

TEXAS BOARD OF LEGAL SPECIALIZATION

PARALEGAL RULES AND REGULATIONS

NOTE: The terms “paralegal” and “legal assistant” are considered synonymous.

Definitions as used in these Rules:

“**TBLS**” refers to the Texas Board of Legal Specialization.

“**SBOT**” refers to the State Bar of Texas.

“**TXPD**” refers to the Paralegal Division of SBOT.

“**PC**” refers to the Paralegal Commissions appointed by TBLS.

“**Standards**” refers to the Standards for Paralegal Certification.

“**Rules**” refers to these TBLS Paralegal Rules and Regulations.

“**CLE**” refers to continuing legal education.

“**Applicant**” refers to either a certification or recertification applicant unless otherwise specifically stated.

“**Annual reporting**” refers to the process in which a board certified paralegal reports his or her percentage of substantial involvement in the specialty area for the previous calendar year to TBLS and submits payment of the required annual fee for the current calendar year.

“**Hold**” refers to a status issued by TBLS to a board certified paralegal who is being monitored because he or she has not met requirements to maintain certification as provided in the Standards. A paralegal may not continue to use the “Board Certified” designation while on this status.

SECTION I

CERTIFICATION AND RECERTIFICATION REQUIREMENTS

- A. Form and Content.** Documents, applications, and forms used in the certification, recertification, and annual reporting process may be updated annually and will be furnished by TBLS. The application and the annual reporting form and the information contained therein shall be affirmed by the applicant or board certified paralegal as being true and complete. These forms shall not be altered or amended by the applicant or board certified paralegal.

B. Completion of Requirements.

1. Certification.

- a. A certification applicant shall complete the required professional and educational experience as required by Part I-Section II, G of the Standards. The certification applicant must also provide information regarding his or her substantial involvement as required by Part II of the Standards for the applicable specialty area.
- b. A certification applicant who has been approved for the examination shall have 2 consecutive opportunities to attain a passing grade on the examination. The first opportunity shall be during the year in which the application was filed. The second opportunity shall be only during the year immediately following the submission of the initial application, shall not require payment of the application for certification filing fee, and is subject to re-approval by TBLS.

2. Recertification.

- a. A board certified paralegal shall complete a recertification process every 5th year of certification. The recertification requirements are described in Part I-Section III of the Standards and Part II-Section III of the Standards for the applicable specialty area.
- b. A board certified paralegal who does not wish to recertify in a specialty area is not required to pay the recertification fee or provide references. However, to maintain certification through the end of the 5 year period of certification, payment of the annual fee is required for the specialty area.

C. Supplementary Information. In order to ascertain qualification for certification or recertification, TBLS may require an applicant to submit information in addition to that called for on the application form, and may require an applicant to submit to a personal interview before TBLS, any of its individual members, or any authorized representative.

D. Deadlines.

1. Certification. An application must be submitted to TBLS by the filing deadline established by TBLS or postmarked on or before the filing deadline in order to be accepted for consideration
 - a. Filing Fee. A filing fee of \$50.00 for each specialty area in which the applicant is applying must be submitted to TBLS by the filing deadline established by TBLS. A application submitted without payment of the filing fee shall be considered incomplete and shall not be accepted by TBLS.
 - b. Refund. Denial or withdrawal of an application will not entitle the applicant to a refund of the filing fee or any part thereof.
 - c. Reapplication. An application submitted to TBLS subject to Section I, B,1,d of these Rules shall not require payment of the filing fee.

2. Annual Reporting / Recertification. The annual reporting requirements and recertification process described in Section I, B, 2 of these Rules must be submitted to TBLS by the filing deadline established by TBLS or postmarked on or before the filing deadline.
 - a. Annual Fee. A fee of \$25.00 shall be charged to a board certified paralegal for each certificate of special competence earned. Payment of the annual fee must be submitted to TBLS by the deadline established by TBLS.
 - b. Recertification Fee. A fee of \$15.00 shall be charged to a board certified paralegal who is eligible for recertification in a specialty area. This fee is paid in addition to the annual fee for the applicable specialty area if he or she wishes to recertify. Payment of the recertification fee must be submitted to TBLS by the deadline established by TBLS.
 - c. Revocation. Failure to timely file the annual reporting requirements or complete the recertification process or failure to pay the annual fee shall be grounds for revocation of certification.
 - d. TBLS "Hold" Status. A board certified paralegal who has been placed on a "hold" status by TBLS, must complete the annual reporting requirements and pay the annual fee; and if eligible for recertification, must complete the recertification process and pay the recertification fee until a final determination has been made by TBLS regarding his or her certification status.

