

INDIANA PARALEGAL ASSOCIATION
CODE OF ETHICS AND PROFESSIONAL RESPONSIBILITY
AND RULES FOR ENFORCEMENT

PREAMBLE

The Indiana Paralegal Association ("IPA") is a professional organization comprised of individual paralegals throughout the State of Indiana. Members of IPA have varying types of backgrounds, experience, education, and job responsibilities which reflect the diversity of the paralegal profession. IPA promotes the growth, development and recognition of the paralegal profession's integral role in the delivery of legal services.

IPA recognizes that the creation of guidelines and standards for professional conduct are vital for the development and expansion of the paralegal profession. On November 1, 1995, IPA adopted this Code of Ethics and Professional Responsibility ("Code") to delineate the principles for ethics and conduct by which every paralegal shall abide. On July 24, 1998, IPA adopted the Rules for Enforcement ("Rules") and made them a part of the Code. The Code expresses IPA's commitment to increasing the quality and efficiency of legal services and recognizes the profession's responsibilities to the public, the legal community, and colleagues.

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

§§ 1 Code of Ethics and Professional Responsibility

CANON 1

A PARALEGAL SHALL COMPLY WITH ALL APPLICABLE LEGAL AUTHORITY GOVERNING PARALEGAL ETHICS AND PROFESSIONAL RESPONSIBILITY.

EC 1.1 A paralegal employed by a lawyer shall be governed by the applicable sections of the Indiana Rules of Professional Conduct.

CANON 2

A PARALEGAL SHALL ACHIEVE AND MAINTAIN A HIGH LEVEL OF COMPETENCE.

EC 2.1 A paralegal shall achieve competency through education, training, and work experience.

EC 2.2 A paralegal shall participate in continuing education to keep informed of current legal, technical and general developments.

EC 2.3 A paralegal shall perform all assignments efficiently and competently.

CANON 3

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

EC 3.1 A paralegal shall not engage in any ex parte communications involving the courts or any other adjudicatory body in an attempt to exert undue influence or to obtain advantage for the benefit of only one party.

EC 3.2 A paralegal shall not communicate, or cause another to communicate, with a party the paralegal knows to be represented by a lawyer in a pending matter without the prior consent of the lawyer representing such other party.

EC 3.3 A paralegal shall ensure that all timekeeping and billing records prepared by the paralegal are thorough, accurate, and honest.

CANON 4

A PARALEGAL SHALL UPHOLD THE FAIR ADMINISTRATION OF JUSTICE AND SHALL AVOID ANY FRAUDULENT OR DECEPTIVE PRACTICES.

EC 4.1 A paralegal shall be scrupulous, thorough and honest in the identification and maintenance of all funds, securities, and other assets of a client, and in all other business and professional matters.

EC 4.2 A paralegal shall advise the proper authority of any dishonest or fraudulent acts by any person pertaining to the handling of the funds, securities or other assets of a client.

EC 4.3 A paralegal shall advise the proper authority of any action of another legal professional which clearly demonstrates fraud, deceit, dishonesty, or misrepresentation.

CANON 5

A PARALEGAL SHALL MAINTAIN A HIGH STANDARD OF PROFESSIONAL CONDUCT.

EC 5.1 A paralegal shall refrain from engaging in any conduct that offends the dignity and decorum of proceedings before a court or other adjudicatory body and shall respect all rules and procedures.

EC 5.2 A paralegal shall act within the bounds of the law, uncompromisingly for the benefit of the client.

CANON 6

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

EC 6.1 A paralegal shall be sensitive to the legal needs of the public and shall support the development and implementation of programs that address those needs.

EC 6.2 A paralegal shall support bona fide efforts to meet the need for legal services by those unable to pay reasonable or customary fees; for example, participation in pro bono projects and volunteer work.

EC 6.3 A paralegal shall support efforts to improve the legal system.

CANON 7

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

EC 7.1 A paralegal shall become aware of and abide by legal provisions in Indiana governing confidential information, including, but not limited to, the relevant rules of the Indiana Rules of Professional Conduct.

EC 7.2 A paralegal shall not use confidential information to the disadvantage of the client.

EC 7.3 A paralegal may reveal confidential information only after full disclosure and with the client's written consent; or, when required by law or court order; or when necessary to prevent the client from committing a criminal act.

EC 7.4 A paralegal shall keep those attorneys responsible for the legal representation of a client fully informed of any confidential information the paralegal may have pertaining to that client.

EC 7.5 A paralegal shall not engage in any indiscreet communications concerning clients.

CANON 8

A PARALEGAL'S STATUS SHALL BE FULLY DISCLOSED.

