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Paralegal Careers

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FOREWORD

THE PARALEGAL PROFESSION is interesting, challenging, and exciting. It is considered by many to be their chosen profession and not just a stepping-stone to law school.

Where once a paralegal position was attained primarily through experience and promotion within the law firm, today there is a growing interest in and need for higher education, and there is a wide variety of educational facilities from which to choose. A paralegal may achieve a paralegal certificate or an associate, a bachelor's, and even a master's degree in paralegal studies. Opportunities to specialize in certain areas of law are also growing.

It is imperative that those considering the paralegal profession be aware of the educational and/or experience requirements they will need to meet, depending upon the jurisdiction and the employment environment. The paralegal profession, while being one of the fastest growing in the nation, is still, for the most part, self directed. There are several paralegal associations, all of which have different definitions of *paralegal*. Likewise, many states are beginning to define standards (education and/or experience levels) as well as for

whom a paralegal can provide services. Persons interested in becoming a paralegal should closely check the region in which they will likely seek employment to find if there are any specific requirements or criteria for paralegals, since there is no standardization.

Private law firms, corporations, financial institutions, insurance companies, government agencies, the courts, and numerous others have found that paralegals provide a cost-effective means of providing services to their clients. Additionally, paralegals with specialized skills, knowledge, and expertise are extremely advantageous in working with complex matters.

For instance, a paralegal with a medical background may be a wonderful asset to an insurance company or to a private law firm specializing in personal injury or medical malpractice. Likewise, a paralegal with financial or real estate experience may find a niche in both private firms and financial institutions for trust administration or real estate transactions. Most recently, knowledge of computer technology is a key component in a paralegal's education as well as in his or her career advancement. Certifications in specialized legal software are becoming more common. At the very least, a paralegal needs to be familiar with software for calendar, time keeping, word processing, and presentations. Also helpful is knowledge of the creation of databases and spreadsheets to manage data and documents. The area of electronic discovery is in its infancy and is rapidly changing. Those paralegals who are willing to keep abreast of newly developed rules, regulations, and statutes that govern electronic discovery will be on the ground floor of this emerging area of law and its implementation.

Paralegals will also learn that there is a variety of continuing education available once they have become paralegals. While continuing education is not currently required in jurisdictions other than

California, it is always a good idea to keep abreast of any new developments in the law, technology, and local rules on which the paralegal will rely. The law, like the paralegal profession, is constantly evolving and changing. This adds to the challenge and keeps us on top of our game. There are also certification tests that a paralegal may wish to take to challenge his or her skills and knowledge.

This book provides a wonderful overview of the profession in general, the types of employment opportunities available, and valuable insights into potential career paths.

Dianna L. Smiley, RP
President
National Federation of Paralegal Associations

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SIMILAR JOBS, DIVERSE TITLES

THE TERM *PARALEGAL* is a common one, but it is only one of many titles used to describe a variety of similar jobs. Paralegals—and others with any number of job titles—perform a wide variety of functions ranging from clerical to administrative work.

Just what a paralegal job is called may reflect the scope and setting of the work. When examining classified advertisements for paralegal jobs, looking under the heading “paralegal” may not be sufficient. Instead, start with the “A” listings under “assistant” or “aide” and work your way through at least the “T’s” and “title clerk.” As William P. Statsky notes in *The Education of Legal Paraprofessionals*: “The field is already suffering from an overdose of terminology: lay practitioner, sublegals and paralegals, legal paraprofessionals, legal executive, legal service assistant, ombudsperson, lay advocate, legal nurse, legal technician, legal counselor, lay counselor, legal assistant, legal administrative technician, lay assistant, lay representative and so forth.”

And still the possibilities go on. Other titles for paralegals include: professional legal secretary, community worker, community aide, lay associate, subprofessional assistant, managing clerk, nonlawyer assistant, mediator, consumer specialist, welfare advocate, block worker, legal aide, health advocate, consumer claims adjuster, legal computer specialist, referral agent, case finder, office assistant, probate assistant, litigation assistant, title clerk, business assistant, forum judge, and parajudge.

