



PAR 103

Legal Ethics for Paralegals

Course Package

**Presented and Approved
December 7, 2007
Modified 2/6/2009**



NEW COURSE PACKAGE FORM

Contact person(s)	Jennifer Montante
Date of proposal to Curriculum Committee	December 7, 2007

COURSE INFORMATION

Prefix & Number	PAR 103	Title	Legal Ethics for Paralegals
Catalog Course Description Rules and principles of professional responsibility in the legal field. Includes rules of legal ethics, ethical guidelines, attorney supervision of paralegals, unauthorized practice of law, confidentiality, conflict of interest, advertising and solicitation, attorneys' fees and fiduciary duties, competence, malpractice, ethical conduct issues in litigation, and professional integrity issues.			
Credit hours	Lecture hours	Lab hours	
3	3	0	
Prerequisite(s)	PAR 101. Modified 2/6/09 Successful completion of or concurrent enrollment in PAR 101		
Co-requisite(s)	PAR 101 may be taken as a Co-requisite.		
Does this course need a separately scheduled lab component? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
Proposed semester for new course to start	<input type="checkbox"/> Fall 20__	<input checked="" type="checkbox"/> Spring 2008	<input type="checkbox"/> Summer 20__
Does this course need additional fees attached? If so, please explain. No.			

Is there a similar course in the college bank?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, identify:
Articulation: Is this course or an equivalent offered at other two- and four-year universities in AZ?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, identify the college, subject, prefix, number, and title: PIMA, Paralegal Ethics, PAR 104

Writing Across the Curriculum Rationale: Mohave Community College firmly supports the idea that writing can be used to
--

improve education; students who write in their respective content areas will learn more and retain what they learn better than those who don't. Courses in the core curriculum have been identified as "Writing Across the Curriculum" courses.	
Suggested minimum standards for the Writing Across the Curriculum component are as follows:	
<ol style="list-style-type: none"> 1. The writing assignments should total 1500 – 2000 words. For example, a single report which is 1500 words in length could fulfill the requirement, or a series of essay questions and short papers (example: four -375 word assignments) which total 1500 words could meet the requirement. 2. The writing component will represent at least 10% of a student's final grade in the course. 	
Is this a course identified as a Writing Across the Curriculum course?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Intended Course Outcomes

By the end of the semester, students will be able to:

1. Understand the legal scope of practice of the paralegal and recognize areas that constitute unauthorized practice.
2. Understand the ways in which law practices can solicit clients and advertize their practice.
3. Recognize and discern the ethical responsibilities of the paralegal.
4. Understand the role and responsibilities that pertain to the client relationship.

Course Competencies and Objectives

<p>Competency 1: Explain the regulation of the legal profession, as it relates to both attorneys and paralegals.</p> <p>Objective 1.1 Diagram the process of becoming an attorney in the majority of states.</p> <p>Objective 1.2 Define the word "paralegal" in accordance with the definition of the association of the student's choice.</p> <p>Objective 1.3 Discuss the different options and ways that one can become a paralegal.</p> <p>Objective 1.4 Diagram the process by which an attorney complaint is handled.</p> <p>Objective 1.5 Identify the major associations for legal professional and explain the role that each one plays in the regulation of the legal profession.</p>
<p>Competency 2 Identify and describe unauthorized practice of law ("UPL").</p> <p>Objective 2.1 Explain what the modern rules say about UPL.</p> <p>Objective 2.2 Describe what non-lawyers cannot do.</p> <p>Objective 2.3 List activities that are not UPL because there is no giving legal advice.</p> <p>Objective 2.4 Explain how UPL laws are enforced.</p>
<p>Competency 3 Describe the duty of confidentiality as it relates to attorneys and</p>