EC 8.1 A paralegal's status shall be clearly indicated and disclosed in all business and professional communications.

EC 8.2 A paralegal's title shall be included if the paralegal's name appears on business cards, letterhead, brochures, directories, and advertisements.

CANON 9

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

EC 9.1 A paralegal shall comply with the applicable Indiana legal authority governing the unauthorized practice of law.

EC 9.2 A paralegal shall not:

(a) be responsible for establishing an attorney-client relationship;

(b) be responsible for establishing the amount of a fee to be charged to a client for a legal service;

(c) be responsible for rendering a legal opinion to a client; or

(d) enter an appearance on behalf of a client in court unless authorized by that court or by agency rule.

CANON 10

A PARALEGAL SHALL AVOID CONFLICTS OF INTEREST AND SHALL DISCLOSE ANY POSSIBLE CONFLICT TO THE EMPLOYER OR CLIENT, AS WELL AS TO PROSPECTIVE EMPLOYERS OR CLIENTS.

EC 10.1 A paralegal shall act within the bounds of the law, solely for the benefit of the client, and shall be free of compromising influences and loyalties. Neither the paralegal's personal or business interest, nor those of other clients or third persons, should compromise the paralegal's professional judgment and loyalty to the client.

EC 10.2 A paralegal shall avoid conflicts of interest which may arise from previous assignments, whether for a present or past employer or client.

EC 10.3 A paralegal shall avoid conflicts of interest which may arise from family relationships and from personal and business interests.

EC 10.4 A paralegal shall reveal sufficient non-confidential information about a client or former client to reasonably ascertain if a conflict of interest exists.

EC 10.5 A paralegal shall not participate in or conduct work on any matter where a conflict of interest has been identified.

EC 10.6 In matters where a conflict of interest has been identified and the client consents to continued representation, a paralegal shall comply fully with the requirements and restrictions of an Ethical Wall.

§§ 2 Rules for Enforcement of Code of Ethics and Professional Responsibility

D.R. 2.1 Basis For Discipline

2.1(a) Disciplinary investigations and proceedings brought under authority of the Rules shall be conducted in accord with obligations imposed on the paralegal profession by the IPA Code of Ethics and Professional Responsibility.

D.R. 2.2 Structure of Disciplinary Division of the Ethics Committee

2.2(a) The Disciplinary Division shall be made up of nine (9) members appointed by the IPA Board of Directors.

2.2(b) Each member of the Disciplinary Division, including any temporary replacement members, shall have demonstrated working knowledge of ethics/professional responsibility-related issues and activities.

2.2(c) A reasonable effort shall be made to represent a cross-section of practice areas, work experience, and geographical areas of the state. The following recommendations are made regarding the members of the Disciplinary Division:

- 1) At least one paralegal with one to three years of law-related work experience;
- 2) At least one paralegal with five to seven years of law-related work experience;
- 3) At least one paralegal with over ten years of law-related work experience;
- 4) One paralegal educator with five to seven years of academic experience, preferably in the area of ethics/professional responsibility;
- 5) Chairperson of the Ethics Committee;
- 6) One lawyer with five to seven years of law-related work experience, and;
- 7) One lay member.

2.2(d) The Chair of the Disciplinary Division shall be appointed within thirty (30) days of its members' induction. The Chair shall have no fewer than five (5) years of law-related work experience.

2.2(e) The terms of all members of the Disciplinary Division shall be staggered. Of those members initially appointed, three shall be appointed to a term of three years, three shall be appointed to a term of two years, and three shall be appointed to a term of one year. Thereafter, all members of the Disciplinary Division shall be appointed to terms of three years, with the exception of the Ethics Chair who shall serve only during his/her tenure in that position.

2.2(f) If for any reason the terms of a majority of the Disciplinary Division will expire at the same time, members may be appointed to terms of one year to maintain continuity of the Disciplinary Division.

2.2(g) The Disciplinary Division shall organize from its members a three-tiered structure to investigate, prosecute, and/or adjudicate charges of misconduct. The members shall be rotated among the tiers.

D.R. 2.3 Operation of the Disciplinary Division

2.3(a) The Disciplinary Division shall meet on a regular basis and as-needed to discuss, investigate, prosecute, and/or adjudicate alleged violations of the IPA Code/Rules.

2.3(b) A majority of the members of the Disciplinary Division must be present at a meeting to constitute a quorum.

2.3(c) A Recording Secretary shall be designated to maintain complete and accurate minutes of all Disciplinary Division meetings. All such minutes shall be kept confidential until a decision has been made that the matter will be set for hearing as set forth in Section 2.6(a) below.