In each setting where paralegals are employed, separate terminology may be used with important distinctions; however, employers do not always agree on these distinctions. Before considering any job, find out what duties, responsibilities, and restrictions come with the title. For the purposes of this book, the most common titles you will see are paralegal or legal assistant.

Employers and Job Specialties

Paralegals and legal assistants hold about two hundred thousand jobs, according to the U.S. Department of Labor. About 70 percent are employed by private law firms. Most of the others work for corporate legal departments or government agencies. The U.S. Department of Justice is the largest federal employer of paralegals. The Social Security Administration and Department of Treasury are also major employers, as are state and municipal governments. A small number of paralegals own their own businesses and work as freelance legal assistants, contracting their services to attorneys or corporate legal departments.

While working for these and other employers, paralegals are involved in a number of different areas of the law. They deal with litigation, labor law, employee benefits, personal injury, corporate

law, criminal law, intellectual property, bankruptcy, immigration, family law, and real estate, among other areas. Within specialties, paralegals may deal with specific areas of focus. For example, paralegals specializing in criminal law might work exclusively in helping process arrest documents.

Job duties of paralegals may vary widely in different types of organizations. Paralegals employed in corporations may help prepare and file annual financial reports, maintain corporate minute books and record resolutions, or prepare forms to secure loans for the corporation. They may also assist attorneys with employee contracts, shareholder agreements, stock-option plans, and employee benefit plans.

Those employed in government agencies or nonprofit organizations perform duties such as conducting research for attorneys, analyzing legal material for internal use, maintaining reference files, and collecting and analyzing evidence for agency hearings. They may also prepare information about laws, regulations, and agency policy for general use by the agency and the public.

Some paralegals are employed in community legal-service projects. They help the poor, the elderly, or others who need legal assistance. Typical duties include filing forms, conducting research, preparing documents, and where the laws allow, representing clients at administrative hearings.

Two Basic Work Categories

The work done by paralegals may be divided into two basic categories. One is the area of administrative support performed by an administrative assistant. The other category is legal assistance performed by a legal specialist—usually a paralegal.

The administrative assistant may perform such tasks as office and personnel management, typing, accounting, timekeeping, billing, filing, maintaining a library, and routine investigating.

The legal specialist, or paralegal, may perform skilled tasks in substantive areas of law such as divorce, probate, corporation practice, and real estate.

Paralegals generally work under the direct supervision of lawyers. Although the lawyers assume responsibility for the legal work, they often delegate many of the tasks they perform to paralegals.

Paralegals usually do the background work for lawyers in preparing cases for trial. In general, paralegals:

1. Investigate the facts of cases, ensuring that all relevant information is uncovered
2. Conduct legal research to identify the appropriate laws, judicial decisions, legal articles, and other materials that may be relevant to assigned cases
3. Organize and analyze all the information and prepare written reports for attorneys to use in determining how cases should be handled
4. Prepare the legal arguments, draft pleadings and motions to be filed with the court, obtain affidavits, and assist the attorneys during the trials
5. Keep files of all documents and correspondence important to cases

Many legal specialists develop their expertise by first gaining experience in performing administrative tasks. The route from legal secretary to paralegal is one that is frequently taken.

Employers, especially small private firms, often hire paralegals and expect them to perform much of the time as administrative assistants.

Legal Assistants and Legal Advocates

Another distinction is often made between legal assistants and legal advocates. A legal assistant helps a lawyer in the practice of law or in the production of a legal service. The legal advocate is a person who acts in a representative or advice-giving capacity. The legal advocate is not necessarily supervised by a lawyer. The legal advocate generally works in nonlawyer-dominated institutions, often in the public sector such as in prisons, labor unions, community organizations, and administrative agencies. The legal advocate may have only occasional contact with the lawyer.

