

Are Paralegal Fees Recoverable?

Paralegal hours are billable to the client and those fees are recoverable if the paralegal is performing substantive legal work that would otherwise be performed by an attorney,

In *Missouri v. Jenkins*, 491 U.S. 274 (1989), the U.S. Supreme Court upheld the practice of billing paralegal hours at market rates, stating that “[b]y encouraging the use of lower cost paralegals rather than attorneys wherever possible, permitting market-rate billing of paralegal hours encourages cost-effective delivery of legal services...”

Further, courts are increasingly prone to reduced fee awards when they determine that the work performed should have been done by a paralegal instead of a lawyer. See, e.g., *Lipsett v. Blanco*, 975 F.2d 934 (1st Cir. 1992).

Can a Paralegal’s Name Appear on Firm Letterhead?

The KBA Professional Ethics Advisory Committee authorizes the listing of the name of a paralegal on the firm’s letterhead if the paralegal’s non-lawyer status is clearly indicated.

Paralegals may also have business cards that clearly indicate their non-lawyer status and include the name and address of the lawyer or firm for whom they work.

What is the Lawyer’s Responsibility?

A lawyer who supervises a paralegal:

- must ensure that the paralegal’s conduct complies with the Kansas Rules of Professional Conduct;
- must ensure that the paralegal is competent to perform the work assigned to him/her;
- must not form a partnership or other entity with the paralegal for the purpose of practicing law;
- must not share fees with the paralegal; and
- must maintain ultimate responsibility for the paralegal’s work product.



For more information regarding education and professional development for paralegals contact:

National Association of Legal Assistants (NALA)

1516 South Boston, #200, Tulsa, OK 74119
(918) 587-6828 • www.nala.org

National Federation of Paralegal Associations (NFPA)

23607 Highway 99, Suite 2-C, Edmonds, WA 98026
(425) 967-0045 • www.paralegals.org

KBA Pamphlets

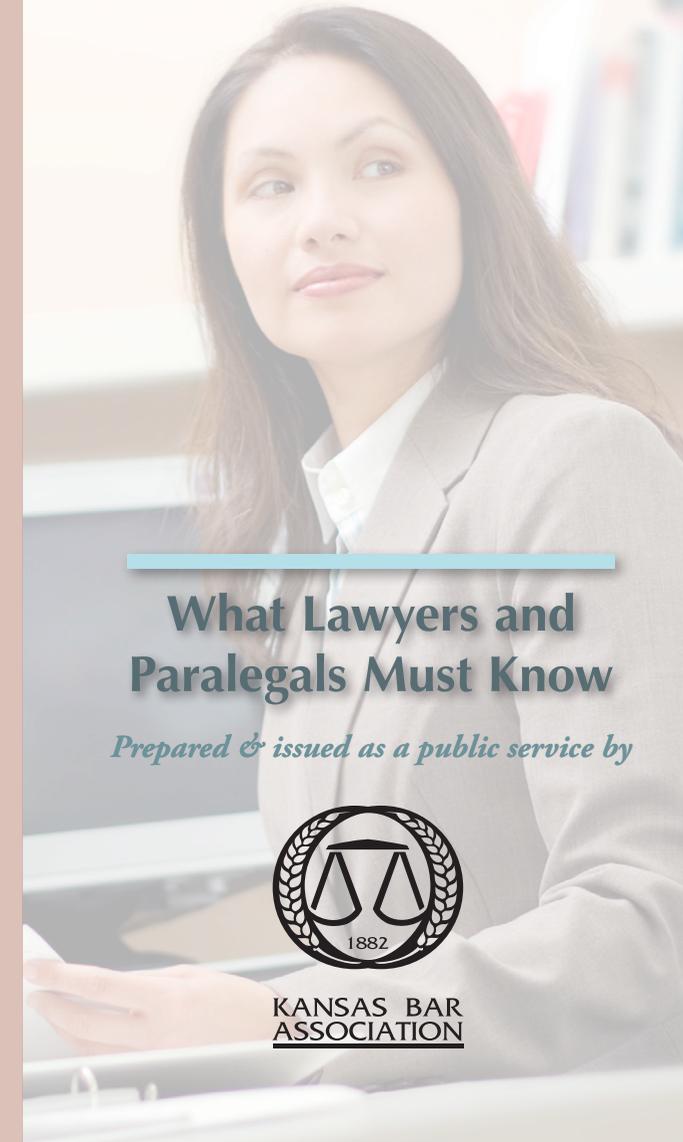
As a public service of the KBA and the lawyers in your community, the following pamphlets are available in limited quantities through the KBA office, 1200 SW Harrison, Topeka, KS 66612-1806; (785) 234-5696.