E. Fees. Any fees charged by TBLS may be adjusted as TBLS deems appropriate. Failure to timely pay any required fee shall be grounds for revocation of certification or denial of certification or recertification.

F. Alteration of Form. Any form created by TBLS that has been altered or amended by an applicant or board certified paralegal will be reviewed by TBLS. An alteration or amendment that results in the omission, misrepresentation, or incomplete disclosure of a certification requirement shall be cause for denial of certification or recertification or revocation of certification.

G. Processing.

1. Upon receipt of an application or annual reporting form, TBLS will:
 - a. In the case of an application, assign an appropriate file number.
 - b. Deposit any required fee.
 - c. Review the application or annual reporting form and determine if it is complete.
 - d. Notify the applicant or board certified paralegal of any necessary information which has not been provided on the application or annual reporting form.
2. The PC for each specialty area will review each application and make recommendations to TBLS for approval or denial.
3. TBLS will review PC recommendations and make the final determination concerning the approval or denial of applications.

4. An applicant or board certified paralegal will be notified of the TBLS action as follows:
 - a. An approved certification applicant will be sent an exam payment form.
 - b. An approved recertification applicant will be sent a seal updating his or her certificate of special competence.
 - c. An applicant who is denied will be notified of the appellate process.
 - d. A board certified paralegal who has been placed on a “hold” status by TBLS will be so notified and advised that he or she may not continue to use the “Board Certified” designation while on this status. TBLS will notify the paralegal at such time as it makes a final determination on his or her certification status.
- H. Confidentiality.** All materials and information received or used by TBLS in connection with the certification, recertification, and annual reporting processes, including, but not limited to, TBLS forms and Statements of Reference, shall be confidential and shall not be subject to disclosure.
- I. Retention.** Inactive files will be destroyed after 3 years from the date the file is closed.

SECTION II DISCLOSURE OF CONDUCT

- A. Reporting Disclosure of Conduct.**
1. A certification applicant is required to report to TBLS any inquiry or disciplinary action by the Standing Committee, TXPD, or other paralegal organization. A copy of the inquiry or disciplinary action should accompany the application, along with an explanation and any other materials the certification applicant wishes to be considered in the review of the matter. Failure to report the matter may be a basis for denial of the application.
 2. A board certified paralegal is required to report to TBLS any disciplinary action by the Standing Committee, TXPD, or other paralegal organization within 30 days of the institution of such proceeding. The report should include a copy of the inquiry or disciplinary action along with an explanation and any other materials the board certified paralegal wishes to be considered in the review of the matter. Failure to report the matter may be a basis for denial of recertification or revocation of certification.
- B. Types of Conduct Issues.**
1. Conviction of a Serious Crime. An applicant or board certified paralegal who is convicted, given probation or fined for a serious crime as defined in Part I-Section III, B, 1 of the Standards will automatically be denied certification or recertification, or certification will be revoked.

2. Disciplinary Investigation or Sanction.
 - a. A certification applicant who is found to be involved in a SBOT disciplinary investigation or sanction at any time during the application process will automatically be denied certification.
 - b. A board certified paralegal who is found to be involved in a SBOT disciplinary investigation or sanction will automatically be placed on a “hold” status by TBLS, regardless of the pendency of an appeal. During this time, the paralegal may not use the “Board Certified” designation. The matter will be reviewed by the PC and TBLS as described in Section II, C of these Rules.
3. Professional Misconduct.
 - a. A certification applicant who is found guilty of professional misconduct by the TXPD’s Professional Ethics Committee or any other paralegal organization will be reviewed by the PC and TBLS. Certification may be withheld or denied as determined by TBLS.
 - b. A board certified paralegal who is found guilty of professional misconduct by the TXPD’s Professional Ethics Committee or any other paralegal organization can continue to use the “Board Certified” designation until his or her status can be reviewed by the PC and TBLS as described in Section II, C of these Rules.
4. Improper Use of Designation. A board certified paralegal who improperly displays or publicizes his or her certification can continue to use the “Board Certified” designation until his or her status is reviewed by the PC and TBLS as described in Section II, C of these Rules.

