

Rule 5.1. Responsibilities of Partners, Managers, and Supervisory Licensed Paralegal Practitioners.

1 (a) A partner in a firm of licensed paralegal practitioners, and a licensed paralegal
2 practitioner who individually or together with other licensed paralegal practitioners possesses
3 comparable managerial authority in a firm of licensed paralegal practitioners, shall make
4 reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that
5 all licensed paralegal practitioners in the firm conform to these Licensed Paralegal Practitioner
6 Rules of Professional Conduct.

7 (b) A licensed paralegal practitioner having direct supervisory authority over another
8 licensed paralegal practitioner shall make reasonable efforts to ensure that the other licensed
9 paralegal practitioner conforms to the Licensed Paralegal Practitioner Rules of Professional
10 Conduct.

11 (c) A licensed paralegal practitioner shall be responsible for another licensed paralegal
12 practitioner's violation of the Licensed Paralegal Practitioner Rules of Professional Conduct if:

13 (c)(1) The licensed paralegal practitioner orders or, with knowledge of the specific conduct,
14 ratifies the conduct involved; or

15 (c)(2) The licensed paralegal practitioner is a partner or has comparable managerial authority
16 in the firm of licensed paralegal practitioners in which the other licensed paralegal practitioner
17 practices or has direct supervisory authority over the other licensed paralegal practitioner, and
18 knows of the conduct at a time when its consequences can be avoided or mitigated but fails to
19 take reasonable remedial action.

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21 Comment

22 [1] Paragraph (a) applies to licensed paralegal practitioners who have managerial authority
23 over the professional work of a firm of licensed paralegal practitioners. This includes members
24 of a partnership, the shareholders in a firm organized as a professional corporation and members
25 of other associations authorized to practice law as licensed paralegal practitioners; and licensed
26 paralegal practitioners who have intermediate managerial responsibilities in a firm of licensed
27 paralegal practitioners. Paragraph (b) applies to licensed paralegal practitioners who have
28 supervisory authority over the work of other licensed paralegal practitioners in a firm.

29 [2] Paragraph (a) requires licensed paralegal practitioners with managerial authority within a
30 firm of licensed paralegal practitioners to make reasonable efforts to establish internal policies
31 and procedures designed to provide reasonable assurance that all licensed paralegal practitioners
32 in the firm will conform to the Licensed Paralegal Practitioner Rules of Professional Conduct.
33 Such policies and procedures include those designed to detect and resolve conflicts of interest,
34 identify dates by which actions must be taken in pending matters, account for client funds and
35 property and ensure that inexperienced licensed paralegal practitioners are properly supervised.
36 The responsibility for the firm's compliance with paragraph (a) resides with each partner, or
37 other licensed paralegal practitioner in the firm with comparable authority. Even though the
38 concept of firm discipline is possible, a firm should not be responsible in the absence of
39 individual culpability for a rule violation.

40 [3] Other measures that may be required to fulfill the responsibility prescribed in paragraph
41 (a) can depend on the firm's structure and the nature of its practice. In a small firm of
42 experienced licensed paralegal practitioners, informal supervision and periodic review of
43 compliance with the required systems ordinarily will suffice. In a large firm, or in practice
44 situations in which difficult ethical problems frequently arise, more elaborate measures may be
45 necessary. Some firms, for example, may put in place a procedure whereby junior licensed
46 paralegal practitioners can make confidential referral of ethical problems directly to a designated
47 partner or special committee. See Rule 5.2. Firms, whether large or small, may also rely on
48 continuing education in professional ethics. In any event, the ethical atmosphere of a firm can
49 influence the conduct of all its members and the partners may not assume that all licensed
50 paralegal practitioners associated with the firm will inevitably conform to the Rules.

51 [4] Paragraph (c)(1) expresses a general principle of personal responsibility for acts of
52 another. See also Rule 8.4(a).

53 [5] Paragraph (c)(2) defines the duty of a partner or other licensed paralegal practitioner
54 having comparable managerial authority in a firm of licensed paralegal practitioners, as well as a
55 licensed paralegal practitioner who has direct supervisory authority over performance of specific
56 legal work by another licensed paralegal practitioner. Whether a licensed paralegal practitioner
57 has such supervisory authority in particular circumstances is a question of fact. Partners and
58 licensed paralegal practitioners with comparable authority have at least indirect responsibility for
59 all work being done by the firm, while a partner or manager in charge of a particular matter

60 ordinarily also has supervisory responsibility for the work of other firm licensed paralegal
61 practitioners engaged in the matter. Appropriate remedial action by a partner or managing
62 licensed paralegal practitioner would depend on the immediacy of that licensed paralegal
63 practitioner's involvement and the seriousness of the misconduct. A supervisor is required to
64 intervene to prevent avoidable consequences of misconduct if the supervisor knows that the
65 misconduct occurred. Thus, if a supervising licensed paralegal practitioner knows that a
66 subordinate misrepresented a matter to an opposing party in negotiation, the supervisor as well as
67 the subordinate has a duty to correct the resulting misapprehension.

68 [6] Professional misconduct by a licensed paralegal practitioner under supervision could
69 reveal a violation of paragraph (b) on the part of the supervisory licensed paralegal practitioner
70 even though it does not entail a violation of paragraph (c) because there was no direction,
71 ratification or knowledge of the violation.

72 [7] Apart from this Rule and Rule 8.4(a), a licensed paralegal practitioner does not have
73 disciplinary liability for the conduct of a partner, associate or subordinate. Whether a licensed
74 paralegal practitioner may be liable civilly or criminally for another licensed paralegal
75 practitioner's conduct is a question of law beyond the scope of these Rules.

76 [8] The duties imposed by this rule on managing and supervising licensed paralegal
77 practitioners do not alter the personal duty of each licensed paralegal practitioner in a firm to
78 abide by the Licensed Paralegal Practitioner Rules of Professional Conduct. See Rule 5.2(a).

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