

CHAPTER 2

DEFINING THE PROFESSION

Chapter Outline

VOLUME 1, CHAPTER 2

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Chapter 2 Introduction

ALL SIGNS POINT UP!

Over the past thirty years the paralegal profession has consistently grown in job opportunities and salary expansion according to the U.S. Bureau of Labor Statistics. While not quite at the 20-percent growth of the early 2000s, paralegal growth rate has still consistently been in the high single to mid-double-digit range. In addition, the paralegal profession has the strongest anticipated growth rate of any legal occupation, including attorneys.

While most law firms will likely choose to use the fully-staffed, face-to-face law office as an office strategy, it appears that a significant number of firms may include remote work as part of an updated office environment.

This may include home/work environments, even post-pandemic, working from home 2 or 3 days per week and venturing to the office for the remaining days. It's possible that staff will work in the office on alternate days to limit exposure risk.

A *platoon system* is also gaining popularity, reshuffling staff and duties to ensure that necessary support staff *platoons* as a "team." Any of these, and more, are possible new work situations. Be helpful, positive, and supportive of the firm's decisions. In many ways such a scenario would be advantageous to employees, but make sure to work as hard from home as you would in the office.

IN THIS CHAPTER . . .

DEFINING THE PROFESSION

OPTIONS FOR PARALEGAL EDUCATION

POSSIBLE CAREER PATHS

§ 2.1

What is a Paralegal?

A Flexible Evolution

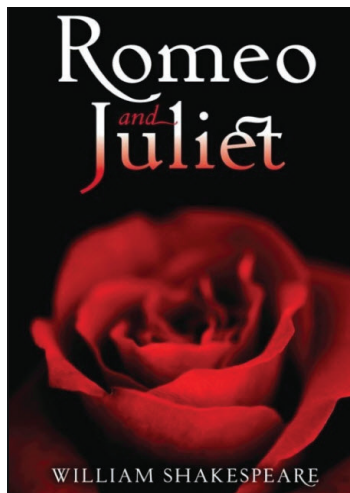
WHAT'S IN A NAME?

"What's in a name? That which we call a rose by any other name would smell as sweet."

- William Shakespeare

Consider this list:

- *Legal Assistant.*
- *Administrative Legal Assistant.*
- *Administrative Assistant.*
- *Executive Assistant.*
- *Executive Administrative Assistant.*
- *Legal Technician.*
- *Medical Legal Assistant*



"... a rose by any other name would smell as sweet." – Spoken by Juliet

All of these have been used to describe what, in most cases, is a person who assists an attorney or corporate employer in areas relevant to the law.

But no matter what the title is, they are all forms of one overarching profession:

Paralegal.

This profession is relatively young. As we will see, that is an advantage to those about to become paralegals. It opens opportunities and career paths that may be more difficult to pursue later. But first things first. We need to discuss not just what a paralegal is called, but what being a paralegal means.

So, beginning in this chapter we will consider current definitions of what a paralegal is, and try to determine if those definitions are accurate in today's fast-changing world, for this fast-changing occupation.

AN EVOLVING DEFINITION

References

paralegal *n* :

a person with specialized training who assists lawyers [synonym: legal assistant]

This definition for the term paralegal, provided by the *American Heritage Dictionary*, demonstrates the problem that has always faced the profession: There seems to be no general agreement about what exactly a paralegal is.

Part of the problem is scope. The above definition could apply just as well to a legal secretary, a librarian, a file clerk, or even a janitor. Is it really the best possible definition?

The *American Bar Association*, using *Merriam-Webster's Dictionary of Law*, provides a slightly more informative definition:

paralegal ['par-e-'le-gel] :

of, relating to, or being a paraprofessional who assists a lawyer

This definition, at least, eliminates the janitor. But what is a "paraprofessional"? Does that mean that paralegals are "kind of" professional? Back to the dictionary.

paraprofessional *n*.

a trained worker who is not a member of a given profession but who assists a professional

This doesn't make things much clearer.

