

Online Instructor's Manual
to accompany

The Paralegal Professional

Fourth Edition

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TABLE OF CONTENTS

Introduction.....4

Chapter 1 The Paralegal Profession.....	35
Chapter 2 Ethics and Professional Responsibility.....	52
Chapter 3 The Paralegal Workplace.....	76
Chapter 4 Technology and the Paralegal.....	100
Chapter 5 American Legal Heritage and Constitutional Law.....	123
Chapter 6 The Court System and Alternative Dispute Resolution.....	140
Chapter 7 Civil Litigation.....	157
Chapter 8 Criminal Law and Procedure	177
Chapter 9 Administrative Law.....	191
Chapter 10 Interviewing and Investigation Skills.....	198
Chapter 11 Legal Writing and Critical Legal Thinking.....	219
Chapter 12 Legal Research.....	234
Chapter 13 Torts and Product Liability.....	253
Chapter 14 Contracts and E-Commerce.....	270
Chapter 15 Property Law.....	288
Chapter 16 Estates and Elder Law.....	305
Chapter 17 Family Law.....	321
Chapter 18 Agency, Employment and Immigration Law.....	339
Chapter 19 Business Organizations and Bankruptcy.....	356
Chapter 20 Intellectual Property and Digital Law.....	373

INTRODUCTION

CONGRATULATIONS! You have said yes. You have made the decision to give back to your community, to contribute to your profession, and to educate the next generation of legal professionals.

It is a daunting task. Maybe you have some training in teaching. Great! More likely you don't and have been selected for this teaching position because of your reputation in the legal community. The materials that follow were written with you in mind by someone who has been in your shoes. Fear not, your lack of training as a teacher is not a hurdle you cannot overcome. Just use your analytical skills, common sense and the suggestions provided in the pages that follow. The suggestions come from practical experience and represent a collection of things learned over years of teaching, things I wish someone had told me before the first day of class.

TEACHING SUGGESTIONS

You've been a student.

Think about your educational experiences. Recall the professors you loathed and loved. Remember the classes you couldn't get out of bed for and those that seemed to end too soon.

What were the teaching styles of those instructors? That is the place to start in your preparation for the class you are about to teach. Specifically, adopt those qualities you loved and avoid those you loathed.

Do not simply stand before the class and read the text or Power Point slides. Students know how to read and many resent paying tuition for an instructor to read to them. Most learn better when the text materials are brought to life, when discussion can take place that allows application of the concepts to familiar problems. Listed below are three ways to bring the materials to life along with some examples for each.

1. Use current events to demonstrate constitutional concepts or to explain the workings of the judicial system.
 - a. Separation of Powers – President Obama appoints a new judge to the federal courts.
 - b. Criminal Proceedings – A judge, in a highly publicized criminal matter, rejects the plea bargain agreement and sentences the defendant to the maximum period of incarceration; motion for change of venue due to pretrial publicity. Current criminal proceedings are popular topics for students to discuss.
2. Use your own experiences from the practice of law.
 - a. Attorney-Client Privilege – Privilege is waived when client asks friend to stay with her for moral support during meeting with attorney
 - b. Civil Litigation Trial – Avoid showing video tape deposition of unavailable witness after the lunch break; folks tend to be sleepy after lunch. What happens to you when you are sleepy and sitting in front of a television?
3. Use student questions and experiences to create a dialogue
 - a. The Conflict Between Functions and Purposes of Law – Social Justice v. Morality

How can you have laws that protect against discrimination based upon sexual orientation and have a law that says marriage is a union between one man and one woman?

- b. The Fairness of the American Legal System – The criminal defendant with the financial resources to retain three attorneys and countless experts will likely be found not guilty.

Keep in mind, a class that consists only of your war stories will be just as boring as one where the instructor reads the text. Balance is the key in approaching your teaching assignment. Creating a balanced approach with a mix of text, interesting hypotheticals and encouraging dialogue gets students to think, discuss, evaluate and express themselves. Students love to hear from those working in the profession, so do not overlook asking currently employed legal professionals to be a guest speaker. Isn't that what we want from the next generation of paralegals?

Finally, be flexible enough to encourage dialogue and a collaborative environment but stay on task and cover the materials. Students will realize that discussions are fun and interesting. They may try to change your focus. Stay focused on a balanced presentation of the materials.

STUDENTS

Like any opposing counsel, client or trial you've encountered in the legal profession you expect the best but prepare for the worst. You should expect the best from your students. Most will rise to the expectations of those in positions of authority. However, don't be surprised when students fail to meet your personal standards. Furthermore, so long as you have done your best in preparing for class and communicating the materials, you should not take personally the individual performance of the student.

While ideally every student can produce "A" quality work, not every student will be prepared to commit the time required. Each student will have his own learning style. Using the variety of resources provided with the textbook and this instructor's manual there should be something for everyone. Students will also require different levels of independent study. It is not your responsibility nor should you feel you have failed where students refuse to commit the time and effort to succeed.

You have a distinct advantage in teaching this course. Although a required course for the paralegal program, Introduction to Paralegal Studies is not a core curriculum requirement. Why is this important? You wouldn't be faced with thirty individuals who have to get through this class to get to their major. The students registered for your class will have an interest in Paralegal Studies. That interest motivates students to prepare for and attend class, complete assignments and participate in class activities. Willing participants make teaching easier.

Many of the students that enroll in the Paralegal programs are "returning students". These are folks who have been out of school for some time. They find they need additional education to advance in their field, or they face downsizing and need to be retrained for a new career, or they simply are unhappy in their current employment and want to try something new. These students can bring their life and work experience to the classroom. They question the concepts and challenge the doctrines. The reality of textbook theory has been made all too clear to them via their

life experience. These students are a valuable resource for teaching. Their life experiences can often make the text materials come to life. Avoid the tendency to let these discussions dominate or over take class time. Remember balance.

HOW THE TEXT BOOK AND INSTRUCTOR'S MANUAL WILL HELP YOU

This instructor's manual has been designed to get you on your way to a balanced teaching approach. Below is a list of resources and how they will get you started.

Pre-Chapter Warm-up

In each chapter of the instructor's manual there is an effort to use everyday examples to warm-up the students to the subject matter. These everyday situations and questions which students can relate to, without having legal training, can be used to stimulate the dialogue and introduce the legal concepts.

Paralegals at Work

Every chapter of the text begins with a fact pattern designed to stimulate the students' interest in a particular legal area by setting forth a problem a paralegal is likely to face. The problem will likely stimulate some discussion and the materials in the chapter will help the student see how the problem should be resolved. The fact pattern is then used as part of the end of chapter exercises to assess student progress.

Chapter Lecture Outlines

For each chapter an extensive lecture outline is provided in the instructor's manual. Additionally, many of the chapter concepts are illustrated with hypothetical situations to stimulate dialogue with the class. The format of the outline and inclusion of hypothetical materials was designed with web learning in mind. While comprehensive, there is the ability for you to modify the information, to tailor the materials to the needs of your students.

Video Component

This text includes a video component. There is a power point slide presentation to accompany each chapter's lecture notes. You also have at your disposal videos of typical trial proceedings, discovery techniques, and situations raising ethical challenges for the paralegal. These video productions can be useful for effectively demonstrating what happens in the office or at trial. They can be used to stimulate class discussions, to reflect the concepts being taught or as homework assignments. At the end of each chapter a video case study is presented with accompanying questions suitable for all three suggested uses.

Text book Exercises and Portfolio Assignments

The textbook exercises and portfolio assignments are designed to give future paralegals more than book knowledge. These assignments focus on ethics, computer skills, comprehension of

legal writing, an introduction to styles of legal writing and research, building collaborative skills and more. The authors' hope is that students will be able to complete their paralegal programs and hit the ground running. In that regard it may be helpful for you to include, wherever applicable, information particular to the jurisdiction in which you are teaching.

Answers to most questions are provided. Where answers may depend on individual choice, student analysis, group participation or differences based on jurisdiction, a goal of concepts that that should be included in each answer is provided to assist you in grading assignments.

Particular attention should be paid to the portfolio exercises. These projects are designed specifically for students to create a portfolio of work to demonstrate their skills to potential employers. Students may be required to prepare a resume, a complaint or a discovery request. If your institution is an ABA approved program, these assignments can be part of the outcome assessment piece maintained for ABA inspection. Check with your program director about the types of documents that your program looks for from an introductory course in paralegal studies.

PREPARING FOR CLASS

As an instructor it is important to prepare for class. Lawyers rarely go to court without preparation; it will be the same in the classroom as the courtroom. In the classroom, rather than a jury, it is a group of up to thirty students who will be focusing on your every word and deed.

Needless to say, as an instructor, you must be familiar with the materials you will cover in class. Most attorneys have the training and knowledge to discuss a legal topic, such as unreasonable search and seizure under the Fourth Amendment to the U.S. Constitution, without taking time to review or study. You should not rely entirely on this well of knowledge. While your experience may make the information perfect for a colleague, it may be too complex for the average post-secondary-school student.

