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the Complete Paralegal Certification Handbook

FIFTH EDITION

Virginia **Koerselman Newman**

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FIFTH EDITION

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The Complete Paralegal Certification Handbook, Fifth Edition
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Dedication

This edition of *The Complete Paralegal Certification Handbook* is dedicated to the memory of my son, Ken Koerselman II, whose days on earth were far too few and passed much too quickly. He bedeviled us in his childhood, he pushed us to our outer limits in his youth, and he amazed and delighted us by becoming the man we always had prayed for him to be. Then in the blink of an eye he was gone. We could not survive his loss without the grace of God and the support of friends.

Preface

The Fifth Edition

The fifth edition of *The Complete Paralegal Certification Handbook*, formerly the *Certified Paralegal Review Manual*, prepares current and future paralegal professionals for success in earning their national certification credential from one of three existing paralegal certification examinations sponsored respectively by the National Association of Legal Assistants (NALA), the National Association of Legal Secretaries and Legal Professionals (NALS), and the National Federation of Paralegal Associations (NFPA). It has been and continues to be the only comprehensive paralegal review manual since its first publication in 1992 and is an indispensable resource for those preparing to take a certification examination. New material covers up-to-date areas of paralegal practice and mirrors the most recent changes in the exams. New chapters (Interviewing, Estate Planning and Probate, Real Estate Law, and Tort Law), new examples, extensive outlines, realistic practice tests, and helpful exam tips prepare readers for success on their exam of choice.

Learning Features

- **Learning Objectives** open each chapter, providing a clear pathway for learning through which students can focus on key concepts to be mastered.
- **Key Terms** are set in boldface type and defined in the glossary of the text.
- Updated **Self-Tests** at the end of each chapter replicate questions typical of the format and content of certification exams for critical practice. **Answer Keys** for these self-tests are provided on the Student Companion Site. The answers to odd numbered questions can be found at the back of the text so that learners are able to check their work.
- The **Introduction** content has been revised and includes valuable insights on test policies, grading, and eligibility requirements among the paralegal certifications; an effective study plan; and the best preparation techniques.
- An accompanying **MindTap** has been added to this edition of the *Complete Paralegal Certification Handbook*, complete with chapter summary PowerPoints, customizable flashcards, auto-graded chapter tests, as well as additional example documents, checklists, memorandum answers, etc.
- A **Student Companion Site** has also been added to the new edition and will include a sample interviewing checklist, answers to the self-tests, and content mapping to the three certification exams covered in this text. This website is easily accessed by students and instructors on www.cengage.com.

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About the Author

Author Virginia Koerselman Newman, Esq., brings an exceptional blend of professional knowledge and teaching experience to this trusted exam prep manual. Ms. Koerselman Newman was a successful practicing attorney for twenty-six years; was the paralegal program director and an instructor at the premier paralegal program in the state, Metropolitan Community College in Omaha, Nebraska, for twenty-two years; and is best known for her textbooks, study guides, online courses, instructor manuals, and other materials to support paralegals nationwide in achieving their certification goals. Virginia owns and operates VKN Law Publications through which she continues to teach as well as to write about relevant paralegal topics. The author of several popular books on law, Ms. Koerselman Newman is a frequent speaker at law conventions and professional seminars. She is an active member of several professional organizations.

Introduction

Paralegal Certification: A Professional Goal

Paralegal certification bestows a measure of professional recognition to those who achieve significant competence in the field. This level of competence comes through a combination of sufficient education, skills, experience, and hard work to perform at higher levels within the profession. Not to be confused with certificates that are given at the end of a course of study or at the end of a seminar, certification is earned by passing a multipart, objective question and sometimes writing examination offered by a national paralegal association. There are three such associations offering a certification program: the National Association of Legal Assistants and Paralegals (NALA), the National Association of Legal Secretaries (NALS), and the National Federation of Paralegal Associations (NFPA).

Certification benefits a paralegal's career by acknowledging the accomplishment, by conferring the credential that sets one apart, by opening doors to opportunities for increased responsibility, and greater income. Most important is the personal satisfaction that comes from achieving this career standing.

The body of knowledge required to attain the certified paralegal designation is large. Although the expertise required of a paralegal cannot be reduced to a formula, certain skills common to the profession are measurable: written communication, judgment, analytical abilities, ethics. The examinations cover these and other areas as well as knowledge of substantive law and procedures. Because the national examinations are standardized, all questions necessarily focus on the national level—no specific state laws or procedures are tested.

Each association's examination similarly contains one or more combinations of multiple choice, matching, and true/false questions. Two employ one or more types of essay question. The certification programs are not rigid; their foundation allows methodical and thoughtful change. It helps by attesting to the competency of certified paralegals and by serving as a guideline for colleges and schools offering paralegal programs. As the profession advances, its members also must advance. Paralegals are an integral part of the legal services team and must strive to improve the profession. Voluntary certification programs comprise one answer to those needs.

Preparation for the Examination

There is no simple or precise formula for success on any specific certification examination. The minimum requirements for success are embodied in the eligibility requirements themselves. However, nearly all applicants require additional, intensive study to prepare adequately for the examination.

The form, method, and amount of study will vary from person to person. It is not permissible to divulge the contents of any of the examinations. Here are some suggestions on how to get the most from your study efforts, whether you study individually or as part of a study group, and how to approach the examination itself.

Self-Assessment

Make a list of the sections of the examination that you must take, including all of the substantive law subsections that you must complete. Privately and realistically, evaluate yourself against each section, one at a time. Review the topic coverage of the section and gauge how you might do if you were to be rigorously tested right now. A checklist is provided to assist you in Table INTR-1.

Give yourself an overall, pencil score for the section, using a percentile scale. Continue the process for each section, making the same type of evaluation and giving yourself a pencil score for each one. Even if the substantive law subsections may be averaged for exam scoring, consider each subsection separately in formulating your study plan. This will give you the most accurate self-assessment for each topic.

This represents a conservative approach to gauge where you are now in relation to where you need to be by the time you sit for the examination.

Table INTR-1: Self-Assessment Checklist

	Have you taken a formal course in this subject matter? Yes = 5 No = 0
	If you have taken a formal course, how long ago did you take it? Less than 1 yr = 20 1–2 yrs = 16 2–3 yrs = 12 4–5 yrs = 8 5+ yrs = 4
	Rate your test-taking ability: Easier than for others = 20 About the same = 10 Harder than for others = 0
	% of monthly, billable hours spent using skills tested by this section: 61–80% = 40 41–60% = 32 21–40% = 24 11–20% = 16 10% or less = 8
	How familiar are you with the *details* of this section in the *Certification Handbook*? Extremely = 20 Very = 16 Moderately = 12 Somewhat = 8 Vaguely = 4
	Total Self-Assessment Points
	If there is more than a 20-point variance between the Self-Assessment and the Self-Test Scores, use the average of the two scores (add both scores and divide by two).

90–100%	Thorough review of this *Certification Handbook* may be sufficient
70–90%	Study of law summaries (Emanuel or Gilbert's) + *Handbook*
50–70%	Textbook study (see Bibliography) + law summary study + *Handbook*
0–50%	Formal course or intensive study may be advisable

What to Study

As with any major project, studying for an examination requires planning. The first step is to inventory your current skills in relation to the examination requirements. You may have a good deal of experience with interviewing and drafting, with very little exposure to legal research. Or you may use your research and writing skills every day, with little or no exposure to clients. Everyone's situation is different, and you are the only one who can assess yours accurately.

Statistically, those examination topics that appear to cause the most difficulty for most applicants are (1) judgment and analytical ability, (2) substantive law, (3) communications, and (4) legal research.

When to Study

Decisions about your study schedule and when it should begin are based upon your individual needs. The self-assessment checklist may help you to gauge how much preparation is needed. Unless formal coursework is needed, three to six months of increasingly intensive study is suggested. This assumes a paralegal who is working full time and who has been away from a classroom for three to five years. It also assumes that this hypothetical paralegal schedules two or three study periods each week, with each study period lasting from two to four hours. These are guidelines only. Each applicant must establish a realistic schedule based upon his or her own needs.

The only inflexible rule about establishing a study schedule is this: do it. It helps, though, to schedule study periods on the same days and at the same times each week. Changing the days and times of your study periods from one week to the next invites ultimate abandonment of the schedule. Mark each study period on the calendar, just like any other appointment; then stick to it. Professional certification is a vital step in your career. It is the reason you purchased this *Certification Handbook* to help you prepare. You give vast amounts of time and energy to your employer, to your family, to volunteer organizations, and often to your community. Do this for yourself.

Those who have been away from a classroom for a time may have difficulty getting started, at least during the first few sessions. This is normal. The way to overcome such an obstacle is to persevere. Along with perseverance, developing good study skills requires the efficient use of your scheduled study period. There are a number of ways to maximize the productivity of your study time.

How to Study

Ultimately, everyone develops study methods that work best for him or her. If you have developed study methods that have proven successful for you, use them. If not, the following suggestions are offered as methods that have worked for others, including this author. Use the ones that work for you; feel free to modify them to suit your particular situation and needs.

The Study Environment

The environment in which a person studies is critical in maximizing the study effort. Whether you live in a large house or in an efficiency apartment, you must have one special place for quiet study. It doesn't matter whether it's a special room or the kitchen table, as long as it is relatively quiet. Once you have selected a location, use it for every session. Keep the following considerations in mind as well:

- Use good lighting to avoid eyestrain.
- Sit in a straight-back chair and work at a desk or a table. Do not lounge on a sofa, on the floor, or on a bed.

- Reduce the room to a cool (but not frigid) temperature to boost energy and concentration.
- Avoid distractions by turning the television, music, and telephone off.
- Keep reference books and supplies near to reduce interruptions.

The most important part of your study environment is you. To obtain the most from each study session, avoid unnecessary stress in every way that you can. This is not the time to go on a diet, to stop smoking, to move, to change jobs, or to undergo elective surgery. No less than a law student studying for the bar, you must be able, physically and mentally, to assume an increasingly rigorous study schedule as the examination date draws near. There are positive steps that you can take to assure your best performance:

- Wear loose, comfortable clothing when you study.
- Take a break (five to ten minutes) once each hour. Walk around, stretch, get a drink or snack, and get back to work.
- If you snack, keep it light: fresh vegetables, fruit, or carbohydrates like lightly salted, plain popcorn. No junk food.
- Exercise twenty minutes at a time, at least three times a week to release tension and to improve stamina and concentration.

As silly as some of these suggestions may seem, be assured that they are sound investments in your physical and mental well-being throughout the preparation and examination process. They work.

Study Aids

Once you have estimated the depth of preparation you will need for each part of the examination, you will need a suitable group of reference books and study aids. Refer to your results on the section on self-assessment to determine whether you need this or some other textbook, a law summary or outline, or some other study aid.

The list of reference books in the bibliography section of this *Certification Handbook*, of course, is not intended to be exhaustive; neither is it intended as a limitation of the reference books that may be used. For instance, if you do not have access to any of the legal research texts shown in the bibliography but do have a legal research text that is both thorough and current, use your text.

