

Deborah E. Bouchoux

A PRACTICAL INTRODUCTION
TO PARALEGAL STUDIES

Strategies for Success
THIRD EDITION
Deborah E. Bouchoux

Bridging the gap between the classroom and the real world, *A Practical Introduction to Paralegal Studies* offers a thorough exploration of the entire paralegal profession. In a logical three-part organization, experienced author Deborah Bouchoux covers the fundamentals of the paralegal profession and the American legal system, along with the paralegal skills essential for success in the workplace. This engaging and well-written text provides the pragmatic and realistic information students need to hit the ground running.

A Practical Introduction to Paralegal Studies features:

- Topical coverage that closely adheres to the nature of paralegal work.
- Pedagogy that enhances learning, such as chapter overviews, key terms, marginal definitions, website references, case illustrations, practice tips, and chapter summaries.
- Research exercises and Internet-based exercises in each chapter that mirror those performed by the working paralegal.
- Charts, graphs, sample forms, and other aids for comprehension.

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- All new Case Illustrations, Discussion Questions, and Internet Closing Arguments.
- New forms provided throughout the text.
- Up-to-date information on trends in regulation of the paralegal profession.
- Timely coverage of ethics, including new trends such as alternative business structures, and cutting-edge developments such as nonlawyer ownership of law firms, litigation financing, use of social media, and whether Internet-accessible advice and forms constitute the unauthorized practice of law.
- New developments in computer-assisted legal research.
- Significantly expanded section on e-discovery in Chapter 8, including a sample privilege log.
- New section in Chapter 11 on current disruptions to legal services, including alternative legal service providers and other trends.
- New tips and approaches to getting a job, setting “SMART” goals, handling tricky interview questions, and future-proofing your career.

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STRATEGIES FOR SUCCESS

Third Edition

DEBORAH E. BOUCHOUX

Georgetown University
Member, District of Columbia (active) and California (inactive) Bars



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P R E F A C E

INTRODUCTION

The paralegal field continues its rapid growth, with the Department of Labor predicting that the profession is expected to grow much faster than the average for all occupations through 2028. Moreover, the value of paralegals to the legal profession is universally recognized. Consider the following statement by the American Bar Association: “The utilization of paralegals improves the efficiency, economy, and availability of legal services.” Not only the American Bar Association but also a number of court decisions have endorsed the use of paralegals to make legal services more affordable and accessible.

With that growth and recognition come additional responsibilities. Today’s paralegals are expected to perform a wide variety of tasks, including legal research, legal writing, interviewing, and investigating. In addition, paralegals are expected to know substantive areas of law, such as civil procedure, litigation, and corporate law.

Graduates of paralegal programs are expected “to hit the ground running” when they get a job, yet there is a significant gap between what is learned in the classroom and the way to apply this knowledge in the real world of a law office environment. This third edition of *A Practical Introduction to Paralegal Studies: Strategies for Success* is meant to bridge this gap by combining a thorough grounding in the paralegal profession with a pragmatic overview of what paralegals are expected to know and do in the workplace.

The text is divided into three main sections: The first section begins with a review of study skills and then discusses the paralegal profession and the U.S. legal system; the second section covers the paralegal skills of research, analysis, writing, interviewing, and investigating; and the final section discusses the workplace, covering what paralegals do in “real life,” the various types of law practice, law office environments, career strategies, and techniques for success in the workplace.

Each chapter and section builds on the previous one. For example, once you read Chapter Four and understand the differences between trial and appellate courts, you will be ready for the discussion in Chapter Five about how to locate appellate court cases. Similarly, once you read Chapter Six’s information about

writing, you will understand how to prepare a memorandum or an executive summary setting forth the results of a client interview, which is discussed in Chapter Seven. Chapters Eight and Nine discuss the practice areas in which paralegals work. The text concludes with the most pragmatic information of all: how to get a job, keep a job, quit a job, and how to be successful in a law office environment.

A REAL-WORLD APPROACH

The text provides pragmatic and realistic information covering situations that occur in the real world of a law office. For example, the following topics are covered:

- Effective ways to improve note taking and to study for exams;
- What to do if you observe ethical misconduct in the workplace;
- Using the Internet to impress clients;
- Common blunders when using email;
- Cultivating listening skills;
- Best practices for timekeeping and billing;
- Advocating for yourself in salary negotiations;
- How and when to quit a job;
- What to do when you receive an assignment at work;
- How to present a professional appearance on the job; and
- Time-management techniques to improve job performance.

FEATURES OF THE TEXT

The text includes a number of features to enhance learning. Each chapter includes the following features:

- **Chapter overview.** Each chapter begins with a preview of the material that will be presented in the chapter.
- **Key terms.** The key terms and concepts used in the chapter are presented in boldface type and are defined in the margin near where the material is discussed. All of the key terms are listed at the end of each chapter so you can test your comprehension of these terms.
- **Tips.** Each chapter includes a pragmatic and practical tip applying the substantive information in the chapter to “real life” job situations.
- **Net results.** Each chapter provides references to websites where you can locate additional information on the topics covered in the chapter.
- **Case illustration.** A case that illustrates one of the core concepts discussed in the chapter is presented at the end of each chapter.
- **Chapter summary.** Each chapter’s substantive discussion concludes with a review of the key presented in the Cornell Note-Taking System (as described in Chapter One).
- **Trivia.** The Trivia section provides fun and interesting facts about some of the topics covered in the chapter.
- **Discussion questions.** Questions to challenge comprehension of the text material and stimulate class or study group discussion are presented.

- **Closing arguments.** Each chapter includes a series of practical questions that require readers to locate information pertinent to the chapter by accessing well-known legal or general interest Internet sites that practicing paralegals will be expected to know and navigate on the job.

Each chapter also includes charts, graphs, sample forms, and other instructional aids, as needed. For example, Chapter Six includes ethical tips relating to legal writing, Chapter Eight provides samples of deposition summaries, and Chapter Ten includes suggestions on handling difficult interview questions and a sample resignation letter.

