

Chapter 4

The Inner Workings of the Law Office

Chapter Outline

1. Introduction
2. The Organizational Structure of Law Firms
3. Law Office Management and Personnel
4. Employment Policies
5. Filing Procedures
6. Financial Procedures
7. Communicating with Clients
8. Law Office Culture and Politics

Chapter Objectives

After completing this chapter, you will know:

- How law firms may be organized and managed.
- Some typical policies and procedures governing paralegal employment.
- The importance of an efficient filing system in legal practice and some typical filing procedures.
- How clients are billed for legal services.
- How law office culture and politics affect the paralegal's working environment.

Chapter 4 The Inner Workings of the Law Office

Chapter Outline

- I. INTRODUCTION
 - A. Paralegals work in a wide variety of environments.
 - B. The size and organizational structure of a law firm affects the paralegal's working environment.

- II. THE ORGANIZATIONAL STRUCTURE OF LAW FIRMS
 - A. Sole Proprietorships
 - i. A sole proprietorship is a business organization in which one individual owns the business.
 - ii. A sole proprietor is entitled to all of the firm's profits.
 - iii. A sole proprietor bears the full personal responsibility for all of the firm's debts or obligations.
 - iv. When working for a sole practitioner, a paralegal will learn about different areas of the law as well as a variety of law-office procedures.
 - B. Partnerships
 - i. A partnership is a business organization in which two or more individuals, called partners, jointly own the business.
 - ii. Partners share jointly in the profits or losses of the firm.
 - iii. Partners may participate equally in managing the partnership, or they may designate a managing partner.
 - iv. Liability of Partners
 1. Partners are subject to personal liability for all of the firm's debts or other obligations.
 - v. Limited Liability Partnerships (LLP)
 1. The LLP normally allows professionals to avoid personal liability for the malpractice of other partners.
 - C. Professional Corporations
 - i. A professional corporation is an organization in which two or more individuals, called shareholders, own the business.
 - ii. The owner-shareholders of a professional corporation share the firm's profits or losses.
 - iii. The shareholders' personal liability may or may not be limited to the amount of their investments, depending on the circumstances and on state law.

- III. LAW OFFICE MANAGEMENT AND PERSONNEL
 - A. The lines of authority and accountability vary from firm to firm, depending on the firm's size and its organizational and management preferences.

- B. In larger firms, there may be a *legal-assistant manager* who coordinates and oversees paralegal staffing and paralegal educational and professional development.
- C. Some firms may have a *legal administrator* to run the business end of the firm.
- D. Small firms may have an *office manager* handling the administrative aspects of the firm.
- E. *Support personnel* in a large firm includes secretaries, receptionists, bookkeepers, file clerks, messengers, and others.
- F. Paralegals should learn to whom they are accountable and who is accountable to them.

IV. EMPLOYMENT POLICIES

A. Performance Evaluations

- i. Many law firms conduct periodic performance evaluations of their employees.
- ii. Know What Is Expected of You
 - 1. When you begin work as a paralegal, learn at the outset exactly what your duties will be and what performance is expected of you.
- iii. Be Prepared
 - 1. Keep track of accomplishments so that you can point them out to your supervisor at your evaluation.
- iv. Get the Most from Your Performance Evaluation
 - 1. You can gain valuable feedback, learn more about your strengths and weaknesses, and identify the areas in which you need to improve your skills.

B. Employment Termination

- i. Almost all policy manuals address the subject of employment termination.

C. Employment Discrimination

- i. Traditionally, employers may hire and fire employees “at will” (i.e., for any reason or no reason at all).
- ii. Under federal law (and many state statutes), employers may not fire employees for discriminatory reasons.