Students expect the classroom lecture to reinforce materials they have read in preparation for class. Your classroom discussion must be tailored to your students, whose understanding and participation will be based on the content of pre-class reading assignment. Thus, for you to best tailor the lecture to the audience, read and review the materials the students are expected to read. As you read, follow along with the lecture outline provided in this manual, take notes, highlight areas of focus, delete extraneous material, add hypothetical situations from your experience, include information particular to your jurisdiction. This preparation time will get you ready to convey the concepts to the students. More importantly, it will serve to prepare you for the questions students often ask.

In addition to being prepared by reading and reviewing the materials that the students are expected to read an instructor will have other responsibilities. Some are simple, like starting and ending class on time, reminding students of assignments and tests, making certain that audio/visual aids are available and functional. Other obligations will require out-of-class time to complete. Returning graded papers in a timely fashion is often overlooked. Try to return papers and tests at the next class meeting but no later than one week after the assignment was submitted or the test administered.

YOUR FIRST DAY OF CLASS

Students will often assess professors based upon what happens during that first day of class. Are you prepared? Do you have a course schedule? Do you explain the course and the grading structure? Do you have a push-over or a no-nonsense approach? What happens if a student misses a class?

The first day is about first impressions and setting the tone for the semester. You'll want to establish your credibility as an instructor not only by what you do and say but also by how you dress, being on time for class, starting and ending promptly. You will want to establish a rapport with the students that encourages dialogue rather than fear. It is a good policy to distribute and review the course schedule, grading and attendance policies, how students can contact you and other administrative issues on the first day of class. It is also good to begin, if time permits, with a warm-up activity like those provided with the lecture materials. Once again, the balanced approach, being firm but approachable, demanding but fair is what will assist in creating the best learning environment for students.

MODEL COURSE SYLLABI AND OUTLINE

Following is a model syllabus and four week-by-week course outlines for courses utilizing *The Paralegal Professional*. For most paralegal programs, the director and staff may have predetermined the course description, learning objectives, grading and ethics policies. Those provided in the model below are general enough to satisfy most. Be sure to consult with your program director before finalizing and distributing your syllabus and outline to students.

The first course outline is for a semester length course and includes a course description, course objectives, and descriptions of instructional methods, grading, and course policies. The second and third course outlines are for courses spanning two twelve-week quarters. The fourth course outline is for a one twelve-week quarter course. The assignments suggested each week in each course outline are offered as suggestions and may or may not be assigned at the instructor's discretion.

MODEL SYLLABUS

Course Title:	Course Number:
Credit Hours:	Course Length:
Prerequisite:	Semester:
Instructor:	Day/Time:

Course Description: A survey course designed to introduce students to the paralegal profession and the role of a paralegal as member of the legal team. The student will be introduced to the American legal system, civil litigation, criminal law and procedure, the appeals process, and substantive legal topics. A basic introduction to the skills required of a successful paralegal, such as legal vocabulary, critical reading, thinking and writing, interviewing, investigation, legal research, law office administration, and technologies. Throughout this course, as well as the entire paralegal program, an emphasis will be placed on legal ethics, professional regulation, and current trends and issues in the paralegal field.

Objectives: Upon successful completion of this course, the student will be able to:

1. Provide a functional definition of a paralegal, identify the careers available and skills necessary for success.
2. Compare and contrast the roles of professional associations, regulations, and educational requirements for entry into the paralegal profession.
3. Identify the role of other legal professionals and the paralegal's relationship to those individuals.
4. Explain, interpret, and apply the rules of ethics and professional responsibility that govern legal professionals.
5. Acquire knowledge of fundamentals of business practices, communication with clients and systemized law office operations.
6. Describe the structure of the American legal system and assess how that system functions in regard to civil, criminal, and appellate legal processes.
7. Summarize and evaluate various areas of substantive law.

8. Demonstrate effective communication and critical thinking skills by utilizing appropriate legal analysis and vocabulary in the production of oral and written discussions pertaining to a variety of legal issues.

Texts: Henry R. Cheeseman & Thomas F. Goldman, *The Paralegal Professional*, 4th ed. (Pearson, 2014).

Instructional Methods: This course will combine lecture, class discussion, and analytical exercises. A variety of audio-visual material, guest speakers, and field trips may also be included.

Grading: The student's final grade will be determined on a point system and divided into the following components and approximate proportions:

Class participation	10%
Assignments	25%
Quizzes	15%
Midterm examination	25%
Final examination	25%

The following grading scale shall be utilized as applied to the total points accumulated in this class:

A	=	90–100%
B	=	80–89%
C	=	70–79%
D	=	60–69%
F	=	0–59%

Attendance: Students are expected to attend every class meeting. A student whose absences exceed 10% of the class meetings over the semester will be penalized by a reduction of his final grade by 10 points.

Make-up Work: Since meeting deadlines is a necessary skill for the successful paralegal, make-up work will be allowed only upon a showing of good cause. This policy applies to missed assignments only. There is no extra credit work permitted.

Ethics Policy: Since a breach of the rules of professional ethics in the paralegal profession is very serious and exposes the alleged violator to severe consequences, the same shall apply in this class.

COURSE OUTLINE—ONE SEMESTER

The following is subject to variation at the discretion of the instructor.

Week 1

Reading Assignment: Chapter 1 – The Paralegal Profession
Appendix E – Effective Learning: How to Study

Lecture Topics: (1) Review of the syllabus and overview of the course
(2) The role and function of the paralegal
(3) The paralegal profession as a career choice
(4) Professional paralegal organizations
(5) Career planning and skills development

Assignments: ((1) Working the Web
(2) Critical Thinking and Writing Questions
(3) Ethical Analysis and Discussion Questions
(4) Developing Your Collaboration Skills
(5) Video Case Studies
(6) Paralegal Portfolio Exercises

Week 2

Reading Assignment: Chapter 2 – Ethics and Professional Responsibility
Appendix B – NFPA’s Rules of Professional Conduct
Appendix C-Model Standards and Guidelines for Utilization
Of Legal Assistants-Paralegals

Lecture Topics: (1) Unauthorized practice of law
(2) Regulation of paralegal profession
(3) Model Rules of Professional Conduct
(4) Paralegal association codes of ethics
(5) Five specific areas of ethical issues

Assignments:
(1) Working the Web
(2) Critical Thinking and Writing Questions
(3) Ethical Analysis and Discussion Questions
(4) Developing Your Collaboration Skills
(5) Video Case Studies
(6) Paralegal Portfolio Exercises

Week 3

Reading Assignment: Chapter 3 – The Paralegal Workplace

Lecture Topics: (1) Paralegal employment environments
(2) Types of legal practices and specialties
(3) Paralegal job responsibilities
(4) Administrative functions of the paralegal

(5) Resume writing and interviewing skills

Assignments:

- 1) Working the Web
- (2) Critical Thinking and Writing Questions
- (3) Ethical Analysis and Discussion Questions
- (4) Developing Your Collaboration Skills
- (5) Video Case Studies
- (6) Paralegal Portfolio Exercises

Field Trip: Courthouse, government agency, or law firm tour

Guest Speaker: Paralegals, Judges, Court Clerks, or Attorneys

Week 4

Reading Assignment: Chapter 4 – Technology and the Paralegal

Lecture Topics: (1) Computer hardware
(2) Computer software and legal applications
(3) On-line resources
(4) The electronic office and courthouse
(5) Security

Assignments:

- (1) Working the Web
- (2) Critical Thinking and Writing Questions
- (3) Ethical Analysis and Discussion Questions
- (4) Developing Your Collaboration Skills
- (5) Video Case Studies
- (6) Paralegal Portfolio Exercises

Field Trip: Computer Lab, Law Library, Demo of Westlaw, Lexis, etc.

Week 5

Reading Assignment: Chapter 5 – American Legal Heritage and Constitutional Law
Chapter 6 – The Court System and Alternative Dispute Resolution
Appendix D – The Constitution of the United States

Lecture Topics: (1) History and sources of American law
(2) U.S. Constitution
(3) Federal and state court systems
(4) Standing and jurisdiction
(5) Alternative dispute resolution

Assignments:

- (1) Working the Web

- (2) Critical Thinking and Writing Questions
- (3) Ethical Analysis and Discussion Questions
- (4) Developing Your Collaboration Skills
- (5) Video Case Studies
- (6) Paralegal Portfolio Exercises

Field Trip: Courthouse

Week 6

Reading Assignment: Chapter 7 – Civil Litigation
Chapter 8 – Criminal Law and Procedure

- Lecture Topics:
- (1) Civil litigation purpose and process
 - (2) Pleadings, discovery and trial
 - (3) Appellate process
 - (4) Criminal procedure
 - (5) Criminal trial process
 - (6) Constitutional safeguards

Assignments:

- (1) Working the Web
- (2) Critical Thinking and Writing Questions
- (3) Ethical Analysis and Discussion Questions
- (4) Developing Your Collaboration Skills
- (5) Video Case Studies
- (6) Paralegal Portfolio Exercises

Field Trip: Criminal court

Week 7

Reading Assignment: Chapter 9-Administrative Law
Chapter 10 – Interviewing and Investigation Skills

- Lecture Topics:
- (1) Functions and powers of administrative agencies
 - (2) Initial and subsequent client interviews
 - (3) Implied attorney-client relationship
 - (4) Locating and interviewing expert and lay witnesses
 - (5) Investigation of claims
 - (6) Obtaining and preserving evidence

Assignments:

- (1) Working the Web
- (2) Critical Thinking and Writing Questions
- (3) Ethical Analysis and Discussion Questions
- (4) Developing Your Collaboration Skills
- (5) Video Case Studies

(6) Paralegal Portfolio Exercises

Week 8

Reading Assignment: Chapter 12 –Legal Research
Chapter 11 – Legal Writing and Critical Legal Thinking
Appendix A – How to Brief a Case

Lecture Topics: (1) Traditional and computer-assisted legal resources
(2) Distinguishing between primary, secondary, mandatory and persuasive sources
(3) Updating legal research
(4) Critical legal thinking and writing
(5) Duty of Candor
(6) Court briefs and memoranda of law
(7) Citation checking

Assignments:

- (1) Working the Web
- (2) Critical Thinking and Writing Questions
- (3) Ethical Analysis and Discussion Questions
- (4) Developing Your Collaboration Skills
- (5) Video Case Studies
- (6) Paralegal Portfolio Exercises

Field trip: Law Library
MID-TERM EXAMINATION, Chapters 1–12 and Appendices A–Ff

Week 9

Reading Assignment: Chapter 13 - Torts and Product Liability

Lecture Topics: (1) Intentional torts
(2) Elements of negligence
(3) Special negligence doctrines
(4) Defenses to negligence
(5) Strict and Product Liability

Assignments:

- (1) Working the Web
- (2) Critical Thinking and Writing Questions
- (3) Ethical Analysis and Discussion Questions
- (4) Developing Your Collaboration Skills
- (5) Video Case Studies
- (6) Paralegal Portfolio Exercises

Week 10

Reading Assignment: Chapters 14- Contracts and E-Commerce

- Lecture Topics:
- (1) Requirements of a contract and Statute of Frauds
 - (2) Performance and breach of contract
 - (3) Contractual remedies
 - (4) UCC
 - (5) E-commerce

Assignments:

- (1) Working the Web
- (2) Critical Thinking and Writing Questions
- (3) Ethical Analysis and Discussion Questions
- (4) Developing Your Collaboration Skills
- (5) Video Case Studies
- (6) Paralegal Portfolio Exercises

Week 11

Reading Assignment: Chapter 15 – Property Law

- Lecture Topics:
- (1) Personal property and bailments
 - (2) Real property and transfer of ownership
 - (3) Landlord tenant relationship
 - (4) Land use control

Assignments:

- (1) Working the Web
- (2) Critical Thinking and Writing Questions
- (3) Ethical Analysis and Discussion Questions
- (4) Developing Your Collaboration Skills
- (5) Video Case Studies
- (6) Paralegal Portfolio Exercises

Week 12

Reading Assignment: Chapter 16 – Estates and Elder Law

- Lecture Topics:
- (1) Formation and types of wills
 - (2) Probate
 - (3) Intestacy
 - (4) Living Will
 - (5) Formation and types of trusts

Assignments:

- (1) Working the Web
- (2) Critical Thinking and Writing Questions
- (3) Ethical Analysis and Discussion Questions
- (4) Developing Your Collaboration Skills
- (5) Video Case Studies

Assignments:

- (1) Working the Web
- (2) Critical Thinking and Writing Questions
- (3) Ethical Analysis and Discussion Questions
- (4) Developing Your Collaboration Skills
- (5) Video Case Studies
- (6) Paralegal Portfolio Exercises

Week 16

Reading Assignment: Chapter 20 – Intellectual Property and Digital Law

- Lecture Topics:
- (1) Trade Secrets
 - (2) Patents
 - (3) Copyrights
 - (3) Trademarks
 - (4) Cyber law

Assignments:

- (1) Working the Web
- (2) Critical Thinking and Writing Questions
- (3) Ethical Analysis and Discussion Questions
- (4) Developing Your Collaboration Skills
- (5) Video Case Studies
- (6) Paralegal Portfolio Exercises

FINAL EXAMINATION, Chapters 13–20

TWO-QUARTER COURSE OUTLINE

First Quarter

The following is subject to variation at the discretion of the instructor.

Week 1

Reading Assignment: Chapter 1 – The Paralegal Profession
Appendix E – Effective Learning: How to Study

Lecture Topics: (1) Review of the syllabus and overview of the course
(2) The role and function of the paralegal
(3) The paralegal profession as a career choice
(4) Professional paralegal organizations
(5) Career planning and skills development

Assignments:

- (1) Working the Web
- (2) Critical Thinking and Writing Questions
- (3) Ethical Analysis and Discussion Questions
- (4) Developing Your Collaboration Skills
- (5) Video Case Studies
- (6) Paralegal Portfolio Exercises

Week 2

Reading Assignment: Chapter 2 – Ethics and Professional Responsibility
Appendix B –NFPA’s Rules of Professional Conduct
Appendix C-Model Standards and Guidelines for Utilization of
Legal Assistants-Paralegals

Lecture Topics: (1) Unauthorized practice of law
(2) Regulation of paralegal profession
(3) Model Rules of Professional Conduct
(4) Paralegal association codes of ethics
(5) Five specific areas of ethical issues

Assignments:

- (1) Working the Web
- (2) Critical Thinking and Writing Questions
- (3) Ethical Analysis and Discussion Questions
- (4) Developing Your Collaboration Skills
- (5) Video Case Studies
- (6) Paralegal Portfolio Exercises

Week 3

Reading Assignment: Chapters 3 – The Paralegal Workplace

Lecture Topics: (1) Paralegal employment environments

- (2) Types of legal practices and specialties
- (3) Paralegal job responsibilities
- (4) Administrative functions of the paralegal
- (5) Resume writing and interviewing skills

Assignments:

- (1) Working the Web
- (2) Critical Thinking and Writing Questions
- (3) Ethical Analysis and Discussion Questions
- (4) Developing Your Collaboration Skills
- (5) Video Case Studies
- (6) Paralegal Portfolio Exercises

Field Trip: Courthouse, government agency, or law firm tour
Guest Speaker: Working paralegal

Week 4

Reading Assignment: Chapter 4 – Technology and the Paralegal

Lecture Topics: (1) Computer hardware
(2) Computer software and legal applications
(3) On-line resources
(4) The electronic office and courthouse
(5) Security

Assignments:

- (1) Working the Web
- (2) Critical Thinking and Writing Questions
- (3) Ethical Analysis and Discussion Questions
- (4) Developing Your Collaboration Skills
- (5) Video Case Studies
- (6) Paralegal Portfolio Exercises

Field Trip: Computer Lab, demo of software

Week 5

Reading Assignment: Chapter 5 – American Legal Heritage and Constitutional Law
Appendix F – The Constitution of the United States

Lecture Topics: (1) History and sources of American law
(2) U.S. Constitution

Assignments:

- (1) Working the Web
- (2) Critical Thinking and Writing Questions
- (3) Ethical Analysis and Discussion Questions

- (4) Developing Your Collaboration Skills
- (5) Video Case Studies
- (6) Paralegal Portfolio Exercises

Week 6

Reading Assignment: Chapter 6 – The Court System and ADR

- Lecture Topics:
- (1) Federal and state court systems
 - (2) Standing and jurisdiction
 - (3) Alternative dispute resolution

Assignments

- (1) Working the Web
- (2) Critical Thinking and Writing Questions
- (3) Ethical Analysis and Discussion Questions
- (4) Developing Your Collaboration Skills
- (5) Video Case Studies
- (6) Paralegal Portfolio Exercises

Field Trip: Courthouse

MIDTERM EXAMINATION CHAPTERS 1-6 AND Proper APPENDICIES

Week 7

Reading Assignment: Chapter 7 – Civil Litigation

- Lecture Topics:
- (1) Civil litigation purpose and process
 - (2) Pleadings
 - (3) Discovery
 - (4) Pretrial activities and trial
 - (5) Appellate process

Assignments:

- (1) Working the Web
- (2) Critical Thinking and Writing Questions
- (3) Ethical Analysis and Discussion Questions
- (4) Developing Your Collaboration Skills
- (5) Video Case Studies
- (6) Paralegal Portfolio Exercises

Week 8

Reading Assignment: Chapter 8 – Criminal Law and Procedure

- Lecture Topics:
- (1) Criminal procedure and protections
 - (2) Criminal trial process

Assignments:

- (1) Working the Web
- (2) Critical Thinking and Writing Questions
- (3) Ethical Analysis and Discussion Questions
- (4) Developing Your Collaboration Skills
- (5) Video Case Studies
- (6) Paralegal Portfolio Exercises

Week 9

Reading Assignment: Chapter 9-Administrative Law
Chapter 10 – Interviewing and Investigation Skills

- Lecture Topics:
- (1) Functions and types of administrative agencies
 - (2) Initial and subsequent client interviews
 - (3) Implied attorney-client relationship
 - (4) Locating and interviewing expert and lay witnesses
 - (5) Investigation of claims
 - (6) Obtaining and preserving evidence

Assignments:

- (1) Working the Web
- (2) Critical Thinking and Writing Questions
- (3) Ethical Analysis and Discussion Questions
- (4) Developing Your Collaboration Skills
- (5) Video Case Studies
- (6) Paralegal Portfolio Exercises

Week 10

Reading Assignment: Chapter 11 –Legal Research

- Lecture Topics:
- (1) Traditional and computer-assisted legal resources
 - (2) Distinguishing between primary, secondary, mandatory and persuasive sources
 - (3) Updating legal research

Assignments:

- (1) Working the Web
- (2) Critical Thinking and Writing Questions
- (3) Ethical Analysis and Discussion Questions
- (4) Developing Your Collaboration Skills
- (5) Video Case Studies
- (6) Paralegal Portfolio Exercises

Field Trip: Law library

Week 11

Reading Assignment: Chapter 12 – Legal Writing and Critical Legal Thinking

Lecture Topics: (1) Critical legal thinking and writing
 (2) Duty of Candor
 (3) Court briefs and memoranda of law
 (4) Citation checking

Assignments:

(1) Working the Web
(2) Critical Thinking and Writing Questions
(3) Ethical Analysis and Discussion Questions
(4) Developing Your Collaboration Skills
(5) Video Case Studies
(6) Paralegal Portfolio Exercises

Week 12

Reading Assignment: Appendix A – How to Brief a Case

Lecture Topics: (1) Difference between legal and case briefs
 (2) Writing a brief

Assignments:

(1) Write a case brief

FINAL EXAMINATION, Chapters 7–12 and Appendix A

TWO-QUARTER COURSE OUTLINE

Second Quarter

The following is subject to variation at the discretion of the instructor.

