by the professional rules for attorneys.”

“The more paralegals know about the ethical responsibilities of attorneys, the more problems they will avoid and can assist the attorney in avoiding,” said Lang. “In addition, paralegal organizations have adopted their own rules and guidelines regarding the professional and ethical conduct of paralegals.”

**Does It Feel Right or Wrong?**

The basic canons of the NALA and NFPA codes detail some of the ethical doctrines that paralegals are urged to follow.

This includes avoiding unauthorized practice, maintaining confidentiality, ensuring a supervising attorney reviews their work, the role of technology, and conflicts of interest.

However, when it is a question of ethics, it is never cut-and-dry, never so simple as black-and-white. Those are the, “Grey Areas,” basic common sense seems to be the consensus And, if in doubt—consult with supervising an attorney. What one person may think is unethical; another may think it is ethical. If you are uncomfortable with the situation, there is probably a good reason for it.

**Benefits of Ethics**

As you can see, you can help your career and your profession at the same time. It is important to be ever mindful of professional ethics as there are ethical issues ahead that may be stumbling blocks for the unwary and the new paralegal. As Michael Peralta, Liaison for the Paralegal Association of TCI in New York City explains, “ethics play a very important role in all aspects of law. Attorneys and paralegals are governed by the same code of ethics.” By doing the right thing, no matter the outcome, you will be a credit to your profession as well as to yourself. Not all situations will require you to answer the question, “What is the ethical thing to do at this
juncture?” will be clear cut and as a person who has accepted professional responsibility. But you do not have to struggle alone. But, as Peralta emphasized, “paralegals are not held to the same standards or put through the same punishments as attorneys, but will most likely lose their jobs.” The national, state, and many of the local paralegal associations have adopted ethical guidelines and codes to assist you and will always be a resource. Accept the responsibility for your professional and legal ethics. Your example of high ethical standards will give you influence beyond measure—be smart, be ethical!

Copyright © 2012 Mick Spillane
All Rights Reserved