C. Review Process for Conduct Issues. A board certified paralegal will be notified by mail and is required to respond to the PC or TBLS request for information within 30 days after receipt of such notice regarding any disclosure of conduct issue. Disclosure of conduct information received by TBLS shall be reviewed in the following manner.

1. PC.
 - a. A disclosure of conduct issue involving a board certified paralegal as listed in Section II, B of these Rules will be reviewed by the appropriate PC. The PC will make a recommendation to TBLS regarding appropriate action.
 - b. The PC may request additional information from the board certified paralegal and/or request to meet personally with him or her should the PC feel it necessary to assist in making an appropriate recommendation. Failure to respond to a request for information or interview may be taken into account by TBLS when making its final decision.
2. TBLS.
 - a. TBLS shall review the PC recommendation regarding a disclosure of conduct issue received on a board certified paralegal. TBLS may accept such recommendation or make a different recommendation.

- b. TBLs shall notify the board certified paralegal of their recommendation regarding the disclosure of conduct issue. The board certified paralegal must submit a written response to such notification within 15 days of receipt or the TBLs recommendation will become final.
- c. The written response to the TBLs recommendation regarding a disclosure of conduct issue shall request review of the TBLs recommendation and shall state the reasons the board certified paralegal believes the TBLs recommendation is in error.
- d. The review of the written response to a TBLs recommendation regarding a disclosure of conduct issue may be conducted by the entire TBLs or a committee appointed by the Chair of TBLs. A recommendation regarding a disclosure of conduct issue must be submitted to the entire TBLs for final action. Such final action shall be taken within a reasonable time after review of the board certified paralegal's written response.
- e. The board certified paralegal shall be provided notification of the final TBLs action which shall become effective upon receipt. In making the final decision, TBLs shall not be bound by the recommendation under consideration, but may take action of greater or lesser degree as it deems appropriate based on any evidence or argument presented or obtained during the review process.

SECTION III PEER REVIEW

- A. **Types of References.** An applicant shall submit names of Texas attorney supervisors, judges or non-attorney professionals who can attest to his or her competence and work product in a specialty area, in accordance with the Standards. A certification applicant described in Section I, B,1,d of these Rules is not required to submit references unless deemed necessary by TBLs. Additionally, TBLs may solicit at random additional Texas references to attest to the applicant's competence. Absent a specific determination by TBLs or its designee to the contrary, no more than a total of 6 Statements of Reference may be solicited on an individual applicant. Statements of Reference shall be submitted on forms approved and furnished by TBLs. All Statements of Reference received by TBLs shall be confidential.

- B. **Evaluation of References.** TBLs shall review the Statements of Reference concerning an applicant to determine whether the applicant has demonstrated sufficient knowledge, skills, and abilities in the specialty area, and whether the applicant's conduct conforms to the Texas Disciplinary Rules of Professional Conduct (TDRPC) and the TXPD Canon of Ethics. Reference responses must be received by TBLs no later than May 31 of the year in which the application is filed or the year of recertification. All Statements of Reference received by TBLs shall be confidential.
 - 1. **Minimum Number of Favorable References.** An applicant must received a minimum of 3 favorable references. A favorable reference is one in which the respondent: (1) works in the specialty area; (2) is familiar with the applicant's work product in the specialty area; and (3) has affirmed that the applicant should be certified in the specialty area.

2. Negative or Adverse Responses. TBLS shall seek additional information on an applicant at any time during the year of filing an application or the year of recertification if a reference indicates that the applicant does not demonstrate special competence in the specialty area, or if a serious question is raised concerning the applicant's special competence in the specialty area, or the applicant has failed to conform his or her conduct to the TDRPC. TBLS shall seek this additional information even if the applicant has received the requisite number of favorable references. Significant negative responses shall be investigated to assure that they relate to special competence or failure to abide by the TDRPC and not to personality conflicts or other factors irrelevant to special competence. Reasonable efforts shall be made to contact the source or sources of negative or adverse comments and reasonable efforts shall be made to obtain independent verification of the negative or adverse comments. Whenever possible, continuing and exclusive reliance shall not be placed on the same source of information in evaluating various applicants from any given geographical area.
- C. Denial Based on Statements of References. An applicant may be denied if he or she receives fewer than the requisite number of favorable reference responses or on the basis of substantial and credible information received in the peer review process that reflects that he or she does not demonstrate special competence. All Statements of Reference received by TBLS shall be confidential.

