

1 **Rule 1.10. Imputation of Conflicts of Interest: General Rule.**

2 (a) While licensed paralegal practitioners are associated in a firm, none of them
3 shall knowingly represent a client when any one of them practicing alone would be prohibited
4 from doing so by Rules 1.7 or 1.9, unless the prohibition is based on a personal interest of the
5 prohibited licensed paralegal practitioner and does not present a significant risk of materially
6 limiting the representation of the client by the remaining licensed paralegal practitioners in the
7 firm.

8 (b) When a licensed paralegal practitioner has terminated an association with a firm, the firm
9 is not prohibited from thereafter representing a person with interests materially adverse to those
10 of a client represented by the formerly associated licensed paralegal practitioner and not
11 currently represented by the firm, unless:

12 (b)(1) the matter is the same or substantially related to that in which the formerly associated
13 licensed paralegal practitioner represented the client; and

14 (b)(2) any licensed paralegal practitioner or licensed paralegal practitioner remaining in
15 the firm has information protected by Rules 1.6 and 1.9(c) that is material to the matter.

16 (c) When a licensed paralegal practitioner becomes associated with a firm, no licensed
17 paralegal practitioner or licensed paralegal practitioner associated in the firm
18 shall knowingly represent a person in a matter in which that licensed paralegal practitioner is
19 disqualified under Rule 1.9 unless:

20 (c)(1) the personally disqualified licensed paralegal practitioner is timely screened from any
21 participation in the matter and is apportioned no part of the fee therefrom, and

22 (c)(2) written notice is promptly given to any affected former client.

23 (d) A disqualification prescribed by this Rule may be waived by the affected client under the
24 conditions stated in Rule 1.7.

25 (e) The disqualification of licensed paralegal practitioners associated in a firm with former or
26 current government licensed paralegal practitioners is governed by Rule 1.11.

27 (f) Reserved.

28
29 Comment

30 Definition of "Firm"

31 [1] “Firm,” as used in this rule, is defined in Rule 1.0(d). Whether two or more licensed paralegal
32 practitioners constitute a firm for purposes of determining conflict imputation can depend on the
33 specific facts. See Rule 1.0, Comments [2] - [4].

34 Principles of Imputed Disqualification

35 [2] The rule of imputed disqualification stated in paragraph (a) gives effect to the principle of
36 loyalty to the client as it applies to licensed paralegal practitioners who practice in a law firm.
37 Such situations can be considered from the premise that a firm of licensed paralegal practitioners
38 is essentially one licensed paralegal practitioner for purposes of the rules governing loyalty to the
39 client, or from the premise that each licensed paralegal practitioner is vicariously bound by the
40 obligation of loyalty owed by each licensed paralegal practitioner with whom the licensed
41 paralegal practitioner is associated. Paragraph (a) operates only among the licensed paralegal
42 practitioners currently associated in a firm. When a licensed paralegal practitioner moves from
43 one firm to another, the situation is governed by Rules 1.9(b) and 1.10(b).

44 [3] The rule in paragraph (a) does not prohibit representation where neither questions of client
45 loyalty nor protection of confidential information are presented. Where one licensed paralegal
46 practitioner in a firm could not effectively represent a given client because of strong political
47 beliefs, for example, but that licensed paralegal practitioner will do no work on the case and the
48 personal beliefs of the licensed paralegal practitioner will not materially limit the representation
49 by others in the firm, the firm should not be disqualified. On the other hand, if an opposing party
50 in a case were owned by a licensed paralegal practitioner in the law firm, and others in the firm
51 would be materially limited in pursuing the matter because of loyalty to that licensed paralegal
52 practitioner, the personal disqualification of the licensed paralegal practitioner would be imputed
53 to all others in the firm.

54 [4] The rule in paragraph (a) also does not prohibit representation by others in the firm where the
55 person prohibited from involvement in a matter is neither an attorney nor a licensed paralegal
56 practitioner, such as a licensed paralegal or legal secretary. Nor does paragraph (a) prohibit
57 representation if the licensed paralegal practitioner is prohibited from acting because of events
58 before the person became a licensed paralegal practitioner, for example, work that the person did
59 while a student. Such persons, however, ordinarily must be screened from any personal
60 participation in the matter to avoid communication to others in the firm of confidential

61 information that both the nonparalegal practitioners and the firm have a legal duty to protect. See
62 Rule 5.3.

63 [5] Rule 1.10(b) operates to permit a law firm, under certain circumstances, to represent a person
64 with interests directly adverse to those of a client represented by a licensed paralegal practitioner
65 who formerly was associated with the firm. The rule applies regardless of when the formerly
66 associated licensed paralegal practitioner represented the client. However, the law firm may not
67 represent a person with interests adverse to those of a present client of the firm, which would
68 violate Rule 1.7. Moreover, the firm may not represent the person where the matter is the same
69 or substantially related to that in which the formerly associated licensed paralegal practitioner
70 represented the client and any other licensed paralegal practitioner currently in the firm has
71 material information protected by Rules 1.6 and 1.9(c).

72 [6] Rule 1.10(d) removes imputation with the informed consent of the affected client or former
73 client under the conditions stated in Rule 1.7. The conditions stated in Rule 1.7 require the
74 licensed paralegal practitioner to determine that the representation is not prohibited by Rule 1.7
75 and that each affected client or former client has given informed consent to the representation,
76 confirmed in writing. In some cases, the risk may be so severe that the conflict may not be cured
77 by client consent. For a discussion of the effectiveness of client waivers of conflicts that might
78 arise in the future, see Rule 1.7, Comment [22]. For a definition of informed consent, see Rule
79 1.0(f).

80 [7] Where a licensed paralegal practitioner has joined a private firm after having represented the
81 government, imputation is governed by Rule 1.11(b) and (c), not this Rule. Under Rule 1.11(d),
82 where a licensed paralegal practitioner represents the government after having served clients in
83 private practice, nongovernmental employment or in another government agency, former-client
84 conflicts are not imputed to government licensed paralegal practitioners associated with the
85 individually disqualified licensed paralegal practitioner.

86 [8] Where a licensed paralegal practitioner is prohibited from engaging in certain transactions
87 under Rule 1.8, paragraph (k) of that Rule, and not this Rule, determines whether that prohibition
88 also applies to other licensed paralegal practitioners associated in a firm with the personally
89 prohibited licensed paralegal practitioner.