The Complete Paralegal Certification Handbook has been published specifically to provide a condensed, overall foundation for study. It is to a textbook or to a treatise what *Readers Digest* is to a novel.

Effective Study Methods

Study methods for a certification examination, like study methods in general, are as varied as the people who use them. No single study method ensures success, but certain techniques emerge repeatedly when one analyzes the study patterns of successful students in general and of successful certification applicants in particular.

- Use up-to-date textbooks and reference materials.
- Because this is a national examination, no state-specific questions will be asked. General legal rules that are common among states will be covered, however, such as the Uniform Commercial Code.
- Don't try to cram. It doesn't work, and it breeds unnecessary panic.
- Obtain a large three-ring binder and make dividers for each part of the examination. Keep all of your outlines and notes in it for easy reference.

- Prepare basic outlines of the material to be tested in each section of the examination.
- After the basic outlines are completed, prepare detailed, annotated outlines for each section, using one or more of the reference books in your possession. State all important rules fully, exceptions to those rules, and give examples of how the rules are applied. Include the source and page number from which the information was taken so that you can find it later if you need or want to do so.
- Create timelines or flow charts for technical areas. This method works especially well for substantive law areas. Use the flow chart or timeline to track a case from beginning to end, showing each of the steps involved along with any underlying statutory or procedural rules.
- Take as many practice exams as you can find. The self-test portions of this *Certification Handbook* are good starting points.

Without referring to your outlines, practice writing brief essays that ask you to discuss or to compare the principles involved in a particular examination section. These are suggestions only, designed to aid the working paralegal who plans to study alone and who has been away from the classroom for some time. While they are known to produce the desired results, they require a substantial investment of time, effort, discipline, and commitment. Others have done this before you, and you can do it, too. Visualize your name with the certification credential following it; that should keep you going.

Individual Study

A major advantage of individual study is that it can be adapted very easily to suit your own needs in preparing for the exam. In fact, many applicants use individual study as the sole method of preparation.

There is no substitute for individual study, even though it requires substantial commitment and discipline. No one is equally good at everything. Each of us has an area where our skills are not used as much and are therefore not as sharp as we would like them to be; some of us have more than one such area. Individual study allows each applicant to assess what those weak points are and then to devote more study time to them, with less time spent on more familiar areas. The key to successful individual study is to give yourself enough time to prepare adequately, but not so much time that you tarry too long on the threshold of the study project.

For the successful applicant, there is no way to avoid the rigors of individual study altogether. However, if suffering alone is not your cup of tea, organizing a study group may be a viable option.

Group Study

Group study has been used successfully by a number of certification applicants. It can be an excellent addition to the individual study schedules of most applicants, as long as its purposes, benefits, and limitations are understood.

A study group may be able to share some of the stresses associated with preparation for the exam; to provide a supportive, motivational network for study group members; or to reinforce the discipline needed to adhere to the study schedule. Group review will refine members' understanding—or expose misunderstanding—of principles likely to be covered on the examination. A study group cannot, however, serve as a substitute for individual study. Neither will it reduce the preparation effort of any individual.

So why join a study group if it means extra time and extra work? Because it is an excellent insurance policy. When applicants join a study group, it's because they believe that the extra work is a small price to pay for a support network, a sounding board, enforced discipline (albeit through guilt), and a cheering section—all rolled into one. The common goal of the group makes it easier for some applicants to persevere. Left to themselves, they may falter and then get too far behind. As a team member, however, they will be able to overcome almost any obstacle to fulfill their obligations to the team. This is neither good nor bad; it is simply a fact of human nature.

Because no certifying board gives extra points to those who do it the hard way, do whatever makes it easiest for you to be successful.

HOW TO ORGANIZE A STUDY GROUP If you choose to study with a group in addition to your individual study, let the experiences of others guide you. Many state and local paralegal associations have firsthand experience in organizing study groups and are happy to share their wealth of information.

- Keep these considerations in mind as you contemplate organizing a study group. Select a group leader; coleaders are preferred by many. The certified paralegals in your geographic area may provide an excellent resource pool; they even may be able to obtain CLE credits toward their recertification.
- If no certified paralegals are available, locate other experts who can assist you—an English teacher or an attorney with superior writing skills for the communications section, one or more attorneys for the substantive areas, and so forth.
- Establish a study schedule. Generally, study groups meet once a week, leaving an additional week or two for individual review before the examination is taken.
- Create practice exams to take at the beginning of each session. This is generally a good way to get the discussion started.
- Decide how the expense of materials will be shared among the group members.

Taking the Examination

The ultimate goal of nearly everyone who may read this *Certification Handbook* is to pass your selected certification examination. That being so, and assuming that you have already qualified to take the examination, a few important observations should be made.

Based upon personal experience with both a certified paralegal exam and with a state bar exam, be assured that the certification exam was every bit as difficult within its realm of expertise as the state bar exam was. The two examinations were comparable in other ways, the most prominent of which was the ever-mounting levels of stress associated with preparation for the exams and then with taking the exams themselves. By preparing for the stress, you will be in a much better position to manage it.

Some stress is good; it heightens performance. It is only when stress gets out of control and turns into panic that it becomes destructive. For stress management before the examination, refer to the suggestions on preparing for the examination. During the examination itself, there are some things that you can do to ease the stress and to ensure your best performance in an examination of this kind.

Prepare Yourself

- If possible, visit the testing site the day before the examination is to be taken. Determine the best route to take and estimate the time needed to arrive there. Allow for morning rush-hour traffic and plan to arrive twenty to thirty minutes ahead of your appointment time. Determine where you will park and how much it will cost. Familiarize yourself with the location of the testing room and of the other facilities located in the building, such as the restroom(s); snack bar or coffee shop, if any; and so on.
- On the evening before the examination, review your outlines and notes one last time for the sections to be administered the next day. Then put them away.
- Get a good night's rest. You will need all of your energy when the test begins. Don't squander it by sitting up half the night, worrying about what will happen tomorrow or by trying to cram. Cramming now will do nothing but cause confusion and panic. Don't do it.

- Relax. Immediately before the exam begins, panic can immobilize you unless you stay in control. Before entering the examination room, walk around and stretch your neck, shoulders, arms, hands, and legs. Don't just pace.
- Breathe deeply—breathe in through the nose, bring the air all the way down to the knees, and hold it for a count of five; then breathe out through the mouth *s-l-o-w-l-y* until all of the air is released. Continue this exercise until the air comes out slowly and smoothly. My bar exam review instructor taught us this technique; it worked amazingly well, and I have been teaching it ever since.
- If you begin to panic while taking the exam (evidenced by the inability to think clearly: you see the words, you know what each word means, but they make no sense when connected in a sentence), stop and quietly perform the breathing exercise. As you breathe in, imagine yourself going all the way down in an elevator to the basement. Stay there for a count of five and then slowly breathe out as you return to ground level. Do it again. Then go back to work. This thirty-second exercise is well worth the time invested.

Test Questions in General

- All test questions are designed within a national framework. Do not rely on the rules of a specific state when answering any of the questions.
- Answer all questions, even if you have to guess. Because there is no additional penalty for a wrong answer, guessing may result in a few extra points here and there. An unanswered question, however, never can be correct.
- Read the instructions for each question *very carefully.* Be absolutely certain that you know what you are being asked to do before you begin.
- Be sure that you understand each question before you attempt to answer it. Fine-line distinctions commonly are drawn in examinations like this one. If you read a question too quickly, important words easily can be overlooked.
- Read what the question says, not what you expected it to say. Don't try to help the question writer by qualifying your answer. The question means exactly what it says.
- Pace yourself in relation to the length of the examination section. Answer the questions you know first. Write the question number of the others on your scratch paper or notebook and come back to them later. Don't spend too much time on any one question.
- Do not change your answers unless you are positive that you selected the wrong answer the first time. If you read the question carefully, your first impulse is almost always right. If you second-guess yourself, the second guess likely will be wrong.
- If you happen to finish the section before the allotted time has expired, stop. Do not go back through the questions because second-guessing problems will arise.
- Use the break between each testing period effectively. Walk, stretch, relax, and mentally prepare yourself for the upcoming testing period. Do not squander this valuable time by dwelling on the section that you just finished. It is over. Move on.
- Resist the temptation to compare your answers with those of other applicants while on break, during lunch, or at the end of the day. Do not even listen to this type of discussion while sections remain to be taken. Politely excuse yourself if anyone else talks about specific answers. If any of their answers were different from yours (and some of them will be different), it will create unnecessary anxiety, which, in turn, will have a negative effect on your performance during the next testing period if there is one.

MULTIPLE CHOICE QUESTIONS

- Read the questions carefully. Multiple choice questions generally will ask you to select the most correct answer or the best answer, but some will ask you to select the least correct answer or the worst answer. Watch for these.
- Beware of "none of the above" and "all of the above" selections. Certainly there are some questions for which "none" or "all" is the correct answer. More often, however, "none" or "all" is incorrect.
- If a question or a set of answers sounds totally foreign, leave that question and go on to those you can answer. If you return to the question and still do not know the answer, guess. There is no penalty for wrong answers, so there is no benefit in leaving any question unanswered.
- Make an educated guess or use a process of elimination. Eliminate as many of the wrong selections as you can and then pick from the remaining selections. If your instincts point to one of them, choose it and move on to another question.
- Comparing statistics and educated guesses, your educated guess is always the better choice. However, based on generic testing statistics, if you cannot make even an educated guess about the correct answer, choose "c." Do not choose the "a" selection; though it is sometimes the correct answer for a particular question, it is the worst statistically.

MATCHING QUESTIONS

- Read the instructions to determine whether items from either list can be used more than once. If not, the items can be matched through a process of elimination. Match those that you know are correct and select the others by eliminating those that you know are wrong.
- Matching questions tend to take more time than either true–false or multiple choice questions. Budget your time with this in mind.

ESSAY QUESTIONS

- Quickly skim the instructions and the question to get a feel for the material. Then read them again, very carefully this time. With this reading, note any important points or items together with their location in the question. This makes it easier to find things later, which saves time.
- Be absolutely sure you understand what it is that you are to do (whether it is to summarize, to compare, to discuss, to analyze, and so forth).
- If you are asked to summarize material, condense it to the bare bones facts. Do not editorialize; do not change facts or add facts that are not clearly stated in the original material. In general, a summary should be no longer than one-fourth the length of the original material. Double-check to be certain that the names, places, times, and so forth in your summary coincide with the original material.
- If you are asked to compare one thing with another, limit the essay to comparison and contrast (similarities and differences). Don't engage in extraneous dissertations. For instance, do not explain how a particular concept or principle evolved historically when the question asks simply that you compare it with another specified concept or principle.
- When asked to explain or to discuss an issue, concept, term, or the like, do precisely that. At a minimum, the discussion must provide a concise definition. It may also include usage: when, how, and why it is used. Do not compare it with something else unless that is the only way to explain it, which seldom is the case.