SECTION IV CONTINUING LEGAL EDUCATION

- A. CLE Requirement. For TBLS purposes, CLE is calculated on a calendar year basis (January 1 through December 31).
1. Certification. A certification applicant shall complete CLE activities in the specialty area as required in the Standards, within the 3 years immediately preceding application, through December 31 of the year of application. Of the total CLE hours required for certification in the specialty area, a certification applicant may receive a maximum of 10 hours self-study credit in the specialty area.
 2. Recertification. A recertification applicant shall complete CLE activities in the specialty area as described for a recertification applicant in the Standards by December 31 of each 5th year of certification. Of the total CLE hours required for recertification in the specialty area, a recertification applicant may receive a maximum of 5 hours self-study credit in the specialty area each year.
- B. Formal CLE Programs.
1. Approval Required. CLE credit in the specialty area will be given for qualifying CLE as described in Part I, Section V, B of the Standards.
 2. Criteria for Approval of Educational Programs.
 - a. Content. The content of a program may include a broad or narrow range of subjects in the specialty area or related areas.

- b. Level of Curriculum. A program must not be designed or conducted principally as a "review" course to prepare an applicant for the written exam, but should be directed towards paralegals who meet the education and experience requirements of the Standards. In determining whether the program is so designed, the type of advertising employed by the sponsor shall be considered.
 - c. Instructors. The instructors shall be qualified experts in the area in which he or she is teaching.
 - 3. Proof of Completion. An applicant or board certified paralegal shall report to TBLS the CLE activities he or she has attended or participated in the applicable specialty area.
- C. Self-Study. An applicant or board certified paralegal wishing self-study credit in a specialty area may submit details to TBLS.

SECTION V EXAMINATION

- A. Place. The exam for a certification applicant shall be conducted in such place and on such date as set by TBLS.
- B. Exam Fee. A fee of \$100.00 shall be due and payable after the certification applicant has been notified that he or she is eligible to take the exam. The full exam fee must be paid for each exam taken. The exam fee may be adjusted by TBLS as it deems appropriate.
- C. Special Exam Requests. Special exam arrangements can be made if a certification applicant is physically unable to take the exam as regularly administered.
- D. Confidentiality. TBLS handles all exams on a confidential basis. A certification applicant shall not divulge the contents of an exam to another person. Any violation of the confidentiality of an exam will result in the denial, suspension, or revocation of certification.
- E. Improper Exam Conduct. If TBLS determines that a certification applicant engaged in improper or unethical conduct during the exam process, the certification applicant will automatically be given a failing score on the exam. The certification applicant shall be prohibited from filing any future application for a period of 3 years following the incident, and must secure TBLS approval prior to submitting any future application.
- F. Determination of Pass/Fail Line. TBLS shall review the recommendations of the PC and set the pass/fail line for each specialty area.
- G. Passing the Exam.
 - 1. Notification. A certification applicant who passes the exam will be notified, but will not be provided his or her exam scores.
 - 2. Retention. The exam books of a certification applicant who passed the exam will be destroyed after final grading.

H. Failure of Exam.

1. Notification. A certification applicant who fails the exam will be notified of his or her exam score and the required passing score.
2. Retention. The exam books of a certification applicant who failed the exam will be destroyed after one year.