The authors of this manual beg to differ with *American Heritage*, *Webster's*, and even the *American Bar Association*. The truth is that:

- **Paralegals do more than assist lawyers**
- **Paralegals are professionals**
- **It's time for a better definition.**

PARALEGALS DO MORE THAN ASSIST LAWYERS

Currently, paralegals work in dozens of different environments, including:

- traditional law offices
- courts
- governors' offices
- mayors' offices
- the White House
- corporate law offices
- real estate offices
- the FBI
- prosecutors' offices
- public defenders' offices
- investigative positions
- government agencies
- child welfare groups
- political action committees
- social service agencies
- hospital administrative offices
- freelance work for attorneys
- owners of small businesses, representing their own interests

Some of these involve working for attorneys, but many do not. Paralegals work in a variety of environments. They perform an incredible variety of tasks, most, but certainly not all, related to working for attorneys.

For instance, when working in political offices, research, media relations, and other tasks may be performed for non-attorney supervisors. When employed in a real estate position, it is possible that no attorney is in a supervisory capacity. Law-enforcement paralegal positions, such as those with the FBI, are often without direct attorney supervision.

PARALEGALS ARE PROFESSIONALS

The debate continues about whether paralegals are professionals or staff. These debates tend to center around how a paralegal is compensated: Hourly, or by an annual salary. The majority of paralegals are not paid hourly but are paid an annual salary. Unlike other staff, a paralegal is commonly provided with office space.

The more relevant question in determining the professional status of a paralegal is the role the individual plays in the representative process. Most paralegals engage in more than clerical work. They perform tasks that require specific skills such as legal research, interviewing, and drafting legal documents. Most paralegals are issued business cards.

Most attorneys bill paralegals on an hourly basis to the client. Many courts have established that paralegals are different from other office staff. Courts have declared, for instance, that hours spent on a case by a legal secretary are not billable to the client. The secretary is considered staff, part of the overhead expenses for which the attorney is responsible. (Attorneys are traditionally forbidden from billing for overhead costs, other than those costs incurred specifically due to an unusual representation.)

These are only a few of the indicators of the status paralegals enjoy today. Most attorneys consider paralegals professionals. You are not entering the paralegal “paraprofession,” but the paralegal *profession*.

IT'S TIME FOR A BETTER DEFINITION

The skills paralegals use are remarkably varied. Some investigate. Some advocate. Many are experts at creating legal documents. Some function primarily as legal researchers. Some interview clients. Some interview witnesses. Most use litigation skills. Many use all of these skills, in one form or another.

We now have essentially created our own definition for the word paralegal:

paralegal *n.*

a person who assists an attorney in advocating on behalf of a client or who works for a corporate or government entity dealing with legal matters, and who, in the course of this advocacy, may create legal documents, investigate relevant facts, conduct legal research, interview clients and witnesses, and perform other relevant tasks as necessary

This definition more clearly describes a paralegal, but we still have a problem. This definition could as easily pertain to one lawyer assisting another lawyer.

We must clarify the differences between an attorney and a paralegal. To do so is actually quite simple. Despite all the training a lawyer receives, there are only two functions that a lawyer may engage in that a paralegal may not:

1. *A paralegal may not give legal advice*
2. *A paralegal may not act as a legal representative on behalf of another in a court of law*

That's it. Every other task that an attorney engages in may be legally performed by a paralegal under the supervision of an attorney. There are other specific tasks that a paralegal may not perform, such as setting fees, asking questions at a deposition, and accepting or rejecting cases. But these are not allowed because, in fact, they are part of legal representation. After a slight modification, we have the following definition:

paralegal *n.*

a person who assists an attorney in advocating on behalf of a client or who works for a corporate or government entity dealing with legal matters, and who, in the course of this advocacy, may create legal documents, investigate relevant facts, conduct legal research, interview clients and witnesses, and perform any other tasks that an attorney may perform, except give legal advice or act as a legal representative on behalf of another in a court of law

Paralegals perform an incredible variety of tasks and have advanced skills in legal research and writing. Most attorneys understand that performing these tasks well requires training and hard work.

This is a relatively new profession and there is a hidden advantage to the lack of a universally recognized definition of the paralegal profession. It means that the final definition has yet to be written. As a paralegal, you will help establish that definition. Like it or not, you will help define the profession by your conduct, your ethics, the quality of your work, your attitude, and, yes, by your professionalism.