Week 1

Reading Assignment: Chapter 13 - Torts

Lecture Topics: (1) Intentional torts
 (2) Elements of negligence
 (3) Special negligence doctrines
 (4) Defenses to negligence

Assignments:

- (1) Working the Web
- (2) Critical Thinking and Writing Questions
- (3) Ethical Analysis and Discussion Questions
- (4) Developing Your Collaboration Skills
- (5) Video Case Studies
- (6) Paralegal Portfolio Exercises

Week 2

Reading Assignment: Chapter 13 – Torts

Lecture Topic: (1) Strict and Products Liability

Assignment:

- (1) Working the Web
- (2) Critical Thinking and Writing Questions
- (3) Ethical Analysis and Discussion Questions
- (4) Developing Your Collaboration Skills
- (5) Video Case Studies
- (6) Paralegal Portfolio Exercises

Guest Lecturer: Attorney whose practice is limited to Products Liability or Professional Malpractice

Week 3

Reading Assignment: Chapters 14 - Contracts and E-Commerce

Lecture Topics: (1) Requirements of a contract and Statute of Frauds
 (2) Performance and breach of contract
 (3) Contractual remedies

Assignments:

- (1) Working the Web
- (2) Critical Thinking and Writing Questions

- (3) Ethical Analysis and Discussion Questions
- (4) Developing Your Collaboration Skills
- (5) Video Case Studies
- (6) Paralegal Portfolio Exercises

Week 4

Reading Assignment: Chapter 14 – Contracts and E-Commerce

- Lecture Topic:
- (1) UCC
 - (2) E-commerce

Assignments:

- (1) Working the Web
- (2) Critical Thinking and Writing Questions
- (3) Ethical Analysis and Discussion Questions
- (4) Developing Your Collaboration Skills
- (5) Video Case Studies
- (6) Paralegal Portfolio Exercises

Week 5

Reading Assignment: Chapter 15 – Property Law

- Lecture Topics:
- (1) Personal property and bailments
 - (2) Real property and transfer of ownership
 - (3) Landlord tenant relationship
 - (4) Land use control

Assignments:

- (1) Working the Web
- (2) Critical Thinking and Writing Questions
- (3) Ethical Analysis and Discussion Questions
- (4) Developing Your Collaboration Skills
- (5) Video Case Studies
- (6) Paralegal Portfolio Exercises

Field Trip: Registrar of Deeds' Office

Week 6

Reading Assignment: Chapter 16 – Estates and Elder Law

- Lecture Topics:
- (1) Formation and types of wills
 - (2) Probate
 - (3) Intestacy
 - (4) Living Will
 - (5) Formation and types of trusts

Assignments:

- (1) Working the Web
- (2) Critical Thinking and Writing Questions
- (3) Ethical Analysis and Discussion Questions
- (4) Developing Your Collaboration Skills
- (5) Video Case Studies
- (6) Paralegal Portfolio Exercises

MIDTERM EXAMINATION CHAPTERS 13-16

Week 7

Reading Assignment: Chapter 17 – Family Law

- Lecture Topics:
- (1) Engagement and Premarital issues
 - (2) Requirements for formation of valid marriage
 - (3) Parental relationship and obligations
 - (4) Dissolution of marriage
 - (5) Division of property and alimony
 - (6) Child custody and support

Assignments:

- (1) Working the Web
- (2) Critical Thinking and Writing Questions
- (3) Ethical Analysis and Discussion Questions
- (4) Developing Your Collaboration Skills
- (5) Video Case Studies
- (6) Paralegal Portfolio Exercises

Week 8

Reading Assignment: Chapter 18 – Agency, Employment and Immigration Law

- Lecture Topics:
- (1) Nature, types, and formation of agency relationships
 - (2) Liabilities to third parties
 - (3) Termination of agency relationship
 - (4) Statutory constraints on the employment relationship

Assignments:

- (1) Working the Web
- (2) Critical Thinking and Writing Questions
- (3) Ethical Analysis and Discussion Questions
- (4) Developing Your Collaboration Skills
- (5) Video Case Studies
- (6) Paralegal Portfolio Exercises

Week 9

Reading Assignment: Chapter 19 – Business Organizations and Bankruptcy Law

Lecture Topics: (1) Types of business organizations
 (2) Formation of business organizations
 (3) Benefits and obligations of business organizations

Assignments:

(1) Working the Web
(2) Critical Thinking and Writing Questions
(3) Ethical Analysis and Discussion Questions
(4) Developing Your Collaboration Skills
(5) Video Case Studies
(6) Paralegal Portfolio Exercises

Week 10

Reading Assignment: Chapter 18 Business Organizations and Bankruptcy

Lecture Topics:

(1) Types and advantages of bankruptcy

Assignments:

(1) Working the Web
(2) Critical Thinking and Writing Questions
(3) Ethical Analysis and Discussion Questions
(4) Developing Your Collaboration Skills
(5) Video Case Studies
(6) Paralegal Portfolio Exercises

Week 11

Reading Assignment: Chapter 20 – Intellectual Property and Digital Law

Lecture Topics: (1) Trade Secrets
 (2) Patents
 (3) Copyrights
 (3) Trademarks
 (4) Cyber law

Assignments:

(1) Working the Web
(2) Critical Thinking and Writing Questions
(3) Ethical Analysis and Discussion Questions
(4) Developing Your Collaboration Skills
(5) Video Case Studies
(6) Paralegal Portfolio Exercises

Week 12

FINAL EXAMINATION, Chapters 17–20

ONE-QUARTER COURSE OUTLINE

The following is subject to variation at the discretion of the instructor.

Week 1

Reading Assignment: Chapter 1 – The Paralegal Profession
Appendix E – Effective Learning: How to Study

Lecture Topics: (1) Review of the syllabus and overview of the course
(2) The role and function of the paralegal
(3) The paralegal profession as a career choice
(4) Professional paralegal organizations
(5) Career planning and skills development

Assignments:

- (1) Working the Web
- (2) Critical Thinking and Writing Questions
- (3) Ethical Analysis and Discussion Questions
- (4) Developing Your Collaboration Skills
- (5) Video Case Studies
- (6) Paralegal Portfolio Exercises

Week 2

Reading Assignment: Chapter 2 – Ethics and Professional Responsibility
Appendix B –NFPA’s Rules of Professional Conduct
Appendix C –Model Standards and Guidelines for Utilization of Legal Assistants-Paralegals

Lecture Topics: (1) Unauthorized practice of law
(2) Regulation of paralegal profession
(3) Model Rules of Professional Conduct
(4) Paralegal association codes of ethics
(5) Five specific areas of ethical issues

Assignments:

- (1) Working the Web
- (2) Critical Thinking and Writing Questions
- (3) Ethical Analysis and Discussion Questions
- (4) Developing Your Collaboration Skills
- (5) Video Case Studies
- (6) Paralegal Portfolio Exercises

Week 3

Reading Assignment: Chapters 3 – The Paralegal Workplace

Lecture Topics: (1) Paralegal employment environments
(2) Types of legal practices and specialties

- (3) Paralegal job responsibilities
- (4) Administrative functions of the paralegal
- (5) Resume writing and interviewing skills

Assignments:

- (1) Working the Web
- (2) Critical Thinking and Writing Questions
- (3) Ethical Analysis and Discussion Questions
- (4) Developing Your Collaboration Skills
- (5) Video Case Studies
- (6) Paralegal Portfolio Exercises

Field Trip: Courthouse, government agency, or law firm tour

Guest Speaker: Paralegals, Judges, Court Clerks, or Attorneys

Week 4

Reading Assignment: Chapter 4 – Technology and the Paralegal

Lecture Topics:

- (1) Computer hardware
- (2) Computer software and legal applications
- (3) On-line resources
- (4) The electronic office and courthouse
- (5) Security

Assignments:

- (1) Working the Web
- (2) Critical Thinking and Writing Questions
- (3) Ethical Analysis and Discussion Questions
- (4) Developing Your Collaboration Skills
- (5) Video Case Studies
- (6) Paralegal Portfolio Exercises