Aging and the Law • The Automobile Accident • Child Custody, Support, & Visitation Rights • A Death in the Family... What Should I do? • Domestic Violence – A Practical Guide for Victims • Violencia Domestica – Guia Practica para las Victimas • Divorce – an IRS Perspective • Introducing Your Lawyer • Is a Living Trust for You? • Joint Tenancy • Juror: Your Rights and Duties • Living Wills and the Durable Power of Attorney for Health Care Decisions • Marriage & Divorce • Small Claims Court • Stop, Look, and Check Before Buying a Home • Ways to Settle Your Dispute • What Is Probate? • What’s So Important About a Will?



**KANSAS BAR
ASSOCIATION**

Utilizing Paralegals in Kansas



What Lawyers and Paralegals Must Know

Prepared & issued as a public service by



**KANSAS BAR
ASSOCIATION**

Who is a Paralegal?

A paralegal is defined by the Official Standards and Guidelines for the Utilization of Paralegals in Kansas as follows: “A paralegal 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.”

Persons not meeting the definition of a paralegal as defined by the Official Standards and Guidelines for the Utilization of Paralegals in Kansas are discouraged from identifying themselves as paralegals. Lawyers are also discouraged from identifying non-lawyer support staff as paralegals unless he/she qualifies as a paralegal.

What is “Substantive Legal Work?”

“Substantive legal work” is work that requires knowledge of legal concepts and is customarily, but not exclusively, performed by a lawyer. Examples of substantive legal work performed by a paralegal include: case development and management; interviewing clients; fact research and analysis; legal research and analysis; and drafting legal documents. Substantive legal work performed by a paralegal under the supervision of a licensed lawyer does not constitute the unauthorized practice of law.

Paralegal vs. Legal Assistant

Historically, the terms “paralegal” and “legal assistant” have been used interchangeably. The term “legal assistant” is now being used to refer to positions outside the paralegal definition, including legal secretaries and other law office support staff, and is no longer synonymous with the term “paralegal.” Within the last few years, the term “paralegal” has become the preferred term across the United States to identify highly trained legal support staff that perform substantive legal work.

What are the Qualifications for a Paralegal in Kansas?

Any lawyer employing a paralegal should establish guidelines as to the expertise, educational background, and any other special requirements needed for the position. The KBA Paralegal Committee recommends the following standards:

1. Graduation from an educational program for paralegals which has been approved by the ABA or graduation from a paralegal program offered by an accredited institution which is in substantial compliance with ABA guidelines for paralegal education.

OR

2. Passing one of the nationally recognized examinations designed for paralegals, such as the CP (Certified Paralegal) or the ACP (Advanced Certified Paralegal) administered by the National Association of Legal Assistants, or the CRP™ (CORE Registered Paralegal) or the RP® (Registered Paralegal) administered by the National Federation of Paralegal Associations.

OR

3. Completion of a baccalaureate degree in any discipline from an accredited institution and not less than one year of in-house training as a paralegal.

OR

4. Completion of an associate’s degree in any discipline from an accredited institution and not less than three years of in-house training as a paralegal.

What Conduct is Prohibited by a Paralegal?

A paralegal shall not:

- accept cases;
- set fees for the services performed by the paralegal or the lawyer;
- give legal advice;
- appear, plead, try cases, or argue on behalf of a client in a Kansas court or agency; or
- engage in any conduct that constitutes the unauthorized practice of law.

Paralegal Accountability

The paralegal is directly accountable to the lawyer. The lawyer maintains ultimate responsibility for and has an ongoing duty to actively supervise the paralegal’s work performance, conduct and work product.

What is a Paralegal’s Duty to the Public?

A paralegal shall:

- disclose to the client that he/she is not a lawyer and cannot give legal advice; and
- follow the Kansas Rules of Professional Conduct.

A paralegal shall perform services for the public only under the supervision of a lawyer unless otherwise authorized by law.