**SECTION VI
DENIAL OF CERTIFICATION OR RECERTIFICATION**

A. Grounds for Denial.

1. Certification. A certification applicant may be denied based on the following reasons:
 - a. Failure to be employed as a paralegal working under direct supervision of an attorney duly licensed and doing business in Texas.
 - b. Working under the supervision of an attorney who has received a disciplinary sanction prohibiting him or her from practicing law.
 - c. Receipt of a disciplinary, unauthorized practice of law, or criminal sanction, or such sanctions that are pending.
 - d. Guilty of professional misconduct by the TXPD's Professional Ethics Committee or any paralegal organization.
 - e. Receipt of negative information from Statements of Reference or an insufficient number of favorable references.
 - f. Failure to meet the special competence or substantial involvement requirements.
 - g. Failure to pay the filing fee.
 - h. Failure to furnish information requested by TBLS or misrepresentation of any material facts.
 - i. Failure to satisfy any other application requirement.
 - j. Any other reason which in the discretion of TBLS indicates that a certification applicant is not qualified.
2. Recertification. A recertification applicant may be denied based on the following reasons:
 - a. Failure to maintain employment as a paralegal working under direct supervision of an attorney duly licensed and doing business in Texas.
 - b. Failure to file an Annual Reporting Form, pay fees, and/or submit references.
 - c. Receipt of a disciplinary, unauthorized practice of law, or criminal sanction.
 - d. Guilty of professional misconduct by the TXPD's Professional Ethics Committee or any paralegal organization.
 - e. Receipt of negative information from the Statements of Reference or an insufficient number of favorable references.
 - f. Failure to meet the special competence or substantial involvement requirements.

- g. Failure to furnish information requested by TBLS or misrepresentation of any material facts.
- h. Failure to satisfy any other recertification requirement.
- i. Any other reason which in the discretion of TBLS indicates that a recertification applicant is not qualified.

B. Notice of Denial. An applicant shall be provided written notice by certified mail of the his or her denial of certification or recertification. Such notice shall advise the applicant with as much specificity as possible, the reason(s) for such denial, and shall inform the applicant of the right to appeal the decision to TBLS. Refer to Section VIII, A of these Rules for the appellate process.

SECTION VII REVOCATION OF CERTIFICATION OF SPECIAL COMPETENCE

A board certified paralegal whose certification is revoked by TBLS must return his or her certificate of special competence to the office of the Executive Director of TBLS.

A. Administrative Revocation with Remedial Provisions.

1. Reasons for Revocation. TBLS shall revoke the certificate of special competence of a board certified paralegal for the following reasons:
 - a. Failure to timely pay fees required by TBLS.
 - b. Failure to timely satisfy the annual reporting process.
2. Administrative Revocation Appellate Process. A board certified paralegal will be notified by TBLS of the administrative revocation for reasons stated above. A paralegal receiving a notice of administrative revocation may be reinstated within a period of 30 days after receiving such notice if he or she rectifies the problem(s), pays the required fee(s), and provides written confirmation to TBLS that these actions have been taken. An administrative reinstatement fee of \$20.00 may be charged as prerequisite for reinstatement as a board certified paralegal in an applicable specialty area. If all remedial actions are not completed within this 30 day period, the paralegal must again apply and requalify for certification as directed under Section VIII, B of these Rules.

B. Administrative Revocation in Other Situations.

1. Reasons for Revocation. TBLS shall revoke the certificate of special competence of a board certified paralegal for the following reasons:
 - a. Failure to meet the substantial involvement requirement in the specialty area for two consecutive years.
 - b. Failure to comply with any other Standards in the specialty area or the Rules.

2. Revocation Process. A board certified paralegal will be notified by TBLS of the proposed revocation for reasons stated above. A paralegal receiving such notice will be allowed 30 days from receipt of notice to provide TBLS with a written explanation. The PC will review the paralegal's explanation and submit a recommendation to TBLS. TBLS will make a final determination on the revocation and notify paralegal of the result. A paralegal whose certification is revoked under this section is not eligible for reinstatement, but must again apply and requalify for certification as directed under Section VIII, B of these Rules.

C. Non-Administrative Revocation.

1. TBLS shall revoke the certificate of special competence of a board certified paralegal when it discovers that:
 - a. The certificate was issued contrary to the Rules of TBLS.
 - b. The certificate was issued to a paralegal who was not eligible to receive a certificate of special competence or who made any misrepresentation or misstatement of material fact to TBLS.
 - c. The certificate holder failed to abide by all Rules covering the program promulgated by TBLS as amended from time to time, including any requirement or safeguard for continued proficiency.
 - d. The certificate holder engaged in the unauthorized practice of law.
 - e. The certificate holder failed to abide by the provisions, rules, regulations, and/or guidelines adopted by the Standing Committee and TXPD.
2. Non-Administrative Revocation Appellate Process. A board certified paralegal whose certification has been revoked due to a non-administrative reason (other than situations mandating automatic revocation listed in Section VII, B of these Rules) shall follow the appellate process outlined in Section VIII, A of these Rules.