- Do not define terms by using those terms as part of the definition. In other words, do not say, "Criminal law is the law that defines criminal conduct." This is a circular statement. It defines nothing, and no points could be given for it.
- Do not ask rhetorical questions in an essay answer. For example, do not ask, "Why have the rule if it is not enforced?" Rephrase the thought into a declarative statement, such as "The rule means nothing if it is not enforced."
- Plan to spend at least as much time thinking about and planning your answer as you spend writing it.
- Use the scratch paper or notebook provided to you to plan your answer completely before typing *anything* on the computer screen. Do not merely begin to type, believing (or hoping) that you can clarify your thoughts as you progress. It almost never works.
- Get to the point. In planning your answer, write down the three or four (three is better) most important points to be made. Then put them in complete sentences; be sure they convey complete thoughts and make sense. Use abbreviations and brief forms of words to speed the process. Once you have done this, number them in the logical order in which they should be presented or discussed. Decide whether there are any subpoints that *must* be included for clarity. If so, jot a word or a phrase under the main point as a reminder. Unless the subpoint is absolutely necessary, leave it out.
- Formulate a brief, introductory sentence and draft the final answer. Stick to your planned outline. To the extent that you digress, your answer will appear disjointed and disorganized.
- Say what you need to say in as few words as possible and then stop. Refer to the communications section of this *Certification Handbook* for more information.
- Double-check spelling, punctuation, grammar, and word usage. Make corrections as needed, recognizing that spell check and grammar check features will be disabled on your computer during this exam. Errors will result in lost points.
- Do not attempt to divert the grader's attention by bluffing or by discussing peripheral issues at length. This technique does not work and can backfire in such a way that the resulting essay score is less than it would have been if the applicant had stopped at those things that were known and were relevant to the question.
- Do not try to be humorous; it generates no points. Likewise, do not include explanatory or apologetic notes to the grader. It's unprofessional.

After the Examination

Once the examination is finished, give yourself as much time as possible to unwind before you attempt to resume your normal schedule. If you plan to drive yourself to the testing site, do not plan to drive back home immediately. If your home is more than thirty or forty miles away, it may be wise to drive home the following day. Your certified designation will have significantly less value to you if it must be awarded posthumously.

Nearly everyone experiences some degree of shell shock after the last testing period is concluded. Be prepared for the wide range of feelings that you will have if you are like most other applicants. All of these feelings are normal, but most of them are unfounded. They can be minimized by keeping the entire experience in perspective and by focusing on those parts of it that are important:

- Certification is a voluntary, professional goal. The fact that you have undertaken it says who you really are; attaining it is merely a question of docket control.
- The worst that can happen is that you fail *this time.* If you do, it will be either (1) because of inadequate preparation or (2) because of panic. You have the power to eliminate both

obstacles; once you become certified, no one will care how many times you—or anyone else—may have taken a particular section to pass it. Failure is not a reason for self-denigration; giving up is.

- Only those who are willing to risk failure ever succeed; only those who are satisfied with mediocrity never fail.

Expect the best, prepare for the worst, and capitalize on whatever happens. If you prepared and if you did not panic, you will pass the examination. In the meantime, save your outlines and notes and use those time periods previously reserved for study to pursue a favorite hobby while you wait for the results.

How to Use Book

The purpose of this book and its supplemental materials is to serve as a practical paralegal certification handbook and study guide, supporting those who aspire to certification. It provides the study materials needed to prepare for and pass a paralegal certification examination of your choice, supported by online study aids. It is geared to review chapter topics, not to "teach the test" or to learn for the first time. Each chapter examines a specific topic tested by the majority of paralegal certification examinations. A chapter test is included at the end of each chapter, with more study aids, mini courses with practice tests, and other materials related to the book chapters available within the online resources. The book is intended for those preparing themselves for a voluntary certification exam, for formally and informally organized study groups, and for paralegal program capstone courses. It may be used as a desk reference for quick review techniques and procedures. Nothing in this book should be taken as an explicit or implicit endorsement of one certification program over another. Rather, it is the culmination of a career devoted to developing materials, teaching, and working with paralegals to provide a sound review of the basic knowledge and skills needed to become certified.

CHAPTER 1

Communications

LEARNING OBJECTIVES:

Upon completion of this chapter, you should be able to:

- Recognize both correct and incorrect word usage as applied to a specific context.
- Use proper punctuation marks for simple and complex sentence structures.
- Apply the rules for using uppercase letters in words within specific situations.
- Select the correct (and incorrect) use of the major parts of speech (nouns, pronouns, verbs, modifiers) linking words, conjunctions, prepositions, pronouns) within specific sentence structures.
- Demonstrate knowledge of correct (and incorrect) construction of sentences, paragraphs, and so on according to the rules of composition.
- Discern the meaning of words through root words, prefixes, suffixes, and context as part of the larger objective to create an ever-increasing vocabulary over time.
- Identify the essential parts of a business letter.

Because written communication is at the center of so much of what lawyers and paralegals do, it is not surprising that every paralegal certification examination includes assessment of communication skills and encompasses the following topics, either directly or indirectly:

Word Usage	Rules of Composition
Punctuation	Concise Writing
Capitalization	Vocabulary
Grammar	Correspondence

Paralegals consider themselves to be above average writers, and rightfully so. When it comes to a certification examination, however, "above average" may not be quite enough. For whatever reason, certification examinees tend not to spend as much time reviewing writing skills as they spend on other topics less familiar to them. Try not to fall into this trap. This *Certification Handbook* relies on Strunk and White, *The Elements of Style,* as its primary reference on the subject of writing. It can be purchased both online and in most retail bookstores. When *The Elements of Style* covers a particular topic, its rules control. When Strunk and White is silent about a particular rule, however, this *Certification Handbook* uses the following references: *Texas Law Review Manual on Usage & Style* (Texas Law Review Publications, Inc.), then Fowler and Arron, *The Little, Brown Book Handbook*.

Word Usage

Word usage in paralegal certification exams generally tests the examinee's knowledge of how words are used (or misused) in a particular context. It also includes words that are often confused with other words.

The formal, concise expression of thought is preferred over the informal in legal writing. This being so, avoid slang; for example, do not say "cops" when referring to police officers or "flunk" when referring to fail. Colloquialisms likewise should be avoided. There may be the occasional situation when a lawyer purposely uses a slang expression or a colloquialism for specific effect, perhaps in the preparation of a brief. However, this is an exception to the rule and should not be taken as authority for poor writing in general.

The italicized words and phrases in the following sentences represent a few of the types of colloquialisms to avoid. A more appropriate expression appears in underlined text.

I have *around* eight books in my library.
I have approximately eight books in my library.

I am *awfully* tired.
I am extremely tired. OR I am tired.

We are no *different than* other people.
We are no different from other people.

He *got sick* as soon as he retired.
He became ill as soon as he retired.

Words Confused and Misused

Write it right. As this short sentence indicates, some words (homonyms) sound alike but have totally different meanings. Other words with similar meanings (synonyms) sometimes are used as if they were interchangeable when the context of a sentence indicates that one is more accurate than the other. The certification applicant is expected to recognize the most appropriate word to use in a given context.

Still other words are used incorrectly because the writer does not know their meaning and does not take the time to consult a dictionary. A complete list of confusing words is not feasible in a manual like this one. It may not be feasible in any book other than a dictionary or a thesaurus. However, a list of those words most often confused (and therefore misused) has been included in the supplemental resources that accompany this text.

Punctuation

Punctuation is the use of standardized marks or signs in written material to clarify meaning and to separate structural units. Paralegals must be able to punctuate their own work correctly and must be able to recognize incorrect punctuation when it is presented to them. Common punctuation marks include the apostrophe, the hyphen, the dash, the comma, the semicolon, the colon, the period, the question mark, the exclamation point, quotation marks, ellipses, parentheses, and brackets.

It has been said that no matter what the rules are concerning punctuation, they will change about every five years. That simply is not correct, at least not as it applies to formal writing. If legal writing is anything, it is formal. As they are used in legal writing, accepted rules of punctuation and grammar

have changed very little through the years. Notice, for instance, that the rules from Strunk and White's *Elements of Style*, the primary reference for this *Certification Handbook* and for numerous law reviews around the country, have not changed. In fact, the copyright on the original book has expired, and this book can be downloaded from the Internet without cost. It is incumbent upon lawyers and paralegals to learn and to use punctuation rules correctly.

The proper use of punctuation marks will be tested as part of the certification exam that you take, sometimes in very complicated sentence structures. For all essay questions (and for all writing in general), strive for simplicity in both writing style and punctuation.

The Apostrophe

The apostrophe is used to create possessive forms of some nouns, indefinite pronouns, abbreviations, and acronyms. It is also used to form contractions and to indicate a quotation within a quotation.

SINGULAR POSSESSIVES The possessive form of singular nouns, abbreviations, and acronyms is achieved by adding *'s*.

a child's toys	a witch's broomstick
the boy's book	CPA's resume
Bill Jones's farm	one year's accumulation
Charles's son	witness's statement

PLURAL POSSESSIVES Forming the possessive of plural nouns, abbreviations, and acronyms is a two-step process: (1) correctly show the plural form of the word and (2) add *'s* unless the plural form already ends in s or the s sound. If the plural form of the word ends in s or the s sound, add only the apostrophe.

children's toys	witches' broomsticks
boys' books	CPAs' resumes
the Joneses' farm	five years' accumulation
the Charleses' sons	witnesses' statements

POSSESSIVE FORM OF SOME INDEFINITE PRONOUNS Personal pronouns and the relative pronoun *who* have possessive forms (*see section on Pronouns*) that eliminate the use of the apostrophe. Some indefinite pronouns, however, have possessive forms that require the use of *'s*:

another's ideas
everybody's nightmare
one's rights
someone else's problem

CONTRACTIONS A contraction is a shortened word group, formed by omitting a letter or sound. The omission is indicated by an apostrophe.

I would	I'd
I would not	I wouldn't
we are	we're

he is	he's
of the clock	o'clock
cannot*	can't

*Note that *cannot* is written as one word.

The Hyphen

The hyphen is used to signal some, but not all, compound words. A compound word is a combination of words joined to express a single thought. While the rules that control compound words are almost as varied as the compound words themselves, some general patterns do emerge. When in doubt about a particular combination of words, consult a good dictionary.

NUMBERS When writing numbers in words, use a hyphen to join the numbers one through nine to the base number (twenty, thirty, forty, and so forth).

fifty-five
nine hundred sixty-seven
one thousand three hundred eighty-six dollars and seventy-nine cents

When a compound is created by combining a number and a noun, and when that compound appears before the noun that it modifies, the number is always singular and the compound is hyphenated. For example, four-way stop and one-horse town.

FRACTIONS Use a hyphen to separate the numerator and the denominator of a fraction unless one of them already contains a hyphen.

one-half	forty-five hundredths
four-fifths	eighteen thirty-thirds
one and three-fourths	thirty-seven forty-fifths

DUAL JOB TITLES When a person holds more than one job at the same time, a title may be formed by joining the two job titles with a hyphen. For example, secretary-treasurer and producer-director.

