

NATIONAL CAPITAL AREA PARALEGAL ASSOCIATION

CODE OF ETHICS AND PROFESSIONAL RESPONSIBILITY

PREAMBLE

The National Capital Area Paralegal Association (“NCAPA”) is a voluntary, non-profit organization formed in 1974 comprised of individual paralegals in the Washington, D.C. metropolitan area. Members of NCAPA have varying types of backgrounds, experience, education, and job responsibilities, which reflect the diversity of the paralegal profession. NCAPA is a founding member of the National Federation of Paralegal Associations (“NFPA”). Both NCAPA and NFPA promote the growth, development and recognition of the paralegal profession as an integral partner in the delivery of legal services.

NCAPA and NFPA both recognize that the creation of guidelines and standards for professional conduct are important for the development and expansion of the paralegal profession. In May 1993, NFPA adopted a Model Code of Ethics and Professional Responsibility (“Model Code”) to delineate the principles for ethics and conduct to which every paralegal should aspire. In December 1993, NCAPA adopted this model as its code, which expresses NCAPA’s and NFPA’s commitment to increasing the quality and efficiency of legal services and recognizes the profession’s responsibilities to the public, the legal community, and colleagues.

Paralegals perform many different functions and these functions differ greatly among practice areas. In addition, each jurisdiction has its own unique legal authority and practices governing ethical conduct and professional responsibilities.

It is essential that each paralegal strive for personal and professional excellence and encourage the professional development of other paralegals as well as those entering the profession. Participation in professional associations intended to advance the quality and standards of the legal profession is of particular importance. Paralegals should possess integrity, professional skill and dedication to the improvement of the legal system and should strive to expand the paralegal role in the delivery of legal services.

CANON 1. A PARALEGAL¹ SHALL ACHIEVE AND MAINTAIN A HIGH LEVEL OF PERSONAL AND PROFESSIONAL INTEGRITY.

ETHICAL CONSIDERATIONS

EC-1.1 A paralegal shall achieve competency through education, training, and work experience.

¹ “Paralegal” is synonymous with “Legal Assistant” and is defined as a person qualified through education, training, or work experience to perform substantive legal work that requires knowledge of legal concepts and is customarily, but not exclusively performed by a lawyer. This person may be retained or employed by a lawyer, law office, government agency or other entity or may be authorized by administrative, statutory or court authority to perform this work.

EC-1.2 A paralegal shall participate in continuing education in order to keep informed of current legal, technical and general developments.

EC-1.3 A paralegal shall perform all assignments promptly and efficiently.

CANNON 2. A PARALEGAL SHALL MAINTAIN A HIGH LEVEL OF PERSONAL AND PROFESSIONAL INTEGRITY.

ETHICAL CONSIDERATIONS

EC-2.1 A paralegal shall not engage in any ex parte² communications involving the courts or any other adjudicatory body in an attempt to exert undue influence or to obtain advantage for the benefit of only one party.

EC-2.2 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-2.3 A paralegal shall ensure that all timekeeping and billing records prepared by the paralegal are thorough, accurate, and honest.

EC-2.4 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 accountings as appropriate.

EC-2.5 A paralegal shall advise the proper authority of any dishonest or fraudulent acts by any person pertaining to the handling of the funds, securities or other assets of a client.

CANON 3. A PARALEGAL SHALL MAINTAIN A HIGH STANDARD OF PROFESSIONAL CONDUCT.

ETHICAL CONSIDERATIONS

EC-3.1 A paralegal shall refrain from engaging in any conduct that offends the dignity and decorum of proceedings before a court or other adjudicatory body, and shall be respectful of all rules and procedures.

EC-3.2 A paralegal shall advise the proper authority of any action of another legal professional, which clearly demonstrates fraud, deceit, dishonesty, or misrepresentation.

EC-3.3 A paralegal shall avoid impropriety and the appearance of impropriety.

² “**Ex Parte**” denotes 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.