<p>paralegals.</p> <p>Objective 3.1 Define the word “confidentiality” as it relates to the legal profession.</p> <p>Objective 3.2 Define “attorney/client privilege.”</p> <p>Objective 3.3 Compare and contrast confidentiality and attorney/client privilege.</p> <p>Objective 3.4 Define “work product privilege.”</p> <p>Objective 3.5 List and describe the exceptions when confidential information may be divulged.</p> <p>Objective 3.6 Apply the duty of confidentiality to hypothetical questions to select the most ethical outcome.</p>
<p>Competency 4 Describe how conflicts of interest can arise and how they must be handled in order to uphold the duty of loyalty.</p> <p>Objective 4.1 List and describe ways in which a paralegal’s personal life can create conflicts.</p> <p>Objective 4.2 List and describe the different types of conflicts that can be created by representing multiple clients.</p> <p>Objective 4.3 Explain what will happen if a paralegal has a conflict of interest.</p> <p>Objective 4.4 Describe how a conflict of interest may be waived.</p> <p>Objective 4.5 Prepare a Waiver of Conflict of Interest to hand in as a graded assignment.</p>
<p>Competency 5 Describe what attorneys may and may not do in order to attract clients.</p> <p>Objective 5.1 Describe what good lawyer advertising looks like.</p> <p>Objective 5.2 Explain what types of activities constitute bad solicitation.</p> <p>Objective 5.3 Describe what constitutes direct mail when it is a permissible means of communication with prospective clients.</p> <p>Objective 5.4 Explain referral fees and whether or not they are ethical.</p> <p>Objective 5.5 Create a sample advertisement for an attorney or law firm that follows Arizona’s rules about advertising.</p>
<p>Competency 6 Describe how to begin a relationship with a client and how client funds should be handled.</p> <p>Objective 6.1 List and describe the different types of fee agreements that may be used.</p> <p>Objective 6.2 Interpret a fee agreement by translating it into the student’s own words.</p> <p>Objective 6.3 Explain the purpose of a trust account.</p> <p>Objective 6.4 List and describe times when clients’ funds should be placed into the attorney’s trust account.</p>
<p>Competency 7 Describe how attorney competence is measured and what constitutes negligence.</p> <p>Objective 7.1 Describe how competence is measured for an attorney.</p> <p>Objective 7.2 Explain what it means to be competent in a specific area.</p> <p>Objective 7.3 Identify and describe the causes of action that can be brought against negligent lawyers.</p> <p>Objective 7.4 List the defenses to a negligence claim.</p> <p>Objective 7.5 Explain how the negligence rules apply to paralegals.</p>
<p>Competency 8 Describe what type of conduct constitutes zealous representation and what type of conduct must be avoided in order to satisfy this ethical obligation.</p> <p>Objective 8.1 Describe the duty of providing zealous representation.</p>

<p>Objective 8.2 List and describe “zeal” violations that attorneys are ethically prohibited from engaging in (suppressing evidence, fabricating evidence, inducing a witness to lie, allowing a witness to lie, making false affidavits, and making false documents).</p> <p>Objective 8.3 Explain what it means to be “accidentally deceitful.”</p> <p>Objective 8.4 Define ex parte communication and explain why it is bad.</p>
<p>Competency 9 Describe the duty of integrity and the behavior that it entails.</p> <p>Objective 9.1 Describe the duty to report the misconduct of others and when it does and does not apply.</p> <p>Objective 9.2 Explain how the duty of integrity applies to paralegals.</p>

Teacher’s Guide

Course Materials and Equipment

Textbook(s)	Title	Ethics for the Legal Professional (Sixth Edition)
	Author(s)	Deborah K. Orlik
	Publisher	Pearson Prentice Hall
	ISBN	0-13-243647-7
Software	Microsoft Word	
Equipment	Computer	
Other	Internet	

<p>Writing Across the Curriculum *(See Syllabus for grading rubrics)</p>
<p>This course emphasizes and supports writing across the curriculum.</p>

Learning Units

<p>Learning Unit Topic 1: Regulation of the Legal Profession (Sessions 1 & 2) Competency: 1 Objectives: 1.1-1.5 Assignments: 1. Prior to class, read Ethics for the Legal Professional (Text) Chapter 1. 2. Prior to class, read Appendix E (Selections from the ABA Model Rules of Professional Conduct). 3. Answer Critical Thinking question 2 on page 25 in short essay form to hand in as a graded assignment at the beginning of Session 2. Lecture/Class Discussion: 1. Discuss what lawyers are, what paralegals are, where lawyer ethics come from, the authority of the ABA rules, how lawyers are disciplined, how paralegals are regulated, what choices are available for regulating paralegals, and what it means to be “regulated by the courts.” 2. Visit the following websites and discuss the organizations and the role they play in the regulation of the legal profession:</p>
--

www.abanet.org, www.nala.org, www.paralegals.org, www.nals.org, and www.aafpe.org.