FAMILIAL RELATIONSHIPS Compound words that begin with the prefix *great* are hyphenated. Compound words that begin with the prefix *grand* are not hyphenated.

great-grandson great-aunt

BUT

granddaughter granduncle

Compound words describing in-laws are hyphenated.

mother-in-law sister-in-law

ALL, EX, SELF, QUASI, AND WELL PREFIXES Compound words created with the prefixes *all, ex, self, quasi*, and *well* are compound adjectives and are hyphenated when they precede the noun they modify.

ex-officio member	all-inclusive
self-esteem	self-indulgent
quasi-contract	quasi-judicial
well-known fact	well-established rule

BUT

The rule has been well established. (no hyphen)

CROSS AND COUNTER PREFIXES The prefixes *cross* and *counter* are hyphenated or not hyphenated, depending on the specific word compound. Since there is no rule pattern that emerges for these words, writers simply must memorize the words that require a hyphen and the words that do not.

cross-examine cross-referenced

BUT

crossroads counterclaim

BUT

counter-clockwise

PREFIXES THAT ARE NOT HYPHENATED The prefixes *anti, co, de, inter, intra, multi, non, para, post, pre, pro, re, semi, super,* and *un* are not hyphenated unless the second part of the word is capitalized, hyphenated, or a number, or unless a hyphen is needed for clarity.

antidepressant	codefendant
devalue	interoffice memorandum
intracompany newsletter	multipurpose room
nonlawyer	paramedic
postoperative	preexistence
proactive	reconstruct
semimonthly	superimpose

BUT

anti-American	non-Dutch
pre-1776	post-Revolutionary War
re-create*	de-emphasize

*With the hyphen, this word means "to create again"; without the hyphen, it means "to engage in recreation."

COMPOUND ADJECTIVES In general, a hyphen is used to join two or more words that function as a single adjective preceding a noun. For example,

holier-than-thou attitude	tax-free earnings
seat-of-the-pants solution	part-time employee

BUT

Earnings on municipal bonds are usually tax free.

It may help to remember that in general, compounds used as adjectives (modifying nouns, words used as nouns, pronouns, or other adjectives) are hyphenated while compounds used as adverbs (modifying verbs or adjectives) are not hyphenated.

The Dash

Use a dash, sometimes known as the em dash, to set off a sudden break or interruption in thought. A dash also may be used to signal a summary of the idea that precedes it or to signal a long appositive. An appositive, which is a parenthetical or explanatory expression, also may be signaled by parentheses or by commas. Use a dash only when a more common punctuation mark, such as a comma or parentheses, is too weak to convey the writer's meaning. For example

- We must condemn—we do condemn—the cruelties of war.
- Life, liberty, and the pursuit of happiness—all constitutional goals—are the birthright of every American.
- The halcyon days of youth—their challenges, their joys, their innocence—will be remembered for the rest of our lives.

POOR My suspicions proved true—it was not me she liked—it was my vast library.

BETTER My suspicions proved true. It was not me she liked; it was my vast library.

The Comma

The comma is the most overused, and therefore misused, punctuation mark in the English language. The purpose of the comma is to signal a slight pause to the reader, not to signal each pause or hesitation of the writer. Gradually longer pauses are signaled by semicolons and colons, respectively. A full stop is signaled by a period. Once writers understand the purpose of each of these punctuation marks, choosing among them in a given situation becomes simpler.

Of all the rules concerning commas in formal writing, the most important one is this: When in doubt, leave it out.

IN A SERIES According to Professor Strunk, use a comma after each item—whether a word, phrase, or clause—except the last in a series of three or more items when those items are joined by a single conjunction. For example,

- coat, hat, and gloves
- He opened the mail, read it, and tossed it aside.

Semicolons are used in place of commas to separate a series of phrases or clauses in which commas (a series within a series) occur:

> The examination covered excise, income, and property taxes; personal, corporate, and private property law; and employment and labor relations law.

To see the logic of this rule, read the example with semicolons and then again with commas substituted for the semicolons. With semicolons, the reader is signaled to pause slightly longer after each group than after each item within the group. With all commas, the reader is signaled to pause equally after each item and each group. Such a reading is not only exhausting, it is also confusing.

WITH PARENTHETIC EXPRESSIONS Use a comma to enclose parenthetic expressions. A parenthetic expression is one that amplifies, explains, repeats in another way, or digresses from the passage into which it is inserted. As a part of speech, a parenthetic expression may be a nonrestrictive, nonessential

Note: Nonrestrictive clauses often are introduced by the word *which*, *who*, *when*, or *where*.

phrase, which is always set apart by commas. A nonrestrictive phrase or clause is one that does not identify or define the preceding noun and could be omitted entirely without detracting from the meaning of the rest of the sentence.
For example,

- Alice, however, was not interested in going to the opera.
- Marsha paid $175,000.00, her entire savings, for the house.
- Synonyms, words with similar meanings, are covered on the test.
- Antique books, none of them mine, will be sold at the auction.

Note: Restrictive clauses often are introduced by the word *who* or *that*.

Restrictive (essential) phrases and clauses, on the other hand, are not parenthetic and are not set off by commas. Such phrases and clauses cannot be eliminated without changing the meaning of the rest of the sentence.

For example,

People who have poor vision should wear glasses.
The car that hit me was a red convertible.
My brother Fred drives a motorcycle to work.
(I have two brothers, making Fred's name essential for identity.)

BUT

Fred, my brother, drives a motorcycle to work.
My father, Fred, retired last year.
(I have only one father; his name is not essential for identity.)

Dashes and parentheses sometimes can be used to signal a parenthetic expression. In deciding whether to use parentheses, commas, or dashes, it may help to remember that parentheses whisper the expression, commas state the expression in a normal tone, and dashes emphasize the expression. For example,

- Marsha paid $175,000.00 (her entire savings) for the house.
- Synonyms—words with similar meanings—are covered on the test.

If the interruption created by the parenthetic expression is slight, however, the commas can be omitted. For example, Jack was exhausted and therefore was irritable.

A noun of address is parenthetic and must be enclosed within commas unless it appears at the beginning or at the end of the sentence. For example,

- Wherever you go, Mary, your reputation goes with you.
- Jack, please bring me the correspondence file.
- I cannot find anything in this box of papers, Neal.

Dates generally contain parenthetic words or numbers and require commas. For example,

Saturday, January 5, 2019
April 19, 2020

BUT

19 April 2020

Use a comma to separate unrelated numbers. For example, in 2017, 328 paralegals attended the refresher course.

Degrees and titles that follow a name are parenthetic and require commas, for example,

- Mary Fulbright, Ph.D., was elected to the Board.
- Woodard Collins III, J.D.

Although *Junior* and *Senior*, together with their respective abbreviations Jr. and Sr., have been regarded by some as parenthetic, logic and Professor Strunk's Rule 3 dictate that both are restrictive (essential for identity) and are used to distinguish one person from the other. Used as restrictive parts of a name, they are not parenthetic and do not need a comma. For example, Fred Gerberding Jr. and Fred Gerberding Sr.

BEFORE CONJUNCTIONS AND TRANSITIONAL WORDS Use a comma before a conjunction that joins two independent clauses. A comma is not required when both independent clauses are very short and are closely connected in thought. For example,

- I have to be in court in one hour, and the tire on my car is flat.
- The hour was late, and the judge became increasingly irritated.
- The hour is late and I want to go home.

Similarly, use a comma before the second clause in a compound sentence when the second clause is introduced by any of these transitional words: *because*, *for* (meaning *because*), *or, nor, since,* or *while* (meaning *at the same time*). Once again, it is permissible to omit the comma when the two clauses are very short and closely connected in thought. For example,

Jack prepared our dinner, while I went to the bakery.

BUT

Either you do it or she will.

When a sentence has a single subject with two verbs that are joined by the conjunction *but*, a comma may be used before the conjunction. On the other hand, when a sentence has a single subject with two verbs that are joined by the conjunction *and*, no comma is used. Given that Strunk and White does not *require* a comma, however, it may be easier simply to omit the comma in both situations. For example,

I wanted dessert, but could not eat another bite.

ALSO CORRECT I wanted dessert but could not eat another bite.

We listened to his story, but were still unconvinced.

ALSO CORRECT We listened to his story but were still unconvinced.

BUT We listened to his story and were still unconvinced.

Do not join independent clauses with a comma; use a semicolon instead. For example, I do not want ham and eggs; I prefer doughnuts.

AFTER INTRODUCTORY EXPRESSIONS When any one of the following types of introductory expressions is used, it must be followed by a comma:

- Introductory infinitive or participial phrase

  ▸ To become more knowledgeable, I took a course in the subject.

- Introductory dependent clause
  - As I turned the corner, I saw my supervisor seated in my office.

Note: Very short prepositional phrases do not require a comma. For example, in 2018 the decision was reversed.

- Introductory prepositional phrase
  - Until discovery is finished, we cannot discuss the case with anyone.
- Transitional expressions, such as these:
  - Consequently
  - First
  - Furthermore
  - Meanwhile
  - Therefore
  - For example
  - Moreover
  - Nevertheless

  Meanwhile, the band continued to play.
  Nevertheless, work proceeded on schedule.
  Therefore, we had no reason to continue with the deposition.

BUT

  We had no reason, therefore, to continue with the deposition.

- Introductory mild interjection
  - Well, that must have been how it happened.
  - Oh, go ahead and buy it.

BETWEEN CONSECUTIVE ADJECTIVES Use a comma to separate consecutive, coordinated adjectives that precede the noun they modify, but only when each adjective modifies the noun. When the first adjective modifies the second adjective (rather than the noun), no comma is required. Hint: One way to tell whether adjectives are coordinated is to substitute *and* for the comma. If the sentence still makes sense and retains its meaning, the adjectives are coordinated and a comma is required. Another way is to reverse the order of the adjectives; if they still make sense, a comma is required to separate them. For example,

- She had a quiet, regal air. (She had a quiet and regal air. She had a regal, quiet air.)
- It was a dark, dreary day. (It was a dark and dreary day. It was a dreary, dark day.)
- She wore a mint green coat. (Mint modifies green, not coat.)
- He made a weak legal argument. (Weak modifies legal, not argument.)

WITH INFORMAL QUOTATIONS Use a comma to introduce or to conclude an informal, direct quotation. For example,

- Uncle Harry always says, "Children are to be seen and not heard."
- "I wonder what time we shall eat," Mary asked.

Formal quotations are introduced by a colon (see section on colons), while indirect quotations are paraphrased and do not use any specific punctuation mark. For example, Thoreau said that civil disobedience is sometimes a good thing.

The Semicolon

The semicolon is used to signal a break that is stronger than the comma but is not as strong as the colon within a phrase, independent clause, or sentence. The rules for use of semicolons are fewer than the rules for commas because the semicolon is used much less often. As is true of all punctuation marks, do not use the semicolon unless there is a specific rule requiring it to be used.