V. FILING PROCEDURES

A. Client Files

- i. Opening a New Client File
 - 1. Filing procedures must maximize client confidentiality and ensure the safekeeping of documents and other evidence.
 - 2. Adding Subfiles
 - a. Add subfiles as the file expands to ensure that documents will be easy to locate.
 - 3. File Use and Storage

- a. Proper file maintenance is crucial to a smoothly functioning law office. If a file is lost, the client may suffer irreparable harm.
- 4. Closing a File
 - a. Although procedures for closing a file vary from firm to firm, original documents are typically returned to the client and extraneous materials are destroyed.
- 5. Destroying Old Files
 - a. Old files are normally destroyed by shredding them to preserve their confidentiality.
 - b. The date of the expiration of the statute of limitations in your state is an important factor in determining how long to retain a client's file.
- B. Work-Product Files and Reference Materials
 - i. Many law firms keep copies of research projects, legal memoranda, and pleadings to refer to in future projects.
 - ii. These work-product files prevent starting all over again when working on a claim similar to one dealt with in the past.
- C. Forms Files
 - i. Every law firm keeps on hand various forms that it commonly uses.
 - ii. When the attorney or paralegal works on a similar case in the future, the documents from the previous case are used as a model or guide.
 - iii. Computerized forms simplify legal practice by allowing legal personnel to generate customized documents within minutes.

Managing Money

Private law firms have different fee arrangements. Know which fee arrangement applies to which clients and what information you need to track or report for each file. Remember, your salary is paid from the services you perform on behalf of a client, generating income for the firm.

VI. FINANCIAL PROCEDURES

A. Fee Arrangements

- i. Most law firms require each client to sign a retainer agreement.
- ii. Fixed Fees
 - 1. Fixed fees are paid for a specified legal service.
 - 2. Examples of fixed-fee procedures would be an incorporation or a simple divorce filing.
- iii. Hourly Fees
 - 1. Most clients pay hourly fees.

2. These clients are billed monthly for the time spent by the attorneys or other legal personnel on the clients' cases or projects.
- iv. Contingency Fees
 1. Clients who are represented on a contingency-fee basis do not pay legal fees until the case or legal matter has been decided or completed
 2. However, all costs incurred on behalf of clients are billed to the client monthly.
 3. Some people maintain that contingency fees violate ethics rules because they encourage attorneys to resort to aggressive tactics in order to win a case.
 4. The law restricts the use of contingency-fee agreements to certain types of cases and only in civil matters.
 - v. Alternative Fee Arrangements
 1. "Task-based billing" is charging a fixed fee for specific types of tasks that are involved in a client's matter.
 2. When "value billing" is used, the fees charged to the client may vary, depending upon the results of the representation.
- B. Client Trust Accounts
- i. A trust account is a bank account into which funds advanced to the firm, such as retainers, are deposited.
 - ii. Funds held in a trust account may only be used for expenses relating to the costs of serving that client's needs.
- C. The Prohibition Against Fee Splitting
- i. Rule 5.4 of the Model Rules prohibits lawyers of law firms from sharing legal fees with a non-lawyer.
 - ii. Therefore, paralegals cannot become partners in a law partnership nor can they have a fee-sharing arrangement with an attorney.
- D. Billing and Timekeeping Procedures
- i. Documenting Time and Expenses
 1. Firms require attorneys and paralegals to fill out and submit time slips documenting time and expenses spent on a particular client's case.
 2. Billable versus Non-billable Hours
 - a. The financial well-being of a law firm depends to a great extent on how many billable hours are generated by its employees.
 3. The Pressure to Generate Billable Hours
 - a. Firms usually require attorneys and paralegals to generate a certain number of billable hours per year. This may subject legal personnel to significant stress and pressure.

E. Ethics and Client Billing Practices

i. Double-Billing

1. Double-billing occurs when a firm bills a client for work that was done for a previous client.

ii. The American Bar Association's Response to Double-Billing

a. In 1992, the ABA stated that it is unethical to bill two clients for the same billable hours or legal work.

b. Most courts have tended to follow the ABA's position on this issue.

VII. COMMUNICATING WITH CLIENTS

A. Lawyers have a duty to keep their clients reasonably informed.

B. Copies of all letters sent to the client should be kept in the client's file, as well as a written record of every telephone call made to or received from the client.

The Law Office Culture

Just as you adjust to each instructor's method of teaching and personality, you will need to adjust to the law office's environment, including varying personalities, internal positions, and practices. Be flexible and learn to adapt to these differences.

VIII. LAW OFFICE CULTURE AND POLITICS

A. Each law firm has its own personality, culture, and politics. These are shaped primarily by the attitudes of the firm's owners.

B. Law office culture and politics impact greatly on job satisfaction and comfort.

C. Paralegals should make an effort to learn about the culture and politics of the law office as soon as possible after taking a job.