2.3(d) If any member of the Disciplinary Division has a conflict of interest with the Charging Party, the Responding Party, or the allegations of misconduct, that member shall not take part in any hearing or deliberations concerning those allegations. If the absence of that member creates a lack of quorum for the Disciplinary Division, then a comparable temporary replacement for the member shall be appointed.

2.3(e) Either the Charging Party or the Responding Party may request that, for good cause shown, any member of the Disciplinary Division not participate in a hearing or deliberation. All such requests shall be honored. If the absence of a Disciplinary Division member under those circumstances creates a lack of quorum for the Disciplinary Division, then a comparable temporary replacement for the member shall be appointed.

2.3(f) All discussions and correspondence of the Disciplinary Division shall be kept confidential until a decision has been made that the matter will be set forth for hearing as set forth in Section 2.6(a) below.

2.3(g) All correspondence from the Disciplinary Division to the Responding Party regarding any charge of misconduct and any decisions made regarding the charge shall

be mailed certified mail, return receipt requested, to the Responding Party's last known address and shall be clearly marked with a "Confidential" designation.

D.R. 2.4 Procedure For The Reporting of Alleged Violations of the Code/Rules

2.4(a) An individual or entity in possession of non-confidential knowledge or information concerning possible instances of misconduct shall make a confidential written report to the Ethics Chairperson within forty-five (45) days of obtaining same. This report shall include all details of the alleged misconduct.

2.4(b) The Disciplinary Division so notified shall inform the Responding Party of the allegation(s) of misconduct no later than ten (10) business days after receiving the confidential written report from the Charging Party.

2.4(c) Notification to the Responding Party shall include the identity of the Charging Party, unless, for good cause shown, the Charging Party requests anonymity.

2.4(d) The Responding Party shall reply in writing to the allegations within ten (10) business days of receipt of the notification.

D.R. 2.5 Procedure for the Investigation of a Charge of Misconduct

2.5(a) Upon the receipt of a Charge of Misconduct ("Charge"), or on its own initiative, the Disciplinary Division shall initiate an investigation.

2.5(b) If, upon initial or preliminary review, the Disciplinary Division makes a determination that the charges are either without basis in fact or, if proven, would not constitute professional misconduct, the Disciplinary Division shall dismiss the allegations of misconduct and promptly notify all parties. If such determination of dismissal cannot be made, a formal investigation shall be initiated.

2.5(c) Upon the decision to conduct a formal investigation, the Disciplinary Division shall:

1) mail to the Charging and Responding Parties, within three (3) business days of that decision, notice of the commencement of a formal investigation. That notification shall be in writing and shall contain a complete explanation of all Charge(s), as well as the reasons for a formal investigation and shall cite the applicable codes and rules;

2) allow the Responding Party thirty (30) days to prepare and submit a confidential response to the Disciplinary Division, which response shall address each charge specifically and shall be in writing; and

3) upon receipt of the response to the notification, have thirty (30) days to investigate the Charge(s). If an extension of time is deemed necessary, that extension shall not exceed ninety (90) days.

2.5(d) Upon conclusion of the investigation, the Disciplinary Division may:

- 1) dismiss the Charge upon the finding that it has no basis in fact;
- 2) dismiss the Charge upon the finding that, if proven, the Charge would not constitute Misconduct;
- 3) refer the matter for prosecution and adjudication;
- 4) in the case of criminal activity, refer the Charge(s) and all investigation results to the appropriate authority.

D.R. 2.6 Procedure for a Misconduct Hearing

2.6(a) Upon the decision by the Disciplinary Division that a matter should be heard, all parties shall be notified and a hearing date shall be set. The hearing shall take place no more than thirty (30) days from the conclusion of the formal investigation.

2.6(b) The responding Party shall have the right to counsel. The parties shall have the right to call any witnesses and introduce any documentation that they believe will lead to the fair and reasonable resolution of the matter.

2.6(c) Upon completion of the hearing, the Disciplinary Division shall deliberate and present a written decision to the parties in accordance with procedures as set forth by the Disciplinary Division.

2.6(d) Notice of the decision of the Disciplinary Division shall be appropriately recorded and maintained, along with the accompanying file, by IPA.

D.R. 2.7 Sanctions

2.7(a) Upon a finding that misconduct has occurred, any of the following sanctions, may be imposed upon the Responding Party, either singularly or in combination:

- 1) letter of reprimand to the Responding Party; counseling as to the appropriate behavior;
- 2) six months probationary membership and completion of an ethics course approved by the Disciplinary Division;
- 3) short-term suspension of not less than six months, or more than one year, to be determined by the Disciplinary Division. Reinstatement shall be automatic at the end of the time period and upon completion of an approved Ethics course;
- 4) long-term suspension for a defined period to be determined by the Disciplinary Division. The Responding Party may apply for reinstatement at the end of the

suspension period, and must demonstrate by clear and convincing evidence that the cause(s) of the underlying misconduct have been successfully addressed, and demonstrate fitness to return to full membership. An approved Ethics course must be completed before reinstatement.