IN A SERIES Use a semicolon to separate a series of phrases or clauses in which commas (signaling a series within a series) already occur. For example,

> The examination covered excise, income, and property taxes; personal, corporate, and private property law; and employment and labor relations law.

To see the logic of this rule, read the example with semicolons and again with commas substituted for the semicolons. With semicolons, the reader is signaled to pause slightly longer after each group than after each item within the group. With only commas, the reader is signaled to pause equally after each item and each group. Such a reading is both exhausting and confusing.

BETWEEN INDEPENDENT CLAUSES WITHOUT CONJUNCTION Use a semicolon to join two or more grammatically complete clauses that are not joined by a conjunction or connective word. For example,

- We always vacation in New England; it's cooler there in July.
- The jury was sequestered for many hours; awaiting its decision was torturous.

When a conjunction is inserted, the proper punctuation mark is always a comma. For example,

- We always vacation in New England, for it's cooler there in July.
- The jury was sequestered for many hours, and awaiting its decision was torturous.

Notice that each of the sentences in the first example group could have been written correctly as two separate sentences. For example,

- We always vacation in New England. It's cooler there in July.
- The jury was sequestered for many hours. Awaiting its decision was torturous.

BETWEEN INDEPENDENT CLAUSES WITH CONJUNCTION Use a semicolon to join two or more grammatically complete clauses that are joined by a conjunction when any one of the clauses contains a comma. Compare this rule with the rule stated immediately above. When neither of the independent clauses already contains a comma, however, the correct punctuation mark is a comma. For example,

No matter how I tried to follow the directions, I rarely hit the ball; and that frustrated me.
As the day wore on without any end to the negotiations in sight, I became more and more tired; and all I wanted was to go home.

BUT

I rarely hit the ball, and that frustrated me.
I became more and more tired, and all I wanted was to go home.

The logic of this rule is similar to the logic of the rule requiring semicolons to separate a series in which commas already occur. The pause between the independent clauses (signaled by a semicolon) should be longer than the pause after the introductory phrase (signaled by a comma). If each of the example sentences were punctuated with a second comma in place of the semicolon, the reader would pause equally at both commas, making the reader's job more difficult.

The Colon

The colon signals a pause that is longer than the pause required by either a comma or a semicolon. In formal writing, the colon is used most commonly to introduce a formal quotation or rule, a question, an antithesis, or a list. A colon should precede a list only when formal words of introduction—for example, *as follows* or *the following*—are used. Notice that when words of introduction are used, the first word following the colon is capitalized; otherwise, it is not. For example,

- As we waited for the verdict, I was reminded of the words of Samuel Goldwyn: "A verbal contract isn't worth the paper it's written on."
- In reversing the decision, the Court said: "The case of *Roe v. Wade* involved the protection of privacy rights."
- Of all the rules concerning punctuation, the most important one is this: When in doubt, leave it out.
- There is just one thing that I want to know: How long have you had this information?
- Someone wins: another loses. (A semicolon is also proper.)
- To ensure success, paralegals need the following characteristics: high intelligence, outstanding writing skills, and a great sense of humor.

OTHER USES The colon has a number of other uses, all of them related to separating different levels of the same item. The colon is used to separate:

- The title and subtitle of a literary work
  - Certification: A Professional Goal
- The page and line numbers in depositions and briefs
  - C. Kretchmer deposition, page 137, line 22
  - C. Kretchmer 137:22
- Chapter and verse numbers in Biblical references
  - Chapter 23, verse 4 of the Book of Psalms
  - Psalms 23:4
- The differential in ratios or proportions
  - 20 to 1
  - 20:1

- Hour and minutes in expression of time
  - fifteen minutes before six a.m.
  - 5:45 a.m.
- The salutation from the body of a formal business letter
  - Dear Mr. Smith:

The Period

The period is most frequently used to signal a complete stop at the end of a sentence. In addition, this punctuation mark is used to create abbreviations, decimals, outlines, and lists.

AT THE END OF A SENTENCE The period is used at the end of a sentence to signal the reader to come to a complete stop. A sentence may be the simple, declarative kind (with both the subject and the verb shown) or it may be elliptical (one in which words are omitted but are understood). For example,

- Amy arrived before Connie did.
- (you) Put the memorandum on the desk.

Never use a period when a comma is the required punctuation mark, for example,

INCORRECT	He was fascinating. A person who had traveled the world and who told hilarious stories.
CORRECT	He was fascinating, a person who had traveled the world and who told hilarious stories.

WITH ABBREVIATIONS Abbreviations should be used sparingly in formal writing or, for that matter, in any writing or conversation unless the abbreviation is defined for the reader or the listener first or unless the abbreviation is so common that no confusion can result from its use. The same is true of acronyms. Although it may be permissible to abbreviate common nouns in the business world, common nouns—account (acct.), amount (amt.), each (ea.), and so forth—are not abbreviated in formal writing.

Some abbreviations use periods; others do not. Learning the difference between the two is simply a matter of memorization and practice. Many abbreviations are already familiar to the experienced paralegal. For example,

Dale McHenry, Ph.D.	1015 B.C.
Bill Campbell, CPA	12:40 a.m. EST
Oscar Wilde Jr.	U.S.A. or USA
IRS	Corp.

The primary difference between an abbreviation and an acronym is pronunciation. Both are formed by using only the first letter(s) of each word comprising the abbreviation or the acronym. Abbreviations are pronounced by saying each letter of the resulting combination of letters, while acronyms are pronounced phonetically. Acronyms are not punctuated with periods. For example,

Mothers Against Drunk Drivers	MADD
Zone Improvement Plan	ZIP
light amplification by stimulated emission of radiation	laser

Periods are placed inside quotation marks but are placed outside single quotation marks. When a quoted sentence appears within another independent sentence, use a comma instead of a period to punctuate the internal quotation. For example,

- Erin reported, "I have completed the deposition summaries."
- The class was asked to define the term "common law."
- The instructor said, "Please define the term 'common law'."
- Mary said, "I cannot do this anymore," as she left the office.

When parentheses or brackets are used to enclose or to set off an independent sentence, the period is placed inside the final parenthesis or bracket. However, when parentheses or brackets are used to enclose other words, phrases, or clauses within an independent sentence, the period is placed outside the final parenthesis or bracket. For example,

- The client searched everywhere for the invoice. (It was never found.)
- "I cannot find the document [it was never found] or the transmittal letter."

When an abbreviation requiring a period appears at the end of the sentence (also requiring a period), only one period is used. For example,

Send these interrogatories to our client at Acme & Co.

The Question Mark

The question mark is used to indicate an independent inquiry (question) or an interrogative element (question) within a sentence. A sentence that is declarative in structure may become a question by substituting a question mark for the period. For example,

- How can we finish everything on time?
- The form indicates that he was born in 1999 (?) and was married in 1924.
- They reimbursed you?

Conversely, a command that is structured as a question should be punctuated with a period, not with a question mark. Indirect questions are punctuated with periods as well. For example,

- Please join me in welcoming our guest.
- Will you take these documents to the courthouse.

The question mark should be placed inside quotations, parentheses, or brackets only when it is part of the quoted or parenthetical material. For example,

Allison inquired, "Where are the deposition summaries?"
When I found the client's file (where is it now?), I gave it to Richard.

BUT

Was she upset when she said, "I cannot condone this behavior"?
Why did you wait so long to call me (a whole week)?

The Exclamation Point

The exclamation point is used to signal strong emotion, such as surprise, disbelief, or enthusiasm. To preserve its effectiveness, the exclamation point should be used sparingly in all writing and even more sparingly in legal writing.

- Oh, no!
- How can you say that!

Like the question mark, the exclamation point should be placed inside quotation marks, parentheses, or brackets only when it is part of the quoted or parenthetical material. Otherwise, it should be placed outside. For example,

- "The boat is sinking!" he shouted.
- Our young son told the cashier (we were so embarrassed!) that we starved him.

The Quotation Mark

Quotation marks are used to signal exact words that have been either spoken or written. For example,

- On appeal the court held: "Where there is a right, there is a remedy."
- Jack said, "I can't hear the witness."

When a quotation appears within another quotation already enclosed between quotation marks, the inner quotation is enclosed between two apostrophes. Apostrophes used in this way are called single quotation marks. For example,

> Harry said, "The article 'Contract as Right' is a favorite among lawyers."

When a quotation is 50 words or more in length, it is signaled by indenting it from both the left and right margins rather than by using quotation marks. When an inner quotation appears within an indented quotation, the inner quotation is signaled by quotation marks. Lengthy excerpts from court opinions demonstrate this method of quotation, such as this footnote from *Missouri v. Jenkins*, 109 S. Ct. 1463 (1989):

> Of course, purely clerical or secretarial tasks should not be billed at a paralegal rate, regardless of who performs them. What the court in *Johnson v. Georgia Highway Express, Inc.,* 488 F.2d 714, 717 (CA5 1974), said in regard to the work of attorneys is applicable by analogy to paralegals: "It is appropriate to distinguish between legal work in the strict sense, and investigation, clerical work, compilation of facts and statistics and other work which can often be accomplished by non-lawyers but which a lawyer may do because he has no other help available. Such non-legal work may command a lesser rate. Its dollar value is not enhanced just because a lawyer does it."

Quotation marks are used to enclose any material introduced by these words and expressions: endorsed, entitled, marked, signed, the term, or the word. For example,

- The class was asked to define the term "common law."
- The document marked "Exhibit A" was illegible.

When used with quotation marks, the comma and period are placed inside the quotation marks. Other punctuation marks are placed outside the quotation marks unless they are part of the quotation. For example,

- We were asked to define the term "common law."
- We were asked to define the term "common law," but I could not do it.
- We were asked to define the term "common law"; I could not do it.

The Ellipsis

Ellipses (also called ellipsis points) are punctuation marks consisting of three spaced periods (. . .), which are used to indicate an omission within quoted material. When the omission occurs at the end of a quoted sentence, use the ellipses and then the period from the quoted sentence. When the omission occurs at the beginning of a quoted sentence (so that the first quoted word begins with a lower case letter in the original work), signal the omission with the ellipses and enclose the first letter of the next quoted word in brackets. For instance:

- "Plaintiff's claim involved lost wages . . ., medical expenses, and property damage.
- "Viewed in such a way, this is a case of first impression. . . ."
- ". . . [T]he assailant is alleged to be a white male."

Parentheses

Parentheses are used to enclose material that explains, amplifies, or digresses from another element in the sentence; thus, the term "parenthetical expression." Remember that commas or dashes may be used to enclose parenthetical expressions as well.

Parentheses may be used to enclose numbers or letters identifying separate elements of a list that is shown as part of a sentence. For example,

Parenthetical expressions may be signaled by (1) parentheses, (2) commas, or (3) hyphens.

When the parenthetical material is either a question or an exclamation, show the question mark or the exclamation mark before the final parenthesis. The period is not shown inside the parentheses unless the parenthetical material is a stand-alone, parenthetical sentence. For example,

- Pat Holt (do you know her?) is the software expert at our office.
- The black Cadillac (it's a convertible) is mine.
- The black Cadillac is mine. (It's a convertible.)
- (This is a parenthetic sentence.)