This third edition of the text introduces several new features, including the following:

- A revamped and significantly expanded discussion of regulation of the paralegal profession, including limited licensing programs in the States of Washington and Utah, is included in Chapter Two.
- Chapters Two and Three provide an overview of alternative legal models such as legal navigators and Rocket Lawyer to close the access-to-justice gap and provide more affordable legal services to consumers.
- An overview of new trends in ethics (including alternative business structures, which are collaborations of attorneys and nonattorneys, such as accountants) is provided in Chapter Three.
- An entirely new section on the use of social media by legal professionals, including ethical issues related to blogs, friend requests, and reviewing a juror's presence on the Internet, is found in Chapter Three.
- Chapter Three includes a new section on cutting-edge developments in ethics issues, including nonlawyer ownership of law firms, litigation financing, and whether Internet-accessible advice and forms such as those provided by LegalZoom constitute the unauthorized practice of law.
- New developments in computer-assisted legal research, including the use of artificial intelligence and using free tools such as Google Scholar, GovInfo, Congress.gov, and CourtListener to access American law, are discussed in Chapter Five.
- A significantly expanded section on e-discovery is provided in Chapter Eight, including changes to the Federal Rules of Civil Procedure, information on legal holds and privilege logs, a sample privilege log, and new trends in e-discovery, including predictive coding and technology assisted review.
- Chapters Ten and Twelve include new tips and approaches to getting a job, setting "SMART" goals, handling tricky interview questions, and future-proofing your career, as well as an expanded discussion of soft skills needed to succeed on the job.
- A new section titled "Disruption in Legal Services: Alternative Legal Service Providers and Other Trends" that discusses insourcing, use of alternative legal service providers, and secondments is given in Chapter Eleven.
- All new Case Illustrations, Discussion Questions, and Internet Closing Arguments are included.
- New forms (for example, a client intake sheet) are provided throughout the text.
- Citations in the text comply with the new twenty-first edition of *The Bluebook* released in mid-2020.

Although every effort has been made to refer to useful websites, those sites can change both their content and addresses without notice. References to websites are not endorsements of those sites.

FINAL THOUGHTS

Paralegals play a critical role in helping clients. Be excited about the challenges and opportunities that your new profession provides. Commit yourself to excellence both as a student and as a practicing paralegal. You will be rewarded not only monetarily but also by knowing that you have performed your job to the best of your abilities. Welcome!

Deborah E. Bouchoux
Winter 2020

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A PRACTICAL INTRODUCTION TO PARALEGAL STUDIES



PART

FUNDAMENTALS FOR SUCCESS
IN THE PARALEGAL
PROFESSION AND THE AMERICAN
LEGAL SYSTEM

CHAPTER

1



**EARNING IS A TREASURE WHICH ACCOMPANIES ITS
OWNER EVERYWHERE.**

—CHINESE PROVERB

CHAPTER OVERVIEW

This chapter focuses on the skills you will need to be successful in the classroom. A variety of study skills are discussed, including techniques on how to master your reading assignments and remember them, tips on note taking, and strategies to help you prepare for and take examinations. These study skills are useful not only in the classroom but also on the job, because working paralegals routinely read a great deal of material and are required to take notes for a variety of work-related tasks.

A. SUCCESS AS A STUDENT

A successful student is someone who leaves the classroom understanding the material covered and knowing how to put this knowledge to use in the real world. The only way teachers can measure whether students understand the topics covered in class is to give projects, homework, or tests, and then assign a grade based on the student's performance. Although these methods may be accurate gauges of comprehension in some cases, in other cases, perhaps due to a student's test anxiety or personal problems, the grade is not reflective of the student's mastery of the

material. Nevertheless, because grades are assigned in most paralegal education programs and because an employer later may rely on a student's grades as one measure of ability, it is important to be a successful student.

Students who have been highly successful at the secondary or undergraduate levels may struggle a bit in their paralegal classes. The techniques that were successful in other classes and schools may not work in law-related classes. Why? Because in much undergraduate work, the focus is on getting the "right answer." In the law, however, the right answer is not always easy to spot. Issues are murky. There may well be more than one right answer. Moreover, the process of analyzing the law is as important as finding the right answer. Add in an entirely new vocabulary, a new way of writing, and rigid time constraints, and it is easy to see why new paralegal students often feel overwhelmed.

Successful students share several things in common: They do the work assigned, they come to class prepared, and they persistently work until they have mastered the material. Even more important than being a successful student and earning a good grade is being a successful learner, because learning is not something you leave behind in the classroom. You will need to learn throughout your life.

B. READING THE MATERIAL

1. Read to Remember

Legal professionals spend a great deal of time reading. They read statutes, cases, correspondence, briefs filed by adverse counsel, and so forth. To prepare you for this fact of legal life, your paralegal instructors will likely require a great deal of reading from you. You will take several different classes, each with at least one textbook and likely a packet of ancillary materials. The pace is nearly relentless. In some cases, the material is dry; in nearly all cases, the material is difficult. There is no plot to hold your interest. Thus, reading is a difficult assignment in and of itself. Consequently, it is critical to understand how to read the material in a way that will aid comprehension. Follow these five tips to master the reading material assigned in your courses.

- **Read before class.** First, unless instructed otherwise, read the material before attending class. You will understand the concepts discussed in class better if you have a framework in which to put them.
- **Preview for five minutes.** You will be greatly tempted to rush into the material and start reading. Don't. Invest five minutes before you begin any reading assignment by reviewing the table of contents relevant to the reading assignment. For example, if you are assigned to read Chapter Three of this text, a review of the table of contents discloses that you are given introductory material relating to ethics and responsibility, that the next topic discussed is the codes governing attorneys and paralegals, and then the chapter addresses specific ethical duties imposed on paralegals. Just as you cannot put together a puzzle without first seeing the complete picture, you should first understand the "big picture" of your assignment before trying to fit in the little pieces. Mark your table of contents with a sticky flag for easy reference. After reading the table of contents, read any chapter overview or chapter summary. Do not make the mistake of thinking

these parts of a chapter are fluff. In general, they are carefully constructed by the text's author to preview and then summarize the most important concepts covered. Similarly, key terms or margin notes are placed there for a reason: to reinforce learning. Don't ignore these helpful tools.

- **Divide and conquer.** Once you have completed your preview, break your reading into manageable parts. Unless your assignment is very short, it is unrealistic to think you can read all of the material in one sitting. Review the chapter headings and decide which sections you will read, how many pages you plan to read, or how much time you will read. Take frequent short breaks if needed. Set small goals for yourself. For example, decide to read the first section of a chapter. When you finish that section, reward yourself with a small break.
- **Take your text to class.** Bring your text with you to class (or bring your laptop if you are using an ebook) and follow along as the instructor discusses the material. The instructor will likely explain difficult concepts and terms. Having your text in front of you will help you remember the material. Similarly, if you found a concept confusing, place a question mark or write the actual question in your text margin. When the instructor discusses this section, ask for clarification.
- **Read after class.** After the class discusses the reading material, invest another five minutes and review the text. It may be sufficient to review merely the chapter overview or the chapter summary. A quick review of the key terms may remind you of some of the material covered. Develop a habit of reviewing the material as soon after class as you can. Consider remaining in your seat for three to five minutes after class to review the material one more time and imprint it in your memory.

2. The SQ3R Method of Reading

One very popular method of reading material is the **SQ3R method**. There are five steps in this method, which is designed to improve reading comprehension.

- **Survey the material.** Quickly scan titles, key terms, headings, introduction, and so forth within a section of your assigned reading.
- **Question.** As you survey, think of questions to ask yourself about the material. Use the titles and headings to formulate questions.
- **Read.** Read the material at your normal reading speed (although you may need to reduce your speed for complex passages).
- **Recite.** Repeat from memory out loud the section you have read and formulate the answers to your questions. Summarize the material you read.
- **Review.** At the end of a chapter, review the material you read by highlighting key terms and concepts.