**SECTION VIII
APPEAL TO TBLS**

A. Appellate Process.

1. Filing Appeal with TBLS. If an applicant is denied or a board certified paralegal is revoked, he or she shall file a written Petition for Reconsideration to TBLS within 15 days after receipt of such notice. The Petition may be informal, but shall state with as much specificity as possible the reasons that the decision of TBLS was in error.
2. Decisions on Appeal.
 - a. The Chair of the PC of the appropriate specialty area shall review the Petition and make a recommendation to TBLS.
 - b. TBLS will consider the recommendation of the Chair of the appropriate PC and make the final decision concerning the Petition. The applicant or board certified paralegal will be notified in writing of the final ruling by TBLS.

B. Reapplication for Certification.

1. A certification applicant who has been denied or whose certification has been revoked may submit a new application in the year next following notification of the denial or revocation by TBLS.
2. Upon reapplication, the certification applicant must demonstrate compliance with all requirements for certification in the year of reapplication unless the applicant meets Section I, B,1,d of these Rules.
3. The filing fee is required for reapplication unless the applicant meets Section I, B,1,d of these Rules.
4. A board certified paralegal who has resigned or whose certification has been denied or revoked may reapply for certification and must demonstrate compliance with the certification requirements in the year of reapplication.

The following excerpts are included for informational purposes only.

TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT

Rule 5.03 Responsibilities Regarding Non Lawyer Assistants.

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

- (a) a lawyer having direct supervisory authority over the non-lawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer; and
- (b) a lawyer shall be subject to discipline for the conduct of such a person that would be a violation of these rules if engaged in by a lawyer if:
 - (1) the lawyer orders, encourages, or permits the conduct involved; or
 - (2) the lawyer:
 - (i) is a partner in the law firm in which the person is employed, retained by, or associated with; or is the general counsel of a government agency's legal department in which the person is employed, retained by or associated with; or has direct supervisory authority over such person; and
 - (ii) with knowledge of such misconduct by the non-lawyer knowingly fails to take reasonable remedial action to avoid or mitigate the consequences of that person's misconduct.



CODE OF ETHICS AND PROFESSIONAL RESPONSIBILITY OF THE PARALEGAL DIVISION OF THE STATE BAR OF TEXAS

- Canon 1** A paralegal shall not engage in the practice of law as defined by statutes or court decisions, including but not limited to accepting cases or clients, setting fees, giving legal advice or appearing in a representative capacity in court or before an administrative or regulatory agency (unless otherwise authorized by statute, court of agency rules): the paralegal shall assist in preventing the unauthorized practice of law.
- Canon 2** A paralegal shall not perform any of the duties that attorneys only may perform or do things which themselves may not do.
- Canon 3** A paralegal shall exercise care in using independent professional judgment and in determining the extent to which a client may be assisted without the presence of any attorney, and shall not act in matters involving professional legal judgment.
- Canon 4** A paralegal shall preserve and protect the confidences and secrets of a client.
- Canon 5** A paralegal shall not solicit legal business on behalf of an attorney.
- Canon 6** A paralegal shall not engage in performing paralegal functions other than under the direct supervision of an attorney, and shall not advertise or contract with members of the general public for the performance of paralegal functions.
- Canon 7** A paralegal shall avoid, if at all possible, any interest or association which constitutes a conflict of interest pertaining to a client matter and shall inform the supervising attorney of the existence of any possible conflict.
- Canon 8** A paralegal shall maintain a high standard of ethical conduct and shall contribute to the integrity of the paralegal profession.
- Canon 9** A paralegal shall maintain a high degree of competency to better assist the legal profession in fulfilling its duty to provide quality legal services to the public.
- Canon 10** A paralegal shall do all other things incidental, necessary or expedient to enhance professional responsibility and the participation of paralegals in the administration of justice and public service in cooperation with the legal profession.