Field Trip: Computer Lab, Demo of software

Week 5

Reading Assignment: Chapter 5 – American Legal Heritage and Constitutional Law
Chapter 6 – The Court System
Appendix F – The Constitution of the United States

Lecture Topics:

- (1) History and sources of American law
- (2) U.S. Constitution
- (3) Federal and state court systems
- (4) Standing and jurisdiction
- (5) Alternative dispute resolution

Assignments:

- (1) Working the Web
- (2) Critical Thinking and Writing Questions
- (3) Ethical Analysis and Discussion Questions
- (4) Developing Your Collaboration Skills
- (5) Video Case Studies
- (6) Paralegal Portfolio Exercises

Week 6

Reading Assignment: Chapter 7 – Civil Litigation
Chapter 8 – Criminal Law and Procedure

- Lecture Topics:
- (1) Civil litigation purpose and process
 - (2) Pleadings, discovery and trial
 - (3) Appellate process
 - (4) Criminal procedure and trial
 - (5) Constitutional protections of the criminal defendant

Assignments:

- (1) Working the Web
- (2) Critical Thinking and Writing Questions
- (3) Ethical Analysis and Discussion Questions
- (4) Developing Your Collaboration Skills
- (5) Video Case Studies
- (6) Paralegal Portfolio Exercises

Field Trip: Courthouse

MID-TERM EXAMINATION, Chapters 1–8 and Proper Appendices

Week 7

Reading Assignment: Chapter 10 – Interviewing and Investigation Skills

- Lecture Topics:
- (1) Initial and subsequent client interviews
 - (2) Implied attorney-client relationship
 - (3) Locating and interviewing expert and lay witnesses
 - (4) Investigation of claims
 - (5) Obtaining and preserving evidence

Assignments:

- (1) Working the Web
- (2) Critical Thinking and Writing Questions
- (3) Ethical Analysis and Discussion Questions
- (4) Developing Your Collaboration Skills
- (5) Video Case Studies
- (6) Paralegal Portfolio Exercises

Week 8

Reading Assignment:

Chapter 11 – Legal Writing and Critical Legal Thinking
Chapter 12- Legal Research
Appendix A – How to Brief a Case

Lecture Topics:

- (1) Traditional and computer-assisted legal resources
- (2) Distinguishing between primary, secondary, mandatory and persuasive sources
- (3) Updating legal research
- (4) Critical legal thinking and writing
- (5) Duty of Candor
- (6) Court briefs and memoranda of law
- (7) Citation checking

Assignments:

- (1) Working the Web
- (2) Critical Thinking and Writing Questions
- (3) Ethical Analysis and Discussion Questions
- (4) Developing Your Collaboration Skills
- (5) Video Case Studies
- (6) Paralegal Portfolio Exercises

Weeks 9 – 12

Instructor should choose substantive legal topics to cover from Chapters 13 – 20. Selection may be based on prevalent areas of law practice within the locality. Use the assignments and lecture topics from the course schedule provided for the full semester.

FINAL EXAMINATION CHAPTERS 9-12 and your selected substantive materials

Use of Computer Technology

Many schools have made the move to incorporate technology into the learning process. For some, this could be use of a Smart Board system in the classroom or use of a Webpage containing contact information for instructors. For others, courses are taught entirely on-line. The materials in the Text and this Instructor's Manual are designed to get you on your way not only for traditional classroom teaching but also for on-line or distance learning.

Your Instructor's Manual is available for download from the Instructor's Resource Center at www.pearsonhighered.com/educator. Materials for students are available via the Companion Web Site at www.pearsonhighered.com/goldman. In the traditional classroom, these materials can be used to enhance a lecture with PowerPoint slide presentations and viewing video clips depicting ethical dilemmas.

On-line learning will vary by school. The components of on-line learning include one or more of the following elements being loaded onto a web page or site reserved for the class and instructor: a course schedule, teaching notes, quizzes, tests, assignments and regularly scheduled chat rooms for students to discuss and exchange ideas. Frequently, those new to the web learning environment complain about the time necessary to create all this information and load it onto the web site.

The materials contained in this Instructor's Manual and on the Companion Web Site are designed to make the shift to web learning easier, particularly for adjunct instructors whose time is limited. Suggested course outlines are available and can be easily modified to meet the requirements of your school. Detailed lecture notes which can be revised and loaded as your teaching notes for students to review on-line. Likewise quizzes and exams can be made up from the test bank. Most web based learning has a component to create and grade examinations. Check with your technology department or program coordinator to determine how much of your grading can be done for you on-line by using the Test Generator found on the Companion Web Site.

For many the change from traditional to on-line teaching will be a progressive process. For example, try putting course schedules and lecture notes on-line in one semester. In successive semesters add another component or two like quizzes and a live Web Chat about a particular topic. With the Web Chat you can record and review later or participate live with the students. To allow for the most participation by all, Web Chats should be limited to groups of 4 or 5 students and scheduled at a variety of times to address the needs of the students. Thus, for the typical class you may be monitoring 5 chats. The ultimate goal would be to have the class conducted completely on-line.

Content Comparison

In the charts below you will find the materials covered in two other textbooks frequently used in introductory paralegal courses. The chart is designed to assist instructors in transitioning from those texts to *The Paralegal Professional*.

<i>West's Paralegal Today, Miller</i>	<i>The Paralegal Professional</i>
Chapter – Topic	Chapter – Topic
1 – Today's Professional Paralegal	1 – The Paralegal Profession
2 – Career Opportunities	3 – The Paralegal Workplace
3 – Ethics and Professional Responsibility	2 – Ethics and Professional Responsibility
4 – The Inner Workings of the Law Office	3 – The Paralegal Workplace
5 - Sources of American Law	5 – American Legal Heritage and Constitutional Law
6 – The Court System and Alternative Dispute Resolution	6 – The Court System and Alternative Dispute Resolution
7 – Tort Law, Product Liability and Consumer Law	13 – Torts and Product Liability
8 – Contracts and Intellectual Property Law	14 – Contracts and E-Commerce 20 – Intellectual Property and Digital Law
9 – Insurance Law and Real Property	15 – Property
10 – Estates and Family Law	16 – Estate and Elder Law 17 – Family Law
11 – Law Affecting Business	18 – Agency, Employment and Immigration Law 19 - Business Organization and Bankruptcy Law
12 – Bankruptcy and Environmental Law	19 – Business Organizations and Bankruptcy Law 9 – Administrative Law
13 – Civil Litigation – Before the Trial	7 – Civil Litigation
14 – Conducting Interviews and Investigations	10 – Interviewing and Investigation Skills
15 - Trial Procedure	7 – Civil Litigation
16 – Criminal Law and Procedure	8 – Criminal Law and Procedure
17 – Legal Research and Analysis	12 - Legal Research
18 – Computer-Assisted Legal Research	4 – Technology and the Paralegal 12-Legal Research
19 – Legal Writing: Form and Substance	11 – Legal Writing and Critical Thinking

(comparison to this text is not mentioned in text)

<i>Introduction to Paralegalism, Statsky</i>	<i>The Paralegal Professional</i>
Chapter – Topic	Chapter – Topic
1 – Introduction to a New Career in Law	1 – The Paralegal Profession
2 – Paralegal Employment	3 – The Paralegal Workplace
3 – On-the-Job Realities: Assertiveness Training for Paralegals	1 – The Paralegal Profession 3 – The Paralegal Workplace
4 – The Regulation of Paralegals	2 – Ethics and Professional Responsibility
5 – Attorney Ethics and Paralegal Ethics	2 – Ethics and Professional Responsibility
6 – Introduction to the Legal System	5 – American Legal Heritage and Constitutional Law
7 – Introduction to Legal Analysis	11 – Legal Writing and Critical Legal Thinking
8 – Legal Interviewing	9 – Interviewing and Investigation - Skills
9 – Investigation in a Law Office	9 – Interviewing and Investigation Skills
10 – Litigation Assistantship	6 – The Court System and Alternative Dispute Resolution 7 – Civil Litigation
11 – Legal Research	12 – Legal Research
12 – Legal Writing	11 – Legal Writing and Critical Legal Thinking
13 – An Introduction to the Use of Computers in the Law Office	4 – Technology and the Paralegal
14 – Introduction to Law Office Administration	3 – The Paralegal Workplace
15 – Informal and Formal Administrative Advocacy	

CHAPTER 1 – The Paralegal Profession

Teacher to Teacher Notes

This chapter will discuss what the paralegal profession is, the type of educational programs available and the opportunities that await the trained paralegal. The current regulatory schemes for the paralegal profession are discussed, along with the certification exams offered. A good portion of the chapter focuses on the qualities and interests of the individual student. Take time to discuss with students the on-going personal assessment each should be conducting during the semester and throughout the educational phase on this new career path. Seldom are decisions engraved in stone. In forging a new career, the student needs to be encouraged to think of his strengths and weaknesses. Then, assess how to improve on weakness and perhaps adjust the path to a satisfying position. Not everyone will be happy in the high tension, fast paced litigation area. Some are better suited to research or estate planning.

Pre-Chapter Warm-up

A. What do you love to do?

1. What are the things that give you a sense of enjoyment and satisfaction now?
2. What were the things that gave you a sense of enjoyment and satisfaction as a young person, before you were influenced by parents, teachers and peers?
3. Where do you like to be?
4. Who do you like to spend your time with?

