

KPA
STANDARDS OF CONDUCT

PREAMBLE

Supreme Court Rule 3.700 Provisions Relating to Paralegals

While the responsibility for compliance with standards of professional conduct rests with members of the Bar, a paralegal should understand those standards. It is, therefore, incumbent upon the lawyer employing a paralegal to inform him of the restraints and responsibilities incident to the job and supervise the manner in which the work is completed. However, the paralegal does have an independent obligation to refrain from illegal conduct. Additionally, and notwithstanding the fact that the Code of Professional Responsibility is not binding upon lay persons, the very nature of a paralegal's employment imposes an obligation to refrain from conduct which would involve the lawyer in a violation of the Code.

The promulgation of rules on Paralegal Professional Standards of Conduct is a vital part of the Kentucky Paralegal Association's professional responsibility to abide by the Kentucky Supreme Court rules on paralegal practice. These standards are intended to assure that KPA members conform to the Kentucky Rules of Professional Conduct which replaced the Code of Professional Responsibility in 1990. Accordingly, the standards provided in this regulation provide Kentucky paralegals with a specific set of rules addressing paralegal professional responsibility. They are derived from Supreme Court Rule 3.700 Provisions Relating to Paralegals, the Kentucky Rules of Professional Conduct, Kentucky Bar Association ethics and unauthorized practice of law opinions, and general principles of legal and business ethics. Each standard is designed to guide, explain, and instruct paralegals on their responsibility to the lawyers who supervise them and the public they serve. These standards are not intended to give rise to a legal cause of action for their breach. They are to be used solely for paralegal practice guidance and as a basis for regulating the professional conduct of KPA members.

PARALEGAL STANDARDS OF CONDUCT

**STANDARD 1.
PARALEGAL COMPETENCE**

A paralegal shall provide competent service when assisting supervising lawyers and their clients. Competent service requires paralegal education, training, and work experience in the application of legal concepts, skills, and knowledge. A paralegal shall be knowledgeable of Supreme Court Rule 3.700 Provisions Relating to Paralegals and the Kentucky Rules of Professional Conduct. A paralegal shall maintain competence by participating in continuing paralegal education programs on substantive legal subjects, skills, and paralegal standards of conduct.

**STANDARD 2.
DILIGENCE**

A paralegal shall work with reasonable care, industry, and punctuality when assisting supervising lawyers and their clients.

**STANDARD 3.
RELATIONS WITH CLIENTS**

A paralegal shall communicate with and provide service to clients only under the supervision of a lawyer. The lawyer must remain fully responsible for the representation and all paralegal relations with a client must be directed by a supervising lawyer. It shall be made clear to a client that a paralegal is not a lawyer. A paralegal

shall not form lawyer client relationships for a supervising lawyer, give legal advice, or exercise independent legal judgment when communicating with a client.

**STANDARD 4.
CLIENT AND FIRM CONFIDENTIALITY**

(a) A paralegal shall not reveal information relating to the firm's representation of clients or firm internal operations except for disclosures that are impliedly authorized to perform paralegal services for supervising lawyers and clients except:

(1) a paralegal may reveal such information to the minimum extent necessary to establish a claim or defense in a controversy with a supervising lawyer or client, or

(2) to comply with law or court order.

(b) A paralegal's duty of confidentiality to a firm and its clients is a continuing responsibility which is applicable even though a paralegal has changed employment or left paralegal practice.

**STANDARD 5.
PARALEGAL CONFLICTS OF INTEREST**

(a) To avoid conflicts of interest a paralegal shall inform supervising lawyers of any responsibilities the paralegal has to third persons or by the paralegal's own personal or financial interests which may conflict with the interests of firm clients. The supervising lawyer is responsible for resolving paralegal conflict issues.

(b) A paralegal shall not use information relating to a client learned in the course of employment to the disadvantage of a client unless the supervising lawyer is informed and the lawyer obtains client consent after consultation.