Other, internal punctuation marks are shown outside the parentheses unless they are part of the parenthetical material. For example,

- By waiting so long to call (a whole week), your case has been weakened.
- Decide what you want to do (press charges, sue, or settle); then call me.

The Bracket

Brackets are used to enclose editorial comments, corrections, or explanations within quoted material. They are also used to signal a parenthetic expression contained within another parenthetic expression. For example,

- "Despite the damaging evidence [it was discovered by Sherlock Holmes], the defendant maintained his innocence."
- "The practice of lew [sic] by nonlawyers is prohibited."

Capitalization

Capitalization is the practice established for the use of uppercase (capital) letters to identify or to emphasize. Capitalization of a word signals the reader to give more attention to it, signifying that it is more important than the words surrounding it. This *Certification Handbook* covers only the more common rules of capitalization, grouped according to the general categories to which they apply.

The First Word

Always capitalize the first word of a sentence. Capitalize the first word of a quoted sentence unless it flows into the underlying sentence structure. For example,

> Simple sentences are best.
> The instructor said, "Simple sentences are best."
> The instructor said that "[s]imple sentences are best," and I believe him.

Capitalize the first word following a colon only if words of formal introduction are used, that is, if the words preceding the colon create an expectation that additional material will follow the colon. For example,

> The most important punctuation rule is this one: When in doubt, leave it out.
> To pass the test, one must do the following: Prepare, prepare, and prepare.

BUT

> Excellence in all that we do: that was the organization's motto.

Capitalize the first word of each item in a formal list, as well as the first word of each entry in an outline. For example,

1. Dark shoes
2. Black tie
3. Brown coat

I. First words
   A. In a sentence
   B. In a quotation
   C. In a list

Personal Names

Capitalize names and initials of specific persons, as well as nicknames and fictitious names: JFK or John Doe. Capitalize a foreign name according to the conventions of the language from which it derives.

Coined nouns and adjectives derived from personal or geographic names are capitalized unless they have become so commonly used (generic) that the capital letter is dropped. The names of nationalities and languages are always capitalized: Canadian bacon, French braid, but french fries.

When used as part of narrative text, capitalize titles when they precede a personal name, as part of the name. Academic degrees are capitalized following a personal name, whether abbreviated or written in full. Academic degrees are not capitalized when they are not connected with a specific name. The name of a specific academic course is capitalized; otherwise, courses are not capitalized unless they are required to be capitalized under some other rule (such as French, Spanish, and the like).

Geographic (Place) Names

Certain nouns and adjectives designating parts of the world or regions of a continent or country are generally (but not always) capitalized: the Arctic Circle.

Note: Compass points (north, south, east, and west) and their derivatives (northerly, southerly, and so forth) are never capitalized when they are used merely to indicate direction.

Names of specific mountains, rivers, oceans, and so forth are capitalized, including the generic terms *mountain, river,* or *ocean* when used as part of the specific names: Pacific Ocean. Names of specific buildings, monuments, and thoroughfares are capitalized. Generic terms like *avenue, boulevard, bridge, building, street,* and so forth are capitalized when they are part of the formal name. When they stand alone, they are not capitalized.

Government

Words designating political divisions or governmental units (country, state, city, and so forth) are capitalized when they follow the name and are an accepted part of it: the state of Washington. When the full name or the abbreviation of a legislative body or an administrative body is used, it is generally capitalized. When the name of the governmental body is paraphrased or when no specific governmental unit is named, do not capitalize. Although governmental references, some terms generally are not capitalized: federal government, the state. Both the formal name and the paraphrased name of a specific court are capitalized. Standing alone, the word court is not capitalized unless it refers to the United States Supreme Court or unless it is used as a noun of address for a particular court. Do not capitalize terms referring to documents or pleadings unless they are included as part of the exact title of a document in existence. This is a common error among lawyers and paralegals. Do not capitalize the word appellant, appellee, defendant, movant, petitioner, plaintiff, respondent, or the like unless it must be capitalized under another rule (such as the first word of a sentence or part of a document title or a pleading caption). The term *state* is capitalized when it is used as a proper noun or as a proper adjective referring to a specific state (Washington State) or to "the State" as a party to litigation. Otherwise, it is treated as a generic term and is not capitalized.

The names of national and international organizations and alliances are generally capitalized, as are members of a specific political party, for example, the Democratic Party.

Other Names

Other nouns and adjectives may require capitalization, based upon their source or based upon the way in which they are used. As with all capitalization, the underlying rule is not to capitalize any word unless a specific rule requires its capitalization. The full names of associations, companies, and institutions are capitalized, together with their departments and divisions. However, the words *association, company,*

society, and the like are not capitalized when used alone. The names of specific documents, events, and historical periods are capitalized: the Boston Tea Party. Names of the months of the year are capitalized, as are the names of the days of the week. The names of specific holidays are also capitalized. A season of the year is not capitalized unless the term is personified (as in poetry) or is part of the title of either a literary work or a special event. Time zones are not capitalized when designated in words; however, time zone abbreviations are capitalized: eastern daylight savings time, EDST. All words in the titles and subtitles of specific articles, books, periodicals, and newspapers are capitalized except (1) articles (a, an, the) unless the article is the first word of the title; (2) coordinating conjunctions (and, for, or, nor); and (3) prepositions, regardless of length, unless they are the first or last words of the title or subtitle: the book entitled *A Man for All Seasons*.

Note: The titles of complete works are underlined (or italicized), while articles and serial parts of an entire program or work are enclosed in quotation marks.

Grammar

Each examinee is required to demonstrate knowledge of the rules that govern parts of speech (1) by recognizing their correct (or incorrect) use within the structure of specific sentences or (2) by using them properly in sentences drafted by the examinee.

This section reviews the most common parts of speech for building sentences and suggests a simple technique to ensure that sentences are grammatically correct. All words can function of some part of speech; and many words can fit into more than one category, depending upon their function in the sentence, or they can move from one category to another by changing the word's form slightly.

Drafting a sentence is similar to constructing a house. Large or small, fancy or plain, every house must have a framework that matches on all sides; and all connecting points must be aligned precisely. Without this precision, the house would be fairly drafty—if it could stand at all. Drafting sentences is no different when it comes to framework. Long or short, complex or simple, its subject and all subject modifiers (adjectives) must match the verb (predicate) and all verb modifiers (adverbs). In addition, the mood, voice, and tense must be perfectly aligned to support the information or idea the author hopes to convey. Without this balance and alignment, even the most eloquent collection of words will fall apart; and the idea will be buried in a jumble. In short, the idea to have been conveyed is lost; and the sentence fails its purpose.

A Practical Approach

This *Certification Handbook* is not intended as a substitute for an English grammar course but, rather, is intended to review frequent faults in grammar and sentence construction. Most faulty sentences could be avoided if the writer would use the simple exercise that many of you learned in elementary school: diagram sentences. Wait, wait: Don't close the book. The way you will diagram sentences here is much less difficult than what you learned years ago. A good writer focuses on the subject, verb, and object of a sentence. Once you get the hang of this version, you will be able to diagram your own sentences and also the sentences of everyone else.

The basic sentence structure (framework) looks something like Figure 1-1 to start:

Figure 1.1
Basic Sentence Structure

2 subject	1 verb	3 if any direct object	if any indirect object
who or what?	*action or being?*	*who or what?*	

There are four basic word groups to consider during the sentence analysis. They are the verb group, the noun/pronoun group, the modifier group, and the linking words group. Recall that words can move from one group to another, depending on their function in a particular sentence. For example,

The victims received medical *aid*. (used as a noun)
Physicians *aid* those suffering from injury. (used as a verb)

Everything above the line in Figure 1-2 is central to a basic sentence structure (the foundation or the spine); everything below the line is a modifier. Modifiers are discussed later in this chapter. From this point on, see if you can diagram the sentence structure in the examples. Use the structure shown here to perform this task. The point is (1) to notice that every sentence, whether complex or simple, begins with a basic structure and (2) to be able to decipher it among all of the words. When you have a little free time, no matter where you are, diagram every sentence you see. Your writing will improve.

The Verb Group

The verb group includes the main verb plus its helping words, if any, to form a verb phrase called a predicate. The verb may be either (1) an action word (run, see, grow, help, and so on) or (2) a word of being (am, are, is, and so on). The verb is the central player in every sentence. It sets the tone of the entire sentence by its tense (present, past, or future); voice (active or passive); and mood (indicative, imperative, or subjunctive). Not surprisingly, the verb appears in the center space of the sentence structure shown above. Without a verb, no sentence exists.

A verb preceded by the word *to* creates an infinitive. Infinitives may function as nouns or modifiers within a sentence. If the actor of the sentence directs the action toward an object of the sentence, use the verb's active voice, for example,

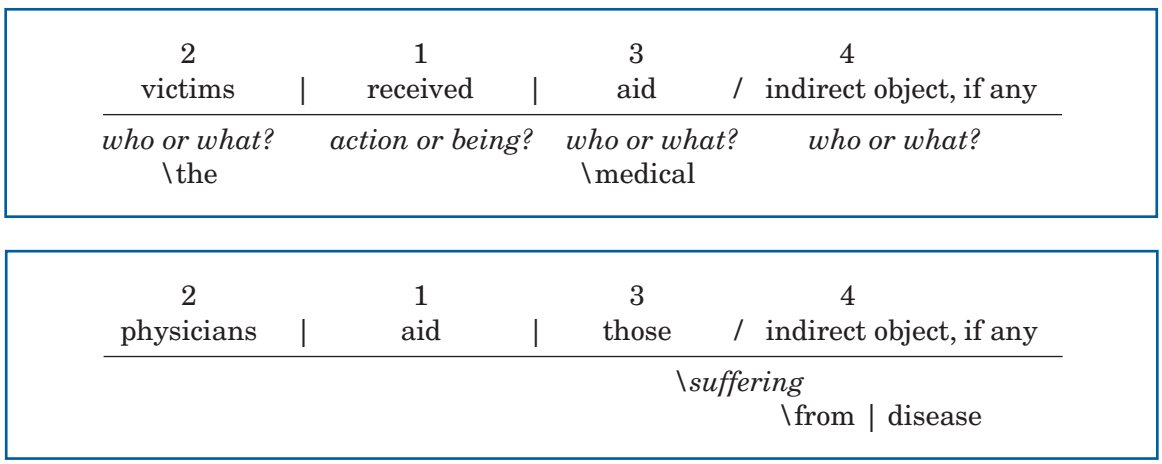
Dick mailed the notices of hearing to all parties.

However, if the actor of the sentence (Dick) is acted upon, use the passive voice, for example,

The regulation *was adopted* by the *IRS* to prevent fraud by taxpayers.