B. Answering these questions is the beginning point of determining one's career path.

By way of example, imagine an adult seeking a new career. As a child this person loved to play school and be the teacher. As an adult, she is successfully employed as a pharmaceutical sales representative. She still finds her greatest enjoyment in working with young people in a mentoring or teaching capacity. That passion can be combined with paralegal training and a position could be obtained in a Youth Prevention or Probation Program.

Learning Objectives

1. Describe the role of the paralegal in the delivery of legal services.
2. Explain the importance of professional skills in career advancement.
3. Explain why education and training are necessary to be recognized as a member of the paralegal profession.
4. Describe the different approaches to the certification and regulation of the paralegal profession.
5. Discuss the job opportunities for the paralegal

Paralegals at Work

For both Ariel and Ethan a career in the paralegal profession may be appropriate.

For Ethan, who is unsure of his level of dedication, starting out in the paralegal field will give him exposure to the legal environment. If not interested in the criminal justice system, he can explore other options through his education and work experiences.

For Ariel, she is looking for a new career path. Coupling her editorial experience with paralegal training may make her a valuable addition to a law firm. Preparing pleadings, contacts and legal briefs would take advantage of her writing skills and give her the autonomy she longs for.

Chapter Outline

I. Introduction to the Paralegal Profession

A. What is a Paralegal

1. A lack of uniformity in defining what a paralegal is authorized to do has led to confusion over the use of the terms paralegal, legal assistant.
2. Shift away from the words “secretary” and “legal assistant” in favor of the term paralegal
3. The American Bar Association (ABA) definition of paralegal, which has been adopted by the National Association of Legal Assistants (NALA), is: a person, qualified by education, training, or work experience who is employed or retained by a lawyer, law office, corporation, governmental agency or other entity and who performs specifically delegated substantive legal work for which a lawyer is responsible.
4. The National Federation of Paralegal Association (NFPA) has a slightly different definition: A paralegal is a person qualified through education, training or work experience to perform substantive legal work that requires knowledge of legal concepts as 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 missing from this definition is the ultimate responsibility of the supervising attorney for the work of the paralegal.

HYPO: Would it be appropriate for someone who has been a nurse for five years to now call himself a doctor? Probably not, we all agree that certain education and training are required before someone can be a doctor. Similarly, a secretary working in a law firm after a short period of time should not be referred to as a paralegal.

B. What do Paralegals Do?

1. Primarily assist lawyers in private law firms with tasks such as interviewing clients and witnesses, drafting correspondence and pleadings, performing legal research and preparing financial records of the firm.
2. Opportunities also exist to work in government offices at federal, state and local levels in the prosecuting attorney’s office or an administrative agency.
3. Combining prior work experience with paralegal education can make an individual a highly skilled and desirable paralegal.
 - a. nursing background combined with paralegal training yields a highly demanded individual who can interpret and analyze medical records.
 - b. engineering background combined with paralegal training yields an individual who may best fit in patent and trademark area
 - c. forensic background would be well suited for criminal prosecution and defense work

- d. real estate background combined with paralegal training will yield an individual who can prepare documents for real estate transactions.
- 4. For years the qualifications and training to become a paralegal were on- the- job training and real world experience
- 5. Now much of what the individual needs to know comes from educational program

C. Professional Skills

- 1. Basic skills and soft skills include the ability to read, write and speak English, the ability to read and/or speak a second language, computer literacy and initiative and for some situations a background in another area
- 2. Resourcefulness or the “Can do” person – the unique ability to meet and handle situations; finding solutions to problems

HYPOTHESIS: The power is out due to a thunderstorm. There is a deadline that needs to be met. The “can do” person finds a way to complete the task on time – use a typewriter, use a wireless laptop computer, contact another office to see if they have power and will share equipment. Others, without the “can do” mentality, often see the power outage as time to play, catch up on personal phone calls.

- 3. Commitment or the ability to finish what you’ve started and complete it in the time allotted. This commitment extends to yourself, your co-workers, employer and clients.
- 4. Analytical skills
 - a. what seems to some an insurmountable problem, to the analytical mind is just an aggregation of small tasks that need to be broken down to manageable pieces
 - b. legal analysis is a special type of analytical skill that requires one to identify facts relevant to the dispute, locate the rule of law, apply the law to the facts and resolve the dispute. This is a special skill that will develop with time and practice
- 5. Interpersonal skills
 - a. Starts with knowing your own personality style and attitude; are you positive or negative? Passive or assertive? Compassionate or dispassionate?
 - b. Consider which type of personality you prefer to work with and model that
 - c. Recognize your limitations so you can graciously withdraw when there are personality conflicts that are negatively impacting a work situation
 - d. Generally speaking the work will be more important than your behavior that serves as a stumbling block
- 6. Communication
 - a. Effectively expressing ideas with the written and spoken word
 - b. Keep in mind that in many instances you will not meet face-to-face and the written or spoken word will reveal your abilities and perhaps your personality.
 - c. Always keep the communication at the appropriate level for the receiver

- D. Career Planning
1. Education plan should include
 - a. General knowledge courses meeting core requirements for a degree (e.g. English composition, US History)
 - b. Courses related to your occupation or major (e.g. Legal Research and Writing, Civil Litigation)
 - c. Something to learn from every course even if you don't like it
 - d. Special emphasis on technology courses
 - e. Requirements of constantly updating knowledge and skills
 2. Paralegal education in the United States
 - a. Lack of uniformity by state statute or court rules in defining minimum qualifications for paralegal and required education
 - b. Look to groups that govern paralegal education for definition
 - i. ABA Standing Committee on Legal Assistants
 - guidelines provide “the institution shall maintain a program for the education of legal assistants that is designed to qualify its graduates to be employed in law-related occupations, including public and private law practice and/or corporate or government law- related activities. (Guidelines G-301)”
 - mandatory post secondary instruction of 60 sem hrs
 - ii. American Association for Paralegal Education (AAfPE) a national organization of paralegal educators and institutions offering paralegal education programs
 3. Types of education programs
 - a. Certificate programs which recognize completion of a program of study but may offer courses without college credit.
 - b. Associate's Degree program - two (2) year program in community or junior college ideal for community based transition or career change – those who may be attending part time and working full time
 - c. Baccalaureate programs - four (4) year program merging traditional core requirements with legal specialty courses allows flexibility to explore areas and build skill and knowledge base
 - d. Graduate programs to obtain a degree in legal studies or legal administration
 - e. Specialty Certificates - certificates offered in specialties like Legal Nurse Consulting

Practical Advice – Encourage students to select an education program that will meet the requirements of the community where they want to work. Discuss educational programs of your institution and what skill employers in your community desire on paralegal candidates. Also consider the chance students will seek a college degree or transfer to a program that grants a two or four year degree. Some states now have certification programs which may make certification in that state a market-driven necessity.

- E. Paralegal Certification
 - 1. Paralegal Advance Competency Exam (PACE) - NFPA exam to test competency
 - a. Requirements to sit for exam
 - i. the paralegal cannot have been convicted of a felony nor be under suspension, termination, or revocation of a certificate, registration, or license by any entity.
 - ii. education and experience requirements (Associates degree in paralegal studies and 6 years or Bachelor's degree and three years or Bachelor's degree in paralegal studies and 2 years)
 - b. passing test results in Registered Paralegal (RP) designation
 - c. continuing education requirements to maintain designation
 - 2. Certified Legal Assistant (CLA) or Certified Paralegal (CP) - NALA two day comprehensive exam
 - a. requirements to sit for exam relate to education and experience levels
 - b. passing exam results in Certified Legal Assistant (CLA) designation
 - c. continuing education requirements to maintain designation
 - d. specialist credentials in areas of bankruptcy, probate, civil litigation, etc. obtained through more testing yielding designation of Certified Legal Assistant – Specialist (CLAS)
 - 3. NALS offers three unique certifications
 - a. ALS - basic certification for the legal profession with a three part test covering written communication, office procedure and legal knowledge and ethics.
 - b. PLS - advanced certification legal professional with a four part exam
 - c. PP - certification designed for those handling paralegal duties and requires five (5) years experience plus education requirements before sitting for the exam
- F. Minimum Education
 - 1. International Paralegal Management Association (IPMA) is an organization for paralegal management professionals
 - 2. No specific designations but 80% of members state that a four year college degree is the minimum education requirement
- G. Making a Personal Assessment and Setting Goals
 - 1. One of the first steps is to assess your own skills.
 - a. educational skills, personality traits
 - b. do you like working under deadlines and pressure
 - c. is there a certain group of people, such as the elderly, disabled or children that you prefer to work with?
- H. Selecting a Specialty
 - 1. Can come from many sources:
 - educational background – journalism or medicine
 - special interest – the environment

- preference for client population – elderly or youth
- 2. Personal satisfaction – that is, your job is more than just a paycheck
- 3. Don't be afraid to change and reassess as you go through your education and professional career
- 4. Start with self evaluation – likes, dislikes, passions