**STANDARD 6.
CLIENT AND FIRM PROPERTY**

A paralegal responsible for working with and safeguarding client property shall comply with Kentucky Rule of Professional Conduct 1.15 Safeguarding Property. In working with client and firm property a paralegal will apply reasonable business practices to assure its proper use, security, and disposition.

**STANDARD 7.
RELATIONS WITH PERSONS OTHER THAN CLIENTS**

In the course of performing paralegal services under the supervision of a lawyer a paralegal:

(a) shall not knowingly make a false statement of material fact or law to a third person;

(b) shall not communicate with a person known to be represented by a lawyer without the consent of that lawyer;

(c) shall not when dealing with an unrepresented person, state or imply the paralegal is disinterested (a paralegal shall immediately correct any perceived misunderstandings by such person); or

(d) shall not use means that only embarrass, delay, or burden a third person.

**STANDARD 8.
LAW FIRM PARALEGAL POLICIES**

A paralegal shall adhere to law firm measures for paralegal compliance with the professional obligations of a lawyer. In most cases a supervising lawyer's instructions on matters of professional responsibility will be determinative of the issue and a complying paralegal will not be subject to discipline under these Standards of Conduct. However, following the instructions of a lawyer will not excuse paralegal conduct that any reasonable nonlawyer would understand as abusive, fraudulent, dishonest, deceitful, or illegal.

**STANDARD 9.
UNAUTHORIZED PRACTICE OF LAW**

A paralegal shall not engage in the unauthorized practice of law as proscribed by Kentucky law and Supreme Court rules.

**STANDARD 10.
DONATED PARALEGAL SERVICE**

A paralegal should voluntarily donate paralegal service as a matter of public service. Paralegals are encouraged to donate 25 hours of service a year. Donated service must be performed under the supervision of a lawyer. Normally a paralegal should coordinate donated service with that of the employing lawyer. This will permit best use of a paralegal's donated service and assist the supervising lawyer in meeting the Kentucky Bar Association's goal of 50 hours annually of donated lawyer service.

**STANDARD 11.
ADVERTISING AND SOLICITATION**

A paralegal shall know the Kentucky Rules of Professional Conduct on lawyer advertising and limitations on solicitation of clients. A paralegal's name and status may be included on the letterhead of an employing lawyer and the paralegal may with the lawyer's permission include the lawyer's name on the paralegal's business card.

**STANDARD 12.
MISCONDUCT**

It is professional misconduct for a paralegal to:

- (a) violate or attempt to violate the KPA Paralegal Professional Standards of Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) engage in the unauthorized practice of law;
- (c) commit any felony or crime involving moral turpitude;
- (d) commit fraud or deceit in applying for Certified Kentucky Paralegal status;
- (e) disclose the contents of the Certified Kentucky Paralegal exam;
- (f) advertise paralegal services in a manner that is false or misleading to the public;

(g) fail to pay KPA fees or other monies; and

(h) fail to meet Continuing Paralegal Education requirements.

DEFINITIONS

Paralegal: A person under the supervision and direction of a licensed lawyer, who may apply knowledge of law and legal procedures in rendering direct assistance to lawyers engaged in legal research; design, develop or plan modifications or new procedures, techniques, services, processes or applications; prepare or interpret legal documents and write detailed procedures for practicing in certain fields of law; select, compile and use technical information from such references as digests, encyclopedias or practice manuals; and analyze and follow procedural problems that involve independent decisions. SCR 3.700.

Paralegal Practice: Providing legal service or work authorized by SCR 3.700 Provisions Relating to Paralegals and federal agencies that require paralegal education and training in the application of legal concepts and skills for competent performance.

Practice of Law: The practice of law is any service rendered involving legal knowledge or legal advice, whether of representation, counsel or advocacy in or out of court, rendered in respect to the rights, duties, obligations, liabilities, or business relations of one requiring the services. SCR 3.020.

Unauthorized Practice of Law: A person is guilty of the unauthorized practice of law when, without a license issued by the Supreme Court, he engages in the practice of law, as defined by rule of the Supreme Court. KRS 524.130.