3. Read, discuss, and compare Appendixes A, B, C, and D. 4. Discuss the ABA Model Rules of Professional Conduct. 5. Visit www.azbar.org to find and review ethical rules for attorneys in the state of Arizona and compare to ABA Model Rules. 5. At www.azbar.org, look up disciplinary information for attorneys.

Practice Activities: 1. With group members, answer Critical Thinking question 1 on p. 25. After, discuss as a class. 2. Diagram the process of disciplining an attorney for ethical errors. 3. With group members, do the Review Questions on pgs. 26-28. After, discuss answers as a class.

Learning Unit Topic 2: Unauthorized Practice of Law

Competency: 2

Objectives: 2.1-2.4

Assignments: 1. Read Text Chapter 2 prior to class. 2. After class, write an essay identifying and describing the UPL committed by Erin Brockovich.

Lecture/Class Discussion: 1. Discuss UPL, the history of UPL, the modern rules about UPL, what nonlawyers cannot do, what activities look like UPL but aren't, how misrepresentation is UPL, and how the UPL laws are enforced.

Practice Activities: 1. With group members, do the Review Questions on pgs. 58-60. After, go over answers as a class. 2. Read and discuss the Cases for Consideration, Case 1 and Case 2, and go over the Case Questions for both. 3. Watch *Erin Brockovich*. Students should individually keep track of each time she crosses the UPL line. After watching the movie, students will prepare an essay identifying and describing the UPL they observed in the movie.

Learning Unit Topic 3: Confidentiality

Competency: 3

Objectives: 3.1-3.6

Assignments: 1. Read Text Chapter 3 prior to class. 2. After class, do Assignment 1 on page 94 (research Arizona law regarding the duty of confidentiality, attorney/client privilege, and work product privilege and make copies of these laws). Prepare a short essay summarizing these three laws, attaching them to the back.

Lecture/Class Discussion: Discuss what confidentiality means and how long it lasts, attorney/client privilege, where the two concepts overlap, how to fulfill one's duty, what confidential information can be divulged, work product privilege, and how technology has changed confidentiality.

Practice Activities: 1. In small groups, do Critical Thinking Questions 1-4 on pgs. 93-94. After, go over answers as a class. 2. As a class, read and discuss the Cases for Consideration on pgs. 97-106 and answer the questions. 3.

Learning Unit Topic 4: Conflicts of Interest—The Duty of Loyalty

Competency: 4

Objectives: 4.1-4.5

Assignments: Read Chapter 4 prior to class.

Lecture/Class Discussion: Discuss how conflicts are created, how a paralegal's personal life can create conflicts, how intimate relations with clients cause conflicts, what conflicts arise due to outside forces, what conflicts are created by representing multiple clients, what happens when there is a conflict, how to prevent disqualification, and who must waive what in order to waive a conflict.

Practice Activities: 1. As a class, do Critical Thinking Questions 1-3 on p. 125. 2. With

group members, do Collaborative Assignment 2 on p. 126. After, go over as a class. 3. Individually, answer the Review Questions on pgs. 126-128. After, go over as a class.

Learning Unit Topic 5: Advertising and Solicitation

Competency: 5

Objectives: 5.1-5.5

Assignments: 1. Read Text Chapter 5 prior to class. 2. After class, prepare an attorney advertisement to hand in as a graded assignment following Arizona's rules about advertising. The advertisement can be in the form of a newspaper or magazine advertisement, television commercial, radio commercial, or fake (unpublished) website.

Lecture/Class Discussion: Discuss access to justice, why law firms need to advertise, good lawyer advertising, how there can be both good and bad solicitation, direct mail, whether paralegals can advertise, times when potential clients cannot be contacted, corporate clients, referral fees, and how technology has impacted advertising.

Practice Activities: 1. As a class, read and discuss the Cases for Consideration on pgs. 163-177 and answer the questions. 2. Individually, answer the Review Questions on pgs. 160-162. After, go over answers as a class. 3. As a class, do Assignments 1-3 on p. 159. Use this research about Arizona's advertising rules to do the assignment after class.