I. Assessing Your Background

Your personal background can be a valuable asset

- Do you have educational, volunteer or employment experience that, coupled with paralegal training, will lead to better, more satisfying employment?
1. Assessing your skills
 - Do you communicate well in the spoken or written word?
 - Are you self motivated?
 - Do you speak another language?
 2. Assessing your interests
 - Outdoors, elderly, homeless, immigrants
 - What are your strengths? - Polish them
 - What are your weaknesses? - Develop them
 3. Selecting your electives
 - Have a goal or career in mind – take an elective in that area to discover if you do like it
 - Be open minded to those things you've never given a thought to – those electives may open doors to your next passion

II. Regulating the Practice of Law

- Lawyers
 - License requirements from state statutory provisions
 - Requirements to maintain license (continuing legal education)
 - Code of Professional Conduct adopted by state
- Paralegals
 - No state licensing requirements
 - No unified code of ethics
 - Privately monitored within professional associations
 - Potential for the unauthorized practice of law

A. Regulating the Paralegal Profession

1. Recognition that some level of regulation is necessary to avoid the unauthorized practice of law
2. Regulation and standards of the profession will assure employers that those who label themselves as paralegal are truly qualified
3. Uniform qualifications

B. State Licensing

1. No licensing statute for paralegals in any state

2. California, Hawaii, Florida, North Carolina and Ohio have implemented statutes to regulate education and certification of paralegals
 3. Enhancement of the paralegal profession through the status and opportunity state licensing could bring
- C. Federal Practice
1. Circumstances where non-lawyers may represent individuals Social Security Old Age and Disability Claims, Patent and Administrative Law
 2. Paralegal in these positions may obtain information, submit evidence, make statements and arguments, just as an attorney
- III. Opportunities for Paralegals
- A. Statistically, the Labor Department predicts that the demand for paralegals in the work force will increase 8% from 2010-2020
 - B. Prediction for increased salaries paid to those who have the proper credentials. Salaries tend to be higher in large firms and in metropolitan areas.
 - C. ABA statistics indicate that the greatest likelihood for employment is in larger firms and/or firms with specific practice areas (business/corporate, probate/estate planning and litigation).

HYPO: Does the higher salary paid in a large metropolitan firm really pay?

In our post-9/11 economy many have chosen to live in rural or suburban communities and commute to large cities where salaries are significantly higher. Students should be counseled to consider the hard and soft costs of chasing the dollars at a large city firm. For example, hard costs include city wage taxes, commuting costs (gas, parking, wear and tear on auto or mass transit), wardrobe and lunches. Soft costs include the value of one's time - what is the value of the time you spend commuting or stuck in traffic? What is the value of being close to a child's school so you can slip out of the office for an hour to attend a parent teacher conference or other school event?

IV. The Future

- A. Increased demand for paralegal services because
 1. Clients are unwilling/unable to pay lawyer fees
 2. Court intervention and oversight in the calculation and collection of attorney fees paying special attention that fees charged truly represent services that required the skill of the attorney
- B. Paralegals also must be aware of billing practices – their time billed for secretarial services cannot be charged to client
 1. Importance of appropriate person performing and billing for services.

HYPO: The client's home needs to be appraised for estate planning purposes. The client is out of the country and the appointment is made for next Thursday. The home is located about an hour away. Should the client pay the attorney's rate of \$300 per hour for the attorney to travel both ways and provide access to the home for the real estate appraiser? More likely this is a task

that does not require the specialized knowledge, skill and training of the attorney. It would be more appropriate to send the paralegal at \$100 per hour.

V. Getting Started

Working the Web

Many of the answers to these activities will depend on the updating by the various agencies of their website materials. Students will have varying results for Working the Web Exercises. To check results have them print and submit the web page where the answer was found.

Critical Thinking and Writing Questions

1. How does the American Bar Association define the term “paralegal”?

ANSWER: “A person, qualified by education, training, or work experience who is employed or retained by a lawyer, law office, corporation, governmental agency or other entity and who performs specifically delegated substantive legal work for which a lawyer is responsible.

2. What are the minimum qualifications that a paralegal should meet?

ANSWER: At present, there is no standardized definition of the term paralegal or of the requirements to become a paralegal. At best, minimum qualifications can be determined by consulting the American Bar Association (ABA) and the American Association for Paralegal Education (AAfPE) requirements and recommendations for paralegal education. Thus, a paralegal must complete an education program that includes generalized (e.g. English Composition, U.S. History) and specialized (Legal Research, Civil Litigation) knowledge. Practical experience is also a key component of paralegal education. Faculty should be qualified based on teaching experience and knowledge of subject matter taught as well as practical experience working with paralegals in the field.

3. What is the role of the paralegal in the legal system?

ANSWER: Paralegals assist lawyers in private law firms with tasks such as interviewing clients and witnesses, drafting correspondence and pleadings, performing legal research and preparing financial records of the firm. Paralegals may also work assisting attorneys in government offices or agencies. Paralegals may also be found working in corporate legal departments.

4. Why should those planning to become paralegals or legal assistants get a well-rounded education and develop the necessary skills?

ANSWER: In some instances, education will help a student discover an area of special interest for purposes of selecting a career path. Generally speaking, the better the education and skill development of the paralegal, the greater the job opportunities and compensation. Finally, given that the law impacts every aspect of our society, those engaged in providing legal services must be adequately educated and well versed in the skills required of the professional.

5. How can one satisfy the court that he or she is qualified as a paralegal and not as a legal secretary?

ANSWER: One way of satisfying the court is simply by performing substantive legal work demonstrating the knowledge, training and skills of the paralegal. Another way of establishing the credentials of a paralegal is use of a designation awarded by one of the paralegal professional organizations or meet a state's designation

6. What is the advantage to the paralegal in obtaining the PACE or the CLA designation?

ANSWER: The paralegal who obtains the PACE or CLA designation has the advantage of establishing his or her abilities, education and training simply by use of the designation following his or her name. Just as the designation M.D. tells the world an individual meets the qualifications of a doctor, PACE or CLA tells the world that the paralegal meets the high professional, educational and ethical standards set by the professional association.

7. What educational plan makes the most sense for you? Why?

ANSWER: The answer to this question will vary by student. Expect students to honestly assess their skills, financial abilities and time constraints. For example, a student with a Bachelors degree looking to change her career may only be able to attend evening classes to complete a certificate program.

8. How can a paralegal demonstrate the qualification for employment as a paralegal?

ANSWER: A paralegal can demonstrate her qualifications for employment through the preparation of her resume which lists her educational and academic achievements as well as her work experiences. Also important to establishing qualifications is how she conducts herself during the interview, including how she responds to questions and the questions she asks of the interviewer. Finally, the paralegal who maintains a portfolio of work demonstrates her skills and is prepared to share those documents with a potential employer at the interview will effectively display her skills.

9. Why would an employer, such as the U.S. Attorney's Office, require a four-year degree for those seeking a paralegal position?

ANSWER: Employer's often use minimum educational qualifications to screen out applicants that are not qualified for the position. In particular, a four year degree indicates a higher level of knowledge and dedication on the part of the individual.

10. Complete the checklist "Career Planning" and assess your personal skills and professional goals. Based on your answers, how well prepared are you for a career as a paralegal? What skills need development?

ANSWER: The answer to this question will vary for each student. However, an honest assessment and plan would cover areas the student needs improvement (usually written and oral communication) and areas the student has no knowledge (legal research).

11. How does assessing your interests and skills help in choosing a career path?

ANSWER: Assessing your interests and skills helps in narrowing the choices for your career path. The goal is for students to follow their interests and skills on a career path that will be rewarding personally and financially. For example, a student with a particular interest in assisting the elderly may want to consider focusing on elder law or estate planning areas of practice.

12. What skills are required to be a paralegal and why are they important?

ANSWER: The following list of required skills also includes their importance:

1. Written and spoken communication skills inasmuch as the practice of law depends on language.
2. Resourcefulness to solve problems and difficulties that arise in the law firm.
3. Commitment to complete the tasks assigned in the allotted time frame.
4. Analytical or critical thinking skills to analyze factual and legal issues.
5. Interpersonal skills which allow you to get along with others, even when they may be difficult, and maintain one's own positive attitude.
6. Computer skills to use and take advantage of the time savings assistance of technology.
7. Organizational skills to maintain order and efficiency in the fast-paced environment of a law office.
8. Cultural sensitivity toward colleagues and clients.

13. Complete the "Strengths & Weaknesses" checklist in this chapter.

ANSWER: Will vary for each student. However, an honest assessment and would list strengths to take advantage of and weaknesses that can be overcome through an education or training plan.

14. Why are good English writing and speaking skills important for the paralegal?

ANSWER: The legal profession is entirely dependent on the written and spoken word. For the paralegal, the ability to perform essential functions of interviewing clients and witnesses and preparing documents and pleadings require good English speaking and writing skills. Also, in many cases the only contact we have is through the written word or telephone conversations, thus, the quality of speech and written word can enhance or detract from the reputation of the paralegal and the law firm.

15. Complete the "My Career Roadmap" checklist in this chapter.

ANSWER: The answer to this question will vary for each student.

16. How can you use the “Strengths & Weaknesses” checklist in preparing your personal career roadmap?

ANSWER: An honest assessment can allow the student to discover strengths and preferences which, if followed may lead to a rewarding career. Similarly a discovery of weakness will lead to decisions about additional course work that should be completed and perhaps career areas that are not the best fit for the student.

