

Agenda

Paralegal Practitioner Steering Committee

April 21, 2016
12:00 to 1:30 p.m.

Scott M. Matheson Courthouse
450 South State Street, Salt Lake City
Executive Dining Room
Courthouse Café, West Entrance

Welcome and approval of minutes	Tab 1	Deno Himonas
Admissions and Administration Subcommittee		Royal Hansen Robert Rice
Education Subcommittee	Tab 2	Robert Adler Allison Belnap
Ethics and Discipline Subcommittee		Kate Toomey James Jardine
Executive Subcommittee	Tab 3	Deno Himonas Royal Hansen
Assignments		Deno Himonas

Committee Webpage: <http://www.utcourts.gov/utc/limited-legal/>

Meeting Schedule: Meetings start at noon in the executive dining room of the Matheson Courthouse.

June 16, 2016

December 15, 2016

August 18, 2016

February 16, 2017

October 20, 2016

Tab 1

**PARALEGAL PRACTITIONER
STEERING COMMITTEE
MEETING**

**Minutes
Thursday, February 18, 2016
Executive Dining Room
Matheson Courthouse
Salt Lake City, Utah**

JUSTICE DENO HIMONAS, Presiding

ATTENDEES:

Justice Deno Himonas, Chair
Jacqueline Morrison for Dean Robert W. Adler
John Baldwin
Allison Belnap
Adam Caldwell
Mary Jane Ciccarello
Terry Conaway
Sue Crismon
James Dean
Julie Emery
Judge Royal Hansen
Dixie Jackson

STAFF:

Tim Shea
Jody Gonzales

ATTENDEES:

Jim Jardine
Scott Jensen
Steven Johnson
Comm. Kim Luhn
Ellen Maycock
Daniel O'Bannion
Monte Sleight
Judge Kate Toomey
Elizabeth Wright

EXCUSED:

Thomas Clarke
Robert Rice
Senator Stephen Urquhart

GUESTS:

1. WELCOME AND INTRODUCTION OF MEMBERS: (Justice Deno Himonas)

Justice Himonas welcomed everyone to the meeting. He mentioned that a few committee members were unable to attend.

Members of the committee introduced themselves.

Mr. Shea highlighted the following regarding the meeting: 1) it is a public meeting, 2) the audio recording and minutes will be posted to the Public Notice Website, 3) the approved minutes and material will be posted to the committee webpage (URL noted on the agenda), and 4) the meeting schedule for several months is noted on the agenda.

2. COMMITTEE CHARGE: (Justice Deno Himonas)

Justice Himonas highlighted the four areas for consideration by the steering committee: 1) answer the questions the task force did not have time to resolve, 2) develop the administration and curriculum to meet the education requirements, 3) develop the regulations and administration for licensing, and 4) develop measures for success.

3. REVIEW TASK FORCE REPORT AND RECOMMENDATIONS: (Justice Deno Himonas and Tim Shea)

Justice Himonas highlighted the following information about the formation and work of the Supreme Court Task Force to Examine Limited Legal Licensing:

- 1) Washington State's Limited Legal License Technician Program;
- 2) the draft resolution of the ABA Future's Commission urging the high court in each state to examine the feasibility of a similar model;
- 3) the Utah task force began meeting in June 2015;
- 4) makeup of the task force membership was noted;
- 5) two subcommittees were formed to evaluate the Washington State program, and other models nationwide;
- 6) development of a white paper by Thomas Clarke of the National Center for State Courts (NCSC) entitled Non-Lawyer Legal Assistance Roles: Efficacy, Design, and Implementation;
- 7) address access and affordability for civil justice matters; and
- 8) the recommendation for a licensed paralegal practitioner, with the appropriate education, testing, and certification to provide specified services in the areas of: a) family law, b) landlord/tenant, and c) debt collection.

Mr. Shea provided details of the task force recommendations:

- 1) recommendations to the Judicial Council for a variety of initiatives that the judiciary may take under existing rules, not for consideration by the steering committee;
- 2) the paralegal practitioner will qualify after meeting the minimum education, examination, and licensing requirements;
- 3) practice areas and tasks of the paralegal practitioner were identified by the task force;
- 4) the rule proposed by the task force, to include the proposed authority of the paralegal practitioner, was noted;
- 5) an outline of the necessary education and testing for the education component for the paralegal practitioner was identified the task force;
- 6) the paralegal practitioner program will be administered through the Utah State Bar;
- 7) topic areas for the steering committee to consider were prepared by the task force;
- 8) the task force recommended that the steering committee consider the existing regulations for lawyers as a starting point for discussion;
- 9) ABA Resolution 105 was adopted by the ABA Board of Delegates at their Mid-Year Meeting two weeks ago; and
- 10) the principles of the resolution and experience gained by other states studying similar models were used by the task force.

4. SUBCOMMITTEES: (Justice Deno Himonas)

Justice Himonas highlighted the steering committee subcommittees to include:

Education Subcommittee: Robert Adler, chair; Allison Belnap, vice chair; Adam Caldwell; Teresa Conaway; James Deans; Scott Jensen; Monte Sleight; and Tim Shea, staff.

Admissions and Administration Subcommittee: Judge Royal Hansen, chair; Robert Rice, vice chair; John Baldwin; Sue Crismon; Julie Emery; Ellen Maycock; Senator Stephen Urquhart; and Elizabeth Wright, staff.

Ethics and Discipline Subcommittee: Judge Kate Toomey, chair; James Jardine, vice chair; Mary Jane Ciccarello; Dixie Jackson; Steven Johnson; Commissioner Kim Luhn; Daniel O'Bannon; and Elizabeth Wright, staff.