SQ3R method

A method of reading designed to improve comprehension; its five components are surveying the material, questioning the material, reading, reciting, and reviewing the material

3. Techniques to Remember the Material

Studies show that most of us forget nearly half of what we read within 15 minutes after reading it. Thus, we need to work to retain material. Reading a novel for pleasure is a passive activity. In contrast, reading a text to master its materials requires active work on your part. There are four ways to help you remember the materials you have read.

- **Mark your text.** Marking or writing in your textbook is an excellent way of helping you remember critical concepts. You may ignore the rule you heard all through grade school and secondary school that you may not write in your books. The books you purchased for your program are yours. Go ahead and mark them to your heart's delight. If you wish to sell your books at the end of a semester, those that are highly marked may be worth less money; however, the value to you of understanding the material is worth far more than the few dollars' reduction in resale price a marked book garners. Moreover, you may decide to keep your textbook, or a new edition may render your textbook out of date. The physical act of highlighting (whether using physical markers or electronic highlighting tools) engages you more fully in the reading process and forces you to focus on the material. Consider skimming a section before you mark it. This approach will tell you what is important so you can mark it during your actual reading. There are different ways to mark your text to make it helpful to you:
 - Underscoring. Underscoring is a common method of marking a text. It will enable you to find important issues and key terms at a glance.
 - Highlighting. Many readers like to use felt-tipped markers (or electronic highlighting tools when reading an ebook) to highlight critical issues. Consider using different colors for different issues. Highlighting important topics makes it easy to review these areas when preparing outlines or reviewing for tests. Resist the temptation to highlight nearly everything. Highlight only the core concepts.
 - Making margin notes. Placing arrows, notes, or key terms in the margin is an effective way to help you retrieve important information when studying for tests. This technique is effective if you need to memorize certain information. For example, if you are expected to know the elements of a cause of action for fraud, use a different-colored pen or symbol so that you can easily find this information when you prepare for your exams. Place question marks next to the sections you have difficulty with, so you can spend extra time on them or ask the instructor to clarify these sections in class.
- **Challenge your understanding.** When you reach the end of a section, stop for a minute and review out loud what you have just finished. Reciting the material aloud will help you remember it. Using two senses (seeing and hearing) will help impress the material on your memory. Review any discussion questions at the end of a section or chapter and challenge yourself to answer them. Write encapsulations of your answers to the discussion questions on an index card and place it at this page, so you are ready to participate if the instructor reviews these questions in class.
- **Take notes.** After reading the assigned material, consider preparing a brief overview or outline. Use the table of contents as your guide to the key topics discussed in a chapter and prepare notes on the reading. You may wish to delay taking notes until after the class session, when you can then integrate notes on the text with notes from the class, using different-colored paper or pens so you can easily determine the source of the information. Do not rewrite your class notes in full. Selective note taking will force you to focus on what is important.
- **Control your environment.** Make sure that you read in an environment that is conducive to learning. Sit in a comfortable chair; make sure the lighting is adequate; and, most important, eliminate distractions, particularly television and phone

alerts. Although some activities can be multi-tasked with others, reading cannot. It requires your full attention. Try to notice when your energy levels are higher. For example, if you are more alert in the morning, schedule your reading for that time.

C. CLASSROOM ACTIVITIES TO ENHANCE LEARNING

1. Preliminary Guidelines

The classroom is the center of your learning activity. Classroom activity is meant to guide you to mastery of the subject matter, clarify any difficult material, and answer any questions you may have. Five very simple preliminary rules will greatly enhance your learning in the classroom:

- **Attend class.** Attend all classes. You paid for them, so make sure you get value for your dollars. If you are sick or cannot attend class, ask another student to take notes for you and pick up any handouts. Be responsible for your own learning.
- **Be on time.** Entering a class late is disrespectful to the instructor and other students. Other students are distracted while you search for a seat, remove your coat, locate your notebook and pens, and settle into your seat. Moreover, your ability to ask questions is compromised because it is possible the instructor has already covered certain material before you arrived. Asking the instructor to repeat instructions or material already covered is unprofessional.
- **Sit in front.** You probably search for the best seat in a movie theater or at a concert, yet you may be opting for the worst seat in a classroom: at the back. It is harder to see the board and any displays from the back. In addition, distraction levels are higher because you will be distracted by all the movements and activities of the students in front of you. Sitting in the front forces you to focus on what the instructor is saying because there's no place to hide.
- **Review the syllabus before class.** Your class syllabus provides an excellent overview of what material will be covered for each class and what is expected of you. Review the syllabus to make sure you bring the required texts, notes, or other materials to the class.
- **Avoid distractions.** You will not only distract others but also yourself if you eat or drink in the class or if you try surreptitiously to open a package or a beverage can. Similarly, turn your cell phone off and do not look at it during class. Reviewing your calls or messages during class tells your instructor you don't care about the material.

2. Active Listening

Active listening, discussed further in Chapter Seven, is a method of communication in which the listener is actively engaged in the discussion. Sitting in a classroom and hearing a lecture is easy; listening is far more difficult. Consider the following to enhance your listening skills so you get the most out of your classroom experience:

- **Be attentive.** You will need to make a good faith effort to concentrate on what is being said. Try not to let your mind wander. Keep your textbook open and be

Active listening

Communication technique that lets speaker know that listener is attentive

ready to take notes. Avoid places in the classroom (near hallways and doors) that are distracting.

- **Listen and watch for cues.** In many instances, instructors give cues as to what is critical. Thus, expressions such as “in sum,” or “to prevail,” or “there are three factors,” are signals that the words to follow are important. Similarly, copy down what the instructor puts on the board or displays in any visual projection. Instructors do not go to the effort of putting information on the board or preparing a visual display if they do not think the information is important.
- **Anticipate and participate.** Think ahead to see if you can guess what will be discussed next. Such an exercise will engage you more fully in the lecture and will test your comprehension of the reading you did before class. Listen for the main idea the instructor is making. You do not need to write down every word the way a court reporter would. Focus on understanding the message being conveyed to you rather than on each word uttered. Be ready to participate. Many students are uncomfortable volunteering to answer questions posed in class. Don’t be shy. Go ahead and take a chance. If something is unclear, ask for clarification. Thinking of questions will also help you understand how the material being discussed relates to material previously discussed or presented in the text. If the instructor does not provide time for questions or there is no natural “break” in the class to ask questions, talk to the instructor after class. Prepare a “to do” list or list of action items that need to be completed before the next class session.
- **Don’t be judgmental.** Effective listeners avoid mentally arguing with speakers; they listen fully. Ignore a speaker’s mannerisms, tone of voice, appearance, and so forth. Every minute you spend judging how a speaker looks, acts, or talks is a minute that you are not focusing on the material being presented.

