

LAWYER TO LAWYER MENTORING PROGRAM
WORKSHEET W
INTRODUCTION TO OFFICE PERSONNEL

Worksheet W is intended to facilitate a discussion about the roles and responsibilities of paralegals, administrative assistants, and other office personnel and how to establish good working relationships with others in the same office who are support staff, colleagues, or senior.

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- Explain to the new lawyer each non-lawyer employee's role in the mentor's office/firm, including the employee's title, job duties, and relationship to the new lawyer (if any) if in an in-house mentoring relationship.
- Discuss the importance of having support staff on your team and treating them with respect.
- Share suggested "do's and don'ts" of dealing with support staff, colleagues, and those more senior than the new lawyer.
- If the new lawyer has an administrative assistant and/or paralegal, explain the types of task that are appropriate (and inappropriate) to ask each of them to do.
- If in an in-house mentoring relationship, discuss the office culture in terms of the types of tasks new lawyers are expected (although perhaps not told) to do rather than support staff. For example, if in an office where many lawyers share one administrative assistant, do the newer lawyers make their own changes to documents, make their own copies, etc. so that the administrative assistant can focus on doing those tasks for the more senior lawyers? Are new lawyers expected to type their own documents on their own computer and assistants expected to "format" them, or are there some other accepted way of doing things?
- If in an in-house mentoring relationship, discuss any considerations or prohibitions in asking support staff to put in time outside of normal office hours, including whether requests for overtime must be approved, whether overtime requests must only be made on a limited basis, how much advance notice is typically expected when asking staff to stay later than normal office hours, etc.
- If in an in-house mentoring relationship, discuss the specific skills and knowledge each support staff member has from which the new lawyer can learn or benefit.
- Illinois State Bar Association and ISBA Mutual Insurance Company, *New Lawyer Survival Guide: Advice from the Trenches on How to Live Your Life in the Law*, 2003.

- Make suggestions about how to handle difficult situations where the new lawyer's administrative assistant or paralegal is not performing as expected. If mentoring in-house, explain any procedures that are in place to address this type of problem.
- Discuss the types of behavior that constitute the unauthorized practice of law in Ohio and to the extent possible, define the "practice of law." See the attached excerpt from *The Legal Assistant's Practical Guide to Professional Responsibility*, ABA Center for Professional Responsibility (2nd Edition).
<http://www.abanet.org/abastore/index.cfm?section=main&fm=Product.AddToCart&pid=2150006>
- Discuss an attorney's ethical responsibilities regarding non-lawyer assistants. See Prof. Cond. Rule 5.3.
- Discuss an attorney's ethical obligation to prevent the unauthorized practice of law and provide specific tips on how to prevent non-lawyer personnel from inadvertently (or intentionally) engaging in it. See Prof. Cond. Rules 5.3 – 5.5.
- If mentoring in-house, discuss the office policies (if any) that are in place to prevent the unauthorized practice of law by non-lawyer staff.
- Share with the new lawyer appropriate ways to monitor the work product of support staff for which the new lawyer is ultimately responsible as an attorney.

RESOURCES

INDIANA RULES OF PROFESSIONAL CONDUCT

V. LAW FIRMS AND ASSOCIATIONS

RULE 5.3: RESPONSIBILITIES REGARDING NONLAWYER ASSISTANTS

With respect to a nonlawyer employed by, retained by, or associated with a lawyer, all of the following apply:

With respect to a nonlawyer employed or retained by or associated with a lawyer:

- (a) a partner, and a lawyer who individually or together with other lawyers possess comparable managerial authority in a law firm shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person's conduct is compatible with the professional obligations of the lawyer;

- (b) a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer; and
- (c) a lawyer shall be responsible for conduct of such a person that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer if:
 - (1) the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or
 - (2) the lawyer is a partner or has comparable managerial authority in the law firm in which the person is employed, or has direct supervisory authority over the person, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

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RULE 5.4: PROFESSIONAL INDEPENDENCE OF A LAWYER

- (a) A lawyer or law firm shall not share legal fees with a nonlawyer, except that:
 - (1) an agreement by a lawyer with the lawyer's firm, partner, or associate may provide for the payment of money, over a reasonable period of time after the lawyer's death, to the lawyer's estate or to one or more specified persons;
 - (2) a lawyer who purchases the practice of a deceased, disabled, or disappeared lawyer may, pursuant to the provisions of Rule 1.17, pay to the estate or other representative of that lawyer the agreed upon purchase price; and
 - (3) a lawyer or law firm may include nonlawyer employees in a compensation or retirement plan, even though the plan is based in whole or in part on a profit-sharing arrangement.
- (b) A lawyer shall not form a partnership with a nonlawyer if any of the activities of the partnership consist of the practice of law.
- (c) A lawyer shall not permit a person who recommends, employs, or pays the lawyer to render legal services for another to direct or regulate the lawyer's professional judgment in rendering such legal services.
- (d) A lawyer shall not practice with or in the form of a professional corporation or association authorized to practice law for a profit, if:
 - (1) a nonlawyer owns any interest therein, except that a fiduciary representative of the estate of a lawyer may hold the stock or interest of the lawyer for a reasonable time during administration;
 - (2) a nonlawyer is a corporate director or officer thereof or occupies the position of similar responsibility in any form of association other than a corporation; or
 - (3) a nonlawyer has the right to direct or control the professional judgment of a lawyer.

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RULE 5.5: UNAUTHORIZED PRACTICE OF LAW; MULTIJURISDICTIONAL PRACTICE OF LAW

- (a) A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.
- (b) A lawyer who is not admitted to practice in this jurisdiction shall not:
 - (1) except as authorized by these Rules or other law, establish an office or other systematic and continuous presence in this jurisdiction for the practice of law; or
 - (2) hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction.
- (c) A lawyer admitted in another United States jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services on a temporary basis in this jurisdiction that:
 - (1) are undertaken in association with a lawyer who is admitted to practice in this jurisdiction and who actively participates in the matter;
 - (2) are in or reasonably related to a pending or potential proceeding before a tribunal in this or another jurisdiction, if the lawyer, or a person the lawyer is assisting, is authorized by law or order to appear in such proceeding or reasonably expects to be so authorized;
 - (3) are in or reasonably related to a pending or potential arbitration, mediation, or other alternative dispute resolution proceeding in this or another jurisdiction, if the services arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted to practice and are not services for which the forum requires pro hac vice admission; or
 - (4) are not within paragraphs (c)(2) or (c)(3) and arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted to practice.
- (d) A lawyer admitted in another United States jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services in this jurisdiction that:
 - (1) are provided to the lawyer's employer or its organizational affiliates and are not services for which the forum requires pro hac vice admission; or
 - (2) are services that the lawyer is authorized to provide by federal law or other law of this jurisdiction.

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~~Read and discuss the suggestions regarding dealing with professional support staff in the attached excerpts.~~—KIMM ALAYNE WALTON, WHAT LAW SCHOOL DOESN'T TEACH YOU...BUT YOU REALLY NEED TO KNOW (2000) **CAN BE PURCHASED AT THIS LINK**
[HTTP://WEST.THOMSON.COM/PRODUCTDETAIL/13686/41095910/PRODUCTDETAIL.ASPX](http://WEST.THOMSON.COM/PRODUCTDETAIL/13686/41095910/PRODUCTDETAIL.ASPX)