Nearly all authorities agree that the active voice is preferred over the passive voice. The active voice is the stronger, more interesting, or more persuasive of the two. Use the passive voice when the actor is unknown or when the intent is to minimize the actor's participation. Government agencies, for instance,

Figure 1.2
Sentence Structure Diagram



tend to use the passive voice when discussing their actions, which leaves the impression that they were not directly responsible. Beyond these limited circumstances, use the active voice in all writing.
A verb's mood indicates the attitude of the writer or of the speaker as expressed by the verb. The verb's mood can be indicative, imperative, or subjunctive.

The indicative mood states a fact, expresses an opinion, or asks a question, for example,

- The textbook was published in 2019. (fact)
- The text is an excellent reference tool. (opinion)
- Have you used this text? (question)

The imperative mood makes a request, states a command, or gives direction, for example,

- Please call me after you have read the reports. (request)
- Review the discovery file right away. (command)
- Return all copies to me when you finish. (direction)

The subjunctive mood states a suggestion or a requirement; expresses a desire or wish; or asserts conditions that are improbable, doubtful, or contrary to fact. Notice that the subjunctive mood uses distinctive verb forms, for example,

Dale should be told of your plans. (suggestion)
Dale must be told of your plans. (requirement)
I wish you would tell Dale of your plans. (desire)
George acts as if he were in charge. (but he was not in charge)

BUT

If Max was in Boston all week, he did not receive my letter. (fact—indicative mood)

The tense of the verb shows the time of the action or event. Based upon the time of the action or event, the correct verb tense is shown in Table 1-1.

I *helped* Gary with his homework. (past)
I *had read* many books by the time I *graduated*. (both past, one before the other)
Mother *helps* a great deal when she *visits* me. (both present)
She *will help* me with Gene's graduation party next month. (future)
I *shall have helped* many people by the time I leave. (to be completed in the future)

Irregular verbs vary their tense forms for present, past, future, and past participle forms (Table 1-2). Consult a dictionary for tense formation of irregular verbs. If the verb's tenses are not shown, it is a regular verb and follows the conventions shown in the above table. Some of the more common irregular verbs, together with their past and past participle forms are provided with the supplemental materials to this text.
The certification examinee must be able to recognize when any of these verb characteristics is used incorrectly within the context of a particular sentence and must be able to use verbs correctly in all essay answers.

AGREEMENT OF SUBJECT AND VERB The subject and verb of the sentence must agree in number. In other words, the number of the subject determines the number of the verb (whether singular or plural). A singular subject requires a singular verb, and a plural subject requires a plural verb. For example,

It *is* fascinating to wander through old courthouses.
Old courthouses *are* fascinating.

Table 1-1: Table of Verb Tense Forms: Regular Verbs

	Past	Past Perfect	Present	Present Perfect	Future	Future Perfect
Time	started in the past and finished in the past	started and finished in the past, prior to some other past action	happening now	started in the past and continuing now	will happen in the future	will be finished in the future
Form	add **d** or **ed** to base verb	**had** + past participle	base verb (add **s** to third per son singular)	**has** or **have** + past participle	**shall** (first person) or **will** (all others) + base verb	**shall** or **will** + **have** + past participle
Samples	I helped you helped she helped he helped it helped we helped you helped they helped	I had helped you had helped she had helped he had helped it had helped we had helped you had helped they had helped	I help you help he helps she helps it helps we help you help they help	I have helped you have helped she has helped he has helped it has helped we have helped you have helped they have helped	I shall help you will help she will help he will help it will help we shall help you shall help they shall help	I shall have helped you will have helped she will have helped he will have helped it will have helped we shall have helped you will have helped they will have helped

Table 1-2: Common Irregular Verbs

Present	Past	Past Participle
am, are, is	was, were	been
become	became	become
begin	began	begun
bring	brought	brought
choose	chose	chosen
come	came	come
do	did	done
get	got	gotten
give	gave	given
go	went	gone
know	knew	known
lay	laid	laid (to put or place)
lie	lay	lain (to rest or recline)
make	made	made
run	ran	run
see	saw	seen
take	took	taken
write	wrote	written

A verb with more than one subject (compound subject) is almost always plural. For example,

A fool and his money *are* soon parted.
Ian Jones and the woman who jogged across America, Jan Clark, *were* invited.

BUT

Give and take *is* critical to any relationship.

Use a singular verb when the subject is *anybody, anyone, each, each one, either, everybody, everyone, neither,* or *nobody* or when the subject is qualified by any of these words. Hint: When the subject of the sentence is none (meaning no one or not one), the verb is singular most of the time. See the following examples:

Nobody *is* responsible.
Either of the candidates *is* qualified for the job.
None of the paralegals in our firm *is* ever late.

BUT

None *are* so blind as those who will not see.

When the word *all* is used as a subject, a plural verb is almost always required. For example,

All but one *have* the measles.
All of the funds *were* spent on publicity.

BUT

All of the money *was* spent on publicity.

Plural words that intervene between a singular subject and its verb do not change the singular number of the subject. For example, Mara, who has led many groups, *believes* this one is her best.

A singular subject remains singular even when other nouns are connected to it by words such as *with, as well as, in addition to, except, together,* and *no less than*. For example,

- Her grammar as well as her test scores *was* poor.
- Our neighbor as well as his cars *annoys* everyone on our block.

When compound subjects are joined by the conjunctions *either . . . or, neither . . . nor,* or *not only . . . but also*, the verb must agree in number with the subject closer to it.

- Neither the attorneys nor the judge *was* ready to leave on time.
- Either the attorney or her paralegals *are* doing a creditable job.

Some nouns appear to be plural but are treated as singular; these require a singular verb.

Gymnastics *is* one sport that I will never master.
Communications *was* the hardest class for me.

BUT

Calisthenics *are* good for sore muscles.
Communications *were* strained between us.

The Noun/Pronoun Group

A noun is the name of a person, a place, a thing, a concept, or a quality (child, river, book, patriotism, happiness) or proper nouns (Mariah, Mississippi River, Bible, World War II). Used as the subject of a sentence or clause, a noun answers the question: What or who? Used as the direct object or indirect object of a sentence (or as the object of a phrase), a noun answers the question: What or whom? Nouns are the identifiers of actors and topics within a sentence.

A pronoun is a word that substitutes for a noun (I, me, you, he, she, it, him, her, they, them, themselves, everyone, this, that, those, who, which, and so forth). Pronouns are used in place of nouns and perform the same functions as nouns within a sentence. Sounds simple enough. Yet, pronouns cause more difficulty for more people than any other single part of speech. Sometimes the difficulty stems from a simple failure to keep pronouns logistically close to their antecedents, which, in turn, creates confusion about the antecedent to which the pronoun refers.

Pronouns and their antecedents—the words to which they refer—must agree in person (whether first, second, or third); in number (whether singular or plural); and in gender (whether masculine, feminine, or neuter).

A pronoun's number depends upon the singular or plural status of its antecedent, using the same rules for agreement of subject and verb (earlier in this chapter). Separate but similar problems arise in gender agreement of pronouns with their antecedents. Nevertheless, the same rule applies: Refer to the number and gender of the antecedent to determine the number and gender of the pronoun.

> A civilized society resolves *its* disputes in courtrooms.
> Civilized societies resolve *their* disputes in courtrooms.

Misuse of pronoun case accounts for many writing errors as well. Pronoun case refers to how the pronoun functions within a sentence (whether subjective, objective, or possessive). Relative and interrogative pronouns *who* and *whom* (Table 1-3) are sources of uncertainty for everyone, whether sometimes or all of the time. Simple ways to get them right every time are included with the more detailed material on pronouns in the supplemental materials to this text.

Table 1-3: Pronoun Case Forms

Personal Pronouns	Subjective	Objective	Possessive
Singular			
First Person	I	me	my, mine
Second Person	you	you	your, yours
Third Person	he, she, it	him, her, it	his, her, hers, its
Plural			
First Person	we	us	our, ours
Second Person	you	you	your, yours
Third Person	they	them	their, theirs
Relative and Interrogative Pronouns			
	who	whom	whose
	whoever	whomever	—
	which that	which that	—

The Gerund

A gerund is a verb ending in *-ing* that functions as a noun. Gerunds may be used as subjects or as objects within the sentence structure.

- *Playing* the harmonica is Richard's favorite pastime. (subject)
- Ann went to the laundromat to do her *laundry*. (object of infinitive "to do")
- The mayor disapproved of *picketing* after sunset. (object of preposition)

Do not confuse gerunds and present participles, both of which have the *-ing* ending. The gerund functions as either a subject or an object, while the present participle functions as an adjective.

- Your *snoring* was too loud to ignore. (gerund)
- The entire congregation heard you *snoring*. (participle)
- *Teaching* is demanding work. (gerund)
- Joy hopes to earn a *teaching* degree. (participle)

The Infinitive

An infinitive is formed when a verb (usually first person singular) is preceded by the word *to*. Infinitives may function as nouns, adjectives, or adverbs. For example,

- Martin loves *to shop*. (used as a noun, the object of this sentence)
- Richard is a sight *to see*. (used as an adjective, modifying "sight")
- Canoeing is difficult *to do*. (used as an adverb, modifying the adjective "difficult")

Avoid "split infinitives" (an adverb inserted between *to* and the verb when possible). For clarity, the adverb should be placed either before or after the infinitive. For example,

INCORRECT We need *to* carefully *proofread* the brief.
CORRECT We need *to proofread* the brief carefully.

The tense of the infinitive is determined by the tense of the verb in the predicate. The present infinitive indicates action at the same time as or later than that of the verb. For example,

- I hope *to see* you soon. (seeing will occur after the hope)
- I would have liked *to meet* you long ago. (liking and meeting at the same past time)

The (past) perfect infinitive indicates action earlier than that of the verb and is formed by combining the words *to have* with the past participle of the verb. For example,

- I would like *to have attended* Harvard. (attended occurs before like)
- We believe the vote *to have been* secret. (vote occurs before belief)

Modifier Group

The modifier group relates to a word or group of words used to explain, limit, or qualify the meaning of another word or group of words. Modifiers include adjectives and adverbs as well as those words, phrases, and clauses that function as adjectives or adverbs.

ADJECTIVES Adjectives are modifiers that describe or modify nouns or pronouns. Adjectives answer the question: Which?, what kind of?, or how many? within the sentence structure. For example,

- The *downtown* office handles all of the computer equipment. (which office)
- *Loose* screws will ruin a car. (what kind of screws)
- *All* students hope to earn an A in the course. (how many students)

A group of words—a phrase or a subordinate clause—may function as an adjective within the sentence. For example,

Applicants *who plan for success* will have it. (adjective clause telling which applicants)

ADVERBS Adverbs are modifiers that describe or modify verbs, adjectives, other adverbs, or groups of words that function as verbs, adjectives, or adverbs. Adverbs answer the question: How?, when?, where?, to what extent?, or how often? within the sentence structure. Adverbs often (but not always) end with the letters *ly*. For example,

- The test was *extremely* long. (how)
- Maurice will be here *tomorrow*. (when)
- Please put the book *here*. (where)
- I *nearly* lost my watch. (to what extent)
- Ron *frequently* drives to Las Vegas. (how often)

A group of words—a phrase or a subordinate clause—may function as an adverb within the sentence.