3. Note Taking

a. General Comments

Taking notes (whether in longhand or using a word processor) is an excellent way to force yourself to be attentive during a lecture. If you are note taking you cannot be daydreaming because you will have to focus on what is being said. Moreover, when note taking, you cannot transcribe every word of a speaker, so you will already focus on critical concepts and discard “asides.” This is true learning. You will also need to take notes on the job—for example, when you are given a new work assignment or are interviewing a witness. Taking notes in class is good preparation for this skill you will need in the workplace. No matter which method you use, there are some strategies to follow to help you take notes that enhance your understanding of the material:

- Write or type legibly.
- When handwriting, write on one side of the paper only.
- Consider using a looseleaf binder so you can add pages or shuffle sections around.
- Use a separate binder, section, or file for each class.
- Use labels and tabs to divide your notes into meaningful sections.
- Develop a system of abbreviations (see Figure 1-1).

FIGURE 1-1

Because instructors and supervisors can speak faster than you can write, you need to develop a system of abbreviations for taking notes in class or on the job. Although there are some common legal and general symbols, any symbol or abbreviation will be satisfactory as long as you understand it. You may also use some of the abbreviations shown in *The Bluebook* (the guide to citation form discussed in Chapter Five and Appendix E), such as “Br.” for “Brief.”

LEGAL ABBREVIATIONS AND SYMBOLS

Π	plaintiff	JNOV	judgment notwithstanding the verdict
Δ	defendant	Re:	regarding
§	section	SJ	summary judgment
K	contract	S/F	statute of frauds
atty	attorney	S/L	statute of limitations
cert	certiorari	v., vs.	versus, as opposed to
dep	deposition, deponent		
J, J'ment	judgment		

GENERAL ABBREVIATIONS AND SYMBOLS

→	produces, causes	x	times
←	comes from, results from	#	number
=	equivalent to, similar to, approximately	A.	answer
+	in addition to, also	b/c, bec.	because
<	less than	b/f	before
>	more than	c.	circa, about
/	per	e.g.	for example
=	equal to, the same as	p., pp., pg.	page, pages
≠	not equal to	Q. or ?	question
\$	money	∴	therefore
&	and	w/	with
@	at	w/in	within

- Do not worry about transcribing every word. Focus on the main ideas and concepts. Fill in gaps during class breaks.
- Take verbatim notes only when identifying lists, such as the elements of a valid contract. Mark this section of your notes in some way, perhaps by using colored pens or placing a large “M” (for “memorize”) in the margin, so you can easily find this important information, especially if you are required to memorize it.
- Skip lines or move to a new paragraph when a new topic is introduced. Highlight new topics by underlining them, by using a different-colored pen, or marking them in some way.

TIPS

Should You Take Notes in Longhand or by Laptop?

A study analyzing the effectiveness of taking notes by longhand and laptop found the following:

- Participants using laptops were more likely to take verbatim notes than those who wrote in longhand (because people can type faster than they can write). Such transcribing was found to be “detrimental to learning.”
- Students writing in longhand were more inclined to be selective when taking notes and tended to process the information better because they were summarizing and reframing it in their own words as they wrote.
- Students who took notes by hand performed better in recalling information than those who used laptops.

Pam A. Mueller & Daniel M. Oppenheimer, *The Pen Is Mightier Than the Keyboard: Advantages of Longhand over Note Laptop Note Taking*, Psychol. Sci. (2014), <https://bit.ly/3avcyIE>.

- Annotate or mark your notes by circling or underlining important dates and issues. Highlight critical concepts.
- Review your notes immediately after class and at least once before the next class session.
- Don't worry over the appearance of your notes. Your goal is not to have the prettiest notes but to have the most effective ones for you.

b. The Cornell Note-Taking System

Although there are a number of different approaches to note taking, one of the best-known systems is called the **Cornell Note-Taking System**. The Cornell technique was devised more than 50 years ago and has been successfully used by thousands of students to improve retention. First, prepare your notebook (or use some free templates you can find on the Internet). Use a notebook with lined paper. Draw a line vertically down the page about 2½ inches from the left side, thus dividing your paper into two columns, the narrower one on the left side (used for key terms), and a wider column (about 6 inches) on the right (used for note taking). Draw a horizontal line either at the bottom of each page or at the end of your notes for each class session, leaving a 2-inch “box” at the bottom of the page for a summary. After you prepare your notebook, follow these six steps:

Cornell Note-Taking System

Method for taking notes, designed to assist users in remembering material; its six components are recording, reducing, reciting, reflecting, reviewing, and recapitulating

- **Record.** During the lecture, record general ideas, topics, and definitions in the right column. Focus on the main ideas rather than attempting to write down every word. Skip lines between topics.
- **Reduce.** After the lecture, reduce the main topics and facts to cues or key words and phrases and place these in the left column. These will serve as cues to refresh your memory about the class presentation.
- **Recite.** After the lecture, cover up the information in the right-hand column and, looking only at the key words in the left column, recite the main ideas from the lecture. Do not reread your notes. Use your own words to express the ideas covered in class.
- **Reflect.** Think about the information. Test your memory by asking yourself questions about the topics discussed and providing your own answers to these questions.
- **Review.** Review your notes (avoiding rote rereading) at least once each week (or before the next class meeting) to help you remember the material.
- **Recapitulate.** Draft a summary of your notes in your own words at the end of each page or each lecture. Use complete sentences, and summarize the material in the 2-inch box you prepared at the bottom of each page or section.

See Figure 1-2 for a sample page showing a format for note taking using the Cornell System. The chapter summaries in this text are presented according to the Cornell technique.

FIGURE 1-2	
FOUNDATIONS OF BUSINESS LAW	
Limited Liability Companies	<ul style="list-style-type: none">■ LLCs are new entities■ Combinations of partnerships and corps.■ LLCs offer flexible management (management by all members or management by managerial team)■ LLCs protect against personal liability■ Creation: All states require filing of Articles of Organization to create an LLC■ Participants are called “members”■ LLCs are governed by their Operating Agreements■ LLCs offer pass-through or single taxation
An LLC is a new entity that provides full protection for its members from all personal liability while offering flexible management and pass-through tax status.	

c. Preparing Review Outlines

A quick review and revision of your notes shortly after a class is very valuable, especially to clarify any confusing issues and to clean up illegible notes. Merely rewriting your notes word for word into a different notebook is less valuable because you will likely put your brain “on hold” and daydream while you rewrite. There are, however, three techniques you may wish to consider to further aid your comprehension and retention of the material.