CANON 4. A PARALEGAL SHALL SERVE THE PUBLIC INTEREST BY CONTRIBUTING TO THE DELIVERY OF QUALITY LEGAL SERVICES AND THE IMPROVEMENT OF THE LEGAL SYSTEM.

ETHICAL CONSIDERATIONS

- EC-4.1 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-4.2 A paralegal shall support bona fide efforts to meet the need for legal services by those unable to pay reasonable or customary fees; for example, participation in pro bono projects and volunteer work.
- EC-4.3 A paralegal shall support efforts to improve the legal system and shall assist in making changes.

CANON 5. A PARALEGAL SHALL PRESERVE ALL CONFIDENTIAL INFORMATION³ PROVIDED BY THE CLIENT OR ACQUIRED FROM OTHER SOURCES BEFORE, DURING, AND AFTER THE COURSE OF THE PROFESSIONAL RELATIONSHIP.

ETHICAL CONSIDERATIONS

- EC-5.1 A paralegal shall be aware of and abide by all legal authority governing confidential information.
- EC-5.2 A paralegal shall not use confidential information to the disadvantage of the client.
- EC-5.3 A paralegal shall not use confidential information to the advantage of the paralegal or of a third person.
- EC-5.4 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 which could result in death or serious bodily harm.
- EC-5.5 A paralegal shall keep those individuals responsible for the legal representation of a client fully informed of any confidential information the paralegal may have pertaining to the client.
- EC-5.6 A paralegal shall not engage in any indiscreet communications concerning clients.

³ **“Confidential Information”** denotes information relating to a client, whatever its source, which is not public knowledge nor available to the public. (**“Non-Confidential Information”** would generally include the name of the client and the identity of the matter for which the paralegal provided services.)

CANON 6. A PARALEGAL'S TITLE SHALL BE FULLY DISCLOSED.⁴

ETHICAL CONSIDERATIONS

- EC-6.1 A paralegal's title shall clearly indicate the individual's status and shall be disclosed in all business and professional communications to avoid misunderstanding and misconceptions about the paralegal's role and responsibilities.
- EC-6.2 A paralegal's title shall be included if the paralegal's name appears on business cards, letterhead, brochures, directories, and the advertisements.

CANON 7. A PARALEGAL SHALL NOT ENGAGE IN THE UNAUTHORIZED PRACTICE OF LAW.

ETHICAL CONSIDERATIONS

- EC-7.1 A paralegal shall comply with the applicable legal authority governing the unauthorized practice of law.

CANON 8. 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-8.1 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 interest, nor those of other clients or third persons, should compromise the paralegal's professional judgment and loyalty to the client.
- EC-8.2 A paralegal shall avoid conflicts of interest that may arise from previous assignments whether for a present or past employer or client.
- EC-8.3 A paralegal shall avoid conflicts of interest that may arise from family relationships and from personal and business interests.
- EC-8.4 A paralegal shall create and maintain an effective record keeping system that identifies clients, matters and parties, with which the paralegal has worked, in order to be able to determine whether an actual or potential conflict of interest exists.
- EC-8.5 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.

⁴ **"Disclose"** denotes communication of information reasonably sufficient to permit identification of the significance of the matter in question.

- EC-8.6 A paralegal shall not participate in or conduct work on any matter where a conflict of interest has been identified.
- EC-8.7 In matters where a conflict of interest has been identified and the client consents to continued representation; a paralegal shall comply with the implementation and maintenance of an Ethical Wall.⁵

⁵ **“Ethical Wall”** refers to the screening method implemented in order to protect a client from a conflict of interest. An Ethical Wall generally includes, but is not limited to, the following elements: (1) prohibit the paralegal from having any connection with the matter; (2) ban discussions with or the transfer of documents to or from the paralegal; (3) restrict access to files; and (4) educate all members of the firm, corporation or entity as to the separation of the paralegal (both organizationally and physically) from the pending matter. For more information regarding the Ethical Wall, see the NFPA publication entitled “The Ethical Wall – Its Application to Paralegals.”