

INDIANA SUPREME COURT
RULES OF PROFESSIONAL RESPONSIBILITY
USE OF NON-LAWYER ASSISTANTS

Introduction

Subject to the provisions in Rule 5.3, all lawyers may use non-lawyer assistants in accordance with the following guidelines.

Guideline 9.1. Supervision

A non-lawyer assistant shall perform services only under the direct supervision of a lawyer authorized to practice in the State of Indiana and in the employ of the lawyer or the lawyer's employer. Independent non-lawyer assistants, to-wit, those not employed by a specific firm or by specific lawyers are prohibited. A lawyer is responsible for all of the professional actions of a non-lawyer assistant performing services at the lawyer's direction and should take reasonable measures to insure that the non-lawyer assistant's conduct is consistent with the lawyer's obligations under the Rules of Professional Conduct.

Guideline 9.2. Permissible Delegation

Provided the lawyer maintains responsibility for the work product, a lawyer may delegate to a non-lawyer assistant or paralegal any task normally performed by the lawyer; however, any task prohibited by statute, court rule, administrative rule or regulation, controlling authority, or the Indiana Rules of Professional Conduct may not be assigned to a non-lawyer.

Guideline 9.3. Prohibited Delegation

A lawyer may not delegate to a non-lawyer assistant:

- (a) responsibility for establishing an attorney-client relationship;
- (b) responsibility for establishing the amount of a fee to be charged for a legal service; or
- (c) responsibility for a legal opinion rendered to a client.

Guideline 9.4. Duty to Inform

It is the lawyer's responsibility to take reasonable measures to ensure that clients, courts, and other lawyers are aware that a non-lawyer assistant, whose services are utilized by the lawyer in performing legal services, is not licensed to practice law.

Guideline 9.5. Identification on Letterhead

A lawyer may identify non-lawyer assistants by name and title on the lawyer's letterhead and on business cards identifying the lawyer's firm.

Guideline 9.6. Client Confidences

It is the responsibility of a lawyer to take reasonable measures to ensure that all client confidences are preserved by non-lawyer assistants.

Guideline 9.7. Charge for Services

A lawyer may charge for the work performed by non-lawyer assistants.

Guideline 9.8. Compensation

A lawyer may not split legal fees with a non-lawyer assistant nor pay a non-lawyer assistant for the referral of legal business. A lawyer may compensate a non-lawyer assistant based on the quantity and quality of the non-lawyer assistant's work and the value of that work to a law practice, but the non-lawyer assistant's compensation may not be contingent, by advance agreement, upon the profitability of the lawyer's practice.

Guideline 9.9. Continuing Legal Education

A lawyer who employs a non-lawyer assistant should facilitate the non-lawyer assistant's participation in appropriate continuing education and pro bono publico activities.

Guideline 9.10. Legal Assistant Ethics

All lawyers who employ non-lawyer assistants in the State of Indiana shall assure that such non-lawyer assistants conform their conduct to be consistent with the following ethical standards:

- (a) A non-lawyer assistant may perform any task delegated and supervised by a lawyer so long as the lawyer is responsible to the client, maintains a direct relationship with the client, and assumes full professional responsibility for the work product.
- (b) A non-lawyer assistant shall not engage in the unauthorized practice of law.
- (c) A non-lawyer assistant shall serve the public interest by contributing to the delivery of quality legal services and the improvement of the legal system.
- (d) A non-lawyer assistant shall achieve and maintain a high level of competence, as well as a high level of personal and professional integrity and conduct.
- (e) A non-lawyer assistant's title shall be fully disclosed in all business and professional communications.

- (f) A non-lawyer assistant shall preserve all confidential information provided by the client or acquired from other sources before, during, and after the course of the professional relationship.
- (g) A non-lawyer assistant shall avoid conflicts of interest and shall disclose any possible conflict to the employer or client, as well as to the prospective employers or clients.
- (h) A non-lawyer assistant shall act within the bounds of the law, uncompromisingly for the benefit of the client.
- (i) A non-lawyer assistant shall do all things incidental, necessary, or expedient for the attainment of the ethics and responsibilities imposed by statute or rule of court.
- (j) A non-lawyer assistant shall be governed by the Indiana Rules of Professional Conduct.
- (k) For purposes of this Guideline, a non-lawyer assistant includes but shall not be limited to: paralegals, legal assistants, investigators, law students and paraprofessionals.