- **Outlining.** Consider distilling your notes into a coherent outline of the class. Integrate both your class notes and your textbook information into an outline. Use your text’s table of contents for the relevant chapters as a guide. Do not worry about the appearance of the outline or whether each item is numbered consecutively. Incorporate the main elements of the material you will be expected to know. Use colored paper for your outline that is different from your class notes so you can easily distinguish which is which. Note that this is also a good approach if you develop notes from text readings. Use colored paper (or shaded text if you take notes using your laptop) for your reading notes that is different from lecture note pages so you will be able to tell the source of the information you have recorded.
- **Using index cards.** Many students like to use index cards to review material. Each index card usually has a key term or concept written on one side and a definition or explanation on the other. Students can then easily use these like flash cards to test their knowledge. Using index cards is an effective way of mastering the material because you will need to review the information to prepare each card and you will write the information on the card (once again, reinforcing learning). Index cards are highly portable and easy to review. As you read your text or take notes in class, consider highlighting certain terms or concepts with a different-colored marker to flag the items for which you will later prepare index cards.
- **Using a computer.** Many students use computers in the classroom to take notes, and there are several specialized software packages to help students organize these notes. Many students prefer to take notes on a laptop because they can type faster than they can write. For example, many students like Google Keep, a note-taking service developed by Google, which provides a variety of tools for taking notes, including text, images, and audio. Others prefer Microsoft’s OneNote, which also allows you to create notes that include text, pictures, and tables. If you are in a study group, you can use Google Docs and invite others collaboratively to view, comment on, or edit notes and materials. Try Airtable (<https://airtable.com>), a free organization tool with many uses, including tracking project success, setting due dates and milestones, and providing colorful tools to push projects to completion.

In addition, cutting and pasting on the computer makes organizing notes easy. Moreover, making sections of the notes more prominent through boldfacing, underscoring, and increasing the font size is readily done. Many students are becoming increasingly creative by using hyperlinks in their notes—for example, to link directly to a pertinent statute or case. The ability to search easily for a term or phrase (or perhaps a mere question mark symbol for your questions and concerns) is a distinct advantage of using a laptop for note taking. There are two main pitfalls to avoid when using a laptop to take notes. First, many writers fear missing a word or phrase and insist on transcribing each word of an instructor

as a court reporter would, leading to too much volume and content and not enough critical analysis. Second, it is easy to become distracted when using a laptop, leading to review of emails and pictures, causing a loss of focus. Remember two critical items before you use a laptop to take notes: Ask your instructor for permission first (many teachers dislike the clicking noise produced by typing) and remember to create a backup of any notes. If you are not permitted to use a laptop during class or prefer not to, you may always use your home computer later to outline or organize your in-class notes.

4. Your Classroom Network and Study Groups

Get to know your fellow students and your instructors. Not only will making acquaintances make your school experience more pleasant, but you will also be widening your network of possible references and job resources. If your instructors do not know you, they will be unable to comment on your abilities and strengths when asked for references by potential employers. If your classmates do not know you, they will be unable to recommend you for a position with their employers. You also need a backup plan: If you are sick or cannot attend a class, you need a colleague to take notes for you and to pick up any handouts. It's a good idea to bounce ideas off your classmates. Develop a buddy system for these very practical reasons and for the emotional support your classmates can offer.

Many students find it helpful to join a **study group**, a small group of students who work together to study the material and function as a support group for each other. Study groups not only help you as a student but also serve as models for working collaboratively in a law firm. Law firm practice is highly collaborative. Much work is done in teams and groups; it is rare for legal professionals to be lone wolves. The following are some general guidelines for forming and operating study groups:

Study group

A small group of students who work together to study class material

- **Size matters.** Most experts recommend that the study group be between three and six people. If the group is too large, it may be difficult to organize and keep on track; if it is too small, the absence of a member or two will render the group ineffective.
- **Composition matters.** Because members of the group will work closely with each other under stressful conditions, respect and collegiality are critical. If one member dominates and the others never participate, the group will fail. Similarly, try to organize a group whose members have different strengths and skills so they provide meaningful assistance to each other.
- **Organization matters.** The group must be organized and disciplined. Meeting times and dates must be scheduled and followed. Meeting once each week is usually sufficient, but you may need to schedule extra sessions before exams or group projects. Do not allow excessive socializing. Stay on task. Your library may provide meeting rooms for group study. Working in the library will remind everyone of the serious nature of the work at hand. Appoint a group leader or assign leadership on a rotating basis. Consider preparing an agenda for each session.
- **Responsibility matters.** Each member will usually be assigned to report on a particular topic or assignment, to outline a chapter, or prepare for an exam. If a member is consistently unprepared, you may need to cut the slacker loose. Remember that the point of the group is to help you learn, not to provide free tutoring for those who do not perform.

- **Making changes matters.** If the study group does not work for you, don't be afraid to leave it. However, bailing out of the group when everyone counted on you to prepare the pre-exam outline for Chapter Ten is disrespectful and unprofessional.

D. EXAMINATIONS AND CLASS PROJECTS

1. Introduction

There is no secret to what you will be expected to know on examinations. You will be tested on material from your assigned readings and from class lectures. Like nearly every other facet of student success, the key is advance preparation. If you have been reading your assignments, taking good notes in class, and then routinely reviewing your notes, your job is nearly done. One study has reported that at the end of nine weeks (roughly one semester), students who reviewed their notes after class each day recalled about 75 percent of the material covered. Conversely, those who did not review their notes were able to recall only about 20 percent of the material at the end of nine weeks. Thus, if you consistently dedicate time to your studies during the course of your semester, you will not have to dedicate as much time at the end to prepare for your exams. Most experts agree that cramming for an exam is ineffective and causes students to sacrifice needed sleep time in order to study.

2. Strategies to Prepare for Examinations

Whether or not you have been consistently reviewing your notes throughout the semester, there are nine strategies you can adopt to improve your performance on examinations.

- **Get information about the examination.** Your syllabus will clearly indicate when your examinations will be held, allowing you to do some advance planning. Your syllabus also tells you what your instructor thinks is important. If your instructor does not indicate the type of examination, ask what the exam format will be: essay, short answer, multiple choice, or some other format. If you know the exam will be in essay format and there will be four questions for you to answer in two hours, you can practice writing timed answers to questions

TIP

Reciting aloud is an effective study technique. Merely reading aloud and hearing your own voice will reinforce the material and improve your retention.

you make up yourself or that appear in the textbook. Although there is nothing wrong in asking about the structure of an examination, avoid questions such as, “Will this be on the test?” Such questions signal to your instructor that you care only about the grade and not about learning the material.

