



## What is a 'qualified legal assistant'?

BY LINDA S. JEVAHIRIAN

The paralegal concept was initially developed by the American Bar Association in the late 60s and early 70s. The idea to bill clients for support staff work was most likely a response to other professions that were providing more cost-efficient services to their clients. It made smart economic sense, but there were no guidelines for utilization and educational programs were just emerging.

The legal assistant title was used to distinguish a non-licensed billing employee supervised by an attorney, and the position developed as client requirements changed. One Detroit paralegal remembers being called into a meeting when a client asked her boss if they could meet his paralegal. She was the most experienced secretary and was knowledgeable of the client's matters so she was given the title on the spot.

The earliest paralegals were in most cases employees of the firm who were promoted to the position through experience. As educational offerings expanded, more and more paralegals attended programs designed specifically for the profession. At the same time, the American Bar Association Standing Committee on Paralegals instituted an approval process to assure compliance with

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their criteria for curriculum, faculty, recruiting and admission practices, library and computer resources, student services, and other aspects of the program.

#### Education

In recent years, the number of ABA approved paralegal programs has been prolific. Hundreds of schools, colleges and universities offer post-graduate certificates, diplomas, as well as two- and four-year degrees. Most paralegals entering the field today have completed either an undergraduate degree or a certificate that can be earned after completing a college degree.

At the most basic level, approved programs usually include an introduction to law, contracts, torts, legal research and writing, accounting, litigation case preparation, ethics, and either a mandatory or optional internship. Additional specialty law courses are usually offered.

There are numerous non-ABA approved programs including traditional schools, as well as mail order and distance learning pro-

grams, but they should be evaluated individually for content.

#### Certification

In addition to formal schooling, paralegals can be voluntarily certified by one or two national legal assistants associations. Both certificates require passing an examination and maintaining continuing education requirements. Eligibility is dependent on the entrant's level of education and experience.

The National Association of Legal Assistants, Inc. (NALA) offers the Certified Legal Assistant (CLA) or the Certified Paralegal (CP), depending on which title the person prefers. Specialty certificates (CLAS) can be earned in a variety of disciplines. These test for knowledge in communications, ethics, legal research, human relations and interviewing techniques, judgment and analytical ability, legal terminology, the American Legal System, and four substantive law areas selected from administrative, bankruptcy, corporations, contracts, family, criminal, litigation, probate and estate planning, and real estate.

Meanwhile, the National Federation of Paralegal Associations, Inc. (NFPA) offers the Paralegal Advanced Competency Exam designated by the initials PACE or RP for Registered Paralegal. They test

five domains, including administration of client legal matters, development of client legal matters, factual and legal research, factual and legal writing, and office administration. Ethics questions are included in each domain.

The NFPA supports the movement toward regulation and would like to see PACE used as a guideline for states that may require testing for licensure or certification.

In contrast, NALA believes that the profession is self-regulating and does not require any government supervision.

Whether the profession should be government regulated, however, is not the reason paralegals decide to certify. Passage of either test provides another layer of credentials that requires serious motivation and commitment to self-betterment. Otherwise, continuing education is completely voluntary.

**Job requirements**

Because legal assistants are not licensed, certified or regulated, the firms and companies that hire them set their own requirements for employment. The way they evaluate education and experience varies by organization —

some firms are more educationally focused, while others are more concerned with experience.

From a practical standpoint, the field continues to be a smorgasbord of training, education and experience. In many cases, paralegals with years of experience are sought-after because of their specific skills make them highly profitable. Many of these paralegals entered the field when education was not a critical requirement. On the other hand, there are organizations that make certain levels of education mandatory.

**Recoverability of fees**

Economics seems to have played a role in defining the paralegal role and qualifying their educational credentials. In 1989, the U.S. Supreme Court, in *Missouri v. Jenkins*, 491 U.S. 274, deemed that paralegal fees were recoverable. The primary factors the court used were the qualifications of the person performing the work, the actual work performed, the detail of the records submitted in support of the fee application, and the market rate for paralegal time.

While qualifications may not be so easily defined in an unregulat-

ed field, the profession seems to have certain external influences that are raising the bar. More sophisticated employment requirements, client demand, association awareness, and the availability of education are some of the self-regulating mechanisms that are causing it to migrate in a positive direction.



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