17. What advantages might a person have in entering the paralegal profession later in life?

ANSWER: A person entering the paralegal profession later in life has several advantages. First, he has job experience which, coupled with a paralegal education, may yield a highly desirable paralegal. (nurse paralegal, engineer combined with paralegal might work well in a construction litigation law firm) Second, he may be more certain of his preferences thus being more certain of his career path. Third, he has established some of the employment skills such as commitment, resourcefulness, etc in his prior position.

18. What actions have you observed in other people that demonstrate their resourcefulness?
Have others ever told you that you are resourceful?

ANSWER: The answer to this question will vary for each student.

19. How can you demonstrate the characteristic of commitment?

ANSWER: Stick with a task until completed. This can be as simple as completing an education program.

20. Start to network by setting up a meeting with a working paralegal and preparing a list of question to ask at that meeting.

ANSWER: The answer to this question will vary for each student. Typical questions at this stage would be about the work environment, how someone got their job, salaries and job responsibilities.

Ethical Analysis and Discussion Questions

Questions 1-3

ANSWER: The answer will vary by state.

4. Does having a set of minimum educational requirements eliminate the need for a set of ethical guidelines?

ANSWER: No. Minimum educational requirements assure that all who enter the profession have a particular level of education and training. Education alone will not set a standard of ethical conduct for the paralegal profession. Education determines what one knows and whether she can assist a client. Ethics determines whether the client will receive the best representation

uninfluenced by conflicts of interest. Ethical behavior defined by a set of guidelines assures clients that they are being dealt with fairly

Developing Your Collaboration Skills

1. For both Ariel and Ethan a career in the paralegal profession may be appropriate.

For Ethan, who is unsure of his level of dedication, starting out in the paralegal field will give him a taste of the legal environment. If not interested in the criminal justice system, he can explore other options through educational and work experiences.

For Ariel, she is looking for a new career path. Coupling her editorial experience with paralegal training may make her a valuable addition to a law firm. Preparing pleadings, contacts and legal briefs would take advantage of her writing skills and give her the autonomy she longs for.

2 - 3. The answers to these questions will vary by group

Video Case Study

UPL Issue: When Friends Ask for Legal Advice

Dante, a paralegal is approached by a friend for legal advice about his apartment lease. His landlord is refusing to allow him to have a dog in his apartment.

After viewing the video case study answer the following:

1. Would a paralegal working in a real estate office be able to give advice as an incidental activity?

ANSWER: No. Giving legal advice is the unauthorized practice of law. The state may regulate both professions, law and real estate. Here the paralegal may be violating both regulatory schemes. Additional guidance should be sought from your state law.

2. Is advising the person that you are a paralegal enough to avoid UPL?

ANSWER: No. Advising that you are a paralegal but giving the advice anyway is still the unauthorized practice of law. The better way to handle the situation would be to advise that you are a paralegal and can not give advice but will check with the real estate professional or lawyer.

3. What is the law in your state on UPL?

ANSWER: Will vary by state.

Resume Writing Do's and Don'ts

Two human resource directors in a law office review some of the resumes they have received and discuss the errors people often make in submitting an application.

After viewing the video case study at www.pearsonhighered.com/careersresources, answer the following:

1. Why are a good resume and cover letter so important in getting a paralegal position?

ANSWER: Interviews will not be given to those who submit poorly written letters and resumes. Strong communication skills are a must for a paralegal.

2. What are some of the skills human resource directors look for in new hires?

ANSWER: Answers will vary, but should include: communication, computer, analytical, commitment, resourceful, etc.

3. Make a list of skills you need to acquire and courses you should take in pursuing your paralegal studies.

ANSWER: Answers will vary.

Independent Paralegal

Don Swanson, President of Five Star Legal, an independent paralegal discusses the pros and cons of being an independent paralegal.

After viewing the video case study answer the following:

1. What are the advantages and disadvantages of working as an independent paralegal?

ANSWER: Advantages include the ability to accept and refuse assignments based on your preferences and available time. Disadvantages include the difficulty in determining the appropriate supervising attorney and having back-up or assistance of others.

2. Are there any regulatory issues in your jurisdiction on working as an independent paralegal?

ANSWER: Will vary by state.

Paralegal Portfolio Exercises

Have students create a binder for their portfolio documents. Encourage them to include documents employers in your jurisdiction will appreciate seeing at a job interview.

Legal Analysis and Writing Cases

Doe v. Condon, 532 S.E.2d 879 (S.C. 2000).

1. Why is the practice of law limited to licensed attorneys?

ANSWER: The practice of law is limited to those who are licensed in order to protect the public from untrained or unscrupulous individuals.

2. What tasks may a paralegal perform?

ANSWER: A paralegal may perform tasks, preparatory in nature, which assist the attorney in the practice of law so long as she is properly supervised by the attorney.

3. What tasks may a paralegal not perform?

ANSWER: A paralegal may not give legal advice, accept or decline representation, set fees or appear in court on behalf of a client.

4. Why is the answering of legal questions about the need for a will or a trust the unauthorized practice of law (UPL)?

ANSWER: Anytime the answer to an individual's questions will affect his or her legal rights that is the unauthorized practice of law. A will or trust determines the manner in which one transfers property during or after his/her lifetime. This inquiry and the answer will affect rights such as continued control or ownership of assets, tax liabilities, etc.

5. Why is a fee-splitting arrangement between a lawyer and a paralegal prohibited?

ANSWER: Fees may only be charged and collected by the attorney.

Sperry v. Florida, 373 U.S. 379 (1963).

1. Does this decision allow anyone to practice before any federal agency without being licensed?

ANSWER: No. The decision is limited to those appearing in the Patent office. There is some statement that so long as someone meets the qualifications of the federal agency they are permitted to appear before that agency regardless of the state requirements for the practice of law. Not just anyone may practice, they must meet the requirements of the individual federal agency.

2. What are the prerequisites for nonlawyers to act on behalf of others before federal agencies?

ANSWER: It depends on the agency.

3. What steps would a paralegal have to take to prosecute patent claims?

ANSWER: Meet the requirements of the Patent office.

Working with the Language of the Court

1. What is the difference between "market rates" for paralegals and cost to the attorney for paralegal service?

ANSWER: Market rate refers to the reasonable value of attorney work product within a given market, as opposed to the cost to the attorney for obtaining the work product. Often market rate is the rate charged by law firms to clients for legal services. For example, the charge to a client for paralegal services is \$35.00 per hour but the cost to the law firm is \$20.00 per hour which is a combination of salary and benefits.

2. Does billing for paralegal services at market rates unfairly benefit the law firm?

ANSWER: No. Billing for paralegal services acknowledges the value of the specialized training and experience that paralegal brings to the representation and the savings it can yield to the client to use the paralegal's services.

3. According to this court, how is a reasonable attorney's fee calculated?

ANSWER: Reasonable attorney's fees for the purposes of the Civil Rights Act requires an evaluation of the fees charges by other attorneys within the same community who possess similar skill and experience.

4. How does the public benefit from allowing paralegals to be billed at market rates?

ANSWER: Using paralegals to perform some of the work of the attorney has the effect of reducing overall legal fees to the client.

5. Does this court believe that a reasonable attorney's fee should include paralegal fees?

ANSWER: The court believes that if that is the standard used in that community then yes, reasonable attorney's fees includes the paralegals fees.

Missouri v. Jenkins, 491 U.S. 274 (1989).

Facts: Attorneys, who had won the underlying racial segregation lawsuit against the State of Missouri and its school districts, sought counsel fees in accordance with §1988 of the federal civil rights act. The State and school districts did not oppose the award of counsel fees as they are mandatory under the statute. The State did challenge the calculation of fees charged for services provided by paralegals. State argued that the cost to the law firm should be used to calculate the fees for a paralegals services rather than the going market rate.

Procedure: District Court awarded attorneys fees and costs including fees for services provided by paralegals based on the market rate for paralegals in the community in which the lawsuit was brought. The Court of Appeals affirmed. State of Missouri appeals to the Supreme Court.

Issue: Whether the calculation of fees for services provided by a paralegal should be based on the market rate within the community?

Holding: Yes. Judgment affirmed.

Rationale: There is no dispute that lawyers, who successfully prosecute claims under the Civil Rights Act, are entitled to receive attorneys fees and costs associated with the litigation from the defendant found liable under the Act. There is no dispute that attorney's fees are calculated based on the market rate for services of attorneys in their community with similar experience and skill. There is no dispute that the fee calculated for associate attorneys, which like a paralegal may bear no rationale

relationship to the actual cost to the law firm of the associate attorney's salary, are based upon the market rate for associate attorneys in the community.

The State argues that the law firm receives a windfall when it collects the market rate (\$35 per hour) rather than being compensated based on the actual cost of the paralegal's services (salary plus benefits or approximately \$15.00 per hour). The court notes that this argument has never been applied to the calculation of associate attorney fees.

Paralegals provide valuable services assisting attorneys in the prosecution of civil rights litigation. These services must be properly compensated. The court should look to the standard of the community as to how services for paralegals are billed to clients. If the legal community bills separately, then the paralegals efforts should be compensated in the same manner for purposes of §1988 fees and at the market rate. To do otherwise would financially penalize law firms that accept Civil Rights cases.