5) revocation of membership for a period of not less than five years to be determined by the Disciplinary Division;

6) assessment of costs; or

7) in the instance of criminal activity, referral to the appropriate authority.

2.7(b) Upon the expiration of any period of suspension, or revocation, the Responding Party may make application for reinstatement. With the application for reinstatement, the Responding Party must show proof of having complied with all aspects of the sanctions imposed by the Disciplinary Division, including completion of an ethics course approved by the Disciplinary Division.

D.R. 2.8 Appellate Procedures

2.8(a) The parties shall have the right to appeal the decision of the Disciplinary Division in accordance with the procedure as set forth by the that Disciplinary Division. The Appellate Panel shall consist of the Officers of the Indiana Paralegal Association and the Chairperson of the Ethics Disciplinary Division. The Ethics Chair shall vote only in case of a tie.

DEFINITIONS

"Appellate Body" means a body established to adjudicate an appeal to any decision made by a Tribunal or other decision-making body with respect to formally-heard Charges of Misconduct.

"Charge of Misconduct" means a written submission by any individual or entity to an ethics committee, paralegal association, bar association, law enforcement agency, judicial body, government agency, or other appropriate body or entity, that sets forth non-confidential information regarding any instance of alleged misconduct by an individual paralegal or paralegal entity.

"Charging Party" means any individual or entity who submits a Charge of Misconduct against an individual paralegal or paralegal entity.

"Client" means a lay person, corporation or other entity who employs or retains an attorney to appear for him in courts, advise, assist, and defend him in legal proceedings, and to act for him in any legal business. As used in this Code, the term "client" does not refer to those attorneys who employ freelance paralegals.

"Competency" means the demonstration of: diligence, education, skill, and mental, emotional, and physical fitness reasonably necessary for the performance of paralegal services.

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

"Disciplinary Hearing" means the confidential proceeding conducted by a committee or other designated body or entity concerning any instance of alleged misconduct by an individual paralegal or paralegal entity.

"Disciplinary Committee" means any committee that has been established by an entity such as a paralegal association, bar association, judicial body, or government agency to: (a) identify, define and investigate general ethical considerations and concerns with respect to paralegal practice; (b) administer and enforce the Model Code and Model Rules and; (c) discipline any individual paralegal or paralegal entity found to be in violation of same.

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

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

"Ex parte" means actions or communications conducted at the instance and for the benefit of one party only, and without notice to, or contestation by, any person adversely interested.

"Firm or Law Firm" A lawyer or lawyers in a private firm, lawyers employed in the legal department of a corporation or other organization and lawyers employed in a legal services organization. See Comment, Rule 1.10, Indiana Rules of Professional Conduct.

"Freelance Paralegal" A paralegal or legal assistant who contracts with law firms or individual attorneys to perform discrete assignments on an as-needed, case-by-case basis as determined by the employing law firm or individual attorney. Such paralegals operate under the supervision of the employing individual attorney or employing law firm's attorneys at all times.

"Investigation" means the investigation of any charge(s) of misconduct filed against an individual paralegal or paralegal entity by a Committee.

"Letter of Reprimand" means a written notice of formal censure of sever reproof administered to an individual paralegal or paralegal entity for unethical or improper conduct.

"Misconduct" means the knowing or unknowing commission of an act that is in direct violation of those Canons and Ethical Considerations of any and all applicable codes and/or rules of conduct.

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

"Probation" means a period of testing and trial to ascertain fitness during which voting privileges are suspended.

"Proper Authority" means the local paralegal association, the local or state bar association, Committee(s) of the local paralegal or bar association(s), local prosecutor, administrative agency, or other tribunal empowered to investigate or act upon an instance of alleged misconduct.

"Responding Party" means an individual paralegal or paralegal entity against whom a Charge of Misconduct has been submitted.

"Revocation" means the rescission of IPA membership and privileges of an individual paralegal or paralegal entity found in violation of those Canons and Ethical Considerations of any and all applicable codes and/or rules of conduct.

"Suspension" means the temporary removal of IPA membership and privileges of an individual paralegal or paralegal entity found in violation of those Canons and Ethical Considerations of any and all applicable codes and/or rules of conduct.

"Tribunal" means the body designated to adjudicate allegations of misconduct.