- **Pay attention to the instructor’s comments.** Listen for any clues an instructor may provide, such as introducing a topic with the phrase, “it is critical to understand that . . .” Similarly, if the instructor has repeated certain points on several occasions or put information on the board or in a presentation, these are tips that the material is important enough to be covered on the exam. Don’t skip classes before an exam. The instructor may provide a review session or indicate exam topics.
- **Study old exams and quizzes.** Many instructors place copies of their old exams on reserve in the library. Review any such exams because they will give you an idea about the instructor’s approach to tests. Determine whether most questions derive from the text or from class notes. If you have had quizzes or been assigned projects in the class, review any comments the instructor made to determine the instructor’s style and preferences. Note that quiz questions sometimes have a way of reappearing in modified form on a later exam.
- **Manage your time.** Integrate all of your exam schedules into one master calendar so you can see at a glance when exams will occur, how many days you have between each exam, and so forth. Then set up a study schedule for yourself and stick to it. Break up the material into manageable chunks. Some experts suggest learning the hardest concepts or most troublesome material first and switching between topics if you become bored. Many students, however, prefer to learn the material in the order presented in the text and in the class lectures, because this approach places the material into a unified whole. See the discussion in Chapter Twelve on time-management techniques.
- **Review notes.** One or two weeks before the exam, review all of your notes. This will bring the entire class into focus and will let you know which material you have mastered and which material is proving difficult. Annotate areas of concern in your notes with question marks or sticky flags.
- **Prepare outlines or flash cards.** If you haven’t already done so, prepare outlines or flash cards. The index cards you prepared earlier serve as excellent flash cards to test your comprehension of the material. Use your highlighted text and highlighted class notes as guides to what should be included. Your outline may be a traditional outline, or it may be a paper chart taped to your wall. The format is not important. The very act of preparing an outline or flash cards will serve as a thorough review of the material.
- **Prepare a review sheet.** Based on your outline or flash cards, prepare a one-page review sheet that covers the major topics in the class. Mark the areas that need additional study so you can devote extra time to these.
- **Review the material.** Keep reviewing and rereading the outlines, flash cards, and review sheet. Some experts suggest reviewing these materials three times each day for several days preceding the exam. Learning is accomplished through repetition, not through cramming. It is not possible to learn a semester’s worth of material in one evening. Each time you start a study session, do a ten-minute review of the material you studied in your previous session. If lists need to be memorized, use mnemonic devices. For example, to remember the elements of adverse possession,

TIPS

Use a master calendar for each semester and enter due dates for exams, projects, and other class-related work. Use different-colored pens for different classes so you can see at a glance when the “crunches” will occur during the semester. Keep your calendar handy and continually update it. Use it to plan and chart your progress on projects that you have chunked or broken into parts.

While commercial calendars or desktop calendars are fine, there are also a number of calendars you can access on the Internet and print for free. See the site www.timeanddate.com for monthly and customizable calendars.

a real property concept, one student developed the phrase “on a peach,” which represented the required elements that possession of land be open, notorious, adverse, public, exclusive, adverse (again), continuous, and hostile.

- **Take advantage of resources.** Your program may offer a learning center, study skills workshops, computer labs, and other resources to help you achieve your goals as a student. Similarly, your instructors want you to succeed. Ask for help. Take advantage of any resources your program or school offers. Go online and enter “Study Skills” into a general search engine, such as Google (www.google.com). You will be directed to numerous sites, many of which are provided by colleges, to help with taking notes, studying, and preparing for exams.

3. Taking the Examination

Although you have probably heard this advice numerous times, remember to get a good night’s sleep and have some food before any examination. Think of the way athletes prepare and train for events. You are in training too. Pay attention to the details. Leave plenty of time so you don’t arrive at the exam late or stressed. Moreover, you will want to get a good seat with a view of the clock and away from any distractions, such as students who are fidgety or have distracting coughs. Make sure you have any needed materials, including pens, pencils, correction tape to eliminate messy cross-outs, exam bluebooks, and so forth.

While many experts suggest that the last hour or so before an exam should be spent relaxing, most students find this advice difficult to follow and prefer to review their notes or flash cards until the minute the examination is distributed. You may, however, wish to avoid discussing the test with other students because this may increase your level of anxiety.

Follow these tips to maximize your performance on the test:

- Skim the entire test as soon as it is given to you. Get an idea as to its length and structure. Make sure you have all of the pages and determine whether the exam questions are on both sides of the pages.

- Read the instructions twice. If the instructor has requested that answers be in complete sentences, write complete sentences. Students are often in such a panic at the beginning of an exam that they do not fully read the instructions or the questions. They are “racehorses” at the gate and seem to think that if they don’t immediately start answering questions, their knowledge will drift away. Students would be surprised to learn how many times they lose points by failing to follow instructions, to answer the particular question asked, or to respond to all parts of a multi-part question.
- Pay attention to the words used in questions. Watch for modifying words such as *exclusively* or *solely*. These are often tips that help you formulate answers. Read questions all the way through before starting your answer. Then reread the question, perhaps highlighting or underscoring critical components. If you are asked to identify three elements, make sure your answer includes three components.
- For true-false questions:
 - Watch for words such as *all*, *always*, *never*, and *only*. These words are often signals that suggest the appropriate answer.
 - If the statement is only partly correct, mark it “false.”
 - If the statement has two clauses connected with the word *and*, both clauses must be true for the statement to be true.
 - If the statement has two clauses connected with the word *or*, only one clause needs to be true for the statement to be true.
 - Do not write explanatory language to support your true-false answer. You may explain yourself out of a point. If a question is confusing, ask for clarification from the instructor or proctor.
- For multiple-choice questions:
 - Read all choices before responding.
 - Eliminate the clearly incorrect choices.
 - If two answers seem appropriate, select the better choice or the more specific one.
- For essay questions:
 - Focus on the “call” of the question—namely, what you are asked to address. This is the most important part of the question. For example, if a question asks about assignments of leases, you need not discuss other real property concepts, such as easements or evictions. Do not include information that does not directly respond to the question.
 - Focus on the wording of the instructions. If a question asks you to “define,” or “summarize,” there is no need to write a detailed answer. Conversely, if you are asked to “discuss” or “analyze,” you must provide a more thorough explanation.
 - Highlight or underscore important terms or concepts in the question.
 - Jot down a brief outline on the back of the exam and plan your answer. This is not a waste of time. It will help you develop a logical answer and eliminate the true exam time-wasters: erasing incorrect answers and including irrelevant information. Moreover, at a glance your outline will reveal whether your answer is balanced so that you don’t spend too much effort on one section and too little effort on another.
 - List your mnemonic devices on the back of the page.
 - If the question has several parts, number each one (1, 2, 3, and so forth) and make sure your answer responds to each component part. Consider numbering your response as well.

- Use standard paragraphing style. Start with an introduction or thesis statement, explain your answer, and end with a summary. Write in complete sentences.
- Consider answering questions you know or easier questions first. This will build confidence and help you get into the swing of the exam. Moreover, you don't want to miss points on things you know.
- Mark troublesome questions in pencil with an "X" or "?" in the margin to remind you to return to these questions. When you have finished these questions, erase your marks.
- Be a savvy test taker. Spend more time on questions that are weighted more heavily. A question that is worth ten points must be answered in more detail than one that is worth three points.
- Watch the clock. Some teachers recommend that students scan a test as soon as they receive it and mark its halfway point. The student should reach this part of the test halfway through the exam period.
- If you get stuck on a question or draw a blank, move to another section of the test and return to the troublesome question later. Don't waste valuable time staring at the test, waiting for the answer to come. Another question later in the test may suggest an approach or jog your memory.
- Write legibly.
- Take a chance. If you don't know something, go ahead and guess (unless there is a point penalty for incorrect answers). Fill in all blanks. You may get partial credit.
- Check to make sure your name is on the exam (and consider placing your initials on each page).
- Give the exam one more run-through before you turn it in to be sure that you have answered each and every question.