Generally, the legal assistant relies mostly on reading and writing skills. By contrast, the legal advocate may plead, intercede, or speak for another person; argue for a proposal; and give advice. The advocate also must understand how groups and institutions function. Based on this knowledge, advocates are often able to persuade institutions to be responsive to the needs of their clients.

The legal advocate is not confined to advocacy of causes and claims on behalf of individuals and groups. Legal advocates also are employed by government agencies, such as the Federal Trade Commission, as research analysts or ombudspersons. Duties of legal advocates may include recording complaints or participating in investigations to determine whether the complaints contain a cause of action that is within the agency's jurisdiction.

Legal advocates may handle other law enforcement assistance activity that centers on securing compliance with the law and reg-

ulations that their agency is charged with enforcing. They may assist in adjudication of disputes within the agency's authority. They may participate in decisions on whether to accord agency benefits to those who claim eligibility.

The growth of administrative agencies has supplied great impetus to the development of legal advocacy. In most cases, nonlawyers may represent people before administrative agencies on both federal and state levels.

Lay-legal advocates are allowed a wider range of decision-making roles than legal specialists. Legal advocates use fewer legal forms or law office manuals. They also are more free to select courses of action, determine strategies, and recommend outcomes.

In a typical lawsuit, the work involved includes skilled tasks such as interviewing the client, researching points of law, drafting pleadings, and arguing the case before a judicial body. The legal assistant might perform some of the research and draft the pleadings; the advocate might interview the client and argue the case. However, the advocate also may do some research and prepare pleadings, or the assistant may get information directly from the client before drawing up a petition. Sometimes legal assistants not only file the papers with the clerk of the court, but also respond to the calling of the roll. Appearance in court is prohibited to paralegals under some state laws.

Another illustration of an individual who does the work of both advocate and legal assistant is the jailhouse writer. This legal paraprofessional (although incarcerated) solicits and provides a wide range of legal services. This paralegal's services may include legal researching, brief and writ writing, and giving legal advice.

PARALEGALS PAST AND PRESENT

AS IT EXISTS today, the legal system of the United States is extremely formal and highly structured. But it has not always been that way. During colonial times, many people had a distrust of the formal procedures used by lawyers. They either represented themselves in disputes or had persons who were not legally trained speak for their interests.

Beginnings of the Legal Profession

In the early days of the United States, almost anyone could become a lawyer or judge without meeting rigorous training requirements. In fact, the first judges in the United States were not lawyers. Indiana, like many other states, permitted any morally upright voter to practice law in its courts. Even today, many judicial positions are open to nonlawyers.

In the past, lawyers often got their training by reading the law. Abraham Lincoln became a lawyer in this way. Clarence Darrow, another famous lawyer, received no formal legal training. Simply reading about the law and then taking a bar examination is still permitted in a few states, but with many strings attached. Generally the practice of law requires graduation from an American Bar Association–approved law school and successful completion of a state bar examination.

In early times, before typewriters or word processors, lawyers needed apprentices—people who could write clearly—to prepare copies of documents in longhand. With the rise of industrialization in the nineteenth century came specialization in law practice, and an increased concern for organization and efficiency.

Before that time, most lawyers usually had been solo practitioners who did everything themselves. When this tendency began to change, there was much resistance from older lawyers, who believed that lawyers should not delegate any duties to non-lawyers. To do so, the older lawyers argued, would corrupt the practice of law. Remnants of this attitude are still encountered today, but now all lawyers recognize the need for a clerical and secretarial staff. Most lawyers also welcome other nonlegal staff, including paralegals.

The Advent of Bar Associations

Experts on the law generally consider the modern legal period to have begun in 1870 with the establishment of the Association of the Bar of New York City. Many bar associations were formed in subsequent decades at state and local levels. Among their purposes were disciplining lawyers and protecting attorneys from the