- *At dawn* the city comes to life. (adverb phrase)
- The seminar was not as successful *as we had hoped*. (adverb clause)

ADJECTIVES AND ADVERBS FOR COMPARISON Adjectives and adverbs can be used to compare one person or thing to other people or things. The comparative degree is used to compare two people or things; the superlative degree is used to make comparisons among three or more people or things. For example,

Garnets are *less* expensive than rubies. (comparative)
Crystals are the *least* expensive of all gemstones. (superlative)

PARTICIPLES Every verb has two participle forms: present and past. The *present participle* is formed by adding *-ing* to the present tense verb form (working, helping, knowing). The past participle is formed by adding -d or -ed to the present tense of regular verbs (worked, helped). Irregular verbs use their own past participle form (known). Both present and past participles function as adjectives to modify nouns and pronouns. For example,

- *Working* mothers are busy people. (present participle, modifies mothers)
- Everyone needs a *helping* hand. (present participle, modifies hand)
- Karen gave us a *knowing* smile. (present participle, modifies smile)
- Having *worked* hard, Jill was promoted first. (past participle, modifies hard)
- Ben's story is *helped* by his sincerity. (past participle, modifies story)
- *Known* to be fair, Robert will make a good judge. (past participle, modifies Robert)

NOUNS AND PRONOUNS Nouns can function as modifiers of other nouns in limited circumstances. Pronouns frequently are used as adjectives to modify nouns. For example,

- *sweat* shop
- *office* building
- *slave* labor
- *Her* scores were higher than *his*. (scores)
- *This* paper has many errors.

MISPLACED MODIFIERS A misplaced modifier is one that seems to modify the wrong part of the sentence or that creates confusion about which part of the sentence it modifies. Misplaced modifiers can produce humorous results on occasion; more times than not, however, they are simply awkward and confusing. Nearly all problems with misplaced modifiers can be eliminated by following the rule stated at the beginning of the grammar section: diagram the sentence to determine its basic structure. Then keep related words and word groups together. For example,

INCORRECT	He barely died a month ago. (Is he barely dead as a result?)
CORRECT	He died barely a month ago.
INCORRECT	Adam served drinks to his guests in glasses. (Those not wearing glasses went thirsty?)
CORRECT	Adam served drinks in glasses to his guests.
INCORRECT	I knew that a crime had been committed by the smell of marijuana. (Did the smell commit a crime?)
CORRECT	I knew by the smell of marijuana that a crime had been committed.

When a participial phrase is placed at the beginning of a sentence, it must refer to the grammatical subject of the sentence. In fact, this rule applies to most introductory phrases. Use our mini diagram for each of these sentences (find the main verb, then ask who or what to locate both the subject and the direct object):

- Speeding down the street, we noticed two men in a red car.
- In need of body work, Joe bought a car for a good price.
- Just having had kittens, I was unable to coax Tabby from under the bed.

As written, the first sentence above indicates that *we* were speeding down the street. If the writer intends to say that the men were speeding down the street, the sentence must be rewritten. In the second sentence, it seems likely that the car needed body work—not Joe; the sentence must be rewritten. In the third sentence, surely it was Tabby who had kittens and not the writer; it, too, must be rewritten. For example,

- We noticed two men speeding down the street in a red car.
- Joe bought a car in need of body work for a good price.
- I was unable to coax Tabby, just having had kittens, from under the bed.

By keeping the basic parts of a sentence close to their modifiers, the vast majority of misplaced modifier problems can be avoided.

DANGLING MODIFIERS A dangling modifier is a misplaced modifier carried to its ultimate extreme; a dangling modifier does not modify anything in the sentence. Dangling modifiers often produce ludicrous sentences. For example,

INCORRECT	Uncertain of what to do next, the doorbell rang.
CORRECT	Sam was uncertain of what to do next when the doorbell rang.
INCORRECT	While in grammar school, my mother earned a college degree.
CORRECT	While I was in grammar school, my mother earned a college degree.
INCORRECT	At three years of age, both of Bill's parents died.
CORRECT	When Bill was three years old, both of his parents died.

To locate dangling modifiers, verify that the modifier describes the subject of the sentence. If it does not, it may be a dangling modifier. To avoid dangling modifiers, either rewrite the modifier and give it a subject of its own or change the sentence so that the modifier describes the right subject.

Conjunctions and Other Linking Words

A conjunction is a word that connects words, phrases, and clauses to form a cohesive sentence. Conjunctions may be coordinate, correlative, or subordinate. Examinees must be able to use conjunctions appropriately and to recognize their incorrect use within a given sentence.

COORDINATE CONJUNCTIONS A coordinate conjunction is one that connects words or groups of words that have equal grammatical value or rank. For instance, a coordinate conjunction may connect two nouns or may connect two independent clauses. The words *and, but, or, nor,* and *yet* are examples of coordinate conjunctions.

The conjunction *and* is used to connect words or groups of words to be given equal emphasis or to be considered as a single unit. The conjunctions *but* and *yet*, on the other hand, indicate contrast between two words or between two units. The conjunctions *or* and *nor* indicate that the connected words or groups of words should be considered individually, sometimes as a choice between the two. Use care to select the appropriate conjunction within the context of a particular sentence. For example,

- It was the land of milk *and* honey.
- It has been a wonderful trip, *but* it's time to go home.
- Shall we travel by plane *or* by car?

CORRELATIVE CONJUNCTIONS Correlative conjunctions are pairs of words used to connect words or word groups of equal grammatical rank. The most common correlative conjunctions are *either . . . or, neither . . . nor,* and *not only . . . but also*. For example,

- I had hoped that *either* my parents *or* my sister would offer to house-sit.
- *Neither* my father *nor* my mother took the hint, however.
- Hiring a professional will be *not only* expensive *but also* inconvenient.

SUBORDINATE CONJUNCTIONS A subordinate conjunction is a word used to connect a subordinate word or group of words to the main sentence. Examples of subordinate conjunctions include the words *after, although, as, because, if, though, when, whether,* and *while*. Subordinate conjunctions occasionally may be combined *(as if, as though)*, but this should be done sparingly. For example,

- I plan to return to work *after* I finish my dinner.
- It must be done, *although* I would prefer to watch television.
- I am working as quickly *as* I can.
- This task is important *because* it is the first step.
- I must hurry *if* I am to finish by Wednesday.
- There are corrections needed, *though* they are small.
- I hope to take a vacation *when* this project is finished.
- First, I need to see *whether* I can afford a vacation.
- Someone must care for our dog *while* we are away.
- Our dog acts *as if* he were in charge of our household.

AMBIGUOUS AND MISUSED CONJUNCTIONS Most conjunctions indicate specific relationships between the words that they connect. For instance, the conjunction *because* signals that a cause or reason follows it. A few subordinate conjunctions, however, seem to create substantial confusion concerning their proper use. Among these, the words *as, while*, and *like* are the primary offenders.

The subordinate conjunction *as* may be used to signal either time or comparison relationships to the main sentence. For example,

- We arrived at the theater *as* the movie was beginning. *(time)*
- I am working as quickly *as* I can. *(comparison)*

When as is used as a conjunction to indicate reason or cause, it may cause confusion. The best solution is to use a more accurate conjunction as the connector. For example,

UNCLEAR	*As* I was at the courthouse, I ordered the Smith land records. (time or reason?)
CLEAR	*Because* I was at the courthouse, I ordered the Smith land records. (reason)
CLEAR	*When* I was at the courthouse, I ordered the Smith land records. (time)

The subordinate conjunction *while* may be used to signal either time or concession. Unless this conjunction is used in such a way that its meaning is absolutely clear, choose a more precise conjunction as the connector. For example,

UNCLEAR	*While* we were in trial, we did not see the witness enter. (time or concession?)
CLEAR	*When* we were in trial, we did not see the witness enter. (time)
CLEAR	*Although* we were in trial, we did not see the witness enter. (concession)
CLEAR	*While* I was working, Jim watched every movement that I made. (time)
CLEAR	*While* I do not agree with you, I understand your position. (concession)

Sometimes the subordinate conjunction *while* is used as if it were a coordinate conjunction. Notwithstanding the confusion to the reader, it is simply wrong.

INCORRECT	I want to go to Myrtle Beach, *while* Mary wants to go to San Diego.
CORRECT	I want to go to Myrtle Beach, *but* Mary wants to go to San Diego.
INCORRECT	Jack is studying medicine, *while* Ruth is studying law.
CORRECT	Jack is studying medicine, *and* Ruth is studying law.

Because the word *like* is misused so often as a subordinate conjunction, it warrants special mention. This word is a preposition that is generally used to indicate comparison. It should never be used as a subordinate conjunction. The rule is simple: Never use *like* to connect a phrase or clause to the main sentence. For example,

INCORRECT	This piecrust tastes *like* it was made from clay.
CORRECT	This piecrust tastes *as if* it were made from clay.
CORRECT	This piecrust tastes *like* clay.
CORRECT	This piecrust tastes *like* unseasoned clay.
INCORRECT	Jammo works *like* a caulking gun should.
CORRECT	Jammo works *as* a caulking gun should.
INCORRECT	It seems *like* I will never finish my work.
CORRECT	It seems *as though* I will never finish my work.
INCORRECT	It looks *like* it could rain any minute.
CORRECT	It looks *as if* it could rain any minute.

Rules of Composition

Once the basic grammar rules have been substantially mastered, composition rules become infinitely easier to understand and to use. Grammar rules deal with selection of the correct words or word groups for sentence construction; composition rules deal with the construction process itself. Using composition rules, the writer may construct sentences, paragraphs, sections, chapters, and entire books. Taken together, grammar rules and composition rules comprise writing style.

Writing is critical to the function of every lawyer and every paralegal. The professional success enjoyed by these individuals often is tied directly to writing style. Although much has been written about writing style, certain truths or rules emerge consistently.

- Rule 1: Good writers read good writing. Newspapers and magazines seldom fit the bill.
- Rule 2: Be precise, concise, simple, and clear. Continually monitor the written product to ensure that these four principles are met. Writing is a slow process, requiring the writer to edit again and again—and again—until these four requirements.
- Rule 3: Practice, practice, practice. The writing done in the work environment is not enough. Write as much as you can, paying attention to grammar and composition rules.
- Rule 4: The best writing style is no style at all. In other words, writing style is at its best when the reader doesn't notice it. The style stays in the background, as the foundation and facilitator of the thoughts being conveyed.

A General Approach

Rules of composition are rules of construction, regardless of whether it is a simple sentence, a paragraph, an essay, a brief, or a book to be produced. All construction must start with a plan, whether it is a blueprint for building construction or an outline for composition.

An outline for composition is essential to achieve the intended result. The first step, then, is to determine what the goal is to be. What is the goal of the finished product? To survey all known positions on the subject? To discuss and analyze known positions, reaching a conclusion as to those that are best or worst? To persuade the reader to adopt a particular conclusion? Fuzzy writing generally is the product of fuzzy thinking at the outline stage. Take the time to develop the specific outline (plan) for the