4. After the Examination

You may find that you need to decompress after an exam. Congratulate yourself for finishing the exam. Reward yourself.

Consider whether you will benefit by discussing the exam in detail with other students. Many students find that hearing remarks such as "You saw the promissory estoppel issue in question four, didn't you?" increases anxiety.

When the examination is returned to you, quickly review the math to make sure the point calculations are accurate. Your instructor grades many papers, and it is possible that an error in calculating the points has occurred.

If the instructor reviews answers in class, take notes and consider the instructor's comments. View the exam as a learning experience. If you have questions about the test, approach your instructor but do so respectfully, showing that you care about the answer and the reasoning, not just about the points. If the instructor does not return tests, see if you can arrange to review the exam in your program office.

5. Managing Test Anxiety

It is perfectly normal to have some anxiety about a test. In fact, a little bit of anxiety may motivate you and sharpen your focus. Too much anxiety, however, might cause you to blank out on information or become physically ill. The best way to

reduce anxiety is to prepare thoroughly for the exam such that you have confidence in your understanding of the material. If you are sufficiently prepared, you will likely recall the material even if you have some test anxiety. In many cases, anxiety is caused because students know they haven't prepared enough or have procrastinated. If this is the case, you can eliminate anxiety by solving its cause. Begin preparing for exams early.

One student reported to me that she and her roommate scheduled "worry time" each day. They allowed themselves 20 minutes every day to complain, panic, worry, and vent about their classes and their workload. Once the 20 minutes were over, they moved on and continued their work. The students conscientiously avoided any negative thoughts or worrying outside of the allocated schedule. When negative thoughts intruded, they shoved them aside and told themselves, "That's for worry time." Negative self-talk is counterproductive. If you find yourself thinking, "I'm going to fail this exam," take a break in order to stop catastrophizing.

Don't think of the exam as a test of your character. It's just an exam. You've had others before and you will have more in the future. Remember that you have had many successes in the past. Complete your answer to this statement: "The worst thing that will happen to me if I do not do well in this class is _____. You can readily see that the test is not a matter of life or death. It is, however, an opportunity to show your instructor that you know the material and the core class concepts.

Don't compare yourself to others or measure your worth by how others are doing. Try to determine which students and situations create anxiety for you and avoid them. Remember that there will always be a student who finishes the test far in advance of the others. Finishing early does not necessarily correlate to superior performance.

Don't forget that being in good physical condition can reduce many of the symptoms of anxiety. Eat right. Exercise. If caffeine makes you jumpy, avoid it on exam day. Eat something so that you aren't light-headed.

During the exam, if you find yourself drawing a blank, do the following:

- **Move on to an easier question.** Build confidence by taking small steps. Once you respond to a few questions, you will discover your own rhythm and will realize you know more than you think you do. In addition, as noted earlier, a later question may provide you with an idea for answering an earlier question.
- **Focus on one question at a time.** Don't think ahead to the fact that an upcoming question is difficult. Put all your efforts into the question you are currently answering.
- **Underscore key words.** When you are faced with a difficult question or you draw a blank, underscore the key words in the question. See if these give you a hint on how to structure your answer or jog your memory.
- **Try relaxation techniques.** Take a minute or two to close your eyes and take a few deep breaths. Clear your mind. Take a three-minute mental vacation.
- **Do something.** Write something. Write anything. You can always erase it later. Move to the front of the room if seeing other students writing furiously panics you.

Finally, remember why you are taking the class. You are there to learn. Although everyone wants to get good grades, the advantage of being an adult learner is understanding that good grades are not necessarily a predictor of future success. Keep your eyes on the prize: comprehension of the material.

6. Class Projects

Nearly all of the preceding discussion about study skills and examinations applies to class projects. Carefully review the instructions for any project assigned in class. Follow the instructions to the letter. Do not lose the easy points by single-spacing when the instructions state the project must be double-spaced. Review your syllabus and mark on your master calendar the due date for any project. Set up a timetable, working backwards from the due date. Once again, chunk your project into manageable and realistic tasks. For example, mark the dates that you will allocate to research, your first draft, second draft, cite-checking, and so forth. Allow at least one extra day for emergencies, such as illness or equipment malfunctions, that might cause delays in your timetable. Don't be hesitant to check with your instructor to make sure you're on the right track. If you are working with a group, consider the suggestions given above relating to study groups.

NET RESULTS

www.uni.edu/walsh/linda7.html

This site, provided by the University of Northern Iowa, provides links to more than 30 sites offering information relating to study skills, achieving academic success, taking examinations, and other school-related topics.

www.ucc.vt.edu/academic_support/study_skills_information.html

Virginia Tech's site offers a variety of articles relating to study skills.

<http://lsc.cornell.edu/notes.html>

The Cornell Note-Taking System is fully explained at this site maintained by Cornell University.

www.timeanddate.com

Free monthly and customizable calendars are provided for planning projects and calendaring due dates.

<https://freeology.com/graphicorgs/cornell-notes-template>

This site provides templates for you to use in Cornell Note-Taking format.

www.lawschoolplaybook.com/about

The Law School Playbook is a series of short podcasts about achieving success in law school, with tips and strategies for reading cases, time managements tips, and more.

CASE ILLUSTRATION

Attorney Responsibility for Paralegal Work

Case: *Henderson v. Pacific Gas & Electric Co.*, 113 Cal. Rptr. 3d 692 (Ct. App. 2010)

Facts: Plaintiff Henderson sued her former employer, Pacific Gas & Electric Co. (PG&E). PG&E moved for summary judgment, and plaintiff's attorney was informed that opposition to the motion was due on September 8, 2008. The attorney had entrusted preparation of the opposition to his paralegal who began to prepare the opposition but took the file with her on vacation and planned to file the document from out of state. The opposition was not timely filed. Summary judgment was ordered against the plaintiff, who then moved to vacate the judgment. The court denied the motion, and the plaintiff then requested that the judgment be set aside due to her attorney's excusable neglect.

Holding: Affirmed. The responsibility for preparing the opposition was ultimately that of the attorney. A reasonably prudent person would not have expected a paralegal, even a trusted one, to prepare an opposition to a motion on her own, and then, upon learning that the opposition would not be available for review before filing with the court, simply wait to see if in fact the opposition was filed. It was the attorney's negligence in failing to supervise the paralegal and to request relief sooner that led to the late-filed opposition. Such actions were inexcusable neglect.