Executive Subcommittee: Justice Deno Himonas, chair; Judge Royal Hansen, vice chair; Robert Adler; Allison Belnap; Thomas Clarke; James Jardine; Robert Rice; Judge Kate Toomey; Tim Shea, staff; and Elizabeth Wright, staff.

Discussion took place throughout the meeting.

Mr. Shea noted that the Bar Commission is supportive of the Paralegal Practitioner Program. He also mentioned that an article is being prepared for an upcoming Bar Journal. Meetings will be held with members of the Family Law Section of the Bar, the Paralegal Division of the Bar and other appropriate sections of the Bar to discuss the program with them.

5. ADJOURN

The meeting was adjourned.

Tab 2

EDUCATION SUBCOMMITTEE SUMMARY

(1) MARCH 22, 2016

Subcommittee meeting schedule: 12:30 to 2:00 on the third Tuesday of each month.

Advanced curriculum. Recommend establishing learning objectives rather than a prescriptive curriculum. Defer discussion of assessment measures. **Assignment:** Each member will consider what should be the learning objectives of a paralegal practitioner and send his or her list to Tim, who will compile them.

Paralegal Associations. NALA (National Association of Legal Assistants). NFPA (National Federation of Paralegal Associations). NALS (“the association for legal professionals”). All three offer certification examinations. Discussion but no decision on which to allow to qualify for the advanced certification recommended by the task force. (The task force recommended the NALA certificate, but did not consider the others.)

The qualifications to sit for the NALA certificate are:

- Bachelor’s or associate’s degree in paralegal studies;
- Bachelor’s degree in any field with a certificate in paralegal studies; or
- Minimum of 7 years of experience as a paralegal.

The task force recommended a minimum requirement of an associate’s degree in paralegal studies from an ABA-approved program. The subcommittee discussed and rejected replacing that with the NALA prerequisites. NALA does not require paralegal studies in an ABA-approved program.

Estimate of partially qualified candidates. **Assignment:** Terry and Monte will research what data is available from which we might estimate the number of people who have already meet the minimum requirements of an associate’s degree in paralegal studies or a NALA certificate. And whether we can estimate the NALA pass-rate among Utah candidates.

Current paralegal studies curriculum. Schools should be free to develop their preferred curriculum to qualify for ABA approval. Discussion but no decision on whether classes in the paralegal studies program should qualify for the advanced curriculum if they otherwise meet the learning objectives. **Assignment:** Terry and Monte will prepare a summary of the programs in their respective schools.

Which schools should offer the advanced courses? The advantages of paralegal programs and the advantages of law schools were discussed. A blended approach may be the most beneficial to students.

Experience requirement. Recommend 1500 hours experience as a paralegal under the supervision of a lawyer or licensed paralegal practitioner. Experience must be within 2 years before licensure. Intern experience qualifies (in or out of school?).

Tab 3

EXECUTIVE SUBCOMMITTEE SUMMARY

(1) MARCH 17, 2016

(a) SUBCOMMITTEE MEETING SCHEDULE

10:00 to 12:00 on the third Thursday of May, July, September, November, and January.

(b) SUBCOMMITTEE REPORTS

Admissions and Administration

- Recommend amending current Bar rules to accommodate paralegal practitioners rather than create a separate body of rules.
- Organize into four workgroups: applications; character and fitness; licensing examination; and licensing.
- Administration of paralegal practitioners should be under the Bar Commission rather than the Paralegal Division.

Education

- Will first meet on March 22.
- Additional issue for the subcommittee: Should the advanced curriculum be accredited and if so by whom?

Ethics and Discipline

- Monthly meeting schedule.
- Organize into workgroups.
- Begin a comprehensive review of the Rules of Professional Conduct.
- Question: Should the current RPC be amended to accommodate paralegal practitioners? Or should there be a separate body of rules?
- Consider whether paralegal practitioners should maintain IOLTA accounts.

(c) PROGRAM EVALUATION

Goals

- Develop a cohort of professionals to provide specified legal services in specified practice areas.
- Improve consumer protection by replacing “black market” services.
- Improve the efficiency of the litigation process.
- Improve public confidence in the justice system.
- Involve stakeholders: public-clients, paralegals, lawyers, bar administration, legislature, judges, court commissioners, court staff, educators, insurance carriers.

(d) ISSUES NOT RESOLVED BY THE TASK FORCE

- Should a paralegal practitioner be required to sign or otherwise acknowledge a form prepared but not filed by the paralegal practitioner?
 - No. Not required for a document ghost-written by a lawyer. The paralegal practitioner has no control over what is actually filed.
- Should a paralegal practitioner be authorized to represent a client in non-mediated negotiations?
 - No, but we may be able to describe particular circumstances in which the paralegal practitioner could participate. Inquire of the lawyers on the committee: Under what circumstances would having a paralegal practitioner negotiating on behalf of a client be a benefit?
 - The task force recommended that the paralegal practitioner be authorized to communicate with another party or the party's representative.
- Should a paralegal practitioner be authorized to accept service on behalf of a client?
 - No, unless designated as an agent for acceptance of service; or
 - Yes, but must recognize when the document served goes beyond the scope of representation and what to tell the client.
 - E-filing a document satisfies the service requirement on represented parties. For paralegal practitioners to file documents in an electronic environment, they will have to be able to e-file.
- Should guardianship of a minor be an authorized practice area?
 - No
- Should "debt collection" include small claims?
 - No. Small claims is for the recovery of money damages, but currently there is no distinction among the causes of action.
 - Under current law and with the permission of the court, a paralegal practitioner could represent a client in court in small claims, provided there is no compensation.
- What are the initial sources of money to get the program started until there are enough dues to run on its own? How long might that be?
 - Need more research.