Learning Unit Topic 6: Fair Fees and Client Trust Accounts

Competency: 6

Objectives: 6.1-6.4

Assignments: 1. Read Text Chapter 6 prior to class. 2. After class, do Assignment 2 on p. 199 (Review a standard fee agreement and translate any "legalese" into plain English) and hand in as a graded assignment.

Lecture/Class Discussion: 1. Discuss how to begin a relationship with a client, different types of fee agreements, what should and should not be in a fee agreement, what a retainer is, how client trust accounts work, how law firms get paid, whether paralegal fees are awardable, inappropriate fees, referral fees, and pro bono service. 2. Visit www.azbar.org to find Arizona's sample of a fee agreement and read and discuss.

Practice Activities: 1. With group members, do the Review Questions on pgs. 200-201. After, go over answers as a class. 2. With group members, do Collaborative Assignment 2 on p. 199. After, discuss as a class.

Learning Unit Topic 7: Competence and Negligence

Competency: 7

Objectives: 7.1-7.4

Assignments: Read Text Chapter 7 prior to class.

Lecture/Class Discussion: How competence is measured for a lawyer, mental competence, causes of action against negligent lawyers, defenses to a negligence claim, the statute of limitations in negligence actions, who can sue for professional negligence, how these rules apply to paralegals, and professional liability insurance.

Practice Activities: 1. As a class, Discuss Critical Thinking Questions 1-4 on p. 233. 2. In small groups, do Collaborative Assignment 1 on p. 234 (role-playing). 3. Individually, answer the Review Questions on pgs. 234-236. After, go over answers as a class.

Learning Unit Topic 8: The Duty of Zealous Representation

Competency: 8

Objectives: 8.1-8.4

Assignments: Read Text Chapter 8 prior to class.

<p>Lecture/Class Discussion: The meaning of zealous representation, the boundary of the law with respect to the handling of evidence, the penalty for tampering with evidence, how we are accidentally deceitful, what pretexting is and why it is impermissible, how to avoid being told to be deceitful, what makes a claim frivolous, and what it means to be a fiduciary.</p> <p>Practice Activities: 1. As a class, read and discuss the Cases for Consideration on pgs. 272-284 and answer the questions. 2. Watch <i>Class Action</i> and make a list of how evidence was unethically handled. After, compare lists and discuss as a class. 3. Individually, answer the Review Questions on pgs. 270-272 and then go over the answers as a class.</p>
<p>Learning Unit Topic 9: The Umbrella Duty of Integrity</p> <p>Competency: 9</p> <p>Objectives: 9.1-9.2</p> <p>Assignments: Read Text Chapter 9 prior to class. After class, do Collaborative Assignment 2 on p. 297 to hand in as a graded assignment.</p> <p>Lecture/Class Discussion: Discuss the duty of integrity, the duty to report the misconduct of others, how the duty applies to paralegals, the appropriate authorities to report misconduct to, what sorts of “general misconduct” are prohibited, and what is involved in protecting the public trust.</p> <p>Practice Activities: 1. As a class, read and discuss the Case for Consideration on pgs. 299-304 and answer the questions. 2. With group members, answer the Review Questions on pgs. 297-299. After, go over answers as a class.</p>

Course Assessment Information

<p>Description of Possible Course Assessments (Essays, multiple choice, etc.)</p>	<p>1. Class Participation: 25% 2. Five Graded Essay Assignments: 50% (10% each) 3. Final Exam: 25% (Multiple Choice, True/False, Short Essay)</p>
<p>Exams standardized for this course?</p> <p>Midterm <input type="checkbox"/></p> <p>Final <input checked="" type="checkbox"/></p> <p>Other (please specify):</p>	<p>Are exams required by the department? __ Yes <u>X</u> No If Yes, please specify:</p>
<p>Where can faculty members locate or access the required standardized exams for this course? (Contact person and location) Example: NCK – Gen Ed Division Chair Office</p>	<p>NCK _____ BHC <u>Resident Faculty</u> _____ LHC _____ NMC _____ DE _____ Office of Instruction _____</p>