KEY TERMS

SQ3R method
Cornell Note-Taking System

Active listening
Study group

CHAPTER SUMMARY

Student Success and Reading the Material	<p>Success as a student requires that you do the work assigned, come to class prepared, and persistently work to master the material.</p> <p>Consider using the SQ3R method of reading to enhance remembering: Survey the material, question the concepts, read the material, recite key points aloud, and review the material.</p> <p>Other techniques that will aid comprehension are marking your text and taking notes on the reading material.</p>
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Note Taking	The Cornell Note-Taking System is a well-known method for recording class information. Use paper divided into two columns, a narrow left column and a wide right column. When taking notes, record main concepts and ideas in the right column, reduce main concepts and place key words in the left column, recite the information, reflect on it, review it, and then recapitulate it in a summary at the bottom of the page.
Networking	Network with other students to have a backup if you miss classes or are sick. Join a study group to help you master class material.
Success on Examinations	To succeed on examinations, get as much information about the exam as possible, study old exams, prepare outlines and flash cards, review your notes, and prepare study review sheets. When you take examinations, skim the entire exam first and read instructions completely. Understand the different techniques that can be used in objective tests and essay exams to ensure your answers respond to the questions asked. Complete all answers and manage both your time and your stress level.

TRIVIA

- Taking verbatim notes is impossible because most individuals speak at a rate of 125-140 words per minute while the average note taker is able to write only about 25 words per minute. Thus, be selective when taking notes.
- Studies have demonstrated that unless a student reviews class notes within 24 hours or before the next class, retention drops (perhaps by as much as 80 percent), and the student will be re-learning the material rather than reviewing it.
- Most people read at the rate of 200-250 words per minute.
- Neatness counts. Research shows that when the same paper is written neatly and messily, on average, a grader will give the neat paper a letter grade higher than the messy paper.
- Most individuals speak up to 75 percent faster than they can type.

DISCUSSION QUESTIONS

1. Lindsey is concerned that if she does not transcribe each and every word her instructor states, she will not be prepared for any tests in the class. Discuss whether there are any disadvantages to Lindsey in attempting to transcribe her instructor's lecture.

2. Josh is taking an exam and is stumped by Question 10. He has begun doodling on the back of his paper, hoping the answer will come to him. What is a better approach for Josh to take instead of waiting to recall the right answer?
3. Blake, one of your study group members, has been assigned to prepare notes for your Contracts class but she has not been performing this task. What should the group do?

CLOSING ARGUMENTS

1. Access Virginia Tech's Study Skills Information Page. Select "Time Schedule Strategies" and then "Scheduled Studying." For each hour in a classroom, how much studying should a student do?
2. Access Dickinson College's Note-Taking resources and locate the Top Ten Note-Taking Tips. What is the first tip you are given?
3. Review Cornell University's information on its Cornell Note-Taking System. When you take the fifth step in the system, reviewing, how much time should you spend?
4. Access Cornell University's information on study groups at <http://lsc.cornell.edu/notes.html>. Why might it be a good idea to study with people who are not necessarily your close friends?

CHAPTER 2



THE AMERICAN BAR ASSOCIATION . . . HAS
PROMOTED THE ROLE OF THE PARALEGAL AS A VITAL
MEMBER OF THE LEGAL SERVICES DELIVERY TEAM FOR OVER
FORTY YEARS.

—AMERICAN BAR ASSOCIATION GUIDELINES FOR
THE APPROVAL OF PARALEGAL EDUCATION
PROGRAMS (FOREWORD)

CHAPTER OVERVIEW

To be an effective paralegal, you need to know about your profession. This chapter provides an overview of the “nuts and bolts” of the paralegal profession. The chapter begins by discussing the various definitions of the term *paralegal* and reviewing the history of the profession. The various types of paralegal education programs will be examined as well as the role of the American Bar Association in approving paralegal education programs. You will be introduced to the various paralegal associations that serve as advocates for paralegals and the profession. The chapter will then discuss the most critical issues facing the profession: regulation, licensing, and certification of paralegals. The chapter will conclude by discussing what paralegals do, where they are typically employed, their compensation and benefits, and the future of this dynamic and vital profession.

A. DEFINITIONS AND TITLES

When an individual is introduced as a doctor or a lawyer, the listener immediately knows something about the individual. For example, a listener would know that a lawyer is someone who graduated from college, attended law school, took certain required courses in law school, passed a bar examination, and is licensed to practice law in the state where the lawyer works. When an individual is introduced as a paralegal, however, the listener may not immediately understand the background and training of the individual. A person may become a paralegal by taking courses at a variety of different types of educational institutions, by on-the-job training in a law office or other legal environment, or by some other method of gaining experience in the profession. Through education, the paralegal may have received a certificate, an associate's degree, or a bachelor's degree, or even a master's degree in paralegal studies. Many of these educational programs are approved by the **American Bar Association** (ABA), which is a voluntary association of attorneys.

Alternatively, a paralegal may have gained valuable experience while working closely with attorneys in a law firm. At present, there are no formal national legal requirements that must be satisfied before a person can be called a paralegal (although, as discussed later in this chapter, California requires individuals who hold themselves out as paralegals to meet certain standards). Similarly, there are no uniform standards followed by attorneys who hire paralegals. Some hire graduates of paralegal programs, some hire recent college graduates, some promote and train from within, and others merely gratuitously bestow the title of paralegal on various employees, whether experienced or not.

Just as there are a variety of ways by which one may become a paralegal, there are several ways of identifying those in the profession. The ABA typically prefers the term **paralegal** (until late 2003, it used the term **legal assistant** nearly exclusively) and provides the following definition:

A paralegal is a person, qualified by education, training or work experience who is employed or retained by a lawyer, law office, corporation, governmental agency or other entity who performs specifically delegated substantive legal work for which a lawyer is responsible. (Adopted by the ABA in 2020.)

The ABA has stated that the terms *legal assistant* and *paralegal* are, in practice, used interchangeably, typically depending on geographical location. The Greek prefix *para* literally means *beside*, *almost*, or *resembling*. Thus, the very term *paralegal* suggests an individual working closely with and assisting an attorney.

The National Association of Legal Assistants, Inc. (NALA, which identifies itself as “NALA: The Paralegal Association”), one of the two major paralegal associations, adopted the ABA definition of *paralegal* in order to promote uniformity in the profession (previously, NALA had its own definition of *legal assistant*).

While the ABA definition of *paralegal* is one of the most widely used, other definitions exist as well. Probably the other most prominent definition is that used by the other major paralegal association, the National Federation of Paralegal Associations (NFPA). NFPA also prefers the term *paralegal* to *legal assistant*, and its definition is slightly different from that of the ABA, as shown in Figure 2-1.

American Bar Association

A voluntary professional association for attorneys

Paralegal

Generally defined as a person qualified by experience or education to perform substantive legal work and who is usually employed by an attorney or law firm; often synonymous with *legal assistant*